

Consultation on the Teaching Excellence Framework (TEF)

**Analysis of consultation responses
and decisions**

Reference OfS 2022.40

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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.

Introduction

1. In early 2022 the OfS ran a consultation on proposals for a new approach to the Teaching Excellence Framework (TEF). In this document we summarise and respond to some of the key points raised through the consultation. We also outline the decisions we have taken following our consideration of the consultation responses and describe our next steps.

What we were consulting on

2. The consultation set out proposals for the future Teaching Excellence Framework (TEF). The TEF is a national scheme to incentivise improvement and excellence in teaching, learning and student outcomes at universities and colleges. 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 Office for Students (OfS). The consultation was published on the OfS website on 20 January 2022 and the deadline for responses was 17 March 2022.

3. The TEF consultation took place alongside two separate consultations on a revised approach to regulating student outcomes, and a set of proposed indicators which underpin the proposals for regulating student outcomes and the use of data in the TEF.¹ Our intention is that the TEF should cohere with our regulation of quality and standards in a single overall quality system.²

¹ See www.officeforstudents.org.uk/outcomes-and-excellence/.

² We described our broader regulatory approach in each of the three consultations, see for example paragraph 1 to 5 of 'Consultation on the Teaching Excellence Framework (TEF)' (OfS 2022.02).

What we want the TEF to achieve

The purpose of the TEF

Our policy intention in rating providers is that the TEF should incentivise excellence in teaching, learning and student outcomes. The TEF should incentivise a provider to improve and to deliver excellence above our minimum quality requirements, for its mix of students and courses.³

We intend that TEF ratings will create this incentive by putting a spotlight on the quality of providers' courses, influencing providers' reputations and informing student choice.

4. To date the TEF has had a number of different aims – informing student choice, raising the esteem for teaching, recognising and rewarding excellent teaching, and meeting employer needs in a better way. The independent review of the TEF, which was carried out by Dame Shirley Pearce in 2019, discussed the need for greater clarity about the main aim of the exercise, and recommended:
 - a. That 'the student interest is best met by using the TEF to identify excellence and enhance the educational experience and outcomes that students receive'. It also took the view that publishing TEF outcomes and the underlying data would help to incentivise improvement, by affecting providers' reputations.
 - b. It was essential for there to be 'clarity about how the TEF relates to the wider regulatory landscape for higher education across the UK'.⁴
5. The diverse and autonomous nature of the English higher education sector is important and helps to maintain and strengthen its world-leading international reputation. Therefore, subject to satisfying our minimum quality requirements, we wish to encourage and enable providers to innovate and pursue their own strategies for excellence. Our view is that this means that the TEF – with its focus on incentivising excellence above our minimum quality requirements – should assess how far each provider delivers excellent teaching, learning and outcomes for its mix of students and courses. We consider this approach will incentivise excellence in a way that benefits the widest possible range of students.
6. Since publishing our consultation we have published our Strategy for 2022-2025, which sets out that during this period:

'we will focus on [...] quality and standards, and equality of opportunity. These underpin our four primary regulatory objectives which reflect the duties and powers set out in sections 29-37 and 23-28 of HERA. They are closely connected and mutually reinforcing: improving equality of opportunity without ensuring quality and standards will not lead to positive student outcomes

³ Where this document refers to a provider's mix of students and courses, or more generally to a provider's students, it is referring to undergraduate students and courses that are within the scope of the TEF exercise. See proposal 6 for further details.

⁴ See 'Independent Review of the Teaching Excellence and Student Outcomes Framework (TEF)', available at www.gov.uk/government/publications/independent-review-of-tef-report.

and, likewise, ensuring quality and standards without improving equality of opportunity means that students who could benefit will not'.

7. It is also our intention that the TEF should support these aims. We intend that the TEF will incentivise providers to deliver excellence above the minimum quality requirements for all their groups of students, including underrepresented groups.⁵
8. We want to make TEF ratings accessible for prospective students alongside other information, because any influence on student choice creates a powerful incentive for providers to continue to improve. TEF ratings can contribute to the wider student information landscape by giving a clear signal of a provider's excellence. This would provide helpful context to the range of more detailed information that students will want to consider when deciding what and where to study.

Summary of consultation proposals

Framework

- **Proposal 1 – Provider-level, periodic ratings**

An overall rating should be awarded to a provider reflecting the quality of its undergraduate courses, and these ratings should last for four years.

- **Proposal 2 – Aspects and features of assessment**

Two aspects should be assessed and rated: the student experience and student outcomes. The criteria for determining ratings should be based on the extent to which very high quality and outstanding quality features are demonstrated for each of these aspects.

- **Proposal 3 – Rating scheme**

There should be three rating categories – Gold, Silver and Bronze – signifying degrees of excellence above our baseline quality requirements.

- **Proposal 4 – Absence of excellence**

Where there is an absence of excellence, no rating should be awarded and the published outcome should signal that improvement is required. This outcome for a provider should be considered as part of our general monitoring of quality and standards.

⁵ We use the term 'students from underrepresented groups' throughout this document. 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. In determining the groups falling within this definition, the OfS has given due regard to students who share particular characteristics that are protected under the Equality Act 2010, as well as students who are otherwise underrepresented or disadvantaged. When referring to underrepresented groups, the OfS considers this to include, among others: students from deprived areas, areas of lower higher education participation, or both; some black, Asian and minority ethnic students; mature students; and disabled students (whether or not they are in receipt of Disabled Students Allowance). There are some student groups with protected characteristics under the Equality Act 2010 for whom the OfS has been unable to determine whether they are underrepresented at different points of the student lifecycle, because data is either collected at a national level, but with gaps in disclosure and absence of comprehensive data (for example in relation to religion or belief, sexual orientation and gender reassignment), or not collected at a national level (for example in relation to marriage and civil partnership, and pregnancy and maternity).

Scope

- **Proposal 5 – Provider eligibility**

To be eligible to participate in the TEF, and to retain a rating once awarded, a provider must satisfy baseline quality and standards requirements.

- **Proposal 6 – Courses in scope**

All of a provider's undergraduate courses, and the students on those courses, should be within the scope of a TEF assessment.

Evidence

- **Proposal 7 – Provider submissions**

Participating providers should submit evidence of excellence in relation to the experience and outcomes of their students.

- **Proposal 8 – Student submissions**

Students should be encouraged to submit their views on the quality of their experience and outcomes.

- **Proposal 9 – Indicators**

The OfS should produce numerical indicators based on the National Student Survey (NSS) responses; and student outcomes indicators defined consistently with the indicators proposed for the regulation of student outcomes through condition B3. For TEF purposes, the OfS would indicate a provider's performance in relation to its benchmark.

Assessment

- **Proposal 10 – Expert review**

Ratings should be decided by a TEF panel applying expert judgement.

- **Proposal 11 – Assessment of evidence**

The panel should interpret and weigh up the evidence by following a set of principles and guidelines, including that:

- the indicators should contribute no more than half the evidence of excellence in each aspect
- the two aspects should be equally weighted when deciding the overall rating.

Outcomes

- **Proposal 12 – Published information**

TEF outcomes and the evidence used in assessment should be published in an accessible and timely way.

- **Proposal 13 – Communication of ratings by providers**

A provider should be able to display and promote its own TEF rating in accordance with a set of guidelines.

Implementation

- **Proposal 14 – Name of the scheme**

The scheme should be named the Teaching Excellence Framework.

- **Proposal 15 – Timing of the next exercise**

The next exercise should be carried out during 2022-23 and outcomes published in spring 2023.

Future exercises should be conducted every four years.

Conducting the consultation

9. Respondents were invited to share their views on the consultation by submitting written responses to an online survey containing 17 questions. The questions are listed in full in Annex A. During the consultation period the OfS also held discussions with sector representative bodies and hosted online consultation events for providers and students to support understanding of the proposals.
10. We received 239 responses to the consultation. Most were submitted via the online survey tool, but some were submitted by email. A small number of responses were submitted after the deadline. All the responses received were considered.⁶
11. The responses came mainly from higher education providers (including some outside England) and their staff. We also received responses from student representative bodies, charity or third sector organisations, and other interested parties.
12. We have undertaken a qualitative analysis of the responses we received to the consultation. In addition to and in support of the OfS's own review of responses, we commissioned Alma Economics to review responses to the consultation and produce a comprehensive summary of respondents' views. The report from Alma Economics is available alongside this response document.⁷ The report contains some additional context on what was said in response to the consultation, including some direct quotes from the responses. It also contains a quantitative analysis of responses received overall and of questions where agreement or disagreement on a Likert scale was sought.
13. We also held a series of events to gather feedback from students and student representatives alongside the opportunity to provide written responses. We have summarised relevant feedback received through these events in Annex B and this is referred to at relevant points through this document.
14. In the TEF consultation document we said that we planned to commission research with prospective students to understand their interpretation of different rating names and to test the extent to which different names for the scheme are understood by prospective students and are consistent with our policy aims. We commissioned YouthSight to conduct this research alongside the consultation process. The research surveyed prospective and current higher

⁶ This includes consideration of separate documents submitted by respondents alongside their consultation responses.

⁷ See 'The Teaching Excellence Framework (TEF) Analysis of consultation responses', a report by Alma Economics to the OfS, available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

education students to test the various scheme and rating name options. The full report is available online.⁸

15. During the consultation period the OfS also held discussions with sector representative bodies and hosted online consultation events for providers and students to support understanding of the proposals.
16. In addition to taking into account written responses to our consultation, we have considered feedback from the student events held during the consultation, and the YouthSight findings. Where relevant, we have also drawn on responses to the regulating student outcomes and data indicators consultations.
17. As many of the proposals were interrelated, points raised by respondents in relation to one proposal were frequently repeated or reinforced in response to other proposals. To avoid duplication in this document we have, where appropriate, sought to align the points made by respondents with the proposal to which they primarily relate.
18. In Annex H of the TEF consultation we discussed the matters to which we have had regard in reaching our proposals and this has now been updated at Annex E of this document.⁹ Throughout the consultation process and in reaching our final decisions on our proposals, we have had regard to:
 - a. Our general duties as set out in section 2 of HERA (reproduced in Annex D).
 - b. The Public Sector Equality Duty.
 - c. Statutory guidance issued by the Secretary of State.
 - d. The Regulators' Code.
 - e. The Code of Practice for Statistics.

Summary of decisions

19. Overall, we have decided to proceed with the proposals broadly as set out in the consultation, with some specific changes which are described in the following table:

| Proposal | Decision |
|--|--|
| 1 – Provider-level, periodic ratings | We have decided to proceed with no change. |
| 2 – Aspects and features of assessment | We have decided to proceed with no change, and have provided further clarification on the following: |

⁸ See 'Assessing student perceptions of proposed TEF naming and rating options', a report by YouthSight to the OfS, available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

⁹ See Annex H of 'Consultation on the Teaching Excellence Framework (TEF)' (OfS 2022.02), available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

| Proposal | Decision |
|---------------------------|---|
| | That the scope of educational gains articulated in a provider's submission should go beyond the measures of continuation, completion and progression we use for the TEF indicators; be relevant to the particular mix of students and courses at a provider; and ideally take account of students' different starting points and the distance travelled. |
| 3 – Rating scheme | We have decided to proceed with no change. |
| 4 – Absence of excellence | We have decided to proceed with no change. |
| 5 – Provider eligibility | <p>We have decided to proceed with this proposal apart from the following change:</p> <p>We originally proposed that, for the purpose of deciding if a provider is required to participate in the TEF, it must have at least one indicator with a minimum denominator of 500. Instead, we have decided that to be required to participate in the TEF a provider must have at least two indicators with a minimum denominator of 500. Both indicators must be in the same mode of study, and either in full-time or part-time modes.</p> <p>We have also provided further clarification on the following:</p> <p>Our policy approach on the relationship between a provider's compliance with the B conditions of registration, and its eligibility to participate in the TEF or to retain a TEF rating (if it holds one).</p> |
| 6 – Courses in scope | <p>We have decided to proceed with this proposal apart from the following change:</p> <p>In our original proposal it was implicit that apprenticeships would be fully within the scope of assessment. We have decided they will only be in scope if a provider chooses to include evidence about them in its submission.</p> |
| 7 – Provider submissions | <p>We have decided to proceed with this proposal apart from the following change:</p> <p>We originally proposed that there should be a page limit for provider submissions of 20 pages. We have decided to increase the limit to 25 pages.</p> |
| 8 – Student submissions | <p>We have decided to proceed with this proposal apart from the following changes:</p> <p>We originally proposed that student submissions would cover the same scope as provider submissions. Instead, we have decided that:</p> |

| Proposal | Decision |
|--|--|
| | <ul style="list-style-type: none"> The aspects and features of assessment that student submissions will cover will be the same as the provider submission, though we recognise that evidence in relation to student outcomes is likely to focus more on how well the provider supports current students to achieve positive outcomes, than on the outcomes achieved by past students. The range of courses and students that may be in scope of the student submissions will be the same as for provider submissions, but for student submissions it will be optional to include students who are registered at a provider but taught elsewhere. Evidence relating to any of the four most recent years is in scope for the student submission, but we will expect evidence to relate primarily to current cohorts. |
| 9 – Indicators | <p>We have decided to proceed with this proposal apart from the following changes:</p> <p>We originally proposed to identify where a provider's benchmark for continuation is 95 per cent or higher and that in this case, where the provider is not materially below its benchmark, its performance would be interpreted positively. Instead, we will apply this approach to all the student experience and outcomes measures</p> <p>Our original proposals regarding the reporting structure of the partnership type split indicators meant that the indicators released alongside the consultation showed where students were either taught or registered, subcontracted in, or subcontracted out. We have decided to simplify this to show where students are either taught or sub-contracted out.</p> <p>While we are minded to proceed with our proposed choice of benchmarking factors with no change, we are not at this point taking final decisions on this, for the reasons set out under that section.</p> |
| 10 – Expert review | We have decided to proceed with no change. |
| 11 – Assessment of evidence | We have decided to proceed with no change. |
| 12 – Published information | We are not taking a decision in relation to proposal 12 at this time, for the reasons set out under that section. However, in light of responses received, we are currently minded to proceed with this proposal with no change. |
| 13 – Communication of ratings by providers | We have decided to proceed with no change. |
| 14 – Name of the scheme | We have decided to proceed with no change. |

| Proposal | Decision |
|----------------------------------|--|
| 15 – Timing of the next exercise | We have decided to amend the implementation timetable proposed in the consultation, as set out in Table 2. |

20. The rationale for these decisions is set out further under each relevant section of this document.

Overarching themes

21. Overall, respondents to the consultation were positive. Of our 15 proposals most respondents agreed with 11 of them. Views on one proposal were split and a majority disagreed with three proposals.
22. Disagreement was most strongly expressed in relation to proposals 3 and 4 which relate to the categories in the rating scheme (Gold, Silver and Bronze), and the use of ‘Requires improvement’ where there is an absence of excellence, and proposal 15 which relates to the timeline for implementation. There was a split in views in response to proposal 6, and while most respondents to proposal 5 (which relates to the courses in scope for the TEF) agreed, a significant minority expressed disagreement with aspects of how proposal 5 would operate in practice.
23. As well as questions relating to specific proposals, the consultation asked two open-ended questions relating to all the proposals. Respondents were invited to give views on whether there were any aspects of the proposals that they found unclear, and whether there were ways in which the policy intention of the TEF could be delivered more efficiently or effectively. Where substantive comments made in response to these two questions related specifically to one of the proposals, we have addressed them in the relevant section. The more general comments made in response to the two questions – along with some of the overarching themes we have identified across other questions – are summarised below.

Purpose and effectiveness of the TEF

24. In relation to the broader premise for undertaking the TEF exercise, some respondents questioned whether the TEF would achieve its intended purpose effectively and whether the overall benefit of the TEF is outweighed by the burden of participating, particularly for small providers.
25. Across a number of different proposals, a few respondents suggested that the TEF as proposed, with its focus on the student experience and student outcomes, will not properly measure teaching quality or excellence as intended and as suggested by the name of the scheme. Some respondents took the view that the underpinning indicators are not accurate measures of teaching quality.
26. Some respondents considered there to be little evidence that the TEF has or will influence students’ decision-making. The effectiveness of condensing a provider’s performance into a single rating was questioned given individual students will have different priorities. It was

suggested that all the information necessary to inform student choice is already available via other resources, including Discover Uni.

27. In a few instances respondents gave examples of other methods that could fulfil the purpose of the TEF, including for example a suggestion that professional assessments made by staff could give a better indication of the quality of teaching.
28. Some respondents considered that grade inflation and ‘dumbing down’ could be potential unintended consequences of the TEF. The scheme, it was thought, could incentivise providers to ‘play it safe’ rather than to innovate or ‘game’ the metrics to make it easier for students to pass academic assessments in order to ensure that more students would continue or complete their qualification, or to award more ‘good degrees’ because this would make it more likely that graduates would secure managerial or professional employment.
29. Some respondents disagreed in principle with the TEF exercise but provided little explanation. For example, a few respondents answered ‘strongly disagree’ for every question without providing a qualitative response for most questions.

OfS response

30. We consider that a scheme, and any burden associated with it, is needed to incentivise excellence above our minimum quality and standards requirements and ensure that the widest possible range of students benefit from our regulation. Our proposal – in which a panel with expertise in learning and teaching assesses how far a provider delivers excellence for its mix of students and courses – is, in our view, an appropriate and proportionate approach for incentivising excellence. The consultation explained why we had not chosen to proceed with a variety of general alternative options, including: not making changes to the original TEF approach; running an exercise based only on data; running an exercise based on inspections; running an exercise that did not consider excellence for a providers mix of students and courses; and not running an exercise at all.
31. It is also important to note that our approach to the TEF is just one part of a wider system of regulation. We have established an approach whereby the conditions of registration contained in the regulatory framework are designed to ensure a minimum level of protection for all students and taxpayers. Beyond this minimum, we encourage choice for students and innovation by autonomous higher education providers free to pursue excellence as they see fit. We seek to incentivise providers to pursue excellence in their chosen way. We do this in a number of ways, including through the TEF.
32. We note that points raised suggesting that the TEF indicators do not properly measure teaching excellence were previously heard by the independent review of the TEF. The review reported for example that a ‘common criticism’ of the TEF was that the metrics ‘are not direct measures of teaching excellence’, and that some stakeholders ‘felt the TEF was not measuring teaching or was a poor measure of teaching quality’.¹⁰
33. All the measures we have adopted are relevant to the quality of the student experience or student outcomes, and more generally to a consideration of value for money for students and

¹⁰ See page 34 and endnote 39 of ‘Independent Review of the Teaching Excellence and Student Outcomes Framework (TEF)’, available at www.gov.uk/government/publications/independent-review-of-tef-report.

taxpayers. They serve multiple purposes as indicators of quality, as a mechanism for consumer protection, and in protecting taxpayers' interests. We use them across a range of our regulatory activity. We therefore maintain that they are appropriate for the TEF.

34. As set out in the consultation – and detailed further in this document in response to question 14 – the view that the underpinning measures do not measure teaching quality is also addressed by the wider changes we are making to the scheme. These changes include:
 - a. The way our proposals rebalance the emphasis between a provider's own evidence about teaching quality in its submission and the indicators, compared with previous iterations of the TEF.
 - b. Our proposed publication of aspect ratings, which will communicate that the TEF assessment encompasses consideration of the student experience and student outcomes.
35. For the indicators based on the NSS we will reiterate in guidance that they should not be used as direct measures of the quality of the student experience. For the student outcomes indicators we will reiterate that they only measure some of the outcomes being assessed.
36. With regards to comments about student information and decision-making, we consider that the TEF's primary purpose is incentivising excellence. This will be achieved in part through the TEF's public information function. Any influence on student choice creates a powerful incentive for providers. Our intention is for the TEF ratings and outcomes to provide helpful context alongside the range of more detailed information that students will want to consider. Almost nine out of ten applicants and first year undergraduates surveyed as part of research we commissioned from YouthSight felt that the TEF scheme will help to inform students when deciding where to study.¹¹ Over four-fifths thought that the TEF would have a positive impact on quality in the higher education sector.¹² Attendees of our student workshops also voiced strong support for a scheme that would encourage providers to improve teaching quality (see Annex B).
37. In response to the points about possible grade inflation, 'dumbing down', gaming metrics and inhibiting innovation, we consider that our proposals should not incentivise these behaviours. Our wider set of regulatory requirements, in particular those set out in condition B4, will also protect students from such practices. This is because:
 - a. Condition B4 is concerned with ensuring that the assessment of students is effective, reliable and valid and that awards are credible and only awarded based on student achievement. Attempts to game the TEF in the way suggested could ultimately lead to a provider becoming ineligible to participate in the TEF if the OfS investigated and made a formal finding that one or more conditions of registration had been breached. We consider this acts as a strong disincentive for such behaviour. Furthermore we would have serious concerns about any degree awarding body deliberately seeking to artificially inflate its

¹¹ See page 61 of 'Assessing student perceptions of proposed TEF naming and rating options', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

¹² See page 60 of 'Assessing student perceptions of proposed TEF naming and rating options', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

grades and would be likely to consider whether that body continued to operate its powers securely.

- b. We consider that relying on a balance of evidence (across the indicators, and both provider and student submissions) that is subject to expert review will mitigate issues of dumbing down and gaming. The panel will be well-placed to identify and report on such issues and where it identifies concerns this could lead to no rating being awarded to a provider.
- c. We have deliberately designed the TEF to recognise a wide definition of excellence to allow for the diversity of the sector and innovation, rather than being overly prescriptive about what excellence should entail. We consider that the most effective way for a provider to improve its TEF rating is to make genuine improvements to the student experience and student outcomes.

Burden on smaller providers

38. In response to a number of different proposals, some respondents suggested the TEF might disproportionately burden or disadvantage smaller or specialist providers. Of these, some respondents commented, for example, that small providers will not have the same level of resources as larger providers to devote to gathering the range of evidence required, preparing their submissions, and supporting the student submission process. This was also a point raised in the student workshops (see Annex B).
39. Some respondents also suggested that smaller providers would often have less data available, or where it was available that it would not be statistically significant, resulting in additional burden for them in writing submissions and more subjective panel judgements.

OfS response

40. Our proposals have been designed deliberately to accommodate the assessment of smaller and specialist providers. While we acknowledge that smaller providers may have limited data more often than larger providers, we consider that rebalancing the weight placed on the indicators and submissions (compared with the previous TEF) and placing greater emphasis on provider-determined evidence for all providers will make assessment fairer.¹³ In our final decisions, we have however, decided to set a higher threshold than we originally proposed for the amount of data that would make participation in the TEF mandatory. This will mean that more providers with limited data can decide whether they wish to participate in the TEF. This is explained further under proposal 6.
41. We appreciate there will be different resourcing levels in different providers. However, we have sought to minimise the burden of participation for all providers in a number of other ways, including through operating the scheme periodically every four years rather than annually, and

¹³ Under proposal 11 we set out as a principle that the indicators should contribute no more than half the evidence of excellence in each aspect. It is no longer possible, as was the case in the previous TEF, to be awarded a Gold solely on the basis of extremely strong indicator performance (see paragraph 7.66 of 'Teaching Excellence and Student Outcomes Framework specification', available at www.gov.uk/government/publications/teaching-excellence-and-student-outcomes-framework-specification).

at provider level rather than subject level. We will aim to provide guidance and run events for providers through the process.

42. We consider that providers of all sizes and types will already have in place internal mechanisms for monitoring, evaluating and enhancing quality, and a provider should do this in ways that are appropriate to its context. The aim of our submission guidance will encourage providers to draw on this existing evidence where possible and acknowledge that the activities they carry out should be appropriate to their context.
43. Additionally, we will aim to recruit a panel that includes members with expertise of higher education in smaller providers. The whole panel will also receive guidance and training on how to take account of the different sizes of providers during their assessments.
44. With regards to data, it is important to note that our revised data presentation maximises the potential to facilitate appropriate interpretations and onward use of the data (where we use shaded bars to indicate the full range of a provider's performance and the statistical confidence in that data). In the previous TEF the presentation of data meant there was more limited opportunity to make meaningful use of data based on small student populations.¹⁴
45. One of the benefits of our new four-year cycle is that we will have time to evaluate the scheme between exercises. As part of our plans for evaluation we will seek to understand whether the scheme is achieving its aims in an appropriate way across all provider types, including smaller providers.

Regulatory and policy alignment

46. Some respondents highlighted what they considered to be areas of duplication or overlap between the TEF and other regulatory activities. These respondents considered this would cause administrative burden for providers and confusion. Examples given included:
 - a. The perception of 'double regulation' of apprenticeships, which are inspected by Ofsted but proposed to be included in scope for TEF assessments.
 - b. Variations between how the TEF indicators were constructed and considered compared with other OfS indicators. For example, international students are included in some TEF indicators but not in the current access and participation dashboards.
47. Some respondents suggested there were potential conflicts between different policies, such as between the government's levelling up agenda and the TEF's expectations in relation to student outcomes. These responses appeared to be of the view that regional labour markets and other local factors would not be sufficiently considered in relation to the TEF progression indicator. They noted especially that graduates may be more likely to find highly skilled employment if they move to London or the South East, which may encourage them to move away from parts of the country that are the focus of the levelling up agenda.

¹⁴ In the previous TEF, metrics identified when the difference between the indicator and the benchmark was both significant and material using a system of 'flags'. Flags informed whether there was a positive or negative assessment of a provider's performance. Where a metric was based on small populations it was less likely to meet the significance criterion and therefore less likely to be flagged, making it more difficult for panels to take into account the evidence from that metric.

OfS response

48. We discuss the inclusion of apprenticeships within the scope of TEF assessments under proposal 6.
49. With regards to comments about the alignment of TEF indicators and access and participation indicators, we set out in our data indicators consultation our proposal that the definitions that we decide to implement would be applied to future publications of the OfS access and participation data dashboard. We have now decided to adopt the consultation proposals and discuss in further detail what that will mean and how we will support providers to transition to the new definitions under proposal 2 of our consultation on constructing student outcome and experience indicators for use in OfS regulation.¹⁵ We noted that in adopting the definitions we would continue to restrict the coverage of the access and participation data dashboard to UK-domiciled students studying for undergraduate qualifications. This is to provide an appropriate degree of alignment with the scope of access and participation plans, as prescribed through regulations made under HERA.
50. In response to the points about the TEF and the government's levelling up agenda, there are several aspects of the TEF that consider geographical context. We will provide information through the split indicators constructed using our geography of employment and earnings quintiles, which are also a factor used in the benchmarking of progression indicators. Discussion of how we proposed these would be used in the indicators can be found in our data indicators consultation.¹⁶ Beyond this, a provider may discuss further geographical factors and context in its submission for the TEF panel to consider.

Equality considerations

51. There was a suggestion among responses that across its quality and standards consultations the OfS could do more to consider the possible impact on equality of opportunity, including by publishing an equality impact assessment of its proposals.
52. Points raised about equality included that the proposals may disincentivise providers from recruiting underrepresented groups to improve their performance in data indicators and the TEF ratings. It was also commented that the design of the TEF, and its definitions of excellence should consider equality of opportunity to support the diversity of the sector and student population.
53. Some respondents expressed views that there may be external factors, such as local economies and demographics which already limit improvements in student outcomes in higher education for students from underrepresented groups.

OfS response

54. In exercising its functions, the OfS must have due regard for the public sector equality duty (PSED) in the Equality Act 2010. This requires the OfS to have due regard to the need to

¹⁵ See www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

¹⁶ See paragraphs 375-378 of 'Consultation on constructing student outcome and experience indicators for use in OfS regulation' (OfS 2022.03), available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

eliminate unlawful discrimination and other conduct prohibited by the Equality Act 2010, foster good relations between different groups and advance equality of opportunity. We also have a general duty under section 2(1) of HERA to have regard to the need to ‘promote equality of opportunity in connection with access to and participation in higher education’.

55. In making our consultation proposals, and in reaching the final decisions set out in this document, we have given due regard to the public sector equality duty (PSED) and our general duty relating to equality of opportunity.¹⁷
56. Throughout the consultation we identified areas in which we had placed weight on equality considerations. This included (but was not limited to):
 - a. Our intention, as described in the purpose section, that the TEF should assess how far each provider delivers excellent teaching, learning and outcomes for its mix of students and courses, which we consider will incentivise excellence in a way that benefits the widest possible range of students, including underrepresented groups.
 - b. The inclusion and publication of split indicators which show a provider’s performance for students with different characteristics, some of which are protected characteristics. This information is valuable to providers as they use it to support the way they engage with and understand the performance of their mix of students and courses (including those from underrepresented groups) at a granular level. It also allows the panel to consider the performance of underrepresented groups when making judgements (see below).
 - c. That panels are likely to weight more positively evidence that demonstrates that very high quality or outstanding features apply to all groups of students at a provider, including students from underrepresented groups, and across the range of its courses and subjects. We consider this approach will incentivise excellence in a way that benefits the widest possible range of students.
57. Some respondents to the consultation considered that our TEF proposals could have the effect of disincentivising providers from recruiting students from underrepresented groups to improve their TEF ratings. We consider that our proposals will not be detrimental to the interests of those students, or potential students, because of the TEF’s focus on enabling providers to pursue diverse educational missions and because the mix of students and courses is explicitly considered during assessment. Providers that are more likely to recruit a diverse range of students will have this taken into account through benchmarked data and will have the opportunity to explain how they deliver excellence for their mix of students and courses through their submission. We are clear that it is not acceptable that students who are from disadvantaged backgrounds or from groups underrepresented in higher education should receive a lower quality experience than students from other groups.
58. It is also important to note that the TEF operates as part of a wider system of regulation that includes our activity under both the Equality Act and our general duty to have regard to equality

¹⁷ The OfS’s general duty to have regard to the need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers, under s.2(1)(e) of HERA.

of opportunity. This includes our work on access and participation plans – further details of our work in this area will be published in autumn 2022.¹⁸

59. Regarding the comments about external factors, our approach to regulation recognises that there may be factors that influence whether an individual student continues, completes and then progresses from higher education that may not always be in the direct control of a provider. However, our view remains that providers do and should have a considerable influence on the outcomes of their students, and the existence of factors that may be beyond their control should not prevent us from regulating to achieve our policy objectives.
60. We set out our position on the relationship between quality and equality through earlier phases of our quality consultations, and most recently in our 2022-25 strategy:

‘The two areas that we will focus on from 2022 to 2025 are quality and standards, and equality of opportunity. These underpin our four primary regulatory objectives which reflect the duties and powers set out in sections 29-37 and 23-28 of HERA. They are closely connected and mutually reinforcing: improving equality of opportunity without ensuring quality and standards will not lead to positive student outcomes and, likewise, ensuring quality and standards without improving equality of opportunity means that students who could benefit will not.’

61. In relation to responses requesting that we conduct an equality impact assessment of the proposals, we explained in response to the phase one and two consultations on quality and standards we explained that we keep under review how we embed our equality duties into our policy development and policy implementation to ensure compliance with the PSED. In this phase of consultation, we have continued to engage with and place appropriate weight on equality considerations throughout our policy development and decision-making process. Across all three phases of consultation we have encouraged responses about the potential impact of our proposals for individuals with protected characteristics. We therefore consider we have had proper regard to matters within the scope of the PSED and other relevant duties and have already extensively considered matters relating to those duties.
62. We will continue to have due regard to the PSED and other relevant duties in the implementation of our proposals.

Consultation approach

63. Some respondents commented on the complexity of the three concurrent consultations and the length of the consultation window, pointing out that smaller and less well-resourced providers may not have had time to understand the proposals fully. We note that similar points were raised across all three consultations.

OfS response

64. We considered the responses suggesting that the consultation documents were too long and too complex to be easily understood. We consider that the level of detail provided in the TEF consultation was appropriate to give consultees sufficient information about proposals in order

¹⁸ See www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/access-and-participation-plans/.

that they could understand the proposals. While we could have provided less information in order to make the consultation shorter, a likely consequence would have been respondents would have had too little information to respond fully. In addition, we chose to run the three consultations concurrently given the cross-cutting nature of the policy proposals within them. We considered that this was helpful in allowing consultees to consider the consultation proposals in the round and having regard to related policy proposals and regulatory context. This has facilitated informed responses from consultees.

65. We also consider that our consultation on the TEF was part of a longer development period for the TEF, that included the independent review of the TEF and a publication which provided an update on how the OfS was developing proposals that would be the subject of consultation.¹⁹ This means that for many respondents this consultation presented a continuation of existing themes and concepts.

Requests for further information

66. Across our TEF proposals, there were requests for additional information in a range of areas. A number of respondents also said it was important to support providers, students and the panel with clear and detailed guidance. Among responses there were suggestions that this would ensure parity across submissions and the inclusion of appropriate evidence, reduce burden, enable effective student participation, and help achieve consistency in the assessment.

OfS response

67. Where requests for further information formed a key theme in relation to a particular proposal, we have provided a response in the relevant section of this document.
68. We acknowledge that clear guidance on the preparation of submissions will be important for providers and students, but we consider that it is also important that providers and students determine what information and evidence is relevant to their own context. We discuss this further under both proposal 7 (Provider submissions) and proposal 8 (Student submissions)
69. With regards to panel guidance, we intend to publish procedural guidance that operationalises our decisions to enable consistent judgements about diverse providers. We would aim do this before the submission deadline so that it is available for providers and students to also consider. We discuss this further under proposal 11 (Assessment of evidence).
70. Our proposals on provider and student submissions, and on expert review and assessment, were each accompanied by an annex in which we included an outline of the guidance we proposed to provide. We explained that we had not prepared full draft guidance at that point because our intention was to develop it in accordance with the decisions that followed from the consultation. Our plans for guidance are detailed further in this document in our responses to proposals 7, 8, 10 and 11 and under the 'next steps' section.

¹⁹ See 'Update on the development of proposals for the future exercise', available at www.officeforstudents.org.uk/publications/tef-update-on-the-development-of-proposals-for-the-future-exercise/.

Further research to improve the TEF

71. Some respondents suggested that the TEF might be improved through additional research and learning from other sector bodies that focus on excellence in education. Some comments suggested that the TEF should evolve to incorporate and reflect new types of evidence as time goes on.

OfS response

72. We set out in the consultation that we intend to evaluate the TEF following the next exercise, to ensure the scheme can develop and improve where necessary. As part of our plans for evaluation we will seek to understand whether the scheme is achieving its aims in an appropriate way across all provider types, including smaller providers; we also intend to evaluate how providers interpret and evidence educational gains to develop this aspect further for future exercises.

Proposal 1: Provider-level, periodic ratings

Summary

73. In summary, proposal 1 set out that ‘an overall rating should be awarded to a provider reflecting the quality of its undergraduate courses, and that these ratings should last for four years’. The details of the proposal were that:
- a. TEF assessment should result in an overall rating for each provider. The overall rating would be underpinned by two aspect ratings, one for student experience and one for student outcomes, but there would be no rating of individual subjects within a provider.
 - b. Ratings should be informed by consideration of the student experience and student outcomes for all groups of a provider’s undergraduate students and across the range of its undergraduate courses and subjects.
 - c. TEF exercises should be conducted every four years and that all ratings should be awarded to last for four years until the next TEF exercise concludes (subject to a provider meeting ongoing requirements to retain its rating).
 - d. There would not be interim assessments in between the four-yearly exercises.
74. The consultation then asked: ‘to what extent do you agree with our proposal for provider-level, periodic ratings? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view’.
75. There was strong support for this proposal with over four fifths of respondents tending to agree or strongly agreeing. Less than one fifth of respondents tended to disagree or strongly disagree. A small number of respondents did not know or preferred not to say.
76. We consider that the strong support for this proposal reflects agreement with our rationale that it would not be appropriate to move to an exercise that rated individual subjects. Rather, an exercise that leads to a provider-level rating, while being transparent in its consideration of the groups of students and range of courses at a provider, is proportionate and would deliver our intended purpose of incentivising improvement. It also reflects support for moving away from the previous annual cycle of TEF assessments to a more periodic cycle, which reduces burden and is also an efficient use of OfS resources.
77. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues relating to the absence of an interim assessment exercise from our proposals (to the extent that they are not dealt with elsewhere in this document).

Interim assessments

78. In the consultation, we proposed that interim assessments would not be necessary on the basis that a four-yearly exercise would be sufficient in creating the intended incentives while also limiting the burden of making TEF submissions and conducting assessments.
- Respondents’ views included that:

- a. The combination of lagged data and a four-year gap between exercises could mean that ratings would become increasingly unrepresentative of providers' current performance, or changes that occur between TEF cycles.
 - b. Some providers (such as new providers, or providers for which the TEF is voluntary) would have to wait up to four years to participate if they do not, or cannot, apply to the next TEF.
 - c. That four years could be a long period for providers to be categorised as Requires improvement given the reputational impact it would have (this was linked to the proposal that where there is an absence of excellence, no rating should be awarded and the published outcome should signal that improvement is required, see proposal 4).
 - d. Because a TEF rating is required for providers to access any inflationary uplift in statutory fee limits set by the government (see proposal 4), four years could be a long period in which some providers would be unable to access the fee uplift.
79. Some respondents suggested that running an interim assessment would encourage rapid improvements and reduce any negative impact on students and graduates, in terms of their future employment. Some respondents suggested that interim assessments be made available but be limited to providers that receive a Requires improvement outcome. Other respondents thought that interim assessments should be employed in a wider range of circumstances or extended to all providers.
80. There were some alternative suggestions including the staggering of assessments (i.e. not assessing all providers at the same time) to allow for new waves of submissions within the four-year cycle, and the retention of provisional awards.

OfS response

81. We do not consider that offering providers the chance to take part in an interim exercise is appropriate or proportionate, including if a provider has a Requires improvement outcome. While more frequent exercises would lead to ratings that reflect more recent changes in performance – both positive and negative – we consider that this would place unnecessary burden on the sector that outweighs the benefits and be an inefficient use of OfS resources. This is because we consider that the incentive to improve created by the TEF operates continuously between the four-yearly exercises, regardless of whether there is an interim exercise. While interim assessments could generate more up-to-date ratings for those providers assessed at the interim point, this approach would reduce the comparability of the TEF ratings across all providers and therefore, overall, we do not consider this would be in the interest of students.
82. With regards to suggestions for staggering assessments, one of the benefits of all providers participating in the exercise at once is that they will be judged on the same basis using data from the same period. This helps to ensure ratings will be comparable, and we note that in response to many of the proposals numerous respondents raised the importance of ensuring consistency across assessments.
83. With regards to the suggestion that we should retain provisional awards, we do not consider that provisional awards incentivise excellence for providers because they are not based on an

assessment of excellence in a provider, and the label does not provide useful information for students. Provisional awards do not, therefore, support what we are seeking the TEF to achieve.

84. With regards to points raised about access to the uplift in statutory fee limits, as set out under proposal four, it is the Secretary of State who determines fee limits under regulations made under the Higher Education and Research Act 2017), not the OfS.

Other points raised

85. A number of other issues were raised in response to this proposal which we have responded to under other sections of this document, including:

- a. Respondents wishing to understand better how data would be used in making decisions (covered under proposal 11 – assessment of evidence).
- b. Comments on how TEF outcomes may be misinterpreted by students and that the Requires improvement label could lead to reputational damage for providers (covered under proposal 3 – rating scheme, and proposal 4 – absence of excellence).
- c. Comments on the proposed implementation timeline and potential for regulatory burden, linked to views about providers having insufficient time to prepare their submissions and overlapping timeframes with other regulatory exercises (covered under proposal 15 – timing of the next exercise).
- d. Comments on the broader purpose and effectiveness of the TEF, including that the TEF will not truly measure excellence in teaching (covered in response to ‘purpose and effectiveness of the TEF’ under overarching themes).

Decision

86. We have decided to proceed with this proposal with no change. This means we will:

- a. Proceed with TEF assessments that result in an overall rating for each provider. The overall rating will be underpinned by two aspect ratings, one for student experience and one for student outcomes. There will be no rating of individual subjects within a provider. However, ratings will be informed by consideration of the student experience and student outcomes for all groups of a provider’s undergraduate students and across the range of its undergraduate courses and subjects.
- b. Conduct a TEF exercise every four years, with no interim assessments. All outcomes awarded will last for four years until the next TEF exercise concludes (subject to a provider meeting ongoing requirements to retain its rating).²⁰

²⁰ We expect the subsequent TEF exercise to be conducted four years after the immediate next exercise, but the timetable for this will be decided following the completion of the next exercise and any consultation that is appropriate. This means that TEF outcomes from the next exercise will last for four years or until the subsequent exercise concludes, whichever is later (subject to a provider meeting ongoing requirements to retain its rating).

Proposal 2: Aspects and features of assessment

Summary

87. Proposal 2 set out that ‘two aspects should be assessed and rated: the student experience and student outcomes. The criteria for determining ratings should be based on the extent to which very high quality and outstanding quality features are demonstrated for each of these aspects’. The details of the proposal were that:
- a. TEF assessments should be structured to assess excellence in two aspects:
 - The ‘student experience’ aspect, which would focus on the extent to which teaching, learning, assessment and the educational environment deliver an excellent educational experience for each provider’s students.
 - The ‘student outcomes’ aspect, which would focus on the extent to which the provider’s students succeed in and beyond their studies, and the educational gains delivered for students.
 - b. Each of the two aspects would be underpinned by ‘features of excellence’ which describe in more detail what each aspect covers and how it would be assessed. The proposed features of excellence were set out in Annex B of the consultation.
 - c. Features of excellence would be defined at two levels:
 - ‘Outstanding quality’ signifying a feature of the student experience or outcomes that is among the very highest quality found in the sector for the mix of students and courses taught by a provider.
 - ‘Very high quality’ signifying a feature of the student experience or outcomes that is materially above the relevant minimum baseline quality requirements for the mix of students and courses taught by a provider.
 - d. Each aspect would receive a rating, in addition to the overall provider rating.
88. The consultation then asked: ‘to what extent do you agree with our proposal for aspects and features of assessment? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view’.
89. There was strong support for this proposal with over three quarters of respondents tending to agree or strongly agreeing. Less than one fifth of respondents tended to disagree or strongly disagree. A small number of respondents did not know or preferred not to say.
90. We consider that the support for this proposal reflects agreement that the two aspects of ‘student experience’ and ‘student outcomes’ should be assessed and rated. Among responses there was some support for the additional granularity that aspect ratings will provide, the balanced consideration of qualitative and quantitative evidence across the aspects, and the broad alignment of the TEF aspects and features with the OfS’s conditions of registration B1-B4. In addition, while requests for more information on educational gains formed a key theme

in relation to this proposal (as discussed later in this section), a number of respondents welcomed the inclusion of educational gains in principle.

91. In the qualitative responses there was limited feedback regarding the proposed wording of the features set out in Annex B of the consultation. Some respondents did however raise points regarding the general scope of the aspects, and the extent to which TEF assessments should consider evidence beyond the educational experience and outcomes of students.
92. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues (to the extent that they are not dealt with elsewhere in this document) relating to:
 - a. The broad scope of the aspects.
 - b. The definition and assessment of educational gains within the student outcomes aspect.
 - c. The way in which the ‘very high quality’ and ‘outstanding’ features relate to the ratings.

The scope of aspects

93. Our proposals for the scope of the aspects, which are described above in paragraph 87.a were designed to broadly align with (what were at that time proposals for) our ongoing conditions of registration for quality and standards. In our consultation we also explained why we did not propose the TEF should assess standards and why we did propose the TEF should recognise outcomes beyond those we proposed to measure as part of our regulation of minimum requirements for quality (i.e. through consideration of educational gains).
94. Some respondents to the consultation wanted us to incorporate ‘wider’ features of higher education than we proposed for the TEF. For example, with regards to the student experience aspect it was suggested that the scope could go beyond teaching, learning, assessment and the educational environment and include the extent to which students have a sense of belonging and feel part of a community. It was suggested this could be evidenced by the NSS questions on learning community. Attendees of the student workshops also expressed support for considering ‘wider’ elements of the student experience in assessment (see Annex B). (Please note that general views in relation to which NSS scales should be included in the indicators are covered under proposal 9.)
95. Similarly, some respondents to the consultation wanted us to incorporate consideration of student outcomes from a wider range of activities beyond the educational experience. This was typically discussed in relation to the scope and definition of educational gains, and the extent to which this should include ‘wider’ gains achieved through, for example, extra-curricular activities such as volunteering.

OfS response

96. With regards to the comments that suggested extending the scope of the aspects, our view is that the TEF should be concerned with the student educational experience and the outcomes of that experience, but not the wider higher education experience. We also set out in our consultation that we had considered the recommendations of the independent review and the government’s response to the review, and in particular the emphasis placed on the educational experience throughout the independent review’s findings and recommendations.

97. For the avoidance of doubt, we consider that educational activities may extend beyond the curriculum or the direct delivery of a course and include, for example, academic support or activities that support career development and employability. Such activities would therefore be within the scope of the TEF.
98. While we acknowledge there are important and positive aspects of students' experience that may not relate to their educational experience, we are not seeking to assess these within the TEF. We consider that defining the scope of the TEF to cover too wide a range of student experiences would increase the overall burden on providers, beyond what we consider necessary for the TEF to incentivise providers to deliver excellence above our minimum quality requirements. This means we do not think it would be appropriate to assess, for example, experiences that are primarily social, or outcomes or gains that arise primarily from social experiences.
99. However, we recognise that providers may have their own evidence of how some wider activities contribute to the quality of the educational experience or outcomes. Such activities might include, for example, activities that foster a sense of belonging and community, or support for wellbeing. While we are not seeking to assess the quality of these activities in the TEF, evidence of how such activities contribute to the quality of the educational experience or outcomes may be considered relevant, if included in a submission. For the TEF panel to be able to place weight on such evidence, we would expect a provider to clearly demonstrate that a particular activity makes a clear and direct contribution to the quality of the educational experience or outcomes for its mix of students and courses.
100. With regards to the comments on including the NSS scale on learning community to illustrate a sense of belonging, we provided it within the indicative data as part of the consultation to test views about its potential inclusion. As we have explained under proposal 9, we have decided not to use this scale when constructing TEF indicators, but this does not prevent a provider giving evidence in relation to this measure, or related issues, provided it can demonstrate a direct link to the educational experience of students.

Educational gains

101. In our consultation we noted the current absence of a national measure for educational gains. We proposed that educational gains would be assessed based on qualitative and quantitative evidence that a provider determines itself and includes in its submission. This could also be supplemented by evidence in the student submission.
102. Some respondents suggested delaying the inclusion of educational gains beyond the next TEF, to give providers more time either to develop definitions and measures at a provider level or to arrive at commonly accepted definitions at a sector level. It was also suggested that the OfS resume the Higher Education Funding Council for England's (HEFCE's) previous work on 'learning gain' to enable its use in the regulatory system.
103. As well as suggesting that educational gains should consider 'wider' gains (which is discussed above), some respondents considered that more information on the scope and definition of educational gains more generally would be helpful. This was because they considered that it would create extra burden on providers to have to develop their own definitions of educational gains and approaches to measurement. Some respondents

suggested there were challenges relating to measuring learning gains, as identified through the various strands of the learning gain programme undertaken by HEFCE.²¹

104. Several respondents also considered that without further guidance on educational gains, the way providers interpret and report on educational gains in their submissions could be inconsistent, and that panel judgements could also be inconsistent.

OfS response

105. Regarding suggestions that we delay the inclusion of educational gains until the next TEF to give providers more time either to develop definitions and measures at a provider level or to arrive at commonly accepted definitions at a sector level, we consider that the benefit of including educational gains in this TEF exercise outweighs the alternatives: for example, by having TEF assessments only consider a narrower definition of student outcomes (i.e. only continuation, completion and progression). As set out above, there was support from many respondents for the inclusion of educational gains in principle.
106. The approach we proposed for educational gains recognised that there is currently no national measure and that many providers may not have developed their own approach to measuring the learning gains they deliver. Annex B of the consultation explained that we had deliberately described the educational gains in our 'features of excellence' in a way that focused on a provider's approach to educational gains more broadly, encompassing 'articulation of the gains it intends its students to achieve; its approach to supporting these educational gains; and evidence of the gains achieved'. This approach was proposed to allow providers time to establish their practice in measuring and evidencing educational gains (which could then become the focus of assessment in subsequent TEF exercises) while still enabling providers to demonstrate a clear articulation of their ambitions for educational gain, credible approaches for delivering this, and where possible evidence that it is delivered in practice.
107. We consider that it is reasonable to expect providers at this point to be able to articulate what educational gain means in their own context. Because of the way we have designed the ratings criteria to look at evidence across the range of features, a provider would not be prevented from being awarded higher TEF ratings solely based on an absence of developed educational gain measures. We also note that in the previous TEF exercises, providers were asked to 'refer to their own approaches to identifying and assessing students' learning gain' and this is not, therefore, a new or unfamiliar concept in the context of the TEF.²²
108. It follows that, with regard to the scope and definition of educational gains, our view remains that the scope should be sufficiently broad to offer flexibility to providers. This recognises that the sector is diverse, and that intended gains will vary from provider to provider. Therefore, within the broad scope we set out, we consider that an individual provider is best placed to define and evidence what its students should gain from their educational experience, with reference to the specific character and mission of the provider.

²¹ See www.officeforstudents.org.uk/advice-and-guidance/teaching/learning-gain/.

²² See paragraph 4.9 of 'Teaching Excellence and Student Outcomes Framework specification', available at www.gov.uk/government/publications/teaching-excellence-and-student-outcomes-framework-specification.

109. For reference, the features relating to educational gains from Annex B of the consultation have been reproduced below in Table 1. In combination, the features articulate that, for the purpose of the TEF, the scope of educational gains should:

- a. Cover a breadth of educational gains beyond the measures of continuation, completion and progression we use for the TEF indicators.
- b. Be relevant to the particular mix of students and courses at a provider.
- c. Ideally take account of students' different starting points and the distance travelled.

110. In terms of the breadth of educational gains:

- a. We can confirm that we consider that the scope should ensure that assessment of educational gain should go beyond the measures of continuation, completion and progression we use for the TEF indicators. This was implicit in the features of excellence set out in the consultation. We consider that students benefit educationally from higher education in ways that extend beyond the outcomes we currently measure as part of our baseline regulation.
- b. We pointed consultation respondents to HEFCE's previous work in this area and, drawing on this, providers could include a range of gains, which might include but not be limited to:
 - Academic development: such as gains relating to the development of subject knowledge as well as academic skills such as critical thinking, analytic reasoning, problem solving, academic writing, and research and referencing skills.
 - Personal development: such as gains relating to the development of student resilience, motivation and confidence as well as soft skills such as communication, presentation, time management, and networking and interpersonal skills.
 - Work readiness: such as gains relating to the development of employability skills such as teamworking, commercial awareness, leadership and influencing.

111. We also explained in our consultation that the TEF should assess how far each provider delivers excellent teaching, learning and outcomes for its mix of students and courses, because we consider this approach would incentivise excellence in a way that benefits the widest possible range of students. We consider this to be important in the context of considering educational gains. To promote equality of opportunity, the TEF panel would, for all the features, consider how far a provider delivers very high quality or outstanding quality for all its students, including students from underrepresented groups. When it assesses educational gains, this means that the TEF panel is likely to weigh more positively evidence where very high quality or outstanding quality applies to all groups of students at a provider.

112. It is important that evidence about educational gains should consider students' starting points. This way the panel can consider the gains made for the provider's mix of students and courses.

Table 1: Educational gains features

| | |
|------------------------------|---|
| Outstanding quality features | <p>SO4. The provider clearly articulates the range of educational gains it intends its students to achieve, and why these are highly relevant to its students and their future ambitions.</p> <p>SO5. The provider's approaches to supporting its students to achieve these gains are evidence-based, highly effective and tailored to its students and their different starting points.</p> <p>SO6. The provider evaluates the gains made by its students, and demonstrates its students are succeeding in achieving the intended gains.</p> |
| Very high quality features | <p>SO4. The provider articulates the educational gains it intends its students to achieve, and why these are relevant to its students.</p> <p>SO5. The provider effectively supports its students to achieve these gains.</p> <p>SO6. The provider evaluates the gains made by its students.</p> |
| Explanatory note | <p>These features are additional to our baseline quality requirements (that is, they do not build directly on existing B conditions as explained under proposal 2), and so are considered to be 'materially above' the B conditions collectively. We acknowledge that providers may be at different stages regarding the evidence they may have available for the next TEF exercise about the educational gains achieved for their students. We therefore propose for the next TEF exercise these features should relate to a provider's articulation of the gains it intends its students to achieve; its approach to supporting these educational gains; and evidence of the gains achieved. We would expect that for subsequent TEF exercises the educational gains features would focus more on impact and outcomes, that is, the gains achieved in practice by a provider's students</p> |

- 113. When we publish guidance for providers and students, we will aim to include examples of what educational gains might include and examples of approaches to measurement that were previously trialled. We will be clear that any examples should not be treated as exhaustive. Relevant examples will be drawn from HEFCE's previous work on learning gain.
- 114. As part of our evaluation of the TEF, we will consider whether further activity and research into educational gains would be beneficial, but in the meantime encourage providers to establish their own projects and resources, to share best practice, and to develop their definitions of educational gains in collaboration with their students.

Defining features of excellence

- 115. Our proposed approach to the features defined at two levels ('very high' and 'outstanding' quality) is intended to illustrate that beyond the 'high quality' minimum requirements that all providers registered with the OfS must meet, the TEF is identifying 'very high quality' or 'outstanding quality' that is materially above these minimum quality requirements.
- 116. In relation to defining features of excellence, the main points raised by respondents were that:
 - a. The term 'high quality' is used in the ratings criteria but is not defined in the way 'very high quality' and 'outstanding' are defined. It was suggested that further information is

needed about how this term relates to the minimum requirements for quality and standards set out in the OfS's ongoing conditions of registration.

- b. That the 'very high quality' and 'outstanding' descriptions are inconsistent with the three-point rating scale, in that they appear to align with the 'Silver' and 'Gold' categories without an equivalent description of 'Bronze'.

OfS response

117. When referring to 'high quality' in the TEF we mean the high quality minimum requirements set out in the revised conditions B1, B2, B3 and B4. We do not therefore consider it is necessary to separately define 'high quality' for the purposes of the TEF. What is necessary for the TEF is to define excellence above the high quality minimum requirements, that we intend to incentivise through the TEF. When we publish guidance for providers and students for writing submissions, we will draw their attention to the requirements and definitions set out for conditions B1, B2, B3 and B4.
118. With regard to the comments about the alignment of 'outstanding' and 'very high quality' with the ratings descriptors, we consider that the comments reflect an occasional misinterpretation of our proposals. We deliberately did not propose a system where outstanding quality maps directly to Gold and very high quality maps directly to Silver, and so on. While this is possible in principle, such an approach would require additional levels to be defined within the features of assessment, i.e. discrete levels for Gold, Silver and Bronze.
119. Instead, the approach we proposed recognises that at any individual provider, the quality of different features of its provision is likely to vary. The approach will allow panel members to differentiate between Gold, Silver and Bronze ratings based on the mix of outstanding and very high quality features at a provider. (For example, a Silver rating would apply where the features are predominantly very high quality, whereas a Bronze rating would apply where there are some very high quality features but they are not predominate. Further information about the mix of features was set out in the ratings descriptors in Annex B of the consultation.) A greater level of granularity in defining the features is therefore not necessary.
120. We also consider that it would be undesirable to introduce additional complexity into assessment by requiring panel members to make more finely grained judgements in relation to individual features. Our view is that the approach we proposed, whereby the decision on which rating to award depends on the mix of excellence across features, will reflect providers' breadth of provision better, where some providers will have more features of excellence than others.

Other points raised

121. A series of other points were made in response to this proposal which we have responded to under other sections of this document, including:
 - a. Respondents wishing to get a better understanding of the principles and guidelines that will be used by the TEF panel in making robust and consistent judgements, including across different provider types and in relation to educational gains given the expected diversity of approaches (covered under proposal 11 – assessment of evidence).

- b. Requests for further information about the composition of the TEF panel (covered under proposal 10 – expert review).
- c. Comments on potential burden and disadvantage for smaller providers with less resource to devote to the exercise (covered in response to ‘burden on smaller providers’ under overarching themes).
- d. Comments on the potential for additional burden created by overlap with other regulatory exercises (covered in response to ‘regulatory and policy alignment’ under overarching themes).
- e. Comments on progression outcomes being influenced by the nature of a particular course, student characteristics or local economic factors (covered in response to ‘equality considerations’ under overarching themes and under proposal 9 – indicators).
- f. Comments on the broader purpose of the TEF, including that the TEF will not properly measure excellence in teaching (covered in response to ‘purpose and effectiveness of the TEF’ under overarching themes).

Decision

122. We have decided to proceed with this proposal with no change. This means that we will:

- a. Proceed with a TEF assessment that is structured to assess excellence in two aspects, as set out in proposal two of the consultation. These are the student experience aspect, and the student outcomes aspect.
- b. Describe each aspect in detail in terms of ‘features of excellence’.
- c. Set criteria for determining ratings based on the extent to which very high quality and outstanding quality features are demonstrated for each of these aspects.
- d. Rate each aspect, in addition to the overall provider rating.

Proposal 3: Rating scheme

Summary

123. In summary, proposal 3 set out that ‘there should be three rating categories – Gold, Silver and Bronze – signifying degrees of excellence above our baseline quality requirements’. The details of the proposal were that:

- a. The TEF panel could make decisions to award ratings in three categories: Gold, Silver and Bronze.
- b. There would be criteria for each rating. Annex B of the consultation set out how each rating would correspond to the panels assessment of ‘very high quality’ and ‘outstanding quality’ features, and the extent to which the provider delivers excellence for all its groups of students. Annex F of the consultation set out how different aspect ratings may be combined to form an overall rating.

124. The consultation then asked: ‘to what extent do you agree with our proposal for the rating scheme? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view’.
125. Approximately two thirds of respondents tended to disagree or strongly disagree with this proposal, while almost a third tended to agree or strongly agree. A small number of respondents did not know or preferred not to say.
126. The qualitative responses reveal that disagreement with this proposal tended to relate to the Requires improvement category proposal (covered under proposal 4). A number of respondents took the view that the term Requires improvement would be misleading, or would create reputational damage for providers, rather than opposing the principle that there should be no rating awarded in the absence of excellence. We have addressed points made in relation to the Requires improvement label under proposal 4.
127. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues relating to the rating names of Gold, Silver and Bronze (to the extent that they are not dealt with elsewhere in this document).

Gold, Silver and Bronze

128. In developing our proposed ratings, we considered alternative names for the Gold, Silver and Bronze categories. One alternative was the names recommended by the independent review of the TEF: Commended, Highly Commended and Outstanding. We took the view that these names would be more challenging for audiences, particularly non-specialist audiences, to interpret. This was because it may not be immediately obvious, especially to those less familiar with the higher education sector, that those labels represent increasing levels of excellence, in turn creating less of an incentive for improvement.
129. In summary, respondents’ points about the rating names included:
 - a. That the ratings are too simplistic and may not capture the nuances of how excellence differs between providers. There was a desire for clearer distinctions between the ratings and between the definitions of the ratings, with some respondents suggesting the use of more descriptive rating names. Some respondents questioned whether the ratings as proposed will enable panel members to make objective and consistent decisions, and whether the ratings will be correctly interpreted by stakeholders and students, including internationally.
 - b. That the term Bronze has negative connotations and will not be seen by stakeholders as an award for excellence but rather a mark of poor quality compared with Silver and Gold. Respondents who made this point said that they did not believe the addition of the fourth category as proposed would be effective in addressing this negative perception, but it was suggested that adopting an alternative name for the fourth category – such as ‘meets baseline requirements’ – may help.

- c. That the ratings have the potential to have a negative effect on equality, with respondents referring to previous research suggesting applicants with particular protected characteristics may be less likely to apply to a Gold-rated provider.²³
130. Some respondents suggested alternative ratings, including the use of letters, star ratings, or the use of the names set out in the independent review of the TEF – ‘Meets UK Quality Requirements’, ‘Commended’, ‘Highly Commended’ and ‘Outstanding’.
131. As noted at paragraph 14 above, we commissioned research with students and applicants alongside the consultation, seeking views on rating scheme names.²⁴ The results of the research showed:
- a. A preference for Gold, Silver and Bronze as this scale was easy to understand. There was also evidence that a clearer distinction between levels in the Gold, Silver, Bronze scheme was perceived, compared with Outstanding, Highly Commended, Commended.
 - b. That just under two-fifths of respondents thought that a Bronze rating indicates either very good or good quality, and half of respondents thought it indicates acceptable quality with room for improvement. Fewer than one in ten respondents said a Bronze award would make them a lot less likely to consider studying at a provider with that award.
132. We also sought feedback on the rating names from participants in our student workshops, who tended to agree with those proposed in the consultation. They expressed a preference for the short, simple names which they thought represented the best of the options considered (see Annex B).

OfS response

133. While some respondents commented that the ratings were too simplistic, responses did not tend to comment on the number of ratings in the scale or that a larger range of outcomes would be helpful. It remains our view that a four-point scale of outcomes with aspect ratings sitting underneath an overall rating is the most appropriate way of showing patterns of excellence without constructing an overly complex rating scheme which would be more difficult for students and others to understand.
134. Only a limited number of alternative rating names were suggested through the consultation. The most frequently mentioned alternative was the rating scale set out in the independent review of the TEF (Outstanding, Highly Commended, Commended). Our view remains that Gold, Silver and Bronze show a clearer hierarchy of ratings and appropriately represent differing levels of excellence above the minimum quality requirements and are therefore easier for students and the public to understand. The research conducted by YouthSight did not change our view of this. We consider a clearly defined hierarchical scale to be important to avoid confusion or misleading applicants and students, particularly where it is possible that

²³ See ‘Teaching excellence: the student perspective’, available at studentsunionresearch.wordpress.com/2017/11/09/48/.

²⁴ See ‘Assessing student perceptions of proposed TEF naming and rating options’, a report by YouthSight to the OfS, available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

they will come across ratings in isolation (i.e. not in the context of the full range of outcomes, such as in a provider's own marketing materials).

135. Some respondents suggested that there had been a tendency to perceive Bronze as a negative outcome in the past, as it was the lowest outcome in the scheme, and that continuing to use Bronze would perpetuate the idea that Bronze was not a good outcome.²⁵
136. It is our view that with appropriate communication of the full range of outcomes, including the existence of a fourth category, Bronze would be appropriately perceived as having elements of excellence above the minimum quality requirements but also room for improvement required to attain a higher rating. The research conducted by YouthSight did not change our view of this. Our view is that such perceptions are an appropriate reflection of the way a Bronze rating is described in the ratings criteria²⁶ and that they create the an appropriate incentive for providers to improve.
137. Some respondents also identified potential equality issues in relation to the continued use of Gold, Silver and Bronze, citing research conducted with students in 2017, particularly the finding that students from an ethnic minority background would be less likely to choose a Gold-rated provider compared with white students.²⁷ However, that research did not test whether this would also be the case with an alternative name for the top rating in a scheme. The YouthSight research suggests that very few students and applicants would be put off from applying to a particular provider with either Outstanding (1%) or Gold (2%) ratings. Broken down by student characteristics, there were no statistically significant differences between white or black and minority ethnic students indicating they would be less likely to apply to a provider with either a Gold or Outstanding rating.²⁸

Other points raised

138. A further point made in response to this proposal related to the assessment approach. Some respondents wanted further information about how panel members will make robust and consistent judgements. We have responded to this issue under proposal 11 – assessment of evidence.

Decision

139. We have decided to proceed with this proposal with no change. This means that:

²⁵ For example, the independent review of the TEF (page 64) noted that 'Bronze seems to be viewed as indicating failure or substandard performance. This is evidenced not only by what we have heard but also by how applicants interpret the ratings and how institutions behave. Providers who have gained a Bronze rating are much less likely to advertise this in their promotional material compared to those with Silver and Gold.'

²⁶ See 'Table 4: Criteria for each rating category' in Annex B of 'Consultation on the Teaching Excellence Framework (TEF)' (OfS 2022.02), available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

²⁷ See 'Teaching excellence: the student perspective', available at studentsunionresearch.wordpress.com/2017/11/09/48/.

²⁸ 2% of white respondents and 2% of black and minority ethnic respondents reported that they would be less likely to choose a provider with a Gold rating; 1% of white respondents and 3% of black and minority ethnic respondents reported that they would be less likely to choose a provider with an Outstanding rating, but this difference was not statistically significant.

- a. The TEF panel will be able to make decisions to award ratings in three categories: Gold, Silver and Bronze.
- b. We will set out in guidance the criteria for each rating. This will build on the proposals set out in the consultation for how each rating corresponds to the panel's assessment of 'very high quality' and 'outstanding quality' features, and the extent to which a provider delivers excellence for all its groups of students. The guidance will also confirm that different aspect ratings may be combined to form an overall rating, in line with the proposals set out in the consultation.

Proposal 4: Absence of excellence

Summary

140. In summary, proposal 4 set out that 'where there is an absence of excellence, no rating should be awarded and the published outcome should signal that improvement is required. This outcome for a provider should be considered as part of our general monitoring of quality and standards'. The details of this proposal were that:
- a. Where a rating is not awarded (for an aspect or overall) the published outcome would signal that the provider 'Requires improvement' to be awarded a TEF rating.
 - b. Where no rating is awarded to a registered provider following the TEF panel's assessment, we would consider this as part of our general monitoring of quality and standards for that provider.
 - c. Where no rating is awarded to a participating provider in a devolved administration, it would be for the relevant authority to determine whether investigation of the provider's compliance with its minimum quality requirements is necessary, and to decide on any course of action that may follow.
141. The consultation then asked: 'to what extent do you agree with our proposal for where there is an absence of excellence? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view'.
142. Almost three-quarters of respondents tended to disagree or strongly disagreed with this proposal, while approximately one-fifth tended to agree or strongly agreed. A small number of respondents did not know or preferred not to say.
143. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues relating to the proposed name of the fourth category, and the relationship of the fourth category with regulation of minimum requirements for quality (to the extent that they are not dealt with elsewhere in this document).
144. Additionally, we explained in the consultation that the Higher Education and Research Act 2017 (HERA) includes provisions that link the ability to charge a higher fee amount to a provider's quality rating, but that the OfS does not set fee limits nor determine the relationship of TEF ratings to those limits. Fee limits are prescribed by the Secretary of State in regulations made under HERA and the Secretary of State determines what rating or

ratings are high-level quality ratings for this purpose. While we were not consulting on these arrangements, we received a number of comments requesting further information which we have sought to address here.

Requires improvement

145. In proposing the term Requires improvement for the fourth category our intention was to provide a strong incentive for a provider with this outcome to improve and deliver excellence for its students.
146. Our assessment of the responses to proposal three and four suggests there was not widespread disagreement to the principle of introducing a fourth category. However, comments made in response to both proposal 3 and 4, and in response to other proposals disagreed with the part of the proposal to describe the outcome as Requires improvement. While comments relating to this issue were made in response to various consultation questions, we address the issues primarily in this section.
147. In relation to the name Requires improvement, some respondents suggested that the term could be misleading, as in their view it could be misunderstood as a provider not meeting the minimum quality requirements, creating reputational damage for a provider and the sector more broadly. It was also suggested that there could be a negative impact on the prospects of students studying at a provider categorised as Requires improvement. Comments included that that the name Requires improvement:
 - a. Does not adequately convey that a provider in this category may still be meeting the OfS's minimum quality requirements which are defined as 'high quality'.
 - b. Has associations with Ofsted ratings, where 'requires improvement' is associated with poor performance. This point was made in relation to the impact on further education colleges in particular, where it was suggested there was potential for Ofsted and TEF judgements to be contradictory and that the TEF Requires improvement judgement could affect the reputation of a college's further education as well as higher education courses.
 - c. Could deter smaller providers that are not required to participate in the TEF from participating on a voluntary basis.
 - d. Is overly negative and does not adequately reflect that the overall purpose of the TEF is to incentivise excellence rather than determine regulatory compliance.
148. The range of suggestions made by respondents included: not publishing this specific outcome; adding a clear explanation that a provider meets minimum quality requirements; or using a different name for the category such as 'meets expectations', 'meets minimum standards', 'meets quality requirements', or 'does not exceed minimum requirements'.
149. In addition, some respondents thought there could be a potential impact on the diversity of the sector and its students if the fourth category were disproportionately given to providers in certain regions or providers whose students have particular characteristics.
150. Regarding the relationship between the proposed fourth category and the OfS's regulation of minimum requirements – condition B3 in particular – a number of respondents considered

this to be unclear. More information was sought on what it means in practice to receive the fourth category, including whether it would automatically trigger an OfS investigation regarding compliance with condition B3 or other conditions.

151. As set out in the consultation, we were open to considering alternative names for the fourth category provided they clearly convey that a provider would need to improve to be awarded a TEF rating. We took the opportunity to test, alongside the consultation, the proposed name of Requires improvement and a number of variations.²⁹
152. The YouthSight testing found that more than nine in ten respondents agreed or strongly agreed that the name Requires improvement was easy to understand, and 66% of respondents ranked Requires improvement as either their first or second preference of the four names tested. Of all respondents, 46% agreed that a provider with Requires improvement still provides an acceptable level of quality, which was the highest across the four naming options tested. Other labels we tested ('Requires improvement for a TEF rating' and 'Does not exceed minimum requirements') are technically accurate but were perceived as implying poorer quality than Requires improvement.³⁰
153. We should be clear that we do not agree with the comments that the lowest category should indicate clearly that minimum quality requirements are being met. We do not consider this is appropriate based on the reasoning set out under proposal 5.

OfS response

154. In response to points about the interaction with Ofsted ratings, we note that a provider's performance may not be consistent across its different provision so it may be appropriate for a provider to have, for example, a Good Ofsted rating but a Requires improvement outcome in the TEF. We agree it would not be appropriate for TEF ratings to be confused with ratings for provision that is inspected by Ofsted, and similarly it would be inappropriate for Ofsted ratings to be used in the context of a provider's higher education courses. In publishing the TEF outcomes we will make clear that they apply to higher education courses at undergraduate level. When communicating its own TEF rating, it will be a provider's responsibility to ensure that it is clear to the public what element of its business or provision are subject to its TEF rating.
155. We consider that even if a smaller provider (for whom participation is voluntary) is disincentivised from participating in the TEF due to the risk of receiving a Requires improvement outcome, it would still be incentivised to improve. This is because if the provider aspires to gain a TEF rating in the future, it would likely seek to improve before deciding taking part, to reduce the risk of a Requires improvement outcome.

²⁹ See 'Assessing student perceptions of proposed TEF naming and rating options', a report by YouthSight to the OfS, available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/. The names tested through this research were: 'Requires improvement', 'Requires improvement for a TEF rating', 'Improvement expected', and 'Does not exceed minimum requirements'.

³⁰ See figure 4.8 of 'Assessing student perceptions of proposed TEF naming and rating options', a report by YouthSight to the OfS, available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/

156. In response to points made about users understanding the ratings, we will publish information about the range of TEF outcomes that are available, including the Requires improvement category and how this relates to our regulation of our minimum quality requirements. This will draw on the ratings criteria that were published as part of the consultation and, alongside the written panel statements (see proposal 12), will enable users such as potential students to understand the basis for the TEF panel's decisions.
157. With regards to the comments about the impact of a Requires improvement label on the diversity of the sector, we point to our broader position on quality and equality: that improving equality of opportunity without ensuring quality and standards will not lead to positive student outcomes and, likewise, ensuring quality and standards without improving equality of opportunity means that students who could benefit from higher education will not.
158. Overall, our view is that it is appropriate to proceed with Requires improvement as the lowest category in the TEF for the reasons set out in the consultation – that it will provide a strong incentive for a provider with this outcome to improve and deliver excellence for its students. The research conducted by YouthSight did not change our view that the name of Requires improvement for the fourth category most clearly conveys that a provider would need to improve to be awarded a TEF rating. It is our ambition that more students should receive an excellent higher education experience and outcomes. Identifying providers that 'Require improvement' creates a strong incentive to push all providers with weaker performance to improve.
159. A Requires improvement outcome would not automatically trigger further OfS regulatory action. Where a provider receives a Requires improvement outcome in the TEF this would form part of the picture of regulatory intelligence we hold about each provider that we draw on to identify cases that may require investigation. Our recent decisions on revised quality and standards conditions set out how we would operate a flexible risk-based approach to evidence gathering and investigation for registered providers,³¹ and the outcomes document to our consultation on regulating student outcomes explains how we will prioritise investigation of providers in relation to condition B3.³²

TEF and statutory fee limits

160. We explained in the consultation that the OfS does not set fee limits nor determine the relationship of TEF ratings to those limits (fee limits are prescribed by the Secretary of State in regulations made under HERA) but the effect of our proposals is that an English provider would not be able to charge the higher fee amount from the relevant time in the following circumstances:
 - a. It does not participate in the TEF.

³¹ See proposal 4b of 'Consultation on quality and standards conditions. Analysis of responses to consultation and decision' (OfS 2022.12), available at www.officeforstudents.org.uk/publications/consultation-on-quality-and-standards-conditions-outcomes/.

³² See 'Consistent approach across years' section of 'Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/student-outcomes/.

- b. It is not awarded an overall TEF rating following assessment and receives a Requires improvement outcome.
 - c. Its TEF rating is suspended.
161. Because of the terminology used, and because fee limits are also dependent on whether a provider has an approved access and participation plan in force for the relevant academic year, some respondents thought this information was unclear. Some respondents also suggested that the OfS could do more to explain the relationship between the TEF and fees, including fee limits for a provider that does not take part in the TEF or receives a Requires improvement outcome. Further information was also sought on whether any TEF-related fee limits apply where a provider already charges fees below the maximum statutory fee limit, as is the case for many further education colleges.
162. Some respondents noted that providers judged to have an absence of excellence would not be able to charge the fee uplift and as a result would have less income to invest in the improvements needed.

OfS response

163. There are no decisions associated with the points respondents made, because these relate to statutory fee limits that are decided by ministers rather than the OfS. However, we can provide more information as follows:
- a. The ability to charge a higher fee is dependent on whether a provider has an approved access and participation plan in force for the relevant academic year. If a provider does not have an approved access and participation plan in force for the relevant year it may charge fees up to the basic limit.
 - b. A provider with a TEF rating may charge an inflationary uplift, regardless of whether it has an approved access and participation plan in force for the relevant year.
164. The government has announced the fee limits for 2022-23 (please note that these limits may change from year to year). Annex C sets out fees for providers with and without a TEF rating.³³

Other points raised

165. A further point made in response to this proposal was whether a provider that receives the Requires improvement outcome should have an opportunity for reassessment within the four-year TEF cycle, including because of a potentially negative reputational impact and TEF outcomes not representing any more recent improvements in performance. We have responded to this point under proposal 1 – provider-level, periodic ratings.

³³ Please note that HERA 2017 (see www.legislation.gov.uk/ukpga/2017/29/contents/enacted) has various fee levels it refers to. For example, section 31 'content of a plan: fees' refers to a 'sub-level' amount as well as a 'higher' amount. For example, currently, the 'sub-level' amount for full-time undergraduate students is £9,000. The 'higher' amount in this case, i.e. that which is dependent on a TEF rating, is £9,250.

Decision

166. We have decided to proceed with this proposal with no change. This means that:

- a. Where a rating is not awarded (for an aspect or overall) the published outcome will signal that the provider ‘Requires improvement’ to be awarded a TEF rating.
- b. Where no rating is awarded to a registered provider following the TEF panel’s assessment, this outcome will be considered as part of our general monitoring of quality and standards that provider.
- c. Where no rating is awarded to a participating provider in a devolved administration, it will be for the relevant authority to determine whether investigation of the provider’s compliance with its minimum quality requirements is necessary, and to decide on any course of action that may follow.

Proposal 5: Provider eligibility

Summary

167. In summary, proposal 5 of our consultation set out that ‘to be eligible to participate in the TEF and to retain a rating once awarded, a provider must satisfy minimum quality and standards requirements’. The details of the proposal were that:

- a. In applying condition B6,³⁴ we would count students to determine whether a provider must participate in the TEF, or if participation is voluntary, and that we would update the relevant guidance in relation to condition B6 of the regulatory framework.
- b. We would continue to invite providers in Scotland, Wales and Northern Ireland to participate in TEF on a voluntary basis, with the appropriate consent of the relevant devolved administration.
- c. To be eligible to participate in the TEF, and to retain a rating once awarded, a provider must provide courses that are in scope of the assessment and satisfy the quality and standards requirements of the relevant higher education funding or regulatory body. The consultation set out the relevant quality and standards requirements for England, Scotland, Wales and Northern Ireland.
- d. We would not award ‘provisional ratings’ under the new scheme, neither would there be any minimum set of data or minimum number of students required for a provider to participate and be assessed. (Provisional ratings were used in previous exercises where a provider met the quality requirements for TEF eligibility but could not apply for assessment on procedural grounds, often as a result of not meeting the previously imposed requirements to have ‘suitable metrics’ in order to be assessed.)

³⁴ Condition B6 is an ongoing condition of registration which requires all registered providers with at least 500 higher education students to participate in the TEF.

- e. Where a provider meets the threshold for mandatory participation as defined in the condition B6 guidance, but has limited TEF data, the TEF would remain optional. We proposed that participation would be mandatory only where a provider has both:
- At least 500 undergraduate students using the established student numbers method which are calculated and used for various regulatory purposes³⁵; and
 - At least one TEF indicator based on a denominator of at least 500 students (when combining the four most recent years of data).
- f. The OfS would take decisions about when it was or was not appropriate to transfer any TEF rating from a previously registered provider to a provider making a fresh application for registration (for example following a merger or acquisition), and that re-assessments would not occur in such circumstances between full TEF exercises.
168. The consultation then asked: 'to what extent do you agree with our proposal for provider eligibility? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view'.
169. There was reasonably strong support for this proposal, with approximately three fifths of respondents tending to agree or strongly agreeing. Less than one third of respondents tended to disagree or strongly disagree. Remaining respondents did not know or preferred not to say.
170. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues (to the extent that they are not dealt with elsewhere in this document) relating to:
- a. Requests for further information about the quality and standards requirements in England (in other words, how the proposals for TEF eligibility related to the approach the OfS will take to regulating the B conditions, and more information about scenarios where there might be a breach of the B conditions). We have noted that comments on this theme were not only made in response to this question, but also in response to the overarching questions posed, and to other specific proposals in the consultation, predominately proposals 1, 3 and 4. We have however primarily responded to the issues under this proposal.
 - b. Comments related to the inclusion of courses that are not eligible for OfS funding within the scope of the TEF.

Quality and standards requirements for providers in England

171. In the consultation we proposed that to be eligible to participate in the TEF a provider registered with the OfS must satisfy the conditions of registration relating to quality and standards (the B conditions). We explained that the OfS would be unlikely to consider it appropriate for a provider that breaches or has breached our minimum requirements to gain

³⁵ See 'Calculating student numbers for regulatory purposes. Overview of method', available at www.officeforstudents.org.uk/data-and-analysis/student-number-data/.

or retain a TEF rating because of the risk of misleading students and others about the OfS's view of the quality and standards of the provider's courses.

172. Many respondents wanted more information about the relationship between the TEF and condition B3 in particular. The points raised suggest that there were two main areas where respondents wanted further information:
 - a. The relationship between the TEF indicators and B3 indicators, and the impact on TEF eligibility and assessment if a provider had performance that fell below the B3 numerical thresholds.
 - b. Points that closely relate to issues discussed under proposal 4 'absence of excellence', that is how to describe the quality of higher education where a provider may exceed the minimum quality requirements, but there is no evidence of excellence.
173. Some respondents also raised points relating to implementation. They suggested that assessments of compliance with condition B3 should precede the TEF exercise, implying that the OfS should reach a definitive view of a provider's compliance with condition B3 before confirming TEF eligibility and starting TEF assessments.

OfS response

174. While most points raised in this area tended to focus on the relationship between the TEF and condition B3, we have considered the relationship between the TEF and the B conditions more generally as the issues apply across our regulation through the B conditions.
175. Because we take a risk-based approach to regulation, we set out in our consultation on regulating student outcomes, and have now decided, that for the purposes of ongoing condition B3, we would not assess every single indicator that falls below a numerical threshold, or every instance of possible non-compliance with condition B3. Rather we will prioritise our assessment activity as set out in response to question 9 under proposal 5 of our analysis of responses to our consultation on a new approach to regulating student outcomes.³⁶ Similarly, in relation to conditions B1, B2, B4 and B5 we will use our general risk-based approach to monitoring as set out in the regulatory framework.³⁷
176. The TEF consultation set out that, for the purpose of participating in the TEF, a provider would be eligible unless it had been found by the OfS to be in breach of one or more of the B conditions. This therefore requires the OfS to have undertaken specific regulatory actions against a provider, with the provider having the opportunity to make representations before there is a finding that a breach has occurred. This being the case, a provider may have individual indicators that are below the numerical thresholds used for the purpose of condition B3 but, nevertheless, remain eligible to participate in the TEF because they have not been found to be in breach.

³⁶ See 'Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions' at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/student-outcomes/.

³⁷ See 'Securing student success: Regulatory framework for higher education in England' at www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/.

177. This risk-based approach to regulation means that a provider's conduct or performance is not considered to breach a condition of registration unless the OfS has made a formal finding that there is or has been a breach. For example, we set out in the B3 consultation (para 196) that:

'Where a provider is not prioritised for assessment, we will not normally expect to undertake any further regulatory activity in relation to that provider's compliance with ongoing condition B3 in that year. This does not, however, mean that a provider's performance would be judged to satisfy the condition if it were to be assessed'.

178. For this reason, we take the view that it would not be appropriate to use the term 'meets minimum quality requirements' (or similar) as the fourth category in the TEF (see also proposal 4: absence of excellence) because this would suggest an assessment and judgment by the OfS that the provider is currently in compliance with each of the B conditions.
179. Similarly, with regards to the comments that the OfS should sequence condition B3 assessments to precede TEF assessments, it is our view that this option would not be consistent with our risk-based approach, would place undue burden on the sector and would not be an efficient use of OfS resources.
180. After having regard to responses to our consultation proposals and other relevant considerations, we have decided to adopt the following policy approach on the relationship between a provider's eligibility for a TEF award and its compliance with the B conditions of registration. This includes certain modifications and clarifications to the policy approach that was set out in the consultation, which we consider to be appropriate to better reflect our policy rationale in respect of ensuring that students and other persons are not misled about 'teaching excellence'. Our decisions are:
- a. Where the OfS makes a final decision that there is, or has been, a breach of one or more of the B conditions, we may decide that a provider is ineligible to participate in one or more TEF exercises and/or for a provider to retain an existing TEF rating (if it holds one).
 - b. To clarify that a final decision that a provider has breached one or more of the B conditions includes a final decision to refuse to register a provider on the grounds that it has failed to satisfy one or more of the initial B conditions.
 - c. To clarify that, where the OfS has made a decision that a provider is ineligible to participate in a TEF exercise or retain a TEF rating, this period of ineligibility will, as a minimum, normally last until the next TEF exercise begins. At that point, the OfS would normally expect to consider whether there has been a material change in circumstances which means that a provider should now be permitted to participate in the new exercise.
 - d. In reaching a decision on whether or not a provider is ineligible to participate in one or more TEF exercises or retain an existing rating, we would have regard to the intervention factors set out in paragraph 167 of the regulatory framework and consider, in particular, the proportionality of taking this approach. Factors that we are likely to consider relevant include, but are not limited to:

- the extent to which a breach related to courses that are in scope for the TEF assessment; and
 - whether the conduct that led to the finding of a breach is ongoing or the likelihood that such conduct may recur.
181. We will make consequential changes to the guidance for condition B6 to revise existing references to TEF eligibility requirements which reflect the decisions set out below. This includes replacing references to older TEF specifications, which refer to eligibility and data requirements that applied before the creation of the current regulatory framework.
- ### **Higher education courses not recognised for OfS funding**
182. In our response to both our phase one and two consultations on quality and standards we set out that our regulatory approach will apply to any higher education course (whether that course is eligible to be funded by the OfS or not) at any level, and with any volume of learning.³⁸ Our reason for this is to ensure that all students can benefit from the protection of our quality and standards conditions. This would mean that higher education courses not recognised for OfS funding (which are described in our data indicators consultation as ‘non-recognised’ courses but are often referred to as non-prescribed courses) would be included in the scope of the TEF.
183. Points on the inclusion of higher education courses not recognised for OfS funding within the scope of the TEF were made by respondents in response to both proposals 5 and 6 but are addressed primarily in this section.
184. Some respondents noted that the inclusion of higher education courses not recognised for OfS funding in the student number count would, for some providers, be the deciding factor in whether participation in the TEF was voluntary or mandatory. Some respondents stated that because there is limited coverage of these courses in the TEF indicators, it would mean some providers would be required to participate despite having sparse indicator data, which could place greater burden on smaller providers in particular.
185. Some respondents also asked whether higher education courses not recognised for OfS funding should be within the scope of the TEF at all. They commented on how the nature and educational context of such courses can be considerably different to the context for other higher education courses. For example, there may be differences in course length and modes, students on these courses do not pay comparable fees and may have different ambitions to other higher education students. In colleges these courses are not always managed and delivered as part of the wider higher education offer, which may make it challenging for a provider to supply the necessary evidence.

³⁸ See paragraphs 40 and 413 of ‘Consultation on quality and standards conditions. Analysis of responses to consultation and decision’ (OfS 2022.12), available at www.officeforstudents.org.uk/publications/consultation-on-quality-and-standards-conditions-outcomes/.

See paragraphs 142 and 148 of ‘Consultation on regulating quality and standards in higher education. Analysis of responses’ (OfS 2021.23), available at www.officeforstudents.org.uk/publications/consultation-on-regulating-quality-and-standards-in-higher-education-analysis-of-responses/.

OfS response

186. We proposed various changes to the TEF, compared with the previous TEF, that we consider will support smaller providers, which often have less data available for assessment. We have rebalanced the assessment to rely less on indicators than the previous TEF. As described under proposal 11, the indicators should contribute no more than half the evidence of excellence in each aspect. This places more emphasis on evidence contributed through the provider and student submission. This is discussed in the section on ‘burden on smaller providers’ under overarching themes.
187. Our data indicators consultation also discussed the current and future availability of data relating to higher education courses not recognised for OfS funding, noting that we expect data completeness to continue to improve from 2021-22 following changes to ILR reporting guidance. We also recognised that we will need to consider how to further develop data collections and survey instruments to gather and interpret relevant data in future, including as a result of the government’s implementation of the Lifelong Loan Entitlement.³⁹
188. We note that similar points asking about the rationale for including higher education courses not recognised for OfS funding in the TEF (i.e. because of perceived differences between this provision and other higher education courses) were made in response to the consultation on regulating student outcomes.⁴⁰ Our view remains that higher education courses not recognised for OfS funding should be included in the TEF on the same basis as other courses within scope, because providers should be incentivised to pursue excellence in these courses.
189. In Annex H of our consultation, we set out why we consider it appropriate that the TEF is voluntary for smaller providers with fewer than 500 students. We had also made a proposal that TEF should be optional for a provider with limited data, which might be for a number of reasons.
190. We have considered this issue and have decided it is appropriate to introduce the following changes:
- a. Expand our proposal to make TEF optional for providers with limited data. Participation in TEF will only be mandatory if a provider has both:
 - At least 500 undergraduate students using the established student numbers method which are calculated and used for various regulatory purposes;⁴¹ and
 - At least two TEF indicators based on a denominator of at least 500 students (when combining the four most recent years of data). This has been increased from the

³⁹ See paragraphs 89 to 93 of ‘Consultation on constructing student outcome and experience indicators for use in OfS regulation’ (OfS 2022.03), available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

⁴⁰ See ‘Non-recognised courses, apprenticeships and modular provision’ section of ‘Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions’, available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/student-outcomes/.

⁴¹ See ‘Calculating student numbers for regulatory purposes. Overview of method’, available at www.officeforstudents.org.uk/data-and-analysis/student-number-data/.

proposed one indicator. Both indicators must be in either full-time or part-time mode of study.

This will have the effect of making TEF optional for more providers that have limited data available for assessment.

- b. Provide additional information about students on higher education courses not recognised for OfS funding in the 'data on the size and shape of provision' that we will provide to help panellists understand a provider's context.⁴²

191. We will make consequential changes to the guidance for condition B6 to reflect the method for determining mandatory participation set out above.

Other points raised

192. We have considered responses to the regulation of student outcomes consultation that asked for further information about the use and definition of a provider's compliance history when determining eligibility for other benefits of registration.⁴³ We set out in our TEF consultation our proposed approach to considering whether a TEF rating held by a previously registered provider should be transferred to the provider after making a fresh application for registration. We will follow the approach we had proposed in paragraphs 98 to 100 of the TEF consultation, and in addition wish to clarify that in doing so we will also consider the compliance history of the provider or providers concerned. Therefore, where a provider makes a fresh application for registration

- a. Where the provider seeking registration is either the same entity, or is a new entity operating the same or substantially the same higher education business as the previous entity, we will transfer the TEF rating of the provider previously registered, taking into account the compliance history of the previously registered provider.
- b. Where the provider seeking registration is a genuinely new entity that is not operating the same or substantially the same higher education business as the previous entity, we will treat that provider as a new provider for TEF purposes. This would mean that the previous provider's compliance history cannot be transferred to the new entity and the TEF rating is also unlikely to be transferred to the new entity.

193. Where a provider merges with one or more other providers, we will normally transfer to the merged entity the rating that had been held (before the merger) by the provider that does not dissolve in the merger. There may, however, be instances where this is not appropriate and we will consider the TEF ratings held by each of the merging entities, and their compliance histories, to decide which TEF rating, if any, should be transferred to the merged entity. We

⁴² See 'Consultation on constructing student outcome and experience indicators for use in OfS regulation: Responses and decision' at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

⁴³ See 'Compliance history' section of 'Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/student-outcomes/.

will take into account the proportion of the merged entity's higher education business that had been transferred to it by each merging entity, and their respective TEF ratings.

194. Some respondents to the TEF consultation were of the view that smaller or newer providers with less data would be disadvantaged and that it would not be fair for providers to be required to participate if they then receive a lower rating because they do not have sufficient data. It was suggested for example that the proposal that it should be optional for a provider that does not have at least one TEF indicator based on a denominator of at least 500 students did not go far enough. As explained at paragraph 190.a we have decided to adjust this proposal from one to two indicators.
195. Some respondents also made comments indicating that further guidance would be useful to help providers understand the calculation of student numbers and eligibility requirements. There was a suggestion that the OfS should tell each provider whether it is required to participate in TEF on a mandatory basis. This relates to our plans to conduct a survey of intentions, which is discussed under the 'next steps' section of this document.
196. A small number of other points were made in response to this proposal which we have responded to under other sections of this document, including:
 - a. Broader comments on how participating in TEF may be more challenging and burdensome for smaller providers with less resource to devote to the exercise (covered in response to 'burden on smaller providers' under overarching themes).
 - b. A view that there should be a way of indicating publicly that a provider is not eligible for TEF or chose not to participate, to avoid any misunderstanding for stakeholders about the quality of courses at those providers (covered under proposal 12 – published information).
 - c. Respondents wanting to better understand how panel members will treat small or missing data when making their judgements (covered under proposal 11 – assessment of evidence).
 - d. Comments regarding the use of provisional awards (covered under proposal 1 – provider-level, periodic ratings).

Decision

197. We have decided to proceed with this proposal apart from the change set out in the next paragraph. This means that we will:
 - a. Calculate student numbers for the purpose of condition B6 following the approach used in the experimental statistics published on 16 February 2022.
 - b. Invite providers in Scotland, Wales and Northern Ireland to participate on a voluntary basis, with the appropriate consent of the relevant devolved administration.
 - c. Proceed with the proposal that to be eligible to participate in the TEF, and to retain a rating once awarded, a provider must:
 - Provide courses that are in scope of the assessment.

- Satisfy the quality and standards requirements of the relevant higher education funding or regulatory body, as set out at paragraphs 83 to 92 of the consultation and clarified further in paragraph 180 of this document.
- d. Not plan to award ‘provisional ratings’ under the new scheme, and not set any prerequisites in relation to a minimum set of data or minimum number of students, analogous to previous requirements for ‘suitable metrics’, which would exclude a provider from being fully assessed. We will make consequential changes to the guidance associated with condition B6 to remove references to these previous arrangements.
- e. Proceed with our proposals for providers that merge, or reapply for registration, set out in paragraphs 98 to 101 of the consultation.
198. We have decided to change our original proposal where, for the purpose of deciding if a provider is required to participate in the TEF, a provider must have at least one indicator with a minimum denominator of 500. Instead, we have decided that to be required to participate in the TEF a provider must have at least two indicators with a minimum denominator of 500. The two indicators must both be in either full-time or both in part-time mode of study. We will make consequential changes to the guidance associated with condition B6 to reflect this decision.

Proposal 6: Courses in scope

Summary

199. In summary, proposal 6 set out that ‘all of a provider’s undergraduate courses, and the students on those courses, should be within the scope of a TEF assessment’. The details of the proposal were:
- a. Which undergraduate courses would be in scope for TEF assessment.
 - b. That as well as students taught by a provider, TEF assessments would include students registered by the provider but taught by another provider through a sub-contractual arrangement.
 - c. That international students taught within the UK would be within the scope of TEF assessments, and that these students would be included in the TEF indicators as far as possible.
 - d. That it would be optional for a provider to include the following types of undergraduate courses in its submission: validated only courses, transnational education courses, and higher education modules or credit-bearing courses that do not lead to the award of a qualification.
200. The consultation then asked: ‘to what extent do you agree with our proposal for courses in scope? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view’.

201. Respondents were split with regards to agreement with this proposal. Approximately two-fifths tended to agree or strongly agree, while approximately half tended to disagree or strongly disagree. Remaining respondents did not know or preferred not to say.
202. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues relating to the assessment of taught or registered students, and the inclusion of apprenticeships within the scope of TEF (to the extent that they are not dealt with elsewhere in this document).

Including taught or registered students

203. In our consultation we proposed that TEF assessments should include students taught by the provider, and students registered by the provider but taught elsewhere (through a subcontractual arrangement). This is to ensure the TEF incentivises and promotes excellence for all students, and aligns with our regulation of quality through the B conditions. However, it is a change from previous TEF exercises, which assessed only taught students. Points raised by some respondents in relation to our proposal included views that:
 - a. It might not be fair for a provider to be assessed in relation to students who are taught by a different provider, because it does not have direct control over teaching quality.
 - b. This could disincentivise partnership working between different higher education providers, including validation arrangements between universities and colleges. It was suggested that a consequence of this could be an unfavourable effect on those students who may typically benefit from such partnerships, which is often students from groups that are underrepresented in higher education.
 - c. Because students taught through subcontractual arrangements may be included in the assessment of both the registering and the teaching provider, this duplication may lead to inefficiency within the OfS and increased regulatory burden for providers.

204. In addition, participants in the student workshops wondered whether it would be practical for student representatives to gather evidence from students at teaching partners, and asked whether such information should be within the scope of student submissions.

OfS response

205. Our decisions following our phase two quality and standards consultation confirmed our view that students registered by a provider but taught elsewhere should be in scope of conditions of registration. In our TEF consultation we set out our view that it is not appropriate for a registering provider to seek to generate income, or gain other benefits, through such partnership arrangements while not taking responsibility for the quality of those courses.⁴⁴

⁴⁴ See paragraph 40 of ‘Consultation on quality and standards conditions. Analysis of responses to consultation and decision’ (OfS 2022.12), available at www.officeforstudents.org.uk/publications/consultation-on-quality-and-standards-conditions-outcomes/.

See paragraph 155 of ‘Consultation on regulating quality and standards in higher education. Analysis of responses’ (OfS 2021.23), available at www.officeforstudents.org.uk/publications/consultation-on-regulating-quality-and-standards-in-higher-education-analysis-of-responses/.

206. We maintain our position that for the TEF to incentivise and promote excellence for all students the scope of assessment needs to cover both taught and registered students. We do not agree with the view that it is unfair for a provider to be assessed based on students that are taught by a different provider. While we acknowledge here, and in our responses to other consultations,⁴⁵ that our proposal increases scrutiny of courses delivered through a partnership arrangement, we also wish to ensure that the TEF incentives apply to the registering as well as the teaching provider. We recognise that partnership arrangements that deliver high quality courses may benefit students from groups that are underrepresented in higher education. Therefore, we consider that including these partnerships within the scope of the TEF will allow providers to demonstrate excellence in this area. This reflects our clear view that ‘improving equality of opportunity without ensuring quality and standards will not lead to positive student outcomes and, likewise, ensuring quality and standards without improving equality of opportunity means that students who could benefit will not’.⁴⁶
207. As we set out in our response to proposal 2 of our consultation on a new approach to regulating student outcomes, if there is evidence that a provider is withdrawing from partnerships simply to evade regulatory attention or that it is not behaving responsibly as set out above, we may look into this and/or investigate further. Similarly, we would not expect to see such behaviours by a registering provider to improve its TEF outcome but if there is evidence of such behaviours we may look into this and/or investigate further.
208. Regarding the points raised about burden, we have considered further how to ensure the evidence (in the indicators and submissions) and the assessment relating to students taught elsewhere will be proportionate to the overall scale of the registering provider’s undergraduate courses. Our view is that the following approach – to be set out in further detail in the guidance – will be proportionate:
- a. The TEF panel will be guided to weight evidence relating to students registered by a provider but taught elsewhere in proportion to the registering provider’s overall undergraduate provision. This was implicit in the proposals and will be made explicit in the guidance.
 - b. As proposed in the consultation, the indicators will include students registered by a provider but taught elsewhere, and the effect of these students on the indicators will be in proportion to their numbers. The indicators will also include ‘type of partnership’ splits, so that providers and panel members can identify potential differences in performance in relation to taught and registered students. The indicators do not separately show students taught at each partner provider. We considered an alternative approach of producing separate indicators for taught and for registered students but have rejected this as it would substantially increase the volume of data and hence burden on providers

⁴⁵ See for example proposal 2 of ‘Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions’ at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

⁴⁶ See paragraph 25 of ‘Office for Students Strategy 2022 to 2025’ (OfS 2022.15), available at www.officeforstudents.org.uk/publications/office-for-students-strategy-2022-to-2025/.

and the panel. Instead, we have decided to simplify this split, to show where students are either taught or sub-contracted out. (The indicators released alongside the consultation showed where students were either taught or registered, subcontracted in, or subcontracted out.) Please see proposal 9 regarding this decision.

- c. In response to the points about the additional burden of including registered-only courses within provider submissions, our guidance will recognise that a registering provider has responsibility for the quality of courses, as well as the teaching provider. We will expect the registering provider's submission to include evidence of how – through its responsibilities as the registering provider – it has contributed to an excellent student experience and outcomes for the students it registers that are taught elsewhere. This could be covered in a distinct section of the submission, with a level of detail that is proportionate to the scale of this provision.⁴⁷ We would not expect all the evidence relating to the provider's taught students to be mirrored in relation to its registered-only students. Where there are multiple teaching partners, it would not normally be necessary to include distinct information in relation to each partner.
- d. In response to the points made regarding the scope of student submissions, we recognise that it may not be practical for those preparing a student submission to gather evidence from students at partner providers. We have therefore decided that it will be optional for student submissions to include evidence about students registered by the provider and taught elsewhere. Please see proposal 8 for further details.

- 209. We will clarify the terminology used in guidance in relation to different forms of partnership.⁴⁸
- 210. We also acknowledge that a consequence of our approach to including registered and taught students in the scope of TEF assessments is that some courses would be included within the TEF ratings of both a registering and a teaching provider. For student information purposes, we will set out in the guidance that a provider should only display or advertise the rating it has been awarded; not the rating awarded to a partner (see also proposal 13).

Apprenticeships

- 211. Our proposal that all a provider's undergraduate courses, and the students on those courses, should be within the scope of a TEF assessment meant that apprenticeships at undergraduate level would be within scope. As noted in the 'regulatory and policy alignment' section of overarching themes, some respondents highlighted what they considered to be areas of duplication or overlap between the TEF and other regulatory exercises. This included the perception of 'double regulation' of apprenticeships, which are inspected by Ofsted and proposed to be included in scope for TEF assessments.

⁴⁷ We have also considered the points raised in response to this proposal alongside comments relating to the page limit we proposed for provider submissions. Please see proposal 7 for further details.

⁴⁸ Students registered by a provider but taught elsewhere will be in scope of the TEF assessment, but courses that are only validated by a provider (that is, where the students are neither taught nor registered by that provider) are not included in the scope of the assessment, unless the validating provider chooses to include information about this within its submission. For clarity, the term 'lead partner' in our proposals meant the provider that registered the students.

OfS response

212. We maintain our position that we intend for the TEF to incentivise and promote excellence for all students, and we acknowledge points about overlapping assessment with apprenticeships. Some respondents specifically welcomed the inclusion of apprenticeships and indicators related to apprenticeships in the TEF. We have also considered points made by some respondents in relation to apprenticeships in response to our consultation on the construction of data indicators, and also our consultation on regulating student outcomes, where points were also raised about dual regulation and further information was sought about the relationship between our regulation and the activities of Ofsted and the ESFA in relation to apprenticeships.⁴⁹
213. In order to avoid duplication with Ofsted ratings for apprenticeship provision, we have decided to treat apprenticeships similarly to our proposals for ‘additional courses that may be in scope’, where we set out courses that a provider may include in its submission if it wishes. We will continue to provide data on apprenticeships, where applicable, for all providers within the TEF indicators, but a provider will be able to choose whether to include this provision in its submission and the TEF panel will only consider evidence relating to apprenticeships where it is included in a provider’s submission.
214. Where a provider does choose to include apprenticeships in its submissions:
- a. The TEF panel will be guided to weight evidence relating to students on apprenticeships in proportion to their overall numbers. This was implicit in the proposals and will be made explicit in the guidance. As proposed in the consultation, the indicators will be split by mode, i.e. by full-time students, part-time students and apprenticeships.
 - b. We will expect a provider’s submission to include evidence of how it has contributed to an excellent student experience and outcomes for its students who are enrolled as apprentices. This could be covered in a distinct section of the submission, with a level of detail that is proportionate to the scale of this provision.
215. We intend to keep this decision under review for future rounds of TEF. Further information about the OfS’s role in checking the quality of apprenticeships can be found on the OfS website.⁵⁰

Other points raised

216. Respondents’ views were mixed about excluding postgraduate courses from the TEF, although most respondents understood that in practical terms and with the information that is currently collected on postgraduate courses it was not feasible to include them in the next iteration of the TEF. As set out in the consultation, we do not currently have sufficient evidence to know whether the character of postgraduate courses would be suitable for TEF

⁴⁹ See section on ‘Respondents’ comments relevant to B3.5’ in ‘Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions’, and proposal 3 (OfS response) of ‘Consultation on constructing student outcome and experience indicators for use in OfS regulation: Responses and decision’, both available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/.

⁵⁰ See www.officeforstudents.org.uk/advice-and-guidance/skills-and-employment/degree-apprenticeships/degree-apprenticeships-for-providers/checking-the-quality-of-apprenticeships/.

assessment on the same basis as undergraduate courses. We consider that it would not, therefore, be appropriate to introduce the assessment of postgraduate courses at this stage, but we do not rule it out as an option for subsequent TEF exercises.

217. Many respondents broadly supported the proposal that transnational education (TNE) courses would not be in scope for the next TEF exercise unless a provider itself chooses to include information on TNE courses in its submission. It was suggested that further consultation should take place if changes are to be made to this approach in future. Respondents suggested this because they took the view that there is complexity involved in considering these courses in a consistent manner, and comparable datasets are not currently available.
218. In the consultation we set out our view that extending the scope of TEF assessments over time to include TNE courses would be consistent with the overall aim of the TEF to promote excellence for all undergraduate students and would align more fully with the scope of our baseline quality regulation. It therefore remains our intention that we will look to construct TEF indicators for TNE courses once data is sufficiently reliable, and we will consult separately on this.
219. A small number of respondents raised points about the inclusion of higher education courses not recognised for OfS funding in the scope of the TEF, the availability and quality of data required for a robust assessment of providers, as well as the consistency of the methods used by the TEF when counting students across different evidence sources. Discussion of these issues and our response can be found above under proposal 5.
220. A range of comments made by respondents indicated that further support and guidance would be helpful to help them identify which students are in scope and covered in the indicators. We have responded to requests for further information and guidance more generally under the overarching themes section.

Decision

221. We have decided to proceed with this proposal apart from the change set out in the next paragraph. This means that we will:
 - a. Proceed with the proposed approach that all a provider's undergraduate courses, and the students on them, will be in scope for TEF assessment.
 - b. Proceed with the proposal that TEF assessments will include students registered by a provider but taught by another provider through a sub-contractual arrangement. In doing so we will expect the evidence in submissions to be proportionate to the scale of the activity, in line with paragraph 208.c above.
 - c. Proceed with our proposal that international students being taught within the UK will be in the scope of TEF assessments. We will include them as far as possible within the TEF indicators.
 - d. Proceed with our proposal that the following courses would only be in scope of the assessment if a provider chooses to include evidence about them in its submission (as set out in paragraphs 110-111 of the consultation document):

- Validated-only undergraduate courses, where a provider is responsible for granting the awards to students registered and taught by other providers, whether or not those providers are registered with the OfS.
 - Transnational education (TNE) courses at undergraduate level, delivered to students outside the UK whether through partnership arrangements or not.
 - Higher education modules or credit-bearing courses at undergraduate level that do not lead to the award of a qualification.
222. We have decided to change our original proposal where it was implicit that apprenticeships would be fully within the scope of assessment. We have decided that apprenticeships will only be in the scope of assessment if the provider chooses to include evidence about them in its submission.
- ## Proposal 7: Provider submissions
- ### Summary
223. In summary, proposal 7 set out that ‘participating providers should submit evidence of excellence in relation to the experience and outcomes of their students’. The details of the proposal included that:
- a. The timeframe covered by provider submissions would align with the proposed four-year cycle for TEF ratings.
 - b. Each provider would decide what relevant information and evidence it wished to present in its submission, as appropriate to its context, and that to minimise burden it would be encouraged to draw on evidence it already uses to monitor and evaluate the quality of its courses.
 - c. The OfS would publish guidance for providers about how to participate and prepare their submissions, which will include non-exhaustive examples of the types of quantitative and qualitative evidence that a provider could include and general guidance on how evidence should be presented.
 - d. The OfS would provide a basic template for provider submissions, but its use would be optional.
 - e. There should be a page limit for provider submissions of 20 pages.
 - f. A provider’s submission should include references to the main sources of evidence it has drawn on. The OfS would use these references to carry out verification checks on a random but representative sample of provider submissions, and the panel could also request that references be used to verify the accuracy of information in a submission.
224. The consultation then asked: ‘to what extent do you agree with our proposal for provider submissions? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view’.

225. There was strong support for this proposal with over four fifths of respondents tending to agree or strongly agreeing. Approximately one tenth of respondents tended to disagree or strongly disagree. A small number of respondents did not know or preferred not to say.
226. The qualitative responses revealed that many respondents welcomed the opportunity that our proposed approach gives providers to use a range of qualitative and quantitative evidence to demonstrate excellence that is relevant to their context. Responses also supported the more equal balance between the provider submission and the indicators (compared with the previous implementation of the TEF – see proposal 11).
227. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues relating to our proposed guidance on provider submissions, and submission page limits (to the extent that they are not dealt with elsewhere in this document).

Guidance on provider submissions

228. As described under ‘requests for information’ in the overarching themes section, respondents commonly requested additional guidance on particular topics. We have considered comments related to guidance for providers here.
229. We set out in the consultation that our intention is to publish guidance for providers on how to participate and prepare their submissions. Annex C of the consultation provided further information about what we proposed to include in that guidance. We explained that we had not prepared full draft guidance at that point because our intention was to develop it in accordance with the decisions that followed from the consultation.
230. A number of comments pointed to the importance of guidance that is clear and detailed. This was considered particularly important for small providers with less resource and those participating in the TEF for the first time. It was also suggested that comprehensive guidance could be important in ensuring comparability across submissions and consistency in the assessment.
231. Further information was requested in some specific areas, including in relation to the types of evidence and data gathering methods that providers might use in demonstrating educational gains, and the extent to which the provider and student submissions should address each of the modes of study covered by the indicators. There was also a suggestion that guidance could set out the different types of evidence that providers might use to demonstrate impact across a range of scenarios – for example where courses are relatively new or there are small amounts of data – and how certain evidence might be interpreted in the assessment.
232. There were a small number of other points made in relation to the content and format of the submission. Some respondents for example were in favour of making use of a submission template mandatory, in the interests of promoting comparability of submissions and consistency of assessment. Other respondents however were in favour of the flexibility offered by the template being optional. In addition, some respondents thought there may be increased burden arising from the proposed referencing and verification process.

OfS response

233. We agree that clear guidance on the preparation of submissions will be important for providers but we consider that it is equally important that providers determine what information and evidence is relevant to their own context. We acknowledge that there is a need to balance flexibility and consistency, and we judge that taking a principles-based approach to guiding providers is preferable. To do otherwise and set out guidance in too prescriptive a fashion may constrain innovation and would not be consistent with our view that ‘above the baseline, [...] autonomous providers making their own decisions is the best way to ensure the sector can flourish and innovate’.⁵¹
234. In preparing our guidance on provider participation and submissions we will take a principles-based approach and supply (non-exhaustive) examples to illustrate how the principles could be applied. We will also supply general guidance on how to present certain types of data. Building on engagement activities during the previous TEF exercises, and the TEF pilots, our intention is to hold briefing events and opportunities for providers to share their thinking.
235. We note the mixed views about whether the use of a submission template should be mandatory. On balance we consider it appropriate to proceed with providing a basic template that providers can choose to use if they wish but without restricting providers that would prefer to develop their own submission structure. In some cases, respondents were in favour of a mandatory template in the interests of ensuring consistent assessments. We do not think this is necessary, however, because we will train and support panel members to conduct assessments consistently, and have designed the decision-making process in a way to ensure consistency (see proposal 10).
236. In relation to views that the proposed referencing of evidence and verification may lead to increased burden, our view is that providing references to sources of information that the provider has already identified and used in its submission provides assurance about the accuracy of the evidence, without resulting in significant additional work. In any case, we take the view that it is important that the panel can verify information where it considers that appropriate.

Submission page limits

237. Our proposal of a 20-page limit for provider submissions aimed to strike an appropriate balance between minimising burden on providers and panel members while also avoiding undue constraints on providers in submitting the evidence they consider necessary.
238. There was support for setting page limits as a way of reducing burden on providers and panel members, as well as aiding consistency of panel judgments, but a number of points were made by respondents about what the limit should be for provider submissions, including that:
 - a. The proposed page limit will not give providers sufficient space to supply the evidence and explanation expected. Various reasons were identified, including:

⁵¹ See paragraph 16 of ‘Office for Students Strategy 2022 to 2025’ (OfS 2022.15), available at www.officeforstudents.org.uk/publications/office-for-students-strategy-2022-to-2025/.

- The complexity of a provider's range of courses and students. For example, a provider with diverse or complex provision might need more space to explain its context, which would leave less space to supply other evidence and address its indicator performance thoroughly.
 - Contextualisation of any data limitations for example where indicators are suppressed or where there is greater statistical uncertainty, and providing alternative evidence in lieu of missing indicators.
 - Providing sufficient evidence in relation to educational gains.
 - Providing sufficient evidence in relation to students that a provider registers, but that are taught at another provider through a subcontractual arrangement.
- b. The increase from 15 to 20 pages does not appropriately reflect the increased weight given to the provider submission, compared with the previous TEF.
239. Some suggestions to address these points included setting a differential page limit to the size and complexity of an individual provider, or to count words rather than pages, excluding graphs, tables, and references.

OfS response

240. We agree with some of these points and consider that there are various reasons a provider may need some additional space beyond our proposed page limit to provide sufficient evidence. We have therefore decided to increase the page limit for provider submissions to 25 pages, incorporating the references. We considered a range of different page limits but our decision to increase the limit to 25 pages and not further, or to remove the limit entirely, reflects that we maintain it is appropriate to minimise burden on providers and panel members and avoid undue constraints on providers. We consider that an overall increase of 10 pages, compared with the original TEF's limit of 15 pages, is proportionate.
241. We would stress that the increased limit gives all providers more space should they need it, but there is no obligation to submit this number of pages. For example, where provision is less complex, it may be that the case for excellence can be made in fewer pages.
242. We do not agree with the suggestion of a variable page limit dependent on the size of the provider or in relation to its range of courses, as this would introduce unnecessary complexity. The reasons given for needing additional pages were also not just about size and range of courses – for example a small provider with relatively few courses might also need additional pages to provide alternative evidence for missing data. We consider that a single, increased page limit that accommodates the range of circumstances in which more pages may be needed is simpler and fairer than introducing new criteria or processes to determine the range of circumstances in which more pages might be required.

Other points raised

243. A series of other points were made in response to this proposal which we have covered under other sections of this document, including:

- a. Requests for further information in relation to the evidence providers could use to demonstrate educational gains (covered under proposal 2 – aspects and features of assessment).
- b. Comments about potential burden for smaller providers with less resource to devote to the exercise (covered in response to ‘burden on smaller providers’ under overarching themes).
- c. Comments on the timing and duration of the submission window (covered under proposal 15 – timing of the next exercise).
- d. Respondents wishing to better understand the principles and guidelines that will be used by the TEF panel in making consistent judgements (covered under proposal 11 – assessment of evidence).
- e. A suggestion that the assessment of student outcomes may be in tension with the access and levelling up agendas (covered in response to ‘regulatory and policy alignment’ under overarching themes).

Decision

244. We have decided to proceed with this proposal apart from the change set out in the next paragraph. We will:
- a. Proceed with the proposal that the timeframe covered by provider submissions should align with the four-year cycle for TEF ratings.
 - b. Proceed with the proposals that a provider should determine for itself what information and evidence to present in its submission based on what is relevant in its own context, and that a provider would be encouraged to draw on existing information used to monitor and evaluate quality.
 - c. Publish guidance for providers about how to participate and prepare their submissions, which will include non-exhaustive examples of the types of quantitative and qualitative evidence that a provider could include and general guidance on how evidence should be presented.
 - d. Provide a basic template for provider submissions. Its use will be optional.
 - e. A provider’s submission should include references to the main sources of evidence that it has drawn on. The OfS may use these references to verify the accuracy of information within the submission.
245. We have decided to change our proposal that there should be a page limit for provider submissions of 20 pages. We have decided to increase the limit to 25 pages.

Proposal 8: Student submissions

Summary

246. In summary, proposal 8 set out that ‘students should be encouraged to submit their views on the quality of their experience and outcomes’. The details of the proposal were that:
- a. Students at a provider could optionally contribute evidence to the assessment process through a single independent student submission.
 - b. Student submissions would cover the same scope as provider submissions in terms of:
 - The aspects and features of assessment.
 - The range of courses and students in scope of the assessment (see proposal 6).
 - The timeframe covered (noting that the intention would be to evidence the perspectives and experience of current students).
 - c. The OfS would provide guidance and support to TEF student contacts.
 - d. There would be a 10-page limit for student submissions. All, or part, of a student submission could be in a format other than a written document.
 - e. If a student’s submission were not shared with a provider beforehand, that the OfS would share it with the provider when communicating the panel’s provisional decision.
247. The consultation then asked: ‘to what extent do you agree with our proposal for student submissions? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view’.
248. There was strong support for this proposal with over three quarters of respondents tending to agree or strongly agreeing. Less than one fifth of respondents tended to disagree or strongly disagree. A small number of respondents did not know or preferred not to say.
249. The qualitative responses identified that the strong support for our proposed approach reflected respondents’ views of the importance of students’ views and that an optional student submission would be a useful supplement to the other evidence.
250. In addition to the written responses summarised above, we ran student-focused events during the consultation window to gather feedback on our proposals directly from students and student representatives. We have summarised relevant feedback from these events in Annex B and, where appropriate, have taken it into account alongside written consultation responses in our analysis of the issues below.
251. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues (to the extent that they are not dealt with elsewhere in this document) relating to:
- a. The support and guidance that the OfS intends to provide to students.

- b. The range of courses and students in scope for student submissions.
- c. The weighting of student submissions.

Support and guidance for students

252. We set out in the consultation that the OfS will provide support and guidance to TEF student contacts on how to prepare submissions. Annex D of the consultation provided further detail about what we proposed to include in that guidance. We explained that we had not prepared full draft guidance at that point because our intention was to develop it in accordance with the decisions that followed from the consultation.
253. Some respondents commented on the need for clear expectations, guidance, templates, and ongoing support to enable students to engage in the process with minimal burden. This was considered particularly important for small providers with limited student representative infrastructures or providers with a large proportion of part-time students.
254. The range of comments made by respondents indicated that further information and guidance could be helpful in relation to:
- a. How to gather and present evidence.
 - b. The use of alternative submission formats, including for example whether there would be any length limits on video submissions.
 - c. Whether students could contribute to the provider submission instead of producing a separate submission.
 - d. Whose responsibility it would be to produce the student submission and how independence of students' views would be ensured, noting that providers will nominate the TEF student contact and may also want to provide support to their students. Some respondents considered the relationship between the student and provider submissions – and the extent to which students and providers should work together or independently – to be unclear.

OfS response

255. As set out in our consultation proposals, we want to encourage as many student submissions as possible, and therefore anticipate providing guidance and support to TEF student contacts in advance of and during the TEF submission window.
256. We agree that clear guidance on the preparation of submissions will be important for students. As with the provider submission, we believe it is important that students are allowed to decide for themselves which information and evidence is most relevant to their context and so we should avoid overly prescriptive guidance, but we recognise that students are likely to need additional support with the practicalities of identifying and gathering appropriate evidence, compared with providers. We will seek to support students with principles-based guidance and non-exhaustive examples of evidence they may wish to draw on. We will also expect providers to support their students' participation in the TEF, for example by sharing resources, data analysis and insights and expertise where possible.

257. Our intention is to publish specific guidance for student representatives involved in preparing student submissions. Annex D in the consultation provided proposals for the nature of that guidance. This will include guidance on, for example, how to collect and present evidence, a more detailed explanation of educational gains and guidance about alternative format lengths. Building on engagement during previous TEF exercises, and the TEF pilots, we intend to hold events and opportunities for student representatives to share their thinking.
258. We have considered the point about length of alternative formats. Students wishing to submit alternative formats should consider ensuring broad consistency with the 10-page written limit in terms of both the volume of content and the amount of time the panel would require to consider the content. For example, we consider that a 10-page student submission will take a panel member approximately 30 minutes to read, so a video submission should not normally exceed this.
259. With regards to whether students should produce an independent submission or contribute to their provider's submission (or both), our view is that it is preferable for students to submit an independent submission if they can, as we consider this will maximise the clarity of students' views. We will, therefore, encourage this and provide support for students who take this approach. However, we recognise that in some cases students may choose instead to contribute to the provider submission. Choosing one option over another should not disadvantage the students, or their provider, in the assessment process. Guidance for students will provide further information about the options to contribute evidence, and advise students on any information they can helpfully include to explain their decision and the opportunities that have been provided to them to engage in the submission process.
260. While providers are encouraged to offer support to their student contacts, a provider must not seek to exert any influence over the content of a student submission. Independence must mean that a student contact has the final say over content of their submission and the extent to which they collaborate with their provider. There will also be a strong expectation – which we will set out in our guidance – that a provider will share with its students any key data and evidence. To ensure independence of the student submission, we will undertake checks of the role of and rationale for a provider's student contact nomination to ensure it has an elected or other suitable role as a student representative. Guidance for students will set out our expectation that the student submission should explain clearly how the information has been gathered, and will additionally provide advice on the information that can usefully be included about the support that has been offered by the provider, and information which would give panel members confidence in the independence of the submission.

Scope of student submissions

261. As set out above, we proposed in the consultation that the student submission would cover the same scope as the provider submission. We explained that in considering how compelling the evidence in a student submission is, and how much weight to place on it, one factor considered by the TEF panel will be the extent to which the evidence is broadly representative of all student groups and courses within the scope of the TEF assessment.
262. During engagement with students (see Annex B) it was identified that it may be logistically difficult for student representatives to coordinate a single response that was representative of students taught at other providers through partnership arrangements. This relates to

proposal 5, which sets out that TEF assessments will consider both taught or registered students.

263. Some respondents also wanted further information about:

- a. How the timeframe that should be covered by the student submission compared with the provider submission, and how this relates to the four-year TEF cycle.
- b. How to ensure submissions are representative of all students in scope, including student groups whose voices might often go unheard.

OfS response

264. We have considered whether it would be appropriate to limit the scope of student submissions to students who are taught by a provider. We do not think that this is appropriate because we do not wish to limit the information that students may wish to submit. However, as noted under proposal 6 we recognise that it may not be practical for those preparing the student submission to gather evidence from students at partner providers. We have therefore decided that it will be optional for student submissions to include evidence covering students registered by the provider and who are taught elsewhere. We will make this clear in guidance to students, and explain that when evidence is being presented, it should clearly state whether it relates to taught students only, or to taught or registered students.
265. Regarding the issue of the timeframe for the student submission, we have considered the issue further and recognise that it may be practically difficult for student representatives to gather relevant evidence that does not relate to current students. We therefore consider it will be appropriate for evidence relating to any of the four most recent years to be in scope for the student submission, but will expect evidence to relate primarily to current cohorts. We acknowledge this may mean that evidence in relation to student outcomes is likely to focus more on how well the provider supports current students to achieve positive outcomes, than on the outcomes achieved by past students. We consider that this will be practical for student contacts, and not place undue burden on them. After the next TEF, we will encourage students to gather information in a way that can be passed on to future student representatives to inform future TEF submissions.
266. As we have decided that student submissions can optionally include students that are registered by a provider but taught elsewhere, and students who are not in the most recent cohort, student submissions will need to be clear about how the evidence presented is representative of the students covered, so that the TEF panel can take this into consideration. We will provide guidance to students and to the panel to support this.

Weighting of student submissions

267. Comments in response to this proposal and in response to proposal 11 (assessment of evidence) indicated many respondents wished to understand the impact of the student submission in the assessment better, including how panel members will handle: the absence of a student submission; any discrepancies between the provider and student submission; and variations in quality across student submissions linked to the size and resources of individual providers.

OfS response

268. We have deliberately not sought to specify the weight that student submissions will be given: rather we set out that panel members would ‘interpret the available evidence to identify very high quality and outstanding quality features within each aspect’. This means that panel members will have to weight the evidence they have, and make a considered judgement about the evidence in the student and provider submissions and the indicators. We will guide the panel to make no assumptions about the impact of the presence or absence of a student submission before considering all the available evidence.

Other points raised

269. Some respondents raised a few other points in relation to the student submission. Some highlighted that in smaller providers where resource to support the student submission may be limited, the workload for the individual students involved would be heavier. It was suggested that student involvement might be supported and enabled through the provision of financial compensation, and through sharing data between providers and students.
270. We do not consider that it is the OfS’s role to incentivise student involvement through financial compensation. We do wish to encourage effective provider-student cooperation and expect providers to consider a range of ways in which they can support students, but it will be for providers and students to agree what is appropriate and whether this includes financial elements.
271. Some respondents suggested that that a verification process like that proposed for provider submissions (see proposal 7) would help ensure the rigour and representativeness of student submissions.
272. As we set out in the consultation, one of our primary reasons for proposing that we would not conduct verification checks for student submissions in the same way as we would for provider submissions⁵² is to reduce the burden on students. As some respondents have pointed out, there may be cases where a provider’s students have limited capacity to get involved with producing a student submission, and we would not want to disincentivise participation further by making the process appear overly complex. We will guide students to explain how they have collected their evidence and how representative it is of the students in scope of the submission, and the panel will normally be able to take a view on the evidence without requiring verification. There will however be a mechanism that allows the TEF panel to seek verification from the student contact in cases where panel members have concerns about the accuracy of information in the student submission and where this could potentially affect the rating awarded.
273. A series of other points were made in response to this proposal which we have responded to under other sections of this document, including:

⁵² All provider submissions will be subject to an additional random sampling verification process, in which a representative sample of submissions will be selected and references checked to verify that the source material supports the statements made in the submission. We proposed that student submissions will not be subject to this random sampling aspect of the verification arrangements, but may still be subject to verification checks initiated by the panel where necessary.

- a. As with provider submissions, requests for further information in relation to the evidence students could use to demonstrate educational gains (covered under proposal 2 – aspects and features of assessment).
- b. Suggestions that the implementation timeline could affect the extent and quality of student input and limit the scope for provider-student coordination (covered under proposal 15 – timing of the next exercise)

Decision

274. We have decided to proceed with this proposal apart from the changes set out in the next paragraph. This means we will:
- a. Encourage students to optionally contribute evidence to the assessment process through a single independent student submission.
 - b. Provide guidance and support to TEF student contacts.
 - c. Set a 10-page limit for student submissions but allow all, or part, of a student submission to be in a format other than a written document. Where possible and appropriate, we would encourage students taking this approach to accompany their submission with a written transcript and to use the prompts in the recommended structure for the student submission.
 - d. Share student submissions with providers when communicating the panel's provisional decision, including if the students have not shared it with the provider.
275. We have decided to change our proposals that student submissions will cover the same scope as provider submissions. Instead:
- a. The aspects and features of assessment that student submissions will cover will be the same as the provider submission (though we recognise that evidence in relation to student outcomes is likely to focus more on how well the provider supports current students to achieve positive outcomes, than on the outcomes achieved by past students).
 - b. The range of courses and students that may be in scope of the student submissions will be the same as for provider submissions, but for student submissions it will be optional to include students who are registered at a provider but taught elsewhere.
 - c. Evidence relating to any of the four most recent years is in scope for the student submission, but we will expect evidence to relate primarily to current cohorts.

Proposal 9: Indicators

Summary

276. In summary, proposal 9 set out that 'the OfS should produce numerical indicators based on the National Student Survey (NSS) responses; and student outcomes indicators defined

consistently with the indicators we propose to regulate student outcomes through condition B3. For the purposes of the TEF, the indicators should show a provider's performance in relation to its benchmark'. We explained that our proposals only provided a brief overview of the proposed indicators and that further details about how these indicators would be constructed and presented were set out in our related data indicators consultation.⁵³

277. The details of the TEF proposal set out that:

- a. We would use indicators constructed from NSS response data as evidence for assessing the student experience aspect of the TEF. These would be constructed from the following scales:
 - The teaching on my course.
 - Assessment and feedback.
 - Academic support.
 - Learning resources.
 - Student voice, excluding question 26.⁵⁴
- b. We proposed to use the same three measures as evidence for assessing student outcomes in the TEF as we proposed to use for the purpose of regulating student outcomes through condition B3 (and that the rationale for selecting them was set out in our consultation on regulating student outcomes). These are Continuation, Completion and Progression.
- c. The indicators would, as far as possible, include all undergraduate students within the scope of the TEF and that we would use the latest four years of available data to construct each indicator. (Detailed information about the construction of the indicators was covered in the data indicators consultation.)
- d. The structure for the indicators involves reporting them separately for each of three modes of study: full-time, part-time and apprenticeships. In each mode, we would include students at all undergraduate levels of study, and include students who are taught or registered by the provider. At the next level in the reporting structure, we proposed to break down the TEF indicators within each mode of study to create a series of 'split indicators'. These relate to:
 - Level of undergraduate study.

⁵³ The outcomes of our consultations on the construction of data indicators and on regulating student outcomes are available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

⁵⁴ We proposed to exclude question 26, which relates to the effectiveness of students' union representation, when constructing the student voice scale. This is outside the direct control of a provider. Additionally, we do not consider it appropriate to use the responses to the separate question about overall satisfaction (question 27) in the TEF, as it does not meaningfully inform understanding of the areas of the student experience we are seeking to assess.

- Subject studied.
- Student characteristics.
- Year of entry or qualification.
- Specific course types.
- Provider partnership arrangements.

The reporting structure for the indicators and split indicators we proposed was summarised in Figure 3 of the consultation.⁵⁵

- e. Indicators would show the provider's position in relation to its benchmarks, which take account of the characteristics of its students, the type of courses it offers and (in relation to progression) geographic factors.
- f. The provider's position against its benchmarks would be presented by showing the value of each indicator and its difference from the provider's benchmark. We proposed to clearly communicate statistical uncertainty about the difference between a provider's indicator and its benchmark, using 'shaded bars'. The shaded bars represent the distribution of statistical uncertainty around this difference. We did not propose to 'flag' positive or negative performance against benchmark, as was done in the previous TEF exercises. To support consistent interpretation of the shaded bars, guiding lines would show where performance could be considered materially above or materially below benchmark.
- g. We would use the benchmarking factors set out in the indicators consultation and summarised in Table 1 of the TEF consultation.
- h. Providers in the devolved administrations would be benchmarked against similar students across the UK, rather than being benchmarked only against similar students within the devolved administrations.
- i. Where a provider's benchmark for continuation is 95 per cent or higher, and the provider is not materially below its benchmark, its performance would be interpreted positively.
- j. Data would not be reported on in certain circumstances, for example due to being suppressed for data protection reasons.
- k. We would include data about the size and shape of provision alongside the indicators for each provider to help the panel understand a provider's context when interpreting the available evidence. This would include:
 - The provider's size in terms of student numbers.
 - The type of courses it offers and its mix of subjects.

⁵⁵ See page 47 of 'Consultation on the Teaching Excellence Framework (TEF)' (OfS 2022.02), available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

- The characteristics of its students.
 - Information on the numbers of students in each type of teaching partnership arrangement.
- I. The indicators and the data about the size and shape of provision would be constructed and presented according to the proposals made in the data indicators consultation.⁵⁶
278. The consultation then asked: ‘to what extent do you agree with our proposal for indicators? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view’.
279. Close to three fifths of respondents tended to agree or strongly agree with this proposal. Just under two fifths of respondents tended to disagree or strongly disagree. Remaining respondents did not know or preferred not to say.
280. The qualitative data shows various reasons underlying respondents’ positive responses. For example, there was support for the presentation of statistical uncertainty and performance against benchmark, and the removal of the flags used in the previous TEF signifying positive or negative performance. There was also some agreement with the proposed balance of metrics and submissions more broadly in allowing all types of provision to demonstrate excellence.
281. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues (to the extent that they are not dealt with elsewhere in this document) relating to:
- a. The construction of student experience and student outcomes indicators.
 - b. Benchmarking and statistical significance.
 - c. Interpretation of data.
 - d. The volume and complexity of data.
 - e. Data sparsity for smaller providers.
282. Respondents to these proposals often referred to issues that were not discussed directly within the TEF consultation, but instead cross-referred to proposals or issues that were set out in our related consultations on a new approach to regulating student outcomes and on constructing student outcome and experience indicators for use in OfS regulation. This was particularly the case for issues noted in the paragraph above. We have noted examples of the cross-cutting issues raised by respondents to provide additional context to the TEF decisions (for example in paragraphs 285 and 289). Further information regarding:

⁵⁶ See ‘Consultation on constructing student outcome and experience indicators for use in OfS regulation’ (OfS 2022.03), available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

- a. Our decisions relating to how indicators will be constructed and presented are set out in our related data indicators consultation outcomes document.
- b. Our decisions relating to the measures we will use for the purpose of regulating student outcomes are set out in the related B3 consultation outcomes document.

Construction of the TEF indicators

283. We explained in the consultation our view that using robust, comparable indicators constructed from national datasets alongside evidence submitted by individual providers and their student representatives would give the panel a reliable and balanced evidence base from which to make judgements about each provider.

NSS indicators

284. While there was little discussion in responses about the choice of NSS scales for the indicators, we noted some support for including the question scales relating to ‘Learning community’ and ‘Learning opportunities’. For example, as noted under proposal 2, it was suggested that learning community could be provided as evidence, if the scope of the student experience aspect were to consider students’ ‘sense of belonging’.
285. In relation to the NSS, respondents primarily raised points about the perceived quality of the data, which they suggested would either disadvantage providers in the TEF assessment process, or create additional burden for providers to have to explain the limitations of data in their submissions. Points made here were often expanded on in responses to the data indicators consultation.⁵⁷ Examples given included that:
 - a. The optional nature of the NSS affects participation, and makes it more likely that providers might need to supply additional evidence where response rates are low or there is greater statistical uncertainty in the indicators. Similarly, additional evidence could also be required where data may be affected by student boycotts of the NSS.
 - b. NSS data may not be collected for certain providers or types of students, for example students on courses of one year or less or students on higher education courses not recognised for OfS funding.
 - c. There may be a negative impact on the performance shown in the data due to the pandemic, and that this will vary across providers. For example, providers in areas subject to more severe geographical lockdown restrictions, or those offering provision more reliant on physical or technological resources, may be disproportionately affected.
286. Some respondents also suggested that because the NSS is currently subject to review there is uncertainty about how the survey might be used in TEF assessments in future, so it would be unwise to make it a central part of the assessment framework in its current form.

Continuation indicators

287. In relation to the continuation indicator, some respondents suggested that students’ withdrawal from their course can relate to health or social problems. One respondent also

⁵⁷ See proposal 8 of ‘Consultation on constructing student outcome and experience indicators for use in OfS regulation: Responses and decision’, available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

took the view that there were differences in how exit awards were treated in the calculation of continuation for different levels of study. For example, where students withdraw from a course after completing a foundation year, any exit award would be granted at further education level and not counted positively. It was suggested that this approach could disadvantage providers that recruit significant numbers to courses with a foundation year, and disincentivise recruitment to foundation years generally. It was also suggested that continuation data across the UK nations is not comparable. Points made here were often repeated and expanded on in responses to the data indicators consultation.⁵⁸

Completion indicators

288. Some respondents asked about the reasoning for including both the continuation and completion indicators, expecting they would be closely correlated as they understood that continuation was subsumed within the completion indicator. There were limited comments and no clear consensus about which of the two completion indicators we consulted on was preferable. This lack of consensus was also reflected in responses to the related indicators consultation.⁵⁹

Progression indicators

289. Most comments in response to this proposal were in relation to the use of the Graduate Outcomes survey to construct the progression indicator. Points made here were often repeated, and expanded on in responses to the student outcomes consultation and to the data indicators consultation.⁶⁰ They included that:

- a. The Graduate Outcomes survey is new and still evolving, with points made about low response rates and coding errors. It was suggested that a response rate of 30 per cent is not sufficient to count as representative of a cohort.
- b. The use of only groups 1-3 of the Standard Occupational Classification 2020 (SOC) in defining progression is simplistic and not representative of graduate roles in areas such as health and social care, education, and the creative industry. Points were made about the impact of this for small providers, including further education colleges if outcomes for significant numbers of students are unlikely to be considered professional or managerial.
- c. Progression can be affected by factors beyond a provider's control, including the personal choice of a student to delay their career, differences in labour markets between regions, and the socioeconomic background of students.

⁵⁸ See proposal 5 of 'Consultation on constructing student outcome and experience indicators for use in OfS regulation: Responses and decision', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

⁵⁹ See proposal 6 of 'Consultation on constructing student outcome and experience indicators for use in OfS regulation: Responses and decision', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

⁶⁰ See section on 'Construction of a progression outcome measure' in 'Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions', and proposal 7 of 'Consultation on constructing student outcome and experience indicators for use in OfS regulation: Responses and decision', both available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/.

- d. In certain subject areas students may not anticipate getting a graduate level or managerial job immediately after graduation because of the specific nature of the employment sector they hope to enter, for example, the film industry where students might enter at a junior level before progressing.

OfS response

290. We note that the same and similar points were raised by a few respondents in their responses to the data indicators consultation (with regards to all the indicators) and the consultation on regulating student outcomes (with regards to the student outcomes indicators). More detailed explanation of our responses to these issues and the decisions we have made about how to define and construct data indicators may be found:

- a. In relation to the student experience indicators – see proposal 8 of our data indicators consultation outcomes document.
- b. In relation to the student outcomes measures – see proposals 5-7 of our data indicators consultation outcomes document, and proposal 2 of our student outcomes consultation outcomes document.⁶¹

291. For the purpose of this consultation, our decision is that:

- a. We consider it appropriate to use indicators constructed from the NSS data as evidence relating to the student experience. As we set out in our consultation, as an independent survey of students' views, we consider that the NSS is a valuable part of the evidence for understanding the student academic experience.
- b. NSS indicators would be constructed as described in paragraph 277.a.
- c. While we produced NSS indicators constructed from the other three NSS scales (Learning opportunities, Organisation and Management, and Learning community) for the purpose of consultation we did not propose to use them. We have not changed our view and consider these to be less relevant to the scope of the student experience aspect of the TEF. As we set out in the TEF consultation, we wish to ensure a balance between numerical indicators and other sources of evidence. By not introducing additional NSS scales we can keep the volume of data, and associated burden, as low as possible while still achieving the purpose of the TEF. This does not preclude provider submissions including evidence in relation to these measures, provided they can demonstrate a clear and direct contribution to the quality of the educational experience or outcomes for its mix of students and courses.
- d. We consider it appropriate to construct indicators that measure continuation, completion and progression using the same definitions determined through our consultations on regulating student outcomes and on constructing student outcome indicators for use in

⁶¹ See 'Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions' and 'Consultation on constructing student outcome and experience indicators for use in OfS regulation: Responses and decision', both available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/.

OfS regulation.⁶² As set out in our consultation, we consider that aligning the indicators means we can regulate more effectively and reduce regulatory burden for providers and others which need to understand and engage with the indicators we use. To align with the decisions arising from the student outcomes consultation we will use the cohort-tracking methodology to construct TEF completion indicators.⁶³

292. The guidance relating to condition of registration B3 sets out factors that the OfS may consider, that may help explain the reasons for a provider's historical performance in relation to student outcomes. For the purposes of the TEF assessments we will include in the TEF guidance a list of non-exhaustive examples of factors that the TEF panel may consider when considering any evidence a provider may present in its submission, that may help explain its performance in relation to its TEF indicators. This will include, where relevant, the factors set out in relation to condition B3.
293. More generally, the TEF panel will consider the quality and context of all relevant evidence, whether that is from the indicators the OfS has constructed or a provider's own evidence or the student submission. We will provide training for the panel on the indicators, and this will include where indicators may need to be interpreted in the context of understanding some of the unique features of higher education provision in different parts of the UK.
294. Our proposals were designed to consider a diversity of providers with a variety of evidence, and there will be various reasons why the evidence relating to any of the indicators, or a provider's own evidence, requires contextualisation. This is why we do not agree with comments that challenged the usability of the indicators because of provider-specific issues – for example, the comments that some providers may not have NSS data, or may have limited NSS data, the comments about continuation, and the comments about subject-specific progression patterns.
295. We also proposed that the indicators should contribute no more than half the evidence of excellence in each aspect, placing emphasis on the evidence that providers consider relevant for their own context (see proposal 7). For the purposes of the TEF, providers are invited to provide further contextual information or evidence relating to the indicators through their submissions, which can be used to address any perceived limitations in the data.
296. We accept that there may be broader issues related to the ongoing impact of the coronavirus pandemic and discussed this in the TEF consultation. We noted that by the time submissions are due, providers would have a reasonable understanding of the impact the pandemic has had on their courses and students, and would be in a position to provide evidence in their submissions of any actions they have taken. Students will also be able to reflect on their experience through their submissions. We also discussed issues relating to the pandemic (in terms of the construction of indicators) in the data indicators consultation.⁶⁴ We noted that

⁶² See www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/.

⁶³ See proposal 2 (Decision) of 'Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/student-outcomes/.

⁶⁴ See paragraphs 332-333 of 'Consultation on constructing student outcome and experience indicators for use in OfS regulation' (OfS 2022.03), available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

the scope to show the impact of the pandemic through the indicators released alongside the consultation was limited, but that we will keep this under review as later years of data become available. The data used to produce TEF indicators that we will publish in September 2022 will begin to cover the years affected by the pandemic and providers and students will be able to reflect on this performance in their submissions.

297. We acknowledge that the NSS is currently under review. As the TEF indicators are retrospective this does not affect the next TEF exercise and we stated in the data indicators consultation that we intend to consult in the future on any revisions or refinements that may prove necessary for the construction of student experience indicators to be used in later TEF exercises, once the NSS review has been completed.⁶⁵
298. With regards to comments about response rates for the NSS and Graduate Outcomes survey, we discussed the response rates, suppressions strategy and approach to survey non-response for both in our consultation on data indicators.⁶⁶
299. As noted above, points made in relation to the progression indicator were often repeated and expanded in responses to the student outcomes consultation. Our response to proposal 2 of the consultation on regulating student outcomes sets out in detail why we think the measure is reasonable. It explains how we have defined the measure in a broader way than respondents to both the TEF and B3 consultations have assumed. The definition ensures that we recognise progression outcomes beyond managerial and professional employment, and how artistic, literary and media occupations and design occupations are categorised within the SOC codes we count as positive.⁶⁷
300. We have discussed the point regarding a provider's control over progression outcomes in our response to 'equality considerations' under overarching themes.

Benchmarking and statistical uncertainty

301. Our benchmarking methodology aims to indicate how well a provider has performed compared with performance for similar types of students on similar types of courses in the higher education sector as a whole. The use of benchmarking in the TEF is designed to incentivise excellence above our minimum quality requirements for each provider's mix of students and courses.
302. Some respondents commented on the proposed approach to benchmarking. Further information was requested on how the benchmarks are constructed, especially in relation to socio-economic factors. Other respondents thought it was important that benchmarking groups sufficiently cover all providers' sizes and students' characteristics. It was suggested that there should be guidance to panel members on what respondents considered to be the limitations of benchmarking.

⁶⁵ Paragraph 301 (see footnote 64)

⁶⁶ Paragraphs 247-256 and 313-317 (see footnote 64)

⁶⁷ See proposal 2 of 'Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/student-outcomes/.

- 303. In addition, some respondents commented that ABCS (Associations between characteristics of students) which we proposed would be used as a benchmarking factor for the outcome indicators is a measure that is difficult to replicate and is currently rarely used within the sector.
- 304. In terms of statistical uncertainty, some responses indicated a preference for additional information on how a provider should interpret and then discuss in its submission indicators with lower statistical confidence. Greater statistical uncertainty in the indicators was a concern especially for small providers and in relation to apprenticeships, with some respondents making points about the robustness of benchmarks where cohorts are small.

OfS response

- 305. Our consultation on the construction of student experience and outcomes indicators set out considerable detail on our proposed approach to constructing benchmarks, including detailed discussion of the statistical integrity of the benchmarking approach. We explained the need to select an appropriate number of benchmarking factors to avoid self-benchmarking, and this underpinned our consideration of the extent to which benchmarking factors can cover all different provider-based or student-based characteristics, and our use of the ABCS quintiles (paragraphs 423 to 429 and 437 to 443).
- 306. While we are minded to proceed with our proposed choice of benchmarking factors with no change, we are not at this point taking final decisions. Now we have taken decisions about the construction of indicators (including the adoption of principles for benchmarking factors as set out in our analysis of responses to our consultation on constructing student outcome indicators for use in OfS regulation⁶⁸) we intend to construct the final indicators, and the ABCS analyses related to the completion and progression stages of the student lifecycle (which we proposed to include in the benchmarking of those measures). We will then assess whether the factors and groupings we proposed continue to maintain the statistical integrity of the benchmarking approach. We intend to confirm the final benchmarking factors used at the point we publish the final indicators. At that point we will also provide full technical information about the construction of indicators.
- 307. In our response to the consultation on constructing student experience and outcomes indicators we describe that we have decided to prioritise the inclusion of ABCS as a benchmarking factor.⁶⁹ This is because as an intersectional measure of student characteristics, its use achieves an appropriate balance between the statistical integrity of the benchmarking method and taking appropriate account of student characteristic factors

⁶⁸ See 'Benchmarking factors' section and Annex B of 'Consultation on constructing student outcome and experience indicators for use in OfS regulation: Responses and decision', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

⁶⁹ See 'Benchmarking factors' section of 'Consultation on constructing student outcome and experience indicators for use in OfS regulation: Responses and decision', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

See the explanation of the ABCS analyses in Annex F of 'Consultation on constructing student outcome and experience indicators for use in OfS regulation' (OfS 2022.03), available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

that have material effects on the student outcomes we are measuring. We are therefore minded to include ABCS within the benchmarks for continuation, completion and progression measures.

308. In response to the points made about greater statistical uncertainty in the indicators of smaller providers, we discuss how our revised data presentation maximises the potential use of the data for smaller providers in our response to ‘burden on smaller providers’ under overarching themes.
309. As discussed in paragraph 295, for the purposes of the TEF, indicators should contribute no more than half the evidence of excellence in each aspect. Providers are invited to provide further contextual information or evidence relating to the indicators through their submissions, which they can use to address any perceived limitations in the data. This includes indicators where there is greater statistical uncertainty. Panel members will similarly receive training on how to interpret the indicators, and what conclusions can or cannot be drawn from them.

Interpretation of data

310. In the consultation we proposed that, to support the consistent interpretation of indicators, ‘guiding lines’ would show where performance could be considered materially above or materially below benchmark. We proposed that performance that is at least 2.5 percentage points above (or below) benchmark should be considered as materially above (or below) benchmark and that the panel would consider the level of statistical uncertainty in the position of the provider’s indicator against its corresponding benchmark.
311. A small number of respondents commented on this approach, including that the 2.5 percentage point threshold was not adequately justified. We took one respondent’s comments to imply that the terminology of ‘materiality’ used to describe this feature of the process might be inappropriate, because this may be interpreted by users to have a particular statistical meaning (whereas our reason for using this considered policy implications as well as sector level data). Respondents did not propose alternative approaches.
312. Because some providers’ benchmarks may be so high that it is difficult for a provider to materially exceed its benchmark, some respondents suggested that the approach for considering very high benchmark values (described in paragraph 277.i above) should be applied more widely than just for continuation and be treated as evidence of outstanding quality.

OfS response

313. With regards to the approach of using ‘guiding lines’ to consider materiality, we set out in a supporting document a range of both policy and statistical issues that informed our consideration of what values should be used to identify materiality,⁷⁰ and provided analysis that informed our proposals to use 2.5 percentage points.

⁷⁰ See ‘Supporting information for the consultation on the Teaching Excellence Framework (TEF). Materiality and high benchmark values for use in interpretation of the TEF indicators’, available at

314. We consider that consistent interpretation of the indicators, and transparency for providers about how this will be done is important. We note there were numerous comments in response to this proposal and across other proposals that pointed more broadly to the importance of ensuring consistent panel judgements and this is discussed further under proposal 10.
315. We consider that alternative approaches, for example not using any kind of guiding lines, would create greater burden on the panel and not be an efficient use of OfS resources, as significantly more time would be required for calibration and consistency checking. We have also considered whether to describe this part of the assessment process using different language (rather than materiality). On balance, we consider that our proposal remains appropriate for the purposes of TEF because in this context we are not using ‘materiality’ as a statistical concept. We will ensure that guidance is clear that users of the indicators should:
- Consider the full range of information presented about the statistical uncertainty of the indicators.
 - Understand our policy reasons for using the 2.5 percentage point ‘guiding lines’.
316. For the TEF panel, we intend that guidance will also set out that statistical considerations are not determinative and that the panel will also need to apply expert judgement in reaching its decisions. For example, we set out in Annex F of the consultation, that:
- ‘If 90 per cent of the distribution represented by shaded bar is above the guiding line for ‘materially above benchmark’ this would provide strong statistical evidence that the provider’s performance is materially above its benchmark. It would be interpreted as strong initial evidence of an outstanding feature.’

The guidance will emphasise to panellists the importance of considering this as initial evidence.

317. We have also considered the points made about how TEF assessments should consider high benchmark values. While analysis of the indicators we published to support the consultation suggests that extending the approach beyond continuation to the other measures would not have a widespread effect on providers, we consider that there could in future be circumstances where this would be relevant to a provider’s performance. We consider that it is consistent to apply this approach to all the student experience and student outcome measures. We have therefore decided that for any indicator, where a provider’s benchmark is 95 per cent or higher, and the provider is not materially below its benchmark, its performance would be interpreted positively.

Complexity and volume of data, and its publication

318. Some respondents suggested that the complexity and volume of the indicators and split indicators will place increased burden on providers and the TEF panel. We took this to mean that respondents thought the data would distract providers from actual actions and initiatives

to improve the student experience and outcomes, and would make it challenging for the TEF panel to undertake reliable assessments.

319. It was also suggested that, when published annually, the volume of data could be overwhelming for the public and lead to intense scrutiny of providers. In particular it was noted that in TEF the data is only one part of the overall picture and could be misunderstood if viewed in isolation without the context of the TEF submissions and panel reports.

OfS response

320. As we note in our response to the consultation on regulating student outcomes,⁷¹ publication of indicators provides confidence in the regulatory system, can help to inform students' decisions about what and where to study, and acts as an incentive for providers to understand and improve their performance if necessary.
321. Our aim in proposing to publish the TEF indicators annually is to sustain improvement, transparency and accountability on an ongoing basis. We consider that publishing the TEF indicators annually will supplement the incentives created by the four-yearly TEF assessments. We also note the strong support from many respondents to proposal one which set out that ratings should be informed by consideration of the student experience and student outcomes for all groups of a provider's undergraduate students and across the range of its undergraduate courses and subjects – to do this requires a wider range of data than previously published for the TEF.
322. We recognise that the number of indicators we proposed to publish will result in a wider range of data being publicly available than before. We have sought to limit the number of indicators where possible, and have taken this into consideration when deciding their structure. For example, we explained in the TEF consultation why we thought that reporting the TEF indicators separately for each mode and level of study would be unnecessary. Whereas for the purposes of condition B3 we proposed an approach that would allow us to regulate at a more granular level.
323. It should also be noted that the volume of information in the final TEF indicators will be lower than that released to providers to support the consultation, including because we will not publish indicators based on the full range of NSS scales and because we have decided to proceed with the cohort-tracking approach to the completion measure (but produced two different versions of completion measures for the purpose of consultation). We will produce guidance for different audiences to support their understanding and interpretation of the data, alongside the other outcomes the TEF will produce.

Data sparsity for smaller providers

324. The likelihood of there being sparse or limited data for smaller providers (for example due to data suppression or indicators with lower statistical confidence) was highlighted, alongside

⁷¹ See overarching themes ('Number and complexity of split indicators and data points') in 'Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decisions', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/student-outcomes/.

the view that more space would be required in submissions to provide additional evidence to compensate for these gaps.

OfS response

325. We recognise that data limitations may affect providers with smaller numbers of students. We understand that the points made by some respondents relate to limitations that arise because of small student populations being sparsely distributed across many different breakdowns of the data, resulting in the higher likelihood of data suppression or indicators with lower statistical confidence that has been cited. For providers that do not meet the mandatory participation threshold, participation in the TEF will be voluntary. As described under proposal 5, we have also decided to require two (rather than one) indicators with denominators to have a minimum of 500 students before participation becomes mandatory. This means that participation will now be voluntary for more providers with limited data.
326. In addition, our approach has been designed deliberately to accommodate the assessment of providers of all types and sizes, for example through placing greater emphasis on the evidence in provider submissions. A provider may have very small cohorts of students and OfS indicators may show a high degree of statistical uncertainty. This will not prevent it from demonstrating in its submission that it delivers excellence for its students. We consider that this approach will enable the TEF panel to respond appropriately to the data sparsity that we recognise may arise for some smaller providers.

Other points raised

327. Other points and requests for further information made in relation to the indicators included:
 - a. Comments on the variation in time periods covered by the different indicators, with the data for continuation and completion referring to different cohorts to the NSS data and to the lagged progression data. We will provide further information on how the indicators relate to the four-year cycle and how this should be managed in submissions in the relevant guidance.
 - b. The eligibility for the free school meals split indicator may underrepresent the population of eligible students – in particular at providers in Scotland – because it includes only students with a record in the DfE National Pupil Database. We recognise that this may occur, and providers can explain any issues arising in their submissions if needed. We will also provide training to the panel about the data used in this split indicator.
328. In relation to paragraph 327.b above, we consider that providers may choose to use quantitative evidence that is not included in the standard set of indicators. This could be drawn from nationally produced data (for example NSS data that is not used to construct the TEF indicators, data from the Graduate Outcomes survey, or Longitudinal Education Outcomes (LEO) data) as well as providers' own data. In both circumstances, as set out in the consultation,⁷² we would expect the provider to explain the relevance of the data for its

⁷² See Annex C (paragraph 11c) of 'Consultation on the Teaching Excellence Framework (TEF)' (OfS 2022.02), available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

mix of students and courses. We will provide general guidance on presenting such data in submissions.

329. A series of other points were made in response to this proposal which we have responded to under other sections of this document, including:
- a. Comments that indicators do not properly measure teaching excellence (covered in response to 'purpose and effectiveness of the TEF' under overarching themes).
 - b. Respondents wishing to get a better understanding of how the panel will make fair and consistent judgements and the role of the indicators in the assessment, including: how the panel will ensure providers are not disadvantaged or advantaged by the availability of NSS data; the weight of NSS compared with other indicators; the extent to which the split indicators – or 'pockets' of lower or higher performance – will impact the aspect or overall rating decisions; and how the panel will treat any variability in indicators affected by the pandemic (covered under proposal 11 – assessment of evidence).
 - c. Comments on how the inclusion of both taught and registered students in the scope of the TEF will incorporate a lot of data that respondents considered was not directly controlled by the provider, and which a few respondents felt could disincentivise partnership arrangements between universities and colleges (covered under proposal 6 – courses in scope). Under our response to proposal 6 we also discuss changes we have decided to make to the type of partnership split.
 - d. Disagreement with the inclusion of higher education courses not recognised for OfS funding, because the data is limited (covered under proposal 5 – provider eligibility).
 - e. Requests for further information in a number of areas including:
 - The OfS's expectations in relation to educational gains given the absence of a specific indicator (covered under proposal 2 – aspects and features of assessment).
 - The interactions between the TEF and baseline regulation, including whether a provider could receive a gold TEF rating but then 'fail' condition B3 (covered under proposal 5 – provider eligibility).
 - The extent to which the provider and student submissions should address each of the modes of study (covered under proposal 7 – provider submissions).
 - The OfS's role in apprenticeships compared with the role of Ofsted, with some respondents considering there to be some overlap (covered in response to 'regulatory and policy alignment' under overarching themes).
 - Whether the annual TEF indicators will be available to providers – in particular in the devolved nations – that choose not to participate (covered under proposal 12 – published information).

Decision

330. We have decided to proceed with this proposal apart from the changes set out in the next paragraph. This means we will:
- a. Use indicators constructed from NSS response data as evidence for assessing the student experience aspect of the TEF. These will be constructed from the following scales:
 - The teaching on my course.
 - Assessment and feedback.
 - Academic support.
 - Learning resources.
 - Student voice, excluding question 26.⁷³
 - b. Use the same student outcome measures and definitions of these measures as we have decided to use for the purpose of regulating student outcomes through condition B3, as evidence for assessing student outcomes in the TEF. These are:
 - Continuation.
 - Completion, which will be constructed using the cohort tracking method described in the data indicators consultation.
 - Progression.
 - c. Construct indicators so that as far as possible they include all undergraduate students within the scope of the TEF. We will use the latest four years of available data to construct each indicator.
 - d. Use the reporting structure we proposed and that is summarised in Figure 3 of the consultation, apart from the changes specified in the next paragraph.
 - e. In the indicators, show a provider's position in relation to its benchmark, using shaded bars to represent the distribution of statistical uncertainty and showing guiding lines at 2.5 percentage points above and below benchmark.
 - f. Not report on data in certain circumstances including:
 - Where there are fewer than 23 students in the denominator.

⁷³ We proposed to exclude question 26, which relates to the effectiveness of students' union representation, when constructing the student voice scale. This is outside the direct control of a provider. Additionally, we do not consider it appropriate to use the responses to the separate question about overall satisfaction (question 27) in the TEF, as it does not meaningfully inform understanding of the areas of the student experience we are seeking to assess.

- Where an indicator or split indicator based on the NSS has a survey response rate below 50 per cent.
 - Where an indicator or split indicator based on the Graduate Outcomes survey has a survey response rate below 30 per cent.
 - Where there is unknown information about one or more benchmarking factors for at least 50 per cent of relevant students, we would not report the benchmark or the difference between the indicator and the benchmark.
 - Where data has been suppressed for data protection reasons.
- g. Include data about the size and shape of provision alongside the indicators for each provider covering:
- A provider's size in terms of student numbers.
 - The type of courses it offers and its mix of subjects.
 - The characteristics of its students.
 - Information on the numbers of students in each type of teaching partnership arrangement.
- h. Construct and present the indicators and the data about the size and shape of provision according to the decisions we have made in relation to the data indicators consultation.⁷⁴

331. We have decided to change the following:

- a. Our proposal to identify where a provider's benchmark for continuation is 95 per cent or higher and that in this case, where the provider is not materially below its benchmark, its performance would be interpreted positively. Instead, we will apply this approach to all the student experience and outcomes measures.
- b. Our proposals regarding the reporting structure of the partnership type split indicators. The indicators released alongside the consultation showed where students were either taught or registered, subcontracted in, or subcontracted out. We have decided to simplify this to show where students are either taught or sub-contracted out. Please see proposal 6 for further discussion of this.

332. As set out in paragraph 306 we are minded to proceed with our proposed choice of benchmarking factors with no change, but are not at this point taking final decisions at this point. We intend to confirm the final benchmarking factors used at the point we publish the final indicators. At that point we will also provide full technical information about the construction of indicators.

⁷⁴ See 'Consultation on constructing student outcome and experience indicators for use in OfS regulation: Responses and decision', available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/.

Proposal 10: Expert review

Summary

333. In summary, proposal 10 set out that 'ratings should be decided by a TEF panel applying expert judgement'. The details of this proposal were:
- a. That we proposed to establish a new OfS committee, to be known as the TEF panel, to make decisions about TEF ratings.
 - b. Academic and student members would be appointed to the panel through an open recruitment process, and that one academic panel member and one student panel member would be appointed as deputy chairs, to assist the chair (Professor Sir Chris Husbands).
 - c. Our aim to recruit members with experience of diverse types of providers and from diverse backgrounds.
 - d. At a high level (in Annex E), the stages through which decisions would be made, including that there would be an opportunity for providers to make representations.
 - e. That the OfS would provide guidance to panel members, that would be published.
334. The consultation then asked: 'to what extent do you agree with our proposal for expert review? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view'.
335. There was very strong support for this proposal with almost nine in ten respondents tending to agree or strongly agreeing.
336. Overall, there was a strong level of agreement with the proposal for expert review. Where respondents commented they tended to voice support for our proposals or make suggestions for how to strengthen them (for example making suggestions that could in their view support the recruitment of a diverse panel), or to request more information.
337. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues (to the extent that they are not dealt with elsewhere in this document) relating to:
- a. The diversity of the TEF panel.
 - b. The operation and decision-making of the panel, including the representations stage.

The diversity of the TEF panel

338. A number of respondents agreed with our aim to ensure that panel membership is appropriately diverse, and representative of a broad range of perspectives and experiences. Some of those respondents sought further information about how this will be achieved and offered suggestions for the OfS to consider in establishing the selection criteria and specifying the skills and experience that will be required. The range of comments by respondents indicated that they thought, between them, appointed panel members should:

- a. Have an understanding of higher education delivered in further education colleges.
 - b. Have an understanding of the specific issues affecting smaller or specialist providers, including the issue of small datasets.
 - c. Have expertise in different fields, such as education, health, humanities, science, creative arts and design.
 - d. Have expertise of different modes of study and delivery mechanisms, for example part-time, modular and online delivery.
 - e. Have an understanding of matters relating to equality, diversity and inclusion.
 - f. Include individuals from groups often underrepresented in higher education.
 - g. Be representative of the diverse geographies of England and the devolved nations.
339. There was a suggestion that to encourage student applications to the panel – including students from underrepresented groups – the OfS could consider running a series of information events and offering additional training and support.
340. While some respondents agreed with not including a role for employer representatives, a number of other respondents suggested employer representatives would bring additional expertise to the panel in order to consider progression outcomes.
341. Some respondents identified the skills that professional services staff would bring to the panel, as well as those with experience of professional associations, charities and bodies that support and enhance teaching excellence, and regional and national networking organisations of education providers.

OfS response

342. We share the view of those respondents who expressed support for the appointment of a diverse panel, with appropriate expertise to assess all types of provision.
343. We launched the recruitment exercise on 26 May 2022,⁷⁵ and it involved:
- a. Emphasising our aim of appointing members with a diverse range of experience and backgrounds, throughout the recruitment documents and related communications.
 - b. Selection criteria that apply to candidates with relevant experience from all types of providers.
 - c. Working with relevant sector stakeholders and using a variety of communications channels to reach as wide a range of potential applicants as possible.
344. While we have described roles as ‘academic’ and ‘student’, the criteria for the academic panel member roles enable anyone with relevant experience to apply. We also agree employer representatives could in principle bring a valuable perspective on some issues, but

⁷⁵ See www.officeforstudents.org.uk/advice-and-guidance/teaching/apply-to-join-the-tef-panel/.

we remain of the view set out in the consultation that it would be more effective to appoint members who have expertise across all areas being assessed. We consider that embedding such expertise throughout the panel is preferable to recruiting a limited number of experts in particular areas.

345. Our selection process will involve:

- a. Selecting sufficient panel members with experience of different provider types, to assess all providers that are likely to take part.
- b. Aiming to appoint candidates from a diverse range of backgrounds.
- c. Considering the mix of subject expertise and geographical region when making appointments.
- d. Inviting further applications if appropriate during the process to encourage a more diverse pool of candidates.

Panel decision making and representations

346. In Annex E of the consultation, we set out information that we proposed to include in guidance to TEF panel members on the process for decision-making. We explained that we had not prepared full draft guidance at that point because our intention was to develop it in accordance with the decisions that followed from the consultation.

347. In relation to the operation and decision-making of the panel, some respondents sought further information and made suggestions in a number of areas including:

- a. That the OfS should share the panel guidance with all providers in advance, in particular to avoid a situation where providers which have members of staff that are appointed to the panel are given earlier insight into the assessment process.
- b. How the small groups of panel members involved in initial assessments will be organised and operate, including the number of groups and panel members, whether the groups will be chaired, whether the members will be fixed or change over time to give more chance of calibration and moderation, and how consistency between the groups will be achieved.
- c. That panel members should have sufficient guidance and training given the range and complexity of evidence to be assessed and to ensure that fair and consistent judgements are made.
- d. A suggestion that the full panel should have an opportunity to meet to calibrate and moderate decisions.
- e. A suggestion that there should be a degree of matching between the experience of panel members and the providers they are given to assess, to ensure there is appropriate understanding of each provider's context.
- f. Further information about the staged assessment process described in Annex E, in which a small number of panel members would review the evidence in relation to a

provider and form a recommendation about the ratings, followed by a group of panel members convening to consider the recommendations and make provisional decisions about the ratings for each provider.

- g. A view that there should be no norm-referencing or end-stage adjustment based on the proportion of each award.
 - h. A suggestion that ‘collaboration’ be included in the list of what might be considered a conflict of interests besides ‘partnership’.
348. In relation to the representations stage, the requests for further information included: whether making representations constitutes an appeal; whether representations are an opportunity to present new evidence or to clarify evidence already presented; and whether any additional evidence would be reviewed by the same panel members who conducted the initial assessment or whether a larger or different group would review the case.
349. In addition, while some respondents considered 28 days a reasonable period in which to make representations, other respondents – particularly those representing small providers – considered 28 days insufficient and suggested extending the period to two months.

OfS response

350. As most comments on the assessment and decision-making elements of this proposal were seeking further information rather than raising substantive issues with the proposed approach, we have provided some further information below. We will set out the process the TEF panel will follow in guidance, which we intend to publish during the submission window, so providers will have an opportunity to consider this while preparing their submission.
351. All panel members will be trained and participate in a calibration exercise to ensure that they are interpreting guidance and making judgements consistently.
352. We expect that the process of allocating providers to panel members for initial assessment will involve a degree of matching, while also ensuring that panel members assess a range of providers with different characteristics.
353. We have designed an assessment process to deliver fair and consistent outcomes, in an efficient manner. It will involve:
- a. Initial assessment of each provider by a small number of panel members (typically three), who will form recommendations to larger panel sub-groups.
 - b. The panel sub-groups will then make provisional decisions about the ratings for most providers, referring more complex cases to a ‘referral group’ of panel members.
 - c. Membership of the ‘referral group’ will be drawn from across all the panel sub-groups, to support consistency in decision-making.
 - d. The referral group will make provisional decisions about the more complex cases.

- e. All provisional decisions will then be communicated to providers, and they would have an opportunity to make representations. The referral group will consider representations and make final decisions about the ratings.
354. The representations process differs from the appeal process that existed for the TEF in the past, as it takes place before the panel has made its final decision and representations are therefore considered by the panel rather than by a separate appeal body. We had proposed in the consultation that a provider would have an opportunity to make representations if it considers that:
- a. the panel's judgement does not appropriately reflect the available evidence, by which we meant the original evidence that was available to the panel when making its provisional decision; or
 - b. there are any factual inaccuracies in the panel statement that would be published.
355. Our view is that this approach remains appropriate. While it does not constrain a provider from submitting additional information that had not been included in the submission, the TEF panel would consider whether such information has an effect on whether the provisional decision remains an appropriate reflection of the originally available evidence.
356. We have also considered the points which suggested a different approach to some aspects of the process:
- a. We do not consider it appropriate to carry out any adjustment of ratings based on the proportion of each rating awarded, as we do not have a predetermined view of the spread of performance across the sector.
 - b. We recognise that some providers would prefer a longer window in which to make representations, but we do not consider it would be in the interests of students to delay publishing outcomes for an extensive period and our view remains a 28-day period is appropriate.

Other points raised

357. A series of other points were made in response to this proposal which we have responded to under other sections of this document, including:
- a. Comments relating to the impact of the proposed implementation timeline on the recruitment and training of panel members, and on panel member workloads. We have covered this under proposal 15 – timing of the next exercise.
 - b. Suggestions in relation to the coverage of guidance and training for panel members (covered under proposal 11 – assessment of evidence and in response to 'requests for further information' under overarching themes).

Decision

358. We have decided to proceed with this proposal with no change. This means we will:

- a. Establish a new OfS committee, to be known as the TEF panel, to make decisions about TEF ratings. The panel will be chaired by Professor Sir Chris Husbands.
- b. Appoint academic and student members to the panel through an open recruitment process, with one academic panel member and one student panel member appointed as deputy chairs.
- c. Aim to recruit members with experience of diverse types of providers and from diverse backgrounds.
- d. Carry out decision-making in a staged way that is fair and consistent.
- e. Allow providers an opportunity to make representations about provisional decisions, before final decisions are made.
- f. Publish more detailed guidance to panel members on the assessment process. We expect to publish this in autumn 2022, well in advance of the submission deadline.

Proposal 11: Assessment of evidence

Summary

359. In summary, proposal 11 set out that ‘the panel should interpret and weigh up the evidence within a set of principles and guidelines, including that:
- the indicators should contribute no more than half the evidence of excellence in each aspect
 - the two aspects should be equally weighted when deciding the overall rating.

360. The details of the proposal set out:

- a. Broad principles that:
 - The assessment should consider how far a provider delivers excellence for its mix of students and courses.
 - Positive evidence of excellence above the baseline requirements should be sought.
 - Assessments should be based on a balanced consideration of the sources of evidence.
 - The ratings criteria should be applied holistically to all the available evidence.
 - Assessments and outcomes should be transparent and coherent.
- b. The approach for how evidence should be considered and weighed up to make judgements about ratings. This would involve identifying features of excellence, then forming judgements about the ratings for each aspect, and then determining the overall rating.

- c. Circumstances in which the overall rating would be limited.
361. The consultation then asked: ‘to what extent do you agree with our proposal for the assessment of evidence? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view’.
362. There was strong support for this proposal with almost three quarters of respondents tending to agree or strongly agreeing. Less than one fifth of respondents tended to disagree or strongly disagree. One in ten respondents did not know or preferred not to say.
363. Overall, most respondents were positive about this proposal. There was support, for example, for adopting a principles-based, rather than rules-based approach. In addition, some respondents welcomed the two core principles: that the aspects will have equal weighting, and that the indicators will contribute no more than half of the evidence in the assessment of each aspect. Support for the proposed balance between the role of the provider submission and the indicators was also expressed by a number of respondents in response to proposal 7 (provider submissions).
364. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues relating to some respondents’ wanting to better understand the assessment methodology and guidance that will be provided to the panel (to the extent that they are not dealt with elsewhere in this document). Comments of this nature were made in response to a number of different consultation questions but are addressed primarily in this section. We also discuss requests for guidance more generally in the ‘requests for further information’ section of overarching themes.

Assessment methodology

365. In Annex F of the consultation, we set out information that we proposed to include in guidance to the TEF panel members on how to interpret and weigh up the evidence and form rating judgements. We explained that we had not prepared full draft guidance at that point because our intention was to develop it in accordance with the decisions that followed from the consultation.
366. The importance of sufficient training and guidance for panel members was highlighted by a number of respondents, in terms of both ensuring consistent and fair judgements are made and minimising the burden on panel members, noting in particular the volume and complexity of evidence that is to be assessed. It was also suggested that support and guidance will be important in ensuring the panel is able to recognise and assess the different types of excellence that might be present across different providers.
367. While most respondents generally supported the move away from a formulaic approach⁷⁶ to assessment used in the previous TEF towards a principles-based approach, some took the view that this could introduce inconsistency or subjective elements into the assessment. There was a suggestion that a ‘common law’ could develop privately among panel members in the absence of more detailed and specific guidance on making decisions.

⁷⁶ The previous TEF used an algorithm to determine an initial hypothesis for a rating based on the provider’s performance in the indicators (metrics), which has been described as a ‘formulaic’ approach.

368. The range of points on which a number of respondents sought further information included:

- a. How the weighting of evidence will be decided, including between indicators and submissions, in cases where a student submission is missing, and how the NSS might be weighted compared with other indicators.
- b. The role and interpretation of the indicators, with some respondents seeking more information on how panel members will handle cases where data is too small to be publishable or statistically unreliable; ensure providers are not disadvantaged or advantaged by the availability of NSS data; and handle any variability in indicators linked to the pandemic. The extent to which the split indicators – or ‘pockets’ of lower or higher performance – will impact the aspect or overall rating decisions was also questioned.
- c. How educational gains will be assessed consistently given the expected diversity of approaches across providers.
- d. How panels will determine the ratings consistently – including how the overall rating will be decided in cases where the aspect ratings differ.
- e. How panel members can make a judgement about what constitutes ‘the very best in the sector’ if they are assessing only a selection of providers and not all.

369. There were also suggestions that the guidance and training might include: how to interpret complex datasets, covering benchmarking and its limitations, and statistical uncertainty; the contexts of different UK nations; and equality considerations and unconscious bias.

370. In the interests of transparency and to inform the development of submissions, a number of respondents considered that any guidance developed for the panel should also be shared with providers and students in advance. It was also suggested that this would help avoid any disadvantage for providers that do not have panel representation.

OfS response

371. We note the responses requesting further information on how the TEF panel will place weight on different contextual factors, such as those described at paragraph 368. We do not intend to publish further specific information about how the TEF panel will balance specific contextual factors. This is because the weight that it may place on different contextual factors will vary depending on the circumstances of a particular case. Rather than producing and applying prescriptive guidance we intend for the TEF panel to exercise its discretion to place particular and appropriate weight on certain contextual factors, having regard to the particular facts and issues in any given case. This is in line with our principles-based approach to both regulation, as set out in the regulatory framework, and to TEF assessments. The imposition of a narrow rules-based approach would risk a ‘tick-box’ approach to the TEF which would not recognise the diversity of the sector and would stifle innovation. We maintain the view therefore that a principles-based approach to assessment is the most appropriate way to deploy expert judgements about excellence for each provider’s mix of students and courses. We also note there was considerable support for expert review expressed in response to proposal 10. While we consider that it is important expert judgements take account of the context of each provider, we also acknowledge that it is important that they are made in a consistent manner. We will ensure this through the appointment of a panel with diverse

expertise (see proposal 10); through panel training, calibration and the process of decision-making (see proposal 10); and by publishing procedural guidance that operationalises our decisions to enable consistent judgements about diverse providers.

372. We plan to publish this guidance well before the submission deadline. It will operationalise our decisions on how the evidence should be interpreted and how ratings should be determined. This will put into practice the way in which panel members should interpret evidence in relation to the features of excellence; on how they should weigh up this evidence to form aspect ratings; and how they should then determine the overall rating for a provider. We will also provide training on the interpretation of the indicators, including relevant statistical concepts.
373. As well as providing the panel with data about the size and shape of provision at each provider, we will guide members to consider a provider's individual context throughout their assessments. Our panel recruitment approach seeks to maximise the diversity of experience on the panel, and therefore equip it to recognise diverse forms of excellence. We take the view that the combination of individual and collective knowledge and experience within the panel will position it well to identify features that are among the best in the sector for the mix of students and courses concerned, without it needing to consider all providers' submissions alongside each other.
374. We have discussed requests for guidance more generally in the 'requests for further information' section of overarching themes.

Other points raised

375. Some respondents suggested that limiting a provider's overall rating to no more than one rating higher than the lowest aspect rating could have the effect of encouraging providers to divert resources from higher to lower-performing areas, leading to a more 'average' performance at the provider overall. We discuss issues relating to gaming and 'dumbing down' more broadly in response to comments on the 'purpose and effectiveness of the TEF' under 'Overarching themes'. Here, we say that we consider that the most effective way for a provider to improve its TEF rating is to make genuine improvements to the student experience and student outcomes. We maintain that the overall rating should be limited in the way we had proposed.
376. A further point made in response to this proposal related to the interactions between the TEF and baseline regulation, with a request for more information on the circumstances in which the OfS would suspend a provider's eligibility for the TEF or existing TEF rating. It was suggested there is a risk that what in their view could be contradictory judgements were made using the same data. We have responded to this point under proposal 5 – provider eligibility.

Decision

377. We have decided to proceed with this proposal with no change. This means we will:

- a. Adopt a principles-based approach to assessment, where the indicators will contribute no more than half the evidence of excellence in each aspect and the two aspects of assessment will be equally weighted when deciding the overall rating.

- b. Provide procedural guidance for the panel, based on Annex F of the TEF consultation document, on how to interpret and weigh up evidence and determine ratings, and how to apply its expert judgement in a consistent manner.
- c. Limit the overall rating a provider could be awarded, in the ways we had proposed.

Proposal 12: Published information

Summary

378. In summary, proposal 12 set out that ‘TEF outcomes and the evidence used in assessment should be published in an accessible and timely way’. The details of the proposal were that:
- a. On the OfS Register we would publish information relating to a provider’s participation in the TEF, TEF panel decisions, or regulatory decisions about compliance relevant to the TEF.
 - b. We would publish TEF outcomes on the Discover Uni website for all providers in England and in the devolved administrations that participate in the TEF. We would also work with UCAS on how this information would be communicated to students via its services.
 - c. We would publish a wider set of related and ancillary information about a provider that participates in the TEF, for transparency, including:
 - The written panel statement setting out the panel’s reasoning for the outcomes.
 - The provider’s submission.
 - The student submission (where available) but that there may be circumstances where the OfS considers it appropriate to not publish the student submission wholly or in part, where we take the view that other factors outweigh the public interest in publishing it.
 - The TEF indicators considered by the panel.
 - d. Where we decide that a TEF rating may be transferred from one provider to another (see proposal 5), that we would update published information alongside the TEF ratings to explain the basis for the original rating, the basis on which it had been transferred, and relevant information about TEF ratings that had been held by relevant previous entities.
 - e. If some outcomes are published later than others, following representations, either:
 - Communicate that a provider’s award is ‘pending’ or
 - Not communicate that a provider has participated in the TEF until its outcome has been decided and is published.

379. The consultation then asked: ‘to what extent do you agree with our proposal for published information? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view’.
380. There was reasonably strong support for this proposal with approximately three fifths of respondents tending to agree or strongly agreeing. A third of respondents tended to disagree or strongly disagree. Remaining respondents did not know or preferred not to say.
381. The qualitative responses indicate that many respondents’ support for this proposal was often linked to the transparency of the proposed approach. There were suggestions that the proposal will benefit future students and help inform their choice of provider, and enable the sharing of best practice across the sector.
382. The responses also revealed that many points made in disagreement with this proposal related to the names of the categories, and in particular Requires improvement. This is discussed under proposals 3 and 4.
383. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues (to the extent that they are not dealt with elsewhere in this document) relating to the timing of published outcomes. This also related to how the OfS should communicate the status of a TEF assessment or outcome.

Timing of outcomes

384. In the consultation we explained our view that it would be in the interests of students and the public more generally for outcomes to be published as soon as practicable, but that this meant that some outcomes would be released later than others, where a provider makes representations about the provisional decision about its TEF outcome. We did not consider that the policy intention of the TEF exercise would be best served by delaying the publication of all outcomes until these are available.
385. It was suggested by some respondents that this approach would allow the identification of providers that are engaged in representations. It was felt this could affect a provider’s reputation regardless of the final outcome and dissuade providers from making representations.
386. Points were also made about the potential disadvantage, in terms of student recruitment, if a provider engaged in representations cannot promote its TEF award as early as other providers.
387. The respondents that made these points tended to be in favour of publishing all results simultaneously, either by postponing the publication of outcomes for all providers or by integrating a period for representations into the wider TEF process.
388. If some providers’ outcomes are to be published later, responses indicated a preference for a term such as ‘pending’ as opposed to the alternative option presented in the consultation of not communicating that a provider has participated until the outcome is finalised. It was suggested that this would more transparently communicate that a provider is still being assessed and differentiate between providers that have and have not participated. This is relevant to points made under proposal 5, where some respondents suggested that there

should be a way of indicating publicly that a provider is not eligible for the TEF or chose not to participate, to avoid any misunderstanding about those providers.

OfS response

389. In our TEF consultation, we referred to our consultation on the publication of information about higher education providers, which has been running concurrently with the TEF consultation. Since the TEF consultation was published, we have issued a supplementary consultation on the publication of information about higher education providers, and we have not yet made any decisions about the matters on which we are consulting.
390. Given the relevance of our consultation on the publication of information about higher education providers to proposal 12, we do not intend to make final decisions on proposal 12 until we have considered responses to our publication consultation. This will be before the TEF submission window opens. Nevertheless, we have reviewed responses to proposal 12 and have set out our preliminary views on the issues raised below. In light of the responses received, we are currently minded to proceed with proposal 12 with no change, for the reasons explained below.
391. With regards to the issue of either waiting for all outcomes to be available before publishing, or publishing outcomes as proposed, our view remains that it is in the interests of students, potential applicants, and the public more generally, for TEF outcomes to be published as soon as is practicable. We have considered the interests of higher education providers and note we have adjusted the proposed timetable to enable more time for providers and students to write their submissions, following consideration of responses to this consultation. We consider that further delay is not in the student interest. It is also our view is that it will not be practical to publish all outcomes simultaneously without affecting the availability of outcomes that inform student decision-making. We have noted the general preference among the respondents for there to be an indication that outcomes may be 'pending' and are minded to proceed with this.
392. We have also considered the issue of public communication of TEF statuses further, and the points made that using 'pending' would be helpful to differentiate between providers which have yet to have outcomes published, and providers that have chosen not to participate in the TEF.
393. As we set out in our consultation, we are minded to publish information relating to a provider's participation in the TEF, TEF panel decisions, and regulatory decisions about compliance relevant to the TEF. This would mean that, as well as Gold, Silver, Bronze and Requires improvement, where applicable, we would, for example:
 - a. Provide information and supporting text, that explains that a TEF outcome is pending.
 - b. Ensure there is differentiation between circumstances in which participation in the TEF is not required and a provider has not chosen to take part, or where a provider does not have students in scope for assessment, or where a provider is not eligible to participate in the TEF, or to hold a TEF award, because of a regulatory decision.

Other points raised

394. In response to both proposal 12 and proposal 9, some respondents sought further information about the publication of indicators for providers that do not have to participate in the TEF. For example, if condition B6 does not require them to participate, or if they are a provider in the devolved authorities.
395. It was commented that there should be no negative implications for a provider that is eligible but does not participate, with the voluntary nature of the TEF communicated clearly in all public information.
396. Our preliminary view is that:
- Indicators should be published annually as official statistics for all registered providers in England, whether they are required to participate in the TEF or not.
 - Indicators should only be published for providers in the devolved administrations that choose to participate in the TEF. They would be published as soon as is practicable after the submission deadline.⁷⁷ Indicators would not be published on an annual basis for providers in the devolved administrations, but we would make them available directly to providers annually.
 - We would clearly communicate that participation in the TEF is voluntary for certain providers.
397. Some respondents considered that indicators should not be published for providers that chose not to participate because they will not have had the opportunity to explain the data and performance shown in the indicators could therefore be misinterpreted. Other respondents suggested there may be a need for accompanying guidance and explanation to ensure that the information published could be accurately interpreted. A few respondents suggested that some users may lack the necessary statistical knowledge to understand the indicators, and it was also suggested that publication of the TEF ratings without additional explanation – particularly on student-facing channels such as UCAS and Discover Uni – could be misleading and could negatively influence student choice. Some respondents suggested ways in which the TEF outcomes could be made accessible to students, including the use of multimedia such as video presentations or student-friendly factsheets, as well as encouraging providers to use plain language in their submissions.
398. As set out in the consultation, we have proposed to make the TEF ratings widely available to prospective students because their influence on student choice creates a powerful incentive for providers to improve the quality of their courses. We are aware of the importance of ensuring the TEF outcomes can be accurately interpreted and we think it is important to ensure that the overall package of information published is as accessible and clearly communicated as possible. Our current view is that this it should include providing a clear explanation about how students should interpret and use both the ratings themselves and the associated evidence and that guidance and resources are made available alongside the data dashboards, to aid users' understanding of our data definitions. We agree that students and

⁷⁷ As indicators for providers in the devolved administrations would not be publicly available as official statistics, as they are in England, we would expect providers from the devolved administrations to share their indicators with students involved in preparing the student submission at the earliest opportunity.

applicants may come across TEF ratings in isolation. As we explain under proposal 3, this is why we consider that the clearly defined hierarchy of Gold, Silver and Bronze is important.

399. In relation to the publication of TEF ratings on the Discover Uni website and by UCAS, we set out in the consultation that there would be links to further information for each provider. This would include the written panel statement setting out the panel's reasoning for the outcome, as well as the range of evidence that contributed to that outcome.
400. Some respondents requested further information about the circumstances in which the student submission would not be published. Our preliminary view is that we would normally publish these unless there were strong reasons not to and we set out in the TEF consultation that this would be where we take the view that other factors outweigh the public interest in publishing it. Factors we proposed we would normally consider were set out in Annex C of our consultation on the publication of information about higher education providers. We will revisit these factors once we have considered responses to the publication consultation.

Decision

401. As explained above, we are not taking a decision in relation to this proposal at this time. However, in light of responses received, we are currently minded to proceed with this proposal with no change. This means we are minded to do the following:
 - a. On the OfS Register publish information relating to the provider's participation in the TEF, TEF panel decisions, or regulatory decisions about compliance relevant to the TEF.
 - b. Publish TEF outcomes on the Discover Uni website for all providers in England and in the devolved administrations that participate in the TEF. We would work with UCAS on how this information would be communicated to students via its services.
 - c. Publish a wider set of related and ancillary information about a provider that participates in the TEF, for transparency, including:
 - The written panel statement setting out the panel's reasoning for the outcomes.
 - The provider's submission.
 - The student submission (where available) but that there may be circumstances where the OfS considers it appropriate to not publish the student submission wholly or in part, where we take the view that other factors outweigh the public interest in publishing it.
 - The TEF indicators. As indicated in the implementation timetable set out in table 2 of the TEF consultation document, these would be published at the start of the submission window.
 - d. Where we decide that a TEF rating may be transferred from one provider to another (see proposal 5), we would update published information alongside the TEF ratings to explain the basis for the original rating, the basis on which it had been transferred, and relevant information held about TEF ratings.

- e. Publish TEF outcomes as soon as practicable. We would indicate that an outcome is ‘pending’ where it is still being considered following representations made by the provider.

Proposal 13: Communication of ratings by providers

Summary

402. In summary, proposal 13 set out that ‘a provider should be able to display and promote its own TEF rating in accordance with a set of guidelines’. The details of the proposal were that:
- a. A provider is not required to publicise its own TEF award.
 - b. The OfS would produce guidance to ensure a consistent TEF brand and accurate communication of ratings to the public.
403. The consultation then asked: ‘to what extent do you agree with our proposal for the communication of ratings by providers? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view’.
404. There was very strong support for this proposal with almost nine in ten of respondents tending to agree or strongly agreeing.
405. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues relating to ensuring accurate, transparent and consistent communication of TEF outcomes (to the extent that they are not dealt with elsewhere in this document).

Accuracy, transparency and consistency

406. The qualitative data identifies that many respondents supported this proposal because they considered it would ensure accuracy, transparency, and consistency in the use of TEF ratings across the sector, which in turn would be beneficial for student decision-making. Some respondents agreed with specific elements of the proposed guidance, including the requirements to not publish aspect ratings in isolation and to not use TEF ratings in reference to courses outside the scope of the assessment. There was also support for the principle that a provider should not be required to publicise its own award.
407. More broadly some respondents made comments on the need for the guidance to be clear, monitored and enforced by the OfS. The importance of ensuring widespread understanding of the meaning of ratings was also highlighted.

OfS response

408. Our proposal that providers should adhere to OfS guidance about the communication of TEF ratings is intended to ensure a consistent TEF brand and that the TEF ratings are communicated accurately to the public. We do not consider it necessary to require a provider to publicise its own award because all outcomes, and the reasoning for them, would be publicly available, as set out under proposal 12.

409. As the response was broadly supportive of the proposal, we will proceed based on the proposals set out in the consultation. We will issue guidance setting out the OfS's expectations for the communication of TEF ratings, and provide standard logos. This is set out in further detail under the 'next steps' section.
410. As noted under proposal 6, the guidance will also set out that a provider involved in a partnership arrangement should display only its own TEF rating, not those of its partners.
411. The OfS is likely to conduct checks to ensure providers are following the guidance on the communication of TEF ratings.

Other points raised

412. A small number of other points were made in response to this proposal which we have responded to under other sections of this document, including:
 - a. Comments on the proposed names for the rating categories (covered under proposal 3 – rating scheme).
 - b. Comments on potential reputational harm if providers engage in the representations process and do not have their award published at the same time as other providers (covered under proposal 12 – published information).

Decision

413. We have decided to proceed with this proposal with no change. This means we will:
 - a. Not require a provider to publicise its own TEF award.
 - b. Produce guidance designed to ensure a consistent TEF brand and accurate communication of ratings to the public.

Proposal 14: Name of the scheme

Summary

414. Proposal 14 set out that 'the scheme should be named the Teaching Excellence Framework'.
415. The consultation then asked: 'to what extent do you agree with our proposal for the name of the scheme? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view'.
416. There was reasonably strong support for this proposal with over two thirds of respondents tending to agree or strongly agreeing. A quarter of respondents tended to disagree or strongly disagree. Remaining respondents did not know or preferred not to say.
417. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues relating to the suitability of the name of the scheme (to the extent that they are not dealt with elsewhere in this document).

Suitability of the name ‘Teaching Excellence Framework’

418. The qualitative responses revealed that support for this proposal was based on the name being recognisable, having simplicity and clarity, and being consistent with the Research Excellence Framework (REF) and the Knowledge Exchange Framework (KEF). There were counterviews that the focus of the scheme is on the student experience and student outcomes, not on teaching excellence. It was suggested that, while the scope of the exercise may be understood by the sector, the name could be misleading for others, including prospective students.
419. For respondents who both agreed and disagreed with the proposal, there was a view that the differences between the old and new TEF schemes will need to be clear, including to avoid inaccurate comparisons of a provider’s old and new TEF ratings. Some respondents thought a new name was necessary to signal the new approach, while others who were in favour of the proposed name suggested a clear communications strategy will be needed. Respondents also made a number of suggestions for alternative names, including:
- a. A name that reflects the proposed focus on the student experience and outcomes, such as Student Outcomes Framework; Student Experience Framework; Student Experience and Outcomes Framework; Student and Graduate Outcomes Framework.
 - b. The name suggested by the independent review of the TEF – Educational Excellence Framework.
 - c. A name that makes explicit reference to ‘undergraduate’ – such as ‘Undergraduate Teaching Excellence Framework’ – to avoid any implication that the TEF applies to courses at other levels.
420. The research conducted by YouthSight with students and applicants showed that the Teaching Excellence Framework (TEF) was the preferred option of the names tested (which included the name suggested by the independent review).⁷⁸ It was preferred because it was easy to understand, especially for those who know little about the scheme, and because it was the most memorable, with an acronym that made sense

OfS response

421. In the consultation we explained that we were in favour of reverting to the original name Teaching Excellence Framework with the associated acronym TEF because they are now well-known, and would complement the branding of the Research Excellence Framework (REF). This would signal parity between teaching and research, and support clear and effective communication of the scheme. This remains our view.
422. We intend to proceed with the Teaching Excellence Framework (TEF) as the name of the scheme. While we understand the points that were made regarding the degree to which the name represents the full scope of the scheme, we consider that the publication of ratings for each aspect – Student Experience and Student Outcomes – alongside the overall rating will clearly signal the scope of what has been assessed.

⁷⁸ See section 1 of ‘Assessing student perceptions of proposed TEF naming and rating options’, available at www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/the-tef/.

423. With regards to points that the TEF may be misunderstood to apply to courses at different levels, we will ensure that our communications about the scheme are clear that the TEF applies to undergraduate courses.

Decision

424. We have decided to proceed with this proposal with no change. This means that the name of the scheme will be the 'Teaching Excellence Framework' (TEF). We will make changes to the wording of condition B6, and other consequential amendments to the regulatory framework as necessary to reflect this decision.

Proposal 15: Timing of the next exercise

Summary

425. In summary, proposal 15 set out that 'the next exercise should be carried out during 2022-23 and outcomes published in spring 2023. Future exercises should be conducted every four years'. The details were set out in a table, which has been reproduced as part of Table 2 below.
426. The consultation then asked: 'to what extent do you agree with our proposal for the timing of the next exercise? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view'.
427. There was very strong disagreement with this proposal, with almost nine in ten of respondents disagreeing or strongly disagreeing.
428. Comments relating to this proposal were made in response to a number of different consultation questions but are addressed primarily in this section.
429. We have carefully considered all the points raised in relation to this specific proposal, and set out below our responses to the main issues relating to the timing and duration of the submission window, and the time available for panel recruitment, training and assessment (to the extent that they are not dealt with elsewhere in this document).

Timing and duration of the submission window

430. In the consultation we explained our view that it is in the interests of students to ensure our revised quality system – that is, our revised approach to regulating the B conditions and the promotion of excellence through the TEF – is in place as soon as possible. In developing our proposed timeline, we had regard to the need to reduce unnecessary burden on providers and the ongoing impact of the coronavirus pandemic. We were also mindful of the considerable delay that had already occurred since the last TEF exercise took place.
431. In summary, respondents' points about the timing and duration of the submission window included:
- a. That the proposed submission window was too short given the workload of providers and compared with the length of time providers are given to submit to the REF. It was suggested the window be extended to a three-month period at least.

- b. That opening the window at the start of a new academic year would create substantial additional burden at an already busy time for providers and could negatively affect the quality of submissions. It was suggested that the submission window would coincide with providers' engagement in other regulatory activities, including in relation to condition B3, Data Futures and the OfS's access and participation reforms, and that it could be particularly challenging for smaller providers with less resource to manage multiple expectations at the same time. There were suggestions that the proposed timeline may make it difficult for smaller providers to submit to the TEF effectively.
- c. The start of a new academic year is also a busy period for student representatives, who in some cases will be new in post, or in the process of being elected. It was suggested that the timing may mean students have limited capacity to prepare a submission and that the length of the submission window is unlikely to give student representatives time to fully consult with the wider student community.
- d. That a more sequenced approach to implementing the TEF and condition B3 would be preferred, where compliance with condition B3 is judged first so that a provider is aware of its eligibility for the TEF before it starts the process.
- e. A view that the TEF guidance should be published in advance of the submission window opening, giving staff and students time to develop their understanding of the new scheme.
- f. Comments on the time and resource that will be required to interpret the new indicators.
- g. Points about running the exercise so close to the disruption of the coronavirus pandemic, including because of the ongoing pressures of recovery on providers and because of the effect of the pandemic on the performance shown in the TEF indicators, which some respondents felt could present an inaccurate picture of quality at providers.
- h. A suggestion that the timeline could reduce the scope for provider-student cooperation and consistency, for example if it is not possible for the student contact to access the provider's submission in advance of the deadline.
- i. That there will be little time for the OfS to revise the proposals following analysis of consultation responses.

OfS response

432. On 26 May 2022 we wrote to providers with an update on the TEF.⁷⁹ As points about the proposed timeline had emerged as a key theme in responses to the consultation, we set out our revised view of the timeline, noting that it would be subject to final decisions based on the full set of consultation analysis and outcomes.
433. Now that we have fully considered responses to the consultation, we have decided to proceed with extending the timetable for students and providers to make their TEF submissions. We plan to publish the guidance and make TEF indicators available by the end

⁷⁹ See 'Letter to accountable officers 26 May 2022', available at www.officeforstudents.org.uk/publications/implementation-of-the-revised-b-conditions-and-the-tef/.

of September 2022, and the deadline for submission will be in mid-January 2023. The timetable is set out in more detail below.

434. We consider that the key advantages of extending the timetable for submissions are that:

- a. The timing will facilitate a wider range of student representatives to prepare submissions at a more suitable time of year for them.
- b. Providers will have more time to understand their data and engage with a wider range of staff and students to reflect on their performance and areas for improvement, as they prepare their submissions. This means the TEF will have a greater impact at providers, meaning it is more likely to meet its objective of incentivising excellence.

435. We have responded to comments regarding the sequencing of assessment in relation to condition B3 and TEF under proposal five.

Panel recruitment, training and assessment

436. In summary, respondents' points about the impact of the proposed timeline on the appointment and training of panel members included:

- a. There could be insufficient time to appoint a panel that is appropriately diverse and representative of the sector and with the required skills and expertise.
- b. There could be insufficient time to effectively train panel members to make robust and consistent judgements, noting that the role will involve analysing a large volume of evidence, including complex indicators.

437. A small number of additional points were made in relation to the timing and duration of the assessment window, including:

- a. The assessment window is too short for panel members to conduct a thorough review.
- b. There is significant burden for panel members given their academic commitments. There was a suggestion that the workload could be eased by an adjusted timeline where training is conducted over the spring and assessments over the summer when panel members would have a lighter teaching load.

OfS response

438. The additional time that has been planned for the preparation of provider and student submissions will also mean there is more time to recruit and train panel members once they have been appointed. We also consider that a small amount of additional time for the assessment is required to enable sufficient time for consistency checking by the TEF panel at the 'referral group' stage (described in response to 'Panel decision making and representations' under proposal 10).

439. Overall, we consider the timings we have decided are appropriate as they will allow us to publish the outcomes in September 2023 in time to inform prospective students for the 2024-25 recruitment cycle.

Other points raised

440. A further point made in response to this proposal was that there could be possible disadvantage for providers engaged in the representations process if there is a staggered approach to the publication of the TEF outcomes. Some respondents identified both reputational impact and disadvantage in terms of student recruitment. We have covered this issue in the relevant section of this document (proposal 12 – published information).

Decision

441. We have decided to amend the implementation timetable proposed in the consultation, as follows.

Table 2: revised implementation timeline

| Event | Timing proposed in the consultation | Revised timing |
|--|-------------------------------------|------------------------------|
| OfS appoints the TEF panel | August 2022 | September 2022 |
| The provider and student submission window opens: | Early September 2022 | By the end of September 2022 |
| <ul style="list-style-type: none">• OfS publishes guidance on submissions• OfS publishes the TEF indicators | | |
| Submission deadline | Mid November 2022 | Mid January 2023 |
| The TEF panel carries out assessments | Late November 2022 to March 2023 | Late January to June 2023 |
| Providers notified of the panel's provisional decisions about their ratings | April to May 2023 | July to August 2023 |
| Opportunity for providers to make representations | | |
| Outcomes published for providers that do not make representations | May 2023 | September 2023 |

Next steps

442. Alongside the publication of this document, we are writing to accountable officers asking for nominations for TEF main contacts and TEF student contacts. These are the individuals the OfS will contact for operational matters relating to participation in the TEF.
443. At the same time, we will also conduct a survey of intentions asking those providers not required to participate on a mandatory basis to indicate whether they plan to do so. Responses to this survey will not be binding and will be used to inform resource planning.
444. Following the publication of this response, we will make consequential amendments to the regulatory framework, including in relation to the guidance that underpins condition B6.

Revisions to condition B6 should come into effect in time for the submission window opening. This will include issues set out in the relevant sections above.

445. As set out in the previous section, TEF guidance on submissions will be published as early as possible, and no later than the start of the submission window. We will confirm the exact submission window dates before it opens. We also intend for final TEF indicators to be released to providers by the end of September, alongside the opening of the submission window. As set out in proposal 12, we are also minded to publish the indicators on our website, at the same time. Guidance on assessment will also be published well in advance of the submission deadline.
446. The outcomes of this consultation confirm the rules for mandatory participation in the TEF. Because we will use the student number data that we have already published,⁸⁰ most providers will have a clear sense of whether participation in the next exercise will be mandatory or voluntary. However, because of our decision to also require two indicators to have at least 500 students in the denominator for the TEF to be mandatory, some providers may find that they are no longer required to participate when the final TEF indicators are published in September 2022. We will write to each provider to confirm whether participation is mandatory or voluntary, no later than the start of the submission window.
447. In addition to the publication of the guidance, we intend to provide support for TEF contacts and TEF student contacts through a combination of both online webinars and in-person events. We will circulate dates and details for all events to TEF main contacts and student contacts at the earliest opportunity.

⁸⁰ See Table 1b of 'Student numbers 2020-21', available at www.officeforstudents.org.uk/data-and-analysis/student-number-data/get-the-current-student-numbers-data/. If a provider is eligible to participate and has fewer than 500 students reported in this table, participation in the next TEF will be voluntary.

Annex A: Consultation questions

Clarity of the proposals:

Are there aspects of the proposals you found unclear? If so, please specify which, and tell us why.

Regulatory burden:

In your view, are there ways in which the policy intention (see the box 'The purpose of the TEF' on page 12) could be delivered more efficiently or effectively than proposed here?

Question 1:

To what extent do you agree with our proposal for provider-level, periodic ratings? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 2:

To what extent do you agree with our proposal for aspects and features of assessment? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 3:

To what extent do you agree with our proposal for the rating scheme? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 4:

To what extent do you agree with our proposal for where there is an absence of excellence? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 5:

To what extent do you agree with our proposal for provider eligibility? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 6:

To what extent do you agree with our proposal for courses in scope? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 7:

To what extent do you agree with our proposal for provider submissions? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 8:

To what extent do you agree with our proposal for student submissions? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 9:

To what extent do you agree with our proposal for indicators? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 10:

To what extent do you agree with our proposal for expert review? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 11:

To what extent do you agree with our proposal for the assessment of evidence? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 12:

To what extent do you agree with our proposal for published information? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 13:

To what extent do you agree with our proposal for the communication of ratings by providers? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 14:

To what extent do you agree with our proposal for the name of the scheme? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 15:

To what extent do you agree with our proposal for the timing of the next exercise? Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Annex B: Feedback from the TEF consultation student engagement events

Introduction

1. This annex summarises the discussion and feedback gained from student-focused events organised by the OfS as part of the TEF consultation in early 2022. These included online workshops at which we explained the TEF consultation proposals and allowed delegates to ask questions about the proposals and submit feedback verbally. The feedback summarised in this annex has been considered alongside responses to the TEF consultation.

Who were the attendees?

2. Events were attended by over 40 students or student representatives from across the UK. To encourage maximum participation, we offered various date options and held one event specifically for students studying in a non-university environment, such as a college or a provider with no students' union. Attendees represented higher education students from university, further education, and independent college settings. Attendees held roles including students' union employees, student representatives in various forms and current students. In preparation for the events, attendees were given pre-reading materials to support their engagement with the proposals and were encouraged to share feedback.

Consistent themes of feedback

3. The following key themes were raised universally in the discussion and feedback at each of these events:
 - a. The proposal to introduce an independent student submission, and creation of the role of student contact were strongly supported.
 - b. Guidance and support for the TEF student contact from their provider and the OfS would be essential.
 - c. Students at smaller or specialist providers with limited resources may require further support.
 - d. There is significant potential burden on the TEF student contact.
 - e. The proposed timeline and submission window may not be feasible for students.
 - f. Ensuring the independence of the student submission is important.
 - g. Further exploration of graduate outcomes may be required to ensure they are reflective of changing times and attitudes in higher education.
 - h. It would be important to reflect on the specific requirements different groups of students might have, for example, mature students and postgraduate students.
 - i. Recognition or reward for the TEF student contact would be welcomed.

Feedback on the TEF proposals

4. Feedback on specific proposals is provided below. It should be noted that not all the proposals were discussed in detail as the events were focussed on areas of most interest to the delegates.

Background and purpose of the TEF

5. Delegates expressed support for any scheme that encourages providers to improve teaching quality but flagged that the TEF may be difficult to understand by the average student.

The framework and scope

6. Overall, delegates tended to agree with the rating options proposed, expressing a preference for the short, simple names which they considered to be the best of the options considered. No alternative rating names were suggested.
7. The progression data was discussed in detail. Some attendees raised questions about how the OfS would use this data in the TEF assessments. Others felt factors such as wellbeing and social benefit were relevant and should be considered alongside the data that shows the employment or study destinations of graduates. One attendee considered that graduate outcomes data was not reflective of the experience and motivations of a mature student who may, for example, undertake a degree for personal fulfilment rather than to get a graduate-level job.
8. Workshop participants noted that postgraduate taught provision would remain out of scope for the next exercise. Nevertheless, they considered that the TEF's benefits of added accountability and incentivising excellence are just as important for these students, and so expressed support for including postgraduate courses within the scope of subsequent exercises.

Evidence

9. Attendees strongly supported the opportunity for students to make an independent submission and the creation of the student contact role. In their discussions they focused on practical implications.
10. It was suggested that the TEF student contact nomination should come from the student body or a representative rather than the provider to ensure fair selection. Ensuring the student submission was truly independent of the provider was considered particularly important.
11. The burden on the TEF student contact role was discussed in detail and a number of suggestions were put forward to make student submissions manageable. These included revising the timeline and exploring various resourcing options such as having two student contacts or using small working groups. Ensuring student contacts were provided with clear guidance and adequate support was a consistent theme of feedback. The challenges were considered to be greater for students studying at small and specialist providers with no students' union, and a specialist programme of support was suggested in these cases.
12. Workshop participants also thought it would be difficult for student representatives to gather evidence from students at teaching partners. They queried whether such information should be within the scope of student submissions, as it would be for provider submissions.

13. Reward and/or recognition for the TEF student contact from the OfS or the provider was strongly supported.

Assessment, outcomes, and implementation

14. Attendees agreed that students should get the same data as providers in an easy-to-understand format.
15. They broadly agreed with the proposed name of the scheme, however, recognition of 'the student experience' in the title would have been appreciated.
16. Attendees expressed hope that the assessment of evidence would explore factors beyond the indicators, such as wellbeing, social capital, a sense of belonging and social benefit. They thought that the publication of everything that contributed to a provider's assessment would be important for transparency, and ensuring the rating awarded remains appropriate throughout the four-year award cycle would be important for legitimacy.
17. Attendees unanimously raised concerns about the proposed TEF timetable, which was considered unviable from a student perspective, given timing in relation to summer holidays and the handover from one academic year to the next. They also flagged that September-October was particularly busy for student reps. Attendees expected that the proposed timetable would make participation from students at small and specialist providers extremely unlikely.
18. Some attendees raised concerns about the link between the TEF awards and fee limits and felt this could affect student engagement with the TEF, although it was noted that this was outside the scope of the OfS consultation.

Annex C: Fee limits

The government sets what fees universities and colleges can charge through the Higher Education and Research Act (HERA) 2017. These limits may change from year to year.

The government has announced the maximum fee limits for 2022-23. The following table shows the fee limits for 2022-23:

| | Basic fee amount (£) 2022-23 | | Higher fee amount (£) 2022-23 | |
|----------------------------------|-------------------------------|----------------------------|-------------------------------|----------------------------|
| | Providers without a TEF award | Providers with a TEF award | Providers without a TEF award | Providers with a TEF award |
| Full-time students | 6,000 | 6,165 | 9,000 | 9,250 |
| Part-time students ⁸¹ | 4,500 | 4,625 | 6,750 | 6,935 |
| Sandwich placement year | 1,200 | 1,230 | 1,800 | 1,850 |
| Study year abroad | 900 | 920 | 1,350 | 1,385 |
| Accelerated degrees | | | | |
| Full-time students | 7,200 | 7,400 | 10,800 | 11,100 |
| Sandwich placement year | 1,440 | 1,475 | 2,160 | 2,220 |
| Study year abroad | 1,080 | 1,105 | 1,620 | 1,660 |

⁸¹ Current fee regulations prohibit any institution from charging a part-time student more than £6,935 in an academic year, or £6,750 for providers without a TEF award, regardless of how many credits are taken or the intensity of study.

Annex D: Section 2 of the Higher Education and Research Act 2017

General duties

- (1) In performing its functions, the OfS must have regard to –
 - (a) the need to protect the institutional autonomy of English higher education providers,
 - (b) the need to promote quality, and greater choice and opportunities for students, in the provision of higher education by English higher education providers,
 - (c) the need to encourage competition between English higher education providers in connection with the provision of higher education where that competition is in the interests of students and employers, while also having regard to the benefits for students and employers resulting from collaboration between such providers,
 - (d) the need to promote value for money in the provision of higher education by English higher education providers,
 - (e) the need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers,
 - (f) the need to use the OfS's resources in an efficient, effective and economic way, and
 - (g) so far as relevant, the principles of best regulatory practice, including the principles that regulatory activities should be –
 - (i) transparent, accountable, proportionate and consistent, and
 - (ii) targeted only at cases in which action is needed.
- (2) The reference in subsection (1)(b) to choice in the provision of higher education by English higher education providers includes choice amongst a diverse range of –
 - (a) types of provider,
 - (b) higher education courses, and
 - (c) means by which they are provided (for example, full-time or part-time study, distance learning or accelerated courses).
- (3) In performing its functions, including its duties under subsection (1), the OfS must have regard to guidance given to it by the Secretary of State.
- (4) In giving such guidance, the Secretary of State must have regard to the need to protect the institutional autonomy of English higher education providers.
- (5) The guidance may, in particular, be framed by reference to particular courses of study but, whether or not the guidance is framed in that way, it must not relate to –
 - (a) particular parts of courses of study,

- (b) the content of such courses,
 - (c) the manner in which they are taught, supervised or assessed,
 - (d) the criteria for the selection, appointment or dismissal of academic staff, or how they are applied, or
 - (e) the criteria for the admission of students, or how they are applied.
- (6) Guidance framed by reference to a particular course of study must not guide the OfS to perform a function in a way which prohibits or requires the provision of a particular course of study.
- (7) Guidance given by the Secretary of State to the OfS which relates to English higher education providers must apply to such providers generally or to a description of such providers.
- (8) In this Part, ‘the institutional autonomy of English higher education providers’ means –
- (a) the freedom of English higher education providers within the law to conduct their day to day management in an effective and competent way,
 - (b) the freedom of English higher education providers –
 - (i) to determine the content of particular courses and the manner in which they are taught, supervised and assessed,
 - (ii) to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and
 - (iii) to determine the criteria for the admission of students and apply those criteria in particular cases, and
 - (c) the freedom within the law of academic staff at English higher education providers –
 - (i) to question and test received wisdom, and
 - (ii) to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at the providers.

Annex E: Matters to which we have had regard in reaching our policy decisions

1. We set out in the Consultation that in formulating our proposals, the OfS had regard to:
 - a. Our general duties as set out in section 2 of the Higher Education and Research Act 2017 (“HERA”) (reproduced in Annex I).
 - b. The Public Sector Equality Duty.
 - c. Statutory guidance issued by the Secretary of State.
 - d. The Regulators’ Code.
2. We have considered these again as we have made our final policy decisions set out in this document.

The OfS’s general duties

3. In performing our functions under section 25 of HERA and in formulating our final policy decisions, we have had regard to our general duties set out in section 2(1) of HERA. We consider that our decisions are particularly relevant to general duties (a), (b), (c), (d), (e) 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 in connection with access to and participation in higher education; and best regulatory practice.
4. In making decisions we have given particular weight to (b), (c), (d) and (e): promoting quality, choice and opportunities for students; competition where this is in the interests of students; value for money; and equality of opportunity in connection with access to and participation in higher education.
5. Our overall policy intention, that TEF should incentivise excellence in teaching, learning and student outcomes, is underpinned by our general duty under section 2(1)(b) of HERA to promote quality, and greater choice and opportunities for students, in the provision of higher education. The intended effect of the TEF is to improve the quality of higher education overall, by improving the student experience and student outcomes above our minimum expectations for quality including student outcomes.
6. Our approach to regulating minimum requirements for quality through conditions B1, B2, B3 and B4 is that all students, irrespective of their background, should be entitled to the same minimum quality, including outcomes when undertaking higher education. Our approach applies to all providers, regardless of the type of students they recruit. Our decisions about the TEF mean that it incentivises improvements in quality above the minimum requirements imposed through the B conditions and, once the minimum requirements are met, providers are able to decide for themselves how to design and deliver courses in ways appropriate for their students and context. This means that students from all backgrounds, including those from underrepresented groups will benefit from the improvements in quality generated by the TEF.
7. In this context, we have considered whether our decisions regarding the TEF could act as a disincentive for providers to recruit students from underrepresented groups, in particular because of the use of student outcome measures within the assessment. We have also

considered whether the use of student outcomes is likely to disadvantage providers that recruit a large number of students from underrepresented groups. Our view is that this is unlikely for several reasons.

8. We have decided to design the TEF to incentivise a provider to improve and to deliver excellence above our minimum expectations for quality, for its mix of students and courses. Our thinking is underpinned by our general duty relating to quality, choice and opportunity in relation to diversity of provision in terms of providers and courses. Our consideration of this can be seen throughout, in particular the decisions that:
 - a. The ‘features of excellence’ are expressed in a principles-based way that would be applicable to diverse providers and students, and would avoid constraints on innovation. Providers would be able to demonstrate excellence in their own contexts.
 - b. Benchmarked data will be used in the TEF indicators. We consider that for the purpose of TEF, accounting for the characteristics of a provider’s students and the type of courses it offers remains the most effective way of assessing excellence above our minimum requirements. Benchmarking allows us to take account of how well a provider is performing given its mix of students and courses and we have sought to identify benchmarking factors that take account of characteristics that are most strongly associated with differences in student outcomes.
 - c. The provider and student submissions enable providers and students to submit evidence that is relevant to a provider’s context. We have decided that equal weight is given to the indicators and the submissions. We have decided that submissions can include educational gains that a provider can articulate for itself. This provides a specific opportunity for a provider that recruits students from underrepresented groups to demonstrate that these students are benefiting from their education in ways other than the outcomes we measure through the TEF indicators.
 - d. The OfS will recruit a panel with experience of diverse types of providers and from diverse backgrounds.
 - e. The panel is likely, with reference to the ratings criteria, to weight more positively evidence that demonstrates that very high quality or outstanding features apply to all groups of students at a provider.
 - f. Indicators will be split by types of courses and student groups, to enable a provider to evaluate how it performs across its courses and student groups, and for the panel to consider this in its judgements.
9. We therefore consider it unlikely that the TEF would create incentives for a provider to change its recruitment behaviour to try and secure better student outcomes and therefore a better TEF rating, because the TEF is designed to take account of a provider’s particular mix of students and courses and to balance evidence from student outcomes indicators with evidence in the submissions.
10. We have considered whether the inclusion of registered and taught students within the scope of the assessment could disincentivise partnership working between different higher

education providers and as a consequence reduce access to higher education for students from underrepresented groups.

11. We consider it unlikely that our approach to TEF would affect ‘validating-only’ arrangements because we have decided that the inclusion of ‘validated-only’ courses within a TEF assessment will be optional for the validating provider.
12. However, subcontractual arrangements involving a teaching provider that is performing below its benchmarks will be apparent in the registering provider’s data and this has the ability to influence the assessment. The intended effect in such cases is that both the registering and the teaching provider would be incentivised to take actions to improve performance for these students. Although there is a possibility that in some cases the registering provider may instead withdraw from such arrangements we consider this is mitigated through our decision that the TEF panel’s consideration of students taught through subcontractual arrangements will be proportionate to the overall scale of the registering provider’s undergraduate courses.
13. In relation to our general duty relating to institutional autonomy, we take the view that beyond our minimum requirements for quality, a provider may pursue excellence as it sees fit, and that means it is not required to respond to the incentives that the TEF creates if it does not wish to do so. However, we consider that the incentives TEF creates apply across a diverse range of higher education providers and courses, and that diversity can be recognised and rewarded within the TEF scheme. This means that a provider can continue to exercise its autonomy in respect of the students it recruits and the courses it offers and can be confident that those choices would not, in themselves, prevent it from achieving a TEF rating for excellence. Because we have had regard to our general duty relating to institutional autonomy, we have therefore decided to implement an assessment framework that seeks to recognise autonomy by being flexible about what excellence may look like across the sector. Our consideration of this can be seen throughout, in particular the decisions that:
 - a. The aspects and ‘features of excellence’ (set out under proposal 2) are expressed in a principles-based way that would be applicable to diverse providers and students, and would avoid constraints on innovation.
 - b. We will include educational gains (set out under proposal 2) in a way that involves each provider determining and articulating for itself what it intends its students should gain from their education.
 - c. In conducting the assessments (proposal 11) the TEF panel will exercise its discretion to place particular and appropriate weight on certain contextual factors, having regard to the particular facts and issues in any given case. This is in line with our principles-based approach to both regulation, as set out in the regulatory framework, and to TEF assessments. The imposition of a narrow rules-based approach would risk a ‘tick-box’ approach to the TEF which would not recognise the diversity of the sector and would stifle innovation.
14. We have considered whether to be more prescriptive about the criteria for excellence or the nature of the evidence that providers are invited to submit. Some consultation responses suggested this would reduce the burden on providers of participating or would lead to more consistent judgements. We have decided to proceed with a principles-based approach that

would better recognise the importance of institutional autonomy, and be more effective in incentivising excellence across diverse providers.

15. We have had regard to the need to encourage competition between English higher education providers in connection with the provision of higher education where that competition is in the interests of students under section 2(1)(c), as well as our general duties under section 2(1)(b) noted above. Our policy intention also sets out that we want TEF ratings to create incentives by putting a spotlight on the quality of a provider's courses, influencing its reputation and informing student choice. Our intention is that as well as benefitting students by incentivising providers to deliver excellence, TEF should influence student choice, alongside other information available to students. Our consideration of this can be seen throughout, for example:
 - a. The decisions (set out in relation to proposals 3 and 4) to use Gold, Silver and Bronze ratings and a 'requires improvement' category to differentiate levels of performance because we consider that these categories will provide more clarity to prospective students than other options.
 - b. Our intention to supplement the ratings with more detailed information about how a provider delivers excellence for its mix of students and courses. This would support students to make informed choices and incentivise providers to make improvements to retain or improve their market positions and attractiveness to potential students.
16. We have had regard to our general duty under section 2(1)(d) of HERA to promote value for money in the provision of higher education by providers. We judge that incentivising excellence through the TEF will lead to better value for students, and that there will be wider benefits. For example, by highlighting effective approaches that lead to improved student experiences and outcomes through the TEF panel's written statements, the TEF will support wider improvements in quality across the sector. This will increase providers' capacity to deliver courses that represent value for money for students and taxpayers.
17. We have also had regard to our general duty relating to equality of opportunity to have regard to the need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers under s.2(1)(e) of HERA. The scheme will incentivise excellence for all groups of students at a provider. Our consideration of this can be seen in the decisions:
 - a. To split the indicators by student characteristics to enable a provider to evaluate how it performs for different groups of students, and enable the panel to consider this in its judgements.
 - b. That the panel will be likely to weight more positively evidence that demonstrates excellence for all groups of a provider's students.
18. We have considered the principles of best regulatory practice and consider that:
 - a. Our approach is transparent for providers because we will set out what they would be expected to do to participate in the TEF and how their evidence would be judged, by publishing guidance for providers and students when the submission window opens, and operational guidance for panel members well before the submission deadline.

- b. The approach we are minded to take for publishing TEF outcomes would provide clear and useful information about the judgements made and the ratings awarded, in a way that is accessible for multiple stakeholders, creating both transparency and accountability.
 - c. The features of excellence, and the processes for decision-making ensure consistency throughout the exercise, while also ensuring we take into account each provider's particular context.
- 19. We have had regard to the principle that our activity should be proportionate and have considered the burden on providers, as well as our general duty relating to the efficient, effective and economic use of OfS resources. We have considered this in the context of our regulation of minimum requirements for quality, where we adopt a risk-based approach. We consider the approach to TEF to be an appropriate and proportionate way to achieve our policy intention in relation to quality above our minimum requirements. In particular:
 - a. We have decided to implement a four-year cycle for TEF awards, with no interim assessments. We consider this will be sufficient to create continuous incentives for providers. More frequent assessments or interim assessments would be more burdensome on providers and would require additional use of OfS resources, and are not required to meet our policy objectives.
 - b. We have decided that a TEF exercise that results in individual subject-level ratings (which would require a larger scale, more burdensome exercise) is not required in order to deliver our policy intention of incentivising excellence. We consider that considering data about all groups of a provider's students and across the range of its courses and subjects when making a provider-level assessment will provide a sufficiently strong incentive.
 - c. For smaller providers we have balanced proportionality against our general duty that relates to promoting quality, choice and opportunity. Condition B6 establishes that TEF is voluntary for providers with fewer than 500 students. We have taken account of consultation feedback about the practical implications of participating in the TEF where a provider has limited data in its TEF indicators by deciding to extend our original proposal to make TEF voluntary for providers with limited data (so that only providers with at least two indicators with over 500 students would need to take part on a mandatory basis). At the same time, the framework is deliberately designed to accommodate the assessment of smaller providers and providers with limited data, where they choose to take part (for example, by placing greater emphasis than before on the evidence in provider submissions compared with the indicators).
- 20. In deciding to extend the timetable for TEF submissions we have considered our general duty relating to quality, choice and opportunity, and have had regard to the principle that our activity should be proportionate and have considered the burden on providers. Providers will have more time to prepare their submissions, addressing workload concerns raised by consultation responses. By giving providers more time to understand their data and engage with a wider range of staff and students to reflect on their performance and areas for improvement, we consider the TEF will have a greater impact at providers, meaning it is more likely to meet its objective of incentivising excellence.

The Public Sector Equality Duty

21. We have had regard to the Public Sector Equality Duty set out in section 149 of the Equality Act 2010. This requires the OfS to have due regard to the need to eliminate unlawful discrimination, foster good relations between different groups and take steps to advance equality of opportunity.
22. In the consultation we sought views on any unintended consequences of our proposals, for example on particular types of provider or student. We also sought views about the potential impact of our proposals on individuals on the basis of their protected characteristics. Responses to this consultation have informed our assessment of the impact of our proposals on different groups.
23. Some respondents suggested that providers' behaviour might change as a result of the proposed TEF scheme, such as providers reducing their recruitment of students from underrepresented groups, some of whom may have particular protected characteristics, in order to perform better in the TEF.
24. We have decided that the TEF will use benchmarked indicators which take account of a range of characteristics that are historically associated with different outcomes. We have also decided that equal weight is given to the provider submission which can demonstrate excellence beyond the outcomes in the indicators. We also consider that where a provider has an approved access and participation plan, our quality and standards requirements and the TEF would act in combination with the provisions in that plan to protect the interests of students from underrepresented groups through the access, success and progression phases of their student journey.
25. Some respondents also referred to previous research which found that students from minority ethnic backgrounds would be less likely than white students to apply for Gold-rated providers, which would not support inclusion and diversity. The research conducted YouthSight, which tested a number of rating options, did not replicate these findings.

Guidance issued by the Secretary of State⁸²

26. We have had regard to the March 2022 guidance issued by the Secretary of State under section 2(3) of HERA⁸³ which welcomed the proposed introduction of the 'requires improvement' category and requested that ratings be published from the new scheme as early as possible in 2023. We have decided to take forward proposal 4 which will introduce the 'requires improvement' category. As set out in the section on proposal 15, we have decided to implement the next exercise as quickly as is practicable, which involves opening the submission window in September 2022 and publishing outcomes in September 2023. The March 2022 guidance also requested that where a provider is ineligible for the TEF because it is below the quality baseline, it should be categorised appropriately in relation to providers that

⁸² See Guidance to the Office for Students (OfS) — Secretary of State's strategic priorities, www.officeforstudents.org.uk/advice-and-guidance/regulation/guidance-from-government/.

⁸³ See Guidance to the Office for Students (OfS) — Secretary of State's strategic priorities (Mar 2022), www.officeforstudents.org.uk/media/be054f0b-696a-41fc-8f50-218eb0e3dcab/ofc-strategic-guidance-20220331_amend.pdf.

are categorised as ‘requires improvement’. We will have regard to this when making decisions about the outcomes of our supplementary consultation on the publication of information about higher education providers.

The Regulators’ Code

27. We have had regard to the Regulators’ Code.⁸⁴ Section 1 is relevant, which discusses the need for regulators to ‘carry out their activities in a way that supports those they regulate to comply and grow’. We have decided to proceed with a principles-based rather than a prescriptive approach, through which providers would be invited to submit evidence that they determine to be relevant to their context. We intend to publish guidance for participating providers, that operationalises the decisions that will be made regarding TEF.
28. Paragraph 1.1 requires regulators to have due regard for avoiding the imposition of ‘unnecessary regulatory burdens through their regulatory activities’. Throughout our decisions, we have explained why we are deciding this particular approach to the TEF and why it is the lowest burden solution we consider will achieve our aims. For example, we have decided that TEF should operate on a four year cycle with no interim assessments, and should not rate individual subjects within a provider, because this is the lowest burden way to create the intended incentives we think are necessary to drive continuous improvement in quality across the widest range of providers.
29. Section 5 is also relevant, which discusses the need for regulators to make available ‘clear information, guidance and advice to help those they regulate meet their responsibilities to comply’. We intend to publish guidance that operationalises the decisions that will be made regarding TEF.
30. Paragraph 5.3 requires regulators to have ‘mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs’. As part of the consultation, we sought views on what would be included in guidance for providers and students on how to participate in the next TEF exercise.

The Code of Practice for Statistics

31. We have taken account of the Code of Practice for Statistics in relation to the statistical evidence to be used in TEF assessments. We have had regard to the Code in the following ways:
 - a. Trustworthiness – We have set out in this document, and the data indicators consultation outcomes document, our approach to producing statistics that describe student outcomes and experience. In doing so, we have had regard to the need to explain what judgements we have made about the data and methods we have used, and their strengths and limitations. Wherever possible, we have also made available the underpinning evidence and calculations to ensure transparency and support understanding of the decisions.
 - b. Quality – We are transparent about the methods and data sources our decisions rely on, and why we consider these to be the most appropriate. We also sought advice from

⁸⁴ See www.gov.uk/government/publications/regulators-code.

statistical experts external to the OfS in developing our proposals through the TEF Metrics Peer Review Group.

- c. Value – Our intention is that the data about student outcomes and experience used for the TEF should be published as official statistics to ensure accountability and accessibility of the information. We have reviewed and improved our approach to the statistical elements of the TEF, as well as seeking to ensure coherence with our approach to the regulation of quality and access and participation, and this is reflected in our decisions on the new framework. We have decided to present the data in ways that appropriately communicate the statistical uncertainty associated with our interpretation of the underlying performance of a provider in ways that can be easily understood by users, and we have developed guidance to explain the statistics and how to interpret them. Their presentation has been informed by engagement with potential users and we have sought further feedback from users through the data indicators consultation.



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