

Burton and South Derbyshire College – Specific ongoing conditions of registration

During the initial registration and assessment process the Office for Students has imposed two specific ongoing conditions of registration.

1. Specific ongoing condition of registration imposed in relation to Condition B3 (Quality and standards)

The text set out below constitutes the specific ongoing condition imposed on Burton and South Derbyshire College pursuant to section 6(1) of the Higher Education and Research Act 2017 and is to be referred to as “Specific Ongoing Condition B3A (Burton and South Derbyshire College)”:

Specific Ongoing Condition B3A (Burton and South Derbyshire College)

Restrictions on increasing the number of students and higher education courses

General restriction on the number of students

B3A.1 The Provider must not Offer or enter into a contractual arrangement with any actual or prospective students for the provision by it (or any agents or subcontractors) of Higher Education Courses in a way that would exceed the Relevant Student Cap in any Academic Year.

Power of direction to prohibit additional and/or replacement higher education courses

B3A.2 This paragraph applies where the Provider is proposing to:

- (a) terminate an Existing Higher Education Course and replace it by Offering a different Higher Education Course (‘Replacement Course’); and/or
- (b) Offer an Additional Higher Education Course.

B3A.3 Where paragraph B3A.2 applies, the provider:

- (a) must deliver a written notification to the Office for Students which complies with paragraph B3A.4; and
- (b) must not, during the Relevant Period (as modified by the application and effect of paragraphs B3A.6, B3A.7 and B3A.8) Offer or enter into a contractual arrangement with any actual or prospective students for a Replacement Course and/or an Additional Higher Education Course.

B3A.4. The written notification referred to in B3A.3(a) must:

- (a) set out the reasons why the Provider is proposing (as the case may be) to (i) terminate an Existing Higher Education Course and Offer a Replacement Course; and/or (ii) Offer an Additional Higher Education Course;
- (b) provide a detailed explanation, along with supporting evidence, as to how the Provider intends to ensure that it will deliver successful outcomes for all students who are enrolled on (as the case may be) each Replacement Course and/or Additional Higher Education Course.

B3A.5 The Provider must not Offer or enter into a contractual arrangement with any actual or prospective students for a Replacement Course and/or an Additional Higher Education Course, if:

- (a) the Office for Students issues a direction in writing to it with a prohibition to that effect ('Prohibition Direction'); and
- (b) subject to where paragraph B3A.6 applies (and the effect of paragraphs B3A.7 and B3A.8), the direction referred to in paragraph B3A.5(a) was issued (rather than delivered) by the Office for Students within (including the last day of) the Relevant Period.

B3A.6 This paragraph applies where, within (including the last day) 90 calendar days of the date the Provider purported to comply with the notice requirements of paragraphs B3A.3(a) and B3A.4, the Office for Students:

- (a) has reasonable grounds to suspect that the requirements of paragraphs B3A.3(a) and B3A.4 have not been complied with (including, but not limited to, where information submitted is suspected to be incomplete or incorrect) and issues a notice in writing to the Provider to that effect; or
- (b) has identified that further information (including, but not limited to, a quality and standards review pursuant to section 23 of the Higher Education and Research Act 2017) is necessary for the purposes of its assessment of whether or not to issue a Prohibition Direction and has requested such information from the Provider (including via a person exercising functions section 23 of the Higher Education and Research Act 2017) in writing (either on a voluntary basis or by using powers under condition F3).

B3A.7 Where paragraph B3A.6(a) applies, the Relevant Period is suspended for a period of 180 days (this suspension begins on the date the Office for Students issues the notice referred to in paragraph B3A.6(a)).

B3A.8 Where paragraph B3A.6(b) applies, the Relevant Period is suspended until the Office for Students is satisfied that the further information that has been requested from the Provider (including via a person exercising functions under section 23 of the Higher Education and Research Act 2017) has been delivered to it and is complete and correct (this suspension begins on the date the Office for Students requests information from the Provider in writing).

B3A.9 Paragraphs B3A.7 is without prejudice to the exercise of powers under sections 15, 16 and 18 of the Higher Education and Research Act 2017.

B4A.10 Where a Replacement Course and/or an Additional Higher Education Course is not prohibited by this condition because of the expiry of the Relevant Period (as modified by the application and effect of paragraphs B3A.6, B3A.7 and B3A.8), that course is to be treated as an Existing Higher Education Course for the future purposes of this condition (including, but not limited to, any future proposal to terminate and replace such a course).

Exceptions for termination of higher education courses and provision of higher education courses by different providers

B3A.11 This condition does not:

- (a) prohibit the Provider from terminating (rather than replacing) any Higher Education Course in a manner which complies with consumer protection law and ongoing registration conditions C1 and C3;
- (b) prohibit the Provider from continuing with a contractual arrangement, for the total duration of an Existing Higher Education Course, with students who were, in the opinion of the Office for Students, already enrolled on one of the Provider's Existing Higher Education Courses for the Academic Year 2018/19 and had not yet completed their final Academic Year;
- (c) apply to any Higher Education Course which is fully or partly taught by the Provider in circumstances where all of the following criteria are met to the satisfaction of the Office for Students:
 - (i) each student has a contractual arrangement with a different provider for the direct provision of that Higher Education Course; and
 - (ii) the different provider is not controlled by, or part of the same corporate structure or group as, the Provider; and
 - (iii) the Provider has a contractual arrangement with the different provider for the provision of tuition services on its behalf; and
 - (iv) any contractual arrangement which the Provider may have with each Student is ancillary in nature and subservient to the contractual arrangement described in (c)(i).

Power to disapply requirements

B3A.12 The Office for Students may disapply one or more of paragraphs B3A.1 to B3A.10 (in full or in part) by issuing a notice in writing.

Definitions for condition B3A

B3A.13 In this condition:

“Academic Year”

“Additional Higher Education Course” means, excluding a Replacement Course, a Higher Education Course which is not an Existing Higher Education Course.

“Approved List of Courses” means, following consultation with the Provider (which may be conducted before this condition comes into force and may involve the use of powers to compel the production of information), a list determined by the Office for Students and issued to the Provider by a notice in writing.

“Existing Higher Education Course” means a Higher Education Course on the Approved List of Courses.

“Higher Education Course”:

(a) has the meaning given in section 83(1) of the Higher Education and Research Act 2017;

(b) but is also to be interpreted:

(i) as including any mode of study for such a course (such as whether the course is full-time or part-time); and

(ii) in accordance with any supplementary guidance the Office for Students may issue from time to time.

“Offer” or “Offering” means any form of offer or advertisement which, in the opinion of the Office for Students, is likely to be relied on by a prospective or actual student and could result in contract being entered into with the Provider.

“Office for Students” means the body corporate established by section 1(1) of the Higher Education and Research Act 2017.

“Relevant Period” means, subject to the application and effect of paragraphs B3A.6, B3A.7 and B3A.8, 120 calendar days, beginning with and including the date the Provider delivered a written notification to the Office for Students pursuant to paragraph B3A.3.

“Relevant Student Number Cap” means, following consultation with the Provider (which may be conducted before this condition comes into force and may involve the use of powers to compel the production of information), the number of students commencing an Existing Higher Education Course for each Academic Year determined by the Office of Students in accordance with Schedule 1 to this condition and set out in a notice in writing issued to the Provider.

“Replacement Course” is to be interpreted in accordance with paragraph B3A.2 and any supplementary guidance the Office for Students may issue from time to time.

Schedule 1 to Specific Ongoing Condition B3A (Burton and South Derbyshire College) – determination of Relevant Student Number Cap

S.1. Subject to paragraph S.2, the number of students commencing an Existing Higher Education Course for the Academic Year 2019/20 and each subsequent Academic Year will be determined on the following basis:

(a) First, by calculating the total number of students who, in the opinion of the Office for Students, commenced their first Academic Year in respect of an Existing Higher Education Course during the Academic Year 2018/19;

(b) Second, by multiplying the total number calculated in accordance with paragraph S.1(a) by a percentage (of no more than 10 and which may be different for different Academic Years) determined by the Office for Students.

S.2. The total number of students for the purposes of paragraph S.1 may also be increased by an amount determined by the Office for Students in circumstances where one or more Replacement Course and/or Additional Higher Education Course is not prohibited by virtue of this condition.