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14 January 2021

Dear [Accountable Officer]

Regulation during the current phase of the Coronavirus (COVID-19) pandemic

I am writing to give you a short update on the actions the Office for Students (OfS) is taking in response to the disruption caused by the coronavirus (COVID-19) pandemic and, in particular, the lockdown imposed by government last week.

I am also setting out actions we are asking you to take in connection with your continued compliance with our existing regulatory requirements.

In addition, please see a letter from the universities minister to the Office for Students in Annex A, dated 13 January 2021, which sets out the government's expectations. In particular, the minister has asked universities and colleges to maintain the quality, quantity and accessibility of their provision and to inform students about their options for refunds or other forms of redress where it has not been possible to provide what was promised. The minister has also thanked those providers reporting their COVID-19 testing to the OfS and reiterated the importance of this reporting.

We recognise and are grateful for the efforts you and your staff continue to make to ensure students are able to continue to study and complete their courses successfully in these exceptionally challenging times.

We are also aware that an increasing number of universities and colleges are putting in place arrangements to support students not able to access their accommodation this term due to the national lockdown. If you have not already done so, we would also encourage you to consider how you might support your students by engaging with their private accommodation providers.

Action we are now asking you to take

1. Consumer protection

We are asking you to undertake a review during the first half of the spring term of your compliance with consumer law and provide assurance to your governing body of ongoing compliance with ongoing condition C1 (guidance on consumer protection law). This condition requires a provider to demonstrate that, in developing and implementing its policies, procedures and terms and conditions, it has given due regard to relevant guidance about how to comply with consumer protection law.

We set out our expectation in our guidance for providers about student and consumer protection (published on 10 June 2020)¹ that all providers must be clear for new and returning students about how teaching and assessment would be delivered in 2020-21, and the circumstances in which changes might be necessary. We have heard from some students that they were not clear about what had been promised, or that what was promised has not been delivered in practice. We are now therefore asking you to:

- a. Re-test whether you were sufficiently clear with new and continuing students about how teaching and assessment would be delivered in 2020-21, the circumstances in which changes might be made, and what those changes might entail.
- b. Assess whether students received, during the autumn term, the teaching and assessment they were promised and might reasonably have expected to receive based on the information provided.
- c. Assess whether your current plans for the spring and summer terms would ensure that students received the teaching and assessment they were promised and might reasonably expect to receive based on the information provided.

If you conclude that new or returning students were not provided with sufficiently clear information about how teaching and assessment would be delivered in 2020-21, or that teaching and assessment were not delivered as promised, we expect you actively to consider your obligations under consumer law for refunds or other forms of redress.

If the outcome of your review identifies potential compliance risks with condition C1, we would expect you to inform us of the risks identified and whether or not you are taking remedial action. We are not otherwise expecting you to proactively report to us on the outcome of your review. However, if we receive notifications from your students or others that raise relevant issues, we are likely to want to discuss these with you and this would include asking to see documents relating to your review.

¹ See www.officeforstudents.org.uk/publications/guidance-for-providers-about-student-and-consumer-protection-during-the-pandemic/.

2. Communication with students

You will already have communicated with your students about any changes to teaching and assessment that will be necessary as a result of the current lockdown. As you continue to respond and adapt to guidance about the return of students to campus during and following the national lockdown, we would expect you to:

- a. Inform students of any further changes to teaching and assessment arrangements, such that these are broadly equivalent to those previously offered to students within the context of requirements of public health advice.
- b. Inform students about their entitlement to seek refunds or other forms of redress – such as the opportunity to repeat parts of their course that you are unable to deliver this year – if they have not received the teaching and assessment promised.
- c. Provide students with clear information, advice and guidance about the implications of the changes and the options available to them. This must include clear signposting of the route to complain or seek redress.

As we indicated in our previous correspondence, it will be important to consider how your approaches to the current situation affect all students and, in particular, those who might be most vulnerable to disruption. This includes students who are suffering from coronavirus and who need to self-isolate, international students, and students unable or less able to access remote learning for whatever reason, together with care leavers, those estranged from their families, and students with disabilities.

Our general regulatory approach during the pandemic

We have previously written to you to set out our expectations on the quality and standards of courses (3 April 2020)² and consumer protection (10 June 2020).³ Our guidance is relevant to both undergraduate and postgraduate students. We intend to update and reissue these guidance documents to ensure they continue to be appropriate during the current lockdown. We do not expect substantially to change our position that we are unlikely to take regulatory action where a provider has acted in response to public health advice and where reasonable efforts have been made to protect the interests of students.

To assist you in the meantime, you may find it helpful to know that we expect to make the following limited changes to our guidance on quality and standards:

² See www.officeforstudents.org.uk/publications/guidance-for-providers-about-quality-and-standards-during-coronavirus-pandemic/.

³ See www.officeforstudents.org.uk/publications/guidance-for-providers-about-student-and-consumer-protection-during-the-pandemic/.

- a. Updated expectations for the current phase of the pandemic in relation to appropriate measures for degree awarding bodies to take when considering mitigating or exceptional circumstances:
 - i. You should ensure that standards remain secure.
 - ii. You should continue to consider appropriate 'safety nets' for individual students affected by the pandemic and recognise its impact, for example, through the implementation of your mitigating circumstances policies. With such safety nets in place, you may determine that it is no longer necessary to implement the type of 'no detriment' policies put in place by some providers in 2019-20 to mitigate the early disruption caused by the pandemic on students.
 - iii. You should consult appropriately at an early stage with students about your assessment and awarding plans and should consider in particular the needs of different students, including those with characteristics protected under the Equality Act 2010.
 - iv. You should ensure that students are informed of the approach you intend to take as early as possible, including where they can seek further advice if they have questions about how the approach will apply to them.
- b. Minor changes to our existing reportable events requirements to update references to academic years and continue the requirement to report to us where you are not able to ensure that a group of students can graduate as planned this academic year.

More generally, our reporting requirements remain those set out in our letter dated 30 July 2020⁴ and we are maintaining this reduced set of reporting requirements through the current lockdown.⁵ This means that we continue to require you to submit reportable events relating to liquidity and banking covenants.

We will continue to respond to notifications from students and others where concerns are raised about the approach taken by providers. We are actively engaging with students' unions to enable them to understand how our notifications process works so they can raise appropriate concerns with us. As with individual student complaints, we are clear that such engagement should not replace discussion between individual students' unions and their providers.

In response to the pressures providers are currently under, we have extended the deadline for our current quality and standards consultation until 19 January 2021 and are keeping the position under review for other consultations with deadlines that fall further into the year.

⁴ See www.officeforstudents.org.uk/publications/update-on-the-office-for-students-approach-to-regulation-and-information-about-deadlines-for-data-returns/.

⁵ Full details of our approach to regulation during this period are set out at: www.officeforstudents.org.uk/advice-and-guidance/coronavirus/provider-guide-to-coronavirus/regulatory-requirements/.

We are aware that the government's announcement that A-level and other examinations will not take place as planned in 2021 is likely to have implications for admission to higher education for those students planning to start courses in 2021-22. We will continue to monitor the position, but meantime our time-limited condition of registration Z3, that includes requirements in relation to some offer-making practices, remains in place.

Our approach to engagement with providers

We set out last year (4 November 2020)⁶ the approach we are now taking to engagement with individual providers. This has allowed us to engage positively with providers to understand and address issues that have arisen over the past 10 months, particularly in relation to concerns about financial sustainability and quality. We are grateful for the constructive way in which providers have approached these discussions with us.

We will continue to engage in this way with providers, particularly where we received notifications or other information that raises concerns about quality and standards or consumer protection matters.

Our team remains available to discuss any regulatory matters with you and can be reached at regulation@officeforstudents.org.uk or on 0117 931 7305.

Yours sincerely

Susan Lapworth
Director of Regulation

⁶ See www.officeforstudents.org.uk/publications/letter-to-accountable-officers-coronavirus-covid-19-new-national-restrictions-for-england/.

Annex A: Letter from Minister for Universities, 13 January 2021



Michelle Donelan MP
Minister of State for Universities

Sanctuary Buildings 20 Great Smith Street Westminster London SW1P 3BT
tel: 0370 000 2288 www.education.gov.uk/help/contactus

13th January 2021

Dear Sir Michael,

I would like to thank the Office for Students for its continued hard work in response to the evolving Covid-19 pandemic. Your work is crucial for supporting students and will continue to be critical in the months ahead. I am writing to you now following my letters to providers and students on 30 December 2020, and the subsequent announcement by the Prime Minister on Monday 4 January. I am aware that you intend to communicate with providers following these developments, and I wanted to write to you in advance of that. This is not intended as guidance under the Higher Education and Research Act 2017 but is intended to set out the government's position in support of your planned activity in this area. This government's priority is to support the wellbeing of students and staff throughout HE and to enable students to complete their courses and secure excellent outcomes. We are especially grateful to those institutions reporting their Covid-19 testing and case numbers and I would like to emphasise the importance of this. The Government has been very clear that Higher Education providers are expected to maintain quality and academic standards, and the quantity of tuition should not drop. Providers should seek to ensure all students, regardless of their background, can access their studies remotely. You have indicated that you will reiterate to providers their obligation to have regard to relevant guidance about consumer protection law and will ask them to review whether students have received the teaching and assessment they were promised. I would strongly encourage and support that.

Universities and colleges have risen to the challenges of the pandemic, producing interactive, high quality and innovative remote learning. This is more important than ever with the vast majority of students studying solely online. I look forward to receiving in February your review of digital teaching and learning in higher education. I know you are monitoring and assessing quality in providers and I would like you to continue to do so - and to a greater extent during this period when the majority of courses are 100% online.

Nonetheless, this has been a very difficult year for students, and understandably, many are publicly questioning whether they should be entitled to both tuition fee and accommodation cost refunds. I therefore also ask you to continue to encourage groups of

students to contact you through your notifications process if they have concerns about on the quality of tuition, and to ensure providers are aware of that process. I urge you to reiterate to the sector that students should make a complaint to their institutions if they have concerns about the quality of course delivery and that they can take their case to the Office for the Independent Adjudicator if they remain unsatisfied with their providers' response. University complaints processes should remain open and accessible at this time.

We are currently looking at what more we can do to support students and we strongly encourage providers and accommodation providers to review their accommodation policies to ensure they are fair, transparent and have the best interests of students at heart. As you know, we recently announced up to £20 million to help students most in need of support in these exceptional circumstances, for example those struggling to cover accommodation costs as a result of the pandemic, in addition to an existing £256 million universities can use to help those in financial hardship. We value your support in ensuring this money is focused on the students who most need it. It is important to be clear to providers that they should make students aware of the processes in place to support them if they have concerns about their accommodation costs or face particular financial hardship.

Finally, I would like to reiterate my thanks to the OfS for its continued hard work regulating the higher education sector and supporting students during these challenging times, and in particular the flexible approach you have taken to regulation. I appreciate your efforts to ensure a high-quality experience for all students, delivering excellent student outcomes and value for money.

Yours sincerely,

Michelle Donelan MP
Minister of State for Universities