

Amendments to the OfS's regulatory framework

The text that follows will replace the equivalent paragraphs in the OfS's regulatory framework published in February 2018, with effect from 1 January 2022.

Paragraph numbers are those of the regulatory framework.

446. Once registered, and in order to demonstrate compliance with the general ongoing condition, the OfS will require a provider that it considers to pose no increased risk in this area, to make publicly available the minutes of the meetings of its governing body and committees, except where such material is genuinely confidential.

Condition F3: Provision of information to the OfS

Condition F3: For the purpose of assisting the OfS in performing any function, or exercising any power, conferred on the OfS under any legislation, the governing body of a provider must:

- i. Provide the OfS, or a person nominated by the OfS, with such information as the OfS specifies at the time and in the manner and form specified.
- ii. Permit the OfS to verify, or arrange for the independent verification by a person nominated by the OfS of such information as the OfS specifies at the time and in the manner specified, and must notify the OfS of the outcome of any independent verification at the time and in the manner and form specified.
- iii. Take such steps as the OfS reasonably requests to co-operate with any monitoring or investigation by the OfS, in particular, but not limited to, providing explanations or making available documents to the OfS or a person nominated by it or making available members of staff to meet with the OfS or a person nominated by it.

The requirements in paragraphs (ii) and (iii) do not affect the generality of the requirement in paragraph (i).

Summary

Applies to: all registered providers.

Initial or general ongoing condition: ongoing condition.

Legal basis: Section 8 of HERA – mandatory.

Guidance

489. The information that a provider must supply to meet this condition will depend on its category of registration and the OfS's assessment of the risk for that provider.

490. This condition also applies to any information held by any subcontractors that may be providing services on the provider's behalf.

491. In judging whether the governing body of a provider has provided the OfS, or a person nominated by the OfS, with such information as the OfS specifies at the time and in the manner and form specified, material that the OfS may consider includes:

- a. The quality, reliability and timeliness of information provided by the provider to the OfS, or to a person nominated by the OfS, in respect of any of the provider's conditions of registration or in respect of any of the OfS's functions.
- b. Whether the provider has properly reported 'reportable events' as defined below to the OfS and done so on the basis of the time frame set out in the relevant F3 Notice.
- c. Whether a provider in receipt of student support funding provides the information necessary for the Student Loans Company (SLC) to administer student support in line with regulations made under section 22 of the Teaching and Higher Education Act 1998. This information includes, but is not limited to:
 - i. Data related to eligible courses.
 - ii. Confirmation that the fee charged to a student correctly matches the student's course of study.
 - iii. Information about student registration and attendance.
 - iv. Information about any changes that may affect a student's eligibility for student support.
 - v. Timely information of a student's withdrawal from their course.
- d. Whether the provider has in place sufficient and appropriate resource and expertise to be able to provide reliable and timely information.

492. In judging whether the governing body of a provider has permitted the OfS to verify, or arrange for the independent verification by a person nominated by the OfS, of such information as the OfS specifies at the time and in the manner specified and has notified the OfS of the outcome of any independent verification at the time and in the manner and form specified, material that the OfS may consider includes:

- a. The substance of the actions taken by the provider to assist the OfS with the verification of information, or to provide information about the outcome of any independent verification.
- b. The findings of data audit activity carried out by, or on behalf of, the OfS or another body.

493. In judging whether the governing body of a provider has taken such steps as the OfS reasonably requests to cooperate with any monitoring or investigation by the OfS, in particular, but not limited to, providing explanations or making available documents to the OfS or a person nominated by it or making available members of staff to meet with the OfS or a person nominated by it, material that the OfS may consider includes:

- a. The substance and promptness of the actions taken by the provider to cooperate with any monitoring or investigation by the OfS and to provide access to information, documents, systems and people as the OfS deems necessary.
- b. The credibility of any explanations given by the provider.
- c. The availability, completeness and reliability of documents provided to the OfS.
- d. The openness and honesty of members of staff with whom the OfS may ask to meet.

Reportable events

494. A reportable event is any event or matter that, in the reasonable judgement of the OfS, negatively affects or could negatively affect:

- a. The provider's eligibility for registration with the OfS.
- b. The provider's ability to comply with its conditions of registration.
- c. The provider's eligibility for degree awarding powers, or its ability to comply with the criteria for degree awarding powers, where the provider:
 - (i) holds degree awarding powers; or
 - (ii) has submitted an application for degree awarding powers to the OfS, and for which the OfS has yet to reach a final decision.
- d. The provider's eligibility for university title, where the provider:
 - (i) holds university title; or
 - (ii) has submitted an application for university title to the OfS, and for which the OfS has yet to reach a final decision.

In interpreting 'the reasonable judgement of the OfS', the OfS will, as a matter of policy, consider whether a reasonable provider intent on complying with all of its conditions of registration and acting in the interests of students and taxpayers (rather than in its own commercial, reputational or other interests), would consider the event or matter to be material.

The OfS will set out in separate guidance from time to time further information about how it will apply this definition of a reportable event, including illustrative factors to assist a provider in reaching decisions about reporting. The OfS may also provide further clarification about reportable events in the drafting of Notices issued to providers under condition of registration F3.

Assessment

495. The OfS will assess, as part of its routine monitoring activities, the quality, reliability and timeliness of information supplied by a provider including through scheduled or ad hoc data audit activity. If the OfS has reason to believe that information received is not reliable, it may choose to investigate the matter. This investigation may result in additional steps to ensure compliance with condition F3, whether through enhanced monitoring or the imposition of specific ongoing conditions. The OfS may, for example, require the provider's accountable officer to implement an agreed action plan to improve the provider's information systems and processes and the oversight arrangements for these.