

Notice of determination of initial and general ongoing conditions of registration

WHEREAS:

1. Section 5 of the Higher Education and Research Act 2017 ('HERA') provides that:
 - a. the OfS must determine, and may subsequently revise, the initial and general ongoing conditions of registration;
 - b. different conditions may be determined for different descriptions of provider and for registration in different parts of the Register;
 - c. before determining or revising the conditions, the OfS must, if it appears to it appropriate to do so, consult bodies representing the interests of English higher education providers which appear to the OfS to be concerned; and
 - d. the OfS must publish the conditions determined and as revised.
2. Section 75 of HERA provides that the OfS must, from time to time, prepare and publish a regulatory framework which consists of a statement of how it intends to perform its functions and guidance for registered higher education providers. Before publishing a regulatory framework, the OfS is required to consult with the persons and bodies listed in section 75(8).
3. Between 20 January and 17 March 2022, the OfS consulted on revising initial and ongoing condition of registration B3 and adding guidance to the regulatory framework to accompany that condition ('the phase three consultation'). The OfS also undertook a preliminary consultation on changes to its quality and standards conditions during the winter of 2020-21 and a further consultation on more detailed proposals about new regulatory requirements in the summer of 2021.
4. The OfS has carefully considered submissions made on these consultations and has set out its policy response to these in published documents.¹ The OfS has decided to proceed with the condition of registration and guidance proposed in the phase three consultation with some amendments, as explained in 'Consultation on a new approach to regulating student outcomes: Analysis of responses to consultation and decision'.

¹ See www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/student-outcomes/.

THEREFORE:

5. In accordance with the powers contained in sections 5 and 75 of HERA, the OfS has determined that:
 - a. the original initial and general ongoing condition of registration B3 (as set out in the regulatory framework published in February 2018), and the guidance directly relating to that condition,² will cease to apply in respect of the different specified descriptions of provider as set out in the tables below; and
 - b. the revised initial and general ongoing condition of registration B3 (as set out in the document ‘Revised condition of registration B3’), and the guidance directly relating to that condition, will apply in respect of the different specified descriptions of provider as set out in the tables below.

Table 1: Any provider that was registered in the Register of English higher education providers before 3 October 2022 and continues to be registered

Description of conditions	When conditions apply or cease to apply
Original initial condition of registration B3	Ceases to apply at 2359 on 2 October 2022 (see Table 2 for the position if a new application for registration is made for any reason between 26 July 2022 and 2 October 2022).
Original general ongoing condition of registration B3	Ceases to apply at 2359 on 2 October 2022.
Revised initial condition of registration B3	Not applicable (see Table 3 for the position if a new application for registration is made for any reason on or after 3 October 2022).
Revised general ongoing condition of registration B3	Applies on and from 3 October 2022.

Table 2: Any provider that has an application for registration which is live³ at any time between 26 July 2022 and 2 October 2022 (including any provider covered by the description in Table 1 that for any reason makes a new application for registration, for example, an application for registration in a different category of the Register)

Description of conditions	When conditions apply or cease to apply
Original initial condition of registration B3	Ceases to apply on the date which is the earlier of either: 1. the date a final decision is issued to a provider in relation to one of the following:

² See www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/. This guidance is found on pages 87 to 93 of the regulatory framework.

³ This means that a provider has made an application for registration which has not resulted in the OfS making a final decision in relation to one of the following: a. granting registration in the Register of English higher education providers; b. refusing registration in the Register of English higher education providers; or c. permitting the provider to withdraw an application for registration in the Register of English higher education providers.

	<p>a. granting registration in the Register of English higher education providers;</p> <p>b. refusing registration in the Register of English higher education providers; or</p> <p>c. permitting the provider to withdraw an application for registration in the Register of English higher education providers; or</p> <p>2. the date a provider consents to having its application for registration assessed on the basis of revised initial condition of registration B3.</p>
Original general ongoing condition of registration B3	Ceases to apply at 2359 on 2 October 2022.
Revised initial condition of registration B3	<p>In a case where a provider consents to having its application for registration assessed on the basis of revised initial condition of registration B3, on and from the date of that consent.</p> <p>Otherwise not applicable (see Table 3 for the position if a new application for registration is made for any reason on or after 3 October 2022).</p>
Revised general ongoing condition of registration B3	<p>Applies on and from 3 October 2022 for the purposes of the OfS's assessment of future risks.</p> <p>If a provider is granted registration in the Register of English higher education providers, applies for all purposes on and from the date registration takes effect or from 3 October 2022, whichever is later.</p>

Table 3: Any provider⁴ that makes an application for registration on or after 3 October 2022 (including any provider covered by the description in Table 1 or Table 2 that for any reason makes a new application for registration, for example, an application for registration in a different category of the Register)

Description of conditions	When conditions apply or cease to apply
Original initial condition of registration B3	Ceases to apply at 2359 on 2 October 2022.
Original general ongoing condition of registration B3	Ceases to apply at 2359 on 2 October 2022.
Revised initial condition of registration B3	Applies on and from the date a provider applies for registration.
Revised general ongoing condition of registration B3	<p>Applies on and from the date a provider applies for registration for the purposes of the OfS's assessment of future risks.</p> <p>If a provider is granted registration in the Register of English higher education providers, applies for all purposes on and from the date registration takes effect.</p>

⁴ This is subject to the provisions contained in revised initial and general ongoing condition of registration B3 that deal with whether or not a provider is a 'relevant provider'. See paragraphs B3.2 and B3.5 of the condition of registration for further information.

