

Consultation

**Office for
Students**

The logo for the Office for Students, featuring a dark blue square with a yellow triangle in the top right corner containing the letters 'OfS' in white.

OfS

Consultation on the suitability of Jisc as the designated data body

This consultation runs from **26 May 2022**
to **27 June 2022**.

Reference OfS 2022.23

Enquiries to dfa@officeforstudents.org.uk

Publication date 26 May 2022

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.

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About this consultation

Data about higher education providers and their students is essential to the Office for Students' approach to regulation. The Higher Education Statistics Agency (HESA) is the designated data body under the Higher Education and Research Act 2017 (HERA). HESA has announced that it is exploring a merger with Jisc. If HESA was to merge with Jisc there would no longer be a designated data body because, in the longer term, HESA as a body would no longer exist and it is not possible to transfer designation between bodies. Given the need for continuity in data, we considered it prudent to begin the process of considering the designation of a new body in advance of any merger. This consultation seeks views on the suitability of Jisc to be designated.

Timing

Start: **26 May 2022**

End: **27 June 2022**

Who should respond?

- Registered higher education providers
 - Persons representing, or promoting the interests of, students on higher education courses provided by registered higher education providers
 - Persons representing, or promoting the interests of, employers of graduates
-

How to respond

Please respond by **27 June 2022**.

Please use the online response form available at <https://survey.officeforstudents.org.uk/s/consultation-on-ddb/>

How we will treat your response

We will summarise and/or publish the responses to this consultation on the OfS website (and in alternative formats on request). This may include a list of the providers and organisations that respond, but not personal data such as individuals' names, addresses or other contact details.

If you want the information that you provide to be treated as confidential, please tell us but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

The OfS will process any personal data received in accordance with all applicable data protection laws (see our privacy policy).¹

¹ Available at www.officeforstudents.org.uk/ofs-privacy/.

We may need to disclose or publish information that you provide in the performance of our functions, or disclose it to other organisations for the purposes of their functions. Information (including personal data) may also need to be disclosed in accordance with UK legislation (such as the Freedom of Information Act 2000, Data Protection Act 2018 and Environmental Information Regulations 2004).

Next steps

We will publish a summary of responses to this consultation in summer 2022.

We will make a recommendation to the Secretary of State as to whether Jisc is suitable to be designated under HERA.

Enquiries

Email dfa@officeforstudents.org.uk.

Alternatively, call our public enquiry line on 0117 931 7317.

If you require this document in an **alternative format**, or you need assistance with the online form, contact dfa@officeforstudents.org.uk. (**Please note:** this email address should **not** be used for submitting your consultation response.)

Introduction

1. Data about higher education providers and their students is essential to the Office for Students' (OfS's) approach to regulation. The Higher Education Statistics Agency (HESA) is the body currently designated under the Higher Education and Research Act 2017 (HERA) to collect and publish data on behalf of the OfS. HESA has announced that it is exploring a merger with Jisc.² If HESA was to merge with Jisc, there would no longer be a designated data body because in the longer term HESA would no longer exist and it is not possible to transfer designation between bodies.
2. We invited expressions of interest in becoming the designated data body (DDB) on 16 February 2022. We received a single expression of interest, from Jisc, and we have published this alongside this consultation.³ We continue to consider the content of Jisc's expression of interest and intend to engage with Jisc to ensure we have a full picture of the approach it proposes to take to the information duties if it is designated.
3. In parallel, we are now moving to the next stage of the designation process. This involves consultation with registered higher education providers and people who represent, or promote the interests of, students and employers.
4. HESA has not yet issued a notice under paragraph 5(3)(b) of schedule 6 of HERA consenting to the removal of its designation. We do not expect HESA to issue such a notice until further due diligence has been performed by HESA and Jisc in relation to their proposed merger. However, we consider it prudent to continue to proceed with the process of considering the appointment of a new DDB because we take the view that this would make it more likely that we would be able to have continued access to the data we require to perform our functions if the merger takes place.
5. This consultation relates solely to the role of the designated data body in England and does not relate to similar activities which HESA currently conducts for the devolved administrations.
6. In order to be designated, a body needs to satisfy four conditions set out in paragraph 4 of schedule 6 of HERA and repeated here for convenience. Conditions A to D are:
 - Condition A is that the body is capable of performing the duties of the relevant body under sections 64(1) and 65(1) in an effective manner.
 - Condition B is that:
 - (a) the persons who determine the strategic priorities of the body represent a broad range of registered higher education providers;
 - (b) the body commands the confidence of registered higher education providers; and

² See <https://www.hesa.ac.uk/news/17-02-2022/hesa-and-jisc-explore-merger> and <https://www.jisc.ac.uk/news/hesa-and-jisc-confirm-merger-exploration-17-feb-2022>.

³ Available at www.officeforstudents.org.uk/publications/consultation-on-the-suitability-of-jisc-as-the-designated-data-body/.

- (c) the body exercises its functions independent of any particular higher education provider.
- Condition C is that the body consents to being designated.
 - Condition D is that the body is a body corporate and is not:
 - (a) a servant or agent of the Crown; or
 - (b) a body to which the Secretary of State appoints members.
7. By expressing an interest in being designated, Jisc has indicated that it intends to consent to designation and so is likely to satisfy condition C. We have already assessed Jisc in relation to condition D and have concluded that it is likely to meet the condition because it is not a servant of the Crown. While the funders of Jisc – which include the Secretary of State – can nominate members to the board of Jisc, Jisc has discretion as to whether to accept such nominations.
8. We are now consulting in order to inform our assessment of whether Jisc satisfies conditions A and B.

Information duties

9. Sections 64 and 65 of HERA set out the information duties of the OfS. These relate to the compilation of appropriate data relating to registered higher education providers and the higher education courses they provide, including through collection of data from registered higher education providers. There is a further requirement to disseminate the data to the OfS, UKRI and the Secretary of State and, where appropriate, to publish data.
10. HERA makes provision for the DDB or the OfS to determine the information that is compiled, made available, and published under sections 64 and 65 of HERA. These matters have been determined by the OfS and we do not anticipate any change to that arrangement as a result of any change in the designated body.
11. The information that the OfS currently requires the DDB to collect and publish as part of the information duties are given in Table 1. We expect any new DDB to continue to collect and publish this information and to continue to deliver the collection of in-year individualised student data through the Data Futures programme.

Table 1: Summary of the information HESA collects and publishes on the basis of sections 64 and 65 of HERA

Collection	Publication
Provider profile	
Student record, Student Alternative record and Aggregate offshore record	Higher education student statistics – all providers Higher education student statistics – full open data release – all providers

Collection	Publication
Graduate Outcomes, including the collection of contact details for students	Higher Education Graduate Outcomes Statistics: Summary and higher education graduate outcomes (open) data
Staff record	Higher education staff statistics Higher education staff – full open data release
HE-BCI	Higher education provider data: Higher Education Business and Community Interaction survey
Unistats	Annual Unistats dataset and fortnightly updates
	Higher education provider data: Finance

Existing relationship with Jisc

12. The OfS, together with several other public bodies, provides funding to Jisc primarily for the purpose of operating the Janet network, associated services, Jisc Collections, and other activities aimed at increasing efficiencies and effectiveness in the higher education sector through best use of digital technologies. This funding, which forms part of the OfS's strategic priority grant, is reviewed annually. We do not anticipate that any judgements made by the OfS, or decisions subsequently made by the Secretary of State, in relation to the possible designation of Jisc, to affect this funding.
13. The OfS is currently, separately, providing funding to HESA and Jisc for the development of the Data Futures programme. We expect existing commitments to the funding of Data Futures to continue.

Consultation questions

Condition A

14. Condition A relates to whether Jisc is capable of performing the information duties in an effective manner. Jisc's expression of interest sets out how it would perform the information duties and suggests that its approach would be likely to be similar to that taken by HESA. For example, Jisc intends to acquire the knowledge and skills required to carry out the activities of the DDB by the acquisition of HESA, and to build on the experience gained through joint working on Data Futures.
15. We are interested in respondents' views about whether Jisc's account of the approach it would take suggests that it would be capable of performing the information duties in an effective manner.

Question 1

Do you consider that Jisc would be capable of performing the information duties in sections 64(1) and 65(1) of HERA in an effective manner? Please give the reasons for your answer.

Condition B

16. Condition B relates to whether Jisc would command the confidence of providers if it were designated. It also sets requirements in relation to the independence of the DDB from individual providers and about the persons who set the strategic priorities of the body.
17. Jisc's expression of interest sets out how it would deliver the information duties, including the management and governance arrangements it would put in place for effective oversight of those duties. For example, Jisc intends to establish a separate oversight board and maintain many of the current provider engagement mechanisms.
18. We note that Jisc proposes to create a separate oversight board for its work as the DDB. However, it is important to note that the Jisc board would remain the controlling mind of the designated entity and must therefore satisfy the relevant elements of the designation conditions itself.

Question 2

Do you consider that Jisc meets condition B? Please give the reasons for your answer.

Other considerations

19. In addition to the detailed assessments in response to questions 1 and 2, we are interested in views on the overall suitability of Jisc for designation with particular reference to the criteria A to D listed in paragraph 6.

Question 3

Are there any other comments you wish to make about the suitability of Jisc as the designated data body?



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www.nationalarchives.gov.uk/doc/open-government-licence/version/3/