

Office for
Students



National Student Survey 2021

Procedures for investigating allegations
of inappropriate influence on survey
results



Department for the
Economy



Scottish Funding Council
Promoting further and higher education

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Cyngor Cyllido Addysg
Uwch Cymru
Higher Education Funding
Council for Wales

hefcw

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Cyngor Cyllido Addysg
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Introduction and scope

1. This document outlines the Office for Students' (OfS's) procedures for the reporting, handling and resolution of allegations of inappropriate influence in the promotion and running of the National Student Survey (NSS).
2. The procedures apply to all higher education providers that participate in the NSS and all students, student organisations and other parties involved in the survey.
3. The OfS is responsible for managing this process on behalf of all the UK higher education funding bodies (Higher Education Funding Council for Wales, Scottish Funding Council and Department for the Economy Northern Ireland). Where relevant, the OfS will work with the relevant UK funding and regulatory bodies to resolve concerns raised under these procedures and will share relevant information as appropriate.
4. Procedures set out in this document relate solely to matters relating to perceived inappropriate influence. Other concerns about NSS data integrity may be raised and resolved through other routes depending on the nature of the issue. These are presented below but may be subject to change.

NSS data integrity: Routes for raising concerns

<p>Use and publication of NSS results</p>	<p>Concerns about the use of data by providers should be directed to the Advertising Standards Authority or the Competition and Markets Authority. For more information, see https://www.asa.org.uk/ and https://www.gov.uk/government/organisations/competition-and-markets-authority</p>
<p>Personal interest disclosures</p>	<p>Concerns about financial irregularity and impropriety, waste and fraud at funded providers should be routed to the appropriate funder/regulator:</p> <p>For England, concerns should be routed through the OfS's complaints and notifications process: www.officeforstudents.org.uk/contact/complaints-and-notifications</p> <p>For Wales, concerns should be routed through: complaints@hefcw.ac.uk</p> <p>For Scotland, concerns should be routed through: enquiries@sfc.ac.uk</p> <p>For Northern Ireland, concerns should be routed through: hepolicy@economy-ni.gov.uk</p>
<p>Provider data amendments or errors</p>	<p>A number of different data sources are used for the NSS and the Discover Uni website which providers sometimes ask to be amended.</p> <p>The OfS's data amendments panel assesses all proposed amendments and judges whether the identified errors are widespread and significant enough to require action.</p> <p>For more information, see www.officeforstudents.org.uk/data-and-analysis/amendments-to-data/data-amendments-process/</p>

5. These procedures are subject to periodic review, which will take place at least once per year before the NSS survey is live (January to April).

Background

6. The NSS is a UK-wide survey which collects information about students' higher education experiences. The resulting data supports public accountability, helps inform the choices of prospective students and assists providers in enhancing the student experience. The survey is managed by the OfS on behalf of the other UK funding and regulatory bodies, namely the Higher Education Funding Council for Wales (HEFCW), the Scottish Funding Council (SFC), and the Department for the Economy Northern Ireland (DfENI).
7. Providers in Scotland, Wales and Northern Ireland are expected to promote the NSS. However, for higher education providers in England, promotion of the NSS for 2021 is optional rather than a requirement. Whether providers promote the survey or not, the definitions and procedures outlined in this document remain relevant. For all nations, it is important that higher education providers do not encourage students to reflect anything other than their genuine perceptions of their experience in their answers to the survey.
8. Results of the survey are published by the OfS and made available to higher education providers and student unions on a dedicated data dissemination portal. NSS results are also made available to prospective students via the Discover Uni website.¹
9. Note that the OfS will consider the outcomes of the NSS review² in early 2021 before making a decision about the publication of NSS 2021 results for English providers.
10. The results of the NSS provide an important dataset for a range of users, including:
 - higher education providers and student organisations, to identify good practice and areas for enhancement
 - prospective students, to inform decisions about where to study
 - UK funding and regulatory bodies and governments, to inform policy and, additionally, in England, for regulatory purposes
 - third parties that provide public information, such as league table compilers and student information websites.

Why is data integrity important and what is inappropriate influence?

11. In view of its uses, the UK funding and regulatory bodies need to ensure the integrity and robustness of the NSS data. All users should be reassured that students who complete the survey have responded in a manner that wholly reflects their true opinion, and that they have not been influenced by their provider, other students, student organisations or other parties.

¹ Available at <https://discoveruni.gov.uk/>.

² For further information, please see www.officeforstudents.org.uk/advice-and-guidance/student-information-and-data/national-student-survey-nss/review-of-the-national-student-survey/.

Definition of inappropriate influence

12. The UK funding and regulatory bodies define 'inappropriate influence' as any activity or behaviour that may encourage students to reflect anything other than their true opinion of their higher education experiences in their NSS responses.
13. Inappropriate influence is determined by how the influence is perceived by students, not how it was intended to be understood.
14. Conversations between peers discussing their views about the courses do not constitute inappropriate influence. However, deliberately seeking to encourage others to respond to the survey questions in a particular way that does not wholly reflect their own opinion is deemed to be inappropriate influence.
15. In communications, it is important that students are reminded that the survey is independent of the provider, and that they should provide their true opinion of the course.
16. The UK funding and regulatory bodies, working in collaboration with the survey supplier, Ipsos MORI, have published a good practice guide to managing and promoting the NSS, which includes guidance on avoiding inappropriate influence – the relevant parts of this document are available to download from the OfS website³ and should be read in conjunction with this procedure.
17. If promoting the survey, providers should consider whether their campaign could inappropriately influence how participants respond. The UK funding and regulatory bodies expect providers to have processes to ensure that all staff involved in administration (including academic and professional services) and any promotion of the NSS have engaged with the good practice guide and that measures are in place to prevent inappropriate influence throughout their NSS activities.
18. Alongside this guidance, providers should take account of the Code of Practice for higher education data collections, published by the Higher Education Statistics Agency (HESA) and the UK funding and regulatory bodies, which sets out the standards and principles providers are expected to meet.⁴
19. The OfS is designated as a producer of official statistics and is committed to following the Code of Practice for the statistics it produces. Details can be found on the website of the UK Statistics Authority.⁵
20. Examples of inappropriate influence which could impact on NSS data integrity include, but are not limited to:
 - a. Explicit or implicit instruction on the type of responses students should make, including the provision of standard or example responses.

³ For further information, please see www.officeforstudents.org.uk/advice-and-guidance/student-information-and-data/nationalstudent-survey-nss/inappropriate-influence/.

⁴ For further information, please see www.hesa.ac.uk/code-of-practice-for-higher-education-data-collections.

⁵ For further information, please see www.statisticsauthority.gov.uk/code-of-practice/.

- b. How the survey is presented to students by providers, other students and student organisations or other parties, including drawing attention, explicitly or implicitly, to the consequences of negative responses, for example, with regard to:
 - i. conflation with other surveys undertaken by providers whether internal or external
 - ii. league tables, the Teaching Excellence and Student Outcomes Framework (TEF) or Quality Assessment processes
 - iii. employers' perceptions of positive and negative outcomes.
 - c. Instruction on how the response scale is understood by third parties.
 - d. Encouraging students to avoid a particular point on the response scale.
 - e. Failure to ensure that methods to encourage participation in the survey, such as campaigns, the use of promotional materials (either explicitly or implicitly) or incentivisation methods (such as prize draws), do not bias responses. Providers are advised to reference the Ipsos MORI guidance for information on managing the successful promotion of the survey.
 - f. Holding compulsory sessions at which the NSS must be completed.
21. Providing factual information about the uses to which the NSS is put is not deemed to be inappropriate influence, but consideration should be given to how this will be received. Students should also be reminded of the importance of giving their true opinion in their responses.

Guiding principles to be used by the OfS and on behalf of the UK funding and regulatory bodies

22. The OfS will determine on a case-by-case basis whether **two** conditions have been met:
- whether inappropriate influence has taken place; and
 - whether such inappropriate influence could have materially affected the NSS results.
23. Where the OfS determines these two conditions have been met, it will consider what action it should take as a result. Importantly, it may be necessary for the OfS to take different actions where concerns relate to influence by students or student groups (as opposed to concerns relating to influence by providers or their members of staff) as the OfS has a different relationship with students than it does with providers.
24. Our aim is not therefore to define rigidly what is inappropriate. Ultimately it is important for providers to take responsibility for meeting the expectations of the HESA Code of Practice and to adopt good survey management principles.

25. In our management of this process, in relation to all allegations we will be guided by the following principles:

- Transparency
- Fairness and proportionality
- Primary focus on the student and public interest.

Procedures

Raising a concern

26. Concerns about how a provider, a member of staff at a provider, a student, a student organisation or another party may be attempting to influence the way students respond to the NSS (rather than simply encouraging the student to participate in the NSS) should be raised by email to the OfS's dedicated NSS allegations email inbox (nssallegations@officeforstudents.org.uk). You will receive a response acknowledging receipt of your email on the day of receipt [see Annex A, Box 1]. Concerns can also be raised via the survey supplier's dedicated NSS email inbox (nss@ipsos.com), but this may result in delays to the process.
27. The OfS will communicate with persons, organisations and providers by email; if an alternative means of communication is preferred, the OfS should be notified of this at the earliest opportunity.
28. Where concerns are raised directly with other UK funding and regulatory bodies, they will be passed to the OfS which will coordinate the process on their behalf to ensure a fair and consistent approach across the UK.
29. A process map is provided at **Annex A** which sets out how the OfS will acknowledge, manage and investigate concerns. The stages of the process set out below correspond to box numbers on the process map.
30. All concerns should include sufficient detail about the matter to be addressed, to include where possible:
 - a. the full name of the person raising the concern and where relevant their provider or organisation name, their contact email address or postal address and, where possible, contact telephone number
 - b. the name of the provider and course to which the NSS data results relate
 - c. the nature of the concern, the date and, if relevant, the time of the interaction which caused the concern, including any supporting hard evidence or information
 - d. where relevant, whether (and if so, when) a concern has been submitted to a provider or student organisation and, if so, why they were dissatisfied with the provider's or organisation's handling of the concern. However, we do not require persons or organisations to have raised a concern with a provider or student organisation prior to raising a concern with the OfS.
31. The inclusion of as many of these details as possible will help the OfS investigate the concern. Failure to provide these details may mean that the OfS is unable to investigate the concern.
32. The OfS is unable to investigate concerns raised anonymously. In handling cases the OfS will at all times comply with its obligations under the Data Protection Act 2018 and the General Data Protection Regulation (GDPR). In some cases, this may mean that a concern cannot be

further investigated. In such circumstances the OfS will notify the persons, organisations or providers raising the concern to explain why.

33. Whilst all details of allegations and subsequent investigations are treated as confidential, information provided to the OfS may be subject to publication or disclosure under the Freedom of Information Act 2000.

Time period for raising concerns

32. Concerns may be raised at any time during the year. However, it is helpful if they are brought to the OfS's attention as early as possible, particularly whilst the survey is active from January to April, so that timely action can be taken.

Process for managing concerns

33. The OfS will aim to provide an initial response to the concern within five working days of receipt. The OfS will liaise with the relevant UK funding and regulatory body, if appropriate, in providing this response.

34. In its initial response to the concern, the OfS will:

- set out the next steps in the process for handling of the concern; and
- confirm that sufficient information has been received to progress the concern, or request the person, organisation or provider who raised the concern to provide any information set out in paragraph 28 above that was not provided when they raised the concern. Those raising concerns will be asked to provide any requested information to the OfS within 10 working days [Annex A, Box 2].

35. Following receipt of any additional requested information, the OfS will consider whether it has sufficient information to proceed to the next stage of investigation [Annex A, Box 3]. This assessment will be undertaken by a senior member of the NSS team in conjunction with a member of an NSS allegations panel (see below), seeking legal and/or relevant UK funding and regulatory body advice where necessary.

Investigating concerns

36. Concerns will be investigated by the NSS allegations panel, which will make recommendations in an advisory capacity to the OfS director with responsibility for the NSS and regulation. Part 5 (B) of the OfS scheme of delegation⁶ sets out the delegation arrangements for directors to make decisions in respect of OfS functions. The role of the allegations panel is to make recommendations to the OfS director on:

- whether any action should be taken in response to a concern; and
- what form that action should take.

⁶ The OfS scheme of delegation is available at: www.officeforstudents.org.uk/about/who-we-are/our-board-and-committees/.

37. The allegations panel will be chaired by a senior manager and include officers with expertise in running the NSS, data integrity, governance and legal matters.
38. Concerns about providers outside England will be passed to the OfS by the other UK funding and regulatory bodies. Where allegations relate to providers in Wales, Scotland or Northern Ireland, the OfS will work with the appropriate UK funding and regulatory body to determine the approach. Where appropriate a representative from the relevant UK funding and regulatory body will join the NSS allegations panel as a member for the course of the investigation.
39. Where the OfS considers that there is sufficient evidence for further investigation, it will normally contact the registered provider to which the NSS data relates promptly and request it to undertake an internal investigation. Should the concern relate to a teaching provider which is part of a registered provider, the OfS will request the registered provider to undertake an investigation. The OfS will request the provider to allocate the responsibility for the investigation to a senior person who can act independently of the parties whose actions have been called into question. The findings should be reported in writing to the allegations panel within 20 working days of receiving the request for the investigation. As part of this, the allegations panel may advise providers to seek input from their own internal auditors and may set conditions on the investigation to ensure it is transparent and robust [Annex A, Box 6].
40. Where an allegation relates to a student, or student organisation linked to a provider, the OfS will contact the provider to ask it to undertake the investigation.
41. The OfS may commission an independent investigation on its own behalf at the discretion of the director, for example if the allegations panel considers that there is a conflict of interest, or there is no appropriate person within the organisation to take forward an investigation. Any such investigation will be requested to report its findings to the allegations panel within 20 working days of receiving the request for the investigation [Annex A, Box 6].
42. For an investigation, the organisation or provider against whom the allegation has been raised may, if appropriate, be provided with a copy of the report and be given an opportunity to respond within 10 working days [Annex A, Box 7].
43. The allegations panel will consider the report of the investigation's findings [Annex A, Box 8]. The allegations panel will initially consider three questions:
 - i. Was the process of investigation undertaken by the provider carried out appropriately, taking independent advice where appropriate?
 - ii. What are the findings of the investigation?
 - iii. Was the UK funding and regulatory bodies' and/ or survey supplier's guidance breached?
44. The allegations panel will consider each case on its own merits. In its work it will refer to previous cases and outcomes to ensure a consistent approach.
45. The allegations panel will recommend that action should be taken if it considers, on the balance of probabilities, that:
 - i. inappropriate influence has occurred; and

- ii. such inappropriate influence could have materially affected the NSS results.
46. In recommending whether action should be taken, the allegation panel will consider the following factors:
- a. The specific nature of the concern
 - b. The robustness of the evidence
 - c. The extent to which the integrity of the relevant NSS data is challenged by the case in question
 - d. The investigation carried out by the provider, including whether the latter has been conducted in an appropriate manner, with independent advice where relevant and any response received in respect of such investigation
 - e. Where the OfS has commissioned its own investigation, the findings of such investigation and any response from the person, organisation or provider against whom the concern was raised
 - f. How the OfS has dealt with other cases to promote consistency of approach
 - g. UK funding and regulatory bodies' and survey supplier guidance on inappropriate influence
 - h. The actions taken to resolve any breach.
47. The director may seek further advice to assist their decision, which could include advice from those within the OfS responsible for risk and data management, and from other UK funding and regulatory bodies where relevant.

Outcome of review of evidence

48. Where the director decides that inappropriate influence has occurred and such inappropriate influence could have materially affected the NSS results, the OfS may take the following action (separately or in conjunction) [Annex A, Box 9]:
- a. Request an action plan from the provider to address the problems identified
 - b. Request or commission an independent investigation (and potentially recover any costs associated with this)
 - c. Temporarily or permanently suppress the provider's NSS data, in whole or in part, to protect the student interest and/or to ensure data integrity. The OfS will not automatically suppress data upon receipt of an allegation
 - d. Publish a previous year's data in place of the data concerned
 - e. Where appropriate, re-survey a subset of the students originally surveyed at the provider and recover the costs of this

- f. Implement an audit of the provider's processes in the following survey year, which may include requiring all the provider's own survey material to be approved by the OfS, and where appropriate by the relevant UK funding and regulatory bodies.
- g. For providers that are registered with the OfS, we will consider whether incidents where providers have breached the inappropriate influence guidelines impact our assessment of the risk of the provider breaching one of their ongoing conditions of registration.⁷

49. We aim to notify the parties involved of the decision of the director, including any actions to be taken by the provider, within 15 working days of the allegations panel's receipt of the response to the investigation report [Annex A, Boxes 9 and 10]. For cases of allegations in Wales, Scotland and Northern Ireland the relevant UK funding and regulatory body will be copied into any notifications to external parties.

Time limits

50. Our expectation is that persons, organisations or providers raising a concern will keep to the time limits specified in these procedures. However, we may consider it appropriate (in the interests of fairness or to enable a full investigation to be undertaken) to amend or adapt the time limits set out in these procedures in a particular case. Any party seeking an extension of time should explain in writing to the OfS why they believe it is appropriate and the OfS will make a judgement on accepting or rejecting the request.

Requesting a review of the outcome of an investigation

51. Any party involved in a concern may ask for an investigation to be reviewed. The review will be considered by a panel with no prior involvement in the initial investigation. It will be chaired by a director from one of the UK funding and regulatory bodies, also with no prior involvement in the initial investigation or decision. This is the final element of challenge available to providers under these procedures [Annex A, Box 11].

How can a review be requested?

52. A party may request a review of outcome of an investigation on the grounds of [Annex B, Box 13]:

- significant new evidence
- a significant procedural irregularity.

53. A party must request a review in writing to the OfS chief executive within 10 working days of the date of the OfS's decision, by contacting:

- CEOOffice@officeforstudents.org.uk; or
- Office for Students Chief Executive, Nicholson House, Lime Kiln Close, Stoke Gifford, Bristol, BS34 8SR.

⁷ For further information, please see www.officeforstudents.org.uk/advice-and-guidance/regulation/conditions-of-registration/monitoring-of-registered-providers/.

54. The OfS will acknowledge receipt of the request and inform the other parties to the investigation, where relevant, that a request has been lodged, within five working days of receipt [Annex B, Boxes 13 and 14].
55. A party submitting a request for review must provide in writing to the OfS any evidence to support its request within 10 working days of submission. If no such evidence is received within the period allowed, the OfS will be entitled to treat the request as having been abandoned [Annex B, Box 15].

What is the review process?

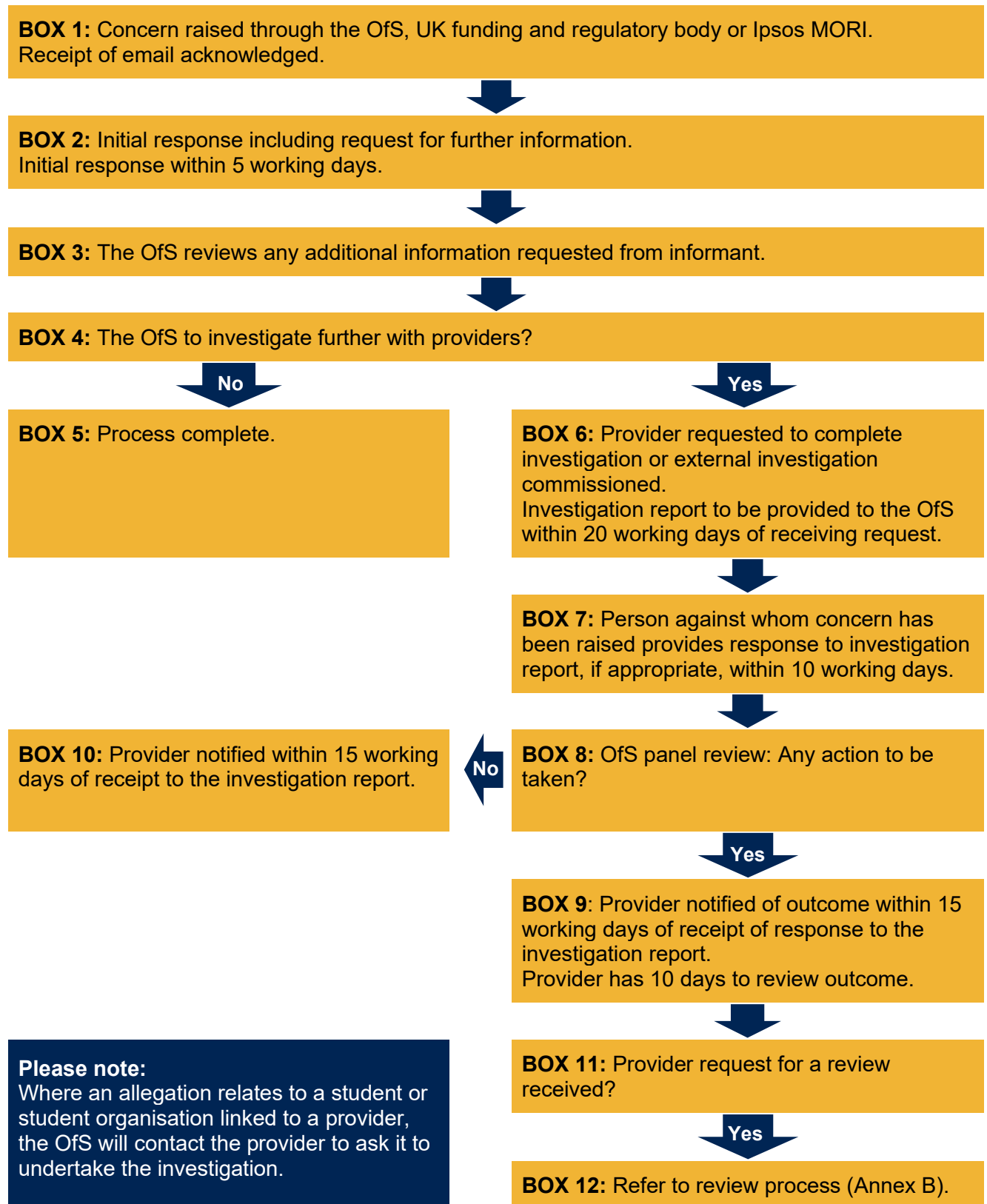
56. The request for review, together with supporting documents, will be checked by the panel set out in paragraph 51. The review panel may involve a representative from another UK funding and regulatory body [Annex A, Box 16].
57. The review panel may seek advice as necessary from those with knowledge of the case. If these case advisers may have been involved in the original investigation, they will offer technical or process information only.
58. The review panel will make a recommendation to the OfS chief executive, who will make the final decision on the review, in consultation with any other relevant UK funding and regulatory body's chief executive.

What will happen with the results of the review?

59. The OfS aims to notify the parties of the review results within 10 working days of receipt of the review documents. There will be no further routes of challenge to the OfS chief executive's decision. However, this decision and the decision of the OfS director may be challenged by applying to the High Court for permission to ask for a judicial review. Any such application must be made promptly and, in any event, within three months of notification of the outcome of the appeal [Annex B, Box 17].

Annex A

Procedure for reporting and investigating concerns that a provider has attempted to influence National Student Survey data inappropriately



Annex B

Procedure for requesting a review of the outcome of an investigation into concerns that a provider has attempted to influence National Student Survey data inappropriately

BOX 13: Provider submits written request to the OfS within 10 working days of the date of the OfS's decision.



BOX 14: The OfS acknowledges review request within 5 working days of receipt.



BOX 15: Provider to submit review documents to the OfS within 10 working days of requesting review.



BOX 16: OfS panel reviews request.



BOX 17: Provider notified of outcome within 10 working days of receiving review documents.



BOX 18: Review process complete.



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