

Office for
Students



Changes to the OfS's regulation of further education colleges in England

Consultation outcomes

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Executive summary

1. In December 2025 we consulted on our proposed changes to the way we regulate further education colleges in England.¹ We had heard from the sector that the complex regulatory landscape that further education colleges have to navigate can be a barrier to colleges diversifying their provision and offering higher education courses.
2. Further education colleges play an important role in providing flexible and diverse higher education pathways for students. Registering with us enables colleges to access public funding and give students confidence that their institution meets our requirements for quality, student protection and support.
3. When a further education college offers higher education courses and is registered with the OfS, it is also subject to regulation by the Department for Education (DfE). In our consultation we proposed to remove the overlap of regulation for further education colleges already on the OfS Register and to make the process for further education colleges applying to enter the regulated higher education sector in England as smooth as possible.

Summary of decisions

4. We received 45 responses to our consultation. Responses were received primarily from further education colleges, both those with and without degree awarding powers (DAPs), and sector bodies. We also received a small number of responses from universities.
5. We have analysed the consultation responses and stakeholder feedback received and considered the implications for our approach. The responses we received broadly supported our proposals.
6. Therefore, the OfS is disapplying five of its initial conditions of registration and four general ongoing conditions of registration for eligible further education colleges where the DfE already has robust oversight in place. This includes a requirement to publish an access and participation statement. The DfE already requires colleges to show how they will address barriers to participation, support disadvantaged learners, and improve outcomes for underrepresented groups.
7. Further education colleges that do not hold or are not seeking DAPs will also no longer need to meet OfS requirements relating to financial viability and sustainability and management and governance. Again, DfE regulation already covers these areas. The OfS is retaining these requirements for further education colleges with DAPs as they are directly responsible for overseeing academic governance and management, academic standards, quality and the continuity of students' study.
8. The conditions we are disapplying are:
 - initial and ongoing condition A2 (access and participation statement)

¹ See [Consultation on proposals to change how the Office for Students regulates further education colleges in England - Office for Students](#).

- initial and ongoing condition D (financial viability and sustainability)
 - initial conditions E7(a set of governing documents and business plans), E8 (fraud and inappropriate use of public funds) and E9 (Individuals)
 - ongoing conditions E1 (public interest governance) and E2 (management and governance).
9. Most of these changes would apply to further education colleges that do not hold DAPs or do not have a live application for DAPs.

Next steps

10. The revised approach reflects our objective to regulate in a proportionate, targeted and risk-based way, reducing duplication while ensuring that students on higher education courses in further education colleges remain appropriately protected.
11. The changes apply from 9 July 2026 and take effect simultaneously for further education colleges already registered with the OfS, as well as all applications for OfS registration submitted on or after that date.² There are no transitional arrangements and no requirement for providers to apply for these changes to take effect.

² Bespoke arrangements were made for colleges that applied from 2 December 2025: [Application requirements notice for FECs](#)

Introduction

12. This document sets out the Office for Students' (OfS's) decision to disapply a set of conditions of registration for further education colleges.³
13. In December 2025, we launched a consultation on proposals to disapply a set of conditions of registration for eligible further education colleges.⁴ Our proposals were designed to reduce the regulatory burden on further education colleges which dual regulation between the DfE and the OfS can sometimes create, without adversely affecting the interests of students.
14. We proposed to remove certain regulatory conditions. Specifically:
 - a. Initial and ongoing requirements to publish an access and participation statement (condition A2) would not apply to any further education colleges registered in, or applying to register in, the Approved category or Approved (fee cap) and charging up to the basic amount.
 - b. Initial conditions for financial sustainability (condition D), governing documents (condition E7), detecting, preventing and stopping fraud (condition E8), and having key individuals (condition E9) would not apply to colleges applying to register with the OfS if they are not seeking DAPs.
 - c. Ongoing conditions for financial sustainability (condition D), public interest governance (condition E1) and management and governance (condition E2) would not apply to colleges that do not have, and have not applied for, DAPs.
15. We received 45 responses to our consultation which ran between December 2025 and February 2026. Responses were received primarily from further education colleges, both those with and without DAPs, and sector bodies. We received a small number of responses from universities.
16. The responses showed consistent support for the proposals.
17. We would like to thank those who took the time to read the consultation and respond to the questions posed. We have analysed the consultation responses, and, after further consideration, we have decided to implement our proposals in the form on which we consulted.
18. Our decisions are set out in the table below:

³ We use the term 'further education colleges' in this consultation response. The term refers to providers in the statutory further education sector and includes a further education corporation, a sixth form college corporation, or a Designated Institution established or designated under the Further and Higher Education Act 1992. For further information, see the [Further and Higher Education Act 1992](#).

⁴ [Consultation on proposals to change how the Office for Students regulates further education colleges in England - Office for Students](#)

Proposal number	Condition of registration ⁵	Initial or ongoing condition	Decision
1	Condition A2 Access and participation statement	Initial	Disapply condition for further education colleges applying for OfS registration in Approved or Approved (fee cap) charging up to the basic amount
1	Condition A2 Access and participation statement	Ongoing	Disapply condition for all registered further education colleges in Approved or Approved (fee cap) charging up to the basic amount
2	Condition D Financial viability and sustainability	Initial	Disapply condition for further education colleges applying for OfS registration that are not seeking DAPs
2	Condition D Financial viability and sustainability	Ongoing	Disapply condition for registered further education colleges without DAPs and without a live application for DAPs. Further education colleges that make a DAPs application would be subject to this condition
3	Condition E7 A set of governing documents and business plans	Initial	Disapply this condition for further education colleges applying for OfS registration that are not seeking DAPs
3	Condition E8 Fraud and inappropriate use of public funds	Initial	Disapply this condition for further education colleges applying for OfS registration that are not seeking DAPs
3	Condition E9 Individuals	Initial	Disapply this condition for further education colleges applying for OfS registration that are not seeking DAPs
3	Condition E1 Public interest governance	Ongoing	Disapply this condition for registered further education colleges without DAPs and without a live application for DAPs. Further education colleges that make a DAPs application would be subject to this condition
3	Condition E2 Management and governance	Ongoing	Disapply this condition for registered further education colleges without DAPs and without a live application for DAPs. Further education colleges that make a DAPs application would be subject to this condition

19. These changes will take effect from **9 July 2026**.

⁵ [Regulatory framework for higher education in England - Office for Students](#)

20. This document provides an overview of the consultation outcomes and decisions, summarises the responses we received and explains the decisions we have made. We have also published a guide for colleges⁶ and written to governing bodies of further education colleges without DAPs.

⁶ See [How we regulate further education colleges - Office for Students](#).

Next steps for further education colleges

21. There are no immediate steps for further education colleges to take. We have written to all registered further education colleges without DAPs to notify governing bodies of the conditions of registration that no longer apply to their provider.
22. The table below explains the effect of these decisions on further education colleges:

Decision	Outcome
Disapply initial and ongoing condition A2 for all further education colleges.	Further education colleges registered in, or applying to register in, the Approved category or Approved (fee cap) charging up to the basic amount are no longer required to annually publish an access and participation statement.
Disapply initial conditions D, E7, E8, E9 for further education colleges applying for OfS registration that are not seeking DAPs.	Further education colleges applying for registration that are not seeking DAPs will not be assessed in relation to these conditions.
Disapply ongoing conditions D, E1 and E2 for further education colleges without DAPs and do not have a live DAPs application.	These conditions will be disappplied automatically. This change does not require any action or intervention from providers and there are no immediate steps to take.

23. The changes may have different practical implications depending on a provider's individual context and risk profile. Colleges will continue to be subject to existing requirements relating to financial viability, sustainability, and effective management and governance under the oversight of DfE.

Further education colleges applying for OfS registration

24. For further education colleges applying for OfS registration, the practical implications of these decisions will depend on whether the provider intends to seek DAPs.
25. For colleges applying for registration that are not applying for DAPs, a number of initial conditions of registration will not apply. This means that an eligible further education college will not have to comply with initial conditions D (financial viability and sustainability), E7 (governing documents and business plans), E8 (fraud and inappropriate use of public funds) and E9 (individuals) as part of its registration application. We will update our registration guidance in due course.
26. We expect to engage with the DfE to ensure that any material concerns relating to a college's financial health or governance are appropriately considered when assessing a registration application, and we would expect a college to declare any formal interventions by the DfE.
27. These changes aim to reduce duplicated regulation when colleges join the OfS Register, while maintaining appropriate safeguards. We will continue to assess applicants against all other relevant initial conditions of registration.

28. For further education colleges applying for registration with the intention of seeking DAPs, initial conditions D, E7, E8 and E9 will apply. These applicants will have to show that they meet the relevant requirements.

Further education colleges applying for DAPs

29. Where a registered further education college subsequently applies for DAPs, ongoing conditions D, E1 and E2 will apply. We will write to a provider to confirm this at the appropriate time. From that point, we will monitor compliance with these conditions as part of our risk-based regulatory approach.
30. Applying these conditions when a provider applies for DAPs ensures that it can show that it meets the key requirements for operating with DAPs, particularly financial viability, governance and management. This supports a proportionate and efficient assessment process.
31. When considering a DAPs application, we will also carry out a preliminary assessment of these conditions, drawing on relevant information from the DfE. This is distinct from, and does not replace, ongoing monitoring.
32. If a provider withdraws its application for DAPs or is not granted DAPs, conditions D, E1 and E2 will cease to apply. We will confirm this in writing to the provider at the appropriate time.
33. We expect to consult on reforms to the DAPs application process next year, including eligibility requirements. We may make consequential amendments to this position as a result of that consultation.

Responses to the consultation

34. We asked respondents to share their views on our proposals by answering nine optional questions in an online survey. We also considered one written response sent by email and engaged with several sector representative groups.
35. We received 45 survey responses, including 24 from registered further education colleges without DAPs. We also received responses from colleges with DAPs, sector bodies, universities and individuals.
36. This document summarises the key themes raised. Overall, respondents consistently supported the proposals. We considered all relevant points raised by respondents, including dissenting views.
37. The breakdown of responses to the consultation questions on each proposal was as follows:

Disapply condition(s)	Answered yes to 'Do you agree with the proposal' (out of 45)	Answered no to 'Do you agree with the proposal' (out of 45)
Initial condition A2 (Access and participation statement)	40	5
Ongoing condition A2 (Access and participation statement)	44	1
Initial condition D (Financial viability and sustainability)	40	5
Ongoing condition D (Financial viability and sustainability)	42	3
Initial conditions: E7 (A set of governing documents and business plans) E8 (Fraud and inappropriate use of public funds) E9 (Individuals)	38	7
Ongoing conditions: E1 (Public interest governance) E2 (management and governance)	41	4

Cross-cutting themes

39. Responses were broadly aligned, which created clear overall themes, although views varied on individual proposals.

Regulatory burden, duplication and proportionality

40. The most consistent theme was support for a more proportionate approach that reduces duplication with existing statutory oversight. Respondents emphasised that the DfE already regulates further education colleges robustly through financial monitoring, governance requirements, intervention powers and Ofsted inspection. Many questioned the additional value of overlapping OfS requirements and supported aligning regulatory activity with risk. Respondents supported reducing burden, but did not argue for lower standards. Instead, supported a more targeted, risk-based approach.

Confidence in existing frameworks

41. Respondents were generally confident that existing governance, financial oversight and accountability arrangements for further education colleges are robust. They described these frameworks as well established and transparent, and many viewed the proposals as recognising this strength rather than weakening oversight. They also asked the OfS and DfE to explain their roles clearly.

Scope of proposals

42. Some respondents suggested that the OfS should disapply the conditions for further education colleges with DAPs. They also said the OfS could explain more clearly why it distinguishes between those with and without DAPs.
43. Some respondents suggested extending the proposals to other provider types subject to similar oversight. These included providers delivering provision funded through advanced learner loans or operating within Skills England frameworks. Others considered the proposals did not go far enough and suggested removing additional OfS requirements or broadening the scope further.

Perceptions and differential treatment

44. A small number of respondents noted a potential impact on the visibility and perceived legitimacy of higher education in further education settings. Some noted a risk that differential regulatory treatment, particularly between further education colleges with and without DAPs, could be perceived as creating a two-tier system or signalling lower expectations. Others suggested that further education colleges with DAPs may face greater burden or be perceived as higher risk, potentially discouraging applications.

Clarity and implementation

45. Respondents broadly supported the proposals, but some emphasised the importance of clear implementation. Some noted the potential for perceived or actual gaps in oversight, particularly

in relation to access and participation or at the point of registration. Respondents also sought clarity on how the OfS and the DfE would share responsibilities, how they would identify and manage risks, and what requirements would remain in scope. A small number suggested that OfS registration fees should reflect reductions in regulatory requirements.

Our response

46. We agree with responses that considered the proposals reflect a more proportionate approach that reduces duplication with existing statutory oversight, and we recognise the strength of existing arrangements. The proposals aim to remove duplication other arrangements already provide robust assurance, while maintaining strong oversight of quality, standards and student protection. We consider that aligning regulatory activity with risk represents a more effective and proportionate approach.
47. The distinction between further education colleges with and without DAPs reflects a material difference in regulatory risk. Further education colleges without DAPs operate within a framework that mitigates key higher education risks through external validating or awarding arrangements, alongside the DfE's whole-provider oversight of financial sustainability, governance and accountability. Together, these arrangements provide robust assurance and reduce the need for overlapping OfS requirements.
48. By contrast, providers with DAPs operate with more autonomy. They do not rely on a validating partner and are directly responsible for academic governance and management, academic standards, quality and the continuity of students' study, including in some cases for students at other providers whose provision they validate. These responsibilities materially change the risk profile, including heightened financial and reputational implications. DfE oversight continues to provide strong assurance at a provider level, but it is not designed to address the risks specific to higher education associated with autonomous DAPs.
49. In this context, we consider it proportionate to continue applying the relevant conditions of registration to further education colleges with DAPs. We will reduce regulatory burden for colleges without DAPs where other mechanisms provide appropriate assurance.
50. In relation to extending the scope of the proposals to other types of providers, the consultation focused intentionally on further education colleges, because there is a clear and established overlap between OfS regulation and DfE statutory oversight.
51. We do not consider that the proposals create a hierarchy of providers or imply any difference in the legitimacy of higher education delivered by further education colleges. As set out in the section on scope of proposals above, the different regulatory approaches reflect differences in regulatory risk, rather than value or status. We consider that the benefits of more proportionate regulation outweighs the risk of this misinterpretation. We will mitigate this through clear communication and engagement.
52. We also do not consider that continuing to apply the existing conditions of registration creates additional regulatory burden for further education colleges with DAPs, as these requirements already apply to them. Instead, these proposals reduce the regulatory burden for further education colleges without DAPs where it is appropriate to do so. We will continue to make this clear to mitigate any risk of discouraging applications for DAPs.

53. We do not consider that the proposals create a significant regulatory gap, given the strength of DfE oversight and the OfS's ability to intervene where necessary, including by using specific ongoing conditions of registration. We will continue to rely on established ways of working with the DfE and our wider regulatory framework to monitor and respond to risk.

Proposal 1: Disapply initial and ongoing condition A2 (access and participation statement)

54. We proposed disapplying initial condition A2 for further education colleges applying for OfS registration, and ongoing condition A2 for all registered further education colleges.

Condition	Disapply for
Initial condition A2 (access and participation statement)	Further education colleges applying for OfS registration
Ongoing condition A2 (access and participation statement)	All registered further education colleges

55. We consulted on this proposal through the following questions:

Consultation questions 1 and 2

Question 1

Do you agree with the proposal to disapply initial condition A2 (access and participation statement) for further education colleges applying for OfS registration? Please provide a reason for your answer.

Question 2

Do you agree with the proposal to disapply ongoing condition A2 (access and participation statement) for all registered further education colleges? Please provide a reason for your answer.

Decision

56. We decided to proceed with our proposal as consulted, with effect 9 July 2026.

Consultation responses

57. Respondents strongly supported the proposal. Of 45 respondents, 40 agreed with disapplying initial condition A2 and 44 with ongoing condition A2. A small number disagreed or expressed qualified support, while a few agreed without providing reasons. Respondents generally raised similar points about both initial and ongoing requirements.

58. Respondents said that the requirement duplicates existing regulatory, funding and statutory arrangements without adding a clear benefit. They cited overlap with the DfE accountability statement and, to a lesser extent, Ofsted assurance. They supported reducing duplication where oversight is already robust. Respondents also emphasised proportionality. They noted

that small teams often deliver higher education provision in colleges and that even modest reporting requirements can create a disproportionate burden over time. Some respondents said that removing duplicate reporting could give them more capacity for delivery, learner outcomes and widening participation activity.

59. For initial condition A2, respondents generally thought that requiring a standalone statement at the point of registration is disproportionate given existing accountability arrangements.
60. Some respondents noted that this could make access and participation issues specific to higher education less visible, particularly where higher education is not a primary focus of the local need.
61. Some respondents raised points outside the scope of the proposal, including suggestions to disapply condition A1 (access and participation plan) or the local needs duty,⁷ or to extend the approach to other provider types.

Our response

62. We welcome that respondents supported the proposals and agree with the reasons they gave.
63. We consider the requirements for access and participation that governing bodies must already meet are sufficient for them to understand and discharge their responsibilities in this area. For ongoing condition A2, respondents primarily questioned the value of maintaining a separate annual statement once a provider is established. They suggested that it would be better to focus regulatory effort on monitoring outcomes and risk.
64. We acknowledge concerns that access and participation issues specific to higher education could become less visible. However, we consider that the risk is limited. DfE accountability statements should reflect the provider's full context, including its provision and priorities under the local needs duty. Statutory equality duties also support this work. Funding conditions and the expectations of Ofsted inspection also mitigate any gap in relation to inclusion. We note that the recent Post-16 Education and Skills white paper signalled strengthened expectations for all higher education providers over access and participation.⁸ Disapplying condition A2 also does not affect the availability of disaggregated data or our ability to identify and respond to risks to particular student groups.
65. For the points raised outside the scope of the proposals, these suggestions relate to broader regulatory questions. They have not influenced our decision on condition A2, which focuses on whether the access and participation statement requirement is proportionate.
66. On balance, we consider that disapplying condition A2 removes unnecessary duplication while maintaining appropriate oversight of access and participation through existing mechanisms and our risk-based approach.

⁷ The Local Needs Duty is the statutory duty set out in Section 52B of the Further and Higher Education Act 1992, as amended by the Skills and Post-16 Education Act 2022, which came into force 28 June 2022

⁸ See [Post-16 education and skills white paper - GOV.UK](#).

Proposal 2: Disapply initial and ongoing condition D (financial viability and sustainability)

67. We proposed disapplying initial condition D for further education colleges applying for registration that are not seeking DAPs, and ongoing condition D for registered further education colleges without and have not applied for DAPs.

Condition	Disapply for
Initial condition D (financial viability and sustainability)	Further education colleges applying for OfS registration and not seeking DAPs
Ongoing condition D (financial viability and sustainability)	All registered further education colleges without DAPs and without a live DAPs application

68. We consulted on this proposal through the following questions.

Consultation questions 3 and 4

Question 3

Do you agree with the proposal to disapply initial condition D (financial viability and sustainability) for further education colleges applying for OfS registration that are not seeking DAPs? Please provide a reason for your answer.

Question 4

Do you agree with the proposal to disapply ongoing condition D (financial viability and sustainability) for all registered further education colleges without DAPs (and have not applied for DAPs)? Please provide a reason for your answer.

Decision

69. We have decided to proceed with Proposal 2 as consulted with effect from 9 July 2026. We are satisfied that this approach maintains appropriate protection for students and public funds, improves regulatory coherence, and supports clear and proportionate regulation.

Consultation responses

70. Respondents broadly supported the proposal. Of the 45 respondents 40 agreed with disapplying initial condition D and 42 agreed with disapplying ongoing condition D. Respondents generally supported reducing duplication and aligning regulation with risk. They said that the DfE already oversees their finances comprehensively, including monitoring, intervention and the insolvency regime.

71. Many considered that applying condition D in parallel provided limited additional assurance and risked creating inefficiency, particularly given the capacity constraints within colleges. Some

respondents emphasised the importance of clear regulatory roles, noting that overlapping oversight can reduce clarity and delay intervention.

72. A small number of respondents expressed concerns about removing OfS scrutiny at the point of registration. They suggested this could weaken assurance, reduce transparency, or create a gap in protecting higher education students. A few supported a dual-assurance model, noting that oversight by both the OfS and DfE could provide additional safeguards.

Our response

73. We welcome that respondents supported the proposals and agree with the reasons set out in support.
74. We do not consider that disapplying condition D creates a significant regulatory gap. The DfE's framework of financial monitoring, support, assurance and intervention is comprehensive. This includes regular assessment of financial health, and access to formal intervention mechanisms where risks emerge. We will continue to monitor financial risk through information sharing with the DfE and our wider regulatory framework, including our ability to impose a specific ongoing condition of registration where necessary. We consider this more proportionate than duplicating routine financial monitoring.
75. On balance, we consider that disapplying condition D for further education colleges without DAPs (where they do not have a live application for DAPs) reduces unnecessary duplication while maintaining appropriate assurance through DfE oversight and our risk-based regulatory approach.

Proposal 3: Disapply initial conditions E7 (governing documents and business plans), E8 (fraud and inappropriate use of public funds) and E9 (individuals) and ongoing conditions E1 (public interest governance) and E2 (management and governance)

76. We proposed disapplying initial conditions E7, E8, E9 for further education colleges applying for registration and not seeking DAPs, and ongoing conditions E1 and E2 for registered further education colleges without DAPs and have not applied for DAPs.

Condition	Disapply for
Initial conditions: E7 (a set of governing documents and business plans) E8 (fraud and inappropriate use of public funds) E9 (individuals)	Further education colleges applying for OfS registration and not seeking DAPs
Ongoing conditions: E1 (public interest governance) E2 (management and governance)	All registered further education colleges without DAPs and without a live application for DAPs

77. We consulted on this proposal through the following questions.

Consultation questions 5 and 6

Question 5

Do you agree with the proposal to disapply initial conditions E7 (governing documents and business plans), E8 (fraud and inappropriate use of public funds) and E9 (individuals) for further education colleges applying for OfS registration that are not seeking DAPs? Please provide a reason for your answer.

Question 6

Do you agree with the proposal to disapply ongoing conditions E1 (public interest governance) and E2 (management and governance) for registered further education colleges without DAPs (and have not applied for DAPs)? Please provide a reason for your answer.

Decision

78. We have decided to proceed with Proposal 3 as consulted with effect from 9 July 2026. We are satisfied that this approach maintains appropriate protection for students and public funds, improves regulatory coherence, and supports clear and proportionate regulation.

Consultation responses

79. Respondents broadly supported the proposal. Of the 45 respondents 38 agreed with disapplying initial conditions E7 to E9 and 41 agreed with disapplying ongoing conditions E1 and E2. Respondents cited the strength of existing statutory governance and accountability frameworks for further education colleges and questioned the added value of overlapping OfS requirements. Respondents noted that colleges already operate within well-established governance arrangements, including prescribed governing structures, accounting officer responsibilities and financial controls overseen by the DfE. Some also pointed to a need for clear regulatory roles to avoid overlapping expectations.

80. A small number of respondents raised concerns that DfE frameworks may not fully reflect the specific needs of higher education governance, including academic oversight, student outcomes and sector-specific expertise. Some also emphasised the signalling role of initial conditions for providers new to higher education or expressed concern that removing these conditions could reduce the visibility or priority of higher education within governance structures.

81. Some respondents supported retaining elements of the initial conditions (particularly around governance documents, fraud controls and key individuals) or suggested a dual-assurance approach.

Our response

82. We welcome that respondents supported the proposals and agree with the reasons they gave.

83. We acknowledge points raised in relation to DfE frameworks not fully reflecting higher education-specific governance needs, but consider the risks to be limited. Governing bodies remain responsible for effective oversight of all provision, including higher education, and are required to do so through other conditions of registration, particularly those relating to quality, standards and student protection. For further education colleges without DAPs, higher education risks are further mitigated through validating or awarding bodies, which retain responsibility for academic standards and award integrity. Where governance weaknesses give rise to risks to students, we retain the ability to intervene, including through specific ongoing conditions of registration.

84. We do not consider it necessary to retain elements of the initial E conditions. Further education colleges are already subject to robust controls at provider level in relation to governance, financial management and the use of public funds. We are satisfied that these provide sufficient protection without duplicating OfS requirements. We also consider that existing governance and accountability frameworks, including those operated by the DfE, already include expectations about the composition, capability and effectiveness of governing bodies and senior leadership teams.

85. On balance, we consider that disapplying conditions E7 to E9 and E1 to E2 for further education colleges without DAPs reduces duplication while maintaining appropriate assurance through DfE oversight, validating arrangements and our risk-based regulatory approach.

How the changes will be implemented

86. Respondents broadly supported the proposals while emphasising the importance of clear guidance, communication and transparency to support effective implementation. Respondents sought clarity on how responsibilities would operate in practice between the OfS and the DfE (noting the importance of clear regulatory roles), how risks would be identified and managed, and how the changes would affect different types of further education colleges.
87. Some respondents raised specific points relating to areas such as reporting, partnership arrangements and freedom of speech.
88. We consider that recognising DfE oversight in these areas provides a more coherent approach and supports clearer accountability, while the OfS retains a distinct role in protecting higher education students through its wider regulatory powers. We have addressed points relating to how the proposals will operate in practice⁹ and will continue to keep this under review as the changes are implemented.
89. The consultation does not change any other conditions of registration. We will continue to regulate further education colleges across all other aspects of the regulatory framework and work closely with the DfE. We will monitor risk through our existing regulatory framework and retain the ability to intervene where necessary, including using one or more specific ongoing conditions of registration.
90. These changes do not change our expectations in relation to reporting, partnership arrangements and freedom of speech. The changes do not change the principle that each registered provider remains responsible for compliance with its regulatory obligations. Where provision is delivered through partnerships, responsibilities remain clear within the existing framework, including under condition E10.
91. The statutory duties introduced by the Higher Education (Freedom of Speech) Act 2023 (HEFSA) apply to all higher education providers, including further education colleges, regardless of whether they hold DAPs. These duties impose specific obligations relating to freedom of speech and academic freedom. The changes do not change our reporting guidance (Regulatory Advice 16: Reportable events). We will keep this position under review.¹⁰
92. Overall, we consider that the proposals can be implemented without creating significant gaps in oversight, while supporting a more proportionate and targeted regulatory approach.

⁹ See [How we regulate further education colleges - Office for Students](#).

¹⁰ [Regulatory advice 16: Reportable events - Office for Students](#)

Other consultation questions

Question 7 – unintended consequences

93. We asked respondents about potential unintended consequences. Many identified none, but some raised concerns that broadly reflected themes already discussed, particularly regulatory coherence, clarity, and perception of the proposals when taken together. This section summarises some of the additional points raised and does not repeat themes addressed previously.
94. Some respondents suggested that focusing the proposals on further education colleges alone could risk inconsistency across the wider skills sector, where other providers are also subject to overlapping regulation.
95. Some respondents suggested that the OfS registration fee should be reduced. Others queried whether removing initial conditions could weaken requirements for new entrants. In the context of the Lifelong Learning Entitlement (LLE), some also queried whether the proposals would create imbalances between provider types or increased regulatory complexity.
96. Some respondents highlighted potential challenges in group structures, including the allocation of responsibilities between entities and the visibility of higher education activity.
97. Finally, some respondents queried whether the proposals could create confusion about regulatory roles, particularly between the OfS and DfE.

Our response

98. We recognise points raised in relation to the potential to create inconsistency across the wider skills sector, but note that the proposals are intentionally targeted where there is a clear and established overlap between OfS regulation and DfE statutory oversight. Consideration of other provider types falls outside the scope of this consultation. We will continue to keep this under review.
99. We note that OfS registration fees are set by the DfE.¹¹
100. We do not consider that the proposals weaken requirements for new entrants. We have explained that appropriate oversight mechanisms are in place for providers where we are removing conditions. We will continue to assess readiness for registration through our registration process. As noted previously, we would expect to engage with the DfE to ensure appropriate consideration of material concerns relating to financial health or governance at registration.
101. We recognise that the expansion of modular and partnership-based provision may increase complexity. However, we consider that a proportionate, risk-based approach, combined with

¹¹ On 26 May 2026 the DfE opened a consultation on proposed changes to the structure of OfS annual registration fees and the introduction of new fee categories [Office for Students' Fee Charging Model - Department for Education - Citizen Space](#).

continued coordination between regulators, will support innovation while maintaining appropriate protections for students.

102. We also recognise that partnership arrangements can be complex. However, the proposals do not change the principle that each registered provider remains responsible for compliance with its regulatory obligations. Where provision is delivered through partnerships, responsibilities remain clear within the existing framework, including under condition E10.
103. We do not agree that the proposals create confusion about regulatory roles. The proposals are intended to reduce overlap and improve clarity by relying on DfE oversight where appropriate, while the OfS retains its role in protecting higher education students. We have published additional information¹² to support understanding of these arrangements and will continue to keep this under review.
104. Overall, we consider that the proposals do not give rise to unintended consequences that outweigh their benefits. They support a more proportionate and targeted regulatory approach, while maintaining appropriate safeguards for students and public funding.

Question 8 – Are there any aspects of these proposals you found unclear? If so, please specify which, and tell us why

105. Most respondents did not identify any aspects of the proposals as unclear. Those who did generally referred to points already raised elsewhere, including the distinction between condition A1 and A2 and the scope of the proposed changes.

Q9 – Do you have any comments about any potential impact these proposals may have on individuals on the basis of their protected characteristics?

106. There were 30 responses to this question. Most did not identify specific adverse impacts. A small number raised concerns that removing the access and participation statement could reduce visibility of equality of opportunity issues for higher education learners with protected characteristics.
107. Some respondents raised related points about partnership provision, LLE expansion and perceptions of college-based higher education.

Our response

108. We do not consider that the proposals weaken expectations in this area for reasons explained previously. The limited scope of the access and participation statement means its removal is unlikely to have a material impact. Reducing duplication may also free up capacity to support delivery and widening participation activity.
109. We recognise the broader considerations around partnerships, LLE expansion and perceptions of college-based higher education. The proposals do not, however, change

¹² See [How we regulate further education colleges - Office for Students](#).

expectations for partnership oversight, nor are they intended to affect the value or standing of higher education delivered in colleges.

110. On balance, we are satisfied that the proposals do not have a negative impact on individuals with protected characteristics and may support more effective delivery by reducing unnecessary regulatory burden.

Annex A: Matters to which we have had regard in making our decisions

1. This annex sets out a summary assessment of some of the matters to which we have had regard in making final decisions to implement the proposals in this consultation.

The OfS's general duties

2. In making our decisions, we have had regard to our general duties as set out in section 2 of the Higher Education and Research Act 2017 (HERA).¹³ These are:
 - (a) The need to protect the institutional autonomy of English higher education providers.
 - (aa) The need to promote the importance of freedom of speech within the law in the provision of higher education by English higher education providers.
 - (ab) The need to protect the academic freedom of academic staff at English higher education providers.
 - (b) The need to promote quality, and greater choice and opportunities for students, in the provision of higher education by English higher education providers.
 - (c) The need to encourage competition between English higher education providers in connection with the provision of higher education where that competition is in the interests of students and employers, while also having regard to the benefits for students and employers resulting from collaboration between such providers.
 - (d) The need to promote value for money in the provision of higher education by English higher education providers.
 - (e) The need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers.
 - (f) The need to use the OfS's resources in an efficient, effective and economic way, and
 - (g) so far as relevant, the principles of best regulatory practice, including the principles that regulatory activities should be—
 - (i) transparent, accountable, proportionate and consistent, and
 - (ii) targeted only at cases in which action is needed.
3. In making our decisions, we have given particular consideration to (aa), (ab) (b), (d), (e), (f) and (g). A summary of our reasoning is set out below.

Freedom of speech and academic freedom

4. In considering the responses to the consultation and making our decision to implement the proposals, we have considered our general duties, including our general duties to have regard to the need to: (aa) promote the importance of freedom of speech within the law in English

¹³ See Higher Education and Research Act 2017 - Section 2.

higher education; and (ab) protect the academic freedom of academic staff at English higher education providers.

5. We have considered the consequences of disapplying ongoing conditions E1 and E2 (the OfS's existing requirements which regulate in relation to freedom of speech and academic freedom) for further education colleges that do not have, and have not applied for, DAPs. In practical terms, this will mean that the OfS will not have, in respect of this category of further education colleges, the regulatory tools of conditions E1 and E2 (by reference to the relevant public interest governance principles), to regulate in relation to freedom of speech and academic freedom. However, as noted, the duties introduced into HERA by the Higher Education (Freedom of Speech) Act 2023 (HEFSA) will continue to apply directly to further education colleges that are registered higher education providers.
6. HEFSA introduced into HERA with effect from 1 August 2025, new statutory duties on the governing bodies of all registered higher education providers in respect of freedom of speech and academic freedom. These statutory duties require registered providers to:
 - a. take steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for them to take in order to secure freedom of speech within the law for their staff, students, members and visiting speakers
 - b. maintain a code of practice setting out, amongst other things, the provider's values relating to freedom of speech and an explanation of how those values uphold freedom of speech.
 - c. Promote the importance of freedom of speech in higher education
7. As noted above, the government has announced that it will commence provisions in the Higher Education (Freedom of Speech) Act 2023 (HEFSA) that place duties on the OfS to operate a complaints scheme and to introduce an ongoing registration condition requiring providers to maintain governance arrangements that secure compliance with the Act. The complaints scheme provisions will come into force on 1 September 2026, while the provisions relating to the new ongoing registration condition will commence on 1 April 2027.
8. In the interim, HEFSA continues to apply to further education colleges in full, and the OfS retains its broader monitoring, information-gathering and enforcement powers. Taken together, these mechanisms provide an appropriate and proportionate means of assurance ahead of, and alongside, the implementation of the new freedom of speech registration conditions required by government.

Quality, choice and opportunities

9. The proposals we have decided to implement seek to ensure that students can choose from a range of providers that are able to deliver high quality higher education:
 - a. **Maintaining quality.** We are not disapplying conditions relating to academic experience, student outcomes or sector-recognised standards. This ensures consistency in our approach to quality and ensures that students studying higher education courses at a further education college continue to receive high quality education regardless of the provider's regulatory pathway.

- b. **Supporting innovation and diversity.** By streamlining registration for further education colleges without DAPs, one of our aims is to reduce barriers for these providers to enter the regulated higher education sector – increasing student choice and access to diverse provision.
 - c. **Protecting students' interests.** The implementation of these proposals ensure that quality and student protection remain central to our regulatory approach by retaining the ability to intervene where risks to students arise, including through a specific condition of registration.
10. Our view is that the proposals would improve the higher education options available to students by making the registration requirements more proportionate for further education colleges.

Value for money

11. Value for money in the provision of higher education is important for students and taxpayers. Students normally pay significant sums for their higher education and incur debt for tuition fees and maintenance costs, and student loans are taxpayer-backed. We think that implementing the proposals will reduce duplication of regulatory burden allowing further education colleges to focus more of their resources on delivering high quality teaching and student support, rather than duplicative compliance activities. This is especially important in a financially constrained environment.

Equality of opportunity

12. Our overall approach to regulation is designed to promote equality of opportunity in connection with access to, and participation in, higher education. This means that we are concerned with ensuring that students from disadvantaged or underrepresented backgrounds can access higher education and succeed on and beyond their courses.
13. Our Equality of Opportunity Risk Register identifies the risk that students may not have equal opportunity to access a sufficiently wide variety of higher education course types.¹⁴ This may result in restricted choice for students with certain characteristics, which may in turn lead to lower rates of progression to higher education, reduced continuation rates, and lower course attainment for these students. We consider that further education colleges, including those located in different regions or offering diverse modes of delivery, can play an important role in expanding the range of higher education options available to students. We think that implementation of our proposals offers a more streamlined registration process that is appropriate and proportionate to regulatory risk for eligible further education colleges seeking OfS registration, helping to increase access to flexible and locally relevant provision across England.
14. We acknowledge that implementing Proposal 1, to disapply initial and ongoing condition A2 for all further education colleges may be perceived as placing less importance on equality of opportunity for students at further education colleges. Our decision is not intended to deprioritise equality of opportunity, rather it is intended to minimise duplication and burden while continuing to protect the interests of students and taxpayers. Our view is that this can be

¹⁴ See Risk 5, [Equality of Opportunity Risk Register - Office for Students](#).

achieved as further education colleges are subject to a similar reporting requirement to the DfE.

Efficient, effective and economic use of the OfS's resources

15. We have considered the need to use our resources in an efficient and effective way by:
- a. Streamlining regulatory processes to reduce additional burden for the relevant further education colleges and the OfS.
 - b. Focusing OfS resource on higher-risk areas enabling us to allocate our resources where risks to students or public funds are highest.
 - c. Aligning with strategic priorities that support the OfS 2025-2030 strategy, particularly the priority of sector resilience. This ensures that regulation is proportionate and risk based.¹⁵
16. The decision to implement the proposals reflects our commitment to minimise unnecessary regulatory burden, maintain high standards and accountability, promote equality and access, and use public resources wisely.

The principles of best regulatory practice

17. We have considered the principles of best regulatory practice, in particular of proportionality. Our decision to adopt the proposals as consulted on seeks to ensure that the conditions of registration applied to further education colleges without DAPs are proportionate, while ensuring that we can protect the interests of students and taxpayers.
18. We have also considered the principle that regulatory activities should be consistent. We acknowledge that there is a risk that disapplying certain initial and ongoing conditions of registration for further education colleges without DAPs may create a perception of inconsistency of regulation across different types of registered providers and between further education colleges that do and do not have DAPs. Our view is that any inconsistency is outweighed by the benefits of implementing the proposals and will ensure we can act consistently in applying proportionate and risk-based conditions to different types of providers. Further education colleges will continue to need to comply with DfE regulation, which supports consistency. We also consider that this risk will be mitigated by ensuring published documents and guidance are amended to reflect the changes to the regulation of further education colleges. While this does not increase consistency, it will ensure that the conditions that apply to different types of providers are clear and are clearly communicated.

The public sector equality duty

19. We have had due regard to the public sector equality duty set out in section 149 of the Equality Act 2010.¹⁶ This requires the OfS to have due regard to the need to eliminate unlawful discrimination, foster good relations between groups and advance equality of opportunity

¹⁵ See [The OfS strategy 2025 to 2030 - Office for Students](#).

¹⁶ See [Equality Act 2010 - Section 149](#).

between persons who share a relevant protected characteristic and persons who do not share it.

20. The consultation provided insight from respondents which we have considered carefully, particularly the views on any unintended consequences of our proposals, for example for particular types of providers or groups of students, or for individuals on the basis of their protected characteristics. Responses to the consultation have informed our assessment of the impact of the changes on different groups. Respondents did not identify any impact on individuals with any particular protected characteristic, rather they commented more generally on equality of opportunity.
21. We consider that our decision to adopt the proposals may impact current and prospective students of unregistered providers that may in future seek to register with the OfS. In general, we have sought to design our regulatory requirements to have a positive impact on all students, including students with protected characteristics. We consider that streamlining the registration requirements for further education colleges not seeking DAPs may increase the range of positive higher education choices for students by supporting timely access to LLE funding.
22. This may have positive impacts for some groups of students with certain characteristics because we know that at a national level these students may not have equal opportunity to access a sufficiently wide variety of higher education course types. They may also be less likely to succeed on courses where the course type or delivery style is not suited to their situation.¹⁷

Guidance issued by the Secretary of State

23. We have had regard to guidance issued to the OfS by the Secretary of State under section 2(3) of HERA,¹⁸ including the following guidance:
 - a. Guidance to the OfS from the Secretary of State for Education on the allocation of Strategic Priorities Grant capital funding for the 2025-26 (issued May 2025).
 - b. Guidance to the OfS on the Higher Education Strategic Priorities Grant for the 2023-24 Financial Year (issued March 2023).
 - c. Statutory guidance to the OfS on freedom of speech commencement (issued June 2025).¹⁹
24. The guidance issued by the Secretary of State to the OfS in May 2025 sets out that ‘our commitment that opportunity is available for all remains unwavering, and we will achieve this by addressing gaps in access and outcomes faced by underrepresented groups’. The consultation set out the proposal to disapply condition A2 (access and participation statement) for all further education colleges because as a prerequisite of receiving public funding, further education colleges must set objectives on how they will meet the local needs duty. This ensures that gaps

¹⁷ See [Risk 5: Limited choice of course type and delivery mode](#).

¹⁸ See [Higher Education and Research Act 2017 - Section 2](#).

¹⁹ All statutory guidance cited is available at [Guidance from government](#).

in access and outcomes continue to be addressed through existing, evidence-based mechanisms, rather than duplicative reporting.

25. The same guidance sets out that 'we will need an even more determined focus on high-impact, evidence-based interventions, as well as innovative approaches to make higher education more accessible'. Implementing the proposals as consulted on supports innovative approaches to regulation by streamlining the registration requirements for further education colleges not seeking DAPs, many of which serve non-traditional and local learners. This approach also supports high-impact, evidence-based regulation by focusing OfS resources where they are most needed, while avoiding unnecessary duplication.
26. We have had regard to the statutory guidance issued by the Secretary of State in June 2025 concerning the commencement of freedom of speech provisions. This guidance emphasises the importance of upholding freedom of speech and academic freedom within higher education. It also makes clear that protections for academic freedom should not be removed or weakened, before the new freedom of speech condition of registration is in force and able to provide robust and effective protection.
27. As explained above, the statutory duties relating to freedom of speech and academic freedom introduced by the Higher Education (Freedom of Speech) Act 2023 (HEFSA) apply to further education colleges, regardless of whether they hold DAPs. These duties place specific obligations on providers in relation to freedom of speech and academic freedom.
28. We have also had regard to the government's announcement that further provisions of HEFSA will be commenced which will require the OfS to operate a complaints scheme and introduce a new initial and ongoing condition of registration relating to providers' governance arrangements and compliance with the Act. The complaints scheme provisions will commence from 1 September 2026, and the new conditions of registration will commence from 1 April 2027.
29. In reaching our decision, we have taken into account the importance of ensuring that protections relating to freedom of speech and academic freedom are not weakened before the new regulatory framework is fully in force and capable of providing robust and effective protection. We have also taken into account that, in the interim, HEFSA continues to apply in full to further education colleges and that the OfS retains its broader monitoring, information-gathering and enforcement powers. Taken together, these mechanisms provide an appropriate and proportionate framework for assurance ahead of, and alongside, the implementation of the new freedom of speech registration conditions mandated by government.
30. If the OfS has concerns about a provider's management and/or governance arrangements, the OfS is able to impose a specific ongoing condition of registration under section 6 of HERA.

The Regulators' Code

31. We have had regard to the Regulators' Code.²⁰ Section 1 of the code is particularly relevant and sets out that regulators should carry out their activities in a way that supports compliance and growth. Paragraph 1.1 states that 'regulators should avoid imposing unnecessary regulatory burdens...and assess whether similar outcomes could be achieved by less

²⁰ See [Regulators' Code - GOV.UK](#).

burdensome means.’ The decision to implement the proposals as consulted on reduces duplication and supports these providers to comply more easily, while still protecting students and public funds.

32. Paragraph 2.1 sets out that ‘regulators should have mechanisms in place to consult those they regulate...’ This decision to implement these changes has been made following formal consultation with stakeholders to gather views on proposed changes. It included clear instructions for submitting responses and acknowledged sector feedback from previous engagement.
33. Paragraph 3.1 sets out that ‘regulators should ensure that the allocation of their regulatory efforts is proportionate to the risk presented...’ The proposals that have been adopted are explicitly risk-based, targeting regulatory effort where OfS oversight adds the most value. As explained previously, further education colleges without DAPs are considered lower risk due to existing DfE regulation and the absence of risks associating with operating independently with DAPs, and the OfS retains powers to intervene where risks arise.

Growth duty

34. We have considered the Growth Duty, set out in Section 108 of the Deregulation Act 2015 (DA) and the associated guidance, Growth Duty: Statutory Guidance Refresh (Guidance). The Growth Duty requires the OfS to have regard to the desirability of promoting economic growth, including the importance of exercising regulatory functions in a way that ensures that regulatory action is taken only when necessary and that any action taken is proportionate.
35. The recommended changes to disapply certain conditions of registration for further education colleges are intended to ensure a more proportionate regulatory approach, reducing unnecessary burden and streamlining the registration process for eligible providers. This is expected to free up capacity, encourage greater diversity of provision, and potentially support more providers to register with the OfS. In turn, this may increase the availability of high quality higher education pathways that better align with skills needs, thereby supporting economic growth.



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