

# Annex D: Proposed OfS list of information requirements and prohibited behaviours

## Section 1: OfS information requirements list

Section 1 of this document is the OfS information requirements list for the purposes of ongoing condition C6. This forms part of (and should be read in conjunction with) ongoing condition of registration C6, which states:

C6.3 The provider must treat each **student** fairly in relation to any activities that are connected with the provision of higher education and/or **ancillary services**.

C6.4 Treating each **student** fairly for the purposes of C6.3 includes but is not limited to:

...

e. meeting all of the requirements of the **OfS information requirements list**.

C6.8 sets out the definitions for terms used in the condition. For ease of reference, we have extracted below definitions in C6.8 for terms used in the OfS information requirements list.

“**ancillary services**” means services provided by, or on behalf of, the provider as part of the higher education experience, including but not limited to library services, disability support packages, scholarships, accommodation and sports facilities (C6.8b)

“**former student**” means a person who was a student of the provider in the past, irrespective of the reason for that person no longer being a student of that provider, where there still exists a current relationship based on the former student having been a student of the provider (for example, where a former student has an ongoing complaint against the provider in relation to issues that occurred while they were a student) (C6.8d)

“**key documents**” means the provider’s terms and conditions, other documents with contractual effect, notices, policies relating to the circumstances in which it may make changes to its courses, refund and compensation policies, and complaints processes (C6.8g)

“**information about the provider**” means any arrangements made by, or on behalf of, the provider to attract individuals to study at the provider, encourage individuals to submit applications to study at the provider, or to otherwise communicate with **students** or anyone with an interest in studying at the provider (including, but not limited to, advertising and marketing material, and actual information that may be published on its website) (C6.1d and C6.8f)

“**prospective student**” means, in respect of a student, that a person has already received any form of offer for or on behalf of the provider to commence a course of study, including research courses, at the provider, irrespective of whether that offer is legally binding or is subject to conditions or formalities (C6.8k)

**“student”** includes current students of the provider, **prospective students**, and **former students** (C6.8m)

PB.1 For the purposes of ongoing condition C6.4e, the following information requirements apply:

## Clarity and accuracy of information

- a. the provider must comply with the following requirements relating to the clarity and accuracy of information:
  - i. ensuring that information provided to **students** related to higher education and **ancillary services** is clear, accurate, intelligible, legible and unambiguous. This includes ensuring that:
    - A the overall presentation of information is likely to ensure that **students** have an accurate understanding of any matter related to the provision of higher education or **ancillary services**;
    - B even if information is true, it is not presented in a misleading way;
    - C information is substantively consistent within and between the provider’s own documents and those published or otherwise made available to **students** (or anyone with an interest in studying at the provider) by another body providing higher education or **ancillary services** on behalf of the provider;
  - ii. ensuring that marketing of the provider does not create confusion, or is not likely to create confusion, with the higher education provision of another provider and any trade mark, trade name or other distinguishing mark of another provider;
  - iii. ensuring that the provider acts in accordance with a requirement in a code of conduct, in circumstances where: the provider asserts that it acts in accordance with the code of conduct; the code does not afford the provider any discretion in relation to the requirement; and compliance with the requirement is capable of being verified;
  - iv. ensuring that it is expressly clear how **key documents** and **information about the provider** apply to different periods of time and different categories of **students** (for example, **students** that commenced a course of study on a particular date).  
“Expressly clear” means explicitly stated and unambiguous rather than by omission or implication.

## Provision of information

### Information to be provided in an invitation to purchase

- b. the provider must ensure that **material information** is provided to **students** (or anyone with an interest in studying at the provider) whenever an **invitation to purchase** is made. An **“invitation to purchase”** occurs where information is provided to **students** (or anyone with an interest in studying at the provider) which indicates the characteristics and price of higher education or **ancillary services** and enables, or purports to enable, those individuals to make a decision in relation to higher education or **ancillary services**. **“Material information”** for these purposes includes:

- i. the main characteristics of the higher education or **ancillary services** to be provided. In relation to the provision of higher education this includes but is not limited to the following course information:
  - A course title;
  - B entry requirements and/or criteria;
  - C core modules and an indication of likely optional modules;
  - D information about course composition and delivery and the balance between different elements of the course, including but not limited to:
    - 1 the number and type of contact hours;
    - 2 work placements (where relevant);
    - 3 feedback on assignments;
    - 4 expected workload including time for self-study;
    - 5 details about experience and status of staff involved in course delivery;
  - E methods of assessment;
  - F the award to be received on successful completion of the course and, where relevant, the awarding body or institution;
  - G location, or possible location, of study and any work placements;
  - H whether the course and provider are regulated and by whom;
  - I whether the course is accredited, and by whom;
  - J any particular terms and conditions applicable to the course that are important or that the student may find surprising;
- ii. the total price of the higher education or **ancillary services** to be provided, including but not limited to:
  - A tuition fees and any other fees, taxes, charges or payments that the **student** (or anyone with an interest in studying at the provider) will necessarily incur if they purchase the higher education or **ancillary services**, including but not limited to information about:
    - 1 whether fees in future years will increase and by how much;
    - 2 whether increases will apply to only a certain group or a particular course;
    - 3 when and how fees are payable;
    - 4 when the **student** will become liable for payment;

- B if, owing to the nature of the higher education or **ancillary services** to be provided, the whole or any part of the total price cannot reasonably be calculated in advance, how the price (or that part of it) will be calculated, such that it enables the **student** (or anyone with an interest in studying at the provider) to calculate the total price. This information should be given as much prominence as any fees that can be calculated in advance;
- C any additional charges not included in the total price of the provision of higher education or **ancillary services** which the **student** (or anyone with an interest in studying at the provider) may choose to incur (or where those additional charges cannot reasonably be calculated in advance, the fact that they may be payable), including but not limited to information about:
- 1 how much these costs are or are likely to be;
  - 2 if costs are unknown or uncertain, how they will be calculated;
  - 3 whether these costs are optional or mandatory for undertaking or passing the course;
  - 4 whether any of those extra costs are likely to have a direct impact on **students'** academic success;
  - 5 when and how these costs are payable;
  - 6 when the **student** will become liable for payment;
- iii. the identity of the provider, any other provider on whose behalf the provider is acting and any provider or other party acting on behalf of the provider (including the name of the provider or other party and, if different, the name under which it trades);
- iv. the following address information:
- A the provider's **business address**, where "**business address**" means:
- 1 where the provider is a body corporate, the address of its registered or principal office,
  - 2 where the provider is a firm that is not a body corporate, the address of the principal office of the firm; or
  - 3 in a case where neither of the above applies, the address of the provider's principal place of business;
- B if different to the provider's business address, the address at which the provider will accept service of documents (the "**service address**")
- C the address of any location where the **student** will be taught;
- D any email address used by the provider for conducting business (the "**business email address**");

- v. in relation to any other person on whose behalf the provider is acting or who is acting on behalf of the provider:
  - A the person's **business address** and **business email address** (if the person has such addresses), and
  - B if different to the person's business address, the person's **service address**;
- vi. where **students** have the right of withdrawal or cancellation, the existence of that right;
- vii. where any arrangements for payment, delivery, performance or complaint handling depart from the published practice in relation to those arrangements, the practice currently being operated;
- viii. any other information the provider is required under any legislation to give to a **student** (or anyone with an interest in studying at the provider) as part of an **invitation to purchase**, including under section 230 of the Digital Markets, Competition and Consumers Act 2024;

### **Information necessary to make informed decisions**

- c. the provider must ensure that **students** (or anyone with an interest in studying at the provider) are provided with:
  - i. information necessary to make informed decisions related to higher education and **ancillary services**, in a manner which is clear, timely and such that students are likely to see it;
  - ii. information which the provider is required under consumer protection law to give to a **student** (or anyone with an interest in studying at the provider) in the manner and form required. Consumer protection law is to be interpreted broadly and includes, but is not limited to, the following legislation (as may be amended from time to time):
    - A Consumer Rights Act 2015;
    - B The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013;
    - C The Provision of Services Regulations 2009;
    - D The Consumer Protection from Unfair Trading Regulations 2008;
    - E Digital Markets, Competition and Consumers Act 2024;
    - F Protection from Harassment Act 1997.

## Section 2: OfS prohibited behaviours list

Section 2 of this document (OfS prohibited behaviours list) forms part of (and should be read in conjunction with) initial condition of registration C5 which states:

C5.3 The provider must, if registered, treat each **student** fairly in relation to any activities that are connected with the provision of higher education and/or **ancillary services**.

C5.4 The provider will be deemed not to satisfy C5.3 if, in the reasonable opinion of the OfS, its actions or omissions (including proposed or likely actions or omissions) fall within one or more of the following categories:

- a. they fall within one or more of the descriptions provided for in the **OfS prohibited behaviours list**; or
- b. they give rise to a likelihood of detriment or actual detriment to the **student** (unless the OfS considers that the detriment would be reasonable in all the relevant circumstances).

Section 2 of this document (OfS prohibited behaviours list) also forms part of (and should be read in conjunction with) ongoing condition of registration C6 to the extent referred to in that condition:

C6.3 The provider must treat each **student** fairly in relation to any activities that are connected with the provision of higher education and/or **ancillary services**.

...

C6.5 Failing to treat each **student** fairly for the purposes of C6.3 includes, but is not limited to, where, in the reasonable opinion of the OfS:

- a. the provider's actions or omissions (or those of another party acting on the provider's behalf) fall within one or more of the following descriptions provided for in the **OfS prohibited behaviours list**:
  - i. PB.2a (Key documents);
  - ii. PB.2b (Descriptions relating to conduct and omissions);
  - iii. PB.2c (The provider's policies relating to the circumstances in which it may make changes to its courses);
  - iv. PB.2d (The provider's complaints processes);
  - v. PB.2e (The provider's refund and compensation policies);
  - vi. PB.2f (Fake reviews)

...

C5.8 and C6.8 set out the definitions for terms used in those conditions. For ease of reference, we have extracted below definitions in C5.8 and C6.8 for terms used in the OfS prohibited behaviours list.

C5.8 and C6.8 contain different definitions for the term “ancillary services”. For the avoidance of doubt, the definition in C5.8a should be used when applying the OfS prohibited behaviours list for the purposes of initial condition of registration C5, and the definition in C6.8b should be used when applying the OfS prohibited behaviours list for the purposes of ongoing condition of registration C6.

For the purposes of C5.4a the following terms apply:

“**ancillary services**” means services for which there is a contract between a student and the provider as part of the higher education experience, including but not limited to contracts governing the provision of library services, disability support packages, scholarships, accommodation and sports facilities (C5.8a);

“**former student**” means a person who was a student of the provider in the past, irrespective of the reason for that person no longer being a student of that provider, where there still exists a current relationship based on the former student having been a student of the provider (for example, where a former student has an ongoing complaint against the provider in relation to issues that occurred while they were a student) (C5.8e);

“**information about the provider**” means any arrangements the provider has made or plans to make to attract individuals to study at the provider, encourage individuals to submit applications to study at the provider, or to otherwise communicate with students or anyone with an interest in studying at the provider (including, but not limited to, advertising and marketing material, and actual or proposed information that may be published on its website) (C5.1e and C5.8f);

“**key documents**” means the provider’s terms and conditions, other documents with contractual effect, notices, policies relating to the circumstances in which it may make changes to its courses, refund and compensation policies, and complaints processes (C5.8g);

“**prospective student**” means, in respect of a student, that a person has already received any form of offer for or on behalf of the provider to commence a course of study, including research courses, at the provider, irrespective of whether that offer is legally binding or is subject to conditions or formalities (C5.8i);

“**student**” includes current students of the provider, **prospective students**, and **former students** (C5.8j)

For the purposes of C6.5a the following terms apply:

“**ancillary services**” means services provided by, or on behalf of, the provider as part of the higher education experience, including but not limited to library services, disability support packages, scholarships, accommodation and sports facilities (C6.8b)

“**former student**” means a person who was a student of the provider in the past, irrespective of the reason for that person no longer being a student of that provider, where there still exists a current relationship based on the former student having been a student of the provider (for example, where a former student has an ongoing complaint against the provider in relation to issues that occurred while they were a student) (C6.8d)

**“key documents”** means the provider’s terms and conditions, other documents with contractual effect, notices, policies relating to the circumstances in which it may make changes to its courses, refund and compensation policies, and complaints processes (C6.8g)

**“prospective student”** means, in respect of a student, that a person has already received any form of offer for or on behalf of the provider to commence a course of study, including research courses, at the provider, irrespective of whether that offer is legally binding or is subject to conditions or formalities (C6.8k)

**“student”** includes current students of the provider, **prospective students**, and **former students** (C6.8m)

PB.2 For the purposes of initial condition C5.4a and ongoing condition C6.5a, the following descriptions apply:

## Key documents

- a. **Key documents** that contain provisions which have the purpose or effect of:
  - i. excluding or limiting the legal rights of the **student** in the event of the provider’s total or partial non-performance (or inadequate performance) of any of its contractual obligations. This includes the **student’s** right to offset money they owe to the provider against any claim;
  - ii. allowing the provider to exercise wide discretion to withdraw offers, including in the case of over-subscription;
  - iii. creating a disparity between the rights of the provider and the rights of the **student** by allowing the provider to retain money already paid by the **student** where the **student** decides not to sign the contract or withdraws from the contract after signing it, without also allowing for equivalent compensation to be paid to the **student** as where the provider cancels the contract;
  - iv. requiring a **student** to pay a disproportionately high sum of money as penalty to the provider or for services which have not yet been supplied, where the **student** decides not to sign the contract or withdraws from the contract after signing it;
  - v. requiring a **student** to pay a disproportionately high sum of money as a penalty to the provider where the **student** fails to fulfil any of their obligations under the contract;
  - vi. allowing the provider to terminate the contract on a discretionary basis;
  - vii. allowing the provider to retain money paid by the **student** for services not yet supplied, where the provider cancels the contract;
  - viii. automatically extending a fixed-term contract where the **student** does not indicate otherwise, when the deadline for the **student** to express a desire not to extend is unreasonably early;

ix. binding a **student** to terms with which they have not had a real opportunity to familiarise themselves before signing the contract. For example, a **student** must have access to all relevant terms and conditions and be made aware of their right to any applicable cooling off period required by law;

x. allowing the provider to unilaterally:

- A. alter the terms of the contract;
- B. define the characteristics of the services to be provided; or
- C. alter the characteristics of the services to be provided;

after the **student** has signed the contract, and without valid reason which is specified in the contract;

xi. allowing the provider to decide the price payable after the **student** has signed the contract (where no price or method of determining the price has previously been agreed);

xii. allowing a provider to increase the price payable without giving the **student** the right to cancel the contract;

xiii. allowing the provider to determine whether the services supplied conform with the contract;

xiv. allowing the provider the exclusive right to interpret any term of the contract;

xv. limiting the provider's obligation to respect commitments undertaken by any agents working on its behalf;

xvi. obliging the **student** to fulfil all their obligations where the provider does not perform its own obligations;

xvii. allowing the provider to transfer its rights and obligations to another provider or organisation, where this may reduce the guarantees for the **student**, without the **student's** agreement; or

xviii. excluding or hindering the **student's** right to take legal action or exercise any other legal remedy, in particular by:

- A requiring the **student** to take disputes exclusively to arbitration not covered by legal provisions;
- B unduly restricting the evidence available to the **student**; or
- C imposing on the **student** a burden of proof which, according to the applicable law, should lie with another party to the contract;

## Descriptions relating to conduct and omissions

- b. Actions or omissions (including, for the purpose of initial condition C5, those that are proposed or likely) that provide evidence of any of the following behaviours:
- i. displaying or otherwise presenting inaccurate or false information, including:
    - A claiming that the provider is registered with the OfS when it is not;
    - B claiming that the provider is a 'university', or otherwise using the term 'university' (including 'university centre', 'university campus' or similar), without permission to use this term;
    - C claiming to offer 'degrees' when the provider has neither its own degree awarding powers nor a contract for degrees to be awarded by a provider with degree awarding powers;
    - D claiming that the provider (including any of its courses or other services or activities) is validated, accredited, approved, endorsed or authorised by any other body when it is not (or making such a claim without complying with the terms of the validation accreditation, approval, endorsement or authorisation);
    - E displaying a logo, trust mark, quality mark or equivalent without having obtained the necessary authorisation from the relevant body;
    - F claiming with certainty that the provider will, in the future, be:
      - 1 registered with the OfS;
      - 2 able to use the term 'university';
      - 3 able to offer degrees;
      - 4 validated, accredited, approved, endorsed or authorised by any other body;
      - 5 otherwise displaying or presenting information which pre-empts or appears to pre-empt any decision of the OfS or any other body; or
    - G claiming that the provider is a signatory to a code of conduct when it is not (or that a code of conduct has an endorsement from a public or other body which it does not have).
  - ii. advertising, promoting or otherwise offering courses, course content, material components, features or elements of a course, other services or facilities, without disclosing the existence of any reasonable grounds the provider may have for believing it may be unable to provide these; or with the intention of not delivering what has been advertised, promoted or offered; or with the intention of delivering an alternative;
  - iii. applying pressure to elicit an immediate decision and deprive **students** of sufficient opportunity or time to make an informed choice. This includes falsely stating that an offer for services will only be available for a very limited time, or that it will only be available for particular terms for a very limited time;

- iv. communicating (or allowing an agent working on the provider's behalf to communicate) with a **student** (or anyone with an interest in studying at the provider) in a language which is not English without clearly disclosing to them that the provision of services will be conducted in English, where this is the case;
- v. presenting as a distinctive feature of the provider's offering, rights which a **student** would automatically have, in any case, in law;
- vi. using editorial content in the media (including social media) to promote the provider's services where the provider has paid for the promotion without making this clear to the **student** (or anyone with an interest in studying at the provider) (through the content itself or by images or sounds which are clearly identifiable) (advertorial);
- vii. displaying or otherwise presenting information about the provider or its activities which is likely to have the effect of misleading a **student** (or anyone with an interest in studying at the provider) into believing something about the provider or its activities which is inaccurate or untrue;
- viii. publishing or otherwise sharing materially false or inaccurate information about market conditions (or about other specific providers) with the intention of inducing the **student** to sign a contract with the provider;
- ix. offering a prize, reward or other promotional benefit without awarding the prizes, rewards or benefits described (or a reasonable equivalent), or where the **student** is required to pay money or incur a cost to receive the prize, reward or other benefit (unless otherwise clearly explained);
- x. describing a service as 'gratis', 'free', 'without charge' or similar if the **student** has to pay any associated costs that have not otherwise been explained (including the repayment of student loans at a later date); or
- xi. making persistent and unwanted contact with **students** (or anyone with an interest in studying at the provider) by telephone, email, social media, or other means. For the avoidance of doubt, this provision is not intended to deter or discourage genuine contact with **students** where this is necessary, for example, for welfare checks where they have a prolonged period of absence;

### **The provider's policies relating to the circumstances in which it may make changes to its courses.**

- c. The provider's policies:
  - i. for the purposes of initial condition of registration C5, do not provide information about circumstances in which it may make changes to all of the following:
    - A courses (including changes to material components or content of a course, changes to subjects offered and course closure);
    - B qualifications to be awarded (including circumstances where a validating partner has withdrawn validation);

- C mode of study (including full-time, part-time, online and hybrid provision, and including measures to address the needs of specific **student** groups, including accessibility needs);
  - D teaching location and facilities (including closure of a campus, building or other facilities and including measures to address the needs of specific **student** groups, including accessibility needs);
  - E course fees and other related fees or charges (for example, additional fees to resit exams); or
- ii. for the purposes of ongoing condition of registration C6, do not include provision for the protection of students in the event that the provider has to make any **relevant changes** (as defined in C6.8I);
  - iii. for the purposes of initial condition of registration C5 and ongoing condition of registration C6, do not contain provisions that would ensure all **students** are treated fairly in practice if any of the changes to courses set out in i. above take place.

## The provider's complaints processes

- d. The provider's complaints processes:
  - i. contain unreasonable barriers to making a complaint (including unreasonable time limits within which a complaint may be made);
  - ii. do not include information about how a **student** should make a complaint (including where this involves contacting another provider or organisation as may be the case in some types of academic partnership);
  - iii. do not set out clear and reasonable timescales for processing the complaint (including clear and reasonable timescales for **students** to respond to requests for further information);
  - iv. do not provide a route for escalation and appeal where the **student** is dissatisfied with the outcome of the complaint, or the way in which the complaint is being (or has been) handled; or
  - v. do not make **students** aware of their ability to use the complaints scheme run by the Office of the Independent Adjudicator of Higher Education (OIA) where this is applicable to the **students** covered by the provider's complaints process. A provider should refer to information published by the OIA that explains who can use its complaints scheme;

## The provider's refund and compensation policies

- e. The provider's refund and compensation policies:
  - i. are not clear about the circumstances in which a **student** would be entitled to a refund;

- ii. are not clear about the circumstances in which a **student** would be entitled to compensation;
- iii. do not clearly set out the provider's approach to calculating refunds; or
- iv. do not clearly set out the provider's approach to calculating compensation;

## Fake reviews

- f. The provider (or another entity working on its behalf, for example a recruitment agent):
  - i. publishes a fake review for the provision of higher education and/or **ancillary services** (as defined in C5.8a for the purposes of condition C5, and C6.8b for the purposes of condition C6). A review will be considered fake if:
    - A it falsely claims to be based on a person's genuine experience;
    - B the provider conceals that the reviewer received a financial or other incentive, inducement or reward in return for their review;
  - ii. publishes reviews in a misleading way, including failing to publish negative reviews, removing negative reviews from publication, giving greater prominence to positive reviews; or
  - iii. does not take reasonable and proportionate steps to:
    - A prevent the publication of fake reviews; or
    - B remove from publication any fake reviews;

PB.3 For the purposes of initial condition C5.4a only, the following additional descriptions apply:

## Clarity and legibility of key documents and other information about the provider

- a. Any of the provider's **key documents** and other **information about the provider**:
  - i. are not legible (clear enough to read);
  - ii. are not drafted in clear and understandable language;
  - iii. contain substantive inconsistencies, including inconsistencies within or between the provider's own documents, and between the provider's documents and those published or otherwise made available to **students** (or anyone with an interest in studying at the provider) by another body with which the provider has a contract for the provision of higher education or **ancillary services**;
  - iv. are otherwise confusing or unclear; or
  - v. are not expressly clear how they apply to different periods of time and different categories of **students** (for example, **students** that commenced a course of study on a particular date). "Expressly clear" means explicitly stated and unambiguous rather than by omission or implication.

