



Department for Business, Innovation & Skills

## Applying Student Number Controls to Alternative Providers with Designated Courses. Response form

There is no obligation to use this form when responding, but doing so will make your responses easier to analyse. There is no obligation to answer all questions. We look further to receiving your feedback.

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is **23 January 2013**

Please return completed forms to:

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## Question 1

Name of organisation (or name of person if the response is a personal response and is not submitted on behalf of an organisation)?

What type of organisation is it? (e.g. Alternative Provider, HEI, FEC, Regulatory Body etc.)

Universities UK

Universities UK is the representative organisation for the UK's universities. Founded in 1918, its mission is to be the definitive voice for all universities in the UK, providing high quality leadership and support to its members to promote a successful and diverse higher education sector. With 134 members and offices in London, Cardiff and Edinburgh, it promotes the strength and success of UK universities nationally and internationally.

## Question 2

Do you have a preference for Method 1 (control based on eligible students) or Method 2 (control based on students accessing funding)? If so, why is this?

In response to reforms outlined in the Higher Education White paper 'Students at the heart of the system', Universities UK raised concerns regarding the expansion of providers of higher education that were not subject to the same financial accountability, student number controls and sector agency requirements as institutions in receipt of Higher Education Funding Council for England (HEFCE) grants.

Our primary concerns relate to:

- The uncontrolled expansion of provision at alternative providers that draw on public funding in the form of subsidised loans and grants. This has the potential to impact on the sustainability of overall funding to the higher education sector, as supported by figures given in the consultation document which show that financial support for students at alternative providers has increased by 370% since 2006.
- The method by which student number control limits for alternative providers, including any methods for encouraging growth, may be set. We strongly feel that this should not involve any reductions to existing student numbers at HEFCE funded institutions.
- Transparency of public information to inform student interests. In addition to requirements of the new designation system, we strongly believe that in a system where funding is driven by student choice, provision of data to the Higher Education Statistics Agency (HESA) should also be a requirement.
- Protection of the student interest. We welcome plans set out in the consultation document to increase quality assurance and financial regulation of designated courses at alternative providers.

As noted in our response to the BIS technical consultation, we welcome the move towards a level regulatory framework for all providers of higher education and fully support the overarching principle of controlling student numbers on designated courses at alternative providers.

We note however, that the proposals in the consultation document refer to a separate regulatory system rather than one system providing a 'level playing field' across all providers of higher education.

We strongly believe that the developing regulatory and funding framework should uphold and promote the high quality, world class status and reputation of UK higher education and protect the student and broader public

interest, while providing a common system for the funding and regulation of all providers of higher education.

In light of concerns regarding the equitable treatment of all providers of higher education, we feel that method 1 is the most appropriate for ensuring parity in the control of student numbers between alternative providers and HEFCE funded institutions.

The proposals outlined in method 2, for a student number controls system based on the number of students claiming support, were rejected for HEFCE funded institutions as part of the HEFCE review of student number controls and teaching funding for 2013-14 and beyond. The majority of respondents supported the continuation of current entrant based controls for eligible students, over the transitional period where two funding systems are in operation. This may be reassessed once the funding system reaches steady state in 2015-16 and old regime students have progressed through the system.

Applying method 2 to alternative providers at this stage therefore, would introduce two different methods for counting students and could result in unintended consequences in relation to institutional and student behaviour.

We note the potential difficulty in implementing method 1 in time for academic year 2013-14, due to the increased data requirements for determining eligible students on designated courses. We support the suggestion that a one-off survey be used for academic year 2013-14, with full implementation in 2014-15.

As the consultation document recognises, student number controls play an important role in maintaining control of public finances and minimising the risk of unsustainable growth. Outcomes of the 2012-13 recruitment cycle, however, demonstrated that for the HEFCE-funded sector, student number controls can also influence institutional and student behaviour. Along with other requirements such as provision of public information, this plays an important role in shaping the higher education market.

We note that there are a number of important questions which the consultation does not address. For instance, the government will need to consider the following issues:

- **Growth of provision.** We note the government's aim, as outlined in the White paper, to encourage growth in the diversity of providers of higher education

We strongly believe that any growth of designated courses at alternative providers should be based on student choice. This should be delivered through a combination of the new designation process and competition through the student number control system, rather than the artificial transfer of numbers through reductions to existing student numbers at HEFCE-funded institutions.

- **Liberalisation of high achieving student places.** We note that proposals in the consultation document do not specify whether the ABB+ policy would be implemented across all alternative providers or if it would be optional, depending on the return of data to HESA.

We feel that implementation of this policy at alternative providers would require a better understanding of the impact of liberalisation in 2012-13 and more detailed information of student profiles at alternative providers than is currently the case.

- **Setting of student number control limits.** Neither method indicates how student number control limits will be set and whether these will be based on historical numbers or will allow for some level of growth.
- **Control of student support costs.** The primary role of student number controls is maintaining control of public finances and minimising the risk of unsustainable growth. Figures presented in the consultation report suggest that in addition to the increase in student numbers, the amount of financial support per student at alternative providers has also increased considerably (from £5,823 per student in 2006 to £8,194 per student in 2011).

We note that the SLC currently conducts a biennial review of designated courses to ensure that relevant course information is still in order (i.e. length and intensity of study and that it is still validated). It is not

clear, however, whether significant changes in any of these would have the potential to impact on student number controls as is the case with HEFCE-funded institutions. In addition to regulating entrants HEFCE also monitors the profile of provision including the length of courses, and any changes in average fees for those institutions who obtain places through the margin.

- **Other roles of student number controls.** Student number controls at HEFCE-funded institutions also play a role in protecting provision in strategically important and vulnerable subjects. The proposals do not indicate whether this will also be considered when applying student number controls to alternative providers.

### Question 3

What is your view on submission of data to HESA? Do you think designated courses at alternative providers should participate in the Key Information Set and therefore complete the National Student Survey and Destination of Leavers in Higher Education survey (if student numbers are large enough to permit this)?

We strongly believe that designated courses at alternative providers should be required to participate in the Key Information Set as is the case for courses at HEFCE-funded institutions.

The reforms to funding of teaching encourage a more dynamic system that is responsive to students' needs. We believe that allowing alternative providers the ability to opt out of the provision of comparable information for students will impact on the development of a more responsive system where students drive change. As mentioned in our response to question 2, this will also have implications on competition across providers of higher education, particularly over a period where the government is increasing flexibility around student number controls.

The tiered nature for production of the KIS should address some of the concerns regarding burden for alternative providers with small numbers of students on designated courses.

However where alternative providers have designated courses that are comparable in size to those at HEFCE-funded higher education institutions, there should be a requirement for the production of a full KIS, including submission of data to the National Student Survey and the Destinations of Leavers from Higher Education Institutions survey.

In addition to provision of data for Key Information Sets we also feel that there are a number of areas where information on provision at alternative providers will be needed:

- Information on the profile of student populations at alternative providers will be critical in assessing the impact of the government's reforms. This could include identifying where interventions may be needed to ensure the government's strategic aims, such as widening access to higher education and encouraging successful participation, are met.

From 2014-15 onwards further data, such as entry qualifications of students on designated courses and a HESES return to HEFCE, would be required, for example to allow removal of high achieving students from controls or introducing flexibility linked to demand.

### Question 4

Are there any other methods for controlling student numbers on designated courses at alternative providers that you would recommend instead of Method 1 or Method 2?

As noted in our response to question 1 there are a number of areas where further clarification is required regarding the implementation of student number controls at alternative providers and their comparability to those in place at HEFCE funded institutions.

We recognise however that even if these are addressed, the proposals outlined in the consultation will still lead to differences between funding and regulation of alternative providers and those institutions that are in receipt of funding from the Higher Education Funding Council for England (HEFCE). These include:

- Potential for growth. Alternative providers will still be free to recruit as many students as they wish on undesignated courses, even if these are identical to designated ones, provided students do not have access to loans. This is currently not possible for HEFCE-funded institutions.
- Fee levels. Alternative providers continue to have no cap on fees, provided anything above £6,000 is not paid for using tuition fee loans (£4,500 for part time students). Fees may therefore be significantly above £6,000, with no requirement to report to the Office for Fair Access as is the case for HEFCE funded institutions.
- Sanctions for over-recruitment. It is not clear how robust the proposed system to sanction alternative providers for over-recruitment will be. As with many other proposals in the consultation, the basis for control rests with the Secretary of State's power, which may lead to the perception that some of the proposals are vulnerable to future political change to a greater extent than is the case for HEFCE-funded institutions.

We believe that as further progress is made in moving towards a single regulatory system, these and other inconsistencies will need to be addressed to ensure equitable treatment of all providers of higher education.

## Question 5

Do you agree that there should be an exemption from student number controls for alternative providers with small numbers of students accessing student support? If so, do you have suggestions as to how the Department should define 'very small'?

It is unclear whether the proposal for a combination of institution specific limits and a threshold related to size would be adequate to restrict overall student support expenditure at private providers. Although data provided as part of the consultation report suggests that majority of financial support is concentrated in designated courses at larger alternative providers, a significant proportion will still be attributable to smaller providers. For example data in table A.2 of the consultation report shows that 10% of financial support can be found in institutions with 50 students or fewer.

No information is provided on where the significant increase in financial support at designated providers between 2006-07 and 2011-12 took place. It is possible, however, that significant entry of smaller providers with designated courses accessing financial support still has the potential to increase the student support budget in an uncontrolled manner.

We strongly believe that any threshold should maintain the ability of the student number control system to minimise the risk of unsustainable growth impacting on the student support budget.

## Question 6

Equality considerations: Do you think that the proposals for applying student number controls will have any equality implications (e.g. positive, negative, or neutral) for people with protected

characteristics (as set out in the Equality Act 2010), or people from low income groups?<sup>1</sup> What impacts might there be and do you have any evidence of possible impacts?

As outlined in our response to question 3 we believe that the lack of information regarding the profile of students enrolled on designated courses makes it difficult to determine the impact that applying student number controls may have on equality considerations.

In addition to the immediate impact of introducing controls, it will also be important to have information available on the profile of students at alternative providers. This would include information such as non-continuation rates, destinations and satisfaction data.

The HEFCE impact assessment, as part of the review of student number controls at HEFCE-funded institutions, highlights the difficulty in determining the impact of student number control policy, even when information on students is readily available.

*This noted that 'Potentially, any group with characteristics protected by the legislation might be differentially affected by the implementation of these policies, either positively or negatively. This is partly because precise impacts depend on institutions' and students' responses to the changes to the new finance and student number control regime, which will vary and are difficult to predict. This behaviour is also beyond our direct control.'*

The lack of equivalent information for alternative providers increases the risk that any widening participation or successful participation may be negatively impacted due to reforms.

## Question 7

Do you have any other comments on the proposals within this consultation document?

We welcome the government's commitment to address the issue of regulating designation and student numbers on designated courses at alternative providers. Our response to this consultation however highlights some of the on-going inconsistencies between the control of student numbers at HEFCE-funded institutions and the proposals outlined in the consultation report. In particular, we strongly believe that differences in transparency and consistency of public information will need to be addressed to ensure the student interest is met.

We believe that the process outlined in the consultation report is a first step in ensuring an equitable, flexible and proportionate system for regulation of all providers in the higher education sector.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below:

Please acknowledge this reply



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<sup>1</sup> Section 149(1) of the Equality Act 2010 imposes a duty on Ministers to have due regard to three specified equality matters when exercising their functions. These are: a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by the Act; b) advancing equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and c) fostering good relations between people who share a relevant protected characteristic and people who do not share it. The Equality Duty covers the following protected characteristics: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. The duty to have due regard to the need to eliminate discrimination also covers marriage and civil partnerships.

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☒ Yes

☐ No

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