



Department  
for Education

# Higher Education and Research Bill

Introduction to the Higher Education Market  
Entry Reforms

January 2017

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## **Introduction**

Our proposals under the bill are designed to maximise choice and flexibility for students through ensuring that high quality providers are not unnecessarily restricted when they first enter the market and offer innovative provision.

Current procedures and practices on validation and Degree Awarding Powers (DAPs) are holding back high quality new providers, as well as the level of innovation and competitiveness across the sector as a whole.

## **Conflicts of Interest and Competition**

At the moment, new providers looking to apply for Degree Awarding Powers in their own right are required to demonstrate a four-year track record. In order to build up this track record, providers must usually rely on an incumbent provider willing to validate their provision during those four years.

This means providers that have their own Degree Awarding Powers have significant levers to control which new providers can enter the market, and what kind of provision they offer. Even if established providers are willing to help new providers get a foothold in the sector, there is an inherent conflict of interest if the proposed new provision would directly compete with one of their own courses.

## **Innovation**

The role of incumbents in the current system also risks limiting innovation. Providers may be hesitant to validate courses that do not conform to their usual modes of delivery, entrenching existing models of higher education. For example, new providers wanting to offer accelerated degrees may find that established providers that mostly deliver traditional, full-time, three-year degrees are not prepared to validate their courses. We can see this happening already: the share of undergraduate students in English HEIs doing typical full-time first degrees has increased from 65% in 2010/11 to 78% in 2014/15.

## **Intellectual property and highly specialist courses**

Providers that seek to offer highly specialised provision often struggle to establish a track record through validation, as most established providers would require them to share some of their intellectual property as part of a validation agreement.

For example, Le Cordon Bleu, a leading international culinary institute, cannot deliver its own degrees in the UK, although it can do so in other countries. This is because the validation arrangement it needs to deliver degrees before it receives Degree Awarding Powers cannot protect the intellectual property in its programmes; it must be willing to

hand over its recipes and techniques and individual culinary style to another institution in order to have its course recognised.

## **Market Entry Reforms**

If we want to protect the reputation and international standing of our sector, we need to ensure it remains competitive and innovative – and address the shortcomings of the current system that prevent this. As Alex Proudfoot said in his recent response to the HEPI report on Alternative Providers: “The greatest risk to UK higher education today is stagnation in the face of a rapidly changing world”.

Under our plans for the new system, providers will therefore have more flexible options. They will be able to choose between building a track-record under a validating service in the first instance, or going directly for probationary DAPs. We set out more detail on this and other changes to Degree Awarding Powers, as well as linked reforms to University Title in the *Higher Education and Research Bill: Factsheet on Degree Awarding Powers and University Title*.

## **Probationary Degree Awarding Powers**

Under this model, a provider that meets the entry requirements and seeks greater autonomy from the start can choose to apply for probationary DAPs, agreeing a development plan with the OfS and making itself subject to restrictions and oversight for the probationary period.

This may be more suitable for a specialist provider, that may not readily find a validating partner, but is confident that it can pass the probationary DAPs test (perhaps by drawing on the knowledge of experienced staff, or by gaining a thorough understanding of UK academic standards, course design, and the requirements of DAPs holders)

Examples might include a new provider offering specialised STEM degrees that has recruited senior staff with relevant experience from leading universities, or an overseas provider that is looking to set up an English presence.

A provider with probationary DAPs, may still choose to work with another institution in some form of partnership.

## **Improving validation services**

Alternatively, if it prefers, a provider can build up track record via a validated arrangement with the support of an experienced partner and then apply for full, unrestricted DAPs.

We recognise that many validation arrangements are highly successful and beneficial to both parties and to students. There is no intention to preclude this in future. Providers will be able to choose from a range of options to meet their individual needs.

This may suit providers that prefer a slightly slower pace and would like the one-to-one support a validating partner can provide, for example because they lack the right expertise to meet the probationary DAPs test, or because they plan to provide little higher education and do not want the responsibilities that come with being a DAPs holder.

More detail can be found in the *Higher Education and Research Bill: Factsheet on Validation*. This includes information on how we expect the OfS to use its powers to enter into commissioning arrangements, and, in extremis, act as a validator of last resort, in order to improve the validation services on offer.

These measures will help ensure that there are clear, accessible routes to market entry for new, high-quality providers, offering choice to students – no matter whether they choose validation or probationary DAPs.



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