



Association
of Colleges

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BIS HE Green Paper Teaching Excellence, Social Mobility and Student Choice

A submission from the
Association of Colleges: January 2016

Summary of the main recommendations in AoC's response:

- We support the proposed Teaching Excellence Framework, as long as it equally and fairly recognises all types of higher education including that provided by FE colleges.
- We do not support raising the fee cap above £9000 because we think there is no justification for doing so whilst universities refuse to consider changing their teaching models; and it may deter potential students from non-traditional backgrounds.
- We support the Director of Fair Access being able to set widening participation targets and for funding to be withdrawn if institutions fail to meet these targets.
- We support quicker and clearer routes to both foundation and teaching degree awarding powers, plus the establishment of a technical education accreditation council, but only for those institutions with a track record of providing high quality higher education. We look forward to discussing the validation ideas in the Green Paper in the context of the emerging professional and technical education work-stream in the Department.
- The use of proxies to assess teaching and learning will never replace actual reliable, recorded and published observations.

Question 1:

- (a)** What are your views on the potential equality impacts of the proposals, and other plans, that are set out in this consultation?

AoC is concerned that the proposal to allow universities to raise fees above £9,000, depending on how well they perform in the TEF, will deter potential students from poorer backgrounds who are more likely to be concerned about costs and incurring debt.

Research shows that poorer students are already more likely to opt for shorter courses nearer their home because of a lack of funds and debt aversion.¹ We also know that students from black and minority ethnic backgrounds are more likely to live at home and study locally rather than at the most prestigious institutions, with a major contributing factor to this decision being cost.²

¹ Callender and Jackson (2005) 'Does the fear of debt deter students from higher education?' *Journal of Social Policy*, 34: 509-540

² Mangan, J et al. (2010) *Fair access, achievement and geography: explaining the association between social class and students' choice of university*. *Studies in Higher Education*, 35 (3). pp. 335-35

AoC believes £9,000 is an adequate amount to provide a quality HE service and sees no reason for allowing providers to charge more for doing what they should be doing – which is providing high quality teaching and learning.

- (b) Are there any equality impacts that we have not considered? If so, please provide any further relevant evidence.

The omission of any reference to the needs of, and impact upon, mature and part time students is of considerable concern. Government needs to address this and consider what incentives could be developed to rebuild the part-time higher education system.

Question 2: How can information from the TEF be used to better inform student and employer decision making? Please quantify these benefits as far as you can.

The Green Paper states: “at present students and employers must rely on imperfect proxies rather than a robust assessment of teaching quality³” (paragraph 12, page 20). It is hard not to reach the conclusion that the framework must include a rigorous internal lesson observation and assessment scheme which is externally verified, as is the case for accountants and other professions.

The outcomes could be clearly advertised on university and college websites, possibly as part of the Key Information Set (KIS), clearly indicate the quality of teaching at the institution to applicants.

For employers, the adoption of the Higher Education Achievement Report (HEAR) which has been adopted, or soon will be, by 90 universities and colleges, would be the most appropriate measure through which they could judge what a student had achieved..

These two measures would provide clear information to students and employers, avoid the ambiguity of using proxy measures and in both cases be relatively inexpensive to introduce. All universities and colleges presently have lesson observation schemes of some form and, as indicated above, HEARs are already popular. The major expense would be the external verification process that would need to be incorporated into the proposed integrated Quality Assessment and finalised TEF system.

Question 3: Do you agree that the ambition for TEF should be that it is open to all HE providers, all disciplines, all modes of delivery and all levels?

Yes ☒ No ☐ Not sure ☐

³ Paragraph 12, page 20

Please give reasons for your answers.

To allow for a fair and thorough comparison, the TEF must be used across all HE qualifications, attendance modes, levels, disciplines and providers. If not, any that were excluded would put providers specialising in those qualifications at a disadvantage as they would be unable to access the tuition fee uplift; and could lead to less diversity and possibly stifle innovation.

More importantly it would also inhibit a potential student's ability to compare on a like-for-like basis between institutions.

Question 4: Where relevant, should an approved Access Agreement be a pre-requisite for a TEF award? What other mechanism might be used for different types of providers?

There is limited clear-cut evidence that it is access agreements (AA) that have led to more successful widening participation (WP) strategies. Russell Group universities' enrolment of WP students has more or less flat-lined for a decade whilst many colleges without agreements enrol on average 15% more WP students than universities. Some colleges take in up to 50% of their HE students from disadvantaged backgrounds.

There is also limited evidence that financial incentives such as bursaries have a significant influence on applicant behaviour.

AoC supports a broader range of measures, including tougher AA, which would assess a provider's range of services to increase WP student enrolment and retention, based on previous achievements. Those that have a successful track record and meet their targets could have a less intrusive regime whereas others should have greater scrutiny similar to the proposed quality assessment system. The system should cease funding providers who routinely fail to meet their targets.

Question 5: Do you agree with the proposals on:

a) what would constitute a 'successful' QA review

Yes ☒ No ☐ Not sure ☐

– As long as Integrated Quality and Enhancement Review is included as an example of a QAA Review.

b) the incentives that should be open to alternative providers for the first year of the TEF

Yes ☐ No ☐ Not sure ☒

c) the proposal to move to differentiated levels of TEF from year two?

Yes ☐ No ☐ Not sure ☒

Please give reasons for your answer.

AoC understands the Government's desire to introduce more choice for higher education students, but we believe that competition needs to be carefully regulated to protect the interests of both students and the public. The current entry controls for new institutions were partly put in place to address unacceptable practices by some new entrants that were documented in a recent National Audit Office report⁴. Higher education institutions have a duty of care to the students they recruit because of the time and cost involved in higher education study. If a student makes a wrong choice, the Equivalent Level Qualification rule effectively prevents them from a second chance.

We are also aware that, apart from specialist providers servicing the creative industries sector, there is limited evidence of innovative practice by most new entrants to the higher education market. Most alternatives are providing full-time courses in business, law and finance which are relatively inexpensive to deliver and are already well served by existing institutions.

AoC supports the introduction of some form of 'market research' test into the incentives package similar to that established for the 'core and margin' process for new student numbers in 2012. Such a test could include an assessment of the provider's depth of market research and possibly innovative methods to reach the identified market. Such a process would help reduce the likelihood of dubious applications and eventual failure and also encourage innovation and creativity in delivery methods. It could also avoid the public purse passing monies to unreliable providers and then picking up the costs of failure whilst ensuring that students are more likely to enrol at a provider with a clear plan based on research of market need. Without such a test, we are unconvinced that the entry reform proposals outlined in Part B would provide sufficient safeguards to protect students from unreliable provider applications.

AoC notes the move to a differentiated TEF in year two but repeat our view that this must include all colleges providing HE, not just those with majority level 6 provision.

Question 6: Do you agree with the proposed approach to TEF assessments on Timing?

Yes ☐ No ☐ Not sure ☒

AoC would support a five-yearly award as this would align with present quality assessment processes.

⁴ <https://www.nao.org.uk/report/investigation-financial-support-students-alternative-higher-education-providers-2/> (accessed 13/01/15)

Assessment panels?

Yes ☒ No ☐ Not sure ☐

– providing personnel were recruited from a range of providers.

and process?

Yes ☐ No ☐ Not sure ☒

– AoC is unconvinced of a ‘discipline’ approach to assessment as this will produce distorted results for small specialist providers. Many colleges could only have two experts in a discipline area and this could lead to statistically skewed results in an aggregation process similar to course KIS data for courses with small numbers. We would also be concerned if college teachers’ assessments were aggregated with colleagues in validating institutions if the college cohort was too small as this would obscure college achievements.

***Question 7: How can we minimise any administrative burdens on Institutions?
Please provide any evidence relating to the potential administrative costs and
benefits to institutions of the proposals set out in this document.***

Any new system would add administration in addition to the OIA, QAA and HEFCE reporting burdens and the costs associated with the introduction of consumer rights legislation. We would ask that BIS carries out a survey of the costs and burdens for colleges and smaller providers of maintaining a place in the HE market, considering that many colleges are in the market to provide an access and WP service for local people often in deprived areas of the country.

***Question 8: Do you agree with the proposed approach to differentiation and
award as TEF develops over time?***

Yes ☐ No ☒ Not sure ☐

– AoC is not, in principle, opposed to fee or price differentiation – and many colleges charge below £6,000 as they view this price level as a fair fee representing the cost of providing teaching and ensuring students can participate.

However, price differentiation as a tool to improve quality and efficiency only works in a fully functioning and open market. The HE market in England is not such a market. Internal cross-course subsidies, reputation, heritage and the ability to manipulate external quality assessment mean price and quality are not necessarily linked.

It is difficult to see how the proposals for TEF will alter this situation. The likely top-up on present inflation rates combined with the cost involved in achieving a higher TEF award would be too low to attract many providers and would not be attractive to those with a high international and national reputation.

For a median college, providing HE to approximately 450 students, the costs of achieving a high TEF grade are unlikely to be recompensed by the proposed top-up and we are concerned that applicants will view those without the higher awards as providing a poor teaching and learning service.

Prospective students may see lower fees as equivalent to poor teaching quality rather than a desire by providers not to overcharge students or to ensure students from poorer backgrounds are not discouraged by higher debt. What is being proposed is a 'market mechanism' which actively encourages fee inflation by institutionalising the unproven view that fee levels are proportional to degree quality.

Question 9: Do you agree with the proposed approach to incentives for the different types of provider?

Yes ☐ No ☐ Not sure ☒

Please give reasons for your answer.

We seek further clarification on how the uplift would apply to colleges who charge under £6,000 fees.

AoC is unconvinced that the proposed measures would incentivise private providers to improve their teaching quality. As explained in response to question 8, the margins are too low and the costs too high for most private providers to consider competing on teaching quality. They are much more likely to focus on recruiting larger numbers of overseas students or to focus on recruiting local students from WP backgrounds, whose decisions, as discussed above, are more greatly driven by cost and location than other students.

Question 10: Do you agree with the focus on teaching quality, learning environment, student outcomes and learning gain?

Yes ☒ No ☐ Not sure ☐

Please give reasons for your answer.

Question 11: Do you agree with the proposed approach to the evidence used to make TEF assessments - common metrics derived from the national databases supported by evidence from the provider?

Yes ☐ No ☒ Not sure ☐

Please give reasons for your answer.

AoC has serious reservations about the proposed approach. We cannot see why the proposals are only seeking proxies for excellent teaching and learning when all education sectors in England, and indeed across the world, use different forms

of direct lesson observation schemes to assess and judge these. It is unclear how teaching and learning will be assessed without some element of observing teaching practice.

We reiterate our answer to question 2: that the TEF should include, as a key element, the assessment of a provider's internal lesson observation and assessment scheme externally verified by the proposed external assessment panel.

In terms of the proposed metrics we have the following concerns:

- (a) Non-contextualised retention rates are as likely to explain previous achievement and socio-economic background as excellent teaching – and will clearly advantage those providers who mainly recruit students from middle-income backgrounds with high A Level grades;
- (b) The National Student Survey (NSS) does not measure teaching and learning and was never developed for such an aim; and
- (c) Destination data has an even less meaningful relationship to the learning process if not contextualised in some form.

We therefore suggest alternative metrics for stage one which include:

- A simple measure of learning gained based on prior attainment and final degree classification;
- Answers to the NSS questions related to learning and teaching
- Success and retention rates contextualised for previous attainment.

For stage two we would be open to other measures, such as the 'new NSS' - especially those questions relating to student engagement, student contact hours, small group sizes and a more sophisticated learning gain method, as indicated in the Green Paper.

Social mobility and widening participation (Part A: Chapter 4)

Question 12:

a) Do you agree with the proposals to further improve access and success for students from disadvantaged backgrounds and black and minority ethnic (BME) backgrounds?

Yes ☒ No ☐ Not sure ☐

b) Do you agree that the Office for Students should have the power to set targets where providers are failing to make progress?

Yes ☒ No ☐ Not sure ☐

Please give reasons for your answer.

Participation of 18 to 21-year-olds from disadvantaged groups in HE has increased since improving widening participation became a strategic priority in the late 1990s. However, this improvement has not been even across all providers and the Government is right to set new stretching targets for both attainment and participation.

AoC supports the setting of targets by the Director for Fair Access (DfA) for the simple reason that for no obvious reason previous measures have not worked or worked much too slowly.

To avoid procrastination, we would argue that any appeals process needs to be undertaken in the shortest possible timescale, for example six weeks, and the decision backed by law if necessary.

Such a process is no threat to academic freedom and there are more than enough qualified candidates in the system to avoid charges of admissions control. The target would simply ensure that some providers, presently resistant to change, take more innovative approaches to their recruitment and selection processes.

c) What other groups or measures should the Government consider?

The final TEF and fair access framework should include some measures to include part-time and mature enrolments in the process, such as targets for these groups in identified 'cold spots' - those areas where participation in higher education is low.

Question 13:

a) What potential benefits for decision and policy making in relation to improving access might arise from additional data being available?

It is widely accepted by the Regulatory Partnership Group, HESA and others such as HEDIIP that HE data is not always collected in ways that support the widening participation agenda. AoC has always been supportive of a unique lifelong learning number for all so people can be tracked throughout their education and, in time, such a system could support lifelong learning accounts. This would address many of the gaps in the present data landscape and should be the overarching aim to improve how data is collected and consequently analysed. It would also improve longitudinal analysis and improve our understanding of learning gain at different stages of a learner's cycle.

We would encourage DfE, BIS, HEFCE, HESA and the SFA Data Service to work together to achieve this result and thereby improve our understanding and policy making.

It is also worth noting that a significant minority of college HE students do not use UCAS for application or enrolment purposes.

b) What additional administrative burdens might this place on organisations? If additional costs are expected to be associated with this, please quantify them.

Colleges already make regular data reports via the individualised learner record (ILR), HEFCE and the Student Loans Company (SLC) so are well versed in making multiple returns. Extra returns always involve extra work. We would ask that any 'new system' works on the principle of minimising additional work for providers wherever possible mirroring the approach taken by the Higher Education Data and Information Programme.

Opening up the sector to new providers (Part B: Chapter 1)

Question 14: Do you agree with the proposed single route into the higher education sector?

Yes ☐ No ☐ Not sure ☒

AoC is not opposed to a single entry route.

As indicated in our answer to question five, we are concerned that without further entry tests unreliable providers may enter the market which could have a detrimental impact on the whole sector. It could also push up the costs of public sector subsidies via the loans system and lead to other universities and colleges picking up the costs of failure and ensuring the students affected are able to continue their studies elsewhere.

Please give reasons for your answer, including information quantifying how the potential cost of entry would change as a result of these proposals.

We do not believe our 'market research test', as outlined in our answer to question five, would fundamentally increase entry costs.

Question 15:

a) Do you agree with the proposed risk-based approach to eligibility for degree awarding powers (DAPs) and university title?

Yes ☐ No ☐ Not sure ☒

Please give reasons for your answer.

AoC is supportive of *quicker and clearer* routes to Foundation Degree Awarding Powers (FDAP) and Teaching Degree Awarding Powers (TDAP) for providers with a demonstrable track record. We have been in discussions with QAA about how

the twin aims stated above could be achieved under the present regulations with some success.

We do not support a fundamental dilution of the present criteria for FDAP/TDAP achievement and are unsure if the proposals could be a step too far for inexperienced providers of HE. In the present system, post-achievement 'failure' is extremely unlikely due to the stringency of the regulations and need to maintain a clear and expensive internal standards, quality and awards process.

We would be opposed to new entrants achieving powers that would allow them to award qualifications outside their occupational and/or curriculum expertise.

We seek clarification as to whether these proposals apply to colleges.

What are your views on the options identified for validation of courses delivered by providers who do not hold DAPS?

AoC has long campaigned against the unfairness of the present validation system, believing that there is clear evidence that it is a restraint of trade related to new developments and course price.

We have produced several papers arguing for the need to introduce a separate Technical Education Accreditation Council⁵ and will continue these discussions with relevant agencies and BIS.

Question 16: Do you agree with the proposed immediate actions intended to speed up entry?

Yes ☐ No ☐ Not sure ☒

Please give reasons for your answer.

AoC is not as such against the proposals in this section, but would again argue that for control numbers to be increased, applicants must pass a 'market research test' similar to that applied in the core and margin exercise. See answers to questions five and 14.

Provider exit and student protection (Part B: Chapter 2)

Question 17: Do you agree with the proposal to introduce a requirement for all providers to have contingency arrangements to support students in the event that their course cannot be completed?

Yes ☒ No ☐ Not sure ☐

⁵ <https://www.aoc.co.uk/news/association-colleges-calls-shake-work-related-training>

Please give reasons for your answer, including evidence on the costs and benefits associated with having a contingency plan in place? Please quantify these costs where possible.

AoC has recently negotiated a student protection advice note with HEFCE, UUK and Guild HE and is totally committed to ensuring studies are not interrupted and that suitable alternatives are provided in the case of course closure and/or provider exit. Many colleges already have contingency plans in place and we would support these becoming part of the HE landscape.

Simplifying the higher education architecture (Part C)

Question 18:

a) Do you agree with the proposed changes to the higher education architecture?

Yes ☐ No ☐ Not sure ☒

Please give reasons for your answer.

The proposed changes would reduce the regulatory and sector organisational bodies from nine to seven. We are not fundamentally opposed to the merger of OFFA and HEFCE, but think more needs to be done in terms of the proposed Office for Students (OfS) having more responsibility for HESA and QAA functions, thereby bringing down the regulatory costs of the HE market. We would support the OfS also including HESA and QAA in any merger, but remain aware of the importance of ensuring the quality assessment role placed in a separate unit in a merged organisation.

We would support the DfA and/or OFFA having a clear remit 'outside' of the OfS to ensure access and widening participation were not influenced by other policy competing objectives.

AoC are also concerned that in any reorganisation QAAs regulatory role of Access to HE Diploma provision is safeguarded.

b) To what extent should the Office for Students (OfS) have the power to contract out its functions to separate bodies?

Fully ☐ Partially ☒ Not at all ☐

AoC supports the proposal that data collection and analysis and the HE quality function should be overseen by the new OfS, but both functions should be sub-contracted out by competitive tender. Such a process would control costs and also ensure that the quality function was separate from the grant-giving function which is accepted as international good practice.

c) If you agree, which functions should the OfS be able to contract out?

See answer above.

b) What are your views on the proposed options for allocating Teaching Grant?

It is unclear how a BIS/SLC operated teaching allocation function would work therefore we cannot state a definitive view.

There are strengths in having a funding allocation body between Government Departments and providers but there are also concerns about such bodies becoming too close to providers.

Option 1: BIS Ministers set strategic priorities and BIS officials determine formula.

Yes ☐ No ☐ Not sure ☒

Option 2: BIS Minister sets strategic priorities and allocation responsibilities divested to OfS

Yes ☐ No ☐ Not sure ☒

Question 19: Do you agree with the proposal for a single, transparent and light touch regulatory framework for every higher education provider?

Yes ☒ No ☐ Not sure ☐

Please give reasons for your answer, including how the proposed framework would change the burden on providers. Please quantify the benefits and/or costs where possible.

AoC do not foresee dramatic changes in provider burdens in these proposals.

Question 20: What steps could be taken to increase the transparency of student unions and strengthen unions' accountability to their student members?

AoC believes students unions are already transparent and accountable. A continuing role for the National Union of Students (NUS) in this regard is crucial to maintain these high standards.

Question 21:

a) Do you agree with the proposed duties and powers of the Office for Students?

Yes ☒ No ☐ Not sure ☐

Please give reasons for your answer.

AoC has no further comment.

b) Do you agree with the proposed subscription funding model?

Yes ☐ No ☐ Not sure ☒

Please give reasons for your answer.

Historically, funding agencies such as HEFCE and SFA have been centrally run by Government and we see no strong counter-arguments to change this model. Colleges in recent years also have been forced to subscribe to the OIA and QAA and also meet the costs of consumer rights legislation – these are all new additional costs that were not previously foreseeable.

We remain unconvinced that a subscription model is the best way forward considering that many new entrants and colleges with small numbers entered the HE market on the basis of strategic plans covering five years which would not have included this cost.

Before declaring our firm view on this we would like to see how the Government intends to bring down the costs of the regulatory framework and ensure it provides value for money for all providers.

Question 22:

a) Do you agree with the proposed powers for OfS and the Secretary of State to manage risk?

Yes ☒ No ☐ Not sure ☐

Please give reasons for your answer.

AoC has no further comment.

What safeguards for providers should be considered to limit the use of such powers?

AoC seeks consultation on a clear, transparent and unambiguous set of guidelines before it could recommend these powers to its members.

Question 23: Do you agree with the proposed deregulatory measures?

Yes ☐ No ☐ Not sure ☒

Please give reasons for your answer, including how the proposals would change the burden on providers. Please quantify the benefits and/or costs where possible.

All institutions in receipt of public funding, in whatever form, should be included under Freedom of Information regulations.

