

Response to Government Green Paper on Fulfilling our Potential: Teaching Excellence, Social Mobility and Student Choice



Our response is supplemented by NUS' response, which can be found [here](#).

Teaching Excellence Framework (TEF) (Part A: Chapters 1-3)

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.

Whilst we believe that some of the information that would be required as part of the TEF would be beneficial for students and employers, the proposed metrics undermine the relevance of the data in relation to the quality of teaching and learning. A framework designed to measure teaching excellence will only better inform students if it adequately represents teaching quality and deals directly with the way students interact and engage with their learning environment.

Some of proposed metrics (DHLE, student satisfaction scores) do not measure teaching excellence and are likely to have negative outcomes for the type of provision and the nature of recruitment (which already negatively impacts on students from low socio-economic backgrounds and BME students). This could lead to gaps in provision in certain regions, disadvantaging those who are unable to move away to study, often as a result to cuts to grants and bursaries in recent years. It could also lead to perverse incentives with regards to teaching aimed towards increasing students' future income rather than aimed towards educational or academic advantage

We believe that information;

- about how students engage with teaching including contact hours, self-led learning, peer learning, blended learning and embedded technology would be beneficial
- providing clarity around how students are assessed and how this develops specific transferable skills
- relating to the qualification level of the teaching staff within their departments, including for postgraduate students who teach, and the ongoing Continuous Professional Development available to staff

Whilst this information would be useful for students and employers, none measure or demonstrate excellent teaching rather they demonstrate how institutions ensure the quality of students' learning opportunities and student development through teaching, learning and assessment, which would support student decision making in some instances. Student co-design and co-development - only maintained through

enhancement activity (which will be lost by introducing a bureaucratic TEF process as is currently proposed) - would help to promote and develop excellent teaching practices in local contexts.

The TEF also does not deal with the important individual relationship between the academic and the student, which is widely accepted by higher education professionals and the student movement, to be an essential driver for quality in higher education. As it stands, students will learn nothing from the TEF about how they engage with their learning and interact with academics and peers.

However, alternative sources of information, like the Higher Education Achievement Report, may prove to be more effective at uncovering the actual and latent potential of a graduate. We would argue that attempts to educate employers about the value a degree adds to an individual student has more potential than the metric-driven market information that would form the bulk of the TEF. There is a danger that a TEF will simply reinforce the heuristic approach that employers already use, rather than allow them to get a better understanding of what they need and what they would receive from a graduate.

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

Please give reasons for your answers.

The new regulatory framework in which TEF will exist must ensure the comparability of an institution's provision (including the quality of students' learning opportunities) and therefore must be open to all HE providers and for all modes, levels and disciplines. A one size fits all approach however will not be adequate to address varying provision, and there must be a degree of flexibility within the TEF to allow institutions to define what "excellence" looks like in their own context.

We believe that there needs to be more flexibility by which institutions can contextualise what excellence looks like in their own context, rather than being tied to a set of metrics which, in the government's own words, are inadequate when attempting to measure teaching quality. Furthermore types of excellence will also differentiate between different disciplines in addition to between institutions, and will also vary depending on the level of study.

More attention needs to be paid to part-time and distance learning provision. The same can be said of postgraduate provision, but we strongly urge Government against the use of quantitative metrics to assess the quality of postgraduate provision, which is far more specialised and where student numbers on courses are often not large enough to get statistically significant results from quantitative measures. At postgraduate research level in particular, the criteria for excellence and the ability to measure them are highly complex,

especially with the increase of students studying in doctoral training partnerships across more than one institution and with industrial partnerships.

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

Yes.

We agree that an Access Agreement should be a prerequisite for application for assessment, however we disagree that the existence of an Access Agreement (among other 'entry level' requirements) should come with financial reward. We also believe that an approved access agreement should also be a requirement for entry into the sector, including access to student loan funding, Degree Awarding Powers, and University title, regardless of fee level. This will create a more level playing field between providers; providing equal information and assurances to the public and students who wish to see this.

Access agreements ensure that students and the public know that public funding is being utilized to open up access to higher education across the UK. We believe that providing an approved access agreement is the most basic level of commitment to access, success and teaching excellence, and that institutions should be encouraged to innovate and go beyond basic access agreement targets. This should also include developing inclusive and supporting teaching and learning practices and environments. The OfS needs the power and responsibility to deliver this.

Financial incentives around access must require additional and more robust metrics than currently proposed to measure the impact of the institution's work around access and widening participation, such as learning gain or the number of good degrees awarded to WP students. These however measure the quality of students and, to an extent, the quality of learning opportunities, and not "excellence" in teaching.

We remain concerned about the link between TEF and tuition fees. TEF will allow institutions that do well in widening participation to charge more, but this increase in the cost of university could have the perverse and surely unintended consequence of putting off the very students that the proposal is aimed at helping, therefore disproportionately benefitting institutions that make relatively smaller progress. Cuts to grants and financial support for the most disadvantaged will further compound these issues. We believe that if financial incentives are ultimately linked to TEF, fees should be decoupled from level 1 of the award.

Question 5: Do you agree with the proposals on:

a) what would constitute a 'successful' QA review

☒ Yes ☐ No ☐ Not sure

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.

We agree with the proposed 'definition' of a "successful" QA review which would provide institutions with the opportunity to apply for a TEF assessment and Level 1 award. It is important to note however that the current QA framework and method assures the standards of an institution's awards and provision to ensure comparability of awards across the sector, not the quality of teaching. The the inclusion of measuring teaching quality within the QA framework would negatively impact the ability of the QA method to ensure robust process and threshold standards across the sector. This will be as a result of conflicting priorities of institutions and the new body expected to deliver QA and TEF as a result of a reduction in public investment in Higher Education.

In our view the TEF will come at the expense of the sector's work in recent years around continuous and systematic institutional enhancement. The QAA's focus on enhancement has supported staff and students to work in partnership to ensure that institutions are inclusive and diverse, and support students to succeed in Higher Education by creating welcoming and supportive environments. Not only would TEF force Universities to comply and meet targets, in contrast to the HER process which aims to encourage institutions to enhance and innovate, but would also remove the need for institutions to focus on enhancement, which will negatively impact upon students' experiences of Higher Education and enhancing teaching and learning.

We fundamentally believe that there should be no financial incentives linked to TEF. If fees were to be linked to TEF awards however we believe that this should only occur at the differentiated levels of TEF, and not at TEF 1.

In its first year TEF is unlikely to deliver the intended outcomes, and whilst there continues to be a distinct lack of clarity around the proposed metrics and the ability of these metrics to measure the quality of teaching and assume teaching excellence, we believe that fees should be decoupled from TEF 1.

We believe that institutional reputation would be sufficient to encourage institutions to enhance and improve the quality of their teaching and learning.

We welcome the focus and inclusion of student protection and the accuracy of the information published to students, as outlined by the CMA. We agree that more should be done to ensure the sector's compliance with the CMA's published guidance on how

consumer protection law applies to higher education providers, and that this function should form part of the responsibilities of the new Office for Students.

Whilst we believe that this should be a pre-requisite for institutions applying for TEF 1, we believe that financial rewards for institutions who comply with consumer protection law sends the wrong signal to students and the international community about the ethos of British higher education.

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

Timing?

☐ Yes ☐ No ☒ Not sure

Assessment panels?

☒ Yes ☐ No ☐ Not sure

and process?

☐ Yes ☒ No ☐ Not sure

Please give reasons for your answer.

We are concerned that the current proposals do not include the provision of a visit to the institution as currently happens within the existing QA framework. The provision of a visit to the institution by the Review Panel within the current QA framework enables the Panel to ensure that the evidence submitted by the institution as part of the Higher Education Review is supported and implemented in practice and is recognised by staff and students.

One of the proposed metrics to be considered during the development of TEF includes the qualification status and employment status of the staff delivering teaching to students. Institutions, typically, have policy on the employment of postgraduates in teaching, which stipulate the training, support, payment and nature of employment. Without a visit to the institution it would be impossible for the review team to ensure that the evidence submitted is robust and implemented on the ground. This is particularly important given the nature of the TEF and the incentives linked to the award.

Whilst the current cyclical review method can create a large amount of work for Students' Unions and institutions, the visit of the review panel to the institution ensures that students and their representatives are powerful stakeholders within the QA framework and throughout the HER process. We agree that an annual process would become burdensome for institutions and Students' Unions, and measuring developments in the performance of the proposed metrics. A 3 year cyclical review period would, depending on the number of panels convened and the reporting and evidence expectations of

institutions, ensure regular oversight of the institution's performance against the expectations of their award.

In order to ensure that any future TEF process delivers for students we would hope to see the continuation of the provision for Students' Unions/the student body to submit its own evidence to be considered by the assessment panel. However further clarity on how assessments will be made on a subject level and how Institutions would be expected to engage with student representatives during this process is needed. We would also expect to see measures in place to allow for Students' Unions or student representatives on an institution's governing body to begin the process of triggering a re-assessment if it is believed (and can be demonstrated) that the institution is not delivering on the expectations of its TEF award. The QAA's existing Concerns Method should also be replicated for TEF.

We agree that assessment should be independent from government and that assessment panels should be comprised of experts, including student representatives. We would however stress the importance of ensuring that student engagement is required at all points where institutions assure the quality and excellence of its teaching. It should not be at the external assessment stage that student involvement is required, and we look forward to seeing further detail on how student involvement is envisaged on an institutional and subject level. Student representatives should be involved from the initial design of this process.

The metrics that are currently proposed are entirely context dependent, subject dependent, and are influenced by a range of external factors, and in our view do not measure teaching excellence. We are therefore concerned about the negative impact publishing a panel's judgement on each of the criteria, as well as the overall judgement that pulls these together, and the impact on the nature of an institution's provision. In our view this could force institutions to reduce or remove those subjects where satisfaction or employment data is typically poor as a result of the nature of the subject, as opposed to the quality of the teaching provided. This would give an inaccurate and false TEF judgement (where institutions are assessed on subjects which typically perform well under the proposed metrics) and would negatively impact upon employers, and local and regional economies and provision.

Student satisfaction scores are currently highly variable across institutions and often vary between Schools/departments within the same college/faculty. Increasing fees at an institutional level would not reflect the quality of teaching at a local level and would be misleading for those students who, for example, enter a level 4 award institution and receive poor teaching. BIS has recognised that setting fees at a subject/department level would be burdensome and therefore this variability undermines the robustness and validity of TEF awards.

We would support the need for an appeals process, which should be independent from government.

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

☐ Yes

☒ No

☐ Not sure

Please give reasons for your answer.

If BIS intends to develop varying levels of TEF awards, we strongly believe that fees should be decoupled from TEF. Not only is a differentiated system confusing for prospective students and the public - particularly when public information and education and careers advice and guidance information is relatively poor - but there is the potential for negative affects on the provision of certain subjects in certain geographical areas.

This would also negatively impact upon the recruitment of students from disadvantaged backgrounds, and create a perverse incentive on institutions to become more selective in their recruitment. Therefore a more complex informational landscape, without a considerable national investment in careers advice and guidance, will only further exacerbate the inequalities that students from disadvantaged backgrounds face.

With appropriate metrics that will accurately (as possible) measure the quality of teaching, we remain unconvinced that TEF will accurately measure differentiation or be useful for students and employers. More investigation must be completed into the metrics and evidence that could, in some way, measure teaching excellence. Again, fees should be decoupled from TEF as institutional reputation will be sufficient.

We welcome that the consultation paper specifies that if an institution were to be awarded a higher level within TEF that fees would not increase for students who are part way through their degree programmes, and we hope that this is realised in the final proposals.

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.

We broadly agree with the focus on these areas but believe that the government's thinking around how these can be measured and assured is flawed. The consultation paper makes no reference to the involvement of students in ensuring teaching quality and creating an inclusive learning environment, which will go a long way in ensuring that institutions are able to create a welcoming and supportive environment where all students, regardless of background, succeed in Higher Education.

This however cannot be substituted by DHLE statistics or student satisfaction, and must be informed by an institutional commitment to realising students as partners in their academic communities and at all levels of their institutions. It is concerning that the

metrics proposed for initial use to measure these themes are ones that the Green Paper outlines 'are largely proxies rather than direct measures of quality and learning gain and there are issues around how robust they are' (p.34, para.15).

We refer to NUS' response for this question which outlines the findings of research completed by NUS and Students' Unions (alongside HEFCE) in creating the Comprehensive Guide to Learning and Teaching. This Guide details findings of what students consider excellence teaching and learning to look like. The use of NSS data is unclear and the development of the NSS has proven itself to be useful when used to further enhancement work - the NSS is only a snapshot of the overall picture of student satisfaction, and does not measure the quality of teaching. Furthermore, the NSS is open to "gaming" by institutions and only serves to reinforce institutional reputations, which will undermine the purpose of the TEF.

We would again echo the need for an institutional visit to ensure that the evidence submitted around student involvement and students as partners, is recognised in practice by staff and students across the institution. It is not sufficient for students to only receive information about the quality of teaching, but also for them to have an active say in what excellence looks like and whether their institution delivers "excellence".

Within the focus on outcomes and learning gain, assessment and feedback must form a central pillar to those, in that assessment and feedback supports the diverse needs and learning styles. Additionally, institutions must ensure that curriculum is diverse and reflects the makeup of society and the student body, and more steps must be taken by the sector to support the diversifying of UK HEI curricula where possible. We believe that student outcomes should be focused around the variations of value added by a university education, including but not limited to skills and experience, personal development and confidence, and social and cultural understanding.

Other student outcomes, such as employment data, will not measure teaching quality as this source of information is subject to external factors beyond the control of the institution such as the state of the economy, social background, gender and ethnicity. We must therefore question whether it is fair for institutions to rate the quality of their courses on the basis of a metric which is largely out of their control and is unlikely to be affected by the raising of teaching standards. This creates a perverse incentive on institutions to recruit particular students over others, and to deliver certain provision.

This will undermine the TEF in instances where an institution's reputation may be damaged by forces beyond its control and therefore wholly disconnected from the quality of its teaching. Furthermore there is no direct empirical link between the quality of teaching and better jobs and higher wages. Rushing into TEF 1 with a handful of proxies that the government itself states are inadequate and unreliable suggests that the main aims of the TEF are not about measuring teaching quality.

We also believe that as part of measuring the learning environment this must also include a consideration for the employment nature of teaching staff at the institution, where staff

may be employed on zero or fixed term contracts, which impact on their ability to deliver quality or excellent teaching and learning.

Quality teaching is underpinned by decent working conditions and job security for staff and any system aimed at improving teaching must examine the relationship between the widespread job insecurity 'enjoyed' by a large proportion of academic staff and teaching quality. Temporary contract working is endemic across UK higher education which leaves many teachers with little access to CPD, career development or other scholarship opportunities. Job insecurity also impacts on the quality of the student learning experience, for example, on marking and assessment processes and the opportunities for staff on casual contracts to access professional development

We would also like to see the new QA framework in which TEF will be delivered maintain and develop the current focus on enhancement, where institutions can be expected to discuss and outline approaches to innovative pedagogy and enhancement in teaching and learning.

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.

We do not believe that the use of common metrics from national databases provides an adequate picture of teaching quality and may, conversely, produce an inaccurate and misleading picture.

We share concerns about the validity and robustness of national databases such as NSS and DLHE and we do not believe that they are useful proxies for teaching quality, particularly those relating to student outcomes. Government has already stated that it has concerns over the accuracy of these metrics and believe that it is therefore contradictory to then use these to form the basis of TEF.

There needs to be a far greater ability for institutions to contextualise what excellence looks like in their own circumstances, rather than being tied to inaccurate proxies for quality. We are concerned that aggregate level data is unable to distinguish between different types of excellence that will undoubtedly arise within different disciplines and institutions. Different types of institutions will specialise in different areas and cultivate excellent teaching in vastly different forms and environments which are not accurately accounted for in national databases, which may unfairly penalise smaller institutions.

In its response HEPI discusses the validity of using the proportion of an institution's teachers who have HEA Teaching Fellowships or the training of teachers to the level of Postgraduate Certificate. We would welcome this to be used as a metric to measure the

quality of teaching, however we agree that more research must be done to ensure empirical backing to assure its impact on teaching quality and student learning.

The evidence from the provider must be robustly scrutinised and should follow with a visit to the provider, and we would like to see the provision for student-submitted evidence as part of the review.

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**

Please give reasons for your answer.

We welcome the government's emphasis on this area and believe that any work must include well tested and nuanced measures to ensure that providers are properly focusing in these areas and not able to "game" the system. NUS and students' unions have established a wide-range of activity and evidence in relation to access and success in higher education, and support the delivery of their institution's access work.

In order to improve access there must be national investment in careers advice and guidance to provide young people with the necessary information about the options available to them. Current evidence suggests that current provision is poor which is likely to have an perverse effect on young people from disadvantaged and low socio-economic backgrounds.

We remain concerned about the link between TEF and tuition fees. TEF will allow institutions that do well in widening participation to charge more, but this increase in the cost of university could have the perverse and surely unintended consequence of putting off the very students that the proposal is aimed at helping, therefore disproportionately benefitting institutions that make relatively smaller progress. Cuts to grants and financial support for the most disadvantaged will further compound these issues.

- 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.

We recognise the need to ensure that institutions are setting, maintaining and are challenged to meet WP targets and believe that more should be done to challenge the

nature of institution's WP activity. OFFA cites the level of expenditure of institutions in recent years, which we welcome, however in order to meet aspirational and challenging targets around learning gain and success - going further than current measurements around application and completion numbers - failings must be robustly addressed. The current mechanisms and procedures in place have demonstrated that they are able to support institutions to develop challenging access agreements and we support the response of the DfA in this instance.

Clarity is required around the organisational management of the OfS and its accountability to students. We would also like to see greater student involvement in the development of Access Agreements.

We also support calls from OFFA and NUS that the Director for Access should retain their power to be accountable to Parliament and that OFFA's work on a provider's work and plans on access and success, without other pressures, needs to be maintained.

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

The government also needs to consider part-time, postgraduate and mature students. There has been a decline in the number of part-time students studying in the UK, and part-time students are often from underrepresented backgrounds and are mature students looking to reskill or upskill. Whilst the Green Paper outlines that TEF would benefit all learners there are no measures that directly focus on the experiences of part-time students.

OFFA have made a number of recommendations in their submission on this area. We support proposals such as revising fee regulations for part-time study, credit accumulation and transfer between recognised providers, and the relaxation of restrictions on students with 'equivalent level qualifications' to all part-time courses. These will hopefully begin to reverse the decline in PT students and ensure greater access to PT study.

Whilst the number of UG students from disadvantaged backgrounds are increasing, these students are less likely to progress to postgraduate level. Postgraduate study is becoming a vital stepping stone for a number of graduates and therefore widening access to postgraduate study is vital. We would welcome greater powers for the DfA to promote and safeguard access to postgraduate study in addition to undergraduate study. This is particularly relevant in light of the introduction of postgraduate taught loans in an uncapped market.

We are concerned about the lack of discussion around the impact of these measures in relation to gender reassignment, sexual orientation, religion or belief. For LGBT students in particular we recommend that the government take into account the evidence outlined in the following reports regarding students in these protected groups experiences of higher education: Education Beyond the Straight and Narrow and Freshers to Finals (referenced by NUS). These reports highlight the particular barriers LGBT students face in relation to

drivers for choosing an institution, challenges relating to finances, and issues relation to graduate employment. We recommend evidence is gathered to see whether these proposals could have a negative impact, including what teaching excellence would look like to them.

We are concerned that the metrics used may end up creating a system that benefits certain groups above others and risk producing perverse outcomes for certain protected characteristic groups. To address this we feel that it will be vital to draw on best practice around what accessible teaching and learning practices look like, including in curriculum design and how this can be reflective of a diverse student body.

We welcome the plans to introduce Sharia-compliant loans and on apprenticeships. We would like to highlight the importance of focusing on part-time and mature students in social mobility work.

Question 13:

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

We do not support any proposals that may require a sector body to share student data without a student's' explicit consent, and we are unclear that the benefits would derive from sharing additional data beyond that which is already made available.

Question 14:

Do you agree with the proposed single route into the higher education sector? Please give reasons for your answer, including information quantifying how the potential cost of entry would change as a result of these proposals.

Not sure

We believe that all higher education providers should require an access agreement in place before they are entitled to public funds through the student loan system.

Question 15a: Do you agree with the proposed risk-based approach to eligibility for degree awarding powers (DAPs) and university title? Please give reasons for your answer.

No.

Whilst we recognise the benefit of alternative providers in diversifying provision and the delivery of higher education, it must be recognised that there are a number of poor providers which have failed entry to the higher education system as a publicly funded body in recent years. The quicker and easier it becomes to award degrees/become a university, the more likely the sector is at threat from for-profit organisations looking to

move into the market for financial gain rather than motivated by a desire to provide an excellent education.

We are concerned that these proposals do make it easier for private providers to establish themselves, especially through the creation of low cost, cheap to provide courses. The Green Paper proposes to remove even the weak regulations introduced by the Department of BIS in response to the critical report on private providers produced by the National Audit Office. This report found that -

- Dropout rates at 9 alternative providers were higher than 20% in 2012/13. By comparison, the average dropout rate across the higher education sector is 4%.
- 20% of Higher National students recruited by alternative providers and claiming student support may not have been registered with the qualification awarding body in 2012/13.
- Between 2012 and 2014, (BIS) suspended payments to 7 providers and their students owing to concerns that providers had enrolled students on to unapproved courses. Furthermore, a lack of clarity has existed within BIS and its partner organisations about which courses were approved for student support.
- In 3 cases, BIS suspended student support payments to providers or their students where it had concerns that the providers had supplied incorrect information about student attendance.

Whilst the government talks about the need to ensure public and student protections, it is concerning that the green paper considers reducing the requirements on alternative or new providers. It is important that new providers enrolling students in their courses and receiving public funding for course designation can demonstrate financial security and sustainability to maintain provision.

The level of public funding to alternative providers has increased in recent years and so has the number of incidents and concerns regarding the quality of education provided by new for-profit providers.

We welcome discussions around the process of the annual course re-designation. We recognise the need need to ensure that the process - primarily - ensures quality and also provides security for both providers and prospective students with regards to eligibility for student support. We do believe however that it is important that providers are able to demonstrate a quality academic track record and that any process that allows quicker and easier transition into the sector (for example a probationary designation period with a more hands on approach from a validating partner) is potentially problematic and risks threatening the quality of provision, security for students, and the public's trust in UK higher education.

The findings of the National Audit Office's investigation into alternative providers is a cause for concern in light of the proposals in the Green Paper to weaken the scrutiny and monitoring of the entry of new providers into the sector.

Whilst clearer and more effective scrutiny of validation arrangements should be welcomed, the benefits of validation relationships between public HEIs and providers without degree awarding powers is hugely beneficial to alternative providers. We reject the Government's suggestion that such a relationship is exploitative on alternative providers.

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

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.

We support the introduction of requirements for all providers to have a robust contingency arrangements in place. It is vital that these arrangements are agreed and in place upon entry into the sector and that these are regularly reviewed and amended in partnership with their student body. All eventualities should be covered and should take into account the impact on students from disadvantaged backgrounds. We refer to NUS' response in this instance which details the potential impacts on students from low socio-economic backgrounds, mature students, and student with caring responsibilities (to name a few) who are less able to travel or relocate to access higher education. The OfS should have responsibility to support this activity.

These protections should apply across the UK, regardless of funding arrangements, and students have a right to be protected wherever they are able to study.

We do however believe that creating a system that is comfortable with the concept of institutional failure as a central aspect to the sector's quality enhancement will lead to considerable adverse impacts on higher education in the UK. We do not support proposals which seek to encourage institutional failure or systems which do not look to prevent - in as far as possible - failures from occurring. The new OfS requires the powers and ability to support institutions to avoid institutional failure and the impact that this will have on the groups mentioned above.

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.

We welcome the introduction of the OfS within the new architecture, and we strongly welcome the retention of the OIA. Sector bodies that have promoted the interest of students have supported the development of student partnership that fosters and creates supportive learning environments. This must be retained in the creation of the OfS and further detail is required about how the new body will be accountable and genuinely deliver for students and a sector which prioritises student success and access.

Students and their representative bodies must be fully involved at the earliest stages in the future process of deciding on the structure, remit and governance of the OfS and that students are adequately represented within the governance structures of the OfS.

We have concerns about the language and of the reform around marketisation of education and the explicit focus on employers, which we believe distorts the public and prospective students' perceptions of higher education as a public good.

Whilst we recognise the benefit of alternative providers in diversifying provision and the delivery of higher education, it must be recognised that there are a number of poor providers which have failed entry to the higher education system as a publicly funded body in recent years. Moving to a light touch regulatory framework requires robust regulation and oversight from sector bodies to ensure that the standards of higher education and the protection of students is maintained.

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

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

Of the proposed functions for the new Office for Students, we believe that the following functions could be contracted out to existing sector bodies. This is to ensure that sector expertise is maintained (with the retention of a separate quality assurance body) and that allocation of the Teaching Grant is operated independently from the assurance of baseline standards and quality:

- operating the entry gateway
- assuring baseline quality

- running the Teaching Excellence Framework
- allocating grant funding based on option 2 from paras 16 and 17
- assuring financial sustainability, management and good governance
- ensuring value for money for students and the taxpayer

We believe that collecting and providing information, widening access and success for disadvantaged students, student protection could be maintained by the OfS by ensuring that current expertise is incorporated into the OfS. We recognise the representation made by OFFA regarding the role of the Director of Fair Access and ensuring that this happens independently from the allocation of funding and other financial incentives.

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

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

☐ Agree

☒ Disagree

☐ Not sure

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

☒ Agree

☐ Disagree

☐ Not sure

Please give reasons for your answer,

Decisions about funding allocation should be led by the OfS with only the highest level of direction from government, and we oppose more centralised government control of teaching funding. Any attempt to centralise and politically manage teaching funding undermines the financial autonomy and academic freedom of the sector.

Option 2 protects the principle of institutional autonomy and reduces the risk of political interference in funding decisions. It is also important that the allocation of the Teaching Grant is based on robust and developed expertise which would ideally sit within the new Office for Students. We envisage the new Office for Students being accountable to students and student representatives and therefore the allocation of the Teaching Grant would also be made with the priorities and needs of students in mind. Student representative bodies need to be involved from the beginning of discussions to develop the structure, governance and management of the OfS.

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

Vital to ensuring transparency and accountability in students' unions is ensuring effective support for governance, democracy, leadership and organisational quality processes. It is a disappointment that that the Green paper misses the opportunity for the OfS to play a

role in improving the effectiveness of student representation and students' unions, rather than the narrow and misplaced focus on their "transparency and accountability".

The association of Students' Unions with Trade Unions is misplaced, and extremely worrying. Legislative oversight of Students' Unions as charities restricts Students' Unions from direct political campaigning and activity. As such Students' unions can only commit resources in pursuit of their charitable objectives. For example additional income generated through Bristol Students' Union activity - such as social enterprise - is invested in generating activity such as independent advice and guidance, representation activity, and developmental opportunities.

Students' Unions are already effectively regulated in relation to transparency and accountability through EA94 and Charity Law. There is however some evidence that compliance with the provisions of EA94 and Charity Law is patchy and it would be beneficial for the OfS to be responsible for supporting Students' Unions to address issues where they exist and support unions to comply with existing legislation in full.

The believe the following -

- That an entitlement to consultation and independent individual/collective advocacy be enshrined in law for all students to avoid this benefit being differentially distributed to those students more likely to attend larger or older institutions
- That OfS works with NUS on an agenda to improve the effectiveness of SU representative and independent advocacy functions, rather than transparency and accountability
- That the provisions in EA94 in relation to Students' Unions should be extended to all providers with DAP or in receipt of (SLC) student funding
- A requirement for the OfS to gather data on SU funding (with particular and separate reference to their representative and independent advocacy functions) should be established

Governance

The effectiveness of Students' Union's governance has developed over time with NUS providing model governing documents and organisational support to its affiliate members, alongside legal guidance produced by BWB LLP, that have been widely adopted.

This helps to ensure that member students' unions adopt robust governing documents that are fit-for-purpose, contain appropriate educational objects and have the usual provisions required for charities. These have been considered by the Charity Commission and, where appropriate, given approval for use by SUs when registering with them. NUS also advises its members to seek independent legal advice when applying for registration as a charity and regularly commissions and publishes legal guidance on key issues facing students' unions, such as the implication of the Prevent duty and the undertaking of political activity.

NUS has also supported Unions to develop and strengthen trustee boards to ensure that the makeup of trustee boards reflects the skills required to ensure robust and strong democratic and accountable organisations.

Democracy

Both NUS and students' unions have been driving the development of strong and participatory democratic process in students' unions for a number of years and have followed closely Electoral Reform Society principles and expertise around ATV systems in doing so.

Modern democratic processes in many students' unions are not simply focussed on the election of student leaders; they provide multiple mechanisms for students to contribute to the development of their union and have a say in how it is run. This leads to more opportunities for engagement in the academic experience. Participative democracy also instils a sense of citizenship and the recent increases in the number of students voting in general and local elections is partly attributable to improvements in student democracy.

Bristol Students' Union currently elects more than 500 student representatives who drive the direction and work of the organisation. These students form a part of a number of democratic functions and fora, which are overseen by the Trustee Board (comprised of external trustees and students). Bristol is currently undergoing a research project to inform the outcome of the organisation's democracy review. This is also in line with a funded initiative from The Student Engagement Project investigating postgraduate research representation, ensuring opportunities for engagement in the academic and professional experiences on offer at Bristol and across the sector.

Quality Students' Unions

In recent years NUS has developed the Quality Students' Unions (QSU) framework that has itself evolved out of the previous HEFCE-funded 'Student Union Evaluation Initiative'. QSU has been developed by NUS to assure the quality, standards and overall effectiveness of students' unions. This quality mark is a single management tool that interlocks with, and complements, relevant standards and codes that already exist within the student movement. Developed with funding and endorsement from the Higher Education Funding Council for England (HEFCE) and with support from a wide range of sector partners, it is designed to help students' unions meet a set of minimum standards to be considered an accredited students' union and provides a robust framework for unions to self-develop, accessing expertise in key areas and benchmarking against comparable SUs.

As unions progress through QSU, they are able to demonstrate publicly the standard of their organisation – 'good', 'very good' or 'excellent'. This will provide useful, open data for prospective students, parents and other stakeholders, including universities, who are then able to use this as a key part of their Education Act 1994 duties to safeguard the effective operation of SUs.

Bristol Students' Union is currently engaging with QSU and is progressing through Part A, as are many other unions.

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.

We agree with the proposed duties but believe that there is an opportunity to go further, and we would reiterate our comments that we believe the focus on transparency and accountability is misguided.

The OfS requires sufficient autonomy from political interference to be able to function effectively and work in the interests of students, and there must be broad agreement on the governance and accountability of the OfS to students. In the same way that the DfA must be able to work with institutions on their access plans and activities without conflicting pressures, the OfS must be allowed to work in the interest of students, without conflicting pressure from the government around the priorities of employers.

We also believe that an OfS must still provide the sector with the type of support that HEFCE currently provides such as research and data analysis, crisis management and support, and offer funding and support for new projects and innovations in the sector.

The OfS should also be given more power to provide both incentive on the issues of widening participation and access, as some access agreements are not sufficiently enforced and some institutions not sufficiently encouraged to improve the diversity of their student populations.

We would echo our own comments here from question 20 with regards to duties for the OfS around the effectiveness of Students' Unions, funding monitoring, and ensuring consultation and independent individual/collective advocacy for all students.

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

☐ Yes ☒ No ☐ Not sure

Please give reasons for your answer.

Increasing the financial burdens on institutions via the administration of the OfS and TEF, only places greater pressure on them to raise fees even higher and increase the overall cost of education to the individual student, a cost that is already the highest in the world.

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.

Whilst we agree with some of the proposed powers, we are concerned about the ability of the Secretary of State to set tuition fee caps, and believe that the power to adjust these caps should sit remain Parliament. The OfS requires sufficient autonomy from political involvement to be able to operate effectively and work in the interest of students.

We agree that the OfS should have the ability to put in place a strategy and directions for providers to take specific actions to address organisational failings. The OfS should have power over investigatory action from BIS to ensure that institutions are safeguarded, and that investigations are monitored by an arms-length regulator. Detail around the approach and circumstances would be required, including the process of investigation, for further comment.

We also believe that with the introduction of postgraduate taught loans and the subsequent increase in support for postgraduate study, the issue of access to postgraduate study needs to be given more attention to ensure that both students and the public are protected.

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

The powers should lie with an arms-length regulator which is independent from government and accountable and owned by the sector. Further consultation should be required by the body with investigatory powers on the proposed circumstances, risk and process for a investigatory measures.

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.

The deregulatory measures are in contrast to the government's agenda on transparency and accountability, and it would be inconsistent to exempt higher education providers from the Freedom of Information Act. This is an important channel for students and the public to hold institutions which receive public funding to account and there are a number of instances where the access to information as a result of Fol have prompted important changes by highlighting institutional failures that would otherwise have gone unnoticed.

It is especially contradictory to propose this measure in light of the discussion around the transparency and accountability of students' unions.

It is important that students and the public have access to and are able to scrutinise the activity of publicly funded institutions to ensure that they are delivering in the interest of students and the public. In light of the government's focus on the availability and robustness of data it is concerning that a key source of information to ensure the accountability of institutions is in question.

Examples of the use of FOIs by students has included fossil free campaigns, the use of public money on transport and accommodation of University senior management, and gender pay gaps, which are also of interest to the general public where public funding is concerned. As students are contributing increasing amounts of personal debt to fund their higher education experiences it is important that institutions are transparent about how tuition fees and public money is spent.

We also recommend that alternative providers not already included in the Freedom of Information Act should be included in the scope.