



UK Research  
and Innovation

**Collaboration Agreement  
between  
The Office for Students (OfS)  
and  
UK Research and Innovation  
Dated: 12 July 2018**

**Introduction**

With distinctive independent missions set out in the Higher Education and Research Act 2017, the OfS and UK Research and Innovation also share important objectives:

- that the higher education sector we regulate and fund should lead the world in terms of the quality of its teaching, research and innovation;
- that individuals, society, businesses and the Government can continue to place confidence in higher education providers and the outcomes they deliver both individually and collectively.

For the period 2018/19, there is a Ministerial expectation for effective future collaboration and this is made explicit in the Strategic Guidance Letter to OfS<sup>1</sup>,

“Joined up working between the OfS and UK Research and Innovation (including Research England) is essential to ensure a co-ordinated and strategic approach to the funding and regulation of the higher education system in England. I would like the OfS to prioritise collaboration with UK Research and Innovation on those areas of shared interest, including: skills; capability and progression; knowledge exchange; the ongoing financial sustainability of providers; accountability and assurance; infrastructure funding; building robust evidence and intelligence; and ensuring that the Research Excellence Framework (REF), Teaching Excellence and Student Outcomes Framework (TEF) and Knowledge Exchange Framework (KEF) are mutually reinforcing.”

UK Research and Innovation will not only rely on the OfS’s regulation of English higher education providers receiving research funding from Research England, but the whole of UK Research and Innovation will be dependent on the judgements and decisions that the OfS will make as a regulator of providers in England. In addition, the OfS will wish to be aware of concerns or intelligence that UK Research and Innovation identifies in relation to its activities with the sector.

This collaboration is consistent with the principles of better regulation whereby public bodies, wherever possible, should be able to rely each other’s systems of oversight and

assurance to minimise the accountability burden placed on providers whilst maintaining an appropriate and proportionate level of accountability for public funds.

## **Parties to the agreement**

### The Office for Students

The OfS was established by the Higher Education and Research Act 2017 (the Act) and its responsibilities include:

- Establishing and maintaining a register of English higher education providers
- Preparing and publishing a regulatory framework that includes initial and ongoing conditions of registration
- Granting (and revoking) degree awarding powers and university title
- Assessing the quality and standards of higher education provided by specified higher education providers
- Monitoring financial sustainability of individual providers and reporting annually on patterns and trends in financial sustainability
- Providing grants, loans and other payments to eligible higher education providers
- Compiling and making available higher education information about providers and their courses and publishing this information
- Providing information and advice to the Secretary of State responsible for higher education.

Informing these functions are the OfS's general duties to have regard to the need to:

- protect the institutional autonomy of English higher education providers
- promote quality, and greater choice and opportunities for students, in the provision of higher education by English higher education providers
- encourage competition between English higher education providers in connection with the provision of higher education where that competition is in the interests of students and employers, while also having regard to the benefits for students and employers resulting from collaboration between such providers
- promote value for money in the provision of higher education by English higher education providers
- promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers
- use the OfS's resources in an efficient, effective and economic way.

The OfS also has a legal duty to follow the principles of best regulatory practice, including the principles that regulatory activities should be transparent, accountable, proportionate and consistent, and targeted only at cases in which action is needed.

In relation to charities regulation, OfS is the principal regulator of those higher education providers that are exempt charities. This does not include further education and sixth form colleges that are registered with the OfS – where these are exempt charities, their principal regulator is the Secretary of State of the Department for Education (DfE).

### UK Research and Innovation

UK Research and Innovation was established by the Higher Education and Research Act 2017. Operating across the whole of the UK with a combined budget of more than £6 billion, UK Research and Innovation brings together the seven Research Councils, Innovate UK and a new organisation, Research England.

UK Research and Innovation will ensure that the UK maintains our world-leading research and innovation position by creating a system that maximises the contribution of each of the component parts and creates the best environment for research and innovation to flourish.

Research England is a new council within UK Research and Innovation, operating from April 2018. As a key component of the research funding system, Research England will oversee UK Research and Innovation's England-only functions in relation to university research and knowledge exchange. This includes providing grant funding to English universities for research and knowledge exchange activities; developing and implementing the Research Excellence Framework in partnership with the UK Higher Education funding bodies; overseeing the sustainability of the Higher Education research base in England; overseeing the £900 million UK Research Partnership Investment Fund; and the Higher Education Innovation Fund (HEIF).

### **Changes to the Higher Education Regulatory Framework**

The OfS's regulatory framework was published in February 2018 (<https://www.officeforstudents.org.uk/advice-and-guidance/regulation/the-regulatory-framework-for-higher-education-in-england/>) ] but it will not come fully into force until 1 August 2019. This is because many of the OfS's regulatory powers apply to 'registered providers' and the OfS will not have completed the registration process for all current providers before the beginning of the 2018-19 academic year. This Agreement includes a description of the regulatory arrangements in place during the transition period from 1 April 2018 to 31 July 2019.

The secondary legislation that enacts the HERA 2017 also makes provision for the powers and duties of HEFCE (under the Further and Higher Education Act 1992) and the Director of Fair Access (under the Higher Education Act 2004) to be exercised by the OfS until its powers are all switched on. This means that:

- Providers previously funded and regulated by HEFCE will be funded and regulated by OfS using the legal powers and duties of the Further and Higher Education Act 1992 and according to the Terms and Conditions of OfS Grant (<https://www.officeforstudents.org.uk/publications/terms-and-conditions-of-funding-for-higher-education-institutions/>).
- Providers previously designated for student support and regulated by the Secretary of State of the Department for Education will continue to be designated

and regulated by DfE under the Secretary of State's powers. The OfS will provide advice to DfE about providers' compliance with the conditions of designation, where applicable (<https://www.gov.uk/government/publications/specific-course-designation-alternative-higher-education-providers>).

- During this same period, the OfS will also regulate all registered providers under HERA powers in respect of:
  - a sub-set of the general ongoing conditions of registration that were applied to providers when they registered with OfS;
  - any specific conditions of registration that were applied to a provider when it registered with OfS.

### **Purpose of the agreement**

This agreement sets out a framework by which the Office for Students (OfS) and UK Research and Innovation (UK Research and Innovation) collaborate in taking forward their respective remits. It is intended to promote:

- Effective working and communication between the two organisations
- Clarity of understanding about our respective roles and responsibilities
- Compliant sharing of information and intelligence between the two organisations

### **Scope of the agreement**

The scope of this Agreement will consider issues pertaining to the delivery of higher education in those Higher Education Providers (HEPs) in England, which have (or are eligible to have) a funding relationship with UK Research and Innovation. However, to remain useful over time, it also seeks to establish the mechanisms by which further collaborative activity on areas of interest to both bodies can be identified and acted upon.

This Agreement identifies those areas in which the OfS and UK Research and Innovation will aim to collaborate and communicate and to set out the broad structures for how that will work. It sets out clearly any formal mechanisms of active collaboration and regulatory assurance as well as other areas where some form of shared intelligence and collaboration are needed.

This agreement is not a statutory or contractual document, but both parties agree to abide by its terms in so far as it is reasonably possible. It will cease to have effect if either party is wound up and will not bind any successor bodies unless transfer is agreed and the agreement reissued under the name of the successor.

This agreement will be subject to review as necessary to ensure it continues to deliver its agreed purpose and that it remains relevant and useful to both parties. In particular the regulation, accountability and assurance sections will be reviewed by June 2019 to

ensure that it reflects the OfS's Regulatory Framework that will be implemented in full from 1 August 2019.

**Nominated officers and first contacts**

Each party shall nominate a primary officer to represent their organisation in this agreement and the related joint activity. The primary officer of each party will provide named contacts in their organisation for specific activities, and will be responsible for supplying up-to-date contact information when roles change.

Changes to the primary officer and other named contacts should be notified to all other parties at the earliest opportunity. At the time of the signing of this agreement nominated primary contacts were as follows:

<b>Name</b>	<b>Job title/responsibility in relation to this agreement</b>	<b>Contact details</b>
Matthew Gray	Resources, Finance and Transformation Directorate, Office for Students	0117 931 7159 <a href="mailto:Matthew.gray@officeforstudents.org.uk">Matthew.gray@officeforstudents.org.uk</a>
Ben Johnson	Head of Insight and Engagement, UK Research and Innovation	0117 931 7038 <a href="mailto:Ben.Johnson@re.ukri.org">Ben.Johnson@re.ukri.org</a>

## Areas of joint interest and activity

The Higher Education and Research Act 2017 (S112) set out specific provision for Cooperation and information sharing between the OfS and UK Research and Innovation

- (1)The OfS and UK Research and Innovation may cooperate with one another in exercising any of their functions.
- (2)The OfS and UK Research and Innovation must, if required to do so by the Secretary of State, cooperate with one another in exercising any of their functions.
- (3)The OfS may provide information to UK Research and Innovation if the disclosure is made for the purposes of the exercise of any function of UK Research and Innovation.
- (4)UK Research and Innovation may provide information to the OfS if the disclosure is made for the purposes of the exercise of any function of the OfS.
- (5)Provision of information which is authorised by this section does not breach—
  - (a)an obligation of confidence owed by the person making the disclosure, or
  - (b)any other restriction on the provision of information (however imposed).
- (6)But nothing in this section authorises the OfS or UK Research and Innovation to provide information where doing so contravenes the Data Protection Act 1998 or the EU General Data Protection Regulations.

Specific areas of collaboration are set out in summary below, and may be supported separately by detailed agreements, policies and frameworks.

	<u>Area</u>	<u>Description of collaboration (summary)</u>
	<b>1. Liaison</b>	In order to progress the shared vision of this agreement, there will normally be two meetings each year between the Chief Executives or nominated deputies. The purposes of such meetings will be to: discuss areas of common interest; to update on risk issues and identify any new risks; to review the progress made in any shared projects; to agree further areas of collaboration; and to review the content of this agreement in the light of experience and changing circumstances. Additionally meetings of relevant officials will be held with regard to each/any of the areas identified above along with informal meetings between officers of OfS and UK Research and Innovation

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	<p><b>2. Governance</b></p>	<p>When matters relevant to both parties are to be discussed at a board meeting of either party, a representative from the other party may be invited to observe for that discussion item.</p> <p>The CEO of OfS will be invited to attend Research England Council meetings as an observer [when relevant issues arise]. The Executive Chair of Research England will be invited to attend OfS Board meetings as an observer to contribute when relevant issues arise.</p>
<p><b><u>Regulation and Funding</u></b></p>		
	<p><b>3. Regulatory Framework/ Assurance</b></p> <ul style="list-style-type: none"> <li>• Accountability for public funding</li> <li>• Provider level risk intelligence (e.g. financial sustainability, management and governance)</li> <li>• Overall funding changes.</li> </ul>	<p>This collaboration agreement is consistent with the principles of better regulation whereby public bodies, wherever possible, should avoid duplicating systems of oversight and assurance. This approach will minimise the accountability burden placed on Higher Education Providers in England, whilst maintaining a robust and proportionate level of accountability for public funds.</p> <p>To help the OfS and UK Research and Innovation achieve their aims, effective accountability arrangements need to be in place at Higher Education Providers. These underpin monitoring of the sustainability of providers, minimise and deter fraud, and ensure public funding is managed in accordance with the principles detailed in HM Treasury's Managing Public Money guide. OfS will seek assurances that a provider's systems and processes to ensure accountability are in place and working effectively.</p> <p>OfS assurances will cover providers in England only.</p> <p>This assurance will largely come from providers' own systems of self-regulation and control, from data submitted by providers to OfS as part of the regulatory process, as well as data and information from other sources. The OfS will also undertake testing at providers where more detailed assurance is required to support its objectives.</p>

		<p><u>Assurance and accountability arrangements (further detail in Annex A).</u></p> <p>Where possible and in so far as it is practical in pursuit of efficient regulation the OfS will seek to incorporate within its regulatory activity UK Research and Innovation assurance requirements. For example assurance from providers of their compliance with the research integrity concordat.</p> <p>However, OfS assurances will not be able to cover the obligation of providers to satisfy any specific terms and conditions of grant disbursed by UK Research and Innovation. For example, assurance that a provider has met specific research objectives in relation to UK Research and Innovation funding. UK Research and Innovation will design and undertake its own programme of assurance activity relating to the bodies it funds and the specific terms and conditions of its grant. In designing such assurance programmes, UK Research and Innovation activity will not duplicate regulatory activity undertaken by OfS.</p> <p>Principles of assurance</p> <ul style="list-style-type: none"><li>• OfS and UK Research and Innovation will meet periodically (for example, every six months) to discuss respective regulatory activity and relevant oversight intelligence to the extent that it is relevant to the performance of the other party's functions.</li><li>• The bodies will inform each other, on an ad hoc basis, of any material risk issues arising from regulatory activity – material issues are those that are identified by one body that would cause or are likely to cause a risk to the other's funding or regulatory action to be taken by the other body.</li><li>• The OfS will provide to UK Research and Innovation an annual written assurance on matters relating to accountability risk. Specifically, this will set out a description of the work the OfS has carried out to gain assurance over a provider's arrangements for financial sustainability, risk management, internal control, governance and value for money. The OfS will also notify UK Research and Innovation of any English Registered HE Providers that it funds about which it has identified material concerns about these arrangements and the reasons for those concerns – for the transition period to 31 July 2019, this is those providers assessed as being 'at higher risk'. This is set out in more detail in Annex A to this Agreement.</li></ul>
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		<ul style="list-style-type: none"> <li>• UK Research and Innovation will provide to OfS an annual written assurance on material issues of risk or accountability in English HE Providers that it has noted from all its activities.</li> <li>• UK Research and Innovation must report to OfS, any breaches of its terms and conditions of funding by HE providers in England.</li> <li>• Where necessary, OfS will provide assistance to UK Research and Innovation in the provision of assurances to National Audit Office, where there is reliance on the work of OfS. OfS will oversee the value for money of the HE sector in England in regard to a) the use of public funding by providers in receipt of public grant; and b) value for money for students. UK Research and Innovation will monitor the efficiency of research and innovation in the sector.</li> <li>• Regulatory Action/ Sanctions – OfS will normally discuss with UK Research and Innovation before taking any regulatory action against, or imposing sanctions on, any provider that might have implications for research funding or research activity undertaken by that provider.</li> <li>• OfS funding - OfS will inform UK Research and Innovation before taking any funding action on any provider in England which might have implications for research funding or research activity undertaken by that Provider.</li> <li>• UK Research and Innovation funding decisions – UK Research and Innovation will inform OfS where it takes funding decisions which might impact on the sustainability or risk status of a particular provider in England.</li> </ul>
	<p>4. <b>Financial health and sustainability analysis.</b></p>	<p>The OfS will work with UK Research and Innovation to ensure that the risks around the sustainability of providers, which contribute to the vibrancy of the HE system/sector is monitored appropriately.</p> <p>S 68(2-4) of The HERA requires the OfS to monitor and report on relevant patterns and trends in the financial health and sustainability of the English Higher Education Provider sector. OfS may also undertake separate thematic reviews on specific areas as they affect the sector, or parts of the sector. In producing such analysis, OfS may collaborate with or request input from UK Research and Innovation on aspects of sector analysis.</p>

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		<p>UK Research and Innovation may undertake analysis and produce reports on the financial health or sustainability of research activity in the sector and in doing so may request advice or input from OfS.</p> <p>Each body should share with each other any sectoral/ sub-sectoral analysis which comments on the activities of the sector where it is of interest to the business of the other party.</p>
	<b>5. TRAC (System)</b>	<p>The Transparent Approach to Costing (TRAC) system provides both OfS and UK Research and Innovation with valuable data on activity costing, in those providers in the UK that are in receipt of public funding from OfS and UK Research and Innovation</p> <p>OfS and UK Research and Innovation have a mutual interest in the TRAC system and will be independently represented on the TRAC Development Group, the body established to develop the TRAC system. From time to time, OfS and UK Research and Innovation may meet to discuss the TRAC system. The OfS will provide assurance to UK Research and Innovation that providers are compliant with TRAC requirements, including appropriate signoff and governance oversight.</p> <p>The OfS will co-ordinate the collection of annual TRAC returns from appropriate providers and will share data with UK Research and Innovation in accordance with the separate Data Sharing Agreement between OfS and UK Research and Innovation.</p>
	<b>6. Sustainability and funding of the collective 'HE system'</b>	<p>There is mutual acknowledgement that the funding environment in which many providers operate is complex and a shared interest in that changes to either the research or teaching funding environments may have consequences for the other. OfS and UK Research and Innovation will work side by side to ensure that funding contexts and options are widely understood and transparently explained, and potential effects on students, research capability and the wider economy are carefully weighed.</p>
	<b>7. Gateways to HE (RDAP)</b>	<p>OfS has the power to award Research Degree Awarding powers (RDAPs) to institutions subject to the institution meeting the eligibility and assessment criteria set out in the DAPs instructions</p> <p><a href="https://www.officeforstudents.org.uk/advice-and-guidance/regulation/degree-awarding-powers-and-university-title/">https://www.officeforstudents.org.uk/advice-and-guidance/regulation/degree-awarding-powers-and-university-title/</a>. Research degree awards are defined in section 42(3) of HERA. They include Doctoral Degrees that sit at</p>

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		<p>level 8 and Research Master's Degrees sit at level 7 of the Framework for Higher Education Qualifications (FHEQ).</p> <p>OfS's decision on whether or not to award, vary or revoke RDAPs will be informed by the views of UK Research and Innovation. As set out in section 46(5) of HERA, the advice provided to the OfS by the relevant body responsible for providing advice in relation to quality and standards (for example the designated quality body) in respect of any matter relating to research degree awards must be informed by the views of UK Research and Innovation. The OfS may also follow-up directly with UK Research and Innovation as appropriate.</p>
	<p><b>8. Quality and standards</b></p>	<p>The OfS and UK Research and Innovation will work together to develop a comprehensive framework/strategy to monitor the quality and standards of research awards within the broader regulatory context of both organisations that minimises burden and duplication but ensures students studying for these awards receive the best possible outcomes.</p> <p>OfS is committed to sharing any intelligence or data gathering with UK Research and Innovation that indicates issues with quality of provision, for example completion rates for relevant student groups, or potential risks to PGR students, the standards of research awards and the quality of their academic experience. OfS will similarly use any intelligence gathered by UK Research and Innovation to inform its ongoing monitoring of providers and the risk of a provider breaching a condition of registration</p>
	<p><b>9. Specific research funding initiatives to English HE Providers. (e.g. UKRPIF)</b></p>	<p>UK Research and Innovation (RE) may seek to use the skills, data and knowledge held in OfS (as lead regulator of HE providers in England) for advice in contribution to the assessment of specific funding initiatives (such as UK Research Partnership Investment Fund bids). Such advice may concern issues relating to a provider's risk, financial sustainability, management, governance and value for money.</p>

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	<p><b>10. Data sharing arrangements</b></p>	<p>There shall be a separate 'Data Sharing Agreement' between the OfS and UK Research and Innovation which will document the data that the bodies will share with each other. This schedule will also set out any restrictions or conditions attached to those data including defining roles in relation General Data Protection responsibilities (data controller/ data processor) as appropriate.</p> <p>The data sharing agreement will be subject to periodic review.</p> <p>Appropriate nominated officers of the OfS and UK Research and Innovation will meet at least annually to review their respective data needs and will design a coordinated approach to the efficient collection and management of data.</p>
	<p><b>11. Designated Data Body</b></p>	<p>Timely, accurate information is required in order for the OfS, UK Research and Innovation and the Secretaries of State for Education and Business, Energy and Industrial Strategy to perform their functions. The relevant provisions in HERA for collecting, sharing and disseminating data and information are contained in sections 8, 9, 64 to 67 and Schedule 6.</p> <p>Pursuant to paragraph 3 of Schedule 6 to HERA, the Secretary of State has appointed a Designated Data Body to perform the Information Duties. The Designated Data Body will collect, make available, and publish appropriate information on behalf of the OfS and its other statutory customers.</p> <p>The information and data the OfS requires to fulfil its functions will be wide-ranging. It will need to be sufficient to support the OfS to, among other things, assist UK Research and Innovation and other public bodies in the delivery of their prescribed functions.</p> <p>The OfS will be responsible for holding the Designated Data Body to account for the performance of its designated functions.</p>

	<b><u>HE Policy shared interests</u></b>	
	<b>12. Skills and the industrial strategy</b>	<p>A successful Industrial Strategy will boost productivity in all regions. The higher education sector has an important role to deliver skilled and knowledgeable graduates, technicians, researchers and innovators into the economy. The OfS and UK Research and Innovation will work together to encourage sector support for the pipeline of skilled graduates from all backgrounds needed by the economy. To achieve this we will need to work together to promote and enhance collaboration between the HE sector and employers nationally and locally. Where this includes funding for skills we should seek to ensure aims and activities are mutually reinforcing.</p> <p>We shall continue to collaborate on building robust evidence and intelligence to support the industrial strategy. We will horizon scan by gathering data and intelligence on the skills needs of the economy, about progression through levels of study and about capability in different fields of research. We expect this will include working through the Higher Education Statistics Agency and leveraging data sets such as the Longitudinal Educational Outcomes data and Higher Education-Business Community Interactions survey data. We shall develop our combined understanding and support for skills and the industrial strategy based upon shared evidence and analysis of strengths, opportunities and vulnerabilities.</p>
	<b>13. Promoting equality, diversity and inclusion in higher education</b>	<p>Providers' strategies for equality, diversity and inclusion should be mutually reinforcing across all of their provision, and across their student body and workforce. There is a joint commitment to achieve access and progression for all. We shall be mindful that our policies and priorities should support improvements in equality at the points of transition from undergraduate to postgraduate study, to doctoral degrees and into the research and wider workforce.</p>
	<b>14. Healthcare</b>	<p>OfS and UK Research and Innovation may collaborate in relation to Healthcare Education provision.</p> <p>Specifically, there is a shared interest in the UK Healthcare Education Advisory Committee which operates jointly with other higher education funding bodies to:</p> <ul style="list-style-type: none"> <li>• provide advice on the impact of NHS changes on healthcare education and research</li> </ul>

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		<ul style="list-style-type: none"> <li>• advise on the implementation of initiatives to promote high quality research, teaching and Knowledge Exchange in medicine and healthcare subjects, including the REF, KEF and the Government’s Industrial Strategy</li> <li>• advise on the interpretation of government health departments' workforce needs in terms of educational provision.</li> <li>• monitor the joint working of government health and education departments and advise on areas that need resolution to promote the joint agenda.</li> </ul> <p>Furthermore, there is a need for collaboration to ensure that high quality teaching in medicine and healthcare subjects is supported, where appropriate, by research and knowledge exchange, and that the skills and capacity needs of the clinical education workforce, both in terms of teaching and research are understood and supported.</p>
	<p><b>15. Knowledge Exchange</b></p>	<p>Both parties play a role in supporting effective knowledge exchange. This includes the combined investment through the Higher Education Innovation Funding (HEIF), delivered through Research England.</p> <p>Research England will ensure joint agreement of strategic objectives and criteria for HEIF funding that reflect the teaching elements of knowledge exchange. The OfS will be responsible for the teaching and student elements of Higher Education and Innovation Funding (HEIF) via the Teaching Grant contribution to HEIF, working with Research England and UK Research and Innovation. As part of this, both parties will collaborate to evaluate the impact of the teaching and student elements.</p>
	<p><b>16. REF, TEF and KEF</b></p>	<p>We will work to ensure that the TEF, the KEF and the REF are mutually reinforcing in how they recognise and reward the delivery of excellent research, teaching, knowledge exchange.</p> <p>We will be proactive in sharing and consulting on intended developments.</p>
	<p><b>17. Joint funded initiatives</b></p>	<p>For the benefit of both teaching and research, it is in the interests of students, government and the wider public for providers and research institutes to maximise the value of their investments. Where the investment through targeted funding can benefit both research and teaching and it is more effective and efficient to do so, we will work together to ensure that this is achieved.</p>

### **Corporate communication**

The OfS and UK Research and Innovation will work closely together to ensure that our communications activities are mutually beneficial. We will seek to align communications work where practical. We will share information – including around significant upcoming publications, media relations and other communications work. We will seek out opportunities to work collaboratively wherever possible.

### **Freedom of Information Act**

Each body will be responsible for its own compliance with the requirements of the Freedom of Information Act (FOIA). Where a FOIA request is received by one organisation that relates to, or impacts upon, the functions of the other body, OfS and UK Research and Innovation commit to seek and consider the representation of that body as part of its deliberations. Such consultation should be sought promptly and normally within five working days of receipt of the request. While the views of the other body will be taken into account, the final decision in relation to responding to the request lies with the organisation receiving the request.

Where necessary, both OfS and UK Research and Innovation commit to assist the other to enable compliance with obligations under FOIA. In the event that either body receives a request under FOIA that requires the assistance of the other in obtaining the information that is the subject of such a request, a response will be provided promptly and within 10 working days of receiving the request for assistance.

### **Term of this agreement**

This agreement takes effect from 1 April 2018. The agreement will continue in force until revoked in writing by either party or superseded by a future agreement. It is expected the agreement will be reviewed by June 2019 in order to reflect the new OfS's Regulatory Framework that will be in force from 1 August 2019.

### **Updates to this agreement**

Any party may propose amendments to this agreement at any time and these will be subject to agreement. Amendments will come into effect on a date to be agreed by all parties.

### **Disputes**

In the event of any dispute arising out of or in connection with this agreement the parties will in good faith seek to resolve that dispute using a method acceptable to all relevant parties. Where the dispute cannot easily be resolved, the matter may be referred in the first instance to the Chief Executives of the parties involved and subsequently, if the issue remains unresolved, to the Chairs of the parties involved.

**Publication**

This agreement will be published on the respective websites of OfS and UK Research and Innovation.

**Signed:**


Signed on behalf of the Office for Students:



Chief Executive

Date: 20/07/18

Signed on behalf of UK Research and Innovation:



Chief Executive

Date: 13/07/18



## **Annex A – Assurance and Accountability Arrangements**

### **Higher Education Regulatory Frameworks**

The OfS's regulatory framework<sup>1</sup> was published in February 2018 but it will not come fully into force until 1 August 2019. This is because many of the OfS's regulatory powers apply to 'registered providers' and the OfS will not have completed the registration process for all current providers before the beginning of the 2018-19 academic year.

The secondary legislation<sup>2</sup> that enacts the HERA 2017 also makes provision for the powers and duties of HEFCE (under the Further and Higher Education Act 1992) and the Director of Fair Access (under the Higher Education Act 2004) to be exercised by the OfS until its powers are all switched on. This means that providers previously funded and regulated by HEFCE will be funded and regulated by the OfS using the legal powers and duties of the Further and Higher Education Act 1992 and according to the terms and conditions of OfS funding<sup>3</sup>.

During this same period, the OfS will also regulate all registered providers under HERA powers in respect of:

- a sub-set of the general ongoing conditions of registration that were applied to providers when they registered with the OfS
- any specific conditions of registration that were applied to a provider when it registered with the OfS.

This relates to the provider's continued suitability to remain on the OfS's register through 2019-20 and compliance with these conditions does not in and of itself impact on HEI's ability to receive public funding during the period to 31 July 2019.

Details of how OfS will regulate the publicly funded providers from 1 April 2018 until 31 July 2019 is set out in Regulatory Notice 2 that is published on the OfS's website<sup>4</sup>.

### **Accountability framework**

#### Requirements on higher education institutions (HEIs) to 31 July 2019

The following arrangement relates to the transition period to 31 July 2019. These arrangements will be updated in due course to follow the new Regulatory Framework from 1 August 2019.

All HEIs in receipt of payments from the OfS are subject to the accountability framework set terms and conditions of OfS funding and funding agreements (formerly the Memorandum of assurance and accountability between HEFCE and institutions), which includes the audit code of practice (Code).

The key sources of assurance from HEIs to the OfS form part of the annual accountability

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<sup>1</sup> [https://www.officeforstudents.org.uk/media/1047/ofs2018\\_01.pdf](https://www.officeforstudents.org.uk/media/1047/ofs2018_01.pdf)

<sup>2</sup> <http://www.legislation.gov.uk/ukxi/2018/245/contents/made>

<sup>3</sup> <https://www.officeforstudents.org.uk/publications/terms-and-conditions-of-funding-for-higher-education-institutions/>

<sup>4</sup> <https://www.officeforstudents.org.uk/publications/regulatory-notice-2-regulation-up-to-31-july-2019-of-providers-that-were-previously-funded-by-hefce/>

returns submitted in December each year and include:

- An internal audit function that reports annually on the adequacy and effectiveness of the HEI's arrangements for governance, internal control and risk management and on value for money (VFM).
- The institution's annual financial statements that are externally audited by independent auditors appointed by the institution's governing body. The auditors are appointed in accordance with the OfS's requirements. The external auditor provides an opinion on the audited financial statements, which includes assurance about the funds being applied for the purposes given and in accordance with the requirements of the terms and conditions.
- An audit committee that provides annual opinions on the adequacy and effectiveness of the HEI's arrangements for risk management, control and governance, value for money, and the management and quality assurance of data.
- A letter from the external auditor to those charged with the governance of the HEI that notes the outcomes of the external audit and any significant issues in relation to internal control that have been identified in the course of the audit.
- An assurance statement from the Accountable Officer that the terms and conditions of OfS funding have been complied with.

Additional assurance is received from the financial forecasts submission received from HEIs each year.

#### Internal Audit

In relation to internal audit, the Code states that:

- Each HEI must have a suitably resourced internal audit function which must comply with the professional standards of the Chartered Institute of Internal Auditors. The terms of reference for internal audit must make clear that its scope encompasses all of the HEI's activities, the whole of its risk management, control and governance arrangements, and any aspect of VFM delivery.
- The internal audit service must produce an annual report which must relate to the financial year and include any significant issues up to the date of preparing the report which affect the opinions. It must be addressed to the governing body and the accountable officer and must be considered by the audit committee.

Therefore the scope of internal audit, and the annual report, is required to cover all systems operated by the institution, including those relating to payments made by UK Research and Innovation to the institution.

#### External Audit

In relation to external audit, the Code states that:

- External audit must provide an opinion to the governing body on whether funds

(including public funds) have been applied for the intended purposes and on whether the financial statements provide a true and fair view of the financial results for the year. The external auditors must report whether in all material respects:

- a. The financial statements give a true and fair view of the state of the HEI's affairs, and of its income and expenditure, gains and losses, changes in reserves and cash flows for the year. They should take into account relevant statutory and other mandatory disclosure and accounting requirements, and the OfS's requirements.
- b. The financial statements have been properly prepared in accordance with the 2015 version of the 'Statement of recommended practice: Accounting for further and higher education' (SORP), and relevant legislation.
- c. Funds from whatever source administered by the HEI for specific purposes have been properly applied to those purposes and managed in accordance with relevant legislation.
- d. Funds provided by the OfS have been applied in accordance with the terms and conditions attached to them.
- e. The requirements of the OfS's accounts direction have been met.

The external auditor's report on the institution's financial statements is concerned with all payments to the institution, including those by UK Research and Innovation, and expenditure in relation to these payments. The OfS is also copied the external auditor's annual report to those charged with governance on the financial statements and the regularity of transactions. Where the report identifies significant accounting or control issues, the OfS follows these issues up with the institution.

### The OfS

The Code remits the OfS to:

- Undertake examinations of institutions' risk management, control and governance arrangements. Our review work focuses on each institution's financial sustainability and accountability through an annual analysis of institutional information; assurance visits focused on accountability undertaken according to a risk-based cycle with a maximum interval of five years; and data assurance work. Exceptionally, the Assurance team will conduct reviews in its own right of financial management and governance in institutions. The cyclical assurance visits will continue through to 31 July 2018 and will then be replaced by a risk-based governance review until 31 July 2019.
- Develop and monitor the quality of internal audit provision. This monitoring has been by reviewing whether institutions have taken the necessary steps to secure an effective internal audit service. OfS looks to heads of internal audit and audit committees to ensure the effectiveness of provision, in line with the professional requirements of the Chartered Institute of Internal Auditors.

### Corporate governance and internal control

- Under the terms of OfS's accounts direction, HEIs are required to include within their financial statements a statement on internal control (corporate governance). These statements provide further assurance that institutions are complying with conditions of grant.
- In addition, HEIs' Accountable Officers are required to submit an annual assurance return that they have discharged their reporting requirements under the terms and conditions of OfS funding and audit code of practice.

### Risk assessment

The risk assessment of each institution includes professional judgements about the financial sustainability, management and governance of HEIs based upon a review of the annual accountability returns information and other intelligence from the OfS's engagement with HEIs – this evidence base is similar to that used for risk assessments of HEIs by HEFCE in previous years. The risk judgement continues to be notified to each HEI via a 'risk letter' annually each spring. In some circumstances risk letters will be issued at other times of the year if the risks for the HEI have materially changed in-year and a new risk assessment is needed to reflect these.

### Timing of Assurance Statements

The OfS's Accounting Officer's assurance to UK Research and Innovation's Accounting Officer is based on the annual accountability returns relating to the institutions' financial and academic year ending 31 July of the previous year and on the wider accountability framework in place up to 31 March of the current year.

### **Sharing of information**

Each party undertakes to inform the other of any information of which it becomes aware that could place the other party's funding objectives at risk, such that intervention might be required to safeguard public funding objectives.

Examples where this might be required include:

- Changes in the level of funding provided to an HEI that could place its financial sustainability to deliver teaching or research at risk.
- Material non-compliance with the terms and conditions contained in OfS's terms and conditions of funding.
- Material non-compliance with the terms and conditions of UK Research and Innovation funding.
- Material weaknesses in the calculation and/or submission of TRAC returns such that the data cannot be relied on.

- An HEI being subject to a public interest disclosure relating to public funding.
- Discovery or notification of fraud within an HEI affecting public funding.
- Changes to OfS's risk assessment of a HEI.
- Material issues raised by an HEI's external auditors impacting on public funding, including those raised and reported under International Standard on Auditing (ISA) 260.

### **Co-ordination of activity**

Each party will carry out a programme of assurance activity sufficient to meet its objectives that public funding is spent with regularity and propriety.

Responsibility for ensuring that appropriate information is shared between the two organisations will rest with the nominated contact. For UK Research and Innovation this will be the Senior Responsible Officer (SRO) for Assurance. For the OfS, the nominated contact will be Senior Responsible Officer (SRO) for Assurance and Accountability. Both parties will notify each other of any changes to primary contacts as appropriate.

Both parties agree to share, for information, their approved annual assurance plans.

The OfS will co-ordinate the collection of annual TRAC returns from HEIs and provide the data to UK Research and Innovation in the agreed format.

Officers of both organisations will hold liaison meetings in Spring and Autumn of each year, the scope of which will cover the subject matter of this agreement.

### **Annual letters of assurance**

The accounting officers of the OfS and UK Research and Innovation will formally write to each other at the end of each financial year to give their opinions as set out below.

#### UK Research and Innovation assurance opinion

The UK Research and Innovation Accounting Officer will provide annual assurance to the Accounting Officer of the OfS that:

- To the best of my knowledge and believe, based upon the information and assurances available to me, I can provide assurance that UK Research and Innovation (and its constituent funding councils) has fulfilled the terms set out in the collaboration agreement between us for the financial year **XdateX**
- The Head of the Funding Assurance Programme has reported no material concerns that need to be drawn to the attention of the OfS.
- Of the **XnumberX** research organisations included within the **Xfinancial yearX** funding assurance plan, **XnumberX** were assessed as providing a level of moderate assurance or higher. Where assurance is limited, we have shared findings with the OfS following final approval of reports.
- I also confirm that the systems of internal control and assurance used by UK Research and Innovation (and its constituent Research Funding Councils) functioned effectively during the financial year as based upon:

- Formal reports presented by the Integrated Funding Assurance champion at Operations Oversight Board on the assurance activity undertaken during the reporting period including quarterly reports on activity undertaken by the UK Research and Innovation funding assurance programme;
- The annual report and opinion of the Director of Government Internal Audit Agency on the adequacy and effectiveness of risk management, control and governance within Research Funding Councils, including their work in relation to funding assurance;
- The systems of governance, risk management and internal control operating within the Research Funding Councils, as set out in their individual governance statements for *Xfinancial yearX*.

#### The OfS's assurance opinion

The OfS Accounting Officer will provide annual assurance to the Accounting Officer of UK Research and Innovation that the HE Providers in receipt of payments from UK Research and Innovation have:

- made use of these payments in ways that are considered to be consistent with the purposes for which the payments were given; and
- appropriate arrangements for financial management and accounting in place to mitigate the risk that funds are not used for the purposes given.

In support of this assurance, the OfS Accounting Officer will reproduce the Director of Competition and the Register's annual opinion for the year on the operation and effectiveness of the institutional risk system. The opinion for 2016-17 is presented below as an example of what can be expected in relation to this (the opinion below refers to HEFCE as it is a reproduction of the opinion previously provided by HEFCE to RCUK).

#### **Annual opinion on the operation and effectiveness of the institutional risk system**

Based on my evaluation of the operation of the institutional risk system during 2016-17, I can provide assurance that:

##### Financial sustainability

- The financial results for HEFCE-funded HEIs for the academic year 2015-16 show a reasonable financial position overall, although there is significant and increasing variation in the financial performance of individual institutions.

##### Corporate governance, risk management and internal control

- HEFCE-funded HEIs have adequate and effective systems of risk management, internal control and governance.

##### Regularity and propriety

- In all material respects, the expenditure and income of HEIs we fund (including HEFCE funding) have been applied for the purposes intended by Parliament.

Value for public money

- HEFCE-funded HEIs understand and accept their responsibility for striving to achieve VFM from public funds and can demonstrate that they are doing so.

Data quality

- The quality of data and information that underpins the institutional risk system is sufficient to support our risk judgements.
- Where we have concerns about data quality in an individual provider, we are taking action to ensure that this improves.

Exempt charities

- The providers that are exempt charities have demonstrated compliance with their responsibilities under charity law.
- HEFCE has discharged its statutory responsibility to promote compliance by the trustees of those higher education institutions that are exempt charities with their own responsibilities under charity law.

Quality and standards

- The Quality, Accountability and Regulation Strategic Advisory Committee has confirmed that HEFCE has satisfactorily met its statutory obligation for quality assessment under section 70 (1) (a) of the Further and Higher Education Act 1992, and in so doing has discharged its duty independently of government, of the higher education sector and of providers of higher education.