

Office for
Students



Regulatory notice 1

Access and participation plan guidance

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Introduction

1. This regulatory notice sets out guidance for a higher education provider in England on the preparation of an access and participation plan for consideration by the Office for Students (OfS). It will allow a provider to understand what the OfS expects a provider to include in its access and participation plan, how to submit it for consideration, and what happens after that.
2. An access and participation plan is approvable if it sets out provisions that will be meaningful and effective in promoting equality of opportunity for underrepresented groups, as determined by the OfS.
3. This guidance is issued by the OfS to support providers in producing an approvable plan, on the basis of the following provisions of the Higher Education and Research Act 2017 (HERA):
 - a. Section 29(4): 'The OfS may issue guidance as to the matters to which the OfS will have regard in deciding whether to approve plans.'
 - b. Section 35(1) 'The OfS may (a) identify good practice relating to the promotion of equality of opportunity, and (b) give advice about such practice to registered higher education providers.'
4. The guidance therefore explains how a provider can meet the requirements for an access and participation plan under statute, as well as how a provider can meet the expectations of good practice set out by the OfS.
5. This guidance must be read in conjunction with the detailed guidance provided in Regulatory advice 6.¹

¹ We will publish a revised version of Regulatory advice 6 in spring 2023 at www.officeforstudents.org.uk/publications/regulatory-advice-6-how-to-prepare-your-access-and-participation-plan-effective-practice-advice/.

Part A: About an access and participation plan

6. One of the OfS's primary regulatory objectives is to ensure that all students, from all backgrounds, with the ability and desire to undertake higher education, are supported to access, succeed in, and progress from higher education.
7. Access and participation plans are one of the regulatory tools the OfS deploys to facilitate the achievement of our objectives, and our decisions in connection with such plans are an example of where we have had regard to equality of opportunity, as stipulated in HERA and the Equality Act 2010.²
8. The OfS expects a provider's access and participation plan to clearly set out the key risks to equality of opportunity that current and prospective students are facing, and how it will address these.
9. The OfS expects a provider to identify risks to equality of opportunity by examining its data for risk manifestations (see paragraph 23-26 for further explanation). In identifying risks to equality of opportunity a provider should have regard to the sector-wide Equality of Opportunity Risk Register (EORR) which is published by the OfS.³ A provider may also refer to risks not covered by the EORR.
10. There are highly impactful, sector-wide risks laid out in the Equality of Opportunity Risk Register (EORR – discussed further in paragraph 23-28 below) that we would expect to see reflected appropriately in access and participation plans. In particular, we expect most providers to consider:
 - a. How they can address the risk posed to fair access and successful participation by knowledge, skill and attainment gaps emerging across childhood by making meaningful and effective contributions to supporting schools to raise pre-16 attainment.
 - b. How they can expand and promote diverse and flexible pathways and provision.
 - c. How they can improve the mental health of their students.
11. We also expect a provider to evaluate the effectiveness and impact of the activity it delivers through its plan, and work to ensure that the learning from such evaluation effect both its own and other providers' work on equality of opportunity.
12. We expect a plan to include ambitious objectives a provider seeks to achieve, the intervention strategies it will put in place to achieve the appropriate changes, including relevant and realistic outcomes, and the investment it will make to deliver the plan.⁴ A provider is

² See <https://www.legislation.gov.uk/ukpga/2017/29/contents/enacted>.

³ See www.officeforstudents.org.uk/eorr/.

⁴ See <https://www.legislation.gov.uk/ukxi/2018/470/contents/made>.

encouraged to consider further information on the OfS's approach to equality of opportunity and its key performance measures through the OfS website.⁵

Which providers need an access and participation plan?

13. An English higher education provider is required to have an approved access and participation plan if it is registered in the Approved (fee cap) category of the OfS Register and wishes to charge above the basic tuition fee limit for 'qualifying persons' on 'qualifying courses'. Condition of registration A1 applies to such a provider:

Condition A1: An Approved (fee cap) provider intending to charge fees above the basic amount to qualifying persons on qualifying courses must:

- i. Have in force an access and participation plan approved by the OfS in accordance with HERA.
- ii. Take all reasonable steps to comply with the provisions of the plan.

14. For the condition of registration and other purposes, 'qualifying persons' on 'qualifying courses' are prescribed by regulations made under HERA. These are available online and are amended from time to time.⁶
15. Each provider is responsible for ensuring that it is properly aware of the law, including any changes to regulations that may affect its access and participation plan.

Basic and maximum fee limits

16. As set out in The Higher Education (Access and Participation Plans) (England) Regulations 2018, an access and participation plan must set out the arrangements in place to make available to prospective students, before they commit themselves to undertake a higher education course at the provider, information about the aggregate amount of fees a provider will charge for the completion of that course.
17. The basic and higher fee limits are prescribed by the Secretary of State in regulations made under HERA and may change from time to time. For reference, these fee limits are normally published on the OfS website, but it is the responsibility of a provider to ensure that it is aware of any relevant law affecting the fee limits.

⁵ See www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/our-approach-to-access-and-participation/.

⁶ See www.legislation.gov.uk/ukxi/2017/1189/contents/made.

Part B: Contents of an access and participation plan

18. This guidance sets out the content the OfS expects to see in an access and participation plan, so that such a plan meets the statutory requirements, makes a meaningful and effective contribution to equality of opportunity, and is otherwise consistent with guidance on good practice.
19. Where a provider does not include all expected content in its plan, this is likely to delay approval because additional content is likely to be sought.
20. Further guidance about the OfS's expectations for specific content of a plan is provided in this document and in Regulatory advice 6, and a provider should ensure that both documents are used to guide the development of its plan.
21. The OfS recognises that the level of ambition and scope of an access and participation plan will vary for different providers. Each plan will be informed by the circumstances of an individual provider and the characteristics, needs and views of its potential and current students.
22. It is for a provider to determine the focus of its access and participation plan. The approach a provider takes and the targets it sets should be determined by its assessment of its performance and consideration of the EORR. The plan should relate to those groups of students who are at risk of not experiencing equality of opportunity in higher education as set out below.
23. The OfS will decide whether the information provided is sufficient to approve the plan.

Risks to equality of opportunity and student groups

24. HERA states that an access and participation plan must include provisions relating to the promotion of equality of opportunity as required by secondary legislation and may include further provisions relating to the promotion of equality of opportunity.⁷
25. Some student groups may have historically experienced inequality in respect of higher education at different stages of the student lifecycle. For example:
 - a. Some students are less likely to have had equal opportunity to access the resources needed for a high quality education than others. This may limit their chances to acquire the knowledge and skills needed for successful higher education participation.⁸
26. Further, there may be other barriers to higher education that mean certain student groups do not experience equality of opportunity. For example:

⁷ Higher Education and Research Act 2017, section 32 (1)
<https://www.legislation.gov.uk/ukpga/2017/29/section/32/enacted>.

⁸ See www.officeforstudents.org.uk/eorr/.

- a. Students with fewer financial resources may have been disproportionately affected by the recent increase in the cost of living.
27. The OfS categorises each of these instances as a risk to equality of opportunity. Risks to equality of opportunity are likely to contribute to the issues a provider identifies through its assessment of performance. We call these 'manifestations of risk'. A manifestation of risk is not always caused by an unmitigated risk, but they are often strongly correlated and providers should pay particular attention to these. For example:
- a. Lower continuation rates for a specific student group is a risk manifestation. The underlying risks to equality of opportunity may be insufficient academic support and cost pressures.
28. The OfS will publish the sector-wide Equality of Opportunity Risk Register (EORR) that identifies a range of sector-level risks to equality of opportunity and the characteristics of students likely to be affected by such risks.⁹ The EORR is not exhaustive, and other risks to equality of opportunity may be relevant to a provider.
29. Each provider should identify its own risks to equality of opportunity having regard to the EORR, thereby identifying the prospective or current students, or types of students, to be targeted in its access and participation plan.
30. As a result of identifying risks to equality of opportunity and the student groups that they are likely to affect, student groups that may be targeted by access and participation plan intervention strategies include, but are not limited to:
- a. Students in receipt of free school meals.
 - b. Students with certain characteristics, including care experienced students, students who are estranged from their families, and students from Roma, Gypsy and Traveller communities.
 - c. Students with a protected characteristic identified by the Equality Act 2010 who do not experience equality of opportunity because of that protected characteristic.
 - d. Students who experience multiple barriers to higher education or who are identified when looking at intersections of characteristics, such as male students who are in receipt of free school meals.
31. The OfS will routinely update the EORR. However, we would not normally require a provider to amend its plan to take account of new or changed risks to equality of opportunity until it is due to submit a new plan, unless it wishes to make a variation.

⁹ See www.officeforstudents.org.uk/eorr/.

What an access and participation plan should look like

Access and participation plan

32. A provider is expected to use the template available on the OfS website to structure its access and participation plan.
33. The OfS expects a plan to be a single document that should not normally exceed 30 pages of A4, excluding its annex on assessment of performance. There is no minimum length expectation.
34. A plan may include a separate student submission in relation to the provider's plan. This should be submitted with the provider's plan.

Access and participation plan summary

35. A provider is expected to produce a separate access and participation plan summary. The OfS will provide a list of the information that we expect a provider to include in its plan summary. A provider is expected to produce a summary that is accessible to non-expert readers and may do so using a range of formats and media. A provider may have more than one summary if this is appropriate to ensure accessibility.
36. The summary does not need to be submitted to the OfS at the time of assessment, but a provider is expected to produce this once a plan has been approved. It should publish the summary alongside its approved access and participation plan and submit a link to the OfS within 28 days of receiving confirmation that its plan has been approved.
37. A provider is responsible for ensuring that the summary accurately reflects the information provided in its access and participation plan and is an up-to-date, accessible document.

Overview of an access and participation plan

38. An access and participation plan should be an accessible document for non-expert audiences. We therefore expect it to clearly set out what a provider will do to address the risks to equality of opportunity it has identified, using the following structure:
 - a. **Introduction and strategic aim:** A provider is expected to use the introduction to set out its context, mission, and overarching strategic aim, as they relate to the delivery of equality of opportunity for students.
 - b. **Risks to equality of opportunity:** The key risks to equality of opportunity identified by a provider's assessment of its own performance and consideration of the EORR which will be addressed in the plan.
 - c. **Objectives:** A provider is expected to set objectives to address the risk manifestations identified through the assessment of performance, and in doing so address risks to equality of opportunity. The objectives set should be timebound and measurable. One objective may address multiple risks to equality of opportunity.
 - d. **Intervention strategies and expected outcomes:** An outline of the evidence-informed intervention strategies a provider will deliver to meet each of its objectives. Each

intervention strategy may address multiple risks to equality of opportunity. The intervention strategy should relate to a specific objective(s) and include details of the individual activities that underpin it, the theory of change, including expected outcomes, how it will be evaluated, the resources required to deliver the intervention strategy and details of how each outcome will be monitored and evaluated. This should also include a timetable for when associated evaluation outcomes will be shared and the expected format this will take.

- e. **Targets:** Where appropriate, objectives should be translated into numerical targets with measurable outcomes-based milestones as part of the fees, investments and targets document.
- f. **Whole provider approach:** A description of how staff from departments and services across the provider are led and engaged to ensure that its students are supported to access, succeed in and progress from their time at the provider.
- g. **Student consultation:** A plan should demonstrate how students have had the opportunity to express their views about the content of the plan before it was submitted for approval, and what steps were taken as a result.
- h. **Evaluation of the plan:** An outline of how a provider will strengthen and undertake evaluation of the activities delivered through its plan, including plans for publication of that evaluation.
- i. **Investment:** Investment information alongside each intervention. Information about a provider's investment in financial support for students and research and evaluation in the fees, investments and targets document.
- j. **Provision of information to students:** How prospective students will be provided with information about the fees they will be charged for the duration of their course. It must also set out how a provider will inform students about any financial support to which they are entitled and the level of financial support students will be offered in each year of study. We expect this information to include the eligibility criteria for this support.
- k. **Annex A: Assessment of performance:** A provider is expected to set out the elements of its assessment of performance that were used to identify the risks to equality of opportunity the plan will address. Only those elements that directly relate to the identified risks need be included: the OfS does not require the inclusion in the plan of all the analysis a provider has undertaken. However, we may request additional information where that is considered appropriate.

Supporting documents

- 39. Alongside the access and participation plan, a provider is expected to submit a supporting document which set out its fees, investments and targets. This will form part of the evidence the OfS considers when determining whether to approve a plan and assessing the risk of a future breach of condition A1. For instructions on completing the document, see Regulatory advice 6.

40. A plan may include a separate student submission in relation to the provider's plan. This should be submitted with the provider's plan.

What the access and participation plan should contain

41. Regulation 2 of the Higher Education (Access and Participation Plans) (England) Regulations 2018 sets out the statutory requirements for an access and participation plan. This guidance further sets out the matters to which the OfS will have regard in determining whether or not to approve a plan, under section 35 of HERA.
42. A provider should state the academic years in which it intends the plan will be in force. For example, this may be for students beginning courses in or after the academic years 2024-25 to 2027-28. A provider should be aware that the OfS may approve a plan for a shorter time than is requested.

Assessment of performance

43. The purpose of the assessment of a provider's performance is to identify the most pressing or significant equality of opportunity challenges for that provider and which it will seek to address through the commitments it makes in its plan. To do this, the OfS expects a provider to identify the ways in which risks may be manifesting for different student groups.
44. The OfS expects a provider to consider all stages of the student lifecycle and student groups where there are known risks to equality of opportunity, or manifestations of these risks, across the lifecycle stages in the OfS access and participation data dashboard and any particular student groups highlighted by the EORR. See Regulatory advice 6 for further information.
45. The assessment of performance should inform:
- a. The risks to equality of opportunity to be addressed by the plan.
 - b. Which student groups a provider intends to target with each intervention strategy and why.
 - c. Where a provider can identify successes to build on and where there are areas for improvement.
46. A summary of a provider's assessment of performance should be included in its access and participation plan as an annex. This should normally focus on the greatest indications of risks that have been identified. Depending on its size and context, a provider may identify a greater number of risk manifestations than it would have the capacity to address through its access and participation plan. In such a case, a provider should present a clear rationale for the number and nature of the risk manifestations it has chosen to focus on in its plan.
47. The OfS expects a provider to base its assessment of performance primarily on data in the OfS access and participation data dashboard. This includes consideration of its performance for the student groups and lifecycle stages set out there. A provider may additionally use evidence and data from any other relevant, reliable, provider or sector-level data or evidence relating to equality of opportunity for students.

48. A provider's assessment of its performance should include disaggregated analysis of performance in relation to disabled students to at least those with mental health conditions, those with specific learning differences and those with physical impairments, and ethnic minority students into individual ethnic groups. In addition, a provider should consider intersections of characteristics in its assessment if it has sufficient data, such as white students from lower socioeconomic backgrounds.
49. As part of its assessment of performance, a provider is expected to have regard to the EORR, which sets out risks to equality of opportunity that the OfS has identified at sector-level in relation to access and participation in higher education.¹⁰
50. The OfS recognises that the content of an access and participation plan will vary for different providers. Each plan will be informed by the circumstances of an individual provider, the characteristics and needs of potential and current students and the views of its stakeholders, particularly its current students. Therefore, the extent to which a provider should address the sector-level risks to equality of opportunity identified by the OfS will be determined by these factors. Further information is available in Regulatory advice 6.¹¹
51. The OfS will reach its own view of a provider's performance, based on the OfS access and participation data dashboard together with the provider's own data and assessment. This judgement informs the OfS's assessment of risk, specifically the extent of the risks, and manifestations of these risks, to equality of opportunity identified; the credibility of a provider's plan; and the intended rate of progress in addressing those risks.
52. Further guidance on the OfS's expectations in respect of the assessment of performance are set out in Regulatory advice 6.

Limited data for smaller providers, new providers, or small cohorts of students

53. Where student numbers are small or suppressed for a provider on the OfS access and participation data dashboard, we would not expect the same level of detailed analysis, particularly for disaggregated or intersectional data. We would, however, expect a provider to include consideration of the following:
 - a. Identification of student groups to target to address equality of opportunity risks to access, completion, attainment and progression in the future. The EORR can be used to identify potential risks, and manifestations of these risks that certain student groups may be experiencing.
 - b. Entrant data using the access lifecycle information in the OfS access and participation data dashboard, where available, paying particular attention to the data aggregated over years when data is not available or reportable for individual years.

¹⁰ See www.officeforstudents.org.uk/eorr/.

¹¹ See www.officeforstudents.org.uk/publications/regulatory-advice-6-how-to-prepare-your-access-and-participation-plan-effective-practice-advice/.

- c. Comparisons of any existing data for the groups identified above with national data, including in order to set ambitious targets relating to the risks identified for those particular groups.

54. We recognise that statistical uncertainty is a common challenge in interpreting performance of smaller providers or those with limited data, particularly when the focus of a plan and its intervention strategies will likely be on even smaller subsets of student groups. A provider in this situation may wish to consider collaborative working to increase the number of students included in a particular intervention strategy, or innovative methods of determining efficacy of its interventions. For a provider with access to limited data in particular, we recognise that targets and milestones will necessarily be ambitious estimates of what it can credibly achieve in relation to addressing identified risks to equality of opportunity. Early discussion with the OfS in such cases is strongly encouraged.
55. Further information on data quality and statistical uncertainty can be found in Regulatory advice 6.

Introduction and strategic aim

56. A provider should use this section to set out its context, mission and overarching strategic aim as they relate to equality of opportunity. This account will be significant in the OfS's consideration of whether a provider has identified appropriate risks to equality of opportunity. A provider may use this section of its plan to highlight its areas of success as well as those in which it seeks to improve its approach to equality of opportunity. However, the introduction should be brief and normally be limited to one side of A4.

Risks to equality of opportunity

57. The assessment of performance is designed to be used as the basis for a provider to identify indications of risks to equality of opportunity, that it is seeking to address in its access and participation plan. Risks to equality of opportunity are described in paragraphs 24-26 above. Risks should relate to a provider's own risks as well as relevant sector-level risks to equality of opportunity as set out in the EORR.
58. A provider is expected to focus on those risks to equality of opportunity that are the most significant in relation to its assessment of performance, mission and context, and, of these, those most appropriately addressed through its access and participation plan.
59. In addition, a plan is expected to set out what other indications of risks the provider's initial assessment had identified along with a brief explanation about why those risks are not being prioritised for action within the plan. A summary of a provider's assessment of performance should be included as an annex to the plan. The OfS may seek further information about any significant indications of risks it identifies in a provider's data that are not addressed in the plan unless a credible explanation has been given.
60. Further detailed guidance about the OfS's expectations in respect of identifying risks to equality of opportunity is set out in Regulatory advice 6.

Objectives

61. For each risk to equality of opportunity identified as a target for action, a provider is expected to include an associated written measurable objective. Occasionally a provider may have more than one objective associated with an indication of risk.
62. Further, detailed guidance about the OfS's expectations in respect of setting objectives are set out in Regulatory advice 6.

Intervention strategies

63. For each objective a provider has identified, we expect a plan to include details of the intervention strategy it will implement to address the risk manifestation and the underlying risks to equality of opportunity. The OfS considers that an effective intervention strategy will include details about:
 - a. The activities that will be put in place to achieve the objective.
 - b. The evidence used to underpin the intervention strategy design.
 - c. The theory of change, including relevant outputs and outcomes. This should include details of the outcomes expected to be achieved across the duration of the plan. Interim outcomes should also be included to allow a provider to monitor and adapt an intervention strategy at an early stage, and also longer-term outcomes where a strategy will not fully mitigate the risk to equality of opportunity across the duration of the plan.
 - d. The approximate investment required to deliver the intervention strategy, excluding the cost of research and evaluation.
 - e. A description of how each outcome will be monitored and evaluated, including methodologies to be deployed in analysing data, and including details of when evaluation outcomes will be shared and the format they will take.
64. To aid a provider in writing its intervention strategies, we have included an exemplar in the access and participation plan template available on the OfS website.¹²
65. A provider that has a smaller higher education cohort is normally expected to address a smaller number of risks to equality of opportunity, but to the same high standard as for a provider with a larger number of risks. Therefore, such a smaller provider is expected to have a smaller number of high quality interventions addressing the key risks, which have clear and credible evaluation plans.
66. The OfS expects that interventions will include activities drawn from the following list, but a provider should also consider other activities not listed that may meet its objectives:

¹² When we publish our updated Regulatory advice 6, the template will be made available on the OfS website. An illustrative version can be found in Annex D of the consultation document at www.officeforstudents.org.uk/publications/consultation-on-a-new-approach-to-regulating-equality-of-opportunity-in-english-higher-education/.

- partnerships with schools, colleges, community and third sector organisations to support activity to raise attainment
- expanding and promoting pathways for study at Levels 4 and 5, and on higher apprenticeships and degree apprenticeships
- financial support for students
- development of the curriculum; pedagogy; learning resources; student support; employability and opportunities such as work experience, placements and internships, to ensure students who do not currently experience equality of opportunity are supported to achieve successful participation on high quality courses and good graduate outcomes
- collaboration with other bodies across the student lifecycle, including with other higher education providers, students, schools and colleges, employers and third sector bodies
- alignment with other work and funding sources, such as OfS-funded programmes.

67. Each intervention strategy is expected to contain a sufficient level of detail for the OfS to assess its likely effectiveness as a contribution to equality of opportunity.

68. Detailed guidance about the OfS's expectations in respect of intervention strategies, including evaluation, is set out in Regulatory advice 6.

Collaboration

69. A provider should consider, where appropriate, agreeing an intervention strategy and related expected outcomes in collaboration with other providers and third sector organisations, particularly in respect of the risk to equality of opportunity resulting from differential attainment by socioeconomic groups in schools. In doing so, a provider should consider what long-term and interim outcome measures would be appropriate.

Intervention-specific evaluation activity

70. The OfS considers that, for an intervention strategy to be considered likely to make an effective and meaningful difference to equality of opportunity, it should be underpinned by an appropriate evaluation plan. This should include:

- A description of a robust, objective and credible evaluation plan which delivers high quality evidence of what works and what does not work in the delivery of activities in particular contexts. This should include the methodologies which will be used to evaluate outcomes in each intervention strategy.
- A description of the mechanisms in place to enable the evaluation to influence practice and delivery of each of a provider's intervention strategies.

71. The OfS recognises that different types and standards of evaluation may be appropriate for each intervention and that each provider will be at a different stage of developing its evaluation expertise. Therefore, a provider is expected to ensure that the impact of their interventions in

mitigating the risks they have identified is properly evaluated using the OfS standards of evaluation as a guide.¹³

Targets

72. For the OfS to be satisfied that a plan is making a meaningful and effective difference to equality of opportunity, objectives should be translated into associated numerical outcomes-based targets in the fees, investments and targets document. Where possible, these should be measurable using the OfS access and participation data dashboard.
73. A target may be a direct translation of the objective, or it may be a proxy numerical target for the written objective. A provider may include numerical targets based on intermediate outcomes of an intervention strategy and outcomes related (but not limited) to:
- a. Sustained engagement with pre-16 young people or working with the community or employers to support mature student access to higher education.
 - b. Strategic partnerships with schools, colleges, community and third sector organisations to support raising attainment.
 - c. Collaborative targets, or a regional or geographical target which may relate to mitigating risks to equality of opportunity which are capable of being mitigated at a scale other than that of an individual provider.
74. Targets are expected to be:
- a. Stretching.
 - b. Outcomes based.
 - c. Measurable on a consistent basis, with baseline data where possible.
 - d. Set over four years and to include annual or interim milestones which can be used to monitor progress.
75. We recognise that targets are an indicator of anticipated progress.
76. For a provider with access to limited data in particular, we recognise that targets and milestones will necessarily be ambitious estimates of what it can credibly achieve in relation to reducing identified risks to equality of opportunity.

Whole provider approach

77. A plan is expected to set out how a provider is taking a 'whole provider approach' to address the risks to equality of opportunity. A whole provider approach is one in which there is alignment and consistency across the organisation to create an approach from which all

¹³ See www.officeforstudents.org.uk/advice-and-guidance/promoting-equalopportunities/evaluation/standards-of-evidence-and-evaluation-self-assessment-tool/.

students benefit, irrespective of where they are located within the provider. The essential features of a whole provider approach are:

- a. Students are supported to access, succeed in and progress from their time at a provider.
- b. Staff from departments, services and units across the provider are engaged.
- c. There is clear and explicit senior leadership and commitment to access, success and progression.
- d. A pragmatic approach to change, developing a culture and structure that promotes and supports approaches that benefit students from all backgrounds and consistency.

78. An access and participation plan is expected to demonstrate that a provider has paid due regard to its obligations under the Equality Act 2010. Where relevant, the OfS expects this would include an explanation of how a provider's access and participation strategies align with other strategies to achieve the provider's published equality objectives.

79. Guidance about the OfS's expectation in respect of a whole provider approach is set out in Regulatory advice 6.

Student consultation

80. A provider's plan must demonstrate how students have had the opportunity to express their views about the content of the plan before it was submitted for approval, and what steps were taken as a result.

81. The OfS expects this to include:

- a. Evidence of how students from a range of backgrounds have been, or will be, involved in the design, implementation and evaluation of the plan.
- b. A description of the mechanisms in place for students to engage in a meaningful way.

82. A plan may include a separate student submission regarding the provider's plan. This should be submitted with the provider's plan. Further guidance about student submissions is included in Regulatory advice 6.

83. Further guidance about the OfS's expectations in respect of student consultation is set out in Regulatory advice 6.

Monitoring and evaluation of the plan

84. We require a provider to have adequate and effective management and governance arrangements, as set out in condition of registration E2, and to take all reasonable steps to comply with the provisions of its approved access and participation plan, as set out in condition A1 of the regulatory framework.

Condition E2: The provider must have in place adequate and effective management and governance arrangements to:

- i. Operate in accordance with its governing documents.
- ii. Deliver, in practice, the public interest governance principles that are applicable to it.
- iii. Provide and fully deliver the higher education courses advertised
- iv. Continue to comply with all conditions of its registration.

Monitoring

85. A provider must have adequate and effective arrangements for monitoring and overseeing the delivery of the provisions of its access and participation plan.

Evaluation strategy

86. Evaluation should be undertaken by a provider on an ongoing basis and enable consideration of whether the planned activities are achieving the intended outcomes and a provider's overall objectives for the risks to equality of opportunity identified in its plan.

87. In addition to the specific evaluations to be undertaken for each of a provider's intervention strategy (see paragraphs 66-67 above), a provider is expected to set out its strategy for how it will strengthen its evaluation activity overall.

88. The OfS expects a provider to publish the results of its evaluation, both of what works and what does not work, to build the scale and quality of the evidence base for access and participation activity across the sector.

89. The OfS also expects a provider to engage routinely with the latest research and evaluation available to contribute to refinement, and where appropriate, review of its own activity. Therefore, a provider is expected to explain in its plan the methodologies it expects to use, and how and when it intends to share its evaluation evidence.

90. Where a provider is not able to deliver significant aspects of its access and participation plan, including securing expected evaluation outcomes to its planned timetable, we would expect it to consider informing us of this on the basis of our requirements for reportable events.¹⁴

91. A provider is expected to use monitoring and evaluation activity to determine whether each intervention strategy is achieving its intended outcome. If the intervention strategy is not optimally achieving its intended impact, it is appropriate that a provider should explore and make changes to the design and delivery of the strategy. In these circumstances it should consider submitting a request to the OfS to vary its plan.

¹⁴ See www.officeforstudents.org.uk/publications/regulatory-advice-16-reportable-events/.

Investment

Information to be included in the 'Fees, investments and targets' (FIT) document

92. A provider is expected to submit information about its forecasted investment to achieve the objectives of its plan in its fees, investments and targets document in respect of the following areas:
- a. Access.
 - b. Financial support for students.
 - c. Research and evaluation.
 - d. Intervention strategies investment.
93. A summary of the information about access, financial support and research and evaluation investment provided in the fees, investments and targets (FIT) document will be appended to an approved plan and therefore a provider does not need to include this information in its access and participation plan.
94. There is no set expectation for the scale of investment, because the primary focus for the OfS is on the outcomes achieved for students. A provider is expected to invest sufficiently to demonstrate that its plan will make a meaningful and effective contribution to equality of opportunity. This is assessed in terms of whether the intended investment is sufficient to deliver the intervention strategies set out in a provider's plan.
95. Providers are reminded that they are required to take 'all reasonable steps' to comply with the provisions of an approved plan as set out in condition A1 of the regulatory framework.¹⁵ In line with the approach taken in other legal and regulatory contexts, the OfS takes the view that a provider must, to some extent, sacrifice commercial, monetary or other interests, if this is required, in order to achieve this compliance standard.
96. The investment recorded should be focused on 'qualifying persons' on 'qualifying courses' as defined by The Higher Education (Fee Limit Condition) (England) Regulations 2017 (SI 2017/1189). In addition, a provider may include investment for the following groups:
- a. Students studying at an intensity of less 0.25 full-time equivalent.
 - b. Students studying on, or targeted activities to promote access to, higher degree apprenticeships.
97. Further guidance on completing the fees, investments and targets document is included in Regulatory advice 6.

¹⁵ See www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/.

Access investment

98. The OfS expects a provider to include in its fees, investments and targets (FIT) document an estimate of all investment in activities and measures that support the ambitions set out in its access and participation plan, where they relate to access to higher education.
99. Access investments will be disaggregated by post-16 activities, pre-16 activities and other access activities. There is an option in the fees, investments and targets document to include access investment that is not targeted at a particular age group. However, we would not expect a provider to record significant levels of investment in this category.
100. Of the total investment on access measures, a provider is expected to include a breakdown of the sources of funding, in the following categories:
 - a. Income from charging fees up to the higher fee limit.
 - b. Other funding, including OfS funding (but excluding Uni Connect), other public funding and funding from other sources such as philanthropic giving and private sector sources and/or partners.

Financial support and research and evaluation investment

101. A provider is expected to include an estimate of its investment in financial support in the fees, investments and targets (FIT) document. A provider should only include investment on financial support related to the delivery of the objectives in its access and participation plan. The OfS expects that a provider's financial support set out in the plan will be tightly targeted for students who are at risk of not experiencing equality of opportunity and provided to address specific barriers known to exist for certain student groups.
102. A provider is expected to include an estimate of its investment in research and evaluation. This may include relevant staffing costs, the cost of gathering and analysing data, subscriptions to tracking services, and research projects.
103. A provider may record the cost of evaluating and researching all stages of the student lifecycle within evaluation and research investment.
104. The OfS does not require a provider to break down the source of funding for evaluation and research. A provider may include investment from any source providing it is evaluation and research that supports the delivery of the access and participation plan.
105. A provider will be expected to report against the financial support and research and evaluation investment detailed in the fees, investments and targets (FIT) document in its Annual Financial Return submitted to the OfS.

Intervention strategies investment

106. A provider is expected to provide an estimate in the fees, investments and targets (FIT) document of the investment required to deliver each of the intervention strategies it has described within its access and participation plan. A provider will not be expected to report

against its intervention strategies investment in the Annual Financial Return submitted to the OfS.

107. Estimated investment for a provider's intervention strategy ought only to relate to the work undertaken to support the delivery of the access and participation plan objectives.

Provision of information to students

108. A plan must contain:

- a. Information about a provider's arrangements to ensure that prospective students are provided with information about the fees they will be charged for the duration of their course.
- b. A commitment that a provider will make available to students information about the financial support to which they are entitled as a result of the provisions in an access and participation plan, including the level of financial support students will be offered in each year of study. We expect this information to include the eligibility criteria for this support.

Fees

109. As set out in The Higher Education (Access and Participation Plans) (England) Regulations 2018, a plan must set out the arrangements in place to make available to prospective students, before they commit to undertake a higher education course at the provider, information about the aggregate amount of fees that the provider will charge for the completion of that course.
110. A provider is expected to ensure that the information it provides to prospective students in respect of the fees charged for the duration of the course is clear and accessible.

Financial support

111. The OfS expects a provider to describe how it will ensure that the application process for financial support is clearly explained to students and prospective students. If a provider automatically assesses students' eligibility for financial support using information provided on the student loan application form, we expect this to be accessible and clearly stated to students. A provider must make clear to its students or prospective students if it relies on them agreeing to a third party, such as the Student Loans Company, sharing their financial information with the provider.
112. It is expected that a provider will ensure that continuing students continue to receive the financial support that was advertised to them when they applied for their course, subject to any inflationary increases or decisions to increase the support offered. The OfS also expects that a provider will refrain from reducing the package for any continuing student for whom it made provision within a previous access agreement or access and participation plan.

Supporting documents

113. A provider is expected to complete the fees, investments and targets document which will need to be submitted to the OfS in the manner and form specified in Regulatory advice 6:
114. The fees, investments and targets document will collect information about the targets and investments that cover the planned duration of the provider's access and participation plan. It will also collect information about the fees the provider will charge to new students starting courses in the first year of the access and participation plan. This means that:
- Information about fees will need to be revised on an annual basis, and a provider will be notified when and how to update this information each year.
 - Information submitted in the fees, investments and targets document will be used to produce summary tables describing the fee, investment and target information, which will be published by the OfS as part of a provider's access and participation plan if the plan is approved.
 - A provider does not need to include this information in the written text of its access and participation plan.
115. A provider's supporting documentation is part of its access and participation plan submission. The information provided will be assessed as part of the OfS's decisions relating to approval of an access and participation plan and the OfS's assessment of risk of a future breach of condition A1. It is a provider's responsibility to ensure it has correctly recorded the information provided in the supporting documentation.
116. A plan may also include a separate student submission in relation to the provider's plan. This should be submitted with the provider's plan.
117. Further guidance about completing a fees, investments and targets document can be found in Regulatory advice 6.

Tuition fees

118. Without prejudice to the need for a provider to fully comply with consumer protection law requirements, the OfS expects that a provider's fee information will contain information about:
- a. The level of tuition fees for new students starting course in the first year of the access and participation plan.
 - b. How, if at all, the provider expects fees to change for those students in future years of their course.
 - c. How any such changes will be calculated.

Part C: Submission, assessment and monitoring process

When to submit an access and participation plan

119. A provider should plan the timing of its submission to fit with its own student application cycle to ensure it is possible for the OfS to reach a decision in respect of approval of the plan in time for the provider to communicate with applicants about fee levels and the financial support that will be available.
120. Suggested dates for submission of a provider's access and participation plan, and the subsequent dates a provider might expect to receive a decision about whether the OfS is minded to approve the plan, can be found on the OfS website.¹⁶ The time taken by the OfS to assess a provider's plan is dependent on the quality of the provider's first submission. The OfS has produced this and other guidance, as well as templates and exemplars, in order to facilitate an efficient decision-making process. If a provider does not use the OfS-provided templates, this will likely delay the assessment of its plan.
121. A provider should be clear in its communications with applicants that the availability of financial support and fee levels (where these will be subject to a fee limit) are subject to the OfS approving its access and participation plan.

Prioritisation of assessments of access and participation plans

122. Our experience of previous assessment processes suggests that it may take longer to assess a provider's plan if it is longer than 30 pages or if a provider does not use the suggested OfS template.
123. There is no absolute deadline set by the OfS for submission of an access and participation plan. The OfS will prioritise the assessment of plans, normally taking into account the following factors (in no particular order) in treating an application as higher priority:
- a. Early timing of a provider's recruitment cycle.
 - b. Early submission of a plan relative to other providers.
 - c. The quality and completeness of a provider's submitted plan, including by reference to requirements and other expectations set out in OfS guidance and other publications.
 - d. The extent to which a submitted plan otherwise enables the OfS to deploy its limited resources in an effective, efficient and economical way.

How to submit an access and participation plan

124. A provider is expected to submit two documents in relation to its access and participation plan:

¹⁶ See www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/access-andparticipation-plans/.

- a. Access and participation plan.
- b. Fees, investments and targets document.

125. These documents should be submitted using the OfS provider portal.¹⁷ Submissions via email will not be accepted.

126. A provider may include a separate student submission about the provider's plan. This should be submitted with the plan.

The OfS assessment process

127. When the OfS receives a provider's access and participation plan and supporting documents, it will be considered against all the relevant requirements and expectations set out in this and other published guidance and in relevant legislation. Part C of this guidance sets out the matters to which the OfS will have regard in exercising its discretion over whether to approve a plan.

128. A provider needs to be available over the period in which its plan is being assessed to provide further information to the OfS as required. The OfS may reprioritise or suspend its assessment of a plan where there are delays in the provision of information by a provider.

129. A provider will be given the opportunity to make amendments to its plan or provide further evidence. A provider should ensure that the appropriate staff, with sufficient levels of authority (or delegated authority), are available until it has an approved plan.

130. The OfS will then decide whether to approve a provider's plan.

General principles underpinning the assessment process

131. The OfS will use the following principles to underpin the assessment of an access and participation plan:

- a. **A student focus:** Regulation is designed primarily to protect the interests of students, short, medium and long term (especially those who are at risk of not experiencing equality of opportunity), rather than those of a provider.
- b. **Continuous improvement:** In outcomes and the practice which underpins outcomes by:
 - i. Addressing the greatest risks to equality of opportunity in student access, success and progression for student groups among a provider's own students and at sector level.
 - ii. Improving practice, including through robust evaluation and sustained engagement with schools and with employers.

¹⁷ See [the OfS Portal](#).

- c. **Proportionality and targeting:** Our expectations of a provider are related to its context and capacity for activity, which in turn is related to the scale of its higher education activities.

Approval of a plan

132. A plan is approvable if it sets out provisions that will be meaningful and effective in promoting equality of opportunity for students who may be at risk of not experiencing equality of opportunity, as determined by the OfS.
133. The OfS would, at a minimum, expect that an approvable plan would include the following, to a sufficient level of ambition and credibility:
- a. A detailed and robust assessment of performance that identifies the key risk manifestations and potential underlying risks to equality of opportunity and has regard to the EORR.
 - b. A set of objectives that are stretching, measurable and relate to the associated risks to equality of opportunity.
 - c. A description of the intervention strategies and related activity the provider will take to deliver the objectives and mitigate the risks to equality of opportunity. This should be relative to the size, mission and level of higher fee income from qualifying students. This includes a sufficiently detailed and robust evaluation strategy.
 - d. Expected outcomes for each intervention strategy that are ambitious and related to the provider's assessment of performance, including consideration of sector-level evidence, and relevant targets.
 - e. A description of the investment a provider will make to deliver each intervention strategy and in relation to research and evaluation and financial support.
 - f. A set of outcomes-based numerical targets with milestones set over the planned duration of the plan, related to a provider's objectives.
 - g. Details of how the plan will be actively monitored, and assurance that the outcomes of both monitoring and evaluation will be used to achieve, and to ensure compliance with, the provisions in the plan.
 - h. Details of how students have been consulted on the contents of the plan, including information on any changes that were made as a result of such consultation.
 - i. Details of any financial support the provider will make available to students, and how those students will be informed about the financial support available to them.
 - j. A commitment from the provider that it will make available to prospective students information about the full cost of their course – for the duration of their course – before they commit themselves to undertake a higher education course.
134. The judgement about whether a plan, or element of a plan, is sufficiently ambitious and credible for approval is dependent on:

- a. The nature of a provider's plan and whether they are likely to generate improvement for the risks to equality of opportunity identified.
- b. A provider's size and turnover, mission, level of higher fee income from qualifying students, and the plan considered as a whole.
- c. A provider's track record of taking all reasonable steps to comply with the provisions of its plan, and whether the provider was previously able to make expected progress against targets.
- d. Whether or not levels of forecasted investment demonstrate that it will invest sufficient additional resource to deliver the provisions of its plan.

135. More information about the matters to which the OfS will have regard when assessing the content of a plan can be found in **Part B** of this document and in Regulatory advice 6.

Assessment of the risk of a future breach of conditions of registration

- 136. If a provider's plan is considered approvable, the OfS will then determine the risk of the provider breaching relevant ongoing conditions of registration in future on the basis set out in the regulatory framework.
- 137. The approval of a plan does not provide evidence of compliance with any other condition of registration and should not be relied upon in any OfS investigation of compliance with any other condition of registration.
- 138. The OfS may consider evidence contained within a provider's access and participation plan, or related information provided to support OfS monitoring, as part of assessment of other conditions of registration.

How a decision about a provider's access and participation plan will be communicated

- 139. The decision about whether to approve a plan is provisional in the first instance. A provider will be informed in writing by the OfS about whether the OfS is minded to approve or refuse an access and participation plan.

Publication of an approved plan by a provider

- 140. If a provider's plan is approved, the OfS will send the provider a copy of the approved plan with some of the information from the fees, investments and targets document appended.
- 141. The Higher Education (Access and Participation Plans) (England) Regulations 2018 require a provider to publish its approved plan in a manner that makes it conveniently accessible to students and prospective students. The OfS expects that this will be in a prominent position on a provider's website and that the summary of the plan is published in the same location.
- 142. A provider should send the OfS a link to the website that contains both the approved plan and accessible summary no later than 28 days from receiving approval for a plan. Further guidance on this is included in Regulatory advice 6.

143. The OfS will publish a link to all approved access and participation plans via a link from the OfS Register.

Where the OfS is minded not to approve an access and participation plan

144. If the OfS is minded not to approve a provider's plan, it will inform the provider in writing, specifying the reasons for that provisional decision.

145. The provider may then make representations about why it considers that the submitted plan should be approved or the provider allowed to modify and resubmit its plan. The OfS expects to give a provider at least 14 days to make representations but will consider whether this is reasonable in the particular circumstances.

146. The OfS will then consider any representations or modifications to the plan (or both). Having considered them, it may seek further information, or inform the provider whether the plan is approved.

Review of decisions

147. The decision about whether to approve a plan is provisional in the first instance.

148. If a plan is not approved, a provider may apply to the statutory reviewer, appointed by the Secretary of State, for a review of the OfS's decision.

149. A provisional decision becomes final when a provider informs the OfS that it accepts the provisional decision or does not apply for a review within 28 days from the date of the provisional decision.

150. If a provider applies for a review of a provisional decision, the statutory reviewer must complete the review within a reasonable time and may issue a recommendation on completion of the review. The OfS will reconsider the provisional decision having regard to any such recommendation and will issue a final decision within a reasonable time.

151. A provider can apply for a review in circumstances where:

- a. It presents a material factor for consideration that for good reason it had not previously drawn to the attention of the OfS, or
- b. It considers that the OfS has disregarded a material factor that it should have considered, or
- c. It considers that the provisional decision is disproportionate in view of all the relevant facts considered by the OfS.

The duration of an access and participation plan

152. A plan is expected to demonstrate clear long-term ambitions for how a provider will reduce the risks to equality of opportunity it has identified in respect of access, success and progression over four years from the date the plan comes into force. For example, this may be for students beginning courses in or after the academic years 2024-25 to 2027-28.

153. The precise period during which a plan may be in force, without resubmission to the OfS for approval, will be related to the OfS's risk assessment for a provider.
154. Students who were registered and started their course before the date on which a particular access and participation plan comes into force will continue to be covered by any previous relevant access and participation plan or access agreement approved for that provider.
155. The initial approval of an access and participation plan will be for a period of one year. Approval will then automatically roll over each subsequent year for a maximum of three years, unless the OfS expressly notifies a provider in writing that a new plan needs to be submitted for approval. The letter notifying a provider that its plan has been approved will also inform the provider of the length of the approved roll-over period for each plan. The OfS would not normally expect to ask a provider for a new four-year access and participation plan within the first two years after submission.
156. If the OfS requires a provider to submit a new access and participation plan for approval (following, for example, a reportable event such as a merger, or in light of significant national policy changes), the provider will be given a minimum of 12 weeks' notice. A new plan cannot change the fees or financial support entitlement for existing students.
157. A provider may also choose to submit a new plan in any subsequent year following approval if it has a new strategy, or evaluation findings suggest a fundamental change in approach is required. Should a provider choose to do so, any consideration of a newly submitted plan does not affect the OfS's consideration of enforcement action for non-compliance during the period the original plan was in force. The OfS requires a provider to take all reasonable steps to deliver its plan and will not normally accept a reduction in the level of ambition in a newly submitted plan.
158. For a provider that meets all of the requirements for an access and participation plan and is able to demonstrate that it is meeting the ongoing provisions of its plan and is not considered by the OfS to be at increased risk of a future breach of condition A1, the OfS will normally allow a plan to be approved for one year and then rolled over for a further three years. The OfS would normally expect the maximum plan duration to be four years.

Requesting a variation to an access and participation plan

159. A provider may, at any time after a plan has been approved, apply for approval of a variation of that plan. A variation of a plan includes any change to a provider's approved access and participation plan. When considering any variation to an access and participation plan, the OfS will expect assurance that a provider is taking all reasonable steps to comply with the provisions of its existing approved plan. A variation that would result in a reduction in ambition in respect of level or rate of progress, or that would reduce support to students, is unlikely to be accepted in the absence of exceptional circumstances and a compelling justification.
160. Requests for variations must adhere to the requirements set out for the initial submission of an access and participation plan, such as the need for student consultation and provision of information to students.

161. A variation of an access and participation plan will normally be subject to the same assessment, approval and review process as a whole new plan.
162. The OfS will consider a request for a variation and will inform the provider whether it is minded to approve it. Should the OfS be minded not to approve the variation, the provider can make representations and request a review of the decision according to the process set out in paragraphs 137-141 of this guidance.
163. A variation of a plan takes effect only if approved by the OfS. Variations that are approved will normally come into force from the start of the following academic year and will apply to students entering the provider from that year onwards. This includes changes to fee limits. When requesting a fee variation, a provider should ensure it continues to comply with consumer protection law and understands the potential implications this may have for its ongoing compliance with its conditions of registration.¹⁸ Changes to fee limits submitted as part of a provider's annual fee return will be treated as a request for a variation of the provider's existing access and participation plan and assessed in the same way.
164. The OfS may, in some circumstances, invite some or all providers to submit a variation to their access and participation plans where the OfS consider this appropriate for extending activity in relation to equality of opportunity in higher education. In such cases, a provider will normally be given at least 12 weeks to submit a variation.

Monitoring progress of delivery of an access and participation plan

165. The OfS will conduct general monitoring of a provider's compliance with all of its ongoing conditions of registration as set out in the regulatory framework. This will include risk-based monitoring of a provider's compliance with condition A1.
166. The OfS may use information gathered through monitoring of delivery of a provider's access and participation plan and compliance with condition A1 in relation to its judgements about compliance with other conditions of registration. The OfS may also use information gathered from monitoring compliance with other conditions of registration to inform its judgements about delivery of the commitments in an approved access and participation plan and compliance with condition A1.
167. The regulatory framework and Regulatory advice 15 sets out the OfS's risk-based approach to general monitoring and the use of its enforcement powers.
168. The OfS has set out its approach to publishing information about higher education providers in Regulatory advice 21.¹⁹ The OfS would follow this general policy when making decisions about publishing information about any regulatory activity relating to a provider's access and participation plan or compliance with condition A1.
169. Without making findings in respect of a provider's compliance with condition A1, the OfS may also decide to publish information about its views of whether a provider has properly delivered the commitments in its approved access and participation plan. The OfS would

¹⁸ See www.officeforstudents.org.uk/advice-and-guidance/regulation/conditions-of-registration/.

¹⁹ See www.officeforstudents.org.uk/publications/regulatory-advice-21-publication-of-information/.

have regard to the factors set out in Regulatory advice 21 in making such a publication decision. If a final decision is made to publish information, the OfS would normally expect to include a statement to make clear that it had not made any findings about a provider's compliance with conditions of registration where that is the case.

Financial monitoring

170. A provider is required to include financial information relating to the expenditure on access, financial support and research and evaluation included in its access and participation plan in its audited financial statements each year.
171. Under the terms and conditions of OfS funding,²⁰ the OfS's student premium funding represents a contribution towards the aims and objectives set out in a provider's approved access and participation plan.
172. As set out in the OfS accounts direction, a provider's independent auditor is required to include in the provider's financial statements a report about whether, in all material respects, funds provided by the OfS have been applied in accordance with the relevant terms and conditions where applicable.²¹
173. The OfS will also collect financial information about a provider's access and participation plan expenditure, including through the provider's Annual Financial Return, as set out in this guidance.

²⁰ See www.officeforstudents.org.uk/publications/terms-and-conditions-of-funding-for-2022-23/.

²¹ Available at www.officeforstudents.org.uk/publications/regulatory-advice-9-accounts-direction-accounting-periods-beginning-on-or-after-1-august-2019/.



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