

Consultation

**Office for
Students**

The logo for the Office for Students, featuring a dark blue square with a yellow square in the top right corner containing the letters 'OfS' in white.

OfS

Consultation on distribution of capital funding for financial year 2021-22

**This consultation runs from 26 March 2021
to 23 April 2021.**

Reference OfS 2021.02

Enquiries to capitalgrant@officeforstudents.org.uk

Publication date 26 March 2021

The Office for Students is the independent regulator for higher education in England. We aim to ensure that every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers.

Our four regulatory objectives

All students, from all backgrounds, and with the ability and desire to undertake higher education:

- are supported to access, succeed in, and progress from, higher education
- receive a high quality academic experience, and their interests are protected while they study or in the event of provider, campus or course closure
- are able to progress into employment or further study, and their qualifications hold their value over time
- receive value for money.

Consultation on distribution of capital funding for financial year 2021-22

The Department for Education (DfE) has made available £150 million in capital funding for the Office for Students to distribute in financial year 2021-22. This consultation sets out our proposals for the distribution of capital funding to providers. We welcome feedback on our approach, including criteria for the proposed competitive process.

When is the consultation?

Start: **26 March 2021**

End: **23 April 2021**

Who should respond?

Anyone with an interest in finance for those higher education providers that are registered, or are applying to be registered, with us in the Approved (fee cap) category.

How to respond

Please respond to the consultation by **23 April 2021**. Use the online response form available at <https://survey.officeforstudents.org.uk/s/CapitalFundingConsultation2021-22/>

Enquiries

Email capitalgrant@officeforstudents.org.uk.

Alternatively, call our public enquiry line on 0117 931 7317.

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About this consultation

The Office for Students (OfS) has received a statutory guidance letter from the Secretary of State for Education, which announced capital funding of £150 million for the financial year (April to March) 2021-22.¹ The guidance letter sets out the government's priorities in distributing this capital funding to higher education providers registered in the Approved (fee cap category). Of the £150 million, we have set aside £20 million for existing commitments and support for national facilities and regulatory initiatives, leaving £130 million available, which is subject to this consultation.²

Capital funding has previously been allocated by the OfS largely through a formula, which sets an allocation for each provider meeting threshold criteria. This offered flexibility to providers to utilise the funding towards capital expenditure as they saw fit and was not attached to specific projects. It has, however, proved difficult to assess the value for money of this public funding. We are therefore proposing to distribute capital funding through a strategically targeted bidding process which would aim to ensure that the capital funding is adding value through specific projects.

This consultation seeks views on a new method for the distribution of capital funding. Although our preferred approach is to adopt a bidding exercise and to allocate the funding on a competitive basis, we wish to consult more widely on alternative methods for allocating the funding, including exploring the possibility of allocating the funding formulaically.

We understand from the statutory guidance letter of 19 January 2021 that the Secretary of State is considering the use of directions under section 77 of the Higher Education and Research Act 2017 (HERA) relating to the approach to funding for financial year 2020-21.³ We therefore expect this consultation to inform not just our decisions on the approach to capital funding for the financial year 2021-22, but also the Secretary of State's decision about whether to give directions to the OfS or use the Secretary of State's other available powers, and if so, how any such directions or other steers are framed.

The proposals discussed in this consultation relate to the OfS's powers under HERA in relation to financial support for registered higher education providers (section 39). Providers eligible for financial support are those registered with us in the Approved (fee cap) category.

In distributing capital funding for 2021-22, we are aiming to enhance the learning experience of higher education students at providers, by helping raise the quality of their learning and teaching facilities; and to prioritise in particular:

- a. Facilities for high-cost science, technology, engineering and mathematics (STEM) subjects, healthcare disciplines and other technical subjects that are designed to meet the specialist skills needs of industry and employers, including at Levels 4 and 5.
- b. Facilities that will support the development of flexible provision and modes of delivery, including for part-time study, e-learning and blended learning.
- c. Capital expenditure that will demonstrate value for money.

¹ Available from: www.officeforstudents.org.uk/advice-and-guidance/regulation/guidance-from-government/.

² £20 million is set aside as provision for Jisc (<https://www.jisc.ac.uk/>), the Higher Education Statistics Agency Data Futures (<https://www.hesa.ac.uk/innovation/data-futures>) and previous commitments arising from the Higher Education Funding Council for England's catalyst fund.

³ See: <https://www.legislation.gov.uk/ukpga/2017/29/section/77/enacted>.

Our preferred approach to achieve these aims is to distribute the capital funding in response to the submission of a bid by eligible providers for specific capital projects and activities. We believe this approach will be better able to meet these objectives than a formulaic approach. This consultation also therefore sets out a proposed approach to a bidding exercise, including criteria for assessment and prioritisation.

The alternative to a bidding exercise is to allocate the funding formulaically, an approach that is familiar to those providers that are currently in receipt of capital funding from the OfS. If we were to continue to allocate capital funding this way, we believe we would need to adapt the current method, so that it better addressed the objectives for capital funding, in particular to ensure funding was prioritised towards high-cost subjects in STEM and healthcare. We provide further detail on how a formulaic approach might operate in paragraphs 9 and 10.

The consultation questions are listed in full in Annex A.

For more information about our work to date on funding, please visit the OfS website.⁴

Who should respond to this consultation?

We are particularly (but not only) interested in hearing from **higher education providers that are registered, or are applying to be registered, with us in the Approved (fee cap) category**. We welcome the views of all types and size of provider.

We are also interested in the views of **representative bodies of higher education providers and their staff**, and others with an interest in the finance arrangements for higher education.

How to respond

The consultation closes on **23 April 2021**.

Please submit your response by:

- completing the online form at <https://survey.officeforstudents.org.uk/s/CapitalFundingConsultation2021-22/>.

If you require this document in an **alternative format**, or need assistance with the online form, please contact digitalpublishing@officeforstudents.org.uk. **Please note** that this email address should **not** be used for submitting your consultation response.

Consultation events

We are not holding events in relation to this specific consultation.

⁴ See: www.officeforstudents.org.uk/advice-and-guidance/funding-for-providers/annual-funding/.

Consultation principles

We are running this consultation in accordance with the government's consultation principles.⁵

At the OfS we are committed to equality and diversity in everything we do. We have a legal obligation to show due regard to the Public Sector Equality Duty.⁶

How we will treat your response

Your response to this consultation, including any personal information you provide, may be subject to publication or disclosure under the Freedom of Information Act 2000, the Data Protection Act 2018 or the Environmental Information Regulations 2004.

We understand from the statutory guidance letter of 19 January 2021 that the Secretary of State is considering the use of directions under section 77 of HERA relating to the approach to funding for financial year 2020-21.⁷ In this context, we will share responses to this consultation, in whole or part, with the DfE, if the latter asks that we do so,⁸ so that the government can take responses into consideration in whether and how any such direction is determined.

More information is available from the Information Commissioner's Office⁹ or from our data protection team at dp@officeforstudents.org.uk.

Next steps

We will issue a document on the decisions we have taken in the light of consultation as soon as we can. This will explain how and why we have arrived at our decisions. We intend to issue this in May 2021. It is likely that we will be unable to confirm capital allocations to providers for the financial year 2021-22 before July 2021.

As noted above, we understand that the Secretary of State is considering the use of directions under section 77 of HERA relating to the approach to funding for 2020-21. Consultees should be aware that the Secretary of State is not bound to reach the same decisions as the OfS. This means that, if directions are given (or other statutory powers are exercised) by the Secretary of State, there could be a delay in the decision-making process for the OfS and this may ultimately lead to changes being made to OfS decisions on funding.

Key terms and definitions used in this consultation

Funding and **grants** are used synonymously in this document to mean financial support provided under section 39(1) of HERA by the OfS to the governing body of an eligible higher education provider – that is, one registered with us in the Approved (fee cap) category – in respect of

⁵ See: <https://www.gov.uk/government/publications/consultation-principles-guidance>.

⁶ See Part 11 of the Equality Act 2010, available at www.legislation.gov.uk/ukpga/2010/15/part/11/chapter/1.

⁷ See: <https://www.legislation.gov.uk/ukpga/2017/29/section/77/enacted>.

⁸ Under section 78 of HERA. See: <https://www.legislation.gov.uk/ukpga/2017/29/section/78/enacted>.

⁹ See: <https://ico.org.uk/>.

expenditure incurred, or to be incurred, by the provider for the purposes of either or both of the following:

- a. The provision of education by the provider.
- b. The provision of facilities, and the carrying on of other activities, by the provider, which its governing body considers it is necessary or desirable to provide or carry on for the purposes of, or in connection with, education.

Capital funding and **capital grant** mean funding allocated in respect of capital expenditure incurred, or to be incurred, by the provider. Capital expenditure means money used to acquire, adapt or maintain fixed assets, such as land, buildings and equipment, and which is normally capitalised in the provider's audited annual accounts. It does not include expenditure on rent or hiring or leasing of equipment and facilities.

HESES and HESES20 means the annual Higher Education Students Early Statistics survey,¹⁰ returned by providers registered with the OfS in the Approved (fee cap) category. The data collected in this survey, along with data supplied to the Higher Education Statistics Agency and the Education and Skills Funding Agency, is used to inform the allocation of OfS funding.

Academic year means the 12-month period from 1 August to the following 31 July.

Financial year means the 12-month period from 1 April to the following 31 March.

¹⁰ HESES20 is the survey to be completed for the 2020-21 academic year. See www.officeforstudents.org.uk/publications/heses20/.

Introduction

1. On 19 January 2021, the OfS received a statutory guidance letter from the Secretary of State for Education which announced capital teaching grant for the financial year (April to March) 2021-22 of £150 million. The letter also sets out priorities for capital funding, but does not give an indication of the funding that might be available for subsequent financial years.¹¹ We will distribute up to £130 million of this funding through new allocations directly to providers registered with the OfS in the Approved (fee cap) category. We will use the balance to support the capital needs of Jisc and to meet existing commitments arising from previous bidding exercises.
2. The Secretary of State's guidance letter has set certain parameters and expectations around the distribution of this funding. However, in formulating the proposals set out in this consultation, the OfS has had regard to its statutory duties in section 2 of the Higher Education and Research Act 2017 (HERA)¹², and the Public Sector Equality Duty set out in section 149 of the Equality Act 2010¹³. The OfS's consideration of these duties will be further informed by the responses to the consultation. The approach that we put forward in this consultation on priorities and eligibility criteria for capital funding have therefore been developed having regard to the guidance letter, in addition to our wider statutory duties.
3. Up to this point, OfS capital funding has been distributed largely through a formulaic method and through discrete capital initiatives. Capital funding allocated through a formula sets an allocation for each provider that is not attached to specific projects. In many cases, the formula-based OfS capital allocation is relatively small, and may serve only as a top-up to the provider's overall capital budget. We wish to develop a method that provides assurance that funding is providing value for money and supporting OfS objectives, that every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers.

Objectives and priorities for capital funding

4. In distributing capital funding for 2021-22, we aim to enhance the learning experience of higher education students at providers, by helping raise the quality of their learning and teaching facilities; and to prioritise in particular:
 - a. Facilities for high-cost STEM subjects, healthcare disciplines and other technical subjects that are designed to meet the specialist skills needs of industry and employers, including at Levels 4 and 5.
 - b. Facilities that will support the development of flexible provision and modes of delivery, including for part-time study, e-learning and blended learning.

¹¹ Available from: www.officeforstudents.org.uk/advice-and-guidance/regulation/guidance-from-government/.

¹² See Section 2 of the Higher Education and Research Act 2017 (<https://www.legislation.gov.uk/ukpga/2017/29/section/2>)

¹³ See Section 149 of the Equality Act 2010 (<https://www.legislation.gov.uk/ukpga/2010/15/section/149>).

- c. Capital expenditure that will demonstrate value for money.
5. In developing these objectives, we have had regard to our statutory duties under HERA and the Equality Act 2010. In particular, we believe these objectives will promote choice and opportunities for students in relation to high-cost subject areas that require specialist teaching facilities; support access to higher education by those who need more flexibility in how they study; and help to meet the skills needs of students and employers.
6. Our preferred approach is to distribute capital funding for financial year 2021-22 through a bidding process. This will target funds at specific capital projects and activities, providing a more strategic allocation that will support projects that best meet the needs of both students and employers and provide value for money for taxpayers. We believe that a bidding process will prioritise the allocation of funding in a way that best reflects the purposes for which the funding is being provided.

Alternatives to a competitive process

7. The alternative to a competitive bidding process is to distribute funding through a formula method. There would then be different options for how that formula might work. A formula approach can:
 - a. Ensure funding is distributed to eligible providers quickly and in a low-burden way.
 - b. Depending on the related terms and conditions of grant, provide more flexibility to providers in how funding is used to address their capital needs.
8. These benefits can help providers to use their allocation in full within the financial year, reducing the risk that delays to a particular project might lead to underspending within the year and the risk of unspent funding being lost. However, a funding formula may also mean:
 - a. Funding is not well targeted to best address strategic priorities (including those of the OfS).
 - b. There is less clarity on what the funding achieves, including in terms of value for money.
9. If we were to adopt a formula method for 2021-22, we could either use the existing formula¹⁴ or a different one. The existing formula allocates funding pro rata to student numbers weighted by price group, plus some additional weighting for postgraduates, disabled students and some specialist providers, and for the extra costs of operating in London. Our view is that this formula does not meet the objectives that we are looking to achieve through our capital funding for 2021-22 (set out in paragraph 4). If we were looking to address those priorities more through a revised formula method, then we would propose to:
 - a. Restrict which students were counted towards the allocation to those in high-cost and strategically important subject areas – that is, subjects in price groups A and B, plus computing and nursing within price group C1. This is also consistent with similar

¹⁴ See 'Formula capital funding for 2020-21' (OfS 2020.17), (<https://www.officeforstudents.org.uk/publications/formula-capital-funding-for-2020-21/>).

prioritisation proposed for the recurrent funding method.¹⁵ This would mean that students in price groups C2 and D, and those studying other subjects within price group C1 (performing and creative arts, media studies and archaeology) would not be counted for funding purposes.

- b. Remove the London weighting that is a feature of the current formula (as also proposed in our recurrent funding consultation). This would help ensure that the prioritisation of funding was driven by the objectives set out in paragraph 4, rather than the region in which a provider was located.
- c. Maintain other weightings in the funding method:
 - i. The existing weightings are 2.7 for price group A, 1.9 for price group B and 1.1 for price group C1 (though this would apply only to those students still counted in the method); the weightings for price groups C2 and D would no longer apply as student activity in these price groups would not be counted.
 - ii. The postgraduate weighting increases the price group weighting by 10 per cent. This reflects that postgraduate students are often studying more intensively and may also make use of more specialist facilities.
 - iii. The disabled students weighting is variable, reflecting the proportions of students at each provider in receipt of Disabled Students Allowances (weighted 2) or declaring a disability (weighted 1).
 - iv. The specialist provider weighting is also variable, reflecting the amount of recurrent funding currently allocated through the specialist provider targeted allocation.¹⁶ While this weighting would continue, in practice specialist providers that did not have students in the categories still counted for funding would not receive an allocation. This would affect in particular specialist providers in the performing and creative arts and media studies and others specialising in price group C2 and D subjects.
- a. Raise the minimum threshold for an allocation, below which a provider received nothing. This would be intended to ensure that allocations were of material sums that could have impact and provide value for money.¹⁷
- b. Apply greater restrictions, through funding conditions, on how capital funding could be used, so that it was targeted at facilities that were provided to support strategic priorities. Such conditions might, for example, require that funds were used primarily to support the teaching and learning of higher education students in the subject areas that were counted in the funding formula.

¹⁵ See: www.officeforstudents.org.uk/publications/consultation-on-recurrent-funding-for-2021-22/.

¹⁶ This weighting applies to the 16 providers that currently receive a share of the £43 million targeted allocation for specialist providers in 2020-21.

¹⁷ We similarly propose a higher minimum threshold if funding through a competitive bidding exercise. See paragraph 40.

10. Such a funding formula would result in a very different distribution between providers from that for 2020-21. However, while this would address some of the strategic priorities for capital funding – primarily the focus on high-cost STEM and healthcare subjects – it would not address all of the priorities. Because of the limitations of the student data that is collected, we do not believe we could adequately address through a formula for 2021-22 any prioritisation of modular or other flexible modes of delivery, nor provision that was designed to meet specific employer needs.¹⁸ This would particularly disadvantage providers that do not offer the high-cost and strategically important subject areas that the formula would prioritise. By contrast, a bidding competition allows for an individual assessment of how specific proposals address each priority, for which all providers in the Approved (fee cap) category would be eligible to bid.
11. Whether we adopt a competitive or formulaic approach to the distribution of capital funds, a provider must be registered in the Approved (fee cap) category if it is to be funded by the OfS. This reflects the limitations of our funding powers under section 39 of HERA.¹⁹ Our general approach to this is set out in paragraph 27 of ‘Terms and conditions of funding for 2020-21’ (OfS 2020.22).²⁰ If we adopt a competitive process, then to be eligible to bid, a provider must be registered, or have applied to register, with the OfS in the Approved (fee cap) category. For a bid to be supported, a provider must be registered in the Approved (fee cap) category by the time OfS decisions on which bids to support are taken.

Question 1

To what extent do you agree that a bidding process is the most appropriate means of addressing the strategic objectives and priorities for capital funding for 2021-22? (See paragraphs 4 to 11.) Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Proposed assessment criteria for a bidding exercise

12. If we adopt a bidding process, we are proposing to prioritise bids that we consider overall best meet the objectives for capital funding for financial year 2021-22, as set out in paragraph 4. The following criteria are designed to achieve this, and we propose that, to be successful, a bid must explain how it meets these criteria through the appropriate use of evidence.

¹⁸ Individualised student data returns collect little information about the approach to the delivery of teaching, beyond mode of study and whether or not a student is studying by distance learning. While they capture whether a student is, for example, aiming for a Level 4 or 5 qualification, undertaking a work placement or studying as part of an apprenticeship, they do not capture other information about how providers work with employers. In both cases, the data that is available would not provide information about what the capital needs of a provider might be to enhance flexible modes of delivery or provision designed to meet the specific needs of employers.

¹⁹ See: <https://www.legislation.gov.uk/ukpga/2017/29/section/39/enacted>.

²⁰ Available at www.officeforstudents.org.uk/publications/terms-and-conditions-of-funding-for-2020-21/.

13. The OfS will assess each bid against the following two criteria:

- a. It is for 'relevant expenditure'.
- b. The project will provide value for money.

Criterion 1: Relevant expenditure

14. To meet this criterion, a bid must demonstrate that it will directly support relevant facilities in relation to one or more eligible projects.

- a. Relevant facilities are:
 - i. The purchase of equipment (including IT equipment) used for learning, teaching or assessment. This does not include renting or hiring of equipment.
 - ii. The acquisition, replacement or construction of premises or infrastructure (including IT infrastructure) used for learning, teaching or assessment. Acquisition may include the purchase of leaseholds, but this category does not include the making of payments outside of the purchase price, such as for rental or service charges.
 - iii. The refurbishment, expansion or adaptation of existing premises or infrastructure (including IT infrastructure) used for learning, teaching or assessment.
- b. Eligible projects are capital expenditure projects that address **one or more** of three priority categories:
 - i. Category 1: High-cost subjects of strategic importance. These are subjects in price groups A and B, and computing, IT and nursing within price group C1.²¹ These subjects include laboratory-based subjects in science, technology and engineering, and healthcare disciplines in medicine, dentistry, nursing, midwifery and allied health professions and veterinary science.
 - ii. Category 2: Enhancement of graduate employability and skills needs of employers and industry and therefore local and regional economies, in particular in supporting technical provision at Levels 4 and 5.
 - iii. Category 3: Part-time and other forms of flexible provision.

Further explanation of the OfS's proposed consideration of eligible projects

15. The rationale behind a project and its impact is as crucial as the way it is communicated to the OfS. Even the best project ideas will be let down by a poorly drafted bid. Likewise, even the most sophisticated communication will fall short if it has not been well considered and evidenced.

16. Bids should demonstrate (by reference to evidence, such as written plans, governing body decisions or stakeholder views) that there is a need for the proposal, that the provider has

²¹ For detailed guidance on the mapping of subjects to price groups see Annex G of HES20: www.officeforstudents.org.uk/publications/heses20/.

realistic plans in place to address this, and that the provider is ready for the funding sought. Purely aspirational or unrealistic bids (for example, plans relying on future events or circumstances that cannot be predicted with certainty) will likely score poorly.

17. Providers should be prepared to submit evidence cited within their bids if asked to do so by the OfS. However, it is not necessary to provide this evidence at the time of submitting the bid. Rather, in substantiating their bids, providers should refer to evidence that demonstrates plans are realistic, and that the provider is ready for the funding sought.
18. Funding allocated through this process is for use in financial year 2021-22 (1 April 2021 to 31 March 2022), and therefore bids should demonstrate how the funding sought will be used within that period. This does not exclude projects that will continue beyond this financial year. However, bids should clearly explain the specific benefit that will be derived in this financial year from the funding sought. Bids related to longer-term projects should also set out full details of the financing for the whole project across all years and identify the benefits of the eligible project for students and employers over time.

Category 1: High-cost subjects of strategic importance

19. This category is to support the capital needs of high-cost subjects of strategic importance. Such support could, for example, relate to the acquisition or use of expensive, specialist facilities and equipment.
20. Bids should clearly explain how the funding sought will be used to directly support relevant facilities in relation to high-cost subjects of strategic importance offered (or to be offered) by the provider.
21. Bids seeking funding for relevant facilities that will be, or are already, focused on high-cost subjects of strategic importance, rather than more general facilities that can be used across a provider's higher education provision, are likely to score more highly. Proposals that clearly prioritise higher education teaching of subjects in price groups A and B, and intermediate-cost subjects in price group C1 identified as strategically important (that is, computing and nursing) will therefore receive a higher score.²² Bids that are less focused on the above subjects, such as on general facilities or assets that support higher education teaching across a wider range of subjects, will receive lower scores. Bids that do not demonstrate benefits for the teaching of higher education courses in laboratory-based subjects and healthcare disciplines (for example, bids focused on subjects in price groups C2 and D, such as business, social sciences or humanities or on further education teaching or research), will not score.
22. Bids would be required to report the provider's current and planned undergraduate and postgraduate taught full-time equivalent student numbers in price groups A and B and in computing and nursing courses in price group C1 over time and explain how the capital bid would support these levels of activity. While it would not be a requirement for these student numbers to increase over time, significant recent or planned increases would score more highly. We will check the numerical information provided in any bid for consistency with other data that we hold, such as individualised student data returns to the Higher Education Statistics

²² The strategically important subjects in price group C1 are those that we propose should constitute a new price group C1.1 for recurrent funding purposes. See: www.officeforstudents.org.uk/publications/consultation-on-recurrent-funding-for-2021-22/.

Agency or the Education and Skills Funding Agency; and HESES and annual finance return forecasts submitted to us.

Category 2: Enhancement of graduate employability and skills needs of employers and industry and therefore local and regional economies, in particular in supporting technical provision at Levels 4 and 5

23. This category is to support the capital needs of providers that will enhance the graduate employability and skills of their students with a view to meeting the needs of employers and industry, including for provision at Levels 4 and 5. Bids should clearly explain how the funding sought will be used to directly support relevant facilities in this regard.
24. We wish to prioritise funding for providers that are best able to demonstrate a need for capital investment to support teaching of technical higher education qualifications at Levels 4 and 5 of the 'Frameworks for higher education qualifications of UK degree-awarding bodies.'²³ This may include where those qualifications are taken as part of an apprenticeship.
25. Bids should demonstrate a clear understanding of the employment needs and skills either at local, regional, or national levels. Bids should also identify how the capital funding sought will directly support higher education provision that targets those needs and skills or improves opportunities for self-employment, particularly in technical disciplines.
26. Higher-scoring bids will provide details of focused capital investments that provide convincing evidence of how the specific needs of employers or employment sectors will be met, particularly where this is through the provision of Level 4 and 5 technical qualifications. Lower-scoring bids will provide more generic or limited information, with insufficient evidence about how the capital expenditure will enhance the skills and employment opportunities of graduates. Although this criterion does not limit the subject areas in which providers may be looking to bid for funding, we will score more highly bids for provision that requires specialist facilities and equipment for learning and teaching of technical disciplines, particularly where these are relevant to the skills needs of specific employers. Bids should therefore set this out.

Category 3: Part-time and other forms of flexible provision

27. This category is to support providers that can demonstrate a need for capital investment to directly support the development and expansion of flexible provision and part-time study that will enhance opportunities for students who might otherwise have difficulty participating. This flexibility may be in providing opportunities for students to study at their own pace, in different locations and through different modes of delivery.
28. Proposals may include the use of IT and other technologies, such as for simulation, to deliver teaching in new ways, including in response to the pandemic. However, higher scores will be given where the bid provides convincing evidence of how such technology will enhance and increase part-time and flexible modes of delivery that will maximise student choice and opportunity, both to participate and achieve successful outcomes. Bids should complement provider and OfS strategic objectives for access and participation in recognising activity for highly flexible learning regarding the pace, place and mode of delivery. Bids that are less

²³ See: <https://www.qaa.ac.uk/quality-code/qualifications-and-credit-frameworks>.

focused on enhancing and expanding part-time and flexible higher education provision will receive lower scores.

Criterion 2: Value for money

29. To meet this criterion, bids must demonstrate that any capital projects or expenditure that may be supported will be well managed, provide value for money and ultimately minimise risks to public funds.
30. We do not propose supporting bids that score less than 2 (Satisfactory) against this criterion (see paragraphs 36 and 37 and Table 1).
31. Bids should set out clearly how the project will provide value for money, for example by setting out details of:
 - a. The capital expenditure proposed in financial year 2021-22 and (as may apply) other years, its relationship to the benefits described under the eligible project categories 1, 2 and 3, and how that expenditure is to be met from the OfS grant sought and, where relevant, from any other (specified) sources of finance.
 - b. The extent to which the focus of the capital expenditure is on enhancing facilities for higher education teaching and learning, as opposed to wider provider or student benefits, such as for research, or for teaching at further education level.
 - c. The roles and contributions of any collaborative partners involved in the capital project and the benefits of the project for those partners (including, as appropriate, students and graduates of partner providers).
 - d. Procurement, project and risk management.
32. Higher-scoring bids will set out clearly how projects and investments are being managed (including, if appropriate, across any collaborative partners). Bids should clearly identify any factors that are likely to impact on the success of the project and how these impacts will be managed.
33. Where appropriate (for example, where bids relate to the construction, refurbishment, expansion or adaptation of premises), bids should explain how the provider will review progress of a project, and how it will identify and address emerging risks to the success of the project. This could include, for example, a description of how issues such as risk, reporting and procurement will be managed.
34. Bids should explain how the amount of funding sought is justified in the context of the benefits that the project will bring, demonstrating value for money for students and, where appropriate, employers.
35. Bids that lack clarity, or where the OfS considers that the sums requested appear disproportionate to the benefits of the project, will likely score poorly. Bids that provide insufficient detail to assure the OfS that the project and associated risks will be effectively managed will also likely score poorly.

Question 2

If we were to allocate capital funding through a bidding exercise, to what extent do you agree with the proposed approach to assessing bids? (See paragraphs 12 to 35.) Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Proposed approach to scoring and prioritisation for capital funds distributed through competition

36. If we distribute capital funding through a bidding process, we propose to score each criterion, and each category within criterion 1, on a scale of 0 to 4 according to the scale set out in Table 1.

Table 1: Proposed scoring of criteria for a capital bidding competition

Score		Description
4	Excellent	Clear, well reasoned and evidenced explanation of how the bid meets the criteria. No material weaknesses in explanation or the evidence referred to or provided.
3	Very good	Clear, well reasoned and evidenced explanation of how the bid meets the criteria. Some gaps in explanation or the evidence referred to or provided, but not material.
2	Satisfactory	Basic explanation and evidence provided for how the bid meets the criteria. Substantial gaps in evidence referred to or provided, but not material.
1	Poor	Basic explanation of how the bid meets the criteria. Little or no evidence to support the bid.
0	No score	Little or no explanation of how the bid meets the criteria or little or no evidence to support the bid. Bid contains material inconsistencies or weaknesses in the explanation or evidence referred to.

37. Irrespective of the scores for criterion 1 for each category of eligible project, we will not support a bid that scores 0 or 1 under criterion 2 (value for money).

38. We aim to support a broad group of providers with sums that can have a material impact on the availability of facilities and equipment to support high-quality provision and that collectively will meet the objectives set out in paragraph 4. We recognise that some providers may wish to submit bids that, for example, focus particularly on addressing one of the categories of eligible projects, but not all of them. With this in mind, we propose to prioritise between bids from eligible providers that achieve a score of at least 2 against criterion 2 (value for money) as follows:

- a. **Step 1:** We will firstly prioritise between bids based on the highest single score achieved under criterion 1 against category 1, 2 or 3 plus the score achieved against criterion 2. This will give a maximum score out of 8.
- b. **Step 2:** Secondly, where bids have achieved the same score out of 8 under Step 1, we will prioritise between them based on their total score against each category 1, 2 and 3 combined under criterion 1. This secondary measure will give a maximum score out of 12.

39. Table 2 illustrates how this prioritisation would work, using hypothetical scores for five providers. These providers are listed in order of their score from the calculation in Step 1, and then their score from the calculation in Step 2. Although in this example the calculations show provider D scoring more highly than provider E, the bid from provider D would not be supported, because it has scored only 1 against criterion 2 (value for money).

Table 2: Illustration of how bids would be prioritised

Provider	Criterion 1: category 1	Criterion 1: category 2	Criterion 1: category 3	Criterion 2	Step 1 prioritisation	Step 2 prioritisation
A	4	3	1	4	8	8
B	1	2	4	4	8	7
C	3	3	2	3	6	8
D	4	4	1	1	5	9
E	3	3	0	2	5	6

40. Although we are not putting a limit on how much capital funding a provider may bid for, as part of our aim to support a broad group of providers we may cap the total that any provider can receive. Such a cap would be set at the same level for all providers (irrespective of their characteristics or region). We also propose to apply a minimum threshold, below which no funding will be provided, so that we prioritise funding where it can have a material impact. We propose this minimum should be £20,000.²⁴ Between these two limits, our preferred approach to determining the cash sum that an eligible provider might receive is that this should reflect the OfS funding sought for the financial year 2021-22 in the successful provider’s bid. In the event of the funds available being oversubscribed, we may scale back allocations pro rata, subject to the cap and threshold criteria, to ensure funding for the bids to be supported comes within budget.

41. There will be a balance to be struck in determining how many bids we are able to support and the maximum, threshold and intermediate levels of grant we are able to provide. For example, a large number of strong bids may result in lower levels of grant or require providers to achieve

²⁴ This compares with the minimum allocation of £10,000 that has applied in the formula-based capital funding method for 2020-21. Under a bidding exercise all providers registered in the Approved (fee cap) category would be eligible to bid. In proposing not to allocate funding if the award would be of less than £20,000, we recognise that there is a cost both to providers in preparing bids and to the OfS in considering them, and that this higher minimum allocation will better ensure that any funding awarded will have a material impact.

higher scores to be prioritised for funding than if the number of strong bids is less. We are unable to model this, though, until we have assessed the bids received.

42. The assessment criteria will be individually scored, and bidders should ensure that each criterion is fully addressed in the template. The criteria are set out in paragraphs 12 to 35 of this document. Bidders should be aware that in reaching final decisions, we will look to ensure we are able to offer an overall package of support across a broad group of providers that we consider best meets the priorities set out in paragraph 4.

Further guidance on bid content and eligible capital costs

43. If we adopt a bidding exercise, we will require providers wishing to bid to do so by completing an online form. This will collect numerical data in a structured format on student numbers relevant to the capital project and information about the financing for capital expenditure (both in terms of the funding sought from the OfS and any other sources of finance for the capital project or items). The form will also collect narrative information in which providers should provide:
- a. A summary overview of their bid, including a clear explanation of the relevant facilities that the bid is for (see paragraph 14).
 - b. An explanation of how their bid addresses the criteria, including each of the three categories of eligible project under criterion 1.
44. The information to be collected through the bidding form may be subject to change depending on our decisions in the light of this consultation. We may also apply a word limit to each of the five narrative sections, which we would propose to set at 2,000 words per section.
45. Each eligible provider (see paragraph 11) may submit one bid. We welcome bids for collaborative projects with other providers or organisations, but these must be led by an eligible provider and constitute that provider's only bid. As well as submitting their own bid, eligible providers may be collaborative project partners in (one or more) bids submitted by other eligible providers.
46. This consultation and any proposed bidding competition relate solely to the distribution of capital funding for financial year 2021-22. Any capital funding awarded by the OfS through this process must therefore be used towards eligible capital expenditure incurred by 31 March 2022. Bids will need to set out clearly the funding sought from the OfS for the year but, where appropriate, should also set this in the context of the overall financing of the capital project across each year (past, present and future) during which it is undertaken.
47. OfS capital grants may be used to contribute towards the costs of a capital project in combination with funding from other sources. However, there must be no double-counting in attributing the same amounts of capital expenditure to OfS grant and income provided by any

other UK or EU public funds, including the Further Education Capital Transformation Fund²⁵ and the T-Levels Capital Fund.²⁶

48. Capital expenditure means money used to acquire, adapt or maintain fixed assets, such as land, buildings and equipment, and which is normally capitalised in the provider's audited annual accounts. It does not include expenditure on rent, or hiring or leasing of equipment and facilities. Expenditure must be on assets that will support the delivery of higher education courses²⁷ to students, and must not include assets relating to student or staff residences or catering services. Staff salaries or other associated revenue costs are not eligible.
49. We are not placing a limit on the sum for which a provider may bid. However, in reaching decisions on which bids to support, we may offer a successful bidder an allocation that is less than the sum they have bid for. Bidders should therefore consider how they will progress their project under these circumstances, for example, through alternative sources of finance or a changed timescale for completing elements of a part-funded project. If a provider is unable to progress its project in financial year 2021-22 because of the reduced funding that is offered, we will withdraw the offer and reallocate the funding to other providers. We may also withdraw the offer of funding if, in response, the provider proposes to significantly reduce the scope of the project it bid for, such that the reduced scope would not have scored sufficiently to be prioritised for funding. We will recover funding that is not used within the 2021-22 financial year for the purposes intended.

Question 3

If we were to allocate capital funding through a bidding exercise, to what extent do you agree with the proposed approach to prioritising between bids? (See paragraphs 36 to 49.) Please provide an explanation for your answer. If you believe our approach should differ please explain how and the reason for your view.

Terms and conditions for the capital funding

50. We apply terms and conditions to the recurrent and capital grants that we allocate to providers. The 'Terms and conditions of funding for 2020-21' (OfS 2020.22)²⁸ set out the general requirements for the current year, which we will update for 2021-22. As well as routine updates to years and cross-references, we propose the following more substantive changes to the terms and conditions for 2021-22 to apply to capital grants. Our separate consultation on

²⁵ See: <https://www.gov.uk/government/publications/further-education-capital-transformation-fund>.

²⁶ See: <https://www.gov.uk/government/publications/t-levels-capital-fund>.

²⁷ We recognise that it may be neither feasible nor desirable to create ring-fenced boundaries between higher and further education, or teaching and research facilities. For example, equipment purchased using OfS capital funds may be used by both higher and further education students or for both teaching and research purposes. However, for this initiative, the primary purpose of the capital expenditure must be on assets that will support students on taught higher education courses.

²⁸ See: www.officeforstudents.org.uk/publications/terms-and-conditions-of-funding-for-2020-21/.

recurrent funding for academic year 2021-22 proposes further changes to terms and conditions relating to the payment and use of OfS recurrent grants.

- a. Subject to the outcomes of this consultation, we propose to remove references to formula-based capital grants from the terms and conditions for 2021-22. However, the terms and conditions for capital grants (in paragraphs 41 to 46 of OfS 2020.22) will otherwise remain. In addition, any capital grants awarded for 2021-22 through competition must be used:
 - i. On expenditure items included in the provider's successful bid.
 - ii. In accordance with any other terms and conditions that we may specify when we award the grant.
- b. The terms and conditions of funding for 2020-21 state that 'the OfS will normally pay formula-based capital grants for the 2020-21 financial year according to a funding profile that will also be notified separately.' If instead we allocate capital funding on the basis of a competitive bidding exercise, we will remove the reference to capital grants being 'formula-based'. We will also qualify the reference to paying according to a funding profile by adding:

'We will require providers to notify us if payment according to that profile will result in them receiving funding in advance of need (that is, in advance of them incurring the capital expense). Were this to occur, we will suspend or reduce payments due according to the profile, reflecting the provider's circumstances, and require it to submit evidence of expenditure before the OfS releases further funding.'

51. Any capital funding for 2021-22 that remains unspent by 31 March 2022 will be recovered. We expect to monitor use of the funding after the end of the financial year.

Question 4

To what extent do you agree with the proposed changes to terms and conditions that should apply to capital grant? (See paragraph 50.) Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 5

Do you have any other comments on the proposals set out in this consultation?

Annex A: List of questions in the consultation

Question 1: To what extent do you agree that a bidding process is the most appropriate means of addressing the strategic objectives and priorities for capital funding for 2021-22? (See paragraphs 4 to 11.)

Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	Don't know / prefer not to say
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Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 2: If we were to allocate capital funding through a bidding exercise, to what extent do you agree with the proposed approach to assessing bids? (See paragraphs 12 to 35.)

Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	Don't know / prefer not to say
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Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 3: If we were to allocate capital funding through a bidding exercise, to what extent do you agree with the proposed approach to prioritising between bids? (See paragraphs 36 to 49.)

Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	Don't know / prefer not to say
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Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 4: To what extent do you agree with the proposed changes to terms and conditions that should apply to capital grant? (See paragraph 50.)

Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	Don't know / prefer not to say
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Please provide an explanation for your answer. If you believe our approach should differ, please explain how and the reason for your view.

Question 5: Do you have any other comments on the proposals set out in this consultation?

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