



Regulatory notice 1

Access and participation plan guidance

– *Draft for consultation purposes*

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Please note: This version of Regulatory notice 1 is a draft for consultation purposes. Where we make reference to Regulatory advice 6, a link will be provided to a revised version on publication of the final guidance in spring 2023.

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 outlines 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 [A link will be provided to a revised Regulatory advice 6 here on publication of the final guidance in spring 2023].

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 policy 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 set out how it will address the most significant risks to equality of opportunity for its current and prospective students, and more widely. In identifying these key risks, a provider should refer to the sector-wide Equality of Opportunity Risk Register (EORR) which is published by the OfS.³
9. 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 providers to address the risk posed to fair access and successful participation by knowledge, skill and attainment gaps emerging in early childhood by making meaningful and effective contributions to raising pre-16 attainment.
10. 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.
11. We expect a plan to include ambitious objectives a provider seeks to achieve, the interventions it will put in place to achieve the necessary changes, including relevant and realistic outcomes, and the investment it will make to deliver the plan.⁴ A provider is encouraged to access further information on the OfS's approach to equality of opportunity and its key performance measures through the OfS website.⁵

Who needs an access and participation plan?

12. 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 of providers and wishes to charge above the basic tuition fee limit for 'qualifying persons' on 'qualifying courses'. This requirement stems from section 12 of HERA and is reflected in condition of registration A1.

² See [Higher Education and Research Act 2017 \(legislation.gov.uk\)](https://legislation.gov.uk).

³ [We will include a link to the EORR here in final guidance.]

⁴ See [The Higher Education \(Access and Participation Plans\) \(England\) Regulations 2018 \(legislation.gov.uk\)](https://legislation.gov.uk).

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

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.

13. 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

14. 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. However, without prejudice to its own responsibilities, the OfS will consider notifying a provider of relevant changes in the law, such as the definitions of qualifying students or courses.

Basic and maximum fee levels

15. 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.

16. 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.

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

Part B: Contents of an access and participation plan

17. 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.
18. Where a provider does not include all requested content in its plan, this is likely to delay approval as additional content is sought.
19. Further guidance on the OfS's expectations for specific content of plans 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.
20. 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.
21. It is up to a provider to determine the focus of its access and participation plan. The strategy a provider adopts 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.
22. The OfS will decide whether the information provided is sufficient to approve the plan.

Risks to equality of opportunity and student groups

23. 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
24. Some student groups may have historically experienced inequality in respect of higher education at different stages of the student lifecycle. For example:
 - a. Economically disadvantaged students and students from low participation areas have been less likely to access higher education than their peers.⁸
 - b. Care experienced students have been less likely to access higher education and complete their studies than their peers.⁹

⁷ Higher Education and Research Act 2017, section 32 (1) [Higher Education and Research Act 2017 \(legislation.gov.uk\)](#)

⁸ Source: OfS access and participation data dashboard [Access and participation data dashboard - Office for Students](#)

⁹ Sources: [Widening participation in higher education, Academic Year 2020/21 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](#);

Care experience: Continuation, degree outcomes, employment outcomes, Annex B [Differences in student outcomes - further characteristics - Office for Students](#).

- c. Disabled students have been less likely to progress to highly skilled employment or further education than their peers.¹⁰
 - d. Black students have been less likely to be awarded a 1st or 2:1 degree classification than white students.¹¹
25. Further, there may be other barriers to higher education which mean certain student groups do not experience equality of opportunity. For example:
- a. Students from certain geographic regions, including rural and coastal areas, may have had context-specific risks to equality of opportunity.
 - b. Students with fewer financial resources may have been disproportionately affected by the recent increase in the cost of living.
26. The OfS categorises each of these instances as a risk to equality of opportunity. The EORR identifies a range of sector-level risks to equality of opportunity and the characteristics of students likely to be affected by such risks.¹²
27. 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.
28. As a result of identifying risks to equality of opportunity, student groups that may be targeted by access and participation plan interventions include, but are not limited to:
- a. Students from lower socioeconomic backgrounds.
 - b. Students from areas with low participation in higher education.
 - c. Students with certain characteristics, including students who are carers, care-experienced students, students who are estranged from their families, students from Roma, Gypsy and Traveller communities, refugees and asylum seekers, and children of military families.
 - d. Students with a protected characteristic identified by the Equality Act 2010 who do not experience equality of opportunity.
 - e. Students who experience multiple barriers to higher education or who are identified when looking at intersections of characteristics, such as male students from low socioeconomic backgrounds.

¹⁰ Source: Progression data in OfS access and participation data dashboard [Access and participation data dashboard - Office for Students](#).

¹¹ See [Findings from the data - Office for Students](#).

¹² [We will include a link to the EORR here in final guidance.]

What an access and participation plan should look like

Access and participation plan

29. A provider is expected to use the template available on the OfS website to structure its access and participation plan.¹³
30. 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 requirement.
31. A plan may include a separate student submission in relation to the provider's plan. This should be submitted with the plan.

Access and participation plan summary

32. A provider is expected to produce a separate access and participation plan summary. The summary template provided by the OfS will assist providers to structure this.¹⁴ This will be a single document that should not exceed three pages of A4.

Overview of an access and participation plan

33. An access and participation plan should be an accessible document. Therefore, we expect that it will 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:** Corresponding objectives for each of the risks to equality of opportunity identified. The objectives set should be timebound and measurable.
 - 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 should relate to a specific objective and include details of the individual interventions 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 published and the expected format this will take.

¹³ A link to this template will be provided. An illustrative example is included at **Annex D** of the consultation document.

¹⁴ A link to this template will be provided. An illustrative example is included at **Annex D** of the consultation document.

- e. **Targets:** Where appropriate, objectives should be translated into numerical targets with measurable outcomes-based milestones as part of the targets and investment plan 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 to support evaluation. Information about a provider's investment in financial support for students and research and evaluation in the targets and investment plan document.
- j. **Provision of information to students:** A plan must detail how prospective students are 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, including the eligibility criteria and the level of financial support students will be offered in each year of study.
- 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 undertakes. However, the OfS may request additional information where that is considered appropriate.

Supporting documents

- 34. Alongside the access and participation plan and plan summary, a provider is expected to submit two supporting documents which set out a provider's:
 - a. Targets and investment plan.
 - b. Fee information.
- 35. These 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 documents, see pages xx–xx of Regulatory advice 6.
- 36. A plan may include a separate student submission in relation to the provider's plan. This should be submitted with the plan.

What the access and participation plan should contain

37. 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.
38. 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

39. The purpose of the assessment of a provider's performance is to identify the most pressing or significant equality of opportunity challenges within that provider and which it will seek to address through the commitments it makes in its plan.
40. 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 and why.
 - c. Where a provider can identify success to build on and where there are areas for improvement.
41. The assessment of performance should be included in the access and participation plan as an annex.
42. The OfS expects a provider to base its assessment of performance primarily on data in the OfS access and participation data dashboard. Providers may additionally use evidence and data from sources including:
 - a. The Equality of Opportunity Risk Register (EORR) on the OfS website.
 - b. Any other relevant, reliable provider or sector-level data or evidence relating to equality of opportunity for students.
43. A provider's assessment of its performance should include disaggregated analysis of performance in relation to disabled students to at least those with mental ill health, 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.

44. 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.¹⁵
45. 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 6.¹⁶
46. 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 to equality of opportunity identified, the credibility of a provider's plan, and the intended rate of progress in addressing those risks.
47. Further guidance on the OfS's expectations in respect of the assessment of performance are set out in pages xx to xx of Regulatory advice 6.

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

48. Where student numbers are small or suppressed on the OfS's 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. The EORR and how a provider can, given its context, contribute to mitigating sector-level risks to equality of opportunity.
 - 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.
 - c. Identification of student groups to target to address equality of opportunity risks to access, completion, attainment and progression in the future.
 - d. 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.
49. We recognise that statistical uncertainty is a common challenge for smaller providers or for those with limited data, particularly when the focus of a plan and its interventions 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,

¹⁵ Refer to OfS sector-wide Equality of Opportunity Risk Register published on website.

¹⁶ Link to be confirmed.

or innovative methods of determining efficacy of its interventions. Early discussion with the OfS in such cases is strongly encouraged.

50. Further information on data quality and statistical uncertainty can be found in pages xx to xx of Regulatory advice 6.

Introduction and strategic aim

51. A provider should use this section to set out its context, mission and overarching strategic aim as they relate to equality of opportunity. This outline 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 briefly 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 be limited to one side of A4.

Risks to equality of opportunity

52. The assessment of performance is designed to be used as the basis for a provider to identify the risks to equality of opportunity it is seeking to address in its access and participation plan. Risks to equality of opportunity are described in paragraphs 23-28. 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.
53. 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.
54. In addition, a plan is expected to set out what other 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 query any significant risks it identifies in a provider's data that are not addressed in the plan unless a credible explanation has been given.
55. Further detailed guidance about the OfS's expectations in respect of risks to equality of opportunity is set out in pages xx to xx of Regulatory advice 6.

Objectives

56. 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 a risk.
57. Further, detailed guidance about the OfS's expectations in respect of objectives are set out in pages xx to xx of Regulatory advice 6.

Intervention strategies

58. For each objective a provider has identified, a plan must include details of the intervention it will make to address the risk and achieve the objective. The OfS considers that an effective intervention strategy will include details about:

- a. The intervention that will be put in place to achieve the objective.
- b. The evidence used to underpin the intervention 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 interventions at an early stage, and also longer-term outcomes where an intervention 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, 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 published and the format they will take.

59. To aid a provider with writing its intervention strategies, the OfS has included an exemplar in the access and participation plan template available on the OfS website.¹⁷

60. 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.

61. The OfS expects that interventions will include activities drawn from the following list, but a provider should also consider other activities not listed which may meet its objectives:

- Expanding and promoting pathways for study at Levels 4 and 5, and on higher apprenticeships and degree apprenticeships.
- Financial support for students.
- Partnerships with schools to raise attainment, where this is an objective in a provider's plan.
- 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.

¹⁷ [This link will be made available on publication of the final guidance. An illustrative version can be found in the consultation document at Annex D.]

62. Each intervention strategy needs to contain a sufficient level of detail for the OfS to assess its likely effectiveness as a contribution to equality of opportunity.
63. Detailed guidance about the OfS's expectations in respect of interventions, including evaluation, is set out in pages xx to xx of Regulatory advice 6.

Collaboration

64. A provider should consider, where appropriate, agreeing interventions and 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

65. 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 the evaluation method which will be used to measure progress against each outcome, including methodologies which will be used to analyse data generated by the intervention.
 - 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 activity in particular contexts.
 - A description of the mechanisms in place to enable the evaluation to influence practice and delivery of a provider's interventions.
66. The OfS recognises that different types and standards of evaluation are 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 include an appropriate evaluation plan for each intervention using the OfS standards of evaluation as a guide.¹⁸

Targets

67. For the OfS to be satisfied that a plan is continuing to make a meaningful and effective difference to equality of opportunity, objectives should be translated into associated numerical outcomes-based targets in the targets and investment plan document. Where possible, these should be measurable using the OfS access and participation data dashboard.
68. A target may be a direct translation of the objective, or it may be a proxy numerical target for the written objective.
69. A provider may include numerical targets based on intermediate outcomes of interventions and outcomes related to:

¹⁸ See www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/evaluation/standards-of-evidence-and-evaluation-self-assessment-tool/.

- 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 to raise 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.

70. 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.

Whole provider approach

71. 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 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.

72. An access and participation plan is expected to demonstrate that a provider has paid due regard to equality of opportunity, as stipulated 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.

73. Further, detailed guidance about the OfS's expectation in respect of a whole provider approach is set out in pages xx to xx of Regulatory advice 6.

Student consultation

74. 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.

75. 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.

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

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

Monitoring and evaluation of the plan

78. 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

79. A provider is expected to have adequate and effective arrangements for monitoring and overseeing the delivery of the provisions of its access and participation plan.

Evaluation strategy

80. 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.

81. In addition to the specific evaluations to be undertaken for each of a provider's interventions (see paragraphs 65-66, section above), a provider is expected to set out its strategy for how it will strengthen its evaluation activity overall.

82. The OfS expects a provider to publish and share 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.

83. 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 outline in its plan how and when it intends to publish and share its evaluation evidence, and the methodologies it expects to use in analyses.
84. 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.¹⁹
85. A provider is expected to use monitoring and evaluation activity to determine whether each intervention is achieving its intended outcome. If the intervention is not optimally achieving its intended impact, it is appropriate that a provider should explore and make necessary changes to the design and delivery of the intervention. In these circumstances it should consider submitting a request to the OfS to vary its plan (see paragraphs 144-149, 'Requesting a variation to an access and participation plan').

Investment

Information to be included in the 'Targets and investment plan' (TIP) document

86. A provider must submit information about its expected investment to achieve the objectives of its plan in its targets and investment plan in respect of the following areas:
- a. Financial support for students.
 - b. Research and evaluation.
 - c. Intervention strategies investment.

Financial support and research and evaluation investment

87. A provider is expected to include an estimate of its investment in financial support in the TIP. 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.
88. A provider must 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.
89. A provider may record the cost of evaluating and researching all stages of the student lifecycle within evaluation and research investment.
90. 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.

¹⁹ See [Regulatory advice 16: Reportable events - Office for Students](#).

91. A provider will be expected to report against the financial support and research and evaluation investment detailed in the TIP in its Annual Financial Return submitted to the OfS.

92. A summary of the information about financial support and research and evaluation investment provided in the TIP will be appended to an approved plan and therefore a provider does not need to include this information in its access and participation plan.

Intervention strategies investment

93. A provider is expected to provide an estimate of the investment required to deliver each of the interventions 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.

94. 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.

95. 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.

96. 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.²⁰ 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.

97. 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.

Provision of information to students

98. 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

²⁰ See [Securing student success: Regulatory framework for higher education in England - Office for Students](#).

participation plan. This must include the eligibility criteria and set out the level of financial support students will be offered in each year of their course.

Fees

99. 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.
100. A provider must 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

101. 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, this must 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.
102. It is expected that providers 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 providers 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

103. A provider is expected to complete three supporting documents which will need to be submitted to the OfS in the manner and form specified in Regulatory advice 6:
- i. Information about the targets and investment plan. This will:
 - cover the planned duration of the provider's access and participation plan
 - be published by the OfS as part of a provider's access and participation plan if the plan is approved.
 - ii. Information about the fees the provider will charge for its courses. This will:
 - cover fee levels for new students starting courses in the first year of the access and participation plan. This means it will need to be revised on an annual basis, and a provider will be notified when and how to update this information each year.
 - be used to produce a fee information summary table, which will be published by the OfS as part of a provider's access and participation plan if the plan is approved.
 - mean that a provider does not need to include this information in the written text of its access and participation plan.

- iii. The accessible summary of the access and participation plan (see paragraph 32).
104. 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.
105. A plan may also include a separate student submission in relation to the provider's plan. This should be submitted with the plan.
106. Further guidance about completing the targets and investment plan (TIP) can be found in Regulatory advice 6.
107. Further guidance about completing the fee information can be found in Regulatory advice 6.

Tuition fees

108. 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 include information about:
- a. The level of tuition fees for new students starting courses 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

109. A provider should plan the timing of its submission to fit with its own student application cycle to ensure it receives a decision in respect of approval of the plan in time to communicate with applicants about fee levels and the financial support that will be available.
110. 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.²¹ 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.
111. 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

112. 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 supplied template.
113. 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:
- Early timing of a provider's recruitment cycle.
 - Early submission of a plan relative to other providers.
 - 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.
 - 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

114. A provider is required to submit four documents in relation to its access and participation plan:
- Access and participation plan.

²¹ See www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/access-and-participation-plans/.

- b. A summary of the access and participation plan.
- c. Fee information document.
- d. Targets and investment plan.

115. These documents should be submitted using the OfS provider portal.²² Submissions via email will not be accepted.

The OfS assessment process

116. Once the OfS receives a provider's access and participation plan and any supporting documents, it will be considered against all the relevant requirements and expectations set out above 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 or not to approve a plan.
117. 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.
118. 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.
119. The OfS will then decide whether or not to approve a provider's plan.

General principles underpinning the assessment process

120. 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.
 - 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.

²² [Link to the Portal](#)

Approval of a plan

121. A plan is approvable if it sets out provisions that will be meaningful and effective in promoting equality of opportunity for students who at risk of not experiencing equality of opportunity, as determined by the OfS.
122. 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 which identifies the key risks to equality of opportunity and has regard to the EORR.
 - b. A set of objectives which are stretching, measurable and relate to the associated risks to equality of opportunity.
 - c. A description of the interventions 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 which are ambitious and related to the provider's assessment of performance, including consideration of sector-level evidence, including relevant targets.
 - e. A description of the investment a provider will make to deliver each intervention 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.
123. The judgement about whether a plan, or element of a plan, is sufficiently ambitious and credible for approval is dependent on a provider's size and turnover, mission, level of higher fee income from qualifying students, and the plan considered as a whole. More information about the matters to which the OfS will have regard when approving the content of a plan can be found in **Part B** of this document and in Regulatory advice 6 (paragraphs xx–xx).

Assessment of the risk of a future breach of condition A1

124. 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. The OfS's assessment of a provider's risk is an important component of its regulatory approach, set out in the regulatory framework.

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

125. 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 a plan by a provider

126. 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 'targets and investment plan' and 'fee information' documents appended and the summary of the approved plan.

127. The Higher Education (Access and Participation Plans) (England) Regulations 2018 require a provider to publish its approved plan in a manner which 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.

128. 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

129. 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.

130. 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.

131. 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 or not the plan is approved.

Review of decisions

132. The decision about whether or not to approve a plan is provisional in the first instance.

133. 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.

134. 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.

135. 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.
136. A provider can apply for a review in circumstances where:
- a. It presents a material factor for consideration which 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 which 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

137. 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.
138. 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 assessment of the risk of a future breach of condition A1.
139. Students who were registered and started their course prior to 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.
140. 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.
141. If the OfS requires a provider to submit a new access and participation plan for approval (in response, for example, to 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.
142. 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.

143. 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

144. 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 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.
145. 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.
146. A variation of an access and participation plan will be subject to the same assessment, approval and review process as a whole plan.
147. The OfS will consider the request for a variation and will inform the provider whether or not 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 129-131 of this guidance.
148. 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 condition C1 and other conditions of registration.²³ Changes to fee limits submitted as part of the annual fee return will be treated as variation requests and assessed in the same way.
149. The OfS may, from time to time, invite some or all providers to submit a variation to their access and participation plans where the OfS consider this necessary 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 against an access and participation plan

150. 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.

²³ See www.officeforstudents.org.uk/advice-and-guidance/regulation/conditions-of-registration/.

151. The OfS will consider how the requirements set out in different conditions interact, and how any possible non-compliance for one condition may affect compliance for others.
152. The OfS's will use information gathered through its monitoring of compliance with condition A1 in relation to its judgements about compliance with other conditions of registration. Further, the OfS may use information gathered from monitoring compliance with other conditions of registration to inform its regulation of condition A1. The OfS will continue to take a risk-based approach to monitoring.
153. Where monitoring identifies areas of potential concern, we may ask a provider for more information. This may result in regulatory intervention and sanctions as set out in the regulatory framework
154. The OfS has set out its approach to publishing information about higher education providers in Regulatory advice 21.²⁴ The OfS would follow this approach when making decisions about publishing information about any investigation, or assessment relating to condition A1, as well as an individual provider's compliance with condition A1 and any action the OfS has taken in response to actual or likely non-compliance.
155. Without making findings in respect of a provider's compliance with condition A1, the OfS may also decide to publish information about its views on whether or not a provider has properly delivered the commitments in its approved access and participation plan. The OfS would expect to have regard to the factors set out in Regulatory advice 21 in making such publication decisions and, if a final decision is made to publish information, the OfS would normally expect to include a statement to make clear that the OfS has not made any findings about the provider's compliance with conditions of registration.

Financial monitoring

156. A provider is required to include financial information relating to the expenditure on financial support and research and evaluation included in its access and participation plan in its audited financial statements each year.
157. In addition, under the terms and conditions of OfS funding,²⁵ 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.
158. As set out in the OfS accounts direction, in its financial statements, a provider's independent auditor's report is required to include 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.²⁶

²⁴ See [Regulatory advice 21: Publication of information - Office for Students](#).

²⁵ See [Terms and conditions of funding for 2022-23 - Office for Students](#).

²⁶ Available at www.officeforstudents.org.uk/publications/regulatory-advice-9-accounts-direction-accountingperiods-beginning-on-or-after-1-august-2019/.

159. 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.

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