

Summary of the OfS's triennial report on the performance of the Quality Assurance Agency for Higher Education as the designated quality body

Introduction

1. Effective regulation of the quality of higher education courses and the standard of qualifications awarded to students is one of the most important things the Office for Students (OfS) does. This aspect of our regulation ensures that students receive a high quality education, there is value for money for students and taxpayers, and the international reputation of higher education in England is protected. The OfS has recently concluded a series of consultations¹ which have established new rigorous requirements for quality and standards that apply to all registered providers and those seeking registration. The implementation of our proposals signals a step change in our approach and is a central aspect of our new three-year strategy.
2. The Higher Education and Research Act 2017 (HERA) gives the OfS the power to impose initial and ongoing conditions of registration that relate to quality or standards and to 'assess, or make arrangements for the assessment of, the quality of, and the standards applied to, higher education',² including for the purpose of determining whether a provider has satisfied those conditions. HERA also gives the OfS the power to authorise a provider to award its own degrees, or to vary or revoke such an authorisation, and this requires an assessment of quality and standards³ to take place. Assessing quality and standards in these situations is referred to as 'the assessment functions'.
3. HERA makes provision for a body to be designated⁴ to perform the assessment functions and the Quality Assurance Agency for Higher Education (QAA) was designated by the Secretary of State from 1 April 2018. When the QAA operates under this designation, we refer to it as the 'designated quality body' or the 'DQB'.
4. The OfS has a duty⁵ to make arrangements for holding the DQB to account for the performance of the assessment functions. We have therefore put in place oversight arrangements which include monitoring the QAA's performance against a set of key performance measures which feed into judgements made by the OfS's Quality Assessment Committee (QAC) about the degree of confidence it has in the QAA's performance. HERA requires that a majority of the QAC's membership must be independent individuals who have

¹ See www.officeforstudents.org.uk/publications/consultation-on-quality-and-standards-conditions-outcomes/.

² See section 23 of HERA at <https://www.legislation.gov.uk/ukpga/2017/29/contents/enacted>.

³ See section 46 of HERA.

⁴ See paragraph 3 of schedule 4 of HERA.

⁵ See paragraph 7 of schedule 4 of HERA.

experience of providing, or being responsible for the provision of, higher education.⁶ Oversight of the QAA's performance is therefore conducted by a committee with significant expertise and experience in delivering higher education to students. The OfS also has the power to issue general directions⁷ to the DQB in relation to the performance of any of the assessment functions.

Triennial report

5. The OfS is required to make a triennial report to the Secretary of State setting out how the DQB has performed the assessment functions and whether it should continue to be designated.⁸
6. The OfS compiled a provisional report covering the designation period from 1 April 2018 to 31 March 2022 which we shared with the QAA in April 2022. The QAA provided representations in response to the provisional report. We considered those representations carefully and made some changes to the report before submitting it to the Secretary of State in November 2022. While we were finalising the triennial report, the QAA announced in July 2022 that it had asked the Secretary of State to remove its designation from 31 March 2023.⁹
7. We have decided that, at the current time, it is appropriate to publish this summary of the triennial report because we consider there to be a strong public interest in relation to our judgements about the performance of the QAA in its role as the DQB. We are not publishing the full report at this time, because it is possible to identify individual providers from the text. The triennial report and this summary relate only to the performance of the QAA as the DQB. The QAA performs other roles as a voluntary membership organisation and for the other nations of the UK. The triennial report and this summary should not be interpreted as representing the OfS's views in relation to the QAA's other roles.
8. The OfS's conclusion presented to the Secretary of State in the triennial report is that the QAA has not performed, and is unlikely in future to perform, the assessment functions such that quality and standards will be effectively assessed for higher education providers in England. The OfS therefore takes the view that the QAA can no longer be considered to meet the requirements set out in schedule 4 of HERA to be a 'suitable body' as it no longer meets Condition A which is that the body is capable of performing the assessment functions in an effective manner.
9. Our view is that the designation of the QAA is no longer appropriate and the OfS supports the QAA's request to have its designation removed. Had the QAA not made that request the OfS would have recommended that the QAA should no longer be designated on grounds relating to its ability to perform the assessment functions in an effective manner.

⁶ See section 24(4) of HERA.

⁷ See paragraph 10 of schedule 4 of HERA.

⁸ See paragraph 9 of schedule 4 of HERA.

⁹ See <https://www.qaa.ac.uk/news-events/news/qaa-demits-dqb-status-to-focus-on-sector-and-students-in-england>.

10. In reaching this judgement, the main issues we have identified with the QAA's performance are:

- a. **Issue one: assessment reports for individual providers.** Reports provided by the QAA following assessment of quality and/or standards for individual providers are not fit for purpose because they do not meet the OfS's requirements for use in regulatory decisions. They are not consistent with the regulatory framework and are often not delivered on time. A significant number of reports on individual providers that the QAA has provided to the OfS since 2019 did not meet the OfS's requirements. We have made regulatory decisions based on information provided in QAA assessment reports where we have judged that to be appropriate and proportionate. For example, we have used information contained in an assessment report that contains positive judgements despite that report not being consistently evidenced or focused on outcomes and where there is no other evidence of increased regulatory risk. In deciding whether to use a report, we consider the impact on the provider of further delay and the most effective use of the OfS's resources.
- b. **Issue two: methods for assessing quality and standards.** The QAA was asked to make proposals for how it would assess quality and standards in relation to the OfS's new conditions of registration. Despite feedback, and repeated submissions, the OfS's judgement was that the QAA's proposals would not enable the OfS to make effective regulatory judgements. The proposals did not engage meaningfully in the substance of the OfS's regulatory requirements and would not therefore deliver assessment reports for individual providers that are consistent with the regulatory framework and enable the OfS to make reliable and robust regulatory decisions. These concerns are consistent with previous issues highlighted to the QAA about its approach to assessing quality and standards for the previous conditions of registration. The OfS has used its power of direction in relation to these issues to require the QAA to improve its proposals and approach.
- c. **Issue three: conflict of interests.** The QAA operates as both the DQB and as a voluntary membership organisation to which many providers the OfS regulates choose to subscribe. Its membership scheme for providers in England began in August 2019 and has since significantly expanded. The OfS's view is that this gives rise to a conflict. The QAA has made changes to its management and governance arrangements, but these fail to resolve the issue. Without credible action, this conflict has the potential to undermine quality and standards assessments undertaken by the QAA, which undermines the reliability of assessments for the OfS's regulatory decisions about a provider's initial and ongoing suitability for registration.
- d. **Issue four: value for money.** The charging structure used by the QAA to calculate the fees it charges to providers for its work as the DQB is consistent with the requirements in section 28 of HERA. However, given the substantial concerns the OfS has identified about the QAA's capability to perform the assessment functions effectively, the OfS does not consider that the current fee levels represent value for money for individual higher education providers, the sector more broadly, or for students whose fees are likely to be contributing to these costs.

11. The OfS's Quality Assessment Committee has informed the QAA that it has significant concerns about its performance as the DQB, as part of the feedback provided to the QAA over

the past four years. While there has been improvement in some areas, this has not been sufficient or sustained and, in the view of the OfS, has not resulted in satisfactory performance.

12. The issues relating to the QAA's performance have prevented, and continue to prevent, the OfS from regulating effectively in the interests of students and taxpayers. For example:
 - a. We have been unable to make registration decisions with confidence, for example where a QAA assessment report contains some negative judgements but does not articulate the reasons for these sufficiently clearly.
 - b. Some of our regulatory decisions have been significantly delayed because assessment reports have not been delivered on time. This results in disruption to providers' business plans where registration and degree awarding powers are key milestones.
 - c. We made final decisions to implement new conditions of registration from 1 May 2022. The QAA has not been able to make credible proposals for assessing quality and standards in relation to those conditions. The OfS is therefore currently undertaking assessments of quality itself in relation to the new conditions and remains reliant on the QAA for assessments of standards.
 - d. The QAA publishes guidance and reports in its role as a voluntary membership organisation and makes public statements that advocate for policy positions that are not, or may not be, consistent with the OfS's approach. Providers that follow this guidance may incorrectly assume that they will satisfy the OfS's regulatory requirements as set out in the conditions of registration.
 - e. OfS staff have spent more time on the oversight of the QAA's performance than we consider should be necessary. This time could be better spent on monitoring providers and the quality of courses which are key priorities for the OfS and are in the interests of students and taxpayers.
13. Our triennial report was due in 2021 but was delayed for a year to provide the QAA with a further opportunity to demonstrate that it could meet our requirements after a pause in most regulatory activity during the early stages of the pandemic. Our view is that the QAA's performance has not been acceptable during the most recent year (1 April 2021 to 31 March 2022).
14. We have considered whether changes to the QAA's senior leadership team during the period of designation should mean that further time should be made available for improvement. These changes have resulted in improvements in communication and the relationship between the two organisations. However, there remain significant concerns about the QAA's suitability for the role, and its performance in the designation year ending 31 March 2022 suggests that these are unlikely to be resolved.