

Regulatory case report for Higher Rhythm Limited – specific ongoing condition BA

Summary

This regulatory case report explains why the Office for Students (the “OfS”) has decided to impose a specific condition of registration on Higher Rhythm Limited (the “provider”).

The provider has satisfied the initial conditions of registration with the OfS. However, a Quality and Standards Review (the “QSR”) undertaken in April 2021 by the Quality Assurance Agency acting as the Designated Quality Body (the “DQB”) has identified concerns that pose risks to quality and standards for students. A summary of the concerns, set out in the QSR report dated 11 February 2022, is that:

- At the time of the review, the provider’s Level 4 course was not designed in such a way that it would meet sector-recognised standards¹ due to documentation errors relating to the number of credits at Level 4 that students would gain when studying the course. In view of this, the provider was judged not to have designed a course that set standards at levels consistent with the sector-recognised standards and that was high quality.
- The provider did not have credible plans at the time of the review to ensure the continuing professional development of its staff so they would be appropriately qualified to deliver a high quality academic experience.
- The provider did not have an adequate academic appeals handling process at the time of the review.

The OfS has imposed a specific ongoing condition of registration that requires the provider to take all reasonable steps to address the concerns identified in the QSR report, including to correct the errors in documentation for the course it plans to deliver. The specific ongoing condition requires the provider to submit to the OfS evidence of the steps it has already taken and any steps it proposes to take to address the concerns.

The specific ongoing condition also requires the provider to cooperate with an assessment by the OfS of quality and standards. This assessment will include but is not limited to consideration of the provider’s compliance with ongoing conditions B1, B2, and B5 of registration, and will test the adequacy and impact of actions the provider has taken to address concerns identified in the QSR undertaken by the DQB.

¹ Available at: www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/.

Reasons for the specific condition of registration

In April 2021, the Quality Assurance Agency acting as the DQB assessed the provider against 12 core practices of the UK Quality Code for Higher Education. The DQB concluded that four core practices were “not met”. These were:

S1: The provider ensures that the threshold standards for its qualifications are consistent with the relevant national qualifications’ frameworks.

Q2: The provider designs and/or delivers high quality courses.

Q3: The provider has sufficient appropriately qualified and skilled staff to deliver a high quality academic experience.

Q6: The provider has fair and transparent procedures for handling complaints and appeals which are accessible to all students.

The DQB’s concerns included the following:

- **S1: the DQB was concerned that:**

“29 The review team consider that standards described in the provider’s programme documentation are not set at levels that are consistent with the sector-recognised standards. This is because the programme, as designed by the provider, will not allow students to gain the required 120 credits at Level 4 of the qualification as only 105 can be achieved. As a consequence, the provider’s programme does not align with the typical credit requirements for a Level 4 HNC programme as set out in Annex C of the Framework for Higher Education Qualifications. While this was partly down to an error in a high-level Pearson guidance document the review team were clear that the staff at the provider did not identify or address this issue until it was highlighted during this review. It was not apparent how the provider can assure that a fundamental error in programme design, such as this, may be avoided in the future. Therefore, the standards that will be achieved by the provider’s students are unlikely to be in line with the sector-recognised standards defined in paragraph 342 of the OfS’s regulatory framework.”

- **Q2: the DQB was concerned that:**

“160 Having reviewed the evidence presented relating to the provider’s ability to design high-quality courses, the review team determined that the provider should be able to design high-quality courses because it has suitable processes and guidance in place to facilitate this. However, the review team considers that not all elements of the course are of high quality. This is because the provider designed a course that does not meet the total credit volume required for the Level 4 Higher National Certificate. It is also not apparent whether the programme will adhere to Pearson’s requirements for total qualification time and guided learning hours as these are not documented by the provider, although staff are aware of them. While assessment design will enable students to demonstrate the intended learning outcomes for each unit and assessment modes and methods are linked to intended learning outcomes, staff were not able to articulate what ‘high-quality’ means in the context of higher order skills development, indicating their own lack of understanding of these skills. Additionally, while the provider has a

strategy for the development of teaching staff it does not have plans in place to support the development of higher education pedagogy skills.”

- **Q3: the DQB was concerned that:**

“184 The provider’s policies for the recruitment and appointment of staff are robust and credible and should enable the recruitment of sufficient appropriately qualified and skilled staff. However, the staff induction programme does not support the needs of staff new to higher education teaching as it is generic and does not cover teaching, learning and assessment at higher education level. While the provider has sufficient appropriately academically qualified staff with industry experience and knowledge, they lack experience of teaching at higher education level and engagement in research and scholarly activities. The evidence seen by the review team does not indicate that the provider recognises the need for staff to acquire teaching skills at higher education level, and although it has strategies and policies for staff development in place, there is no evidence of concrete plans in the CPD Plan to support teaching staff in the development of pedagogy or research skills and help them to fulfil their roles effectively.”

- **Q6: the DQB was concerned that:**

“255 The Academic Appeals Policy is not fit for purpose because there are some omissions such as the timescales for the consideration of assessment appeals, students’ final right of appeal to the awarding organisation, and the right to apply for external review by the Office of the Independent Adjudicator of the appeals handling. It is also not apparent what, if any, evidence students would have to submit in support of their appeal. Finally, as the policy applies to all provision it is not always apparent which parts are specific to higher education students, and there are some processes and approaches that are not appropriate in a higher education setting. The naming of the policies may also add confusion to students without clear explanation as to their purpose and scope so that they can be fully understood by students.”

Relevant OfS conditions of registration

Revised ongoing conditions of registration B1, B2, B4, and B5 came into effect on 1 May 2022.² The provider’s registration application was assessed against the original initial conditions B1, B2, B4, and B5, which were in force at the time it submitted its registration application. The revised ongoing conditions apply to the provider once registered.

The OfS takes the view that the concerns raised from the QSR pose quality and standards risks that are relevant to revised ongoing conditions B1, B2, and B5, including as follows:

Condition B1

This condition requires a provider to ‘ensure that the students registered on each higher education course receive a high quality academic experience.’

The DQB’s concerns in relation to core practice Q2 indicate that:

² ‘1 May 2022: Revised conditions of registration and Notice’. Available at: www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/.

- The provider may in future fail to design higher education courses that provide educational challenge and coherence. 'Educational challenge' means 'a challenge that is no less than the minimum level of rigour and difficulty reasonably expected of the higher education course, in the context of the subject matter and level of the course.' 'Coherent' means 'a higher education course which ensures: i. there is an appropriate balance between breadth and depth of content; ii. subjects and skills are taught in an appropriate order and, where necessary, build on each other throughout the course; and iii. key concepts are introduced at the appropriate point in the course content.'
- The provider's lack of plans for the continuing professional development of its staff may impact on its ability to ensure its courses remain up-to-date. 'Up-to-date' means 'representative of current thinking and practices in the subject matter to which the higher education course relates, including being appropriately informed by recent: i. subject matter developments; ii. research, industrial and professional developments; and iii. developments in teaching and learning, including learning resources.'

The OfS takes the view that this could undermine the quality of students' academic experience.

Condition B2

This condition requires a provider to 'take all reasonable steps to ensure that each cohort of students registered on each higher education course receives resources and support which are sufficient for the purpose of ensuring i. a high quality academic experience for those students; and ii. those students succeed in and beyond higher education.'

The DQB's concerns in relation to core practice Q3 indicate that:

- The provider may not induct or adequately develop staff who will be supporting higher education students to ensure that they are able to provide academic support relating to the content of the higher education course. 'Support' means 'the effective deployment of assistance, as appropriate to the content of the higher education course and the cohort of students, including but not limited to: i. academic support relating to the content of the higher education course; ii. support needed to underpin successful physical and digital learning and teaching; iii. support relating to understanding, avoiding and reporting academic misconduct; and iv. careers support, but for the avoidance of doubt, does not include other categories of non-academic support.'

The DQB's concerns in relation to core practice Q6 indicate that:

- The provider may not have assessment appeals arrangements adequate to ensure that students have the support necessary to be able to appeal assessment decisions and staff are able to make reliable decisions in relation to appeals.

The OfS takes the view that this could undermine the quality of students' academic experience and those students' success in higher education.

Condition B5

This condition requires a provider to 'ensure that, in respect of any relevant awards granted to students who complete a higher education course provided by, or on behalf of, the provider (whether or not the provider is the awarding body): a. any standards set appropriately reflect any

applicable sector-recognised standards; and b. awards are only granted to students whose knowledge and skills appropriately reflect any applicable sector-recognised standards.'

The DQB's concerns in relation to core practice S1 indicate that:

- The provider may not ensure that the awards granted to students who complete its planned higher education courses reflect sector-recognised standards. 'Sector-recognised standards' means 'the standards contained in the document of that title published by the OfS from time to time.'³
- The provider may not have adequate arrangements to ensure that awards are only granted to students whose knowledge and skills appropriately reflect any applicable sector-recognised standards because of a lack of clarity in the process for confirmation of awards by a committee of its governing body.

The OfS takes the view that this could undermine the maintenance of sector-recognised standards, impacting on the qualifications ultimately awarded to students.

To note paragraph 336F of the regulatory framework confirms that 'Where a provider is not the awarding body for a course, this condition applies to a course the provider itself delivers, or which is delivered on its behalf, regardless of the identity of the awarding body, whether or not that awarding body is registered with the OfS, or the nature of any partnership agreement. For the avoidance of doubt, this means for example, that a provider delivering, or allowing another provider to deliver, courses leading to a qualification awarded by Pearson is responsible for compliance with this condition in relation to those courses.'

Decision

We require Higher Rhythm Limited to:

- (a) Take all reasonable steps, before it commences delivery of higher education, to address the concerns identified in the QSR conducted in April 2021.
- (b) Provide to the OfS evidence of the steps it has already taken and any steps it proposes to take to address the concerns.
- (c) Undergo an assessment of quality and standards by the OfS. The OfS will focus on, but not be limited to, the concerns identified in the QSR conducted in April 2021 and as part of its assessment it will test the credibility and impact of the actions the provider has taken to address the concerns and the provider's compliance with ongoing conditions B1, B2, and B5.

The text below constitutes the specific ongoing condition imposed on Higher Rhythm Limited, pursuant to section 6(1) of the Higher Education and Research Act 2017,⁴ and is referred to as 'Specific Ongoing Condition BA (Higher Rhythm Limited)'.

³ Available at: www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/.

⁴ See: <https://www.legislation.gov.uk/ukpga/2017/29/section/6/enacted>

Specific ongoing condition of registration for Higher Rhythm Limited

Specific Ongoing Condition BA (Higher Rhythm Limited)

Requirement to take action to address the concerns raised in the Quality and Standards Review conducted in April 2021 and to cooperate with an assessment of quality and standards by the Office for Students

BA.1 The Provider must take all reasonable steps to address all of the concerns raised by the Designated Quality Body in its assessment of the provider conducted in April 2021, and set out in the report dated 11 February 2022 (hereafter 'Concerns'), in relation to the following matters:

- (a) The Provider ensures that the threshold standards for its qualifications are consistent with the relevant national qualifications' frameworks.
- (b) The Provider designs and/or delivers high-quality courses.
- (c) The Provider has sufficient appropriately qualified and skilled staff to deliver a high-quality academic experience.
- (d) The Provider has fair and transparent procedures for handling complaints and appeals which are accessible to all students.

BA.2 The Provider must provide to the OfS in the Specified Manner and at the Specified Time:

- (a) A written commentary that sets out for each of the Concerns:
 - i. The steps the Provider has already taken to address the Concerns;
 - ii. The steps the Provider proposes to take to address the Concerns;
 - iii. A timeline for all steps set out at i. and ii.;
 - iv. A breakdown of resources allocated to achieve the steps set out at i. and ii.
- (b) Any supporting evidence it considers relevant to verify the steps it has taken or proposes to take set out in BA.2 (a) i. and ii.

BA.3 The Provider must comply with any written directions issued by the OfS (from time to time) in connection with cooperation with an assessment of quality and standards, which includes but is not limited to its compliance with conditions B1, B2, and B5, undertaken by the OfS.

BA.4 For the purposes of paragraph BA.3, directions issued by the OfS may cover (but are not limited to) the following subject matter:

- (a) the timing and scope of the quality and standards assessment;
- (b) descriptions of information and documents that must be made available to the OfS; and

- (c) any other specified actions the Provider must take or refrain from taking that the OfS reasonably considers are necessary or appropriate for ensuring that the assessment can be conducted effectively.

BA.5 This condition will cease to have effect on **20 July 2026**.

BA.6 Where this condition ceases to have effect, that cessation does not in any way affect the ability of the OfS to investigate and/or take any form of regulatory or enforcement action in respect of any non-compliance (whether or not it remains ongoing in nature) that took place during the period that this condition was in effect.

Definitions

BA.7 For the purposes of this condition:

“Designated Quality Body” means the body designated under Schedule 4 of the Higher Education and Research Act 2017⁵ to perform the assessment functions under section 23 of that Act⁶, which until 31 March 2023 was the Quality Assurance Agency for Higher Education;

“OfS” means Office for Students;

“Provider” means Higher Rhythm Limited;

“Specified Manner” means, in relation to the requirement in paragraph BA.2 above, submitted via the ‘OfS Regulation – Submissions’ section of the OfS Portal;

“Specified Time” means in relation to the requirement in paragraph BA.2 above no later than **noon on 21 September 2023**.

⁵ See: <https://www.legislation.gov.uk/ukpga/2017/29/schedule/4>

⁶ See: <https://www.legislation.gov.uk/ukpga/2017/29/section/23>