

Notice of determination of general ongoing condition of registration

WHEREAS:

1. Section 5 of the Higher Education and Research Act 2017 ('HERA') provides that:
 - a. the OfS must determine, and may subsequently revise, the initial and general ongoing conditions of registration;
 - b. different conditions may be determined for different descriptions of provider and for registration in different parts of the Register;
 - c. before determining or revising the conditions, the OfS must, if it appears to it appropriate to do so, consult bodies representing the interests of English higher education providers which appear to the OfS to be concerned; and
 - d. the OfS must publish the conditions determined and as revised.
2. Section 75 of HERA provides that the OfS must, from time to time, prepare and publish a regulatory framework that consists of a statement of how it intends to perform its functions and guidance for registered higher education providers. Before publishing a regulatory framework, the OfS is required to consult with the persons and bodies listed in section 75(8).
3. A consultation was held between 23 February 2023 and 4 May 2023 about the OfS's proposed approach to tackling harassment and sexual misconduct in higher education through the introduction of new general ongoing condition of registration E6 and adding guidance to the regulatory framework to accompany the condition.
4. The OfS has carefully considered submissions made to this consultation and has set out its policy response to these in published documents.¹ The OfS has decided to proceed with the condition of registration and guidance proposed in the consultation with some amendments, as explained in 'Consultation on a new approach to regulating harassment and sexual misconduct in English higher education: Analysis of consultation responses and decisions'.

THEREFORE:

5. In accordance with the powers contained in sections 5 and 75 of HERA, the OfS has determined that:

- a. A new general ongoing condition of registration E6 and guidance directly relating to that condition as set out in 'Condition E6: Harassment and Sexual Misconduct' will apply in respect of all registered providers as set out in the table below.¹

Table 1: Effective date of Notice of determination

Description of conditions	When conditions apply
New general ongoing condition of registration E6 (with the exception of those provisions that relate to the restriction of disclosure of information).	Applies on and from 1 August 2025
<p>Provision E6.10: that 'This provision applies to any provisions that have the object or effect of preventing or restricting any student from disclosing information about an allegation of harassment and/or sexual misconduct which in any way involves or affects one or more students to any other person ('restricting provisions') and;</p> <p>Provision E6.11: that 'Where paragraph E6.10 applies, the provider must:</p> <p>a. not include any restricting provisions in any contract formed or varied on or after the date this condition takes effect'.</p>	Applies on and from 1 September 2024

¹ See www.officeforstudents.org.uk/for-providers/student-protection-and-support/harassment-and-sexual-misconduct/condition-e6-harassment-and-sexual-misconduct/.