

Expansion of the student record: Phase two

Analysis of consultation responses
and decision

(TNE and UK-based award-only students)

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Summary

Introduction and background

1. In May 2023, Jisc published a consultation on the expansion of the student record.¹ The consultation proposed changes to the collection of two main areas of student data:²
 - **An expanded collection of data from higher education providers in England and Wales about partnership arrangements.** This aims to fill the current gap in knowledge about students studying in the UK who are taught by the reporting provider or studying for an award of the reporting provider, but are not registered by the reporting provider nor any other provider that is required to report student data either to Jisc in the Higher Education Statistics Agency (HESA) returns or to the Education Skills Funding Agency (ESFA) in the Individualised Learner Record (ILR).
 - **A major review of the Aggregate Offshore Record (AOR) and consultation on the collection of data from higher education providers in England and Wales about transnational education (TNE) students.**³ This aims to fill the current gaps in our knowledge about these students; for example, in relation to the subjects that they study, the qualifications that they aim for and achieve, their patterns of study, and the identities and locations of organisations involved in the registration and delivery of these courses and corresponding awards.
2. The consultation covered higher education student data in England and Wales, with a separate consultation published to cover different proposals for Scotland and Northern Ireland. The decisions set out in this document extend only to the reporting requirements of Office for Students-registered (OfS-registered) providers. Furthermore, the decisions apply only to OfS-registered providers that are already required to make a HESA student return and not to further education and sixth form colleges that routinely make returns to the ESFA. To avoid duplicative reporting, particular rules also apply to the return of records where student records are already being returned in the HESA student return by a provider in Northern Ireland, Scotland or Wales (see paragraphs 9 and 98 below).
3. Responses were submitted to Jisc and the consultation closed on 24 August 2023. Jisc has subsequently completed its analysis of responses and provided details of this to the OfS. As part of the information duties set out in section 64 of Higher Education and Research Act 2017 (HERA), the OfS is required to make the relevant decisions about the implementation of data collection changes following consultation with higher education providers in England.⁴

¹ See [AOR major review and Student record expansion England and Wales | HESA](#).

² See [Jisc](#).

³ See [Aggregate Offshore record 2022/23 | HESA](#). Paragraph 107 of this document explains our definition of TNE.

⁴ See [Higher Education and Research Act 2017 \(legislation.gov.uk\)](#).

4. Following the consultation, we decided to split our decision making into two phases. Our Phase one decisions were published in February 2024.⁵ We decided to:
 - a. Implement the expansion of the student record for UK-based teaching partnerships and confirm our definition of partnerships to be included in the scope of collection for the 2025-26 data collection; and
 - b. Defer our Phase two of decision making, on matters relating to UK-based award-only partnerships and any refinements to information to be collected for UK-based teaching partnerships and TNE, until summer 2024.
5. This paper summarises the analysis of responses provided by Jisc in relation to Phase two of our decision making covering UK-based award-only partnerships and TNE, and our associated decisions about these matters.

⁵ See [Expansion of the student record](#).

Summary of decisions

6. Having carefully considered all the responses received to this consultation, we have decided to proceed as follows.

Proposal One: Expansion of the student record relating to UK-based award-only partnerships

We have decided to continue with the expansion of the student record to include UK-based award-only partnerships.

Proposal Two: Expansion of the student record relating to TNE students

We have decided to continue with the expansion of the student record to include individualised returns for TNE students, but to adopt the reduced coverage of the record as proposed in the consultations. We have determined the definitions of 'registered', 'taught' and 'awarded' that will apply to the expanded data collection.

Proposal Three: Changes to specific areas of the data model

We have decided to ask Jisc to implement the changes to the data model as set out in the consultation.

Proposal Four: Timing of implementation

We have decided to introduce the expanded student record for both TNE partnerships and for UK-based award-only partnerships for the 2026-27 data collection. The existing AOR return will be retired after the 2025-26 data collection.

Decision one: Expanding the student record for UK-based partnerships to include ‘award-only’ students

Proposals set out in the consultation

7. Proposal One of the consultation was to expand the coverage of the student record to include all students studying in the UK who are taught by the reporting provider or studying for an award of the reporting provider, where this provision is not already returned by another provider to HESA or another UK agency.
8. In Phase one of our decision making, we noted that there are some complexities to be considered in relation to the potential inclusion of information on awarding arrangements in data returns, whether UK-based or as TNE. We decided to include consideration of these arrangements in our Phase two decisions, and did not confirm our approach to UK-based award-only arrangements at that time.
9. Where we refer to ‘award-only’ students in this document we mean contexts where a provider that is registered with the OfS provides a qualification(s) that is (are) awarded to students but:
 - the OfS-registered provider has no role in registering or teaching those students, **and**
 - this provision is not already returned by another provider to HESA or to the ESFA in the ILR.

The requirement to report ‘award-only’ students would only extend to OfS-registered providers that are already required to make a HESA student return. It would **not** extend to further education and sixth form colleges that are required to make an ILR return. Our definition of an ‘award’ is set out in the ‘definitions’ section below (paragraphs 88 to 90).

Consultation responses about the proposals

10. The consultation set out proposals for the collection of information on students studying for an award of the reporting provider both in the context of UK-delivered partnerships (Proposal One) and TNE (Proposal Two). We have reviewed the consultation responses to identify any comments relating specifically to awards and UK-delivered partnerships that did not already form part of our Phase one response. We have noted a small number of comments that directly referred to validation arrangements, which we have understood to mean ‘award-only’ arrangements. Respondents commented that there would be significant changes to data collection processes for their partners, and for providers required to include students not registered with them in their returns. From the nature of these responses, we have understood that this applies where partners are not themselves registered with the OfS.

The OfS’s response

11. ‘Award-only’ partnership arrangements of OfS-registered providers are of interest to the OfS from a number of perspectives. These include the quality of courses, the interests of students, the potential impact on the finances and management and governance of providers and the

reputation of the higher education sector. The scope of the OfS's B conditions that regulate quality (B1, B2, B3, B4 and B5) extends to any student on any higher education course provided 'by, or on behalf of, a provider', including students on courses delivered through partnership arrangements within the UK.⁶

12. In our Phase one response, we highlighted the data and other regulatory intelligence we already have regarding partnership activities of registered higher education providers. A report published by the National Audit Office in January 2024 highlighted concerns relating to subcontractual provision (or franchising), and identified that almost two-thirds of delivery partners were not registered with the OfS.⁷ Furthermore, the report on subcontractual provision published by the Public Accounts Committee on 24 April 2024 noted the lack of transparency around student outcomes in subcontractual arrangements, and the risk that the current regulatory system may not offer sufficient oversight of these providers.⁸ The latest OfS Insight Brief, published in September 2024, included further examples of risks to student recruitment and support, and to course quality, that have come to our attention from partnership provision.⁹ These findings suggest that partnership activity in all its forms should be a priority focus for regulatory engagement with the sector. To operate effectively as a risk-based regulator, the OfS needs to have information on providers' activities in this area to be able to monitor the sector and determine where it needs to engage further with providers.
13. We recognise that the focus of these reports related to subcontractual provision rather than award-only arrangements and that public funding would not normally flow from registered providers into award-only partnerships. However, we still consider it to be a risk to our effective regulation of registered providers. It is also a risk to the interests of students studying courses offered under partnership arrangements where our registered providers only provide the award, that we do not have sight of the relevant data to enable us to identify and engage with all the relevant providers. In our view, this risk is increased where the delivery of a course and the contractual relationship with students is managed by an unregistered provider that does not submit student returns. At the present time, data on such arrangements is not returned by any provider.
14. As a risk-based regulator the OfS has a need to collect information from higher education providers to inform and develop its regulatory approach, to enable it to determine where it should engage with a provider, and to inform itself about trends and developments in the sector more generally. This need extends to a comprehensive understanding of the partnership activities of registered providers, regardless of the type of partnership, where that partnership is concerned with the provision of courses. This capacity to monitor and engage is distinct from the question of how the OfS should undertake engagement where we have

⁶ See [How we regulate quality and standards - Office for Students](#)

⁷ See [Investigation into student finance for study at franchised higher education providers - NAO press release](#).

⁸ See [Student loans issued to those studying at franchised higher education providers - Committee of Public Accounts \(parliament.uk\)](#).

⁹ See [Subcontractual arrangements in higher education - Office for Students](#)

concerns. This could be, for example, through our direct regulation of student outcomes through condition B3, or through other kinds of engagement with providers.

15. These factors establish the importance to the OfS of collecting the additional information on UK-based award-only partnerships as set out in the consultation.
16. While responses to the consultation did not specifically include comments on the proposals to collect individualised student data in relation to UK-based award-only partnerships, we recognise that comments made relating to regulatory burden for both UK-based teaching partnerships and TNE arrangements are equally likely to apply here. We particularly noted that some respondents said they do not receive individual student data from their partners in TNE award-only arrangements until such point as students are eligible for an award, and that to change from this late notification to receiving and processing this data earlier in a student's course would create an excessive burden for these partnerships.
17. We considered whether the late notification of individual student records reported by providers for some TNE partnerships was compatible with the responsibilities of validating partners in the regulatory framework, and with the scope of the OfS's B conditions for the regulation of quality and standards. We are of the view that providers need to have information about students studying for one of their awards while they are on their course, in order to understand and ensure compliance with our conditions. For example, condition B2 includes the requirement for providers to take all reasonable steps to ensure effective engagement with each cohort of students. All registered providers in partnership to provide a course have responsibility for ensuring compliance with this condition. We think it would be difficult for providers to ensure their compliance with this requirement if information about the students working towards one of its awards is only available retrospectively from its partner. Our view on this applies to both the UK-based and TNE activities of our providers.
18. We are further concerned about the potential for reputational risk to the sector if providers do not engage in an appropriate level of oversight of these students at a suitably early stage of their courses. These concerns are potentially increased further by the current context of growth in the sector for UK-based and TNE partnership arrangements and for types of partnership activity where we already have data. Extending the scope of individualised student records in data returns to include students awarded by our registered providers where this provision is not already returned by another provider to HESA or to the ESFA is, in our view, an appropriate way to mitigate this risk.
19. In summary, we accept that providers might not hold all the information required to make full coverage return to Jisc for award-only students from the start of a student's period of study. However, we consider that the sort of late notification of individual student records reported by some consultation respondents may mean that awarding providers are not able to effectively oversee their responsibilities towards students to whom it is granting awards. We therefore consider that the practice of late notification of individual student records by delivery partners does not present a strong argument against the gathering and return of a full record on these students to Jisc for use by the OfS.
20. We noted concerns set out in consultation responses that implementation of these changes would introduce significant challenges to data collection processes where the OfS-registered provider does not have an appropriate data sharing agreement with its partner. We would

expect providers, in their role as data controllers and as separate legal entities, to seek appropriate advice to ensure that the correct data sharing arrangements are in place for the processing of students' personal data as part of the expanded student record. While we do not think it is appropriate for either the OfS or Jisc to offer detailed advice on such arrangements, we will highlight existing resources from relevant agencies such as the ICO as part of published guidance.

21. Weighing up the arguments for and against, on balance the OfS has determined that it should introduce additional reporting requirements relating to award-only UK-based partnerships in line with the relevant consultation proposals.
22. We require the full coverage of the Student Return to apply for any students studying in the UK under award-only arrangements where this provision is not already returned by another provider to HESA (which may be a provider in another UK nation) or to the ESFA. This means that the individualised data collected for these arrangements would be the same as for any other UK-based student. This extends only to OfS-registered providers that are already required to make a HESA student return and not to further education and sixth form colleges.
23. In introducing this requirement we note that, in many cases, a full record for students for whom a provider with degree awarding powers is providing only the award will already be being returned either to HESA or the ESFA because of an existing requirement on the delivery partner provider to report those students to one of those agencies. In practice we expect that this will limit the volume of new information to be returned to HESA.
24. We think this is an appropriate approach because we are collecting this data to increase transparency about this activity in the sector and the outcomes for students. We are of the view that understanding more about the students in this part of the sector is a key part of this work. We also consider that it would be more complex for the sector if we were to introduce different return coverage for different types of partnership arrangements within the UK.
25. We have set out our decisions relating to award-only arrangements for TNE partnerships in Decision Two, below.
26. Additional information on our definitions of 'awarded', and which provider would be responsible for returning the student data, is set out in the 'Definitions' section below.
27. The table set out in the 'Definitions' section of this decision document also summarises the changes to reporting arrangements that are being made to the scope of our individualised student data collections by Decisions One and Two in this document.

Alternatives we considered

28. We considered ways in which we might limit the additional burden that this may place on some providers.
29. In particular, we considered whether we could align the scope of our additional interest in 'award-only' arrangements with the definition of 'validation agreement' set out in the glossary to the regulatory framework. This would limit the data requirement for providers by reducing

the scope of the arrangements to be included in the expanded collection.¹⁰ We concluded that a definition of scope based on the concept of ‘validation arrangement’ may not exhaustively cover all types of ‘award-only’ arrangements entered into by our registered providers. This would therefore not provide the range and clarity of data we require. We also concluded that, because of the diverse forms that partnerships take across the sector, a definition based on a term such as ‘validation arrangement’ would also generate a lot of complexity for providers in compiling returns. We therefore concluded that, for the purposes of data returns, we should introduce a definition of ‘awarded’ derived from the definition of ‘relevant award’, set out in conditions B4.4 (g) and B5.3(b) and use that to define the scope of the additional collection of student data required for ‘award-only’ arrangements. This definition would complement the definitions of ‘registered’ and ‘taught’ that we clarified in the Phase one decisions from this consultation, and therefore build on existing terminology and approaches.

¹⁰ See Securing student success: Regulatory framework for higher education in England, p220: ‘a validated course is a module or programme which a degree awarding body approves to contribute, or lead, to one of its awards. The validated course is delivered by the provider that designed it and students on the course normally have a direct contractual relationship with that provider and not the validating provider. The validating provider remains responsible for the academic standards of the award granted in its name.’

Decision two: Expanding the student record to include TNE activities

Proposals set out in the consultation

30. Proposal Two of the consultation asked for responses about the expansion of the student record to include all students studying through TNE arrangements, and to cease collection of the AOR.¹¹ Respondents were asked for their views on these proposals and for any contextual information that would support their views.
31. The consultation noted that HESA's annual AOR currently covers students studying wholly outside the UK, who are either registered at a UK higher education provider or are studying for an award of a UK higher education provider. It highlighted the different types of TNE provision that it proposed to integrate into the data model, and sought information from respondents about additional models of TNE in place in the sector. The models set out in the consultation were:

Four types of programme

- Independent programme, whereby a UK provider-owned course is delivered overseas by that provider.
- Partnership programme, whereby there is a collaborative arrangement between UK and overseas providers that is neither subcontractual nor validated.
- Subcontractual programme, whereby a UK provider-owned course is delivered by an overseas provider.
- Validated programme, whereby an overseas provider-owned course is validated by a UK provider.

Types of venue

- International branch campus, which is a physical location overseas owned by a UK provider
- Joint venture, which is a physical location overseas jointly owned by a UK and overseas provider
- Partner campus, which is a physical location overseas owned by an overseas provider

Distance learning

- Distance learning overseas, whereby students are not in attendance at any physical location owned by a UK or overseas provider for the whole of the year

¹¹ See [AOR major review and Student record expansion England and Wales | HESA](#).

32. The consultation proposed an expansion of the student record, using the 2022-23 Student (Data Futures) data model as the starting point for an individualised TNE data model. This is because a number of the required data items are already present and so that the primary structure behind the two data models would be equivalent. However, the proposals set out that a number of data items would be removed from the required data set for TNE students, for example fields relating to fees and funding information and students' personal characteristics. This is because statutory customers (including the OfS) did not have a requirement to capture certain data for TNE students, including fields in relation to modules, fees and funding, and many of the personal characteristic data items. In addition, not all data collected in a UK-based context would be meaningful if collected for activity outside the UK.
33. The consultation summarised that the OfS's principal reason for proposing the collection of an expanded student record for TNE students was to monitor student outcomes for courses delivered through TNE arrangements. This included an intention to construct continuation and completion indicators and measures in relation to TNE courses that was included in our response to our consultation on regulating student outcomes.¹² This would help to ensure that positive outcomes are delivered for these students. However, for clarity, we have not currently made any confirmed decisions about the introduction of TNE into our regulation of student outcomes through condition B3 and would consult separately about any future proposals to do so.
34. The consultation explained that the OfS considered the proposed data collection to be essential for the OfS's risk-based approach to regulation. It also explained that not collecting this data would likely result in a reliance on other, more intrusive monitoring approaches and these would further increase the data collection burden for providers.
35. The consultation noted alternative approaches to the collection of this data, considered by the OfS and HEFCW (now Medr) prior to publication of the consultation. These included:
- a. Not collecting information about TNE students at an individualised level and continuing to collect the existing AOR. This would mean that the regulatory bodies would not be able to make informed decisions or interpretations of student outcomes in their full context. The regulators judged that this would not ultimately be in the student interest.
 - b. Not collecting information about TNE students at an individualised level and instead collecting an enhanced version of the AOR, which aimed to encompass the additional data requirements. Prior to the consultation, it was considered that this would not be workable within the confines of an aggregate data model, because too much data would be required at a high level of granularity and the effect would ultimately be equivalent to collecting individualised data.
 - c. Expanding the student record to collect a full data set on TNE students. This was considered to be likely to be disproportionate, because information about fees and funding would not be relevant to regulatory concerns for TNE students. In addition, information about students' personal characteristics would not be meaningful in the context of international students.

¹² See [Student outcomes - Office for Students](#).

- d. Collection of information about TNE students via a separate individualised data collection, whether using the same data model as set out in this consultation or a different one. This was considered to create disproportionate burden for providers and other stakeholders, including HESA, as well as complexity for onward users of the data.

Consultation responses about proposals to expand the student record

36. In reaching our decisions about the proposals to expand the student record to include TNE students, we have considered the responses to the consultation as set out in the analysis of responses compiled by Jisc.¹³
37. On TNE data, we noted that a small majority of respondents were in agreement with the proposals. Using a five-point scale, respondents were asked to what extent they agreed with the proposals to expand the coverage of the student record to include data on TNE students. Of the 74 respondents, 41 (55 per cent) either agreed or strongly agreed. 17 respondents (23 per cent) neither agreed or disagreed, while 16 respondents (22 per cent) said that they either disagreed or strongly disagreed.
38. Reasons given in support of the proposals for including TNE data in the expanded student record were centred around the value of this data in understanding student outcomes, monitoring the quality of TNE activity and providing a clearer and more complete picture of student activity.
39. Comments about regulatory burden constituted the largest single category of comments raised by consultation respondents and underpinned many of the responses Jisc received. Regulatory burden and resourcing concerns were raised both by respondents who disagreed with the proposals and by those who agreed. In general, we noted more significant concerns about the impact of data collection for TNE students than for UK-based teaching partnership arrangements.
40. Responses about the burden arising from expanding the student record for TNE students arrangements were concentrated around the following points:
 - **Changes to systems and** processes. Some respondents commented on the likely need to introduce significant changes to student records systems to meet additional data requirements. They noted the lead-in time that would be required to deliver software changes. Many of the respondents who commented on the additional burden associated with individualised returns for TNE students considered that this would be most substantial at the implementation stage. However, we noted other responses that indicated a number of providers already collected relevant data, or could do so with only minor changes to their processes.
 - The volume and complexity of change. Comments on this theme referred to the substantial level of change in data collection across the higher education sector, particularly noting the introduction of Data Futures. A small number of respondents commented on the impact on staff during a period of elevated workload and felt that

¹³ See [AOR major review and Student record expansion for England and Wales - summary of responses | HESA](#).

further change in data requirements would exacerbate this. Others noted the significant burden and challenges arising from the introduction of new requirements from the perspective of Jisc and other statutory customers, although did not comment further on this.

- **Collection and quality assurance of data.** Some responses suggested that the burden of establishing and running an individualised return would be substantial compared with the AOR. Some respondents felt that there would be significant burden incurred by overseas partners in enabling the return of individualised data to UK providers. Examples of the complexities involved included difficulties relating to information security and data privacy and difficulties arising from the data requirements of other regulatory requirements especially where overseas providers' records systems were structured to comply with local requirements.
- Some respondents also anticipated increased burden associated with the quality assurance of data. Comments here noted the burden arising from the need to quality assure data provided by overseas partners, but also suggested a detrimental effect on the quality of domestic data. Although they did not provide further detail, we have understood this to mean that an overall increase in workload for data specialist staff may be more likely to result in data errors. Finally, a small number of respondents were concerned that the quality of data provided by overseas partners may be reduced and that UK providers would be required to resolve queries without access to the source data.

41. Finally, some respondents highlighted broader concerns on the uses of the data being collected. A small number of respondents commented that the level of data required may breach overseas data privacy regulations, or be illegal or incriminating for students (although specific examples were not provided). The commercial sensitivity of information relating to TNE was also noted.
42. A small number of respondents indicated that the increased costs and burden associated with data collection and regulation of TNE may have the effect of making the UK less attractive as an international partner.
43. We noted comments from a small number of providers that responded to the consultation with award-only arrangements in place with overseas providers. These respondents were particularly concerned about the additional burden these proposals would introduce, because the providers do not currently capture data on students at the overseas provider until such point as they are eligible for an award.
44. Respondents made some suggestions intended to mitigate these points about burden. These included comments about the timing of implementation that have been included later in this paper. Others recommended the clarification of requirements in good time to allow for necessary preparatory work or considering whether any further fields could be omitted from the return to reduce burden. Alternative data collection approaches were put forward by some respondents, including the use of an expanded aggregate record, or a separate individualised record for TNE.
45. Some respondents, including sector bodies who responded to the consultation, commented that the types of TNE provision set out in the consultation were broadly consistent with those

used internally in data systems by respondents, and reflected the types of provision known to be used in the sector.

46. However, there were other respondents who sought more specific information about the definitions of TNE. Respondents noted:

- That they wanted more clarity of definition to identify when a student was considered as a TNE student.
- The term 'programme ownership' appeared to be too broad and open to interpretation, and they were concerned that this could be used as a catch-all, 'other' category.
- More clarity would be helpful in relation to some aspects of the proposed coverage, including the definitions of teaching provision that would be in scope, thresholds for provision to be considered in-person or distance learning, and the weighting of involvement by the UK provider.
- Clarity was sought about arrangements where a provider's involvement was limited to curriculum design, as this was not covered by the wording describing subcontracted and validated programmes.

47. Respondents also highlighted some types of TNE provision that they believed were not covered by the examples set out in the consultation and therefore might require clarification in published guidance. In some cases, respondents set out detailed examples of the nature of these arrangements. In summary, these included:

- subcontractual arrangements where the overseas partner registers the student and validation arrangements where the UK provider registers the student
- partially (rather than fully) subcontractual arrangements
- distinctions between programmes that lead to multiple or combined awards
- arrangements where multiple partner organisations or venues were involved, including multiple UK providers
- different models of primarily distance learning provision with a local organisation, including where attendance is optional or the local organisation is not an official partner of the UK provider
- different models of primarily distance learning provision with a small but non-zero amount of UK study
- blended learning
- flying faculty arrangements where provision is delivered overseas by UK provider staff
- articulation and progression arrangements
- twinning arrangements.

48. There were a small number of suggestions relating to supporting the application of definitions relating to TNE in the implementation of any expansion to the student record. Indicative mapping or decision trees were suggested to help providers classify their provision. One respondent also suggested an additional data field to capture the nature of contractual relationships between partners.
49. A small number of respondents suggested that Jisc and statutory customers could engage with overseas partners and regulators to support their understanding of the data requirements and avoid duplication of returns.

The OfS's response

Comments relating to regulatory burden

50. We noted that the most commonly raised point among respondents, regardless of whether or not they agreed with the proposal, was about regulatory burden and the resourcing required for higher education providers to implement these changes.
51. We noted, in particular, responses that raised concerns about increased costs for providers, the impact on small providers and the risk of endangering some partnerships associated with these proposals. However, for most respondents, we understood that these points were not being presented as an absolute barrier to expanding the student record and we identified that the majority of respondents agreed with the principle of expanding the collections.
52. The OfS regulates registered higher education providers in the student interest. Section 83 (1) of HERA sets out that our regulation of those providers extends to any 'course of any description mentioned in Schedule 6 to the Education Reform Act 1988'.¹⁴ Paragraph 88A of the regulatory framework states that the OfS's regulation of overseas activity of its providers is subject to the effect of any condition of registration.¹⁵
53. In this instance, our B conditions (B1, B2, B3, B4 and B5), set out minimum requirements relating to quality and standards that apply to higher education 'provided in any manner or form by, or on behalf of, a provider (including, but not limited to, circumstances where a provider is responsible only for granting awards for students registered with another provider)'.¹⁶ This means that these conditions apply to both UK-based and non-UK-based students, and courses delivered through partnership arrangements both within the UK and internationally. TNE courses at undergraduate level were optional for providers to include in submissions to the Teaching Excellence Framework 2023.
54. The OfS recognises that any new data collection creates additional burden for providers. However, as a risk-based regulator, the OfS has a need to collect information from providers to inform and develop our regulatory approach, to enable us to determine where we should engage with a provider and to inform us about trends and developments in the sector more

¹⁴ See [Higher Education and Research Act 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk).

¹⁵ See [The regulatory framework for higher education in England - Office for Students](#).

¹⁶ See [How we regulate quality and standards - Office for Students](#).

generally. This need extends to a clear understanding of the overseas activities of registered providers.

55. Furthermore, data and other regulatory intelligence we already have regarding overseas activities of registered higher education providers suggest that this is a large and growing area of the sector. Therefore this should be an area of increased regulatory focus. The current data collection tool, the AOR shows a steady increase in TNE student numbers with some evidence of acceleration in student numbers since the start of the pandemic period in 2020. In 2021-22, English registered providers returned aggregate information for about 455,000 students in the AOR who were registered and/or awarded with them. The likelihood of a continued increase in TNE student numbers over time is supported by anecdotal evidence from the sector.
56. These factors establish the importance to the OfS of collecting the additional information on TNE students set out in the consultation.
57. We have carefully considered responses to the consultation relating to regulatory burden. We have particularly noted respondents who said they do not receive individual student data from their partners in some TNE partnership arrangements until such point as students are eligible for an award.
58. As with UK-based award-only arrangements, we considered whether this late notification of individual student records was compatible with the responsibilities of English registered providers as set out in the OfS's regulatory framework, particularly with regard to the scope of the OfS's B conditions for the regulation of quality and standards (see paragraphs 16 to 19). As we set out with regard to UK-based award-only students, we are of the view that providers need to have information about students studying for one of their awards while they are on their course, in order to understand and ensure compliance with our conditions. For example, condition B2 includes the requirement for providers to take all reasonable steps to ensure effective engagement with each cohort of students. We think it would be particularly challenging for providers to demonstrate their compliance with this requirement if information about the students working towards one of its awards is only received retrospectively.
59. As is the case with UK-based award-only arrangements, we are further concerned about the potential for reputational risk to the sector if providers do not engage in an appropriate level of oversight of these students at a suitably early stage of their courses. These concerns are potentially increased by the current context of growth in the sector for TNE students where we already have aggregate data. Extending the scope of individualised student records in data returns to include TNE is, in our view, a proportionate way to mitigate this risk.
60. Equally, we are mindful of the potential for published data that demonstrates strong student outcomes for TNE partnerships to be a valuable tool in supporting providers and other stakeholders to promote TNE provision. Evidence of the high performance of this part of the sector can help to promote the interests of English providers overseas and to support the creation of new partnerships.
61. In summary (as we set out in the context of UK-based award-only students in Decision one in this document) we accept that providers might not hold all the information required to make full coverage return to Jisc for all TNE students from the start of a student's period of study.

However, we consider that the sort of late notification of individual student records reported by some consultation respondents may not be compatible with effective oversight by registered providers of any students whose courses are within the scope of our quality conditions. We therefore consider that the practice of late notification of individual student records by delivery partners noted in some consultation responses does not present a strong argument against the gathering and return of a full record for TNE students to Jisc for use by the OfS.

62. However, we have decided to adopt the reduced coverage of individualised data returns for TNE students that was set out in the consultation, which we consider will be of assistance to providers in managing the burden. This means that providers will not be expected to return individualised data on certain student characteristics that are collected for UK-based students. The effect of this approach is to limit the data to be collected to that which the OfS considers would normally be necessary for standard operational purposes. We have decided to adopt this approach to ensure that the data we collect remains meaningful for our regulatory purposes. For example, it would not be meaningful to collect postcode data for students resident in overseas nations because that data would not be used to construct measures of disadvantage in the same way as it would be for students resident in the UK. In reaching this view, we have been mindful of the need to reduce the burden on providers where possible by not collecting data that is less likely to inform our regulation of TNE.
63. We have also considered, in particular, the impact of collecting a reduced coverage individualised data return for the TNE partnership activities of our registered providers and reached a view that the burden that this would place on the providers affected would not be unreasonable.
64. We have carefully considered concerns presented in consultation responses that increased reporting may endanger some TNE partnership arrangements because of the additional burden this would impose on overseas partners. As explained above, we expect that there will be some benefits to providers in being able to refer to published data demonstrating strong outcomes when looking to develop new overseas partnerships. We recognise that there may be some costs incurred in the setup of additional reporting processes (such as data sharing arrangements and managing the flow of data between providers) and that a higher proportion of these costs are likely to be borne by registered providers in those partnerships as they have been driven by regulatory requirements. However, we consider these costs to be proportionate for registered providers given the reputational benefits that flow from the OfS regulation of their TNE activities. We also expect that any delivery partner provider based overseas would already need to share and record a certain volume of data with its partner provider registered with the OfS. This is in order to be able to manage their shared operations and administer their student body. We would therefore not routinely expect the additional activity required to comply with the expanded data return overall, and for the delivery partners provider based overseas in particular, to be so substantial as to be considered a risk to the viability of the partnership. Where the additional activity might be more considerable, for example in some larger partnership arrangements, then the burden to the providers is proportionate to the interest that the OfS is likely to have in larger-scale activity.
65. We have also noted comments from respondents who anticipate that registered providers may encounter challenges in accessing data about students studying courses provided in partnership with other providers if they do not have appropriate data sharing arrangements in place (compliant with data protection regulation). We consider that, where UK legislation

applies, collection of this data falls within article 6 (1) (c) of the UK GDPR, which provides for the storage of personal data where this is 'necessary for compliance with a legal obligation to which the controller is subject'.¹⁷ Where data transactions take place outside of the UK and fall within the remit of the law in other jurisdictions, we recognise that providers will need to operate within the parameters of the legislation of that jurisdiction. We expect providers to put all reasonable steps in place to implement appropriate data sharing arrangements with relevant partners.

66. We recognise that some providers may encounter challenges in accessing data about partnership students if they do not have appropriate data sharing agreements in place to support sharing of this information in a way that is compliant with relevant UK and other data protection legislation. We would expect providers, as legally independent organisations, to seek their own advice to ensure that appropriate data sharing arrangements are in place to allow for the legal processing of students' personal data necessary to enable student returns to be made.
67. However, we are mindful of a small number of comments from respondents who noted that there may be some circumstances, due to regulations in place in overseas territories, where international partners may not be able to supply some or all of the requested information. If this situation were to arise, we would take those circumstances into account before reaching a decision about non-compliance with our data submission requirements and when considering any regulatory action as a consequence. We would expect such situations to be rare. In those circumstances, we would require the provider to disclose that situation to the OfS and to be able to credibly demonstrate that there was a genuine lawful basis preventing submission of the relevant information.
68. We recognise that there is an interaction between individualised student returns and the provider profile record. We intend to work with Jisc to give further consideration to this interaction and explore whether there are steps we can take which would reduce burden in the future.

Definitions of 'registered', 'taught' and 'awarded' students

69. In reaching a final view about the burden on providers of the proposals, we also carefully considered responses made about refining the definitions of TNE, on the varied nature of partnership arrangements in TNE and the need for clarity in definitions.
70. We noted the wide range of TNE partnership arrangements existing within the sector, including both those set out in the consultation proposals and the additional scenarios put forward by respondents. We also noted the comments from respondents seeking further clarity and supporting information to help them to apply the proposed definitions to their own arrangements.
71. We also remain mindful of the wide range of TNE partnership structures, as well as the wide range of venues and types of delivery associated with TNE whether that activity is offered in partnership with another provider or not.

¹⁷ See [Legal obligation | ICO](#).

72. We consider that the expansion of the definitions of 'registered' and 'taught' to TNE individualised records set out in the Phase one decision document, together with the introduction of a new definition of 'awarded' set out below, will enable us to develop a clear set of common definitions for student data collections across UK-delivered and TNE data returns. This definitional clarity across UK-delivered and TNE data returns will add value to all users of the data. We will work, as necessary, with Jisc to provide additional guidance on the definitions, to support providers in making data returns.
73. These definitions will also support providers to determine which institution in a partnership should return the TNE student record in a way that is independent of partnership structure, venue type or delivery type. We recognise that TNE partnerships are evolving and can be complex, so we also think that using this approach will allow providers to more easily identify whether their current arrangements, or future approaches to TNE partnerships, are within the scope of collection without requiring regular changes to these definitions.
74. Our decision in Phase one to limit the collection of records for taught only UK-based students to contexts where the provider is delivering more than 50 per cent of the teaching on a course (and the student data is not already being returned by another registered provider) will also apply to TNE students. Even though the responsibilities under our quality and standards conditions of our registered providers apply to all students they teach, we think this represents a proportionate approach to ensure that the OfS has access to information on any student for whom our registered providers deliver the majority of the teaching, while managing the burden on providers by excluding some types of taught activity from the return.
75. These definitions will also enable us to replace the need for providers to populate a replacement for the TYPE field in the AOR with a derived PROGRAMMETYPE field in the new data collection.
76. We have also considered responses relating to the burden associated with the implementation of these changes in our decisions about the timing of implementation. This is covered more fully in paragraphs 109 – 125 below.
77. Weighing up the arguments for and against, on balance the OfS has determined that it should introduce the additional reporting requirements relating to TNE partnerships in line with the relevant consultation proposals. This means that OfS-registered providers will be required to return an individualised record for any TNE student who is:
- a. Registered by an OfS-registered provider.
 - b. Taught for at least 50 per cent of their course by an OfS-registered provider.
 - c. Awarded a qualification by an OfS-registered provider.
78. We consider that, in combination, the proposals strike a reasonable balance between the OfS's need to have increased data on TNE for its regulatory purposes, and the burden on providers of those changes.
79. We have summarised the changes to reporting arrangements that are being made to our individualised student data collections by Decisions One and Two in the table set out in the annex to this decision document.

80. For the avoidance of doubt, these changes do not alter any of the existing reporting arrangements that relate to UK-based activities of providers.

Alternatives we considered

81. As noted above in paragraphs 35, the Jisc consultation set out a number of alternative approaches that were considered during the development of the consultation proposals. However, they were excluded from the published proposals because they were unlikely to meet OfS regulatory objectives without supplementary monitoring approaches. When making a final decision on the introduction of an individualised TNE record for students, we reconsidered a range of related options relating specifically to the collection of data on students in TNE:
- a. Keep the AOR and current reportable event requirements with no changes.
 - b. Keep the AOR and enhance current reportable event requirements.
 - c. Develop improved aggregate level reporting and enhance current reportable event requirements.
82. When we reconsidered these matters, we reached similar conclusions to those options set out in the consultation specifically relating to TNE. While there would be positives in terms of reduction in provider burden in adopting approaches that stop short of an individualised record, our overwhelming concern would be that the OfS, as a risk-based regulator, would continue to have no access to robust information on student outcomes in those areas of provider activity that presents a significant risk to students. This would compromise the OfS's ability not only to regulate student outcomes directly (via condition B3), but more generally its capacity to undertake monitoring of course quality in the interests of students.
83. Continuation and completion data provide direct measures of the number of students gaining the outcomes for which they entered higher education. This data can provide useful intelligence for where there are concerns about quality or compliance with other regulatory conditions at a sector, country or provider level. If the OfS does not move to collect TNE outcomes data through individualised student records, it will remain wholly reliant on a combination of notifications, reportable events and aggregate data on changes to the size and shape of provider activities. While notifications in particular can be a useful source of regulatory intelligence, a lack of detailed information on outcomes will significantly reduce the OfS's insight into the quality of courses it regulates within the TNE landscape. A further restriction on how we might develop any enhanced aggregate data reporting solution would be that we would need to ensure that it remained in line with government and other UK-wide stakeholder (e.g. British Council) interests in consistent UK-wide data for the purposes of protecting or marketing UK higher education.
84. We also considered whether we should adopt an approach that scoped requirements for data collection based on the definitions for types of TNE identified during the consultation and reproduced above in paragraph 31. We reached a view, however, that this would create an element of burden for providers in identifying the precise nature of their arrangements and did not easily allow for the categorisation of complex arrangements or for the continued evolution of TNE into the future.

85. We also considered whether we should seek to establish new definitions of 'registered', 'taught' or 'awarded' students specifically for the TNE data return. However, we did not identify any changes we could make to the existing definitions where the benefit would outweigh the additional complexity this would introduce for providers who are already returning relevant information. We further considered it important to have an appropriate level of consistency in data returns for UK-based and TNE partnerships. We gave particular weight to the use of the Higher Education Students Early Statistics (HESES) definition of registered students, as we consider this to be well established within the sector and agree that maintaining consistency with this definition is essential for regulatory purposes.
86. We also considered whether we should adopt a different definition of 'taught' to reflect other proportions of teaching responsibility, either higher or lower than the 'at least 50 per cent' definition that we have decided on. We were of the view, however, that a definition that aligns as far as possible with those used elsewhere in our regulation, and with our recent decisions relating to UK-based teaching partnerships, would benefit providers and stakeholders by providing consistency across records.

Definitions

87. This section sets out:

- a. A new definition of 'awarded', which will apply to both UK-based and TNE students in the student return.
- b. Definitions of 'registered' and 'taught', which formed part of our Phase one decisions for UK-based activities and will be extended to TNE activities.
- c. Information on which provider in a partnership should return the data.
- d. Confirmation of the definitions of UK-based and TNE activities to inform providers which students should be included in which return, once individualised records are introduced for TNE students.

Definition of 'awarded' for UK-based and TNE data returns

88. Decision One and Decision Two of this paper require the introduction of a definition of 'awarded' that is new for the purposes of the collection of individualised student records for both UK-based and TNE students, including the AWARDINGBODYNAME field.

89. We have aligned the definition of 'awarded' for this purpose to the definition of 'relevant award' set out in the regulatory framework.¹⁸ This is because we consider that this offers the clearest definition of 'awarded' provision that best aligns to our regulatory interests.

90. We therefore have decided that the definition of 'awarded' that will apply to both UK-based and TNE individualised student record returns is:

'For the purposes of student data collection, the "provider by which a student is awarded" means, **for any course, the provider that grants any of the following on the student:**

- a. a research award;
- b. a taught award; and/or
- c. any other type of award or qualification in respect of a higher education course, including an award of credit granted in respect of a module that may form part of a larger higher education course, whether or not that award is granted pursuant to an authorisation given by or under the Higher Education and Research Act 2017, another Act of Parliament or Royal Charter.'

Definitions of 'registered' and 'taught' for TNE student data returns

91. In support of our decision to expand our collection of information relating to TNE partnership arrangements, we have decided to adopt the same definitions for 'registered' and 'taught' for the individualised TNE student return that we had already determined to adopt for UK-based

¹⁸ See [HESES23 guidance for providers](#).

students in our Phase one decisions. This will provide clarity for providers about the nature of TNE partnership arrangements that are in scope and ensure consistency in how our requirements are interpreted across the sector. These definitions were already in use either in other data returns completed by the sector or in other areas of OfS policy such as the regulation of student outcomes and Teaching Excellence Framework (TEF) assessment.

92. **Definition of ‘registered’.** In our Phase one decision we aligned the definition of registered students for UK-based activity with our regulatory interests, which to date has been set out most explicitly in the HESES 2023-24 guidance.¹⁹ This is because we consider that this guidance offers the clearest definition of ‘registered’ provision and one that best aligns to our regulatory interests.

The ‘provider with which a student is registered’ means:

For all courses, except joint courses, the provider which has the full contractual responsibility to the student for the provision of educational services. This applies whether the provider provides all the teaching for the course or subcontracts out some or all of that teaching to another body.

1. Where fee payments from the Student Loans Company are concerned, this will also be the provider that collects the student course fee.

2. Where payments from the ESFA for apprenticeships are concerned, this will be the provider that is paid by the ESFA.

93. We have decided to adopt the same definition of ‘registered’ for TNE students. We recognise that the parts of the HESES definition that relate to UK public funding will in many cases not be relevant to TNE students. Where public funding is not a consideration, in reaching a view about ‘the provider with which a student is registered’ providers should consider the part of the definition relating to ‘full contractual responsibility to the student for the provision of educational services’.
94. **Definition of ‘taught’.** In our Phase one decision we aligned our definition of the ‘provider by whom a student is taught’ for UK-based activity with the definition that is currently used in the regulation of student outcomes by the OfS and in TEF indicators. This is where we consider that a student is taught by the provider where they receive more than 50 per cent of their teaching on a course from that provider. For postgraduate research students, the provider should consider the association of the staff supervising the students. If more than 50 per cent of the staff supervising the student are associated with a provider then we assume the student is taught by that provider. This would include during the student’s ‘writing up’ period.
95. Where there is no majority teaching provider, and two providers each teach the student for exactly 50 per cent of the time, then if one of those providers is the student’s registering provider then the teaching provider is set as the registering provider. However, if neither is the registering provider, then the teaching provider will be set as unknown.

¹⁹ See [HESES23 guidance for providers](#), p18.

96. In deciding on the use of the majority teaching approach to data collections, we will not collect data relating to short-term or temporary teaching arrangements, such as guest lecturer or staff loan arrangements, where this does not already fall within the coverage of the record. We consider that, if we were to do this, it would not align with our intended use of partnership data for regulatory purposes. It would also have the effect of significantly increasing burden for all providers with this type of arrangement in place.

Which provider should return the data?

97. We recognise that it likely that there will be instances where different OfS-registered providers will separately meet our definitions of ‘registered’, ‘taught’ or ‘awarded’ for the same student. For example, it would be possible for one OfS-registered provider to meet our definition of ‘registered’ and another the definition of ‘taught’ for the same group of TNE students.

98. In such situations, our position on how OfS-registered providers that are required to submit a student return should return student data is:

- a. If an OfS-registered provider meets our definition of a ‘provider with which a student is registered’ (see paragraph 92), that provider should return the student data;
- b. Otherwise, if the student is not already returned by another provider to HESA or to the ESFA in the ILR:
 - i. If no OfS-registered provider meets the ‘registered’ definition, but an OfS provider meets our definition of the provider by which a student is ‘taught’ (see paragraph 94), that provider should return the student data;
 - ii. If no OfS-registered provider meets either the ‘registered’ or the ‘taught’ definition, but a registered provider meets our definition of the ‘provider by which a student is awarded’ (see paragraph 90), that provider should return the student data;
 - iii. If no OfS-registered provider meets the ‘registered’, ‘taught’ or ‘awarded’ definitions, that student data does not need to be returned.

99. We have summarised these arrangements in a table form.

Table one: Summary of data submissions for students studying in UK-based and TNE partnership arrangements

Registering provider	Teaching provider for at least 50 per cent of the course	Awarding provider	Data requirement for UK-based partnership	Data requirement for TNE partnership
OfS-registered	OfS-registered	OfS-registered	Already in data collection. Data returned by registering provider.	Propose adding to data collection (see ‘Decisions about implementation’ for timing). Data to be returned by

Registering provider	Teaching provider for at least 50 per cent of the course	Awarding provider	Data requirement for UK-based partnership	Data requirement for TNE partnership
				registering provider.
OfS-registered	OfS-registered	Not OfS-registered	Already in data collection. Data returned by registering provider.	Propose adding to data collection (see 'Decisions about implementation' for timing). Data to be returned by registering provider.
OfS-registered	Not OfS-registered	OfS-registered	Already in data collection. Data returned by registering provider.	Propose adding to data collection (see 'Decisions about implementation' for timing). Data to be returned by registering provider.
OfS-registered	Not OfS-registered	Not OfS-registered	Already in data collection. Data returned by registering provider.	Propose adding to data collection (see 'Decisions about implementation' for timing). Data to be returned by registering provider.
Not OfS-registered	OfS-registered	OfS-registered	Added to data collection from 2025-26. Data to be returned by the OfS-registered teaching provider.	Propose adding to data collection (see 'Decisions about implementation' for timing). Data to be returned by OfS-registered teaching provider.
Not OfS-registered	OfS-registered	Not OfS-registered	Added to data collection from 2025-26. Data to be returned by the	Propose adding to data collection (see 'Decisions about

Registering provider	Teaching provider for at least 50 per cent of the course	Awarding provider	Data requirement for UK-based partnership	Data requirement for TNE partnership
			OfS-registered teaching provider.	implementation' for timing). Data to be returned by OfS-registered teaching provider.
Not OfS-registered	Not OfS-registered	OfS-registered	Propose adding to data collection from 2026-27 at earliest. Data to be returned by OfS-registered awarding provider.	Propose adding to data collection (see 'Decisions about implementation' for timing). Data to be returned by OfS-registered awarding provider.
Not OfS-registered	Not OfS-registered	Not OfS-registered	Not added to data collection (no involvement with OfS-registered provider).	Not added to data collection (no involvement with OfS-registered provider).

100. The following additional rules would apply when determining which provider makes the data return, where more than one OfS-registered provider meets the definition of registering, teaching or awarding provider.

101. Where more than one provider meets the definition of registering a student:

- a. Where an OfS-registered provider is delivering TNE without other partners, we would expect that OfS-registered provider to have full contractual responsibility for students and so would expect the provider's relationship with the student will meet this definition.
- b. Where an OfS-registered provider considers that full contractual responsibility for students is being shared with another provider that is also an OfS-registered provider, each student should be allocated to one of the providers and the providers should agree which one returns the student's data for the duration of the course. This is to ensure that students' data is not returned by more than one provider.
- c. Where an OfS-registered provider considers that full contractual responsibility for students is shared with another provider that is not an OfS-registered provider, and this provision is not already returned by another provider to HESA or to the ESFA in the ILR, the OfS-registered provider returns the student's data.

102. Where more than one provider meets the definition of awarding:

- a. In the event that the provider that grants the research or taught award and the provider that grants and award of credit are different, the provider that grants the research or taught award is for the purposes of returning the data regarded as the provider by which the student is awarded.
- b. For joint or dual awards, where only one of the providers that grants a research or taught award is registered with the OfS, the provider registered with the OfS is for the purposes of returning the data the provider by which a student is awarded.
- c. In the event that more than one provider registered with the OfS grants a research or taught award the providers registered with the OfS should agree which provider returns the student's data and continue to return them for the duration of the course to ensure that students' data is not returned by more than one provider.

103. In circumstances where there is no majority teaching provider because two providers each teach the student for exactly 50 per cent of the time and the return needs to be made by the teaching provider, the providers in the partnership will be expected to determine which partner will take responsibility for returning the data.

104. Finally, as we set out above in paragraph 9, where another provider is already required to return a student record, in either the HESA student return if it is a provider in England, Northern Ireland, Scotland or Wales, or in the ESFA's ILR return if it is an English further education college, there is no requirement to return a record for that same student and activity to HESA. Regardless of whether an OfS-registered provider meets the OfS's definition of 'taught', 'registered' or 'awarded' for a group of students, if those students' data are already being returned to HESA by another provider in another UK nation, the OfS-registered provider does not need to return those students' data to HESA as well.

Definitions of UK-based and TNE activities

105. We noted that a further definition of the term TNE was requested in consultation responses.

106. The coverage for the current student return has been developed over many years. It is set out in the 'coverage of the record' section of the guidance for HESA returns.²⁰ This includes specific guidance relating to matters such as students who spend part of their course in the UK and part outside the UK, arrangements for the Channel Islands and the Isle of Man and arrangements for funded learners outside the UK.

107. For the purposes of data collection, TNE is any higher education course provided solely or in partnership by an OfS-registered provider that does not fall under the coverage of the HESA student return and that takes place outside the UK. The OfS's regulatory framework sets out the following definition for a 'higher education course':

'Higher education course' is to be interpreted:

²⁰ The most recent iteration of this is to be found at [HESA Collections | HESA](#).

- i. in accordance with the Higher Education and Research Act 2017; and
- ii. so as to include, for the avoidance of doubt:
 - A. a course of study;
 - B. a programme of research;
 - C. any further education course that forms an integrated part of a higher education course; and
 - D. any module that forms part of a higher education course, whether or not that module is delivered as an integrated part of the course.²¹

108. For the avoidance of doubt, this definition of TNE leaves the coverage for the current student return unchanged.

²¹ Securing student success: Regulatory framework for higher education in England, condition B1.5.e.

Decisions about implementation

1. Timing of implementation

Proposals set out in the consultation

109. The published consultation proposed that the expansion of the student record for both UK-based partnership students and TNE students would be implemented for the 2025-26 data collection.
110. To enable providers to implement the required changes, data specifications would need to be published in the Jisc notification of changes in early 2024 and the coding manual publication in quarter one of 2024.

Decisions made in Phase one

111. In Phase one of our decision making, we decided to defer decisions about the implementation of changes relating to TNE and to UK-based awarding-only partnerships until summer 2024. This decision meant that any changes to the student record to include these arrangements would not be implemented until at least the 2026-27 data collection. Phase one also included decisions about the timing of implementation for the inclusion of UK-based teaching partnerships, which was confirmed for the 2025-26 data collection.

Consultation responses about the timing of implementation

112. In reaching our decision on the timing of implementation, we have considered the responses to the consultation as set out in the analysis compiled by Jisc.²²
113. We note that the consultation was open for responses at a time when respondents were managing the implementation of Data Futures and were expecting in-year data returns to commence in the 2024-25 data collection. Since the consultation period, decisions have been made to postpone in-year returns.
114. We have now confirmed that there will be no requirement for in-year data collection in, or before, the 2026-27 data collection, and that no further decisions about in-year data collection will be made before the outcomes of the independent review of Data Futures are known. More information about the next steps for in-year data collection has been published on 19 September.
115. Respondents commented on the additional complexity involved in setting up student record returns for TNE provision compared to UK-based partnerships. When asked to rate the burden associated with the preparation for the proposed TNE data return, 45 per cent felt the burden would involve minor to medium changes to systems and processes, while a further 39 per cent felt the changes to systems and processes would be significant. Respondents commented that the timing of implementation should allow sufficient time for changes to be made.

²² See HESA, '[AOR major review and student record expansion for England and Wales: Summary of responses](#)'.

116. Some respondents suggested that a delay in implementation until 2026-27 would be appropriate. Points raised included:

- The additional complexity associated with collecting data from overseas partners. This includes additional resources and co-ordination with partners and the need for contractual changes to collect additional data items.
- The need to deliver changes to software in good time.
- The regulatory burden for providers because of the simultaneous activity required to implement Data Futures.²³ Respondents noted the significant volume of change already underway in relation to data returns and expressed concern about the resourcing required to deliver these changes.
- A small number of respondents also commented on the capacity of the OfS and Jisc to confirm data specifications and definitions in time.

117. Other suggestions made by respondents included delaying implementation until after the introduction of Data Futures to allow lessons to be learned from that change to data collection and considering using a pilot year to support better understanding of the burden and adapt requirements accordingly.

The OfS's response

118. We have considered the consultation responses about the timing of implementation. We have particularly noted the concerns of respondents about the resourcing requirements involved in delivering these changes alongside ongoing work to deliver Data Futures and in-year data returns.

119. In November 2023 the OfS decided to pause implementation of in-year student data collection until the 2025-26 data collection. In March 2024, we then took a further decision that we would not commence in-year data returns until we have completed an independent review of issues with the delivery of Jisc's Data Futures programme, subject to the outcomes of that review. This step was taken in response to the significant challenges and delays encountered in Jisc's delivery of the first phase of the Data Futures programme, for the collection of the 2022-23 student data return. Our communications were clear that we wanted the independent review to give us confidence that any move to in-year data collection could be achieved effectively for providers and the OfS. At the time of writing, the independent review is in progress and we anticipate it will take several months until findings are available to inform our decisions about the future of the programme. However, we have now confirmed that there will be no requirement for in-year data returns in the 2026-27 data collection.

120. In relation to TNE and UK-based award-only data, we have therefore considered whether it is appropriate to further delay the expansion of the student record to coincide with the decisions on the timing of in-year data returns, or instead whether it would be advisable to confirm our decision about the timing of this expansion to the student record now.

²³ For more information on Data Futures, see [Data Futures | HESA](#).

121. In reaching our decision, we have taken into account our need to collect this data to inform and develop our regulatory activity in this area (as set out earlier in this document). We have particularly considered the growth in this part of the sector, which in our view suggests a clear desirability to progress the expanded data collection as soon as practicable.
122. We have also considered responses to the consultation about the burden on providers if multiple changes to data collection requirements were to be implemented simultaneously. We agree that it would be preferable to enable providers and other stakeholders to manage upcoming changes in a more staggered way and will continue to consider this point carefully following the conclusion of the independent review.
123. We have therefore decided to introduce the expansion to the student record to include data on TNE, and on UK-based award-only partnerships, for data collection in 2026-27. This means that providers will be required to return individualised data for TNE students and for students in UK-based award-only partnerships in the 2026-27 data return, where these students are covered by the definitions we have set out in this paper. For TNE students, the existing AOR return will remain in place in its current format up to and including the 2025-26 data collection.
124. We have decided to take this approach because it allows us to introduce the TNE and UK-awarding partnerships data at the earliest opportunity, while aligning with Jisc's preferred approach of giving providers two years' notice in relation to major changes to data collections. By confirming this decision now, we are able to provide immediate clarity for providers and enable them to start planning now for the integration of TNE and UK-based award-only students' data into the student record. It also provides immediate certainty to the OfS about when we will be able to start incorporating this provision into our regulatory approach.
125. This approach to the timing of the introduction of the expanded record provides additional time, relative to the proposed timeframe set out in the consultation, for providers to prepare for the changes to the return. This is in line with the timeframe requested by some respondents. We consider that this also supports providers in mitigating the burden that would be associated with making changes in a shorter timeframe. It also means that providers can now have certainty that the introduction of the expanded record will not coincide with any introduction of in-year returns, enabling them to plan for changes in a more staggered way.

Alternatives we considered

126. We considered other options for the timing of implementation of any changes to data collection for TNE and UK-based award-only partnerships before reaching our decisions. We have provided a brief summary of these options and our rationale for excluding these options below:
- **Option: Implement the expanded student record for TNE and UK-based award-only partnerships in the 2025-26 data collection.** We considered whether inclusion of this data in the 2025-26 data collection could be a viable option that would enable us to have earlier sight of this data. However, we took account of consultation responses and feedback from Jisc about the lead-in time required to establish this data collection and reached a view that it would place an excessive burden on the sector to implement this expansion in a shorter timeframe. We also took account of our decision to include UK-based teaching partnership data in the 2025-26 data collection, and considered that

staggering the introduction of these changes would support the sector in managing the associated burden.

- **Option: Delay the determination a date of implementation for any changes to TNE and UK-based award-only partnership data collection.** We considered whether we should delay establishing a date for the implementation of changes to data collection for TNE and UK-based award-only partnerships as part of this phase of decision making until we are able to consider the outcomes of the independent review of the Data Futures programme. Doing so would allow us to fully consider the regulatory burden being placed on providers with all the changes on the horizon. However, we balanced this with the importance of ensuring that any move to in-year reporting can be achieved effectively. This means that we are committed to allowing sufficient time for delivering the associated decision making and for the subsequent implementation of changes by providers, Jisc and other stakeholders. Our current understanding of the likely timescales required for this would mean there would be a significant delay in the OfS receiving and considering TNE and UK-awarding partnership data in our regulatory approach if we were to postpone setting an implementation date to align with decisions on in-year returns.

2. Frequency of data collection

Proposals set out in the consultation

127. Proposal Four of the consultation set out two options for the required timing of the expanded student record including partnership and TNE students:

- a. Data to be returned once a year, covering the reporting period of 1 August until 31 July (aligned with the approach used in the current AOR)
- b. Data to be returned twice a year, with the first reference period being 1 August until 1 December and the second reference period being 2 December until 31 July (aligned with the planned introduction of in-year reporting).

128. Respondents were asked to comment on the feasibility, opportunities and challenges for the timing of the collections.

Decisions made in Phase one

129. Our Phase one decisions related to the inclusion of some additional UK-based teaching partnership arrangements in the scope of the existing student record data returns. We did not make any decisions about the frequency of data returns specifically for UK-based teaching partnerships as we consider this additional data to be an integrated element of those data returns.

Consultation responses about the frequency of data collection

130. There was not a clear consensus of views about the suggested options for the frequency of collection for TNE data.

131. Respondents who supported collection once a year suggested that returning TNE data in line with the current timescales would be the least burdensome approach overall. Other

respondents suggested that the complexity of provision around the world meant that submitting more than once a year would impact on data quality.

132. However, other respondents highlighted the complexity of returning records at different times of year within the same return, noting that software suppliers may find this challenging and that having different submission timescales would undermine the case for combining the records. Some respondents suggested that work would be needed to determine the TNE and non-TNE population each time the non-TNE population data was submitted and that there would therefore be limited benefit to returning the TNE students' data only once. Although not specified by these respondents, we have understood this to be referring to the introduction of in-year returns for domestic students.

133. Where respondents were in favour of twice-yearly data collection, they commented that it would be sensible and less burdensome to align with the timing of the student record. Several respondents noted that this would allow for greater efficiency in setting up, extracting, and quality assuring the data.

134. Respondents who did not support twice-yearly collection noted that:

- a. TNE provision can operate to different timelines and may not align to the UK academic calendar
- b. more regular data flows between providers may result in a need to renegotiate data sharing agreements with partners
- c. they were not satisfied that there was sufficient regulatory justification for twice-yearly collection
- d. twice-yearly data collection would substantially increase burden, for example because of the need to undertake data quality assurance more frequently.

The OfS's response

135. Since the period of consultation, and as set out above, the implementation of in-year student data collection has been paused until we have completed an independent review of issues with the delivery of Jisc's Data Futures programme. This means that, in practice, the frequency of collection of TNE and UK-based award-only partnership data will be incorporated into current HESA student data returns and be completed once a year, until such time as the independent review and associated decision making have concluded.

136. Once incorporated into a provider's data returns, we expect that TNE and UK-based award-only partnerships data will form an integrated part of student returns. In the event of future changes to the frequency of data collection requirements, such as the introduction of in-year returns (subject to the outcomes of the independent review), TNE and UK-based award-only partnership data will be returned as a standard part of that data. We would therefore expect that any future decisions about the frequency of the student record in general would also apply to TNE and UK-based award-only data.

Changes and additions to specific areas of the student data model

Outcomes from the consultation about changes and additions

137. Respondents were asked whether they agreed or disagreed with the proposed changes to specific fields in the student data model and to provide any further feedback about these proposals. We have previously covered concerns about regulatory burden and the purpose of collecting additional data and have set out our approach in relation to TNE and UK-based award-only arrangements. In this section, we have therefore focused on any detailed consultation responses about the application of the relevant fields rather than broader policy matters.
138. A majority of respondents agreed with the proposed amendments to the areas of the student data model that would be required for TNE and UK-based award-only students.
139. Where comments were made, these were largely general comments relating to the burden associated with the setup of these changes, such as the time and cost needed to implement software changes. We did not identify any comments relating to the policy objectives or reasoning for recommending these changes. In some cases, respondents expressed a need for guidance to support implementation.
140. There were fewer respondents in agreement with proposals to collect engagement and student course session data. 39 per cent of respondents disagreed with this proposal. Although some respondents noted that they already held the data and could meet the requirement (or could do so with only small changes to systems or processes), other were concerned that returning course session data would be more challenging for TNE students. Examples given included cultural differences and different academic cycles in overseas nations. Respondents who did not agree with the collection of this data highlighted the particular burden associated with this aspect of the proposals, especially related to challenges with quality assurance of the data, and expressed the view that this data was unlikely to benefit providers' own activities despite the workload required to deliver it.

The OfS's response

141. We have noted the comments raised above. We have not identified responses that would directly impact our policy objectives for capturing TNE and award-only student data or the decisions we need to take arising from the consultation. We consider the points raised to be of a technical nature that will be addressed through the publication of the relevant guidance document by Jisc. We have therefore decided to ask Jisc to implement the changes largely as described in the consultation, although with minor changes to requirements in response to sector feedback.
142. Our position of the collection of the VENUETYPE field remains as set out in the consultation document, that we will not be requiring the collection of this information as part of our data requirements.

Matters to which we have had regard in our decision making

143. In making the decisions set out in the document, we have had regard to all our general duties (HERA Section 2(1)). We consider that the following duties are particularly relevant:

- **Our general duty to promote quality, and greater choice and opportunities for students, in the provision of higher education by English higher education providers (HERA Section 2(1)(b)).**²⁴ As a risk-based regulator, increasing our understanding of higher education provision delivered through partnerships (whether within the UK or overseas) enables us to regulate in a way that protects quality and ensures that all providers, regardless of contractual arrangements, deliver high quality higher education. This ensures that the choices and opportunities made available to students are genuine, in that these are of appropriate quality wherever higher education is being provided within the UK or beyond the UK by our registered providers. The data that we already hold suggests that TNE arrangements are an important area of growth within the sector and should be a focus of our regulatory interest. Much information is already collected on UK-based partnerships. Our expansion of the student record to include UK-based award-only partnerships and the introduction of individualised records for TNE students seeks to ensure that all arrangements offered by OfS-registered providers are subject to an appropriate level of regulatory scrutiny. The availability of data that supports the delivery of high quality courses and positive outcomes for TNE students by our registered providers will also serve to enhance the reputation of those providers for quality and choice in the global marketplace. We do not foresee the scale of the changes discouraging providers, where courses meet or exceed our minimum quality requirements, from offering those courses in partnership,. This general duty therefore weighs clearly in favour of the decision to collect the additional information on TNE students and UK-based award-only partnerships.
- **Our general duty to promote value for money in the provision of higher education by English higher education providers (HERA Section 2(1)(d)).**²⁵ This duty relates mainly to students paying directly for their higher education provision. TNE students, whether on a course provided wholly by one of our registered providers or by one or more of our registered providers in partnership, and UK-based students on courses where our registered providers provide only the award are normally not able to claim student support from UK public funds. This means either the student or a sponsor is likely to be paying directly for their education. More effective scrutiny and regulation of TNE and UK-based award-only partnerships will help maintain the excellent reputation of the English higher education sector and therefore more generally help ensure the sector offers value for money through the delivery of higher quality provision leading to positive outcomes for these student groups. This general duty weighs in favour of the decision to collect the additional information on these arrangements.

²⁴ See [Higher Education and Research Act 2017 \(legislation.gov.uk\)](https://legislation.gov.uk).

²⁵ See [Higher Education and Research Act 2017 \(legislation.gov.uk\)](https://legislation.gov.uk).

- **Our general duty that, so far as relevant, we will have regard to the principles of best regulatory practice, including the principles that our regulatory activities should be transparent, accountable, proportionate and consistent, and targeted only at cases in which action is needed (HERA Section 2(1)(g)).**²⁶ We have acted transparently and with accountability by working with Jisc on its consultation exercise and setting out our decisions and reasoning in this document. With reference to being proportionate, we recognise that any additional data requirement places a burden on the higher education provider required to collect and return that data. We also recognise that the collection of data from all providers is a feature of our risk-based regulation. The collection of data on all relevant providers enables us to focus the burden of our regulatory engagement on providers where the data signals that engagement is necessary. The comprehensive collection of data is therefore of reassurance to students and other stakeholders. It also enables us to provide robust sector-wide evidence, through the publication of that data, of positive outcomes to students. However, we recognise that this approach to data collection places a burden on all providers. We have therefore taken a proportionate approach in our decision making that balances our need for comprehensive data (so we can regulate effectively) with the burden that this data collection places on providers. By weighing up these factors we have determined not to collect data on some partnership activities that would fall within the scope of our regulation (for example, relating to the providers that teach TNE students). We consider that this general duty, overall, weighs slightly in favour of the decision to collect the additional information on partnerships. By proceeding in the proportionate way we have set out in this document, we have also had regard to the expectation in the Regulators' Code that 'regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities' (Regulators' Code section 1.1).²⁷

144. The OfS's general duty to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers (HERA section 2(1)(e)).²⁸ This general duty is clearly relevant to our decision making. As HERA enables the OfS to regulate the overseas activities of registered English providers outside of the UK, as well as activities within the UK, we have considered our Public Sector Equality Duty set out in the Equality Act 2010 in respect of all these decisions. This requires the OfS to have due regard to the need to eliminate unlawful discrimination, foster good relations between different groups and advance equality of opportunity.²⁹ We have regard to these duties in developing our policies and in making any decision or intervention in relation to a higher education provider. In our decision making we have had regard to our published equality and diversity objectives, in particular our objective that we will seek to promote equality in relation to access, success, progression, and outcomes for students with relevant protected characteristics.³⁰

²⁶ See [Higher Education and Research Act 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk).

²⁷ See [Regulators' Code \(publishing.service.gov.uk\)](https://publishing.service.gov.uk).

²⁸ See [Higher Education and Research Act 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk).

²⁹ See [What does the law say? - Office for Students](#).

³⁰ See [Equality objectives - Office for Students](#).

145. Because our decisions relate to the collection of new data, we do not yet have the information that would enable us to understand the characteristics of the students involved. This is particularly relevant to our decisions around UK-based award-only partnerships, where the decision to collect this data enhances our capacity to promote equality of opportunity and advance equality of opportunity. This is because it enhances our capacity to monitor and intervene where we identify that there may be concerns about the quality of courses for students with protected characteristics, as well as students more generally, in those partnership arrangements of our registered providers. Also, as set out above, we do not foresee the scale of the changes to data collection discouraging providers from offering courses in partnership, where those courses meet or exceed our minimum quality requirements. Therefore, we do not think these changes will change student choice or opportunity in a way that might disproportionately affect students with protected characteristics. Our regard to the general duty to promote quality of opportunity, the public sector equality duty and our most relevant published equality objectives weigh in favour of the decision to collect the additional information on UK-based award-only partnerships.
146. For TNE arrangements, we are **not** proposing to collect data on student characteristics in the same way as we do for UK-based students, because local context is likely to limit the value of our understanding of that data in many circumstances. However, by regulating in a way that promotes quality across the sector, including in its TNE provision, the OfS seeks to ensure that all courses and academic experiences offered by an OfS-registered provider are of at least an appropriate quality regardless of the personal characteristics of the student and the territory in which, and the mode by which, the course is being delivered.



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