

Office for
Students

The logo for the Office for Students, featuring a dark blue square with a yellow square in the top right corner containing the letters 'OfS' in white.

OfS

Payment of fees for quality and standards assessments

Guidance for providers on
implementation of The Higher Education
(Assessment Fees) (England) Regulations
2023

Reference OfS 2023.43

Enquiries to OfS finance team at FeeQueries@officeforstudents.org.uk

Publication date 15 August 2023

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Summary

1. This guidance is for higher education providers in England that undergo an assessment which is:
 - a. undertaken by the OfS for the purposes of determining whether the provider satisfies any applicable ongoing registration condition relating to the quality of, or the standards applied to, higher education provided by them; or
 - b. undertaken by the OfS for the purpose of:
 - i. deciding whether to make an order under section 42(1) of the Higher Education and Research Act 2017 (HERA) authorising the provider to grant taught awards or research awards or both,
 - ii. deciding whether to make an order under section 42(1) or 45(1) of HERA varying or revoking an authorisation given to the provider to grant taught awards or research awards or both, or
 - iii. monitoring the exercise by the provider of an authorisation to grant taught awards or research awards or both in a case where that authorisation has been given to the provider for a limited period in accordance with section 42(6) of HERA.
2. It sets out the approach the OfS will take to determine the fees payable for these activities on the basis of The Higher Education (Assessment Fees) (England) Regulations 2023 ('the Regulations').¹ This approach is consistent with the approach set out in the OfS 'Consultation on payment of fees for investigations'.² The consultation decision document³ confirmed that the approach to the calculation of costs set out in the proposed guidance⁴ will apply in its entirety to any further regulations made in relation to section 71.⁵ These Regulations, which were made under section 71 of HERA, allow the OfS to recover the costs of conducting quality and/or standards assessments by charging an individual provider.
3. This guidance is limited to what we consider to be the most important issues. We will conduct a review of the approach after 18 to 24 months and, as part of that review, will consider what further information it might be appropriate to publish about the costs of quality and/or standards assessments.
4. The OfS is only required to prepare a fee statement under the Regulations for the charging of fees for quality and/or standards assessments in connection with ongoing registration and degree awarding powers. The fees payable for quality and standards assessments for the purpose of registering with the OfS are not covered in this guidance. Fees incurred for these

¹ See www.legislation.gov.uk/ukxi/2023/801/made.

² See www.officeforstudents.org.uk/publications/consultation-on-payment-of-fees-for-investigations/.

³ See www.officeforstudents.org.uk/publications/consultation-on-paying-fees-for-investigations-analysis-of-responses-and-decisions/.

⁴ See www.officeforstudents.org.uk/publications/consultation-on-payment-of-fees-for-investigations/.

⁵ Section 71 enables secondary legislation to be made that provides for the OfS to charge fees for other activities and services undertaken in the performance of its functions.

assessments will be payable via an upfront flat fee. Further information is set out in Regulatory advice 3.⁶

5. In relation to assessments of quality and/or standards for assessing compliance with ongoing conditions of registration, and for achieving, varying or maintaining degree awarding powers, this guidance sets out:
 - how an assessment fee will be calculated
 - how the fee for an assessment will be communicated to a provider
 - how a provider can make representations in relation to an assessment fee
 - when a fee is payable
 - how to pay it.
6. Regulation 8 of the Regulations requires the OfS to publish a statement about its approach to determining the total amount of all costs reasonably incurred, or to be reasonably incurred, by the OfS in undertaking the assessment. **Annex B** provides this statement. The rest of this document should be treated as guidance.
7. Ongoing condition of registration G3 requires a registered provider to pay fees to the OfS and fees charged by any designated quality body and the designated data body (Jisc). These fees are required to be paid in full, by the set deadline.
8. Please contact the Regulation team at regulation@officeforstudents.org.uk or 0117 931 7305 if you have any questions about this guidance.
9. Please contact the finance team at FeeQueries@officeforstudents.org.uk or 0117 931 7111 if you have any questions about making payment in relation to an assessment fee.

⁶ See www.officeforstudents.org.uk/publications/regulatory-advice-3-registration-of-english-higher-education-providers-with-the-ofs/.

Documents referred to in this guidance

Higher Education and Research Act 2017:⁷ Section 70 of HERA makes provision for the OfS to charge providers a fee for their registration in the Register of English higher education providers. Section 71 makes provision (subject to regulations) for the OfS to charge fees for other activities and services undertaken in the performance of its functions.

The Higher Education (Assessment Fees) (England) Regulations 2023:⁸ These regulations set out the fees the OfS may charge for conducting quality and standards assessments of higher education providers. This is referred to as the ‘the regulations’ in this document.

The Higher Education (Investigation Fees) (England) Regulations 2022:⁹ These regulations set out the fee the OfS may charge for conducting investigations into the activities of higher education providers.

Payment of fees for investigations: Guidance for providers on implementation of The Higher Education (Investigation Fees) (England) Regulations 2022.¹⁰ This guidance sets out the approach the OfS will take to determine the fees payable on the basis of The Higher Education (Investigation Fees) (England) Regulations 2022 which allow the OfS to recover the costs of conducting investigations by charging an individual provider.

Higher Education (Registration Fees) (England) Regulations 2019:¹¹ These regulations set out the fee the OfS may charge a provider for its inclusion in the Register of English higher education providers.

OfS regulatory framework:¹² This document constitutes the regulatory framework for higher education in England as required under section 75 of HERA. It sets out how the OfS intends to perform its various functions and provides guidance for registered higher education providers on ongoing conditions of registration. Additional information about regulatory requirements is also published by the OfS in the form of regulatory notices and regulatory advice. Condition G3 of the regulatory framework (payment of OfS and designated body fees) is an ongoing condition of registration applying to all registered providers. It requires all providers to pay an annual registration fee and other OfS fees, in accordance with regulations made by the Secretary of State, and fees charged by the designated bodies.

⁷ See www.legislation.gov.uk/ukpga/2017/29/contents/enacted.

⁸ See www.legislation.gov.uk/uksi/2023/801/made.

⁹ See www.legislation.gov.uk/uksi/2022/1191/contents/made.

¹⁰ See www.officeforstudents.org.uk/publications/payment-of-fees-for-investigations/.

¹¹ See www.legislation.gov.uk/uksi/2019/543/contents/made.

¹² See www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/.

Key terms used in this guidance

Assessment fee: The fee determined by the OfS as payable by a provider of higher education that is the subject of an assessment which is:

- a. undertaken by the OfS for the purposes of determining whether the provider satisfies any ongoing registration condition of theirs relating to the quality of, or the standards applied to, higher education provided by them; or
- b. undertaken by the OfS for the purpose of:
 - i. deciding whether to make an order under section 42(1) of the Higher Education and Research Act 2017 authorising the provider to grant taught awards or research awards or both,
 - ii. deciding whether to make an order under section 42(1) or 45(1) of the Higher Education and Research Act 2017 varying or revoking an authorisation given to the provider to grant taught awards or research awards or both, or
 - iii. monitoring the exercise by the provider of an authorisation to grant taught awards or research awards or both in a case where that authorisation has been given to the provider for a limited period in accordance with section 42(6) of the Higher Education and Research Act 2017.

The fee will represent all the costs reasonably incurred by the OfS in undertaking the assessment. See paragraphs 17-19.

Estimated assessment fee: an estimate of the total amount of all the costs to be reasonably incurred by the OfS in undertaking an assessment listed in paragraph 1.

Total assessment fee: the total amount of all the costs reasonably incurred by the OfS in undertaking an assessments listed in paragraph 1.

Notice of estimated assessment fee: Document sent by the OfS to a provider which will set out the amount of the Estimated assessment fee payable, and the deadline for payment. This document should be treated as an invoice for the purposes of paying any Estimated assessment fee. See paragraphs 23 and 25.

Notice of total assessment fee: Document sent by the OfS to a provider which will set out the amount of the Total assessment fee, the amount of the Total assessment fee which is payable, the deadline for payment and how representations should be submitted. This document should be treated as an invoice for the purposes of paying any of the Total assessment fee. See paragraphs 24 and 26.

Representations: A provider may make representations in respect of the OfS's Notice of total assessment fee and will be given not less than 14 days from receipt of that notification to make representations. Representations should be made in writing to the address given in the Notice of total assessment fee. See paragraphs 30-34.

Introduction and background

10. Section 70 of HERA provides for the OfS to charge each registered provider an annual registration fee. Section 71 makes provision (subject to regulations) for the OfS to charge fees for other activities and services undertaken in the performance of its functions.
11. Regulations permitting the OfS to charge a fee to a provider for the assessment of the quality of, and standards applied to, higher education provided by that provider came into force on 7 August 2023 and apply where the assessment begins on or after 7 August 2023.
12. This document provides guidance about how a fee for a quality and/or standards assessment within the scope of this guidance will be calculated by the OfS and how a provider should pay its fee. For the avoidance of doubt, it does not provide guidance relating to fees for the assessment(s) of quality and/or standards of providers applying for registration with the OfS. These have a fixed fee of £28,463 as set out under Regulation 5 of the regulations.
13. This document **does not** provide guidance about the OfS's approach to conducting an assessment, except to the extent that this may affect the assessment fee payable.
14. Where a quality and/or standards assessment is carried out as part of an investigation, the OfS will recover its costs in respect of the quality and standards assessment under the Regulations. For the avoidance of doubt, any other costs incurred as part of an investigation will be recovered under 'The Higher Education (Investigation Fees) (England) Regulations 2022'. Guidance on investigation fees is provided in 'Payment of fees for investigations: Guidance for providers on implementation of The Higher Education (Investigation Fees) (England) Regulations 2022'. With respect to registered providers, Condition G3 of the OfS's regulatory framework¹³ states:
15. This guidance relates to assessment fees charged by the OfS which for registered providers constitute 'other fees' as set out in condition G3(i).

Condition G3: The provider must pay:

- i. Its annual registration fee and other OfS fees in accordance with regulations made by the Secretary of State.
- ii. The fees charged by the designated bodies.

16. Other than an assessment fee, any fee that may be charged by the OfS, and fees charged by a designated body, are beyond the scope of this guidance.

¹³ See www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/.

Assessment fee

17. From 7 August 2023, a provider that is subject to a quality and/or standards assessment by the OfS may be charged a fee to cover the costs of that assessment. This applies only where an assessment begins on or after 7 August 2023.
18. A fee is payable where a quality and/or standards assessment is undertaken by the OfS:¹⁴
- a. For the purposes of determining whether the provider satisfies any initial registration condition applicable to them relating to the quality of, or the standards applied to, higher education provided by them; or
 - b. for the purposes of determining whether the provider satisfies any ongoing registration condition of theirs relating to the quality of, or the standards applied to, higher education provided by them; or
 - c. for the purpose of:
 - i. deciding whether to make an order under section 42(1) of the Higher Education and Research Act 2017 authorising the provider to grant taught awards or research awards or both,
 - ii. deciding whether to make an order under section 42(1) or 45(1) of the Higher Education and Research Act 2017 varying or revoking an authorisation given to the provider to grant taught awards or research awards or both, or
 - iii. monitoring the exercise by the provider of an authorisation to grant taught awards or research awards or both in a case where that authorisation has been given to the provider for a limited period in accordance with section 42(6) of the Higher Education and Research Act 2017.
19. The assessment fee is payable by the governing body of the provider whose higher education provision is the subject of the OfS's assessment.
20. The sections below set out how an assessment fee will be calculated for assessments listed in paragraph 1 and notified to a provider, when the fee will be due for payment, and the representations process.

Calculating an assessment fee

21. Regulation 8 of the Regulations requires the OfS to publish a statement about its approach to determining the total amount of all the costs reasonably incurred, or to be reasonably incurred, by the OfS in undertaking the assessment. Where changes are made to this approach, a revised statement will be required to be published. **Annex B** sets out the statement of how the OfS will determine the total amount of all the costs reasonably incurred, or to be reasonably incurred. Further guidance is provided below.

¹⁴ See <https://www.legislation.gov.uk/ukxi/2023/801/made>.

22. The assessment fee is in two parts. It comprises an estimated assessment fee of the total amount of all the costs to be reasonably incurred by the OfS in undertaking the assessment; and a total assessment fee, determined by the OfS after completing the assessment.
23. The OfS will provide an estimate of the total amount of all the costs to be reasonably incurred by the OfS in an assessment via a Notice of estimated assessment fee to the provider. The provider is required to pay that amount within the period specified in the Notice (not less than 30 days), which may be before the assessment is completed.
24. The total amount of all the costs reasonably incurred is determined by the OfS based on the recording of costs incurred throughout an assessment. After the assessment, the OfS will confirm the total amount of all the costs reasonably incurred, and notify the provider of that amount via a Notice of total assessment fee. If the total assessment fee is more than the estimated assessment fee, a provider is required to pay the difference; if the total assessment fee is less, the OfS is required to pay the difference. This process is provided for in Regulation 7 of the Regulations.

Fee Notices and representations

25. The OfS will send a Notice of estimated assessment fee to a provider that will set out how the OfS has determined the estimate of the total amount of all the costs to be reasonably incurred by the OfS and the date by which payment must be made. The due date for payment will not be less than 30 days from the date the Notice of estimated assessment fee is issued to the provider.
26. At the end of an assessment, the OfS will send a Notice of total assessment fee to a provider which will explain how the OfS has determined the total amount and the date by which payment must be made (should any monies be outstanding – see paragraph 24 above). The due date for payment will not be less than 30 days from the date the fee notification is issued to the provider.
27. The OfS will send the Notices of estimated assessment fee and total assessment fee to a provider's accountable officer, and/or to any nominated contacts the provider has given in relation to its annual registration fee, the registration process, or DAPs assessment.
28. Notices will be sent by email and will be deemed to have been received on the same day the email is sent, unless the fee notification is sent after normal working hours (after 1700, Monday to Friday), in which case it will be assumed to have been received on the following working day.
29. Where a provider's systems require an invoice to be processed for a payment to be made, the fee Notices should be used for this purpose. No separate invoice will be sent by the OfS.
30. A provider may make representations only in relation to a Notice of total assessment fee and not in relation to the Notice of estimated assessment fee. It may make representations if it considers that costs have not been reasonably incurred or any of the information used to calculate that fee. The OfS will allow not less than 14 calendar days for submission of representations, from the date a provider receives the fee notification.

31. Representations relating to a Notice of total assessment fee must be made in writing to regulation@officeforstudents.org.uk. The OfS will acknowledge receipt of a provider's representations.
32. When a provider makes representations in relation to a total assessment fee, the requirement to pay the total assessment fee is suspended until the date specified in the OfS's notification of any final decision to confirm or varying the fee.
33. The OfS will consider any representations, and will notify a provider in writing of its final decision. The OfS's final decision will be one of the following:
 - a. confirm the Notice of total assessment fee that was issued,
 - b. vary that notice, or
 - c. withdraw that notice.
34. If a Notice of total assessment fee is confirmed or varied, a provider will have a period of not less than 14 days to make the required payment of any outstanding total costs. The exact payment date will be set out in the OfS's notification of its final decision. No further period for representations will be given.

Making payments

35. Payments must be made by bank transfer to the OfS bank account as set out in **Annex A**.
36. A provider should quote the Notice reference as the transaction reference when it pays.
37. Where all or any part of an assessment fee remains unpaid by the time when it is required to be paid, the OfS may charge interest on the unpaid amount. Interest will accrue on a daily basis at the following rate:

Bank of England rate + 5 per cent

where 'Bank of England rate' is the official bank rate announced at the most recent meeting of the Monetary Policy Committee of the Bank of England.
38. The total amount of interest due will not exceed the amount of the fee.
39. The OfS may recover from a provider, as a civil debt to the OfS, the unpaid amount of an assessment fee and the amount of any unpaid interest charged, as set out above.

Annex A: OfS details

Company name:	The Office for Students
Company registration number:	Not applicable – the OfS is a non-departmental public body
VAT number:	304325151
Address:	Westward House Lime Kiln Close Stoke Gifford Bristol BS34 8SR
Switchboard:	0117 931 7317
Email for questions about making a payment:	<u>FeeQueries@officeforstudents.org.uk</u>
Phone number:	0117 931 7300
Bank account name:	The Office for Students
Sort code:	60-70-80
Account number:	10028676

Annex B: Fee statement

1. Charges relating to OfS staff costs will be based on the amount of time spent (measured in hours) on an assessment, charged at the total cost of employment of that member of staff for each hour worked (cost per hour). Cost per hour will include employer contributions for national insurance and pensions, and will represent the cost of each hour the member of staff is normally available to work (i.e. excluding leave entitlement and bank holidays). Any travel and subsistence costs will be charged at the actual cost incurred by the OfS including any irrecoverable VAT.
2. Contracted out costs, and any costs associated with direct purchasing in respect of an assessment, will be based on the actual costs incurred by the OfS, inclusive of any irrecoverable VAT. The OfS will thereafter determine the amount of these costs that have been reasonably incurred.
3. Costs will not include apportionment of the underlying costs of running the OfS, nor general administration costs, except where an increase in these costs can be directly attributed to an assessment.
4. Currently, OfS assessment fees are not within the scope for VAT purposes and so no VAT will be charged. If this changes, fees will include VAT at the applicable rate.



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