



Department  
for Education

# **Simplifying Access to the Market: Degree Awarding Powers and University Title**

**Government consultation**

**Launch date 19 October 2017**

**Respond by 22 December 2017**

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## About this consultation

This consultation seeks views on the proposed new detailed criteria and processes for Degree Awarding Powers and University Title, following the reforms set out in the 2016 white paper “Success as a Knowledge Economy” and the Higher Education and Research Act 2017 (“HERA”).

The responses will inform new guidance to providers which will replace and supersede the following currently published guidance documents:

- *Taught Degree Awarding Powers and Research Degree Awarding Powers. Guidance for Higher Education Providers: criteria and process for applying for taught degree awarding powers and research degree awarding powers*” (September 2015),
- *Foundation Degree Awarding Powers. Guidance for Higher Education Providers: criteria and process for applying for foundation degree awarding powers*” (October 2015), and
- *Guidance for higher education providers: criteria and process for applying for university title and university college title* (September 2015).

This document should be read alongside the [regulatory framework consultation](#)<sup>1</sup>.

Please note that these changes apply to processes in England only. For guidance on Degree Awarding Powers and University Title in Scotland, Wales and Northern Ireland please refer to the guidance on the Quality Assurance Agency’s [website](#).

## Who this is for

- Bodies representing the interests of English higher education providers
- Bodies representing the interests of students on courses provided by English higher education providers
- Providers of higher education
- Sector bodies, mission groups and representative organisations
- Students (prospective, current, former)
- Employers
- Taxpayers and citizens

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<sup>1</sup> Government consultation ‘[Delivering positive outcomes for students – the new risk-based approach to regulation in higher education](#)’.

## Issue date

The consultation was issued on 19 October 2017.

## Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team on:

[HERA.CONSULTATIONS@education.gov.uk](mailto:HERA.CONSULTATIONS@education.gov.uk)

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: [consultation.unit@education.gsi.gov.uk](mailto:consultation.unit@education.gsi.gov.uk) or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

## Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

## The response

The results of the consultation and the Department's response will be [published on GOV.UK](#) in spring 2018.

## Questions

This consultation document makes proposals in relation to:

- The processes and criteria for applying for different types of Degree Awarding Powers (Part 1 and Annex A)
- The processes and criteria for applying for University Title or University College Title (Part 2)
- Post –award issues in relation to both Degree Awarding Powers and University Title, such as rights and obligations, and the circumstances in which powers to vary or revoke Degree Awarding Powers or revoke University Title may be used (Part 3)

We would like to hear your views on our proposals. Specific questions are posed throughout this document in respect of issues where we are particularly keen for respondents to share their views. For ease these are summarised below.

**Question 1: Do you agree or disagree that the OfS should consider applications for New DAPs for research awards from providers without a three-year track record of delivering higher education in England?**

**Question 2: (With reference to question 1) Are there particular circumstances where authorisations of this type would be appropriate? If so what are they?**

**Question 3: Do you have any comments on the proposed New DAPs test and associated processes? In particular, do you think these tests and processes provide appropriate safeguards whilst enabling high quality new providers to access DAPs?**

**Question 4: Do consider the proposals for monitoring a provider with New DAPs during the probationary period to be adequate and appropriate?**

**Question 5: Do you agree with the proposals for the OfS and providers to best ensure that students are aware of what type of DAPs, including New DAPs, a provider has? If you think there should be additional information requirements, please give details.**

**Question 6: Do you agree or disagree with the suggested change regarding the possible variation of the level 6 TDAPs criterion?**

**Question 7: (With reference to question 6) If the 50 per cent criterion is to be disapplied in some exceptional cases, what factors do you think the OfS should take into account when determining whether an application is an exceptional case?**

**Question 8: Do the application processes for DAPs sufficiently align with the registration processes and conditions?**

**Question 9: Do you agree or disagree that for providers that have obtained DAPs on an exceptional basis without having the majority of higher education students at level 6 or above (as proposed in question 6), the 55 per cent criterion for University Title should be adjusted to additionally require the majority of higher education students to be on courses at level 6 or above?**

**Question 10: Do you agree or disagree that student numbers, for the purposes of the 55 per cent criterion for University Title, should be calculated based on the intensity of study, disregarding the mode of study? Please give reasons for your views.**

**Question 11: (With reference to question 10) Do you have any views on how students on accelerated courses should be taken into account, when calculating the percentage of higher education students at a provider? Should these students be counted as 1 FTE, or more?**

**Question 12 Do you agree with this assessment of the factors that should be set out in Secretary of State guidance to which the OfS must have regard to when determining applications for University Title? If you disagree, please give reasons. If you believe any additional factors should be included, please indicate what these are with reasons.**

**Question 13: Do you agree or disagree with this proposal of implementing the statutory provisions that allow for the revocation of DAPs and University Title and the variation of DAPs?**

**Question 14: Do you consider the above proposals regarding a change in circumstances to be sufficiently robust to safeguard the meaning and value of DAPs and University Title?**

**Question 15: Do you have any comments on the proposed DAPs criteria as set out in Annex A? Are there specific aspects of the criteria that you feel should be adjusted in light of the OfS's overall regulatory approach, in particular ongoing registration conditions?**

**Question 16: Do you have any comments on the proposals for the assessment of applications for subject specific and Bachelor's only DAPs? Are there specific aspects of the criteria that you feel would either be particularly relevant or not relevant for either of these types of DAPs?**

**Question 17: Do you have any comments on how a subject should be defined for the purpose of subject specific DAPs?**

## How to respond

### Respond online

To help us analyse the responses please use the online system wherever possible. Visit [www.education.gov.uk/consultations](http://www.education.gov.uk/consultations) to submit your response.

### Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, please contact us.

### By email

[HERA.CONULTATIONS@education.gov.uk](mailto:HERA.CONULTATIONS@education.gov.uk)

### By post

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## Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic

confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

## **Deadline**

The consultation closes at midnight on 22 December 2017.

## Introduction

- i. The government's higher education reforms have greater competition, innovation and student choice at their heart. The reforms to market entry are a key aspect of this, and are designed to make it simpler and quicker for providers to enter the higher education market, but only if they can demonstrate they have the potential to deliver high quality provision.

## Background

- ii. Following consultation in 2015, the white paper "Success as a Knowledge Economy"<sup>2</sup>, published in May 2016, set out the Government's plans to reform the criteria and processes for providers seeking to obtain authorisation to grant degrees (commonly referred to as degree awarding powers or DAPs) and University Title. Subsequently, the Higher Education and Research Act 2017 ("HERA"), has put in place the legislative framework which introduces these reforms.
- iii. This consultation does not duplicate what has been consulted on already<sup>3</sup>, but instead seeks views on the detailed criteria and processes the OfS will use when making decisions in relation to DAPs and University Title, and the guidance for providers seeking to apply for DAPs or University Title. The DAPs criteria are along broadly similar lines to the criteria set out in the 2015 criteria but adapted to be consistent with the new regulatory framework. In particular, some specific evidence requirements have been removed where these matters will already be tested under the regulatory framework. Further detail is set out in Annex A.
- iv. It is recommended that this document is read in parallel to the [regulatory framework consultation](#).

## Legal basis

- v. This consultation is conducted by the Department for Education, both on its own behalf and on behalf of the Office for Students (OfS), which will be formally established in January 2018.
- vi. As HERA transfers the powers to grant DAPs and University Title from the Privy Council to the OfS, these powers form part of the OfS's functions. As such, this

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<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/523396/bis-16-265-success-as-a-knowledge-economy.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523396/bis-16-265-success-as-a-knowledge-economy.pdf)

<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/474266/BIS-15-623-fulfilling-our-potential-teaching-excellence-social-mobility-and-student-choice-accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/474266/BIS-15-623-fulfilling-our-potential-teaching-excellence-social-mobility-and-student-choice-accessible.pdf)

document is a consultation on behalf of the OfS on how it will carry out its functions with regards to DAPs and University Title, in line with sections [75\(8\)](#) and [118\(3\)](#) of HERA.

- vii. It also contains a consultation by the Secretary of State under sections 77 of the Further and Higher Education Act 1992, and section 39 of the Teaching and Higher Education Act 1998<sup>4</sup>, regarding the factors the OfS must have regard to before granting University Title.
- viii. We expect that this consultation will inform:
  - a. the regulatory framework published by the OfS in accordance with section [75\(1\)](#) of HERA
  - b. the factors set out in guidance given by the Secretary of State under sections 77 of the Further and Higher Education Act 1992, and section 39 of the Teaching and Higher Education Act 1998, and
  - c. guidance by the Secretary of State to the OfS under section [2](#) of HERA, in relation to DAPs and University Title more widely.
- ix. We expect that the OfS will issue new guidance to providers in spring 2018, which will form part of the regulatory framework and which would replace currently published departmental guidance (see page 5 above).

## Timings and Transition

- x. The changes to the authorisation of DAPs and University Title will not affect the continuing validity of any orders made under the Further and Higher Education Act 1992, nor those powers within Private Acts or Royal Charter. However, powers to vary and revoke DAPs in HERA apply to all institutions, no matter how they have obtained their powers (see chapter 8).
- xi. Existing providers with DAPs and/or University Title will normally be expected to register in either the Approved or Approved (fee cap) categories of the OfS register.<sup>5</sup> Only providers in those categories will be eligible to apply for DAPs or University Title. The OfS may permit existing providers with DAPs or University Title to register in the Registered Basic category on an exceptional basis proportionate to any regulatory risk. It may set specific ongoing registration conditions, for example to ensure degree awarding bodies are meeting the requirements expected of such a body.

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<sup>4</sup> As amended by sections 56(7) and 57(8) of HERA.

<sup>5</sup> Please refer to the [regulatory framework consultation](#) for further detail.

- xii. Applications will be accepted under the current criteria and guidance until 31st March 2018 for applications for DAPs, and until 31st March 2019 for University Title. Applications for DAPs under the new guidance can be made from this point onward, and any application received after those dates will be treated as applications under the new guidance, to be published in spring 2018 following this consultation.
- xiii. Any OfS order made under section 42 authorising a provider to grant awards (“DAPs order”) will take effect on or after 1 August 2019. This is to ensure that providers will not be able to operate with DAPs obtained under HERA until the regulatory framework and its related functions are fully in force. This is scheduled for the academic year 2019/20.
- xiv. The sections of the current guidance listed below will continue to apply up to 31 July 2019, for issues arising post-award for providers with University Title, and for all providers with DAPs (whether with or without University Title):
  - a. ‘Post-award issues’/‘Issues arising after award’ and ‘Rights and obligations applicable to DAPs holders’ (sections 5 and 6 of the current guidance for taught and research degree awarding powers)<sup>6</sup>
  - b. ‘Scope, duration and renewal’ and ‘Rights and obligations’ (sections 4 and 5 of the current guidance for foundation degree awarding powers)<sup>7</sup>
  - c. ‘Criteria,’ ‘Selecting a preferred name’ ‘Notification of decision and next steps’ and ‘Issues arising after award’ (sections 2, 4, 7, and 8), and Annexes A, B and C of the current guidance for University Title<sup>8</sup>
- xv. Existing providers that currently have **renewable DAPs**, may apply to the OfS for indefinite DAPs from the academic year 2019/20 onwards, provided they have already operated with DAPs for at least three years. Please refer to chapter 9 for further details on applying for indefinite DAPs.

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<sup>6</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/526813/BIS-15-525-degree-awarding-powers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/526813/BIS-15-525-degree-awarding-powers.pdf).

<sup>7</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/526812/BIS-15-532-foundation-degree-awarding-powers-october-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/526812/BIS-15-532-foundation-degree-awarding-powers-october-2015.pdf).

<sup>8</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/459763/BIS-15-523-university-title-and-university-college-title.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/459763/BIS-15-523-university-title-and-university-college-title.pdf).

# PART 1: DEGREE AWARDING POWERS

## Chapter 1: The legal basis for OfS authorisations

1. The OfS may authorise a registered higher education provider<sup>9</sup> to grant taught awards (which includes foundation degrees) or research awards or both under section 42 HERA. These terms are defined in section [42\(3\)](#) of HERA. Such an authorisation may allow a provider to grant –
  - a. Taught awards or research awards of any description
  - b. Specified taught awards or research awards (e.g. BSc Maths)
  - c. Taught awards or research awards of a specified description (e.g. only at Bachelor level, or only in particular subject areas)
2. The OfS can only authorise providers to grant awards where that provider has met initial registration conditions and is therefore a registered provider. Only that particular registered institution (e.g. not a subsidiary of it) may apply for the powers in question.
3. This means that under section 42, the OfS may authorise providers to grant different types of degrees. Providers will be able to apply for authorisation to grant –
  - a. Foundation degrees only
  - b. Up to and including Bachelor degrees (level 6)
  - c. All taught awards, and/or
  - d. Research awards
4. Providers can apply for these authorisations on a subject specific basis, or covering all subjects.<sup>10</sup> We anticipate that providers authorised to grant taught awards limited to Bachelor degrees will also be authorised to grant Foundation degrees. Providers authorised to grant taught awards of any description will be authorised to grant all awards that fall within the definition set out in section [42\(3\)](#) of HERA<sup>11</sup>.

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<sup>9</sup> This is defined in section [3\(10\)\(a\)](#) of HERA.

<sup>10</sup> Please note that subject specific powers to grant research awards are expected to be rare.

<sup>11</sup> Foundation degree, diploma, certificate or other academic award or distinction granted to persons who complete an appropriate course of study and satisfy an appropriate assessment

## Period of authorisation and authorisations on a probationary basis (New DAPs)

5. A DAPs order will be time limited where the provider has not previously held such an authorisation. For full authorisation<sup>12</sup>, the time limit will be for a three year period. At the end of that three year period, providers will be able to apply for an authorisation to grant awards without a time limit if they meet the application requirements – see Part 3.
6. Providers that do not have the sufficient track record to apply for full authorisation, may apply for authorisations on a probationary basis, see chapter 2. **This type of authorisation is referred to hereafter as “New DAPs”.** Providers may seek authorisations for New DAPs for taught awards. The Government is seeking views on whether it should be possible for a provider to obtain authorisation to grant research awards on a probationary basis – see chapter 2.
7. The probationary period for a provider with New DAPs will normally last for three years. If successful, the first full authorisation following the probationary period will be time limited, as set out in paragraph 5.

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<sup>12</sup> As opposed to “New DAPs”, which are granted on a probationary basis, see subsequent paragraphs.

Figure 1 – DAPs via track record:

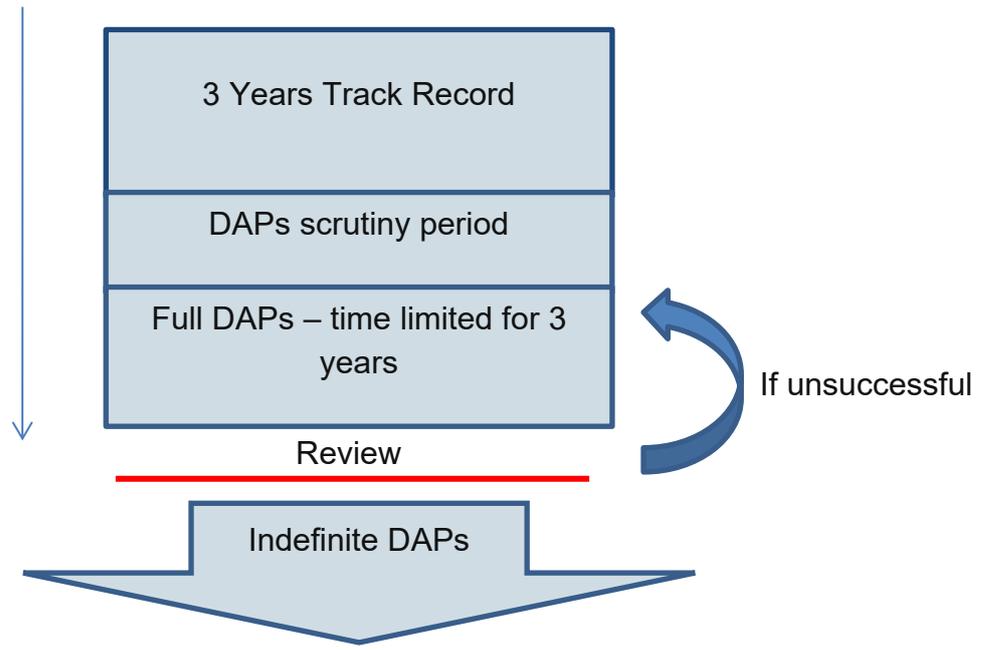
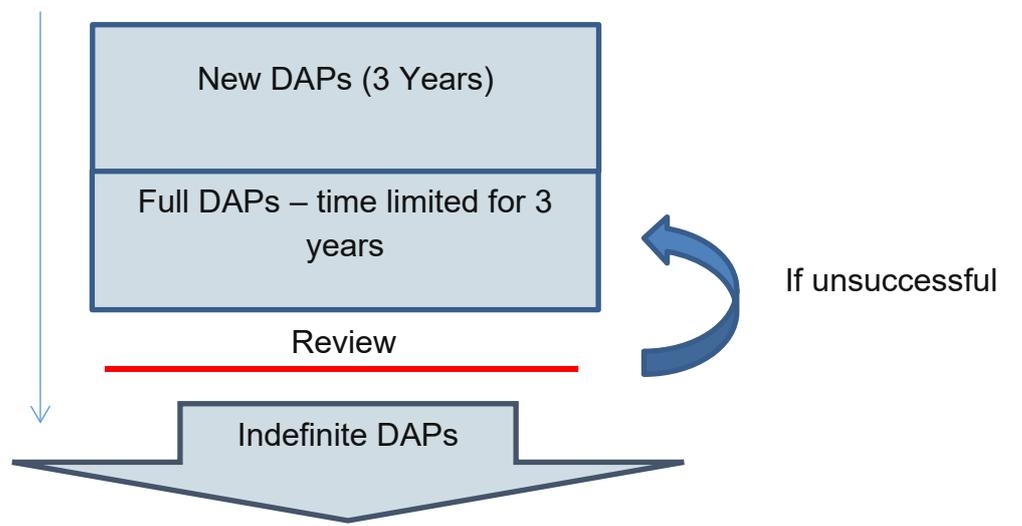


Figure 2 – DAPs via New DAPs:



## OfS Orders

8. The OfS authorisation is in the form of an order which is also a statutory instrument. This order will set out the extent of the provider's authorisation, and, for example, whether there are any restrictions. The order will also state the date on which the authorisation takes effect and, if it is time limited, the period during which it has effect. The order can also contain incidental, supplementary, transitional and saving provision (see section [42 \(11\)](#)).
9. Authorisations may include powers which enable providers to authorise other institutions to grant awards on their behalf. Similarly, an authorisation may contain restrictions in this area.<sup>13</sup> All authorisations enable providers to make awards jointly with another institution; to revoke awards; to grant honorary degrees or degrees to members of staff

## Advice from the Designated Quality Body

10. To inform its decisions concerning the authorisation, variation or (in some cases) revocation of DAPs, the OfS must seek advice from the relevant body (which is either the designated quality body (DQB) or a committee of the OfS – it is referred to as the DQB hereafter) regarding the quality of and the standards applied to the higher education provided by the applicant. This advice applies to all types of DAPs, including New DAPs. Further information about the nature of the DQB is set out in chapter 5.

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<sup>13</sup> Section 42(9) HERA enables the OfS to prevent an authorised provider from entering into validation/franchise agreements by restricting its powers so that it can only grant awards to persons enrolled with that provider at the time they complete their course of study in respect of the relevant award.

## Chapter 2: Applications from providers that have been providing higher education for less than three years (New DAPs)

### Overview

11. As set out in chapter 3, to apply for full authorisation, higher education providers must have at least a three-year track record delivering higher education at a level at least equivalent to level 6 in the Framework of Higher Education Qualifications (FHEQ). Providers who aspire to grant their own taught awards but who do not as yet have the required three-year track record may apply for DAPs on “probationary” basis. This process is designed to allow high quality higher education providers without the usual track record in England of delivering degrees under a validation arrangement to grant their own taught awards but on a monitored basis, and with restrictions. This authorisation is referred to as “New DAPs”, or “NDAPs”.
12. The application requirements for DAPs for such providers are designed to ensure that only well-founded applications from providers that have clear potential and commitment to meet the same standards required for providers that are authorised to grant taught awards are eligible. This could include applications from providers from overseas who are well-established degree awarding bodies in their own country and who would like to expand their offer by delivering UK recognised degrees.<sup>14</sup>
13. A provider will only obtain NDAPs authorisation and so be authorised to grant taught awards on a probationary basis if it can demonstrate that it has the ability to operate as a degree awarding body and that there is confidence that the awards it will be making conform to recognised thresholds for standards and quality.
14. The readiness of an applicant to grant taught awards will be assessed. Unlike applications for full authorisations (see chapter 3), the assessment process will be forward looking in that the applicant will devise a probationary plan, which will be tested to determine whether it can set the appropriate academic standards in the first place and then maintain those academic standards for its higher education qualifications. If, following advice from the DQB, and any other relevant advice, the OfS is satisfied that this test is met, the DAPs order conferring authorisation to grant taught awards will be made.

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<sup>14</sup> Such providers would need to be able to meet the definition of English Higher Education Providers in order to register, please refer to the [regulatory framework consultation](#) for further detail.

15. The authorisation will state the date from which the authorisation takes effect and the three-year time limit.
16. Once the DAPs order has been made, the provider will then be monitored through the probationary period as it implements its probationary plan. Implementation of the plan should demonstrate that there is an emerging self-critical, cohesive academic community with a clear commitment to quality assurance supported by the prospect of effective quality systems. As part of the monitoring during the probationary period, the provider will undergo scrutiny by the DQB against the detailed DAPs criteria (as set out in Annex A).
17. The probationary period lasts three years. At the end of the process, following advice from the DQB, the OfS will either:
- a. determine that the provider has met the DAPs criteria and therefore the OfS will vary the authorisation in the DAPs order in accordance with the statutory procedures to remove the time limit. This DAPs order will be a full authorisation to award DAPs,<sup>15</sup>
  - b. determine the provider has largely satisfied the criteria and the OfS will vary the order extending the probationary period (normally for up to 12 months)
  - c. determine the provider has failed to have met the DAPs criteria. The order will elapse at the end of the three-year time limit and the provider will no longer be a DAPs holder at that point

## Applications

18. Applications should take the form of a **probationary plan**, prefaced by a formal letter of application from the chair of the governing body to the OfS. A provider may apply for authorisation for NDAPs to grant the following taught awards on a probationary basis:
- a. Foundation (including subject specific)<sup>16</sup>

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<sup>15</sup> This would be in the form of another time-limited order (as would be the case for any provider given a full authorisation for the first time). This order would be made without the conditions and automatic restrictions that were attached to the initial order that covered the probationary period (see paragraphs 46 onwards).

<sup>16</sup> Applications for New FDAPs are expected to be rare given that most providers in the FE sector will already have a track record of delivering level 5 qualifications. Provider's applying for such authorisations will need to also adhere to the additional requirements set out in chapter 3 concerning progression statements.

- b. Bachelor (including subject specific)
- c. All Taught (i.e. taught awards of level 6 or 7, including subject specific)<sup>17</sup>

## RESEARCH DEGREES

In the 2016 white paper “Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice” the Government set out that RDAPs would not be available on a probationary basis. This position was based on the need to for a provider to demonstrate that a vibrant research environment already exists to support research students from day one of their research activity.

However, Government wishes to re-examine this position as its proposals for New DAPs take clearer shape. It might be that some applicants would be in a position to operate successfully with this form of New DAPs, for example a well-established overseas provider with the equivalent of research degree awarding powers in another jurisdiction looking to set up a research focused establishment in England to deliver UK recognised research degrees by relocation of existing research capability from overseas.

On this basis there might be merit in giving the OfS the discretion to accept applications for NDAPs for research awards.

***Question 1: Do you agree or disagree that the OfS should consider applications for New DAPs for research awards from providers without a three-year track record of delivering higher education in England?***

19. In applying for New DAPs, a provider will need to:

- a. be or become registered in either the Approved, or Approved (fee cap) categories
- b. have or intend<sup>18</sup> to have the majority of its higher education students on programmes at level 6 of the FHEQ or above, i.e. equivalent to bachelor level, or level 5 or above (for foundation DAPs only)<sup>19</sup>

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<sup>17</sup> Taught includes everything on the FHEQ up to and including level 7 Taught Masters.

<sup>18</sup> This is only applicable if the provider is not yet providing higher education.

<sup>19</sup> Corresponding changes may be made depending on whether the proposed change to the level 6 criterion, as outlined in chapter 3 is adopted.

- c. submit a probationary plan for assessment for approval

*If plan approved and authorisation is made*

- d. undergo monitoring and scrutiny throughout the probationary period

20. Providers may apply for authorisation for DAPs at the same time as applying to become registered.<sup>20</sup> The OfS will consider evidence collected as part of the registration process to gain a holistic picture of the applicant's suitability for New DAPs. However, the New DAPs application will automatically fail if the provider fails to successfully register in the Approved or Approved (fee cap) category.
21. The OfS will ensure that the test of an applicant's financial viability and sustainability, and management and governance that takes place as part of the registration process will consider how this condition is met for the purposes of an application for New DAPs and these tests will help ensure that the provider has understood and planned for the resources necessary to set and maintain academic standards.
22. Providers who are already registered in the Approved or Approved (fee cap) category of the register and are meeting the ongoing registration conditions may also apply. In this case the OfS will consider how such an applicant is meeting these conditions at the time of any application. The OfS will also check that the provider's financial resources and planning are appropriate for the provider to set and maintain standards required for DAPs authorisation.
23. Applications from providers that are already registered and are subject to specific ongoing registration conditions, which the OfS considers relevant and which have been set to address concerns regarding quality, standards, financial viability and sustainability, and management or governance in relation to existing higher education provision, may be less likely to succeed depending on the nature of the conditions in question.
24. In addition, in line with the general ongoing registration conditions for the Approved and Approved (fee cap) categories, providers must have in place a student protection plan that has been agreed with the OfS. These plans are designed to ensure that students can continue their studies and obtain their degree if their course, campus or provider closes unexpectedly. Plans must address the particular risks applicable to a provider, and as such, student protection plans for all DAPs holders must cover the risk that DAPs is lost, and, in

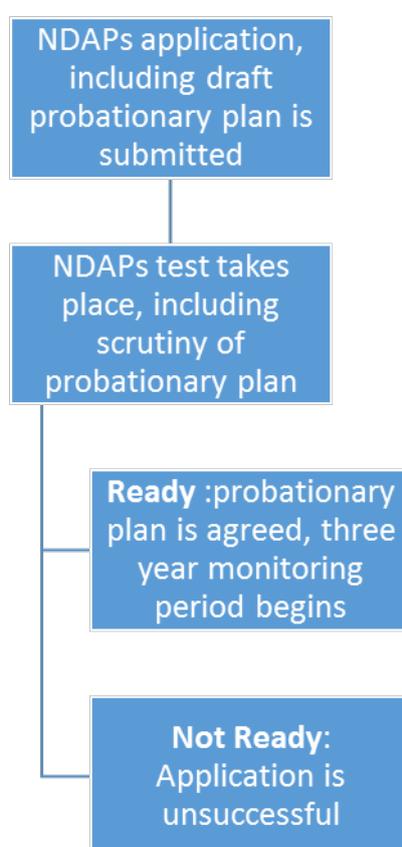
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<sup>20</sup> Please refer to the [regulatory framework consultation](#) for further detail on the registration process and conditions.

the case of New DAPs, that the DAPs order does not extend beyond the initial three-year authorisation.

25. For high quality new providers applying for New DAPs at the same time as registration with OfS, the two processes will, as far as possible, be aligned in order to reduce burden consistently with the OfS duty to comply with the Regulator's Code.<sup>21</sup>

## Initial Assessment



26. When applying, the provider is required to conduct a critical self-analysis in the form of a probationary plan and to submit full details of its academic plans covering the proposed start and end dates of the probationary period. The probationary plan sets out, against the DAPs criteria (i.e. the detailed requirements set out in Annex A concerning academic standards, academic governance, quality of the academic experience etc.), what the provider already has in place, and the actions and developments the provider will undertake to

<sup>21</sup> <https://www.gov.uk/government/publications/regulators-code>.

ensure the criteria will be met, including timescales and accountability for specific actions and developments during the probationary period.

27. A strong and convincing probationary plan should point to evidence already available of comprehensive preparations for the probationary period. It will demonstrate the sufficiency and realism of the provider's plans, commitment of resources and risk management for the probationary period. The plan should demonstrate the provider's initial capacity to understand the DAPs criteria and to articulate what it considers to be required from a body authorised to award its own higher education qualifications. The plan should also identify the evidence that will become available during the probationary period.
28. Providers who already have some track record, such as well-established overseas degree awarding bodies, may already be able provide evidence against many of the DAPs criteria and prerequisites at the point of application. For these institutions, their probationary plan would therefore focus on evidence already available.
29. As part of the initial assessment (the "NDAPs test") there will be:
  - a. analysis by the DQB of the provider's probationary plan and supporting evidence
  - b. a test that standards for proposed programmes have been set at an appropriate level
  - c. a visit to the provider's premises, including scrutiny and assessment of learning resources
30. The analysis and meetings will test the applicant's initial understanding of the DAPs criteria, commitment to, and ownership of, the probationary plan, and seek factual information about the proposed plan.
31. The visit will normally include meetings with, for example, governors, managers, staff and students (if available). Ownership and a thorough understanding of academic governance and standards assurance processes/arrangements will be tested. A final meeting between the DQB assessment team and the applicant will provide a forum for a discussion of the probationary plan. This is designed to help increase likelihood of successful delivery of provision, protection of standards and management of the powers. The meeting will also allow opportunity for the applicant to discuss the scrutiny activity that will be required during the probationary period.

32. These discussions will also help to inform the focus and pattern of the scrutiny process that will operate concurrently with the probationary period.
33. The initial assessment will lead to one of two possible recommendations by the DQB to the OfS: 'ready now', or 'not ready'. The OfS in delivering a "not ready" decision will provide the applicant with clear reasons for this decision so that the applicant can take an informed view as to how close they are likely to be to making a successful application at a later date.

Ready now	Not ready
<p>Applicant approved; order made under section 42 to implement agreed probationary plan and participate in monitoring and scrutiny process to achieve DAPs on a non-probationary basis.</p> <p>Specific ongoing registration conditions may also be applied at this stage, consistent with the requirements of section 6, if they are not imposed on registration. For example, amendments to the probationary plan, the start date for the probationary period, limitations to powers, by level, programme or subject areas.</p>	<p>A number of areas for further development have been identified which mean that the applicant has not been approved to operate with NDAPs.</p>

### **Reapplication in the event of a failure of an initial application for NDAPs**

34. Providers may re-apply for the grant of New DAPs in the event that their original plan is not considered adequate for the award of New DAPs. The OfS will have provided reasons for its decision to refuse to authorise and have outlined the steps the provider needs to take in order to stand a better chance of success with their application. It will normally be the case that a provider will need time to implement and develop the measures in question and so is unlikely to be in a position to make an immediate reapplication.

35. Where a provider reapplies within one year, the later application should set out the changes made since the unsuccessful application, and it will be for the OfS to determine whether or not it will accept the application. Re-applications later than one year after the previous application was unsuccessful do not need to contain this information.

## Monitoring during the probationary period

36. Once the DAPs order is made and the provider has been authorised to operate with New DAPs, the probationary period has begun. The monitoring process in this period seeks to:

- a. determine whether a provider is setting and maintaining agreed academic standards for its higher education qualifications (in line with the criteria for a full authorisation to grant taught awards);
- b. ensure that specific ongoing registration conditions set by OfS in relation to NDAPs authorisation are being met (the OfS may express these as specific ongoing conditions, please refer to the [regulatory framework consultation](#) for more detail)

37. Providers with NDAPs that are authorised to grant taught awards on a probationary basis will not normally (with the exception of those who already have some track record) be able provide evidence against the DAPs criteria and overarching requirements on application<sup>22</sup>. Instead, they will need to demonstrate evidence of progression towards the fulfilment of the criteria before and during the probationary period, and fully satisfy the criteria by the end of the probationary period. The nature of the evidence available before and during probation is therefore different for those applying for authorisation to grant awards on a probationary basis, enabling a three-year developmental trajectory.

38. The three-year probationary period will initially be more concerned with the articulation of plans, policies and processes. During year two, the provider should be able to demonstrate that it has reached a sufficient level of maturity to meet the overarching requirement of a cohesive self-critical academic community. Therefore, the first year of the three-year probationary period would usually focus more on the implementation of the plan with the second and third being more focused on the scrutiny against the specific criteria as set out in Annex A. Further details of the nature of the evidence will be set out in supplementary guidance for applicants.

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<sup>22</sup> Some providers, e.g. well-established overseas degree awarding bodies would be in a position to be immediately assessed against the many of the full criteria.

39. Providers authorised by NDAPs to grant taught awards on this basis will be required to provide a quarterly progress update on the probationary plan, alerting the DQB to any issues, including any changes to the plan that may impede progress. An officer of the DQB, in conjunction with a small team of peers, will verify the applicant's view of progress and report back to the OfS as part of its overall duty under [section 46](#) of HERA to give advice to the OfS about the quality and standards of a higher education provider on matters concerning degree awarding powers. Observation visits can also be targeted to allow verification of progress against the probationary plan.
40. Progress reports from providers will be considered at regular intervals during the probationary period, which will be considered by peer reviewers and may result in recommendations for the provider to address over the next academic year. This is designed to help identify at an early stage those providers which need to take urgent corrective action.
41. A final report will be provided ahead of the end of the three-year probation period. The DQB's advice to the OfS is provided to the OfS by the end of the probationary period. This will include the DQB's views as to whether the provider has the ability to:
- a. provide and maintain the provision of higher education of an appropriate quality; and
  - b. apply, and maintain the application of, appropriate standards to that higher education
42. Reports on progress with the probationary plan and scrutiny for full authorisation will be integrated with other regulatory intelligence so there is a coherent approach to monitoring the overall regulatory risk of the provider and intervening as necessary. The OfS would need to intervene at an early opportunity if there were concerns that the provider would not be in a position to be granted authorisation at the end of the three-year period. Such an intervention might involve revocation of the NDAPs authorisation during the probationary period.
- Outcome
43. Given the amount of preparation and resource that a provider will need to put in place in order to meet the initial New DAPs tests, we envisage that the vast majority of New DAPs holders will be found to have operated successfully during the probationary period, and fully meet the overarching requirements and for DAPs criteria. In this case the OfS will vary the order made under section 42, to lift the restrictions and give authorisation to continue to grant the relevant types of

awards on a non-probationary basis, if it considers this appropriate after taking advice from the DQB and completing the statutory procedures.

44. In the event that a provider did not fully meet the overarching requirements and DAPs criteria at the end of the three-year probationary period, following advice from the DQB, a decision might be taken to make a further authorisation to effectively extend the probationary period, normally for up to 12 months. This could be because there are still some aspects of the provider's operation that require further testing, although because of ongoing monitoring and oversight by the DQB, this would not mean that standards had not been met in respect of any degrees awarded up until this point.
45. Otherwise, the DAPs order will lapse where the OfS is of the view that the provider has not demonstrated that it satisfies the DAPs criteria and will therefore not be in a position to properly exercise DAPs in the foreseeable future. In this situation, the provider's student protection plan would ensure that current students could continue studies.

## **Powers, obligations and restrictions**

46. Providers authorised by NDAPs to grant taught awards on a probationary basis will receive a DAPs order and will be able to grant awards in accordance with the terms of that order. We expect such providers will be subject to certain restrictions during the probationary period. In particular, we expect these to include:
- a. Entitlement to make awards to students only in the programme areas included in their probationary plan. This must be consistent with the order. This would include intermediate awards for students who want to exit before completion of the programme in question.
  - b. No entitlement to validate or franchise provision to other providers under section [43\(1\)](#) of HERA.
47. We also expect providers to always ensure that prospective students are aware of the status of the institution. For example, a New DAPs holders must make clear in all offers it makes to students as well as its website, its advertising and associated marketing concerning degree programmes run during the probationary period that it is a provider operating with new DAPs. The OfS register will be clear that powers are on a probationary basis
48. Providers with NDAPs will not be eligible to apply for University Title or University College Title.

49. Under section [47](#) of HERA, the OfS must notify the Secretary of State for Education if it makes an order authorising a provider to grant taught awards, where the provider has not previously operated under validation arrangements. This is to ensure that the Department is kept fully informed by the OfS of all developments concerning the authorisation of NDAPs on a probationary basis.

**Questions 3-5:**

**Question 3** *Do you have any comments on the proposed New DAPs test and associated processes? In particular, do you think these tests and processes provide appropriate safeguards whilst enabling high quality new providers to access DAPs?*

**Question 4:** *Do you consider the proposals for monitoring a provider with New DAPs during the probationary period to be adequate and appropriate?*

**Question 5:** *Do you agree with the proposals for the OfS and providers to best ensure that students are aware of what type of degree awarding powers, including New DAPs, a provider has? If you think there should be additional information requirements, please give details.*

## Chapter 3: Providers with a three-year track record of delivering higher education

50. This chapter covers criteria and processes for providers who already have a minimum three-year track record of delivering higher education qualifications and are seeking full authorisation. The criteria and processes for providers seeking authorisation on a probationary basis are set out in chapter 2.
51. In order to be able to apply successfully for full authorisation to grant taught or research awards a provider must be registered in either the Approved or Approved (fee cap) categories of the OfS register. The OfS will only register a provider if it meets the requirements for entry on the register, which include a requirement that the provider complies with the applicable initial registration conditions and ongoing registration conditions. Please refer to the [regulatory framework consultation](#) for further detail.
52. The ongoing registration conditions will cover areas such as quality and academic standards, financial viability and sustainability, management and governance, and student protection. Applications for registration and for full authorisation to grant awards may be made at the same time. For all applications for DAPs, the OfS will ensure that the test of an applicant's financial viability and sustainability, and management and governance considers the appropriateness of both for DAPs. For example that resources are sufficient to cover expenditure associated with seeking and operating with DAPs.

### The different types of DAPs authorisations and who can apply for them

#### Taught Awards - Foundation degrees only

53. Foundation degrees sit at level 5 of the FHEQ.
54. Only registered higher education providers who are also English further education providers may obtain a foundation degree only authorisation.
55. An English further education provider:
- a. is an institution incorporated under Section 15 or 16 of the Further and Higher Education Act 1992 or which has become a further education provider by virtue of section 33D or 47 of that Act;
  - b. has been designated under Section 28 of that Act; or

- c. is a sixth form college conducted by a sixth form corporation (as defined in section 191(1) of the Further and Higher Education Act 1992).

56. Registered higher education providers who meet the above criteria may also apply for narrower forms of authorisation to grant foundation degrees in specified subjects, see below for more detail.

57. The application will need to include a separate statement on progression, demonstrating that the applicant organisation has agreed and is promoting clear progression routes for learners wishing to proceed to a course of higher-level study on completion of the foundation degree. In particular, the applicant will be expected to put forward proposals to demonstrate what it intends to do to secure that any student awarded a foundation degree has the opportunity to progress onto at least one course of more advanced study. Details should be provided for all the progression arrangements in place for each individual degree course offered at the time of application.

58. In order to apply for full authorisation,<sup>23</sup> the provider must currently have had no fewer than three consecutive years' experience immediately preceding the year of application, of delivering higher education courses at a level at least equivalent to level 5 of the FHEQ. Evidence of this experience (the track record) will normally be demonstrated through a validation agreement with an existing degree awarding body.<sup>24</sup>

59. The following information is also required:

- a. letter of support from validating partner(s)
- b. progression statement
- c. evidence of student consultation

60. The OfS has to accept the progression statement – see section [42\(4\)\(c\)](#) HERA.

61. The applicant must also meet the criteria for foundation degrees (see Annex A).

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<sup>23</sup> Please refer to chapter 2 for authorisations on a probationary basis.

<sup>24</sup> See section [47\(3\)](#) HERA

## Taught awards – other than foundation degrees only

62. Taught awards (other than foundation degrees, described above) sit at levels 6 and 7 of the FHEQ. A provider will be able to apply for a full authorisation to grant taught awards either on an unrestricted basis (level 6 and 7) or for Bachelor only taught powers (level 6). The authorisation may be limited to awards of a description specified in the DAPs order made under section [42](#) of HERA.
63. In order to apply successfully for full authorisation to grant taught awards (TDAPs)<sup>25</sup> the applicant must:
- a. be a registered higher education provider
  - b. have had no fewer than three consecutive years' experience, immediately preceding the year of application, of delivering higher education courses<sup>26</sup> in England at a level at least equivalent to level 6 of the FHEQ.
  - c. have the majority of their higher education students on study programmes at level 6 (or above) of the FHEQ
64. Evidence of this experience (the track record) will normally be demonstrated through a validation agreement with an existing DAPs holder.
65. The OfS will set out the calculation used to determine whether the applicant meets the criterion for the 'majority' of higher education students to be studying at level 6 (or above).
66. The application must also meet the DAPs criteria for authorisation to grant taught awards (see Annex A).

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<sup>25</sup> Please refer to chapter 2 for authorisations on a probationary basis.

<sup>26</sup> As defined in section 83 of HERA.

### **Possible variation of level 6 criterion**

The above criterion for TDAPs regarding majority level 6 provision could potentially disadvantage providers that offer some level 6 provision, but as part of a range of other higher education qualifications.

The criterion as set out above (which is directly taken from the current DAPs criteria), means that a small provider that focusses solely on level 6 provision would be eligible to apply, whereas a provider that offers other level 4 or 5 qualifications alongside level 6 qualifications would only be eligible if students on level 6 courses made up 50% of all higher education students. In practice, this would mean a small provider with for instance 100 students, all of which are on level 6 courses, would be eligible, but a provider with 500 students on level 6 courses, but 600 students on level 4 and 5 courses would not.

We are therefore interested in views on whether the criterion should be refined to take account of those providers who deliver a significant amount of level 6 provision, but where those numbers do not add up to at least 50% of the overall amount of higher education students.

For example, as part of its assessment of a provider's initial application to be considered for DAPs, the OfS could take into account particular circumstances where a provider's level 6 provision fell short of the 50% requirement.

If this proposal was adopted, we would suggest introducing corresponding changes to the University Title criteria, as discussed in Part 2.

#### **Questions:**

***Question 6: Do you agree or disagree with the suggested change regarding the possible variation of the level 6 TDAPs criterion?***

***Question 7: If the 50 per cent criterion is to be disapplied in some exceptional cases, what factors do you think the OfS should take into account when determining whether an application is an exceptional case?***

### **Research awards**

67. Research awards are defined in section [42\(3\)](#) of HERA. They include Doctoral Degrees that sit at level 8 and Research Master's Degrees sit at level 7 of the FHEQ. As set out in section [46\(5\)](#) of HERA, the advice given by the DQB to the OfS in respect of any matter relating to research awards must be informed by the views of UKRI. The detailed DAPs criteria for research awards are set out in Annex A.

68. Under the current DAPs regime, providers wishing to apply to award their own research degrees must either already hold DAPs for taught awards, or apply for such DAPs and RDAPs concurrently. We expect that registered higher education providers will continue to be able to apply, as now, for RDAPs when they have DAPs for taught awards, and also to make combined DAPs applications for taught and research awards where the provider is not already authorised for taught awards.
69. Providers that are already authorised to grant taught awards and who wish to subsequently apply for RDAPs need to provide evidence that they satisfy all the criteria for authorisation to grant, taught awards and that they are continuing to meet these criteria. In the event, for example, that an applicant who was authorised to make taught awards in specific subjects were then to apply for authorisation to grant unrestricted research awards, the OfS would need to be satisfied that the applicant could satisfy the DAPs criteria for unrestricted taught awards as part of its consideration of an application for authorisation to grant unrestricted research awards.
70. In addition, we propose to develop a supplementary set of criteria that would apply in the event that a provider wished to only award research degrees. This option may interest specialist research institutions, for example.
71. This supplement to the DAPs criteria for research awards is likely to include elements of the DAPs criteria for taught awards, particularly to ensure that academic governance arrangements are in place to safeguard the standards of higher education provision. However, we will look to streamline the criteria and remove elements that are less relevant for research only providers.

## Chapter 4: How to submit an application for full authorisation

72. Applications for full authorisation to grant taught or research awards may be made by providers who consider they meet the prerequisites for a full authorisation as set out in chapter 3. Applications should take the form of a critical self-analysis, prefaced by a formal letter of application from the chair of the governing body to the OfS.
73. The critical self-analysis should describe, analyse and comment clearly and frankly on the effectiveness of the means used to determine that the applicant is able to meet the DAPs criteria relevant to the authorisation being sought, as set out in Annex A. Although it is for the applicant to determine how to structure their self-analysis, close reference should be made to the relevant criteria and supporting 'evidence requirements'.
74. The criteria vary depending on the type of authorisation concerned but the overarching requirement is the ability to form or demonstrate a self-critical, cohesive academic community with a proven commitment to quality assurance supported by effective quality systems.
75. As set out above, any provider that is not currently registered with the OfS as an Approved or Approved (fee cap) provider may apply for DAPs and to be registered in an appropriate category at the same time. However, the scrutiny for DAPs will not begin until OfS has concluded that its initial registration conditions have been met. Details of how to apply for appropriate registration can be found in the [regulatory framework consultation](#).

## Chapter 5: How the assessment process works for full authorisation

### Process overview

Once an application is received:

- The OfS will check that the provider is eligible to apply and meets the relevant pre-requisites in terms of track-record and registration requirements (as set out below)
- If the OfS is content, the application will be passed on to the DQB
- DQB processes the application, including initial assessment and full scrutiny (as set out below)
- DQB advises the OfS
- OfS makes a decision

76. At the time of application, the provider applying for DAPs must:

- a. be registered in either the Approved or Approved (fee cap) categories of the OfS register
- b. comply with all its registration conditions

77. Where a provider is applying for registration and DAPs simultaneously, the OfS will ensure that the test of an applicant's financial viability and sustainability, and management and governance that takes place as part of the registration process will also consider the appropriateness of these requirements for a provider that is a DAPs holder.

78. Providers who are already registered in the Approved or Approved (fee cap) category of the register and are meeting the ongoing registration may also apply. In this case the OfS will consider how such an applicant is meeting its ongoing registration conditions at the time of any application, for example whether any specific ongoing registration conditions apply, and will check that financial resources and planning are appropriate for a provider that will set and maintain standards for DAPs.

79. Applications from providers that are subject to specific ongoing registration conditions, which the OfS considers relevant and which have been set to address concerns regarding quality, standards, financial viability and sustainability, and management or governance in relation to existing higher education provision,

may be less likely to succeed depending on the nature of the conditions in question.

80. Where the registration conditions are met, and the applicant satisfies the prerequisites set out above, the OfS will ask the DQB to consider the applicant's critical self-analysis. This is to fulfil the requirement set out in section [46\(1\)](#) of HERA.<sup>27</sup> The intention is that, as is the case now, decisions on matters concerning DAPs are informed by the views of an expert body.
81. Applications that do go forward for full scrutiny will be assessed by DQB, through a peer review process in accordance with section [46\(4\)](#) of HERA, against the specific criteria for each form of authorisation is set out in Annex A. The criteria vary depending on the type of authorisation concerned but the overarching requirement is the ability to form or demonstrate a self-critical, cohesive academic community with a proven commitment to assurance of standards supported by effective quality systems.
82. As set out above, to inform its decision on whether to make a DAPs order, the OfS will seek information and advice from the DQB regarding the quality of and the standards applied to the higher education provided by the applicant. This will include the DQB's views as to whether the provider has the ability to:
- a. provide and maintain the provision of higher education of an appropriate quality and
  - b. apply, and maintain the application of, appropriate standards to that higher education
83. An applicant who meets the eligibility requirements for the authorisation they have applied for will undergo a scrutiny undertaken by the DQB, which involves a detailed assessment of how the provider in question was meeting the relevant criteria.
84. Under section [46\(4\)](#) of HERA, the advice must be informed by the views of persons who between them have experience in certain areas, as set out in the Act. The particular areas of experience are as follows:
- a. English higher education providers both with and without degree awarding powers
  - b. English further education provider

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<sup>27</sup> Section 46(1) obliges the OfS to take advice from the relevant body (i.e. the Designated Quality Body if such a body is designated), before authorising a provider to grant taught or research awards.

- c. Representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers
- d. Employing graduates of higher education courses provided by higher education providers,
- e. Research into science, technology, humanities or new ideas, and
- f. Encouraging competition in industry or another sector of society.

85. The above is not an exhaustive list and the advice given by this body may also be informed by the views of other parties.<sup>28</sup> At the moment this role is performed by the Advisory Committee on Degree Awarding Powers (ACDAP), which is a sub-committee of the Board of Directors of the Quality Assurance Agency for Higher Education. Section 46 envisages a similar situation whereby the OfS will seek advice from a similar type of body, made up of experts who between them must have experience in a range of areas, including higher education and industry. This body is expected to sit within the DQB (or if there is no such body, the advice will come from a committee that the OfS must set up for this specific purpose).

86. Once it receives the advice, it will be for the OfS to make the final decision on whether or not to authorise the applicant to grant awards in accordance with its application. It must take the advice from the DQB into account in making this decision and it may take advice from other persons into account in relation to quality or standards.

87. If the application is for authorisation to grant research awards, then the advice provided by the DQB to the OfS must also be informed by the views of UKRI.

## **Outcome of the application**

88. Once a decision has been made, the OfS will inform the applicant of the outcome. If the application has been successful, the OfS will make a DAPs order under section [42](#) of HERA, detailing the type of authorisation, and, where applicable, any restrictions and the period of time the authorisation is valid for.

89. Where an application is rejected, the OfS will provide high-level feedback and reasons why the application was unsuccessful. Unsuccessful providers may re-apply if they believe that they have been able to address the shortcomings, and the necessary improvements have been made. It will normally be the case that a

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<sup>28</sup> Section 46(6) HERA.

provider will need time to implement and develop the measures in question and so is unlikely to be in a position to make an immediate reapplication.

***Question 8: Do the application processes for DAPs as set out above sufficiently align with the registration processes and conditions?***

## PART 2 – UNIVERSITY TITLE

1. University Title is prestigious, desirable and valuable. The criteria and process for obtaining University Title and University College Title, as set out in this guidance, are stringent and rigorous. They are designed to protect the interests of students and the wider public by regulating access to University Title and University College Title and protecting its integrity.
2. The following sections<sup>29</sup> are a consultation under section 77(3B) of the Further and Higher Education Act 1992, and section 39(5B) of the Teaching and Higher Education Act 1998<sup>30</sup> on the factors the Secretary of State will set out in guidance and to which the OfS must have regard to before granting University or University College Title. The factors we expect to be included are summarised in paragraphs 20 and 21 below.

### Chapter 6: University Title – Pre-requisites

3. Higher education providers that
  - a. are registered in either the Approved or Approved (fee cap) categories of the OfS register, and
  - b. are complying with all ongoing registration conditions,<sup>31</sup>
  - c. have obtained DAPs to grant taught awards (other than foundation degree only DAPs) or research awards and where that authorisation is not time limited are eligible to apply.
4. Applications from providers that are subject to specific ongoing registration conditions, which the OfS considers relevant and which have been set to address concerns regarding quality, standards, financial sustainability, management or governance in relation to existing Higher Education provision, may be less likely to succeed.
5. The OfS will also consider whether a successful application would impact the appropriateness of the provider's governance arrangements, and thus require changes to continue to meet the Management and Governance general ongoing

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<sup>29</sup> Paragraphs 3 to 21.

<sup>30</sup> as amended under the Higher Education and Research Act 2017 by sections 56(7) and 57(8) respectively.

<sup>31</sup> As judged by the OfS as part of its ongoing regulatory activities.

registration condition, please refer to the [regulatory framework consultation](#) for more details.

6. Providers with time-limited DAPs, New DAPs, or foundation DAPs only are not eligible.
7. Providers that are part of the further education sector (i.e. English further education providers as defined in section [83](#) of HERA) are not eligible to apply. This means that Further Education Corporations (FECs) must apply to the Secretary of State to re-incorporate as Higher Education Corporations<sup>32</sup> before becoming eligible to apply. Any providers that are not FECs, but part of the statutory further education sector, would normally need to take any necessary steps to move out of this sector to become eligible to apply. This is to reflect the fact that universities are primarily providers of higher education, and it would be misleading if they were in the Further Education Sector. Guidance on the process of re-incorporating as a Higher Education Corporation is issued separately by the Department for Education, and will be updated prior to the academic year 2019/20. See chapter 9 of the [regulatory framework consultation](#) – transitional arrangements.
8. The registered higher education provider making the application must be the same provider that was assessed for and granted degree awarding powers, and any University Title would only apply to this provider, not any wider corporate group/structure.

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<sup>32</sup> Alternatively, they can dissolve and adopt another legal form, such as a company limited by guarantee, if they prefer.

## Chapter 7: University Title - Criteria and Processes

### University College Title

9. Any provider that meets the eligibility requirement set out in chapter 6 above, is eligible for University College Title. There are no additional criteria.

### University Title

10. Providers seeking full University Title must in addition meet the criterion that the number of full time equivalent higher education students must exceed 55 per cent of the total number of full time equivalent students (“the 55 per cent criterion”).

- If the proposal set out in chapter 3 is adopted, so that a provider can gain DAPs on an exceptional basis without having the majority of its higher education students on courses at level 6 or above, the criterion will be varied to:
- “the number of full time equivalent higher education students must exceed 55 per cent of the total number of full time equivalent students, *of which at least 50 per cent must be on courses at level 6 or above on the Framework for Higher Education Qualifications*”. This is designed to ensure that Universities deliver significant amounts of degree level provision.

#### **Question 9:**

***Do you agree or disagree that for providers that have obtained DAPs on an exceptional basis without having the majority of higher education students at level 6 or above (as proposed in question 6), the 55 per cent criterion for University Title should be adjusted to additionally require the majority of higher education students to be on courses at level 6 or above?***

11. The current methodology for calculating the number of full time equivalent students on higher education courses, is based on Schedule 9 in the Education Reform Act 1988. It assigns different weightings according to mode of attendance, such as:
- a. Sandwich course - 0.90
  - b. Block release - 0.40
  - c. Day release - 0.40

- d. Part-time (other than day release but including some day-time study) - 0.40
- e. Part-time (evening only study) - 0.20
- f. Open or distance learning - 0.20

12. This is no longer reflective of current ways of delivering higher education. In future, we therefore propose updating the methodology and basing the calculation solely on intensity of study, regardless of mode of study. Intensity of study would be calculated based on Designated Data Body<sup>33</sup> or Individualised Learner Record (ILR) data<sup>34</sup>, and result in a full-time equivalent (FTE) measure. Therefore, for example, a part time student studying at half the intensity of a full time student would be counted as 0.5 FTE.

13. We anticipate that the OfS will publish the detailed methodology for calculating student numbers for this purpose, alongside detailed guidance in spring 2018.

***Question 10: Do you agree or disagree that student numbers, for the purposes of the 55 per cent criterion for University Title set out above, should be calculated based on the intensity of study, disregarding the mode of study? Please give reasons for your views.***

***Question 11: Do you have any views on how students on accelerated courses should be taken into account, when calculating the percentage of Higher Education students at a provider? Should these students be counted as 1 FTE, or more?***

## **Consideration of other, additional criteria**

14. The white paper, Success as a Knowledge Economy, published in May 2016 set out the Government's ambition to make it simpler for new, high quality providers to enter the market, and obtain DAPs and University Title. To increase diversity in the sector as well as student choice, it set out the Department's intent to remove the overall student numbers criterion for University Title, to remove unnecessary barriers. At the same time, it proposed a strengthening of the criteria by requiring providers to have indefinite, i.e. not time-limited DAPs (see chapter 6) before becoming eligible to apply for University Title. This was designed to further

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<sup>33</sup> The body that can be designated by the OfS in order to compile and make available higher education information. Please refer to the Designated Data body consultation on proposals regarding data collection and use.

<sup>34</sup> Student data collected in the further education sector.

protect University Title, and ensuring only high quality providers can access it. This was informed by the consultation in late 2015, and resulted in the pre-requisites and the criterion set out above.

15. Since then, the department has further considered whether any other additional criteria may be necessary, to preserve the meaning and prestige of a University Title. As part of this, overseas processes and criteria have been considered. The potential criteria under consideration, overseas processes that have been examined and the conclusions drawn are set out below. None of the possible criteria examined are explicitly part of the criteria for University Title, set out in current guidance, and would thus go further than what is in place at present.<sup>35</sup>

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<sup>35</sup> Available at: <https://www.gov.uk/government/publications/university-title-and-university-college-title>.

## **University status in other jurisdictions**

Most countries have in place restrictions around which institutions can call themselves “university”, although precise criteria and processes vary widely. The variations are often in line with levels of government control and intervention, which can be radically different to the English system, which is inherently based on institutional autonomy. In Japan, for instance, there are detailed legislative provisions around the number of teaching staff a university must have. In some countries, universities can only be established by acts of parliament, whereas others leave it almost completely to individual states and/or regions to determine the criteria and processes (e.g. USA, Canada and Germany).

Our more detailed research into practices in a number of countries (Australia, New Zealand, Ireland, Switzerland, Norway and Sri Lanka) has shown that there are four themes that seem common across most of these countries:

- Provision of higher education at the appropriate level
- Financial sustainability
- Sound corporate and academic governance
- Quality of academic provision and research

In addition, some countries have different tiers of universities, university colleges, universities of applied science or similar, which can be distinguished by the types of degrees they award, e.g. taught awards only, or including research awards.

The common themes identified are fully in line with how University Title has been awarded in England to date, and with the reformed criteria set out here: financial sustainability and governance requirements are part of the conditions of registration, and provision at the appropriate level as well as detailed assessments of quality are made through the DAPs criteria. Not all countries appear to have a distinction between DAPs and University Title.

The English system does not distinguish between different tiers, beyond the distinction between University and University College Title (which is and has historically been based on student numbers), and it therefore seems right to encourage universities of different shapes, sizes and specialisms, a process that began with the changes made in 2004 (referenced below), and is being completed by the removal of the overall student numbers criterion now.

Some countries include more abstract concepts, such as wider civic duties and/or responsibilities of universities, however there appears to be no common criterion, and the research has not been able to find any detailed information on whether, or how, such aspects are assessed. In part, this may be due to the fact that many countries with such a criterion do not seem to be creating or designating new universities on a regular basis.

16. In addition to what has been proposed above, we have considered the following criteria, for possible inclusion in the list of factors set out in guidance by the Secretary of State. The considerations, including how criteria might be met, and conclusions are set out below.

- a. **Track record:** The department is aware of suggestions that a specific track record requirement should be introduced for providers seeking University Title. However, the plans set out in the 2016 white paper already include a pre-requisite that only providers with indefinite DAPs are eligible to apply for University Title. This is an additional criterion, which does not exist in current guidance, and which was introduced as an additional safeguard. Since only providers that have successfully operated with full DAPs for three years can obtain indefinite DAPs (see chapter 6), we consider that this is effectively a three-year track record requirement. An additional track record criterion would merely duplicate this, and is therefore unnecessary.
- b. **Sustained scholarship, cohesive academic communities and learning infrastructure:** These are areas that are and will continue to be assessed as part of an application for DAPs (see Annex A). The department considers that these areas are vital for any provider with DAPs, not just those seeking University Title, and should therefore remain DAPs criteria. As having DAPs is a pre-requisite for obtaining University Title, adopting these also for University Title would create unnecessary duplication.
- c. **Academic freedom & freedom of speech:** HERA requires that in performing its functions, the OfS must have regard to the need to protect institutional autonomy. One component of this is academic freedom. In addition, it requires the list published under the public interest governance condition to include the principle of academic freedom for staff. This is reflected in the draft conditions and guidance set out in the [regulatory framework consultation](#) which would apply to all providers in the Approved or Approved (fee cap) categories. The draft list of public interest principles also contains a principle on freedom of speech. As providers seeking University Title must be registered in one of these categories, they will be required to comply with the list of public interest principles, containing these principles.
- d. **Interdisciplinary approaches:** Changes introduced in 2004 abolished the criterion that providers must teach at least five subject areas. The

department considers that any re-introduction of a similar criterion would disadvantage specialist providers, and could affect existing Universities that might not be able to meet a strict interpretation of this criterion. The academic requirements for DAPs are sufficiently robust to ensure providers are able to take on board interdisciplinary angles as required.

- e. **Dissemination of knowledge, the public facing role of universities, wider support for students and pastoral care:** Many of these areas are at least in part covered by the DAPs criteria: e.g. criteria around learning infrastructure will continue to take into account how well students are supported by their surroundings and academic staff to be successful in their studies.

However, these areas are high level and abstract concepts, which would be difficult to define and to turn into measurable and practicable criteria that could consistently be applied and assessed by the OfS. In the broadest sense, most providers will be undertaking some activities in all of these areas, and rightly so. If interpreted more narrowly, however, some of these aspects, in particular the public facing role of universities and pastoral care, could restrict access to University Title for certain types of providers, such as distance learning or online providers. We believe this is contrary to the intention to create greater diversity in the sector, and would indeed infringe on providers' institutional autonomy to shape their provision as they see fit.

17. The pre-requisites and the 55 per cent criterion set out above are easily verifiable by the OfS. Introducing any additional criteria would most likely require the OfS to design a comprehensive application and assessment process, which is contrary to the deregulatory nature of the reform programme. In addition, the department believes that setting prescriptive criteria of this nature would hamper innovation, and would indeed interfere with providers' institutional autonomy.
18. Having considered these areas as well as how similar systems operate in other countries, the department considers that the criteria and processes set out in the white paper are the right ones to safeguard the quality and reputation of English Universities, whilst ensuring that the best providers can have access to this prestigious title based on quality and a successful track record, rather than corporate form or method of delivery. The requirement for indefinite DAPs already reflects a significant strengthening of the current criteria.
19. English Universities are world-class, and have been for generations. The sector has been striving and expanding over the years, and many of the universities

criticised as inferior when they were first established, are now globally renowned. More stringent and prescriptive criteria for University Title have not been needed to date, and after careful consideration we do not believe there is a rationale for changing what has been a successful policy.

20. Therefore, we propose the following should be set out by the Secretary of State as factors the OfS must have regard to before granting University Title:<sup>36</sup>
- a. Providers must be registered in the Approved or Approved (fee cap) categories, and
  - b. Providers must be complying with all ongoing registration conditions, including in relation to quality, financial sustainability and governance.
  - c. Providers must have operated with full DAPs (permitting them to grant awards other than foundation degrees only) for at least three years and have obtained indefinite DAPs.
  - d. The number of full time equivalent higher education students at the provider must exceed 55 per cent of the total number of the provider's full time equivalent students. (This is not applicable for providers seeking University College Title)
21. As set out in the introduction, the Secretary of State also intends to issue guidance to the OfS in relation to DAPs, which we propose will include aspects relating to scholarship, cohesive academic communities and learning infrastructure.

***Question 12: Do you agree with this assessment of the factors that should be set out in Secretary of State guidance to which the OfS must have regard to when determining applications for University Title? If you disagree, please give reasons. If you believe any additional factors should be included, please indicate what these are with reasons.***

## **Choosing a name**

22. Providers that meet the criteria are not entitled to any particular name. The OfS is legally obliged to have regard to the need to avoid names that are or may be confusing. Providers seeking University or University College Title are normally expected to consult on their proposed new name, before approaching the OfS for

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<sup>36</sup> All of these are discussed in more detail on the preceding pages.

permission. The OfS will only approve names that it considers not to be, or have the potential to be, confusing or misleading.

23. Should the OfS consider that a proposed name is confusing, the provider in question will be invited to choose and consult on a different name.

## **Submitting an application**

24. An application for University or University College Title should take the form of an official letter from the chair of the provider's governing body (or equivalent) to the OfS, confirming that the provider meets the eligibility requirements and stating the preferred new name. Alongside the letter, providers should submit evidence that they have consulted on this name, and any details of this consultation, including responses. Detailed draft guidance on how to carry out the consultation will be provided.
25. The OfS will hold the relevant data to ascertain if the provider a) is eligible to apply and b) can meet the student numbers criterion. Providers may approach the OfS to confirm eligibility prior to submitting an application, if they wish.

## **Next steps**

### **Successful applications**

26. Following a successful application, the OfS will write to the provider, inviting them to formally change their name. The processes for this differ depending on the corporate form of the provider. Most providers will be able to change their name in their own governing documents, and change their name with Companies House as required.
27. Where a provider is obliged to register or change a business or company name with Companies House, the OfS will provide a non-objection letter to the use of the word university in the new name. This letter should be submitted to Companies House alongside the request to use of the sensitive word 'university'.
28. Further information on the process for incorporating a company and choosing a company or business name is set out in guidance published by Companies House at: <http://www.companieshouse.gov.uk/about/gbhtml/gp1.shtml>.
29. Chartered bodies or providers with private acts must follow the relevant procedures to change their name. The precise requirements around changes to

such governing documents are likely to vary, and providers that remain subject to any Privy Council oversight should contact the Privy Council Office.<sup>37</sup>

### **Unsuccessful Applications**

30. If the OfS considers that the criteria for University Title or University College Title have not been met, the OfS will write to the provider confirming that the application has not been successful and setting out the reasons for the decision.
31. Providers may make a new application subsequently via the process set out above once it considers that it has addressed any issues arising and meets all the requirements for University or University College Title.

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<sup>37</sup> Providers with Royal Charters and Private Acts may want to refer to chapter 9 in the [regulatory framework consultation](#) – transitional arrangements, for how the new regulatory framework may impact them.

## **PART 3 – POST AWARD ISSUES**

1. There are a range of issues that are of relevance to providers that have been granted DAPs/University Title, which are set out in this chapter. They range from practical matters, such as name changes, to regulatory interventions by the OfS.
2. This document only addresses regulatory aspects to make applicants aware of them. Please refer to the OfS's regulatory framework consultation for further detail on how the OfS regulates providers, and how and when it may use sanctions and interventions.

### **Chapter 8: Revocation and Variation**

3. Under HERA, the OfS has express powers to vary DAPs to grant taught awards or research awards and revoke both DAPs and University Title. This is irrespective of how these were originally granted.
4. The OfS's powers to vary DAPs will enable the OfS to apply DAPs flexibly and appropriately to respond to provider and student needs. It enables the OfS to vary the type, scope, and time limit (if any) of DAPs.
5. This power might be used positively, for instance to make time-limited DAPs indefinite (see below). The variation powers may also be used as a regulatory intervention where the OfS considers it appropriate, i.e. for the benefits of students to limit the scope of a provider's DAPs, for instance to Bachelor only DAPs, or limit a provider's ability to validate provision elsewhere.
6. HERA provides that the OfS may revoke DAPs (including NDAPs) and University Title, but only if certain conditions are met. There are three conditions for each DAPs and University Title, of which at least one must be met for the OfS to take the step of revocation. We anticipate that in the vast majority of cases the OfS would have made use of other intervention powers before taking the step of revocation.
7. Where a provider's DAPs are varied or revoked and/or it loses University Title, it must ensure this is reflected in any advertising material, governing documents or other instances where these powers were set out or referred to, or where the name or authorisation was used. This means that where a provider has its titles and powers set out in a Royal Charter or Private Act, it must amend these

accordingly. If a provider fails to do so, the Secretary of State has powers under section [116](#) of HERA to make consequential changes.<sup>38</sup>

8. Where a provider has a registered business or company name that includes the word “university”, and permission to the use of this word was granted as a result of the provider obtaining University Title, the name in question must be changed to no longer include the word “university”.
9. The conditions for revocation are set out in sections [44](#), [45](#) and [58](#) of HERA. The below descriptions are designed to illustrate how the OfS will fulfil its functions in this respect.

## DAPs

### *Provision in HERA*

“**Condition A** is satisfied if the provider is not a registered higher education provider.”

10. In order to protect quality and safeguard students, we expect providers with DAPs to be registered higher education providers. This is the same for providers with University Title. Having institutions with DAPs or University Title operate outside of the regulated system could be a risk for students as well as the reputation of English degrees and universities. The OfS may therefore revoke DAPs if a provider does not register, or is de-registered.
11. As set out above, providers with DAPs will normally be expected to register in either the Approved or Approved (fee cap) categories. Only providers in those categories will be eligible to apply for DAPs. The OfS may permit providers with DAPs to register in the Registered Basic category on an exceptional basis. It may set specific ongoing registration conditions, for example to ensure DAPs holders are meeting the quality requirements expected of a degree awarding body.

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<sup>38</sup> These powers cannot be used to revoke a Royal Charter in its entirety.

Provision in HERA

**“Condition B** is satisfied if—

- the OfS has concerns regarding the quality of, or the standards applied to, higher education which has been or is being provided by the provider, and
- it appears to the OfS that those concerns are so serious that—
  - i. its powers by an order under section 42(1) to vary the authorisation are insufficient to deal with the concerns (whether or not they have been exercised in relation to the provider), and
  - ii. it is appropriate to revoke the authorisation.”

12. This condition is designed to ensure that the OfS can revoke DAPs should the quality of provision, and/or standards applied to that provision fall to unacceptable levels. This is to protect the value and prestige of English degrees, which would be undermined if such providers could continue to award degrees.

13. Concerns around quality and standards will be picked up by the OfS’s regular monitoring activities, and/or any general or specific ongoing registration conditions. In the vast majority of cases we would expect the OfS to have made use of other intervention powers before taking the step of revocation.

Provision in HERA

**“Condition C** is satisfied if—

- a. due to a change in circumstances since the authorisation was given, the OfS has concerns regarding the quality of, or the standards applied to, higher education which will be provided by the provider, and
- b. it appears to the OfS that those concerns are so serious that—
  - i. its powers by an order under section 42(1) to vary the authorisation are insufficient to deal with the concerns (whether or not they have been exercised in relation to the provider), and
  - ii. it is appropriate to revoke the authorisation.”

14. Once awarded, DAPs cannot be ‘transferred’ from one institution to another. After they have been awarded to a specific institution, they are ring-fenced within that institution.<sup>39</sup> This therefore means that where there is a change in circumstances,

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<sup>39</sup> For this purpose, the ‘institution’ is the cohesive and self-critical academic community that was assessed for DAPs and, in so doing, demonstrated firm guardianship of its standards.

the OfS will need to be assured that it is still appropriate that the registered higher education provider subject to the change (or institution that is a DAPs holder where it is not registered) should continue to hold DAPs post the change. Please refer to chapter 10 about changes in circumstances below for more detail.

15. This does not prevent the “new” institution from applying for DAPs in their own right.

## University Title

### Provision in HERA

“**Condition A** is satisfied if—

- a. in the case of consent or approval given by the OfS under section 77 of the Further and Higher Education Act 1992 or section 39 of the Teaching and Higher Education Act 1998, the institution ceases to be a registered higher education provider, or
- b. in any other case, the institution is not a registered higher education provider.”

16. In order to protect quality and safeguard students, the higher education sector and the public, we expect providers with University Title to be registered. This is the same for providers with DAPs. Having institutions with University Title and DAPs operate outside of the regulated system could be a risk for students as well as the reputation of English degrees and universities. The OfS may therefore revoke University Title if a provider does not register, or is de-registered.

17. Providers with University Title will normally be expected to register in either the Approved or Approved (fee cap) categories. Only providers in those categories will be eligible to apply for DAPs or University Title. The OfS may permit providers with DAPs and University Title to register in the Registered Basic category only on an exceptional basis. It may set specific ongoing registration conditions to ensure those with University Title are meeting the standards expected of a University.

Provision in HERA

**“Condition B** is satisfied if, disregarding any transitional or saving provision made by an order under section 42(1) or 45(1)—

- a. the institution is neither authorised to grant taught awards nor authorised to grant research awards, or
- b. foundation degrees are the only degrees which the institution is authorised to grant.”

18. This condition ensures that where a provider has lost their ability to award degrees (other than foundation degrees) they can no longer be a university. This is because having DAPs is a prerequisite for obtaining University Title, as the inherent characteristic of a university is being a degree awarding body. It would therefore be misleading if a provider could still be a university without being able to award degrees.

19. The OfS may therefore revoke University Title if a provider has lost DAPs.

*Providers with FDAPs only*

20. For the purposes of obtaining University Title, an ability to award Foundation Degrees, but no other degrees, is not sufficient. To ensure consistency with this principle, the powers to revoke University Title extend to providers that have lost their ability to award degrees at level 6 or above, whether or not they retain an ability to award Foundation Degrees. This is to protect the key characteristic of a University being a body that awards degrees that are at least at level 6.

Provision in HERA

**“Condition C** is satisfied if, due to a change in circumstances since the authorisation, consent or other approval was given, it appears to the OfS to be no longer appropriate for the institution to include the word “university” in its name.”

21. As with the equivalent DAPs condition, this condition is designed to ensure that the meaning and concept of a university can be protected, and institutions cannot make structural changes that would undermine this. For instance, if a University were to merge with a large further education provider, it might no longer be a predominantly higher education provider, and thus it would be misleading if it could continue to call itself a university.

22. The test the OfS should use to determine whether it is still appropriate for a provider to include the word “university” in its name, should be whether or not the provider – following the change – still meets the criteria for University Title. This is in keeping with the current process.

***Question 13: Do you agree or disagree with this proposal of implementing the statutory provisions that allow for the revocation of DAPs and University Title and the variation of DAPs***

### **Process and Appeals:**

23. HERA includes a detailed statutory process the OfS must follow if it wants to vary DAPs, or revoke DAPs or University Title, including requirements to:

- a. Notify the governing body of the provider of its intention, which must include:
  - i. The OfS’s reasons for proposing to take the step in question
  - ii. The period during which the governing body may make representations (which must be at least 28 days)
  - iii. The way in which those representations may be made.
- b. Have regard to any representations
- c. Notify the provider of its decision, including the date on which the variation or revocation takes effect, and the rights of appeal and period where they can be brought.

24. Providers may appeal to the First Tier Tribunal against any decision to vary or revoke DAPs, or revoke University Title.

25. Where the appeal is regarding a decision to vary DAPs, or against the date at which a revocation of either DAPs or UT comes into effect, then the grounds for appeal are:

- a. That the decision was based on an error in fact,
- b. That the decision was wrong in law, or
- c. That the decision was unreasonable.

26. If the appeal is against a decision to revoke DAPs or UT, the grounds for appeal are not specified, and the First Tier Tribunal must consider the decision afresh, and may take into account evidence that was not available to the OfS.

## Chapter 9: Extending Powers and Reviews

27. All providers who are granted DAPs (other than NDAPs) of any type (including foundation taught or taught and research DAPs) by the OfS will get their award on a time-limited basis in the first instance. After three years of operating with a full authorisation, the provider will be subject to a review, which, if passed, would enable access to DAPs with no time limit.
28. This will involve a form of scrutiny carried out by the DQB. This would not be to the same level of detail as the original scrutiny assessment but is intended to act as a health-check in respect of the way the powers in question had been exercised during the preceding three years. If the outcome of the review is not satisfactory, the provider would remain with time-limited powers until such time as the concerns in question had been resolved.
29. As set out above, if successful, the change will be implemented via a change to the original DAPs order, under the OfS's powers of variation.
30. This policy does not affect providers who already hold indefinite DAPs. Providers with time limited DAPs who have already successfully operated with DAPs for three years or more at the time the new regime comes into effect, (1st August 2019) will also be able to seek indefinite DAPs on the same basis as providers who obtained their powers from the OfS, as set out above. Providers who have successfully operated with DAPs for a period of less than three years at the time the new regime comes into effect will be able to seek indefinite DAPs once they have completed the required three-year period.
31. Upon award of indefinite DAPs, a provider will be eligible to apply for University Title, subject to Part 2.

## Chapter 10: Change in circumstances

32. The Department takes very seriously the need to maintain the value, standards and integrity of DAPs and University Title. Therefore, where a holder of DAPs or University Title, regardless of whether or not these were awarded by the OfS, is involved in a change of circumstances, as defined below, they must notify the OfS at an early stage to discuss the potential implications for DAPs/University Title including its continuing eligibility to hold DAPs/University Title. The OfS will then decide whether a review of eligibility for DAPs and/or UT is required.
33. A change of circumstances is a reportable event under the OfS's general ongoing registration conditions, and therefore must be reported to the OfS. There is a strong expectation that in normal circumstances providers will have to notify the OfS as soon as reasonably possible before any such change takes place.
34. Significant material changes to a provider that has been granted NDAPs must be declared as part of the detailed monitoring of that provider during the three-year probationary period. Depending on the nature of the change, this may necessitate either a revocation of the NDAPs order or the re-commencing of the probationary period.

“Change in circumstances” is defined as including:

- Sales (of either the institution itself, or its parent)
- Mergers
- Acquisitions
- Change in legal status
- Material change in business model (such as a move to focus on further instead of higher education)
- Other changes resulting in a change of control or ownership
- Other, similar structural changes, such as establishment of joint ventures, separation into multiple entities, etc.

### DAPs

35. Once awarded, DAPs cannot be ‘transferred’ from one institution to another. After they have been awarded to a specific institution, they are ring-fenced within that institution, which is normally the registered higher education provider. For

example, if a provider with DAPs is bought by another organisation, the DAPs could not apply to the whole organisation but would remain ring-fenced within the purchased institution, which was originally granted the DAPs.

36. This is because it is that institution, and its processes and procedures that have been assessed for, and granted DAPs. In order to obtain DAPs, a provider is subject to detailed scrutiny, to demonstrate their ability to set and maintain academic standards. If degrees were granted by an entity that has not itself undergone this process, the value and reputation of English degrees would be undermined.
37. Likewise, if a DAPs holder was to acquire another provider as a self-contained subsidiary, that it wished to register as a separate provider, its DAPs would not extend to this subsidiary. A change of circumstance may impact upon the way the provider in question exercises its DAPs and where this is the case, the OfS may carry out a review, to test whether that change has such an impact.
38. Whether the OfS decide to carry out a review, and the nature of that review, will depend on the particular change of circumstance. Some changes will not materially impact on the way that the provider in question exercises its DAPs. For example, the acquisition by a DAPs holder of an entity that had no connection with the teaching or delivering of education services is unlikely to require a detailed review. Other changes may have a more direct impact on the DAPs holder and where this is the case, the OfS will want to look more closely at the proposed changes in order to establish that the powers in question are still going to be exercised appropriately. For example, where the provider in question was subject to a takeover, an assessment would need to be made of the impact the changes would have on that provider's academic governance structures.
39. If following the review, the OfS is not convinced that DAPs will continue to be exercised in an appropriate manner, the OfS may find that it cannot be certain that the provider has the ability to set and maintain academic standards following the change. If the OfS has concerns in this respect, it can revoke DAPs.
40. This would not prevent the provider in its changed state from applying for DAPs, including New DAPs, in their own right.

## **University Title**

41. The OfS will work to protect the meaning and concept of a university, and ensure that providers cannot retain University Title after structural changes that would undermine this. For instance, if a university were to merge with a large further education provider, it might no longer be a predominantly higher education

provider, and thus it would be misleading if it could continue to call itself a university. If it is no longer appropriate for a provider to continue to call itself a University, that is if the requirements of condition C (see chapter 8) are met, the OfS can revoke University Title.

42. Therefore, in order to test whether it remains appropriate for a provider to include the word “university” in its name, the OfS will test whether or not the provider – following the change – still meets the criteria for University Title. This is in keeping with the current process.

***Question 14: Do you consider the above proposals regarding a change in circumstances to be sufficiently robust to safeguard the meaning and value of DAPs and University Title?***

## Chapter 11: Other awards

43. Organisations with DAPs can also award honorary degrees consistent with the type of power they hold – i.e. taught honorary degrees and research honorary degrees for organisations with research DAPs; taught honorary degrees for organisations with taught DAPs; or foundation honorary degrees for organisations with foundation DAPs,
44. Providers with DAPs can also award other higher education qualifications such as Certificates of Higher Education and Diplomas provided that these sit at an equivalent or lower level of the Framework for Higher Education Qualifications.
45. All awards made by a higher education provider authorised to grant such awards by the OfS will be considered as recognised awards for the purposes of section 214 of the Education Reform Act 1988 and will not be subject to the offence of offering unrecognised degrees as set out in section 214. Under this section, as amended by section [53](#) of HERA, the OfS will be the appropriate authority in England, and as such, it will be responsible for the making of the recognised and listed bodies orders in future.

## Annex A: The Detailed Criteria

1. The OfS regulatory framework sets clear and unambiguous baseline levels of performance for quality and standards which are defined in outcome-based terms, without being prescriptive about how a provider should achieve these outcomes. We are proposing that the existing criteria for degree awarding powers should be updated to reflect this approach in order to remove barriers to DAPs and University Title and to encourage diversity of providers and practice and stimulate innovation. We also want to ensure there is no duplication with the assessments that the OfS will perform as part of the registration process for new providers or with its approach to ongoing monitoring.
2. The DAPs criteria, evidence requirements, and scrutiny process will continue to ensure that there can be public confidence that standards are set and maintained at an appropriate level.
3. The overarching requirement that ‘an institution needs to be a self-critical, cohesive academic community with a proven commitment to quality assurance supported by effective quality and enhancement systems’<sup>40</sup>) has been adapted (see table 1) to reflect the OfS’s regulatory framework and to accommodate applicants for New DAPs. This adaptation recognises the differing starting point wherein the overarching requirement will be demonstrated progressively and in full by the end of the probationary period.

**Table 1 – common and adapted overarching requirement**

Degree awarding powers	New degree awarding powers
A self-critical, cohesive academic community with a proven commitment to the assurance of standards supported by effective quality systems	An <i>emerging</i> self-critical, cohesive academic community with a <i>clear</i> commitment to the assurance of standards supported by effective ( <i>in prospect</i> ) quality systems

4. The criteria A- E in this document, taken as a whole, are designed to allow a judgement to be made about whether you satisfy the overarching requirement as set out above. The criteria are along broadly similar lines to the criteria set out in the 2015 criteria but adapted to be consistent with the new regulatory framework. In particular, some specific evidence requirements have been removed where

<sup>40</sup> as set out in the House of Commons Official Report vol. 201 Written Answers col. 31 (16 December 1991).

these matters will already be tested under the regulatory framework. In particular matters concerning:

- a. Financial Planning
  - b. Provision of information
  - c. Student admissions
5. The criteria assess your capacity to demonstrate firm guardianship of academic standards, a firm and systematic approach to the assurance of the quality of the higher education you provide and your capacity to contribute to the continued good standing of UK higher education.
  6. To this end, the OfS, drawing on advice from the designated quality body will be judging the extent to which your organisation can engender public confidence in your capacity to set and maintain the academic standards of the qualifications you offer in England and, where relevant, in other countries. While some of the evidence provided will be quantitative, some will also be qualitative.
  7. Scrutiny by the designated quality body will provide the OfS with information about whether the organisation is fit to exercise the powers being sought. In formulating its advice, the designated body will consider the application against each criterion but it also takes a view on the way in which the organisation meets the criteria as a whole. The organisation must clearly demonstrate that there can be public confidence, both present and future, in its systems for setting and maintaining the academic standards of its qualifications and for assuring the quality of the higher education it provides.
  8. Some of the issues addressed in these criteria are also covered by legislation. All organisations have an overriding responsibility to comply with legislation (for example in relation to equality and diversity, data protection) and consumer legislation and no specific reference is therefore made to legislation in the criteria.
  9. Each application will be considered within the context of the individual organisation making the application and in the context of the type of powers applied for including: subject-specific or Bachelor's only and for each application route (new DAPs or track record). Where appropriate changes to the context for such applications are reflected in the evidence requirements for each criterion.

## **A: Academic Governance**

### **Criterion A1: Academic Governance**

10. An organisation granted degree awarding powers has effective academic governance, with clear and appropriate lines of accountability for its academic responsibilities.
11. Academic governance, including all aspects of the control and oversight of its higher education provision, is conducted in partnership with its students.
12. Where an organisation granted degree awarding powers works with other organisations to deliver learning opportunities it ensures that its governance and management of such opportunities is robust and effective and that decisions to work with other organisations are the result of a strategic approach rather than opportunism.

#### **Explanation**

13. There must be sound academic governance and management structures with integrity in all respects, so that there can be full public confidence in the integrity of the provider's qualifications. There should be appropriate safeguards to ensure that if the organisation decides to work with other organisations these arrangements do not jeopardise academic standards or the quality of programmes; such arrangements remain the ultimate responsibility of the organisation with degree awarding powers which must ensure that its oversight is effective for all its provision.
14. Seeking to engage students as partners is an important part of the academic governance and management of academic standards and quality, as is effective oversight of the information which the organisation produces about its provision for all its stakeholders, especially prospective, current and completed students

#### **Evidence requirement**

15. To assist in demonstrating that Criterion A1 is met the applicant organisation will be required to provide evidence that:
  - a. its higher education mission and strategic direction and associated policies are coherent, published, understood and applied consistently;
  - b. its academic policies support its higher education mission, aims and objectives;

- c. there is clarity and differentiation of function and responsibility at all levels in the organisation in relation to its academic governance structures and arrangements for managing its higher education provision;
- d. the function and responsibility of the senior academic authority is clearly articulated and consistently applied;
- e. there is appropriate depth and strength of academic leadership;
- f. it develops, implements and communicates its policies and procedures in collaboration with its staff and students and external stakeholders;
- g. it will manage successfully the responsibilities that would be vested in it were it to be granted degree awarding powers;
- h. students individually and collectively are engaged in the governance and management of the organisation and its higher education provision, with students supported, to be able to engage effectively;
- i. where the organisation works with or proposes to work with other organisations to deliver learning opportunities, the arrangements are based on a strategic approach, informed by the effective assessment of risk including the carrying out of due diligence, are defined in a written legal agreement and are subject to the same robust oversight and governance as the rest of the organisation's provision.

## **B: Academic Standards and Quality Assurance**

### **Criterion B1 – Regulatory frameworks**

- 16. An organisation granted degree awarding powers has in place transparent and comprehensive academic frameworks and regulations to govern how it awards academic credit and qualifications.
- 17. A degree awarding organisation maintains a definitive record of each programme and qualification that it approves (and of subsequent changes to it) which constitutes the reference point for delivery and assessment of the programme, its monitoring and review, and for the provision of records of study to students and alumni.

## Explanation

18. The security of the academic standards of qualifications depends in large measure on the academic frameworks and regulations which govern their award. These can be expected to cover a wide variety of topics ranging from the approval of degree schemes, the use or not of credit, through to the conduct of student assessments and appeals against academic decisions. Organisations that award degrees are required to have in place a comprehensive set of regulations covering these matters. These academic frameworks and regulations are approved by the organisation's senior academic authority.

## Evidence requirement

19. To assist in demonstrating that Criterion B1 is met the applicant organisation will be required to provide evidence that:

- a. the academic frameworks and regulations governing its higher education provision (covering, for example, student admissions, assessment, progression, award, appeals and complaints) are appropriate to its current status and are implemented fully and consistently;
- b. it has created in readiness one or more academic frameworks and regulations which will be appropriate for the granting of its own higher education qualifications; and
- c. definitive and up-to-date records of each qualification to be awarded and each programme being offered by the organisation are being maintained. These records are used as the basis for the delivery and assessment of each programme and there is evidence that students and alumni are provided with records of study.

## Criterion B2 – Academic standards

20. An organisation granted degree awarding powers has clear and consistently applied mechanisms for setting and maintaining the academic standards of its higher education qualifications.

21. Organisations with degree awarding powers are expected to demonstrate that they are able to design and deliver courses and qualifications that meet the threshold academic standards described in the Framework for Higher Education Qualifications (FHEQ). Organisations with degree awarding powers are expected to demonstrate that the standards that they set and maintain above

the threshold are reliable over time and reasonably comparable to those set and achieved by other UK degree awarding bodies.

### **Evidence requirement**

22. To assist in demonstrating that Criterion B2 is met the applicant organisation will be required to provide evidence that:

- a. its higher education qualifications are offered at levels that correspond to the relevant levels of The Frameworks for Higher Education Qualifications of UK Degree Awarding Bodies;
- b. the setting and maintaining of academic standards takes appropriate account of relevant external points of reference and external and independent points of expertise, including students;
- c. its programme approval arrangements are robust, applied consistently, and ensure that academic standards are set at a level which meets the UK threshold standard for the qualification and are in accordance with their own academic frameworks and regulations;
- d. credit and qualifications will be awarded only where: the achievement of relevant learning outcomes (module learning outcomes in the case of credit and programme outcomes in the case of qualifications) has been demonstrated through assessment; and both the UK threshold standards and the academic standards of the relevant degree awarding body have been satisfied;
- e. its programme approval, monitoring and review arrangements are robust, applied consistently and explicitly address whether the UK threshold academic standards are achieved and whether the academic standards required by the individual degree awarding body are being maintained;
- f. in establishing, and then maintaining, threshold academic standards and comparability of standards with other providers of equivalent level qualifications, it makes use of appropriate external and independent expertise

### **Criterion B3 Quality of the academic experience**

23. Organisations with degree awarding powers are expected to demonstrate that they are able to design and deliver courses and qualifications that provide a high quality academic experience to all students from all backgrounds,

irrespective of their location, mode of study, academic subject, protected characteristics, previous educational background or nationality. Learning opportunities are consistently and rigorously quality assured.

### **Explanation**

24. Organisations offering higher education awards are expected to consider carefully the purposes and objectives of the programmes they are offering. They are also expected to design their curricula, learning and teaching activities and associated resources, and assessment and feedback, in a way that will give diligent students the best chance of achieving their purposes and objectives and the threshold academic standards for the qualification being sought. Organisations offering higher education qualifications must have the means of establishing for themselves that their intentions are, in practice, being met.

### **Evidence requirement**

25. To assist in demonstrating that Criterion D2 is met the applicant organisation will be required to provide evidence that:

### **Design and approval of programmes**

- a. the organisation operates effective processes for the design, development and approval of programmes;
- b. relevant staff are informed of, and provided with guidance and support on, these procedures and their roles and responsibilities in relation to them;
- c. responsibility for approving new programme proposals is clearly assigned, including the involvement of external expertise, where appropriate, and subsequent action is carefully monitored;
- d. coherence of programmes with multiple elements or alternative pathways is secured and maintained;
- e. close links are maintained between learning support services and the organisation's programme planning and approval arrangements.

### **Learning and teaching**

- a. the organisation articulates and implements a strategic approach to learning and teaching which is consistent with its stated academic objectives;
- b. the organisation maintains physical, virtual and social learning environments that are safe, accessible and reliable for every student, promoting dignity, courtesy and respect in their use;

- c. robust arrangements exist for ensuring that the learning opportunities provided to those of its students that may be studying at a distance from the organisation are effective;
- d. every student is enabled to monitor their progress and further their academic development.

### **Assessment**

- a. the organisation operates valid and reliable processes of assessment, including for the recognition of prior learning, which enable every student to demonstrate the extent to which they have achieved the intended learning outcomes for the credit or qualification being sought;
- b. staff and students engage in dialogue to promote a shared understanding of the basis on which academic judgements are made;
- c. students are provided with opportunities to develop an understanding of, and the necessary skills to demonstrate, good academic practice;
- d. the organisation operates processes for preventing, identifying, investigating and responding to unacceptable academic practice;
- e. processes for marking assessments and for moderating marks are clearly articulated and consistently operated by those involved in the assessment process.

### **External examining**

- a. the organisation makes scrupulous use of external examiners including in the moderation of assessment tasks and student assessed work;
- b. the organisation gives full and serious consideration to the comments and recommendations contained in external examiners' reports and provides external examiners with a considered and timely response to their comments and recommendations.

### **Academic appeals and student complaints**

- a. the organisation has effective procedures for handling academic appeals and student complaints about the quality of the academic experience; these procedures are fair, accessible and timely, and enable enhancement;
- b. Appropriate action is taken following an appeal or complaint.

## **C: Scholarship and the pedagogical effectiveness of staff**

### **Criterion C1 - the role of academic and professional staff**

26. An organisation granted powers to award degrees assures itself that it has appropriate numbers of staff to teach its students. Everyone involved in teaching or supporting student learning, and in the assessment of student work, is appropriately qualified, supported and developed to the level(s) and subject(s) of the qualifications being awarded.

#### **Explanation**

27. The capacity and competence of the staff who teach and who facilitate and assess learning are central to the value of the education offered to students. Organisations awarding their own qualifications have a crucial responsibility to ensure that every student has the chance to develop as an independent learner and the opportunity to demonstrate the extent to which they have achieved the intended learning outcomes for the credit or qualification being sought. Chances are maximised by effective teaching and the facilitation of learning undertaken by staff with academic, professional and vocational expertise in line with the organisation's curriculum offer. This includes a responsibility for ensuring that staff maintain a professional understanding of current developments in research and scholarship in their subject and, where applicable, keep in touch with practice in their professions and for ensuring that structured opportunities for them to do so are both readily available and widely taken up. It also means that teaching for degree-level qualifications should reflect, in a careful, conscious and intellectually demanding manner, the latest developments in the subject of study. Organisations also have a responsibility for making certain that the assessment of their students is carried out in a professional, rigorous and consistent way.

#### **Evidence requirement**

28. To assist in demonstrating that Criterion C1 is met the applicant organisation will be required to provide evidence that all staff involved in teaching or supporting student learning, and in the assessment of student work have:

- a. relevant learning, teaching and assessment practices that are informed by reflection, evaluation of professional practice, and subject-specific and educational scholarship;
- b. academic and (where applicable) professional expertise;

- c. active engagement with the pedagogic development of their discipline knowledge and understanding of current research and advanced scholarship in their discipline area and that such knowledge and understanding directly inform and enhance their teaching; and active engagement with research and/or advanced scholarship to a level commensurate with the level and subject of the qualifications being offered;
- d. opportunities to engage in reflection and evaluation of their learning, teaching and assessment practice;
- e. development opportunities aimed at enabling them to enhance their practice and scholarship;
- f. opportunities to gain experience in curriculum development and assessment design and to engage with the activities of other higher education providers for example through becoming external examiners, validation panel members or external reviewers;
- g. expertise in providing feedback on assessment which is timely, constructive and developmental.
- h. experience of curriculum development and assessment design; and
- i. engagement with the activities of providers of higher education in other organisations (through, for example, involvement as external examiners, validation panel members, or external reviewers).

29. In addition, the applicant organisation will be required to provide evidence that:

- a. it has made a rigorous assessment of the skills/expertise required to teach all students and the appropriate staff/student ratios
- b. it has appropriate staff recruitment practices

## **D: The environment for supporting students**

### **Criterion D1 - Enabling student development and achievement**

30. Higher education providers have in place, monitor and evaluate arrangements and resources which enable students to develop their academic, personal and professional potential.

## Explanation

31. The teaching and learning infrastructure – all the facilities, digital resources and support activities that are provided to maximise students' chances of developing their potential and of obtaining the qualification they are seeking – is a means to an end. Organisations that award their own qualifications are expected to have in place mechanisms designed to support and develop students beyond the arrangements for learning, teaching and assessment addressed in Criterion B3. These include the specialist support services such as counselling, disability and careers advice and cover both the generic provision of services to a cohort of students and the targeted support for individual students. It is part of an organisation's strategic approach which embodies the integration, coherence and internal co-operation between different areas of a provider, including for example links between professional services, academic departments and student representative bodies as well as with external organisations.

## Evidence requirement

32. To assist in demonstrating that Criterion D1 is met the applicant organisation will be required to provide evidence that:

- a. the organisation takes a comprehensive strategic and operational approach to determine and evaluate how it enables student development and achievement for its diverse body of students;
- b. students are advised about, and inducted into, their study programmes in an effective way and account is taken of different students' choices and needs;
- c. the effectiveness of student and staff advisory, support and counselling services is monitored and any resource needs arising are considered;
- d. its administrative support systems enable it to monitor student progression and performance accurately and provide timely, secure and accurate information to satisfy academic and non-academic management information needs;
- e. the organisation provides opportunities for all students to develop skills that enable their academic, personal and professional progression, for example academic, employment and future career management skills;
- f. the organisation provides opportunities for all students to develop skills to make effective use of the learning resources provided, including the safe and effective use of specialist facilities, and the use of digital and virtual environments;

- g. the organisation's approach is guided by a commitment to equity.

## **Criterion E – Evaluation of performance**

33. An organisation granted degree awarding powers takes effective action to assess its own performance, respond to identified weaknesses and develop further its strengths.

### **Explanation**

34. An organisation that has powers to award its own qualifications must have in place the means of reviewing critically its own performance, in particular in relation to standards and student outcomes. It needs to know how it is doing in comparison with other similar organisations and have in place robust mechanisms for disseminating good practice; it must also be able to identify limitations or deficiencies in its own activities and take timely and effective remedial action when this is called for.

### **Evidence requirement**

35. To assist in demonstrating that Criterion E is met the applicant organisation will be required to provide evidence that:
- a. critical self-assessment is integral to the operation of its higher education provision and that action is taken in response to matters raised through internal or external monitoring and review;
  - b. clear mechanisms exist for assigning and discharging action in relation to the scrutiny and monitoring of its academic provision;
  - c. ideas and expertise from within and outside the organisation (for example on programme design and development, on teaching, and on student learning and assessment) are drawn into its arrangements for programme design, approval, delivery and review.

***Question 15: Do you have any comments on the proposed DAPs criteria as set out in Annex A? Are there specific aspects of the criteria that you feel should be adjusted in light of the OfS's overall regulatory approach, in particular ongoing registration conditions?***

## Subject specific and Bachelor only DAPs

36. The proposed detailed criteria above provide a framework that is intended to accommodate applications for subject specific and Bachelor's only DAPs, without the need for separate sets of criteria which could make the system unnecessarily complicated. Differentiation for the different types of powers would be achieved through a tailored scrutiny process in which both the provider's submission of evidence and the scrutiny itself are focussed on the subject(s) or qualification level(s) for which powers are being sought. Some criteria and evidence requirements, for example those relating to academic governance, will apply in the same way regardless of the type of powers applied for. For other criteria focussing on staff expertise and learning resources, providers would only need to demonstrate competence in the relevant subject(s) and level(s).
37. The revised scrutiny process will be proportionate to the size, complexity and nature of provision offered by higher education providers seeking DAPs. Applications for subject-specific DAPs are most likely to be from small niche providers. It follows that for well-prepared and high-quality providers seeking subject specific DAPs the scrutiny process is likely to involve a significantly smaller volume of evidence and be concluded more swiftly than for providers applying for full DAPs.

***Question 16: Do you have any comments on the proposals for the assessment of applications for subject specific and Bachelor's only DAPs? Are there specific aspects of the criteria that you feel would either be particularly relevant or not relevant for either of these types of DAPs?***

***Question 17: Do you have any comments on how a subject should be defined for the purpose of subject specific DAPs?***

## Research DAPs

### Criterion 1: Academic staff

38. The organisation's supervision of its research students, and the teaching it undertakes at doctoral level, is underpinned by academic staff with high levels of knowledge, understanding and experience of current research and advanced scholarship in their subjects of study.

### Explanation

39. The creation and interpretation of knowledge which extends a discipline, usually through original research, is a defining characteristic of the UK doctorate and the award of research degrees places a particular and substantial responsibility on an awarding body. The organisation's academic staff should accordingly command the respect and confidence of their academic peers across the UK higher education sector and internationally and be considered credible to deliver research degree programmes. Organisations wishing to offer research degrees should have in place a strong underpinning culture that actively encourages and supports creative, high quality research and scholarship amongst its academic staff, and its doctoral and other research students. Such a culture typically involves engagement with a range of discipline-based, professional practitioner and research-active communities and this ensures that research students should only be accepted into an environment that provides support for doing and learning about research, and where excellent research, recognised by the relevant subject community, is occurring.
40. Academic staff involved in the delivery of research degrees are expected to have knowledge, understanding and experience of research and advanced scholarship that go well beyond expectations for staff engaged in the delivery of taught degrees. Strength and depth in research supervision capacity, research performance in authoritative external peer reviews, and demonstrable involvement in research-related activities with other higher education providers or comparable organisations engaged in research, are all factors to be taken into account in any consideration of the merits of an application for research degree-awarding powers.

### Evidence requirement

41. To assist in meeting Criterion 1 the applicant organisation will be required to provide evidence that:

- i. its policies and procedures relating to research, advanced scholarship, and research degree programmes are appropriate, effective and reflect sector best practice and are understood and applied consistently, both by those involved in the delivery of research degrees and, where appropriate, by the students involved;
- ii. it has a strong and sustainable research culture, which directly informs and enhances the supervision and teaching of research degree students;
- iii. it has a critical mass of research staff and students, representing a viable and sustainable research community;
- iv. it actively engages in discipline-based and broader based communities of researchers and scholars external to the organisation, and takes steps to engage the public at large with the research it undertakes;
- v. it has established productive research-relevant links, formal or informal, with other higher education and specialist research institutions through, for example, joint research activities; and
- vi. it has a critical mass of research leaders, normally at professorial level, whose role is to support the development of research and an effective research culture;

and that staff involved in the delivery of research degree programmes, in a teaching and/or supervisory capacity:

- vii. are themselves active researchers who produce externally recognised outputs in research and advanced scholarship;
- viii. are examiners of research degrees, appointed as internal examiners by the awarding institution or as external examiners elsewhere;
- ix. command the respect and confidence of academic peers across the sector as reflected, for example, in Research Excellence Framework (REF) outcomes; other authoritative external reviews; awards of distinction; through research contracts and/or funding; as invited/keynote speakers at national and international research events and conferences, as members of national and international research committees or bodies;
- x. have current knowledge of developments within the higher education sector relating to research and research degrees; and
- xi. have access to a systematic and effective approach to staff development and appraisal that enables them to develop and enhance their knowledge of current research and advanced scholarship.

42. The applicant organisation will also be required to provide an analysis of, and supporting commentary relating to, the data it has used to satisfy itself that the staff involved with the delivery of its research degree programmes have met the metric requirements outlined below. Data should be provided for the three years immediately preceding the submission of an application for research degree-awarding powers. Applicant organisations should be aware that numeric criteria contribute to a broader assessment of their capacity to assume the 'particular and substantial responsibility' (Criterion 1, Explanation above) placed on organisations holding research degree-awarding powers and necessarily involves an evaluative dimension.
43. The applicant organisation will be required to provide evidence that:
- xii. a significant proportion (normally around a half as a minimum) of its academic staff are active and recognised contributors to at least one organisation such as a subject association, learned society or relevant professional body. Such contributions are expected to involve some form of public output or outcome, broadly defined, demonstrating the research-related impact of academic staff on their discipline or sphere of research activity at a regional, national or international level;
  - xiii. a significant proportion (normally around a third as a minimum) of its academic staff have recent (i.e. within the past three years) personal experience of research activity in other UK or international higher education or specialist research institutions by, for example, acting as external examiners for research degrees, serving as panel members for the validation or review of research degree programmes, or contributing to collaborative research projects with other organisations (other than as a doctoral student). An applicant organisation will be required to demonstrate both that such activity has taken place, and that in the case of collaborative research activity the member of staff has made a personal contribution to the research and that a tangible output has been or is in the process of being achieved; and
  - xiv. a significant proportion (normally around a third as a minimum) of its academic staff can demonstrate recent achievements (i.e. within the past three years) that are recognised by the wider academic community to be of national and/or international standing (e.g. as indicated by authoritative external peer reviews). It is expected that the evidence will largely relate to work undertaken within the applicant organisation rather than in other HEIs.

## **Criterion 2: National guidance**

44. The organisation satisfies relevant national guidance relating to the award of research degrees.

## Evidence requirement

45. To assist in meeting Criterion 2 the applicant organisation will be required to demonstrate that it meets fully and will continue to meet, the expectations of:
- i. the Qualifications Frameworks in relation to the levels of its research degree programmes;
  - ii. research degree management frameworks issued by relevant research councils, funding bodies and professional/statutory bodies, which might include *Conditions of Research Council Training Grants* issued by Research Councils UK and *Statement of Expectations for Postgraduate Training* issued by Research Councils UK and other training funders.

## Criterion 3: Minimum number of doctoral degree conferments

46. The applicant organisation has achieved more than 30 doctoral degree conferments<sup>41</sup>, awarded through partnerships with UK awarding bodies;
47. In addition, the applicant organisation will need to demonstrate that:
- (i) the majority of conferred doctoral degrees have been achieved by students who are not also academic staff of the organisation; and
  - (ii) its completion rates meet sector norms.

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<sup>41</sup> Includes professional doctorates.

## **Annex B: Glossary**

### **Applicant**

An English higher education provider applying for a DAPs order or University Title

### **Approved**

Registration category for providers that want to access student finance that do not want to be eligible for OfS grant funding and/or to have fee cap obligations.

### **Approved (fee cap)**

Registration category for providers that want to be eligible for OfS grant funding in return for a fee cap and access and participation plan (where charging the higher fee amount).

### **Award**

A taught award and/or a research award. Foundation degrees are a type of taught award.

### **Conditions (ongoing, initial, specific)**

“Conditions”, and “Registration conditions” are the general terms used to mean all types of condition that a provider must meet and demonstrate in order to be registered. They include “initial registration conditions” which are the conditions a provider must demonstrate it has met as part of its initial application to join the register and on a continuous basis thereafter, “general ongoing registration conditions” which are those that a provider must meet once they have joined the register in order to maintain their registered status, and “specific ongoing registration conditions” which are additional conditions imposed by the OfS to mitigate or manage specific risks or weaknesses identified.

### **DAPs**

See "Degree Awarding Powers"

### **DAPs criteria**

The criteria, as set out in Annex A, that must be met to obtain a DAPs order.

### **DAPs holder**

A higher education provider that has DAPs in England.

## **DAPs order**

An order made by the OfS under section 42 authorising a provider to grant awards. Currently orders are made by the Privy Council.

## **DDB**

See "Designated Data Body (DDB)"

## **DQB**

See "Designated Quality Body (DQB)"

## **Degree Awarding Powers**

Providers that wish to award their own degrees (as opposed to delivering courses that lead to a degree from another provider) must first apply for and obtain degree awarding powers, commonly referred to as DAPs. It is an offence to offer degrees that are not awarded by or on behalf of a provider with DAPs. There are different types of DAPs, which entitle the holder to award different types of degrees. For example, providers with Foundation DAPs can only award Foundation Degrees, but not higher degrees, such as Bachelor degrees.

## **Deregistration**

The OfS has the power to deregister a provider either where the OfS has previously imposed a monetary penalty or suspended the provider in relation to breach of one of its ongoing registration conditions and it appears to the OfS that there is again a breach or a continuing breach of that condition or there is or has been a breach of a different condition; or where it appears to the OfS that there is or has been a breach of one of the provider's ongoing registration conditions and that a monetary penalty or suspension is insufficient to deal with the breach.

## **Designated Data Body (DDB)**

A data body for higher education in England that can perform data functions on behalf of the OfS, including data collection, data processing, data storage, data publication and provision. The DDB is designated by the Secretary of State for Education on the advice of the OfS.

## **Designated Quality Body (DQB)**

A body that performs the effective assessment of the quality of, and the standards applied to, higher education providers in England. The DQB is designated by the

Secretary of State for Education on the advice of the OfS. The body also provides advice to the OfS on the granting, revocation or varying of degree awarding powers.

### **English Higher Education Provider**

A provider of higher education courses whose activities are carried on, or principally carried on, in England (see section 83 of HERA)

### **FDAPs**

DAPs for foundation degrees only (for definition of foundation degree, see section 42(3) of HERA)

### **FHEQ**

See "Framework of Higher Education Qualifications (FHEQ)"

### **Framework of Higher Education Qualifications (FHEQ)**

The FHEQ sets out five increasing levels of higher education qualifications, which are illustrated by typical qualifications for that level, for example Higher National Certificates, Graduate Diplomas, Bachelor Degrees. Each level includes a descriptor that sets out the generic outcomes and attributes expected for the award of qualifications at that level.

### **Franchising**

A franchising agreement is a sub-contractual relationship, which allows a degree awarding body to form an agreement with a provider to deliver all, or part, of a programme which is approved and owned by the degree awarding body. The franchising institution retains overall control of the programme's content, delivery, assessment and quality assurance arrangements.

### **Full Authorisation**

DAPs given to a provider that either a) has a three-year track record of providing higher education in England on application, or b) has successfully completed the three year probationary period with NDAPs.

### **General ongoing registration conditions**

"General ongoing registration conditions" are those that a provider must meet once they have joined the register in order to maintain their registered status. See "Conditions".

### **Governing body**

As defined in section [85](#) of HERA. Broadly, this will be any board of governors of the institution or any persons responsible for the management of the institution/company, or an equivalent controlling body, for example the board of a company, the trustees of a charity, etc.

### **Higher education**

Higher education as defined in section 83(1) of HERA – this is education provided by means of a higher education course, which is a course of any description mentioned in Schedule 6 to the Education Reform Act 1988

### **Higher education provider**

A higher education provider (or provider) is an organisation that delivers higher education, as defined in Schedule 6 of the Education Reform Act 1988. A provider can be an awarding body or deliver higher education on behalf of another awarding body. The term encompasses current higher education institutions, further education colleges and alternative providers. Unless stated otherwise, in this document ‘provider’ or ‘higher education provider’ refers to a registered higher education provider, as defined in section 83 in HERA.

### **Initial conditions**

“Initial registration conditions” are the conditions a provider must demonstrate it has met as part of its initial application to join the register and on a continuous basis thereafter. See “Conditions”.

### **New DAPs or NDAPs**

DAPs given to a provider that has a track record of less than 3 years of providing higher education in England on application (see chapter 2)

### **Ongoing conditions**

General ongoing registration conditions and specific ongoing registration conditions

### **Quality assessment**

Quality assessment is a collective term used to refer to arrangements for ensuring higher education providers meet baseline expectations for academic quality and standards. There are different arrangements in operation in different parts of the UK and, in some parts, for different types of providers but in all cases, expectations are underpinned by the UK Quality Code for Higher Education.

### **RDAPs**

DAPs for research awards

### **Registered Basic**

Registration category for providers that want to be officially recognised as offering Higher Education courses.

### **Reportable event**

An event that requires a provider to notify OfS of material decisions/changes, such as a change in control or borrowing above a certain level.

### **Research award**

A degree, diploma, certificate or other academic award or distinction granted to persons who complete an appropriate programme of supervised research and satisfy an appropriate assessment (see section 42(3) of HERA)

### **Risk Monitoring**

The process by which the OfS will identify and respond (if necessary) to an increased risk to student outcomes and delivering value for money, while remaining proportionate in its regulation of providers. It is based upon a provider continuing to meet its baseline requirements of registration, and will take the form of general monitoring, applied to all providers, and increased monitoring/engagement for individual providers where an increased risk has been identified or where there is a suspected/actual breach of conditions.

### **Specific ongoing conditions**

The OfS may decide to impose a specific ongoing condition where the OfS has identified that the provider needs to take further action where there is a risk of a breach or to stop a breach. The specific ongoing condition will be targeted to mitigate the specific risk that is posed and should be focused on actions or activities by the provider, which the OfS may require to ensure it meets its ongoing conditions.

### **Student Protection Plan**

A document which sets out what actions the provider will take to minimise any impact on the continuity of study of their students. It will also include examples of what events may trigger the plan, such as the closure of a course, campus or location, the discontinuation of a discipline or market exit. This document must be approved by the OfS, and readily available to current and potential students.

### **Student support**

The Government provides financial support for tuition fees and living costs for students who live permanently in England and students from the European Union, who are studying in England. The Student Loans Company makes this support available as grants or loans.

### **Taught award**

A degree (including a foundation degree) diploma, certificate or other academic award or distinction granted to persons who complete an appropriate course of study and satisfy an appropriate assessment (see section 42(3) of HERA)

### **UK Research and Innovation (UKRI)**

This new public body will be in place of the 7 Research Councils, Innovate UK, and the research and knowledge exchange functions of the Higher Education Funding Council for England (HEFCE).

### **UKRI**

See "UK Research and Innovation (UKRI)"

### **University Title**

Not all higher education providers are universities. "University" is a protected term, and anyone wishing to use it in their title must apply for, and meet certain criteria first. An important prerequisite for being able to apply for University Title is to have DAPs.

### **University College Title**

Providers that meet all of the pre-requisites for University Title but do not meet the 55 per cent criterion may apply for University College Title instead.

### **Validation arrangements**

Arrangements between one English higher education provider and another, under which the first provider grants or authorises a taught award to a person who is a student at the other provider



Department  
for Education

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