INDEPENDENT HIGHER EDUCATION

IHE response to the OfS consultation on proposals for a new approach to consumer and student protection

July 2026

Proposal 1: Introduce a new ongoing condition requiring fair treatment of students

Question 1: We are proposing to replace ongoing condition C1 (Guidance on consumer protection law) with the new ongoing condition C6 that would require a provider to 'treat students fairly.' To what extent do you support this proposal?

IHE supports in principle the proposal to replace ongoing condition C1 with a new ongoing condition C6 requiring providers to treat students fairly. We share the OfS's commitment to ensuring that students receive what they have been promised and that the student-provider relationship is underpinned by clear, fair and transparent commitments.

We also note that this proposal extends to all registered providers the obligations already introduced for new registrants under initial condition C5. We argued for this consistency in our 2025 response and welcome this aspect of the proposal. However, in responding to the introduction of initial condition C5, IHE raised concerns which have not been resolved, and which remain relevant to this ongoing condition. These included concerns about the additional burden that the new condition and its assessment would place on both the OfS and providers, given existing delays in the registration process, as well as the risk of regulatory overreach into matters already governed by consumer protection law. We address this latter point further in response to Question 2 below. IHE also cautioned that documentary evidence alone cannot demonstrate compliance with fairness requirements in practice. Providers' day-to-day decision-making and engagement with students remain more meaningful indicators of fair treatment than the existence of policies and guidance documents.

The overarching requirement to 'treat students fairly', as drafted, gives the OfS broad discretion to find a provider non-compliant, even where it satisfies the condition's specific requirements. The condition also risks treating all provision as equivalent, when the legitimate diversity of higher education means that documents and practices will and should look different. In addition, the proposed implementation timeline, with the fairness condition taking immediate effect on publication, does not give providers sufficient time to review and update their arrangements.

Proposal 2: Establish principles and requirements that are consistent with treating students fairly

Question 2: To what extent do you support our proposed approach of reflecting key elements of existing consumer protection law – adapted specifically for the higher education context – within the proposed condition?

IHE supports the approach of grounding C6 in existing consumer protection law and adapting it for the higher education context. The six fairness principles map recognisably onto CMA guidance that providers are already expected to follow, and the positive requirements largely formalise existing information obligations. This continuity is helpful.

However, the consultation proposes to go beyond existing consumer protection law on the basis that students are vulnerable consumers facing a power imbalance. While IHE supports strong student protection, creating obligations that exceed the legal baseline requires a clear and evidenced case that existing law is insufficient. The consultation does not make that case. Parliament and the CMA have already established the applicable consumer protection framework, and the OfS has not adequately justified the creation of a separate, higher standard. A particularly significant consequence is that compliance with consumer protection law would no longer guarantee compliance with the OfS condition. Providers could satisfy all relevant legal requirements and nevertheless be found in breach of C6. This creates regulatory uncertainty and an unpredictable compliance environment with limited additional benefit for students.

The proposed approach also risks duplicating existing regulatory activity. Providers already face scrutiny under consumer protection law and, where appropriate, referral to National Trading Standards. Adding a second layer of oversight covering substantially the same territory, but applying a different standard, is likely to increase rather than reduce complexity. IHE Members report that the proposals would create additional burden through repeated legal review of terms and policies, parallel assurance processes, and additional governance and committee approvals. The OfS has not demonstrated that these additional costs are proportionate to the risks identified, particularly given the extent to which those risks are already addressed through existing consumer protection law and CMA guidance. In developing its approach, the OfS should have regard to the Regulators' Code and its expectation that regulators avoid unnecessary burdens and adopt proportionate interventions based on relevant factors such as the size and capacity of those they regulate. Where existing consumer protection law and CMA guidance already address the risk, the OfS has not demonstrated why a higher, OfS-specific standard is a proportionate response.

Question 3: To what extent do you support our proposal to establish a combination of principles and requirements that would be consistent with treating students fairly?

IHE supports in principle the use of a combination of overarching principles and specific positive and negative requirements. This approach has the potential to provide clearer guidance than a purely principles-based condition, while retaining sufficient flexibility to apply across a diverse sector. In particular, the inclusion of specific requirements should help providers understand the behaviours and documents that the OfS expects to see in practice.

However, the proposed structure also creates a layered compliance obligation. The relationship between the overarching duty to treat students fairly and the individual principles and requirements should be clearer. Providers need to understand how compliance with specific requirements will inform the OfS's overall assessment of fairness. The proposals give the OfS considerable discretion and create uncertainty for providers seeking to assess their own compliance. The OfS should therefore set out clearly how it will reach an overall fairness judgement, how it will weigh the different principles and requirements, and what evidence it would expect a provider to hold to demonstrate compliance.

Members broadly recognise the six principles as reflecting the way responsible providers already seek to operate. However, several principles may be difficult to evidence in a consistent and proportionate way, particularly where they require providers to demonstrate student understanding, good faith, or effective planning for a wide range of potential risks. These are not always matters that can be evidenced through a single document or policy. They may instead depend on institutional judgement, staff practice, student communications, partnership arrangements and the context of individual decisions.

This is particularly important for small and specialist providers, where compliance may rest with one individual or a very small team and where provision may not follow the assumptions of a traditional three-year undergraduate model. The OfS should avoid creating an evidential burden that requires providers to produce extensive new documentation simply to prove that they are acting fairly. Clear, practical guidance with worked examples across different provision types would be essential, including examples relevant to apprenticeships, employer-funded provision, modular and short courses, partnerships, TNE and specialist creative or professional programmes.

Question 4: What are your views on the proposed principles, including any reflections on the individual principles? If there are any other principles you think are important, please include these here.

As stated above, IHE Members broadly recognise the proposed principles as reflecting behaviours that responsible providers already seek to demonstrate. We support the intention to set out clear expectations for fair treatment. However, several principles rely on concepts that may be difficult to evidence consistently, particularly where the OfS proposes to assess matters such as student understanding, good faith and effective risk planning rather than simply the existence of policies and processes.

Principle 1, on promoting students' understanding of their rights, is important but risks extending beyond a reasonable obligation to provide clear and accessible information. Providers can take steps to explain students' rights through contracts, policies, induction

materials, complaints guidance and ongoing communications, but they cannot guarantee that every student has understood every aspect of those rights. The OfS should therefore define this principle in terms of reasonable, proportionate steps rather than an outcome that providers cannot fully control. Guidance should also recognise that the most effective communication methods may vary across provision models, including apprenticeships, short courses, modular study, TNE and employer-funded provision.

The OfS has taken care to define clearly what it means by promoting freedom of speech within the law, including specific expectations and worked examples. The OfS should apply the same level of definitional clarity here and specify what it means to promote students' understanding of their consumer rights in practice, so that providers and students share a common understanding of what is expected.

Principle 2, on identifying and planning for risks, is sensible in principle, but the proposed expectation that providers plan for all relevant scenarios needs careful definition. Risk profiles differ substantially between providers and modes of delivery. A small specialist provider, an apprenticeship provider, a TNE partnership, an employer-funded programme and a traditional campus-based undergraduate provider will not face the same risks or have the same practical mitigations available. The OfS should avoid assessing risk planning against assumptions drawn from a standard three-year undergraduate model and should clarify what evidence it would expect providers to hold, particularly now that student protection plans are proposed for removal.

Principle 3, on enabling access to complaints and redress, is welcome. Students should be able to raise concerns and seek remedies easily. However, the OfS should work closely with the OIA to ensure that its expectations align with the wider complaints framework and do not create overlapping or inconsistent requirements.

Principle 4, on delivering commitments made to students, reflects existing consumer protection expectations and is supported in principle. The OfS should nevertheless recognise that some changes arise from factors outside a provider's control, including government policy, PSRB requirements, awarding partners, employers and placement providers. Guidance should recognise the distinction between legitimate changes that are communicated transparently and unfair provider behaviour.

Principle 5, on acting in good faith, is the principle that creates the greatest uncertainty for members. Good faith is a recognised legal concept, but the consultation appears to extend its application in a way that may go beyond its established meaning, on the basis that there is always a power imbalance in the student-provider relationship. The OfS should explain how it will assess good faith in practice, what evidence it will consider and how it will take account of different delivery models and provider contexts. This is particularly important for professional and employer-funded provision, apprenticeships and partnership delivery, where the nature of the relationship between student, provider and any third party may differ materially from a traditional undergraduate model.

Principle 6, on delivering with reasonable care and skill, is broadly sensible and aligns with existing expectations. However, the OfS should clarify how this principle interacts with its quality and standards conditions to avoid duplicate assessment of the same activity.

Members also raised concerns about the practical application of the principles to commercial practices, particularly where concepts drawn from the DMCCA are applied in a higher education context. The boundary between robust but legitimate student communications and an aggressive commercial practice is not yet sufficiently clear. Providers may need to communicate firmly with students and set out possible consequences in relation to matters such as fee debt, academic misconduct, fitness to practise concerns, visa compliance or professional requirements. Without clear examples, there is a risk that providers become overly cautious in communicating important information. IHE therefore recommends that the OfS provide worked examples illustrating how the principles apply in realistic higher education scenarios, to ensure providers understand instances where firm action is lawful, proportionate and necessary.

Overall, IHE does not propose additional principles at this stage. The priority should be ensuring that the six principles are supported by guidance that is clear, proportionate and capable of being applied consistently across the diversity of higher education provision.

Question 5: What are your views on the proposed positive requirements (the things that a provider must do to treat students fairly), including the information we are proposing to require a provider to give to students as set out in the proposed OfS information requirements list?

IHE supports in principle the proposed positive requirements, which largely formalise information obligations that providers are already expected to meet under consumer protection law. We welcome the intention to make these expectations clearer for students and providers and agree that students should receive accurate, accessible and timely information about their course, fees, rights and routes to redress.

However, several requirements would benefit from greater clarity if they are to be applied consistently and proportionately. In particular, the proposed OfS information requirements list includes a catch-all reference to "other information required by consumer protection law". This creates uncertainty because providers cannot determine from the condition itself what information may be required. If the OfS intends to regulate against this requirement, it should set out the relevant categories of information in guidance and explain how compliance will be assessed.

Members are also concerned by the requirement that the overall presentation of information should ensure that students have an accurate understanding of "any matter". Providers can reasonably be expected to provide information that is accurate, clear, accessible and presented at appropriate points in the student journey. They cannot, however, guarantee that every student will understand complex information in the same way. This is particularly relevant where information may also be provided by employers, agents, professional bodies or delivery partners. The requirement should therefore focus on whether providers have taken reasonable and proportionate steps to support understanding, rather than on outcomes that are not wholly within their control.

The requirement for information to be substantively consistent across documents is sensible in principle but should not be underestimated in practice. Compliance is likely to require providers to review a wide range of student-facing materials, including contracts, offer letters, course pages, policies, handbooks, complaints procedures, refund policies and partnership

documentation. For many providers this will involve legal, academic, operational and governance review. The OfS should recognise the scale of this exercise when determining implementation timelines and expectations.

On pricing, cancellation rights and refund information, further guidance is needed for provision that does not fit a standard full-time undergraduate model. This includes modular and short course delivery, where standard fee structures and withdrawal periods may operate differently; employer-funded or apprenticeship provision, where the fee relationship may sit primarily between the provider and the employer; professionally accredited programmes, where enrolment conditions may be set by a professional body; and partnership or TNE provision, where responsibilities for information provision may be shared. Worked examples would help ensure that requirements are interpreted consistently across the sector.

IHE has previously highlighted issues relating to the application of the 14-day cooling-off period under consumer protection legislation, particularly where courses begin shortly after enrolment. Similar questions are likely to arise as providers prepare for the Lifelong Learning Entitlement. The OfS should use this opportunity to work with the sector to develop clear and consistent approaches to these issues. Model wording or illustrative examples, where appropriate, would reduce burden and support compliance without requiring individual providers to resolve the same legal questions independently.

Overall, IHE supports the objective of improving the clarity and accessibility of information for students. However, the positive requirements should provide clear and predictable expectations rather than creating an open-ended evidential burden. The OfS should define the limits of the requirements more clearly, explain what reasonable steps look like in different contexts, and ensure that implementation reflects the practical work that providers will need to undertake to review and align their documentation.

Question 6: What are your views on the proposed negative requirements (things that a provider must never do to treat students fairly), including those set out in the OfS prohibited behaviours list?

IHE supports the principle of a prohibited behaviours list and agrees that extending the existing C5 list to all registered providers is a logical step. Clear examples of behaviours that are incompatible with fair treatment can help providers understand regulatory expectations and support consistent decision-making.

However, we have significant concerns about the inclusion of provisions derived from the DMCCA relating to aggressive commercial practices, particularly where the OfS proposes to apply concepts that go beyond the underlying legislation. Members have consistently found the concept of aggressive commercial practices difficult to interpret in a higher education context, and the consultation does not provide sufficient clarity on how the OfS intends these provisions to operate in practice. The OfS should provide worked examples drawn from a range of higher education settings, rather than relying on concepts developed primarily for consumer goods and services markets.

IHE is also concerned that some behaviours included on the prohibited behaviours list may be fair and necessary in specific provider contexts. As we argued in our 2025 response, providers may need discretionary powers to withdraw offers or amend arrangements where external

requirements are imposed by professional, statutory or regulatory bodies, awarding organisations, employers or other partners. Similarly, employer-funded provision may legitimately include contractual terms allowing an employer to require withdrawal from a programme in specified circumstances. The consultation does not explain how the OfS will account for these circumstances when assessing compliance. Guidance should therefore make clear how contextual factors will be considered and how providers can demonstrate that a term or practice is legitimate and proportionate in its particular context.

Members also remain concerned about the use of subjective terminology within the prohibited behaviours list. Terms such as 'disproportionate', 'expressly clear' and 'reasonable and proportionate' are central to determining compliance, yet their meaning is not defined. The OfS should either define these concepts or explain how it will interpret them in a manner consistent with established consumer protection law and CMA guidance.

IHE has a particular concern about the legal framing of the 'always unfair' list. The consultation states that certain behaviours are always unfair while simultaneously describing the list as 'including but not limited to' the behaviours identified. This creates uncertainty. If the OfS intends certain practices to be prohibited in all circumstances, the list should be exhaustive and clearly closed. Providers should be able to identify with certainty which behaviours are absolutely prohibited, and which remain subject to contextual assessment.

Further clarification is also needed regarding the prohibition on threatening action that cannot legally be taken. In higher education, providers may need to communicate serious potential consequences arising from formal processes relating to academic misconduct, fitness to practise concerns, non-payment of fees, visa compliance, placement requirements or breaches of professional standards. Such communications can be necessary and appropriate provided they are grounded in published procedures, supported by due process and reflect actions that the provider is lawfully entitled to take. The OfS should make clear that firm, lawful and proportionate communications of this kind do not constitute aggressive commercial practices.

IHE welcomes the OfS's clarification that the prohibition on aggressive commercial practices is not intended to conflict with duties relating to freedom of speech within the law or academic freedom. However, the rationale for including this clarification remains unclear. The OfS should explain the circumstances it is seeking to address and provide examples illustrating how providers should distinguish between unlawful coercion or undue influence and legitimate actions taken in fulfilment of their legal, regulatory and academic responsibilities.

Proposal 3: Include all students, higher education and ancillary services in scope of the condition

Question 7: What are your views on our proposal that the condition should apply to all students, including prospective, current and former students (as defined in the condition) and those on apprenticeships or employer-sponsored courses?

IHE supports in principle the proposal that the condition should apply to prospective, current and former students, and welcomes the inclusion of students on apprenticeships and employer-sponsored courses. Students should be able to expect fair treatment throughout their relationship with a provider, and extending the condition beyond currently enrolled students reflects that principle.

While prospective students should receive accurate, clear and fair information during recruitment and admissions, the relationship at this stage differs materially from that of an enrolled student. Prospective students generally retain significant freedom to choose between providers and, in many cases, to decline or withdraw from an offer without incurring financial liability. The OfS should therefore explain how it understands the rights and responsibilities of both parties at this stage and ensure that regulatory expectations reflect the distinctive nature of the pre-contractual relationship.

IHE is particularly concerned about the potential retrospective application of C6. The consultation does not clearly explain whether the condition would apply to commitments made to students who enrolled before it comes into force. Providers may otherwise be required to review existing contracts, policies and commitments and potentially revisit arrangements agreed under a different regulatory framework. This would be legally complex, operationally burdensome and potentially disruptive for students. The OfS should therefore confirm that C6 will operate prospectively and that providers will not be assessed against standards that did not exist when commitments were originally made.

In relation to transnational education (TNE), IHE Members support extending protections to students in principle. However, responsibilities are often shared between a registered provider and one or more overseas delivery partners operating within different legal and regulatory frameworks. The OfS should clarify how compliance with C6 will be assessed where responsibility for admissions, information provision, student support or complaints handling is divided across multiple organisations.

On apprenticeships and employer-sponsored provision, the relationship between student, provider and employer is more complex than in traditional higher education. Employers may influence recruitment, funding, continuation, withdrawal and learning arrangements in ways that are outside the provider's direct control. The OfS should therefore clarify how C6 will apply where employer contractual arrangements are relevant or where a student's experience is significantly affected by employer decisions rather than provider actions.

Overall, IHE supports extending the condition to all categories of student, but the OfS should provide further clarity on how the condition will operate in contexts where responsibilities are shared, contractual arrangements differ, or students enrolled under previous regulatory expectations.

Question 8: What are your views on the inclusion of ancillary services within the scope of the condition? Please explain your views, including whether there are particular ancillary services that should or should not be included.

IHE recognises the rationale for bringing ancillary services within the scope of C6 where those services form a meaningful part of the student experience. However, the proposed scope is not yet sufficiently clear for providers to understand which services are included, what obligations would apply, and how compliance would be assessed in practice.

The boundary between core educational provision and ancillary services is particularly unclear. For many IHE Members, services that might appear ancillary in a general framework are closely integrated into course delivery. Examples include studio or specialist facility access, mandatory software, placement arrangements, field trips, industry access, or other services linked closely

to the design of the programme and support students in achieving their learning outcomes. The examples used in the consultation, such as libraries and gyms, do not fully reflect the diversity of provision across the sector.

IHE Members are especially concerned about services that are informal, discretionary or facilitated rather than directly provided by the institution. These include accommodation and landlord introduction schemes, informal links with placement providers, introductions to employers, and signposting to specialist suppliers or support services. Such arrangements are often intended to benefit students, but providers may have limited control over the underlying service or contractual relationship. If bringing these activities within scope creates significant regulatory liability, providers may conclude that the safest approach is to withdraw them. This would reduce, rather than enhance, support for students.

The proposals also raise practical questions where services are delivered through third-party, partnership or sector-wide arrangements. Providers may not control the contractual terms governing services such as Eduroam, Jisc services, licensed software, placements, accommodation arrangements or transnational education partnerships. In some cases, access to industry partners, professional environments or specialist facilities is a key part of the student experience, but the contractual terms underpinning those arrangements are commercially sensitive. Requiring full publication of those terms could cause partners to withdraw or reduce their engagement, again damaging rather than improving the student experience. Similarly, contractual terms may be subject to confidentiality obligations, such as contracts with host families, private landlords or small specialist suppliers. The consultation does not explain how providers should comply in these circumstances. The OfS should therefore clarify what information providers are expected to disclose and ensure that providers are not held responsible for arrangements that they do not control or cannot amend.

Partnership delivery presents similar challenges. Where services are provided by an awarding organisation, delivery partner, employer or overseas partner, responsibility for information provision and contractual oversight may be shared. The consultation does not adequately explain how compliance responsibilities will be allocated in these circumstances. Providers should not be held responsible for documents or arrangements that they cannot access, amend or compel a partner to disclose.

IHE therefore urges the OfS to work with the sector to develop a clearer and more tightly defined concept of ancillary services. Guidance should include examples of services that are in scope, services that are out of scope, and services where a modified approach is required because provision is informal, third-party, commercially sensitive or outside a provider's direct control. Without this clarity, there is a risk that the proposals will discourage providers from offering valuable forms of student support while creating significant compliance burden with limited additional benefit for students.

Question 9: What are your views on applying the condition to services delivered by third parties on behalf of providers (including ancillary services and services provided by agents)?

IHE agrees that providers should take reasonable steps to ensure that students are treated fairly by agents and other third parties acting on their behalf. However, the condition should be

framed around matters within a provider's reasonable control rather than creating absolute accountability for every act or omission of a third party.

The consultation does not adequately distinguish between activities that a provider can control and those that it cannot. The proposed "by or on behalf of" formulation risks holding providers responsible for conduct that they may be genuinely unable to prevent, identify or remedy in advance. The appropriate standard should therefore be one of reasonable steps, including due diligence, contractual controls, monitoring arrangements, staff training, escalation procedures and action where concerns are identified.

This is particularly important in relation to international recruitment agents. Providers should be expected to carry out appropriate due diligence, establish clear contractual expectations, monitor performance, review complaints and act promptly where concerns arise. However, many agents operate across multiple institutions and jurisdictions, and providers cannot realistically supervise every interaction between an individual agent and a prospective student. Where a provider can evidence proportionate due diligence, contractual controls, monitoring arrangements and appropriate corrective action, this should normally be sufficient to demonstrate compliance. Accountability should sit with the party best placed to prevent the harm.

The same principle applies to a wide range of third-party relationships commonly used across higher education, including franchise partners, validation partners, placement providers, marketing agencies, pathway providers, accommodation partners, transnational education delivery partners and employers involved in apprenticeship or employer-sponsored provision. In each case, the provider's degree of influence and control will vary significantly. Providers should therefore be assessed according to the reasonableness of the arrangements they have put in place, taking account of the nature of the relationship, the level of risk involved and their ability to influence the third party's conduct.

Partnership arrangements raise particular challenges where responsibilities are shared across multiple organisations. For example, an awarding provider may amend regulations, policies, complaints procedures, programme specifications or assessment requirements that affect students taught by a delivery partner. Similarly, an overseas TNE partner may be responsible for certain aspects of admissions, student support, accommodation or local communications. The consultation does not adequately explain how responsibility will be allocated in these circumstances. Providers should not be held accountable for documents, decisions or communications that they cannot access, amend or compel a partner to disclose.

Members also identified practical difficulties in relation to third-party services and ancillary provision. Providers may facilitate access to accommodation schemes, landlord introduction services, specialist software, industry placements, host-family arrangements, employer networks, wellbeing services or professional support services that are delivered by external organisations. In many cases, the provider has only limited visibility of the contractual terms governing these arrangements. The OfS should distinguish clearly between services that a provider directly controls and services where it is acting primarily to facilitate, signpost or introduce.

Further complications arise where third-party suppliers are unwilling to disclose contractual information. Large commercial suppliers, software providers, telecommunications providers, accommodation platforms and specialist service providers may operate standard contractual

arrangements that individual providers cannot negotiate, amend or publish in full. Similar issues arise in relation to sector-wide services such as Eduroam, Jisc services and bulk-licensed software agreements. The consultation appears to assume that providers will always be able to obtain and publish relevant contractual terms, but this may not be realistic in practice. The OfS should therefore permit proportionate alternative approaches, such as provider-produced summaries of the rights, responsibilities and limitations that are relevant to students.

Overall, IHE supports an approach based on provider responsibility for effective oversight of third parties rather than strict liability for third-party conduct. Where providers can demonstrate proportionate due diligence, contractual expectations, monitoring arrangements, escalation processes and appropriate action in response to identified concerns, this should ordinarily be sufficient to demonstrate compliance with C6. The OfS should avoid creating a framework that discourages valuable partnerships, agent relationships, accommodation support schemes, industry engagement opportunities, placement arrangements or other student services because the associated regulatory risk is unclear or disproportionate.

Proposal 4: Require publication of specified documents and information

Question 10: What are your views on our proposal that all registered providers should be required to publish specified documents on a single, easily accessible webpage? You may want to comment on the clarity and appropriateness of the specified documents, and the impact on students or providers.

IHE supports the intention to improve transparency and make it easier for students to find the documents that set out their rights, responsibilities and routes to redress. In fact, IHE's own membership regulations already require members to publish relevant policies, and many IHE Members already make much of this information publicly available.

However, the practical implementation of this requirement is more complex than the consultation suggests. Evidence and feedback from IHE Members indicates that building and maintaining a single publication webpage would require a significant review of contracts, policies, course information, partnership documents, refund and compensation arrangements, complaints procedures and ancillary service information. For providers with multiple programmes, academic partners, delivery locations or student cohorts, this is not simply a web publishing exercise. It will require legal, academic, operational and governance input to ensure that the published material is accurate, current and appropriate for each group of students.

The OfS should also consider whether requiring a single webpage will always improve student understanding. Many providers operate different contractual arrangements, policies and course structures for different cohorts, partners or modes of study. Bringing all documentation together in one location could result in a large and potentially overwhelming repository of information, making it harder rather than easier for students to identify the documents that apply to them.

Students rarely engage with information simply because it has been published; they are more likely to engage with it when it is presented at the point they need it and in a format that is relevant to the decision they are making. The focus should therefore be on ensuring that students can locate relevant information quickly and reliably, rather than on requiring a single presentation format.

Usability and accessibility should be central to the publication requirement. Members are concerned that the proposed 'one-click' approach may be interpreted as requiring a page containing a long list of PDF documents. This would not represent best practice for accessibility or student understanding. Webpages in accessible formats are often easier to navigate, easier to update and more useful to students than static PDF documents. The OfS should make clear that compliance is not about creating a list of links, but about ensuring that information is accurate, accessible, current and intelligible to the students who need it.

The consultation also does not fully address circumstances in which documents cannot reasonably be published in full. Providers may rely on commercially sensitive agreements, contracts involving private landlords, host families, placement providers, specialist suppliers, overseas partners or sector-wide services. In some cases, publication may be restricted by confidentiality obligations, commercial sensitivity or data protection requirements. Providers should therefore be permitted to publish clear student-facing summaries of relevant rights, responsibilities and limitations where full publication is not appropriate.

Partnership delivery creates additional challenges. A provider may rely on an awarding, lead or delivery partner for key policies, contracts or course documentation but may have limited control over when those documents are updated or shared. If a partner revises a document without timely notification, the provider's publication page may become inaccurate through no fault of its own. The OfS should clarify how accountability will operate in these circumstances and ensure that providers are not held responsible for information they cannot access, amend or compel a partner to disclose.

IHE also has concerns about the proposed declaration and random sampling approach. A publication page serving multiple cohorts, delivery models or partnership arrangements may legitimately appear more complex than one serving a traditional provider. Compliance assessments should therefore take account of provider context and allow providers to explain how information is organised and why a particular approach has been adopted.

Further guidance is needed on refund and compensation policies. Students should understand the circumstances in which refunds or compensation may be available, but providers also need flexibility to take account of individual circumstances. Requiring highly prescriptive published formulae could create unrealistic expectations and reduce the ability to reach fair outcomes on a case-by-case basis. The OfS should clarify the level of detail expected and how providers can describe discretionary approaches transparently.

Overall, IHE supports the objective of improving transparency and helping students access important information more easily. However, the success of the proposal will depend on whether it improves student understanding in practice, rather than simply increasing the volume of published documentation. The OfS should provide worked examples for providers with different delivery models, partnerships and student cohorts; permit proportionate alternatives where full publication is not possible; and ensure that compliance assessments take proper account of provider context.

Proposal 5: Remove requirements relating to student protection plans

Question 11: We are proposing that we should remove ongoing condition C3 and instead protect students through the proposed requirements of ongoing condition C6 as well as existing ongoing condition C4. Do you support this proposal?

IHE supports the proposal to remove ongoing condition C3 and the requirement for providers to maintain student protection plans. In our view, student protection plans have not delivered significant benefits for students in practice, while imposing a considerable administrative burden on providers. Their removal would also address an inconsistency in the current regulatory framework, under which some providers are required to maintain a student protection plan while others are not. This inconsistency can be particularly difficult to navigate in partnership arrangements involving multiple providers operating under different regulatory requirements.

IHE also notes that many of the objectives originally associated with student protection plans are addressed elsewhere in the proposed framework, particularly through the information, transparency and fairness requirements within C6. We therefore support the OfS's intention to adopt a more integrated approach to student protection.

However, removal of C3 places greater reliance on ongoing condition C4 as the primary mechanism through which student protection risks are identified, monitored and managed. In its current form, C4 is not sufficiently transparent to fulfil this role effectively. The OfS should therefore undertake an urgent review of C4 and publish clearer information about its expectations, the factors it considers when assessing risk, and the evidence providers should hold to demonstrate compliance.

Any review of C4 should also take greater account of the diversity of the sector and the different ways in which student protection risks arise. This is particularly important in partnership arrangements, where responsibility for identifying, managing and mitigating risk may be shared across multiple organisations. The OfS should set out more clearly how it expects C4 to operate in these circumstances, including where a partner is not itself a registered provider.

The transition away from C3 should also be carefully managed. Providers currently required to maintain student protection plans, including those involved in validation and franchise arrangements, are already expected to consider many of these risks through existing governance and oversight processes. Removal of the standalone C3 requirement should therefore simplify and align regulatory expectations rather than create uncertainty about what providers are expected to plan for or document.

The OfS should also clarify how C4 interacts with condition E10. Eligible lead providers are already required to maintain a Subcontracting Information Source (SIS) explaining how subcontracting partnerships are selected, governed, monitored and reviewed. There is a risk of duplication if providers are expected to produce overlapping information under both C4 and E10. The OfS should therefore explain how these requirements fit together and ensure that providers are not required to maintain multiple sources of documentation addressing the same partnership risks.

Overall, IHE supports the removal of C3. However, successful implementation will depend on the OfS providing greater transparency about the operation of C4, clarifying the interaction with

existing regulatory requirements, and ensuring that providers have sufficient certainty about the risks they are expected to identify and manage.

Proposal 6: Take a phased approach to implementation

Question 12: We are proposing that the requirement to treat students fairly would come into immediate effect, but a provider would have longer to comply with the requirements relating to publication. To what extent do you think this approach is reasonable? Please give reasons for your answer.

IHE supports the principle of a phased implementation approach and accepts the logic of bringing the overarching fairness obligation into force before the publication requirements. Responsible providers should already be seeking to treat students fairly, and there is merit in allowing additional time for compliance with the more detailed publication obligations.

However, the proposed timetable is not realistic for a significant proportion of providers and should be revised.

While the fairness obligation is intended to take immediate effect, providers will still need time to review contracts, policies, student-facing communications and partnership arrangements against the final version of the condition. The OfS should therefore provide a clear transition period between publication of its final decision and commencement of C6 and confirm that providers undertaking a reasonable implementation programme during that period will not be treated as non-compliant simply because changes are still in progress.

The proposed three-month deadline for publication presents particular challenges. Compliance will require more than simply creating or updating a webpage. Many providers will need to review student contracts, course information, complaints procedures, refund and compensation policies, partnership arrangements and ancillary service information, as well as securing legal, academic, operational and governance approval. For providers with multiple programmes, delivery partners, campuses or student cohorts, this represents a substantial piece of work. For smaller and specialist providers, the same staff are often responsible for regulatory compliance, governance and operational delivery, making the proposed timetable particularly challenging.

The challenge is compounded by the fact that providers will need to assess compliance against a new regulatory framework whose practical application remains uncertain. Providers are not simply updating documents to reflect a settled legal standard; they must understand how the OfS intends to assess fairness in practice and what evidence will be required to demonstrate compliance. This reinforces the need for a realistic implementation period supported by clear guidance.

IHE is also concerned about the implications for current students. Contractual changes should generally apply to new cohorts, or at the next natural renewal point for existing students, rather than being introduced in response to an arbitrary regulatory deadline. Revising contractual arrangements for students who are already enrolled is legally complex, operationally difficult and may itself create fairness concerns. IHE's Student Advisory Board agreed that contractual changes are generally most appropriately introduced for new students and expressed concern that applying new contractual arrangements to currently enrolled students could be unfair where students entered into their contract on a different understanding.

The OfS should also take account of the wider regulatory context. Many providers are currently preparing for the Lifelong Learning Entitlement, implementing changes arising from the OIA's revised Scheme Rules, managing governance and committee cycles, and, in some cases, undergoing Degree Awarding Powers (DAPs) assessment. Providers involved in DAPs processes may already be maintaining separate sets of policies to satisfy existing validating partner requirements while preparing future DAPs-ready arrangements. Introducing C6 during this period risks requiring multiple rounds of policy review and revision. The OfS should ensure that implementation timelines properly reflect these concurrent demands and provide appropriate flexibility where providers are engaged in significant regulatory processes.

IHE therefore recommends that implementation should be aligned as far as possible with academic cycles. At a minimum, the OfS should provide a transition period following publication of its final decision, extend the proposed three-month publication deadline, and make clear that any contractual changes should normally apply to new students or at the next natural renewal point for existing students.

Overall, IHE supports a phased approach, but not the timetable proposed. A realistic implementation plan should allow providers to understand the final requirements, obtain legal and governance approval where needed, work with academic and delivery partners, and communicate changes clearly to students. Without this, the implementation timetable risks undermining the fairness objective that C6 is intended to secure.

Additional questions

Question 13: Please share any comments or feedback you have on proposed ongoing condition C6: Treating students fairly, as drafted in Annex C.

IHE has several observations on proposed ongoing condition C6 as drafted in Annex C. These observations are intended to improve the clarity, proportionality and practical workability of the condition, while ensuring that providers can understand in advance what compliance requires.

First, the overarching requirement gives the OfS considerable discretion in determining whether a provider has treated students fairly. The draft condition indicates that the OfS may take an overall view of fairness and that a provider could be found in breach even where it has satisfied individual principles or requirements. This makes it difficult for providers to understand in advance what evidence will be sufficient to demonstrate compliance. If the OfS retains this structure, it should explain clearly how it will arrive at an overall fairness judgement, how different elements of the condition will be weighted, and what evidence providers should reasonably be expected to hold.

Second, the phrase "by or on behalf of" requires clearer definition. As drafted, the condition could apply to conduct involving franchise partners, validation partners, recruitment agents, marketing agencies, placement providers and other third parties. IHE agrees that providers should take reasonable steps to ensure that students are treated fairly by organisations acting on their behalf. However, the condition should recognise the limits of a provider's control and be framed around reasonable steps, due diligence, monitoring arrangements and action where concerns arise, rather than absolute responsibility for every act or omission of a third party.

Third, the drafting on ancillary services requires further clarification. The condition appears to define ancillary services by reference to a contract between the provider and the student. This risks excluding services that are closely connected to the student experience or necessary for successful participation in a course, while potentially capturing informal or facilitated services that providers do not control. The OfS should clarify how it distinguishes between core course delivery, ancillary services that form part of the student offer, and informal signposting or facilitation activity.

Fourth, the relationship between C6 and other regulatory requirements should be articulated more clearly. In particular, the OfS should explain how C6 interacts with condition B on quality and standards, condition C2 on the student complaints scheme, and condition C4 on student protection directions. Without clearer demarcation, providers may be uncertain whether the same issue could be examined through multiple regulatory routes and against different standards. This is especially relevant where C6 overlaps with matters such as reasonable care and skill, complaints and redress, provider disruption, closure arrangements and teach-out.

Overall, IHE recommends that the OfS revise the drafting of C6 to provide greater clarity about the scope of the condition, the limits of provider responsibility, and the basis on which compliance will be assessed. Providers should be able to identify what is required, what falls outside the scope of the condition, and how the OfS will assess compliance in a proportionate and consistent manner.

Question 14: How clear and helpful is the guidance to the condition as drafted in Annex C? If any elements of the draft guidance are unclear or could be more helpful, please specify which elements and provide reasons.

The draft guidance is helpful in setting out the OfS's intended approach, but it is not yet sufficiently clear or practical for providers to rely on when assessing compliance. IHE Members would welcome guidance that is more specific, more consistently drafted, and more reflective of the diversity of registered providers.

The definition of ancillary services is a particular example. The guidance should clarify whether a service must be contracted directly between the provider and the student to fall within scope, or whether services arranged through third parties are also captured. For example, a DBS checking service that is necessary for participation on a course but is contracted between the student and an external provider may be essential to the student experience whilst remaining outside the provider's control. Without greater clarity, providers cannot determine whether such arrangements fall within scope.

IHE welcomes the use of illustrative examples, but the current examples are weighted towards a traditional three-year undergraduate model. The guidance would benefit from a dedicated set of worked examples covering employer-funded provision, apprenticeships, modular and short-course delivery, online provision, transnational education, partnership arrangements, specialist provision and the Lifelong Learning Entitlement. Without such examples, providers operating outside the traditional model may struggle to assess their compliance confidently.

The concept of "reasonable steps" also requires further explanation. The phrase appears throughout the guidance, but providers are given limited indication of what the OfS would and would not regard as reasonable in different circumstances. This is particularly important for

smaller and specialist providers, where compliance arrangements may differ from those of larger institutions.

The publication guidance would also benefit from more practical detail. Paragraph 34 should explain how the publication requirement is expected to operate for providers with multiple academic partners, multiple cohorts within the same academic year, different delivery locations, or multiple modes of study. A worked example demonstrating how providers can present different document sets clearly and accessibly without creating an overwhelming repository of documents would be particularly valuable.

Overall, the guidance should provide providers with a clearer route to compliance. It should identify where flexibility is expected, where provider context will be taken into account, and what evidence providers should reasonably hold. Without this additional clarity, the guidance risks increasing rather than reducing uncertainty.

Question 15: Are there aspects of the proposals you found were unclear? If so, please specify which, and tell us why.

IHE Members have identified several areas where the proposals remain unclear. These issues are significant because they affect providers' ability to understand the scope of C6, assess compliance and communicate requirements accurately to students.

First, the boundary between core course delivery and ancillary services remains unclear. Providers need a clearer definition of which services fall within scope and which do not. The OfS should provide a positive test for determining when an ancillary service is regulated under C6, rather than relying primarily on examples.

Second, the application of concepts relating to aggressive commercial practices in a higher education context requires further explanation. Providers need examples that distinguish between inappropriate pressure and legitimate communications about serious matters, including academic misconduct, fitness to practise concerns, visa compliance, non-payment of fees, withdrawal procedures and professional requirements.

Third, the interaction between C6 and C4 is not sufficiently clear. With the proposed removal of student protection plans, providers need to understand how expectations around risk planning, disruption, closure and student protection will operate in practice and how these expectations relate to the commitments made to students under C6.

Fourth, the application of C6 to apprenticeships and employer-funded provision requires further clarification. The proposals do not adequately address how responsibilities should be understood where the actions of an employer affect a student's recruitment, continuation, progression or completion.

Fifth, accountability within partnership arrangements should reflect contractual responsibility. Where a lead, awarding or delivery partner controls a particular process, such as setting terms and conditions or determining course content, the OfS should make clear which organisation is accountable. For example, where a registering provider is responsible for student terms and conditions, it should be clear that responsibility for any assessment of those terms rests

primarily with that provider rather than with a teaching partner that has no ability to amend them.

Finally, further clarification is needed on how the publication requirement should operate for providers with multiple academic partners, cohorts or delivery models. The OfS should also consider accessibility implications. Where different information applies to different students, partnerships or modes of study, presenting all information through a single webpage may become increasingly difficult from both a usability and accessibility perspective.

Question 16: In your view, are there ways in which the objectives of this consultation (as set out in the introduction to this consultation) could be delivered more efficiently or effectively than what we propose here?

IHE considers that the objectives of the consultation could be delivered more effectively if providers had greater certainty about what compliant practice looks like in practice. While the proposed framework seeks to provide flexibility, a greater degree of transparency would support more consistent implementation and more effective protection for students.

The OfS should work with the sector to establish clearer examples of compliant and non-compliant practice rather than relying primarily on compliance assessment against standards that are not yet fully articulated. IHE is aware of cases where terms widely used across the sector, and reviewed by specialist legal advisers, have nevertheless been referred to National Trading Standards. A collaboratively developed set of examples, including terms that the OfS considers generally acceptable, problematic or context-dependent, would provide greater certainty for providers and promote more consistent outcomes for students.

The OfS should also provide greater transparency about how C4 operates when a provider faces financial difficulty, closure or significant disruption. Clear guidance on the commitments, mitigations and student communications expected in different scenarios would enable providers to plan in advance and incorporate appropriate commitments into their student-facing documentation. This would provide more practical protection for students than reliance on a standalone student protection plan while ensuring that providers understand what is expected of them.

Members have also raised broader concerns about the cumulative impact of regulatory change. C6, when considered alongside recent developments relating to Degree Awarding Powers (DAPs) and wider governance requirements, contributes to a perception of increasing regulatory complexity without sufficient explanation of how different requirements fit together. The OfS should therefore set out more clearly how C6 fits within the wider regulatory framework and should assess the cumulative impact of its regulatory activity on providers of different sizes, structures and operating models.

Question 17: Do you have any comments about the potential impact of these proposals on individuals on the basis of their protected characteristics under equality legislation?

The proposals have potential equality implications, particularly in relation to disabled students.

The accessibility of the proposed publication requirements will be critical. The OfS should make clear that published information must meet recognised accessibility standards and should avoid inadvertently encouraging long lists of static PDF documents. Accessible webpages, clear navigation, structured information and plain-language summaries where appropriate are more likely to support student understanding and engagement.

While not all of the following groups are defined by protected characteristics under equality legislation, members highlighted that they may nonetheless experience distinct impacts from the proposals.

International students may be particularly affected because many engage with providers through recruitment agents and may be more vulnerable to misleading or incomplete information before arrival in the UK. IHE supports strong protections for international students but encourages the OfS to recognise that approaches to student information vary internationally. IHE's Student Advisory Board also highlighted that visa-related delays can result in students missing induction activities, and that students studying in a second language may find lengthy or highly legalistic documentation difficult to engage with. Providers should therefore retain flexibility in how key information is communicated.

Students from disadvantaged backgrounds, including those who are the first in their families to enter higher education, may benefit from clearer and more accessible information. However, simply increasing the volume of published documentation is unlikely in itself to improve understanding. Plain-language summaries, targeted induction materials and accessible explanations of student rights may be more effective than publication alone.

Students on employer-funded programmes and apprenticeships may also be affected because the employment relationship can interact with the student-provider relationship in complex ways. The OfS should ensure that implementation of C6 does not make these arrangements harder for students to understand, particularly where employer decisions affect continuation or completion.

Online students should also be considered explicitly. The way in which online students access services, information and support differs significantly from campus-based provision, yet many examples in the consultation assume a traditional undergraduate model. The OfS should explain how C6 applies where the student experience is delivered wholly or primarily online.

Question 18: Do you foresee any unintended consequences resulting from the proposals in this consultation? If so, please indicate what you think these are and the reasons for your view.

IHE has identified several potential unintended consequences arising from the proposals. These do not undermine the importance of fair treatment, which IHE strongly supports, but they illustrate the importance of ensuring that the framework is clear, proportionate, and practical to implement.

First, providers may become less willing to make detailed commitments to students. If every statement contained within a published document is treated as a binding commitment and assessed through C6, providers may respond by reducing the level of detail they provide. This

could result in less useful and less informative documentation, reducing rather than improving transparency.

Second, providers may withdraw beneficial informal services. If accommodation signposting, landlord introductions, placement connections, employer introductions or specialist supplier referrals are treated as creating regulatory liability, providers may decide that the safest course of action is to discontinue them. This would represent a perverse outcome, where services intended to support students are withdrawn because the associated regulatory risk is unclear. Third, the proposals may encourage greater standardisation across the sector. Compliance assessment against an uncertain standard may incentivise providers, particularly smaller and specialist providers, to adopt generic terms, policies and documentation rather than approaches tailored to their provision and students. This could reduce innovation and make information less meaningful for students.

Fourth, greater reliance on C4 may reduce rather than improve transparency unless C4 itself becomes clearer. IHE remains concerned about the current operation of C4 and believes the OfS should publish a clearer framework setting out its expectations in different risk scenarios, including disruption, teach-out and closure. This would enable providers to plan effectively and would provide students with greater certainty.

Fifth, the proposed implementation timetable may conflict with other major sector developments, including implementation of the Lifelong Learning Entitlement, the OIA scheme review and anticipated governance reforms. These initiatives draw on many of the same staff and institutional resources that would be required to implement C6, particularly within smaller providers.

Finally, providers currently undergoing Degree Awarding Powers (DAPs) assessment may face particular implementation challenges. The consultation does not fully recognise the interaction between DAPs processes and C6 implementation. Additional compliance requirements at a critical stage in the DAPs process may create unnecessary burden and delay progress.

Collectively, these risks arise not from the objective of fair treatment itself, but from uncertainty about how the framework will operate in practice. Greater clarity, more detailed guidance and a proportionate implementation approach would substantially reduce the likelihood of these unintended consequences.

Contact IHE

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