

# INDEPENDENT HIGHER EDUCATION

IHE response to the consultation on proposals to change how the Office for Students regulates further education colleges in England

February 2026

## Question 1

***Do you agree with the proposal to disapply initial condition A2 (access and participation statement) for further education colleges applying for OfS registration?***

Yes. There is clear duplication of this condition in existing regulation by government of further education colleges.

## Question 2

***Do you agree with the proposal to disapply ongoing condition A2 (access and participation statement) for all registered further education colleges?***

Yes. There is clear duplication of this condition in existing regulation by government of further education colleges.

## Question 3

***Do you agree with the proposal to disapply initial condition D (financial viability and sustainability) for further education colleges applying for OfS registration that are not seeking DAPs?***

Yes. There is clear duplication of this condition in existing regulation by government of further education colleges.

#### Question 4

***Do you agree with the proposal to disapply ongoing condition D (financial viability and sustainability) for registered further education colleges without DAPs (and have not applied for DAPs)?***

Yes. There is clear duplication of this condition in existing regulation by government of further education colleges.

#### Question 5

***Do you agree with the proposal to disapply initial conditions E7 (governing documents and business plans), E8 (fraud and inappropriate use of public funds) and E9 (individuals) for further education colleges applying for OfS registration that are not seeking DAPs?***

Yes. There is clear duplication of this condition in existing regulation by government of further education colleges.

#### Question 6

***Do you agree with the proposal to disapply ongoing conditions E1 (public interest governance) and E2 (management and governance) for registered further education colleges without DAPs (and have not applied for DAPs)?***

Yes. There is clear duplication of this condition in existing regulation by government of further education colleges.

#### Question 7

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

IHE supports the aims of the OfS in reducing regulatory burden by identifying where areas of overlapping regulatory functions can be eliminated while still maintaining robust oversight. Similarly, having due regard to whether regulatory conditions are proportionate for the level of risk is an appropriate action for OfS to take. IHE welcomes this as a positive move towards meeting the recommendation of the *Independent Review of the Office for Students*, to reduce regulatory overlap and duplication.

While the proposed changes for further education colleges (FECs) are a positive development, the narrow scope of the reforms gives rise to significant unintended consequences. By focusing exclusively on FECs, the OfS risks entrenching, rather than alleviating, regulatory duplication across other parts of the sector that operate under similar or parallel oversight arrangements.

There are clear examples of providers – particularly those delivering Level 4 and 5 or operating under Advanced Learner Loans – who will register with the OfS to access Lifelong Learning Entitlement (LLE) funding while simultaneously remaining under Skills England oversight, e.g. for apprenticeships. The regulatory position of these providers is similar to that of the FECs addressed in the consultation, yet they remain excluded from the proposals where there remains a similar duplication of regulation. This risks creating inequity and inconsistency across providers delivering similar provision within the skills landscape.

The appropriateness of regulatory burden for these providers should also be considered. Notable examples include:

- In conditions E7, E8 and E9: those already regulated by Skills England provide the Department of Education (DfE) with similar frameworks for oversight as the FECs under consideration in this consultation. OfS should ensure those with provision such as apprenticeships are not subject to the type of duplicative oversight which is being removed for FECs.

We also believe that OfS can go further than current proposals to remove burden for providers who deliver in skills education at Level 4 and 5, and apprenticeships. OfS collects data for access to funding that most of these providers are not currently - and nor will they become - eligible for. For example, condition F4 requires a considerable amount of data collected by the Designated Data Body (DDB), which is not relevant or useful for regulation of teaching-only providers, especially those at Level 4 and 5 or apprenticeships. These include:

- The use of HE-BCI reporting even where providers are not able to access HEIF and KEF funding such as those only delivering teaching at Level 4 and 5 or micro or small providers who cannot meet the 1% sector mean income for any of the seven HEIF qualifying income elements.
- HESA staff data returns, primarily for use by UKRI, currently required even for providers that are not research active. For providers that are not research active – and in many cases are already submitting staff data to DfE for apprenticeship oversight – these collections impose additional burden without clear regulatory purpose.

In the pursuit of alleviating burden from overlapping regulation, there are alternative methods to disapplying whole conditions. For instance, where providers are not eligible for funding that requires these data collections, then there should be no requirement for completion – or there should be additional funding provided to cover the administrative cost and justify the resource burden. In the last few years, data collections noted above have expanded to benefit parts of the sector who will receive related funding, without due consideration by the OfS of the negative unintended consequences for other parts of the sector. Decisions to implement these changes have happened since the independent review of the OfS cautioned against over-burden.

Changing conditions for FECs is a first step towards proportionate and non-duplicative regulation. However, the OfS should be aware that the proposals in this consultation do not go far enough to resolve the issues of regulatory duplication, overlap, and associated disproportionate burden.

## Question 8

***Are there any aspects of these proposals you found unclear? If so, please specify which, and tell us why.***

N/A

## Question 9

***Do you have any comments about any potential impact these proposals may have on individuals on the basis of their protected characteristics?***

It is right that OfS works to reduce burden for FECs as this will ensure more of students' fees and government funding can go to students with protected characteristics. We are concerned, however, that the limiting of this consultation to only FECs, with no recognition of providers with similar regulatory duplication and burden experienced by other providers who are or who will register with OfS, will disproportionately impact students at these providers who have protected characteristics. These providers serve a very similar set of students to FECs, the majority of whom have protected characteristics.

## Contact IHE

- For more information, or to speak to someone about this consultation response, please email [info@ihe.ac.uk](mailto:info@ihe.ac.uk)
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