

Meeting of the Group Audit and Risk Committee

4.00 pm on Thursday, 18 June 2020
via MS Teams

Supplement 2: OfS coronavirus guidance

- Letter to Accountable Officers
- New reporting requirements
- Reportable events guidance

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Nicholson House
Lime Kiln Close
Stoke Gifford
BRISTOL
BS34 8SR

0117 931 7317

www.officeforstudents.org.uk

25 March 2020

Dear [name of Accountable Officer]

Regulatory requirements during the coronavirus (COVID19) pandemic

I wrote to you on 17 March to let you know that the OfS will adapt its regulatory approach to support providers at this time. I am very grateful that the vast majority of providers are working flexibly and innovatively to protect the interests of their students in the current unprecedented environment.

This letter contains more detailed information about the regulatory requirements we have suspended and the specific information we need from you to allow us to meet the objectives set out in last week's letter. Those objectives are that we will:

- support the government's objectives by sharing information with providers and enabling them to respond effectively
- protect students by working with providers to develop practical ways to maintain teaching quality and standards, enable adequate exams and assessment, and support financial sustainability
- seek to minimise long-run disruption to the English higher education system – reducing permanent damage and laying the foundations for the sector to recover as quickly as possible once the pandemic is over.

These regulatory changes take place in a context where we do not know how long disruption will last. The requirements we are suspending and the additional information we are requesting are therefore temporary but open-ended by nature. While we will seek to minimise regulatory burden throughout this period, we may need to adjust these requirements to deal with changing circumstances.

Annex A to this letter sets out in detail our regulatory requirements for this period.

Also attached is revised guidance on reportable events that supersedes existing arrangements for reportable events, and that will continue to operate during this period.

Our wider approach to regulation

Approach to teaching and assessment

It is important that providers consider how their responses to the current situation will affect all students and, in particular, those who might be most vulnerable to disruption. This includes students suffering from coronavirus or who need to self-isolate, international students, and students unable or less able to access remote learning for whatever reason, together with care leavers, those estranged from their families, and students with disabilities.

We will be providing further information next week about how we will support providers to maintain standards and teaching quality during this period. Our expectation is that providers should make all reasonable efforts to enable students to complete their studies, for achievement to be reliably assessed, for qualifications to be awarded securely, and to enable a fair and robust admissions process for 2020-21 entrants.

Providers will already be making these arrangements and we expect only to take regulatory action where we consider that reasonable efforts have not been made or where standards have been compromised. We will not prescribe a particular approach and are working with the Quality Assurance Agency (QAA) to provide models of good practice that providers may find helpful.

Consumer rights

The current circumstances and government advice mean that providers are likely to need to make changes to the way they deliver teaching and assessment. Consumer protection law continues to apply and you will need to ensure that your contractual terms and conditions for students are fair and easily understood and that you abide by these in practice.

For example, to ensure that any arrangements for making contractual changes are fair, it will continue to be necessary for providers to provide clear communication (e.g. by email) to students to notify them about the changes in advance of them taking effect, the reasons for these, the impact the changes are likely to have, and the options available to students to avoid the changes without being adversely affected.

During the period of disruption, we do not intend to take regulatory action in this area unless we become aware of practices that appear to us likely to constitute a significant breach of consumer protection law.

Admissions

We do not expect to see changes to offers already made to applicants for 2020-21 as a result of coronavirus. In particular we do not consider that changing a conditional to an unconditional offer in response to the current situation is likely to be in the best interests of students. Where we see such

practices taking place we will take such action as we deem appropriate to protect the interest of students.

Third-party notifications

Our normal approach to regulation involves considering information submitted to us by students or other third parties. We will continue to accept such notifications about registered providers during this period and will pay particular attention to those that suggest concerns about the way a provider is protecting the interests of its students as it makes changes to teaching and assessment.

Reintroduction of normal regulatory requirements

The requirements set out in this letter will remain in place until further notice. We may revise our requirements as the situation changes and as our understanding of the position of individual providers and the sector as a whole develops. We will continue to monitor the government's advice about the actions higher education providers are expected to take during the coronavirus pandemic.

When it appears likely that the situation has improved such that higher education providers can return to more normal delivery of higher education courses to students, we will return to our normal policy position and therefore expect full compliance. When we do so, we will be clear about the expectations on providers and the timing for these. We will set any submission deadlines in a way that allows providers sufficient time to comply, working on the assumption that providers will not have worked on those requirements between the date of this letter and the requirements being reintroduced.

Further information

We will continue to send regular updates by email to accountable officers, and we will update the coronavirus page on our website with the latest information:

www.officeforstudents.org.uk/coronavirus

We will also link to those updates from our Twitter account: @officestudents

As you know, the Department for Education has launched a helpline to answer education questions about COVID-19. The helpline for higher education staff, students and parents is:

- Phone: 0800 046 8687
- Email: DfE.coronavirushelpline@education.gov.uk
- Opening hours: 0800 to 1800 (Monday to Friday), 1000 to 1600 (Saturday to Sunday).

Next steps

If you have any questions about the issues raised in this letter, about the requirements relating to reportable events, or other regulatory matters, please email us at regulation@officeforstudents.org.uk. You can also call the regulation helpline on 0117 931 7305 (0900 to 1700 Monday to Friday).

We have worked at pace to identify and set out the significantly reduced regulatory requirements contained in this letter. Please contact us if you think we have missed something that should be included in our guidance.

Yours sincerely

Susan Lapworth
Director of Competition and Registration

Annex A: Regulatory requirements from 25 March 2020 onwards

1. This annex sets out the changes to regulatory requirements we are making as a result of the coronavirus pandemic. These changes are being made on an open-ended basis, so will be in place until we notify you otherwise. References to 'this period' below refer to the period starting 25 March 2020 and continuing until further notice.
2. References to 'suspension' below mean that the OfS no longer expects providers to comply with a requirement during this period. In the case of requirements to submit information to the OfS we are giving force to the revised requirements set out below through the attached Notice. For suspended requirements flowing directly from particular ongoing conditions of registration we will not expect providers to meet these during this period and we will not take regulatory action if they do not do so, although the conditions themselves remain in place. After this period the requirements, including specific condition and enhanced monitoring requirements placed on individual providers, will resume unless the OfS specifies otherwise. We will provide clarity on what this means in practice at the point the requirements are reintroduced.
3. Any regulatory requirements that are not specifically listed in this annex continue to apply as normal. If you are unsure about our requirements you can contact us on regulation@officeforstudents.org.uk.

Reporting requirements

Reporting requirements under ongoing condition F3: Reportable events

4. Our normal regulatory requirements include an obligation for providers to report certain events which may be material to a provider's legal form or business model, and its willingness or ability to comply with its conditions of registration.
5. However, during this period, we will ask providers to report in relation to a reduced set of issues. The new reportable events guidance sets out these reduced reporting requirements: www.officeforstudents.org.uk/publications/regulatory-requirements-during-the-coronavirus-covid19-pandemic/.
6. The guidance describes how we are introducing a requirement to report short-term threats to a provider's financial viability. This is focused on threats to liquidity and is designed to allow us to identify risks to individual providers as well as patterns across the sector. We need this information to allow us to work effectively with government and other stakeholders. This requirement does not apply to further education colleges that have the Education and Skills Funding Agency (ESFA) as their primary regulator.
7. The guidance also introduces a requirement to report where a provider has, or intends to, cease or suspend delivery of higher education, including if it is unable to award qualifications or credit. This may be across the whole provider, or for certain courses or types of courses. We need this information to understand the impact of the pandemic on the delivery of teaching and what this means for different groups of students. We do not require a provider to report that it has moved its teaching to online delivery.

8. During this period, the guidance replaces the reportable events requirements set out in the regulatory framework and Regulatory Advice 16. The requirements in the Notice attached to the letter called 'Information request in relation to COVID-19', sent to providers on 9 March 2020, no longer apply.

Reporting requirements under ongoing condition C3: student protection plan

9. Our normal reporting requirements include an obligation for providers to inform us of events, except for the closure of an individual course, that require the implementation of the provisions of their student protection plan.
10. We do not require providers to meet these reporting requirements in this period. We can better act in the student interest through a requirement designed for the current circumstances, and we will therefore instead gather relevant information through the new reportable event on cessation or suspension of delivery of higher education, including the inability to award qualifications or credit as set out in the new reportable events guidance.

Reporting requirements under ongoing condition E1: public interest governance

11. We usually expect a provider to notify the OfS in advance of any changes to its governing documents that might affect the public interest governance principles, and to submit the revised document.
12. We do not require providers to meet these reporting requirements in this period.

Other regulatory requirements

Information requirements under ongoing conditions F3 and F4

13. We set out the normal requirements for providers for cyclical data returns in a Notice that for most providers was issued on 31 July 2019. Where a provider's registration date was after 31 July 2019 the Notice was issued within two weeks of its registration. We are removing the immediate deadlines for submission of the majority of these data returns, although this year's data is likely to be required at a future point so providers should continue to collect and retain data for this academic (or financial) year. We will give you sufficient notice of a requirement to submit this data when we reinstate our routine regulatory requirements. Where possible we will open our portal for submission at the normal time so providers that wish to submit at the normal point in the cycle can do so.
14. The following data returns still need to be returned on the basis of the previously set deadlines and as set out in the Notice [attached to this letter]:
 - a. Annual financial return – we need this to allow us to understand a provider's financial position. The requirement is amended as set out in the attached Notice to recognise the difficulties in forecasting. Our consideration of this information will be supplemented by any information reported on the basis of the revised guidance for reportable events accompanying this letter.
 - b. Graduate Outcomes survey contact details – we need this so we can continue to collect data about student outcomes.

- c. Individualised Learner Record (further education colleges only) – we need this to allow us to hold up-to-date information on the number and type of students studying at further education colleges and sixth form colleges, and the outcomes achieved for these students.
 - d. Unistats data – we need this so we can ensure applicants have access to information to inform their higher education choices.
15. The requirement to comply with the Prevent monitoring framework continues: we will shortly issue further guidance to all providers with Prevent responsibilities, setting out our approach.
16. For completeness and clarity, the data returns which **do not** need to be returned to the previously set deadlines are:
- Provider profile, HESA
 - Student Return or Alternative Provider Student Return, HESA
 - Medical and dental students survey, OfS
 - Aggregate offshore record, HESA
 - National Student Survey, Contractor
 - Higher Education Students Early Statistics (HESES) survey, OfS
 - Higher Education – Business and Community Interaction (HE-BCI), HESA
 - Staff record, HESA
 - TRAC and TRAC(T), OfS
 - Formula teaching capital monitoring, OfS
 - Annual fee limits, OfS
 - Estates Management Record 2018-19, HESA
17. In addition to the reduced requirements for data returns as set out above, we will not initiate any new data audit or data reconciliation activity.

Enhanced monitoring requirements under F3 previously imposed for individual providers

18. We are suspending all enhanced monitoring requirements currently in place for individual providers. This includes:
- Requirements referred to as ‘enhanced monitoring’ in a provider’s registration letter or in written communication from the OfS since registration
 - Requirements set out in an F3 Notice issued to a provider requesting information in relation to an increased risk of a breach of one or more conditions

- Requirements relating to the need for a Quality and Standards Review (QSR) by the QAA, or regulatory action as the result of such a review
- Information we have requested from a provider without formally requiring it in an F3 Notice.

Please contact us if you are not clear about how this applies to you.

19. The exception to the suspension of enhanced monitoring requirements is any enhanced monitoring requirement imposed before 25 March 2020 in relation to ongoing condition D (financial viability and sustainability). We will contact providers that have enhanced monitoring requirements in relation to condition D to confirm whether these requirements still apply during this period.

Specific ongoing conditions of registration in place for individual providers

20. We are suspending requirements imposed by specific conditions of registration that were imposed on or before 25 March 2020. The exceptions to this are:

- a specific condition that has been imposed in relation to condition B3 (student outcomes) that imposes a requirement to seek agreement from the OfS before recruiting new students or offering new courses
- a specific condition that has been imposed in relation to conditions D (financial viability and sustainability) or E2 (management and governance).

21. We will contact providers in relation to the specific conditions not suspended by this letter to ensure our requirements are clear.

Requirements under ongoing condition A1: access and participation plan

Approval of 2020-21 access and participation plans

22. We will seek to provide a decision about approval of an access and participation plan for 2020-21 onwards where both:

- a draft plan for 2020-21 onwards was submitted for approval on or before 28 February 2020
- the provider has an approved 2019-20 access and participation plan currently in force.

23. Approval of a 2020-21 plan may be granted for no more than a year because of the challenges of engaging with a provider to improve a draft plan during this period. Approving a plan for a year will allow the provider to continue to be able to charge fees up to the higher fee limit in 2020-21.

24. We will not be able to prioritise decisions about approval of an access and participation plan for 2020-21 onwards where:

- a draft plan for 2020-21 onwards was submitted after 28 February 2020; or
- the provider does not have an approved 2019-20 access and participation plan currently in force.

25. A provider in these circumstances should not assume approval of a 2020-21 plan and should plan on the basis that it will not be able to charge fees up to the higher fee limit in 2020-21.

Delivery of commitments in previously approved access and participation plans

26. Where a provider has an approved access and participation plan for 2019-20 or 2020-21, we expect it to seek to meet its commitments. It is particularly important that providers:

- deliver in full the financial commitments made to current students under a 2019-20 plan
- deliver in full the financial commitments made to future students under a 2020-21 plan.

27. After this period we will assess how providers sought to meet their commitments, but in doing so will take into account the circumstances and assess whether a provider has made reasonable decisions that take into account the needs of students, especially students from underrepresented groups.

Monitoring of access and participation matters

28. During this period we will not be undertaking routine monitoring activity in relation to:

- 2018-19 access agreements
- 2019-20 access and participation plans.

29. As set out in the sections above, enhanced monitoring requirements and specific conditions relating to condition A1 are suspended.

Requirements under ongoing condition A2: access and participation statement

30. The requirement to publish an access and participation statement is suspended during this period, although providers are free to do so if they wish.

Requirements under ongoing condition F1: transparency information

31. The requirement to submit transparency information in April 2020 is suspended, and we are withdrawing the requirement to do so that was set out in the F1 Notice issued on 19 February 2020. Instead, we will draw on HESA and ILR data to publish a reduced set of transparency information during this period. For providers that have already made a submission we will not undertake any further work on this or require any further information.

32. The requirement to publish transparency information in June 2020 is suspended.

OfS grant funding for providers registered in the Approved (fee cap) category

33. During this period, we will minimise or postpone any requirements for the submission of monitoring reports normally required in relation to the use of particular elements of funding, such as monitoring returns on the use of capital funding for the 2019-20 financial year.

34. We are considering the requirements we normally impose for reporting and monitoring of funding allocated through Challenge Competitions and the other funded projects and schemes (including for example, the Uni Connect partnerships).

35. We will write during the next week to those providers delivering projects currently running, providing guidance and requesting information about how projects are likely to be affected by the coronavirus pandemic. This approach recognises that providers and individual projects are likely to be affected in different ways during this period, and we want to provide appropriate support for those activities that can move forward as planned, and for those which cannot continue in the same way for now.

To: The governing body, [*name*] (the 'Provider')

Notice under general ongoing condition of registration F3: Provision of information to the Office for Students ('OfS') and general ongoing condition of registration F4: Provision of information to the Designated Data Body

Whereas:

(A) The Provider was registered by the OfS in accordance with section 3 of the Higher Education and Research Act 2017 (HERA) on the Register of English Higher Education Providers.

(B) For the purpose of assisting the OfS in performing any function, or exercising any power, conferred under any legislation, the OfS has the power under general ongoing condition F3(i) (and by virtue of section 8(1)(b) of HERA) to compel the governing body of a registered English higher education provider to provide the OfS, or a person nominated by the OfS, with such information as the OfS specifies at the time, manner and form specified.

(C) For the purposes of the Designated Data Body's duties under sections 64(1) and 65(1) of HERA, under registration condition F4 the provider must provide the Designated Data Body with such information as the Designated Data Body specifies at the time and in the manner and form specified by the Designated Data Body.

Therefore:

Pursuant to general ongoing conditions of registration F3 and F4, the Provider is required to provide the Specified Information at the Specified Time and in the Specified Manner.

Specified Information

The Provider is required to submit to the relevant 'Collection Organisation' the following information, where it applies to its provider type, as set out in Annex A:

- a. Annual Financial Return
- b. Graduate Outcomes Contact Details
- c. Individualised Learner Record
- d. Prevent Monitoring
- e. Reportable Events
- f. Unistats Data

Definitions

‘Annual Financial Return’ means the information specified in Annex B.

‘Collection Organisation’ means the organisation to which the Specified Information must be sent, as set out in Annex A. This is either the OfS, the Education and Skills Funding Agency (ESFA) or the Higher Education Statistics Agency (HESA) as appropriate.

‘Designated Data Body’ means the designated body as defined in section 66 of HERA and refers to HESA.

‘Graduate Outcomes Contact Details’ means the information that HESA collects about graduate contact details to allow them to conduct the Graduate Outcomes surveys, further specified in Annex A.

‘Individualised Learner Record’ means information about learners and the courses they are studying that further education providers must collect and return to ESFA as required by ESFA funding agreements.

‘OfS Portal’ means the online portal used by providers to submit information to the OfS.¹

‘Prevent Monitoring’ means monitoring requirements as set out in ‘Prevent duty: Framework for monitoring in higher education in England’.² This reflects the Provider’s duty under the Counter-Terrorism and Security Act 2015 (CTSA), as a Relevant Higher Education Body (RHEB) to have due regard to the need to prevent people from being drawn into terrorism.

‘Reportable Events’ means the reportable events described in ‘Guidance for providers about reportable events during coronavirus (COVID-19) pandemic’.³

‘Specified Manner’ means the Specified Information must be provided as set out in Annex A of this Notice.

‘Specified Time’ means the Specified Information must be provided as set out in Annex A of this Notice.

‘Supply-Side Code of Practice’ means the Code published on the HESA website which outlines the principles that apply to all data preparation and collection by higher education providers.⁴

‘Unistats Data’ means:

- i. The 2020 Unistats data return and a properly completed sign-off form, compliant with the requirements of the ‘Unistats Guidance’; or

¹ Available at <https://extranet.officeforstudents.org.uk/Data/>

² Available at www.officeforstudents.org.uk/publications/prevent-duty-framework-for-monitoring-in-higher-education-in-england-2018-19-onwards/

³ Available at www.officeforstudents.org.uk/publications/regulatory-requirements-during-the-coronavirus-covid19-pandemic/

⁴ Available at <https://www.hesa.ac.uk/innovation/data-landscape/Codes-of-practice/Supply-side>

- ii. If no data meets the “coverage of the record” as specified in the ‘Unistats Guidance’, a properly completed non-submission form.

‘Unistats Guidance’ means the guidance published on the HESA website for the 2020 Unistats data collection.⁵

Signed on behalf of the OfS and authorised for that purpose

Susan Lapworth
Director of Competition and Registration

Date: 25 March 2020

⁵ Available at <https://www.hesa.ac.uk/collection/c20061>. Please note, the guidance available is not yet complete; providers will be notified once this has been updated.

Annex A

Specified Information	Collection Organisation	Specified Manner	Specified Time	Provider Type
<p>Annual Financial Return</p> <p>pursuant to Condition F3. This replaces the previous F3 Notice issued on 28 October 2019.</p>	OfS	This must be provided as set out in Annex B following the instructions in Annex C.	<p>The Provider must:</p> <ul style="list-style-type: none"> i. Submit the Specified Information annually within five calendar months of the end of the Provider's financial reporting period to which the audited financial statements relate, and no later than 12 noon on the last day of this period; and ii. If a legal entity giving a legally binding obligation of financial support to the Provider has a financial year end that is different from the Provider's year end, the audited financial statements for that legal entity's most recent financial reporting period must be submitted within five calendar months of the end of the Provider's financial reporting period, and no later than 12 noon on the last day of this five calendar month period. 	All excluding FECs
<p>Graduate Outcomes Contact Details</p> <p>pursuant to Condition F4. This replaces the previous F3/F4 Notice</p>		Providers are required to submit and check the contact details of their students who have completed their studies. Students will then be surveyed by HESA. For further education colleges (FECs), initial contact details will be sourced from	Providers are required to adhere to the deadlines set out at: https://www.hesa.ac.uk/collection/c18071/data_collection_schedule	All

Specified Information	Collection Organisation	Specified Manner	Specified Time	Provider Type
issued on 31 July 2019 or within two weeks of a Provider's date of registration.		the Individualised Learner Record but will still need to be checked by the Provider. Instructions for how to comply can be found at https://www.hesa.ac.uk/collection/c18071/		
Individualised Learner Record pursuant to Condition F3. This replaces the previous F3/F4 Notice issued on 31 July 2019 or within two weeks of a Provider's date of registration.	ESFA	Providers that are FECs are required to submit details of individual students and the courses they are studying. Instructions for how to submit this information can be found at https://www.gov.uk/government/collections/individualised-learner-record-ilr	Providers are required to adhere to the deadlines set out here: https://www.gov.uk/government/collections/individualised-learner-record-ilr	FECs
Prevent Monitoring pursuant to Condition F3. This replaces the previous F3/F4 Notice issued on 31 July 2019 or within two weeks of a Provider's date of registration.	OfS	Providers that are not FECs are required to submit monitoring information in relation to Prevent. Instructions for how to comply can be found at www.officeforstudents.org.uk/publications/prevent-duty-framework-for-monitoring-in-higher-education-in-england-2018-19-onwards/	Providers are required to adhere to the deadlines set out at www.officeforstudents.org.uk/publications/prevent-duty-framework-for-monitoring-in-higher-education-in-england-2018-19-onwards/	All excluding FECs
Reportable Events pursuant to Condition F3. This replaces the	OfS	Events set out in 'Guidance for providers about reportable events during coronavirus (COVID-19) pandemic'	Within five days of the date that the reportable event is identified or, if that is not possible due to exceptional circumstances	All

Specified Information	Collection Organisation	Specified Manner	Specified Time	Provider Type
previous F3 Notice issued on 15 October 2019.		(available at www.officeforstudents.org.uk/publications/regulatory-requirements-during-the-coronavirus-covid19-pandemic/) must be provided to the OfS via the 'OfS Portal'. Instructions for the use of the portal are set out in Annex D.	beyond the control of the Provider, as soon as reasonably practicable thereafter and without undue delay.	
<p>Unistats Data</p> <p>pursuant to Condition F4. This replaces the previous F3/F4 Notice issued on 31 July 2019 or within two weeks of a Provider's date of registration.</p>	HESA	<p>'Unistats Data' must:</p> <ul style="list-style-type: none"> i. be provided to the 'Designated Data Body' via the HESA data collection system⁶; ii. comply fully with the 'Unistats Guidance'; iii. adhere fully to the 'Supply-Side Code of Practice' for higher education data; and iv. be signed off by the Provider's Accountable Officer 	Noon on 16 August 2020 or two calendar months after the date of the Provider's registration (whichever is later).	All

⁶ Available at <https://www.hesa.ac.uk/collection/c20061>

Annex B

Annual Financial Return

The Provider is required to submit to the OfS the following information:

- a. Signed audited financial statements that are fully compliant with the OfS's accounts direction (OfS 2018.26 or OfS 2019.41 or subsequent accounts direction, depending on which is applicable to the accounting period being reported on).
- b. Financial and student number tables, in the template from the OfS, only for Year 1, Year 2 and Year 3 (covering audited data and the current year) – the Provider should download its template from the OfS Portal as specified in Annex C to this Notice. The financial and student number tables must be approved by the Provider's Governing Body prior to submission.
- c. Commentary in the template from the OfS. The commentary must be approved by the Provider's Governing Body prior to submission.
- d. A business plan which sets out the Provider's plans for the same period as the financial and student number tables:
 - i. This is required where the Provider has delivered higher education for fewer than three years prior to the Specified Time.
 - ii. This is optional where the Provider has delivered higher education for at least three years prior to the Specified Time. The Provider may choose to use the business plan as part of its demonstration of how it is ensuring its financial viability and sustainability.

Where submitted, the business plan must be approved by the Provider's Governing Body prior to submission.

- e. A signed legally binding obligation of financial support if one is being provided for the first time – a Provider that is relying on a legally binding obligation of financial support must ensure it meets the OfS's requirements set out in paragraphs 403 to 407 of the regulatory framework (OfS 2018.01).
- f. Where a legally binding obligation of financial support is in place, audited financial statements from the legal entity giving the legally binding obligation of financial support to the Provider – these must be for the legal entity's most recent financial reporting period.

Annex C

Technical instructions for submitting the annual financial return

1. This Annex gives guidance on the submission of the Provider's annual financial return. The Provider should read this Annex before submitting any of the required files.
2. The annual financial return must be submitted through the OfS Portal. The Provider must also download the templates for the required files on the Portal.

Accessing the annual financial return Portal area

3. In order to download the templates and submit the annual financial return, the Provider will need access to the annual financial return area on the OfS Portal:
<https://extranet.officeforstudents.org.uk/Data/>.
4. The person submitting the return for the Provider ('the Submitter') will need to be a registered user of the OfS Portal in order to be granted access to the area.
5. If the Submitter has not registered on the OfS Portal before, they will need to ask the nominated OfS Portal user administrator at the Provider to create an account for them. Each person who requires access to the annual financial return will need to be registered with their own account. Instructions on how the user administrator creates an account can be downloaded from the login page of the Portal (see the link in paragraph 3).
6. The Submitter will need to be assigned to the 'Annual financial return 2019' area by the nominated OfS Portal user administrator at the Provider. The user administrator can find guidance on how to add Portal users to Portal areas on the main Portal login page (see the link in paragraph 3). If the Submitter is the user administrator, they will still need to assign themselves to the area.
7. If the Submitter does not know who the user administrator is, they can view the user administrators at the Provider by logging onto the OfS Portal. Select 'My account' towards the right-hand side of the yellow banner, and then click 'Activate an access key'. The names and contact details of the user administrators at the Provider will be at the top of the page. If the Submitter is not registered and does not know who the Provider's user administrator is, please contact Portal@officeforstudents.org.uk.

Navigating the annual financial return Portal area

8. Once the Submitter has been assigned to the annual financial return area, they can log in to the OfS Portal and click a link for the 'Annual financial return 2019' area under the 'Home' section:

Annual financial return 2019

Here you can submit all documents for the annual financial return 2019

9. This link will take the user to the homepage for the annual financial return:

Annual financial return 2019

Homepage

This area is used to submit the suite of files required for the annual financial return 2019, and also contains the blank templates which need to be completed.

10. The annual financial return homepage is used to download the submission information for the Provider (this is described further in paragraph 13) and templates, and to upload all of the required files (apart from any Excel files).
11. There are two other sub-areas for the annual financial return which can be navigated to from the homepage:
 - **Workbook** – The area used to submit the financial return workbook.
 - **Data verification query responses** – The area used to submit responses to queries raised for the data in the financial return workbook.

Workbook: [Click here to submit your workbook](#)

Data verification query responses: [Click here to submit your data verification query responses](#)

12. The sub-areas will only be used for the Submitter to upload Excel files. All other files will be submitted through the homepage. All downloadable information will also only be available through the homepage.

Submission information

13. Providers need to submit different files to different deadlines for the annual financial return, depending on their financial year end. Therefore, the return deadline is not displayed on the Portal homepage as it would be with other OfS data returns.
14. A submission information file will be made available to the Provider shortly which will be able to be downloaded from the annual financial return homepage. This file will contain the specific deadlines for the Provider, along with the files that it is required to submit.
15. Until the submission information file is made available, the Provider can view its deadlines in the 'Information' tab of the annual financial return workbook. There are two main deadlines:
 - **Initial submission deadline** – The deadline by which the Provider needs to have submitted its annual financial return workbook.
 - **Final sign-off deadline** – The deadline by which all other files need to be submitted. The Provider's workbook should be final by this point with any queries regarding its data responded to. The Provider will also be required to complete a sign-off form before the deadline once all other files have been submitted.

Downloadable files and templates

16. As well as the submission information file (once available), the following files are contained within the downloadable zip file package on the homepage:

- Blank annual financial return workbook template. The workbook is bespoke for the Provider and this is the version that it must complete and submit.
- Blank annual financial return commentary template. The commentary should be completed alongside the completion of the Provider's workbook using this template and then submitted.
- Data verification queries Excel file. This will appear when the Provider submits its workbook, and will update every time a workbook is submitted, or the OfS has sent additional queries or responses.
- Once the Portal is open for submissions, any submitted files will also appear in the download package, and will be assigned a date and upload number.

Submitting the required files

17. The Accountable Officer has been supplied a list of the files that the Provider needs to be submit via the initial email that detailed the return requirements. This will also be made available in the submission information file once it is released.

18. Each file is listed in detail below, and the complete list is as follows:

- Signed audited full financial statements
- Financial return workbook
- Commentary
- Business plan
- Signed legally binding obligation of financial support
- Audited financial statements from the legal entity giving the legally binding obligation of financial support to the provider
- Data verification query responses.

Financial return workbook

Downloading the workbook template

19. The Provider will need to obtain the blank financial return workbook from the download package on the homepage. This is the file 'FinancialReturn2019_Blank_100XXXXX.xlsx' (where 100XXXXX is the Provider's UKPRN).

20. The Submitter may need to click on 'Enable editing' on the yellow banner if it appears on the screen when they open the workbook. Save the workbook to a memorable location on the computer. The Submitter can download this empty workbook as many times as required.

Completing the workbook template

21. The Provider should not attempt to alter the format of the worksheets by adding or deleting columns or rows. Only cells where data is required should be edited. The workbook is protected to ensure that the data submitted is accurate and is only entered into the relevant cells. Worksheets contain information critical to accurate loading of the data; it is essential that this is preserved. The workbook should not be unprotected by any unofficial macro downloaded from the internet, or otherwise. We will refuse to accept any workbooks which have been unprotected or tampered with. If the Provider would like to view an unprotected version of the workbook, it can download sample workbook from the OfS website⁷; however, the Provider must not use these sample tables as the final submission.

22. If the Provider wishes to copy and paste data within the workbook, they must ensure that they use the 'paste values' option. This will not copy the formatting of the data being pasted and will preserve the formatting of the workbook.

23. Once the Provider has completed the workbook, they will need to ensure that there are no validation errors showing, as displayed on the 'Information' tab of the workbook:

Validation information
Tables with validation errors: No validation errors

24. If there are validation errors, the Provider will need to resolve these before they can successfully submit their workbook. We will not accept a workbook with validation errors as a successful submission.

25. There may also be validation warnings present in the Provider's workbook, again detailed on the 'Information' tab of the workbook:

Validation information
Tables with validation errors: No validation errors
Tables with validation warnings: No validation warnings

26. The Provider should review these validation warnings before submitting their workbook. The Provider can submit their workbook with validation warnings; however, we will raise queries regarding any outstanding validation warnings as part of the data verification phase.

All other files

27. All other non-Excel files must be submitted through the homepage.

⁷ Available at <https://www.officeforstudents.org.uk/publications/regulatory-advice-14-guidance-for-providers-for-the-annual-financial-return/>

28. The Provider will receive a data verification query workbook shortly after they submit their workbook.

Annex D

How do I submit a reportable event?

Details of reportable events, including accountable officer and governing body chair changes, must be submitted via the OfS online portal as usual.

The login page for the portal can be accessed by the following link:

<https://extranet.officeforstudents.org.uk/Data>. To upload a reportable event, select the title 'OfS Regulation – reporting of reportable events including accountable officer/chair of governing body changes'.

This area of the portal will be accessible on an ongoing basis to allow you to submit details of reportable events as and when they occur.

All registered providers were provided with an access key shortly after registering with the OfS, to allow them to upload information via the portal. This access key is specific to your provider and gives access to both the '**OfS Regulation – reporting of reportable events including accountable officer/chair of governing body changes**' and '**OfS Regulation – Submissions**' sections of the OfS portal. Please note – the latter area should only be used under specific instruction from the OfS.

The access key should not be shared with other providers. The access key should only be shared with colleagues within your provider who are responsible for uploading the data.

How to access the OfS portal

To access the OfS portal, you will need to use the same account details as used during your application to register with the OfS.

Please follow these steps to log in with a registered email address and password:

- Use the login page to enter your email address and password. If you have forgotten your password, click the 'Forgotten password?' link and enter your email address. You will then be emailed a link to a page where you can reset your password.
- If you have not used the access key before click on 'My account' found in the top right-hand corner and then click on 'Activate an access key'.
- Enter the access key shown in the letter sent to you by the OfS Monitoring and Intervention Team, and click 'Activate'. You will be told that you have successfully joined the relevant section of the OfS portal.
- Click on the 'Home' link below the yellow band at the top of your screen.

Please note that this access key gives you access to both the 'OfS Regulation – reporting of reportable events including accountable officer/chair of governing body changes' and 'OfS Regulation – submissions' areas of the portal. You should only use the latter if you have been specifically requested to do so. You can submit reportable events at any point through the 'OfS Regulation – reporting of reportable events including accountable officer/chair of governing body changes' area.

What to do if you have lost your access key?

If you have lost your access key, please contact regulation@officeforstudents.org.uk as soon as possible and we will ensure that it is reissued to you.

How to upload details of your reportable event and supporting documents

Once you have successfully logged in to the 'OfS Regulation – reporting of reportable events including accountable officer/chair of governing body changes' page, you will see a download bar (see figure 1).

Figure 1: Download and upload bar

Download	Download the files required for OfS Regulation – reporting of reportable events including accountable officer/chair of governing body changes
Upload	Upload the files for OfS Regulation – reporting of reportable events including accountable officer/chair of governing body changes

Click on 'Download' to download a zip file with all the standardised forms required to submit a reportable event. This file should contain three forms:

- Form 1A - Accountable Officer and Chair of Governing Body changes
- Form 1B - Declaration of directorships/trusteeships at other organisations
- Form 2 - Other Reportable Events

All forms are Microsoft Excel files.

Depending on the type of reportable event, you will need to submit different forms:

- If it is an accountable officer or chair of governing body change, please download, complete and submit Forms 1A and 1B.
- All other reportable events should be reported through Form 2.

You will be able to upload supporting material here, but please ensure you have listed each document in Form 2.

Please note that where the form requires you to sign (as the person submitting the information), this can be in the form of a digital signature or typed name. You are not required to print the form, sign and scan in.

After clicking on the 'Download' button, select 'Save' when prompted. Save the zip file (compressed folder) ReportableEvents_XXXXXXXX.zip (where the suffix is your provider's 8-digit UKPRN) in a location on your network where you can access it later.

To complete the forms, you will need to unzip the package. Windows 7, 8 and 10, Vista, XP and Windows ME can perform this task without a third party tool. Other operating systems will need an additional program.

When you have completed the forms required, and are ready to submit them, save your changes to your computer or network and then log in to the OfS Regulation section of the online portal again using your email address, password and access key.

Once you have logged into the 'OfS Regulation – reporting of reportable events including accountable officer/chair of governing body changes, click the 'Upload' button, and then use the 'Browse'\Choose file' button to locate files on your computer or network. Once the relevant file has been selected, click on 'Upload file'. Repeat for each document you wish to submit to the OfS.

Once you have uploaded the relevant forms and any supporting documents for your reportable event, you should confirm that all information is accurate and complete, and then click the 'Submit' button.

Submitting the file may take up to a few minutes, depending on how busy the server is. A message will appear on the screen to tell you the status of your submission. You may see one of the following messages:

- 'Your files have been submitted and are waiting to be processed'
- 'Your files are being processed'
- 'Completed successfully'.

Once completed successfully, the OfS Monitoring and Intervention Team will be notified that you have submitted details of a reportable event.

If you need assistance completing the standardised forms to report a reportable event, or experience difficulty uploading supporting documents, please contact regulation@officeforstudents.org.uk for general guidance or portal@officeforstudents.org.uk for technical issues. For technical support, you can also phone 0117 931 7399.

How will I know that you have received the information?

As soon as you submit your information, the portal will provide you with an onscreen confirmation that you have successfully submitted. We will email you to confirm that we have received your documents – **this email is not automatically generated and so there may be a short delay between your upload and receiving an email confirmation.**

You can upload further information at any time through the portal, but it would be helpful to advise us by emailing regulation@officeforstudents.org.uk beforehand of any further documents that relate to or supersede a previously reported event.

What happens next?

As soon as your reportable event has been submitted, a member of the OfS Monitoring and Intervention Team will review the information received. We will then contact you as soon as possible to confirm if further information is required.

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Guidance for providers about reportable events during coronavirus (COVID-19) pandemic

1. The OfS has revised its requirements for reportable events to minimise the regulatory burden on providers during the period of disruption resulting from the coronavirus pandemic and ensure it has the information necessary in the current circumstances.

2. Paragraph 494 of the OfS's regulatory framework¹ defines a reportable event as:

any event or circumstance that, in the judgement of the OfS, materially affects or could materially affect the provider's legal form or business model, and/or its willingness or ability to comply with its conditions of registration.

3. This document provides guidance for registered providers about how paragraph 494 should be interpreted until further notice. It includes guidance about:

- Two new narrowly-defined reportable events relating to:
 - i. short-term financial risk
 - ii. cessation or suspension of the delivery of higher education, including the inability to award qualifications or credit
- The removal of requirements to report some existing types of event
- An ongoing requirement to report some existing types of event.

4. If providers identify other very significant events not explicitly identified below they should contact the OfS at regulation@officeforstudents.org.uk to seek guidance. We are taking this different approach in the current circumstances because we recognise that it is difficult to anticipate the issues that may arise and normal judgements about materiality are unlikely to properly recognise the extraordinary circumstances in which providers are operating.

5. Reports should be submitted through the OfS portal in the normal way. Information on the use of the portal and support for use of the portal is included in Annex C of the Notice on new reporting requirements.²

¹ See www.officeforstudents.org.uk/advice-and-guidance/regulation/the-regulatory-framework-for-higher-education-in-england/

² Available at www.officeforstudents.org.uk/publications/regulatory-requirements-during-the-coronavirus-covid19-pandemic/

New reportable events

Short-term financial risk

6. This reporting requirement does not apply to further education colleges and sixth form colleges that are regulated by the Education and Skills Funding Agency (ESFA). It applies to all other registered providers.
7. Registered providers are normally required to report to the OfS material events with possible financial viability or sustainability implications. The coronavirus pandemic creates conditions in which many providers are likely to experience a material change in their financial position and performance that would normally be reportable to the OfS. It is not possible at the moment for providers to identify the long-term impact of the pandemic and so we are removing the general requirement for a provider to report events with implications for viability or sustainability over a three- or five-year horizon. However, providers who have identified significant financial concerns on a longer time horizon should contact us on regulation@officeforstudents.org.uk to seek guidance.
8. Instead we are putting in place a requirement to report short-term financial risk as defined in paragraphs 10 to 14 below. Collecting this information is necessary to allow us to identify quickly those providers that are likely to experience acute financial challenges in the short term. It will also help us to understand patterns across the sector and the exposure of different types of provider to developing events. This information will allow us to consider with government and other stakeholders, the financial risks being faced by providers.
9. We may revise this requirement as the situation develops. Where we consider there may be financial risks to a provider based on our own modelling we may also initiate discussions with it about this.
- 10. A provider is required to report to the OfS if it considers it to be reasonably likely that its liquidity will drop below 30 days³ at any point during a rolling three month period from the date of the report to the OfS.**
11. If a provider's normal cash management policy is to maintain lower levels of liquidity and a forecast liquidity level below 30 days is a result of active cash management, it only needs to report this to us if it considers that it is reasonably likely that it will not be able to manage this in the usual manner. If a provider would normally fall to 30 days' liquidity but believes it can mitigate this and intends to do so it does not need to report this.
12. In assessing whether its liquidity is reasonably likely to drop below 30 days, a provider must consider the impact of circumstances or events that it believes are reasonably likely to occur in the period. This might include, but is not limited to:
 - A reduction in forecast student recruitment, from UK-based students, EU students, and international students

³ Liquidity is defined as the number of days of average cash expenditure covered by liquidity values, i.e. the ratio of cash and cash equivalents over expenditure excluding depreciation multiplied by a factor of 365 (Liquidity days = (cash and cash equivalents)/(expenditure-depreciation)*365).

- A reduction in forecast income from non-teaching or research activity
 - A reduction in forecast income from the provision of accommodation to students
 - An increase in payment of refunds or compensation to students as a result of changes to course delivery, accommodation, or other services.
13. A provider should report on such short-term financial risk within five days of the date that it concludes that a scenario is reasonably likely to occur or, if that is not possible due to exceptional circumstances beyond the control of the provider, as soon as reasonably practicable thereafter and without undue delay.
14. A report should consist of:
- A brief description of the relevant scenario or scenarios
 - A statement that sets out the date(s) on which the provider considers that liquidity is reasonably likely to drop below 30 days.
15. We recognise the challenges associated with forecasting financial performance in the current environment. Therefore we are not asking providers to submit a full set of updated financial forecasts as part of their report.
16. When a provider reports such short-term financial risk, we will contact it to discuss its report and are likely to ask for further information to help us to understand the issues. We may ask for further information about the longer-term financial implications of these issues at a later date.
17. The financial position of individual providers and of the sector as a whole is likely to continue to change. This means that we may amend or extend these reporting requirements in the future.

Cessation or suspension of delivery of higher education, including the inability to award qualifications or credit

18. This reporting requirement applies to all registered providers.
19. Registered providers are normally required to report to the OfS events or circumstances that materially affect or could materially affect the provider's legal form or business model, and/or its willingness or ability to comply with its conditions of registration, including the B conditions which relate to the quality and standards of courses. They are also normally required to report campus and course closures and other events that trigger an approved student protection plan being implemented.
20. The coronavirus pandemic creates conditions in which many providers are likely to make changes to the way they deliver higher education that would normally be reportable to the OfS. We recognise that there is likely to be significant change and disruption to the delivery of higher education, in particular in relation to teaching and assessment, and so we are removing the general requirement for a provider to report events that would be of interest to us in normal circumstances.
21. Instead we are putting in place a requirement to report significant changes to delivery of higher education as defined in paragraph 23 below. Collecting this information is necessary to allow

us to identify quickly those providers that have stopped delivering higher education teaching or have made significant changes to the way they deliver courses. It will help us to understand patterns across the sector and the impact of developing events on different types of students. This information will allow us to identify where further guidance may be necessary to ensure courses can continue to be delivered and the interests of students protected.

22. We may revise this requirement as the situation develops.

23. A provider is required to report to the OfS if it has taken, or plans to take, any of the following actions

- The provider ceases or suspends delivery of any higher education courses to current students where reasonably equivalent alternative study options are **not** provided.

A provider **does** have to report that it:

- i. is no longer delivering higher education to one or more groups of students
- ii. is ceasing or suspending delivery of one or more modes of study to current students, for example no longer delivering a course on a part-time basis
- iii. is ceasing or suspending delivery of higher education, in whole or in part, to current international students with a visa issued under a Tier 4 licence
- iv. is ceasing or suspending delivery of higher education in such a way that current students who expected to complete their course in the 2019-20 academic year are unable to do so
- v. has lost accreditation by a professional, statutory or regulatory body (PSRB) because of changes to the delivery of higher education made as a result of the coronavirus pandemic.

A provider **does not** have to report that it:

- i. has moved teaching and assessment to an online or other delivery method
 - ii. has temporarily closed a campus or the provider as a whole, as long as teaching continues to be delivered
- The provider is unable to award qualifications or credit for any unit, module or course
 - The provider decides to transfer students between its teaching sites
 - A provider withdraws offers made to applicants due to start a course in or after April 2020.

A provider **does** have to report that it:

- i. no longer intends to accept an intake where offers have already been made.

A provider **does not** have to report that it:

- i. has postponed the planned start date of a course
- ii. has transferred offers to an equivalent course due to start in 2020-21.

24. For courses that are delivered through a sub-contractual arrangement the lead provider should make the report. For courses delivered through a validation arrangement, the provider with a direct contractual relationship with the students should make the report.⁴

25. Reporting on significant changes to the delivery of higher education should include reports on any relevant matters relating to transnational educational activities.

Removal of existing requirements to report some types of event

26. Paragraph 494 of the regulatory framework contains a list of events that are, or are likely to be, reportable. We recognise that this means that governing bodies and leadership teams will have reduced capacity to undertake routine reporting of regulatory matters. We are therefore removing until further notice the general requirement to report the following events:

- The provider becoming aware of legal or court action
- Regulatory investigation and/or sanction by other regulators
- Any new partnerships, including validation or subcontractual arrangements
- Opening a new campus
- Intended campus, department, subject or provider closure
- The implementation of a student protection plan except where this is covered under 'cessation or suspension of delivery of higher education' in paragraph 23 above.

27. If a provider considers that a very significant issue has arisen in relation to any of the types of event listed above, it should contact the OfS at regulation@officeforstudents.org.uk or telephone 0117 931 7305 to seek guidance as outlined above at paragraph 4.

Ongoing requirement to report some types of event

28. A small number of the events listed in paragraph 494 of the regulatory framework continue to be reportable. These are:

- changes of legal status of the provider
- changes of ownership or control of the provider
- the provider resolving to cease to provide all higher education on a permanent basis

⁴ Definitions of 'subcontractual' and 'validation' are set out in the glossary of the OfS's regulatory framework (February 2018), available at: www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/.

- any material suspected or actual fraud or financial irregularity.

29. In the context of material suspected or actual fraud or financial irregularity, 'material' should be understood to mean:

- any fraud relating to the misuse of public funds
- any other financial fraud exceeding £50,000 in value or 1% of a provider's annual income if that income is less than £5,000,000
- any type of non-financial fraud or attempted fraud regarding which the provider determines to notify its own governing body.

30. These types of event are likely to have significant implications for a provider's registration and so need to be reported. Our experience is that they occur infrequently and so this should not create significant regulatory burden. If a provider needs to report one of these events it should contact the OfS at regulation@officeforstudents.org.uk or telephone 0117 931 7305 to seek guidance. We are taking this different approach in the current circumstances because we recognise that it is difficult to anticipate the issues that may arise and normal judgements about materiality are unlikely to properly recognise the extraordinary circumstances in which providers are operating.

31. In addition, all providers are required to continue to report the following events:

- changes to a provider's accountable officer or the chair of its governing body
- changes to the information published on the OfS Register.

32. We need to keep up-to-date records for providers' senior officers to ensure we are able to send information to the correct individuals. We expect a provider to tell us if its accountable officer is unable to work due to self-isolation or due to other illness. In these circumstances we will seek to approve an interim accountable officer. The requirement to tell the OfS about changes to the Register is a statutory requirement that we are unable to remove. Our experience is that providers report changes to the Register infrequently.

33. Reports should be made within five days of the date that the event is identified or, if that is not possible due to exceptional circumstances beyond the control of the provider, as soon as reasonably practicable thereafter and without undue delay.