

Consultation on 'Future approaches to quality assessment in England, Wales, and Northern Ireland' (HEFCE 2015/11 June 2015).

Response by the Office of the Independent Adjudicator for Higher Education.

The Office of the Independent Adjudicator for Higher Education (OIA) welcomes the opportunity to contribute to this important quality assessment review consultation. We have responded only to those questions which impact on our role as the higher education ombudsman service for students and our position as part of the regulatory framework of higher education.

Question 1: Do you agree with our proposed principles to underpin the future approach to quality assessment in established providers?

The list of principles covers key important factors, including autonomy, peer review and external review. There is no mention of 'independence' as an underlying principle. The treatment of 'independence' throughout the document is vague. It is not defined and is attached (variously) to peer review of providers (para 24, bullet 1), to external scrutiny (paras 32 and 34), and to external scrutiny of the assurances provided by governing bodies 'undertaken by the relevant funding body' (paras 61 and 98).

There is also no mention of the importance of *disseminating* a sector-wide Code of Practice on Quality. There is reference (paras 32, 37) to the 'Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG)', approved by the EU Ministerial Conference in May 2015, but no clarity about whether this is to be developed into a user-friendly Code other than reference (para 32) to 'arrangements that comply' with the requirements for externality in the Standards and Guidelines.

The reference to 'co-regulation' (para 30(h)), is welcome. Co-regulation, in the context of focusing scrutiny where the risk is greatest, relies on a full co-operative approach between organisations whose respective responsibilities are clearly defined in legislation, differentiated, and joined-up where there is overlap. This requires revision of the legislative framework, trust between regulators and regulated and structured space for discussion and debate, as originally envisioned for the Regulatory Partnership Group. In this context, it is instructive to note that the 'Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG)', characterised as authoritative in the consultation document (para 37), recommends that 'Agencies should have an established legal basis and should be formally recognised as quality assurance agencies by competent public authorities' (Annex to the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG), part 3, para 3.2, p.23).

The continuous repetition throughout the consultation document of the description of quality assessment and assurance as a 'burden' (para 30 (i) *et alia*) is formulaic and pejorative.

Question 2: Do you agree that our current proposals for the use of meaningful external scrutiny as set out in paragraphs 32-34 are sufficient? If you do not agree, please indicate what additional or different external scrutiny you propose and provide the reasons for this.

We deal with Question 2 in parallel to Question 23. We note that at least three of the vehicles for 'meaningful external scrutiny' - the external examining system, the calibration of degree standards, and governing bodies of institutions- require very significant development, re-structuring and investment, if they are to provide meaningful capacity to undertake the task envisaged, and if they are to exceed the utility of a pre-existing, specialist quality agency (QAA) with the potential to undertake newly-proportionate and scaled-down reviews.

Question 3: Do you agree that future approaches to quality assessment should be based on an assumption that 'one size' can no longer sensibly fit all?

The OIA's view is that students should have equal protection and equal access to review and redress, but that this does not require all providers to have identical processes. In the area of student complaints and appeals the OIA has developed a principles-based Good Practice Framework, in partnership with the QAA, NUS, Academic Registrars' Council and Association of Heads of University Administration. This approach, in contrast to a more legislative-based approach in Scotland, allows providers to develop their own systems within an overall framework that sets out key considerations in relation to timescales, avoidance of bias, transparency etc.

Question 4: Do you agree that there should be a baseline requirement for the quality of the academic experience for students, and that this should be published and maintained?

We agree that this appears to be in line with protecting the student experience in higher education, but from our perspective it is difficult to see how this could be implemented, or what would be the best mechanism for dealing with complaints about it.

Question 5: For England, do you agree with the proposal that an individual provider, once it has passed the gateway for entry into the publicly funded system in England, should not be repeatedly externally retested against the baseline requirements for an acceptable student academic experience, unless material evidence suggests otherwise?

We have no comments on this.

Question 6: For Northern Ireland, do you agree that providers should provide annual evidence and assurance that they are meeting the baseline requirements for an acceptable student academic experience?

We have no comments on this.

Question 7: Do you agree that the funding bodies' verification of an institution's review methodology provides a reasonable mechanism through which to operate risk-based scrutiny of a provider's arrangements to secure a good and improving student academic experience and student outcomes?

It is not fully clear how the independence of quality review from funding can be safeguarded in a system in which scrutiny and verification are the responsibility of the funding body.

Question 8: Do you agree that student outcomes data should provide the basis for continuous improvement activities within an individual provider?

We have no comments on this.

Question 9: Do you agree that we should take forward into detailed design and pilot phases further work on the use of student outcomes data to identify patterns and trends and on the development of approaches for monitoring and supporting institutions as they address areas of concern?

We have no comments on this.

Question 10: In Northern Ireland, do you agree with the approach outlined to introduce more effective and consistent arrangements for collecting and analysing feedback from higher education learners?

We have no comments on this.

Question 11: Do you agree with the proposal that more emphasis should be placed on the role of a provider's governing body to provide assurances about the quality of the student academic experience and student outcomes in line with the Higher Education Code of Governance? If you agree, please indicate what, if any, additional support they should receive to provide such assurances.

This presents very considerable challenges in building capacity and independence, and in providing support and training for members of governing bodies. It takes the role of governing bodies into a new direction, and safeguards will be needed both to equip governing bodies to fulfil this role and to prevent dilution of their present important responsibilities.

Question 12: For England, do you agree that, for English institutions, HEFCE should develop and use the existing external accountability mechanisms, particularly the HAR, in the ways described?

We have no comments on this.

Question 13: For Northern Ireland, do you agree that DEL should develop and use the existing accountability mechanisms in the ways described?

We have no comments on this.

Question 14: Do you agree that there should be a ‘probationary period’ for new entrants to the publicly funded sector in England?

The repercussions for students of a ‘probationary period,’ which could result in new providers being allowed to ‘come and go’ rapidly, need very careful consideration. While the funding might be removed, there will still be a cohort of students in the system.

Question 15: Do you agree that international activities should be included in the remit of future quality assessment arrangements as described?

Yes, in principle. For example, the OIA receives complaints from students registered with English and Welsh universities but situated internationally, and these have (and should have) equal status with complaints from registered students based in England and Wales.

Question 16: Do you agree that a future quality assessment system must provide reliable assurances to students and other stakeholders about the maintenance of academic output standards and their reasonable comparability across the UK higher education system?

This appears to be a sound, common-sense principle. The detail will need to be carefully worked through.

Question 17: Do you agree that the external examining system should be strengthened in the ways proposed, ie through additional training and the establishment of a register?

We have no comments on this.

Question 18: Do you agree that our proposals in relation to the external examining system are sufficient, ie do they go far enough to provide the necessary assurances about academic output standards to students and other stakeholders?

We have no comments on this.

Question 19: Do you agree that it would be helpful to explore approaches to the calibration of academic output standards in different disciplinary and multi-disciplinary contexts?

We have no comments on this.

Question 20: Do you agree that providers should use the accreditation activities of at least some PSRBs more centrally in future approaches to quality assessment?

The respective roles of PSRBs and academic providers need to be fully articulated and integrated and any shift in responsibility from one to the other will need to be explained to students. Further, the involvement of PSRBs should not stand in the way of students’ rights to bring complaints and academic appeals to the OIA.

Question 21: Do you agree with the proposal that we should place more emphasis on the role of the governing body of a provider with degree awarding powers to provide assurances about security and reasonable comparability of the academic output standards of students?

As above (question 11) this will require considerable capacity building for governing bodies.

Question 22: Do you agree with the proposal to develop guidance to providers on a sensible range of degree classification algorithms at the pass/fail and 2i/2ii borderlines?

We have no comments on this.

Question 23: Do you agree with our proposals to develop and implement a strengthened mechanism to investigate rapidly when there is an indication of serious problems within an individual provider which has not been addressed in a satisfactory and timely manner?

The OIA has a Memorandum of Understanding with QAA, which allows for information sharing, and (OIA) contribution to the current 'Concerns' scheme. We have worked effectively with QAA.

The Concerns scheme has its limitations. In a recent case the OIA referred a complaint under the Concerns scheme where there was evidence of a systemic issue at a University. However, the issue was deemed outside the remit of the Concerns scheme.

We note and welcome the statement in paragraph 104 that 'This proposal is not intended to interfere with the ongoing work of the OIA in relation to cases brought by individual students'. It is important to point out that the OIA also deals with group complaints and that both types of complaint, individual and group, can be symptomatic of wider issues in the provider.

A 'strengthened mechanism' would need to be constructed with great care, and without undermining the authority of the OIA's existing ombudsman service and its remit to disseminate good practice. The OIA is consistent in its approach, and gives the student a clear route to seek redress. It has also been successful in bringing about changes in providers' policy and practice, through compliance with recommendations on Justified and Partly Justified complaints.

The jump from a review of a complaint suggesting a possible systemic issue with the provider, to a commissioned review of that provider, may be appropriate in cases that are obviously serious, but may not always be proportionate or effective. There is a danger also that it may miss or delay resolution of issues that can be quickly resolved without the need for a root and branch review of the provider's quality assurance arrangements.

Question 24: Should the mechanism to investigate problems in an individual provider require, in addition to the investigation of the specific issue of concern, the re-testing of the arrangements in the provider under review against the baseline requirements set out for the gateway for entry to the higher education system?

We have no comments on this.

Question 25: Do you agree with the proposal that providers seeking entry to the publicly funded sector in England and Northern Ireland should be tested, through an external peer review scrutiny process, against a set of baseline requirements for quality?

We have no comments on this. It is difficult to form a view at this very early stage in the development of proposals for the Teaching Excellence Framework.

Question 26: Are there any particular areas of our proposals that you feel we should concentrate on as we undertake a more detailed design phase?

No

Question 27: Are there proposals not referred to above that you feel we should have in consideration? If so, what are they and what is the rationale for their inclusion?

There needs to be due consideration about how to ensure that the different parties can work together collaboratively, building on the successful model of the Regulatory Partnership Group.

Question 28: Are there any particular areas pertinent to the devolved nature of higher education in Wales and Northern Ireland that you feel we should have considered further? If so, what are they and what is the rationale for their inclusion?

No.

***Office of the Independent Adjudicator for Higher Education
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