

DRAFT CONSULTATION RESPONSE

Office for Students strategy 2022-2025

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MillionPlus is the Association for Modern Universities in the UK, and the voice of 21st century higher education. We champion, promote and raise awareness of the essential role played by modern universities in the UK's world-leading university system. Modern universities make up 52% of all UK undergraduates and 37% of all postgraduates, with over one million students studying at modern institutions across the UK.

The Office for Students, on 11 November 2021, launched a consultation into their proposed 2022-2025 strategy which outlines a plan of action that will guide their activities as the sector regulator. The deadline for responses is 06 January 2022.

PROPOSAL 1: DO YOU HAVE ANY COMMENTS TO MAKE ON THE OFS'S PROPOSED STRATEGY FOR 2022 TO 2025 OR THE PRIORITIES SET OUT WITHIN IT?

Looking ahead to this future strategy, it is perhaps important to first comment on the trajectory of the OfS as a regulator and reflect on the historical context. There appears to be something of a contradiction that now lies at the heart of the OfS and its approach as a regulator. The OfS was designed and created in a different political context to that of today and was founded by politicians who had different vision for the regulator. This was a vision that was based on a principle of opening up the register to new and alternative providers by making access to the "market" of higher education easier. Furthermore, it was a vision that aimed to reduce burden for providers and create a system that was "risk-based". It claimed to be a system that was first and foremost one centered around the needs of students, and one that was to be led by student demand. The dial appears to have now shifted, and the 2022-25 strategy document is a manifestation of that. There is now an explicit intention for the OfS to be more interventionist in the sector, and to more tightly control which providers are on the register, and by extension have access to public funds, both directly through recurrent funding, and indirectly through the student finance system. The implication from the OfS is clear in this new approach: some students do not make the right choices, which marks a departure from the emphasis on a demand-led system, which was intended to increase competition between institutions. MillionPlus has some concern that within this strategy, the OfS is attempting to prescribe what courses and institutions are best for students and intends to try and act upon this by limiting supply in the system and trying to manufacture demand to suit to political priorities of government.

It is not possible to completely disentangle government from a regulator like the OfS. MillionPlus accepts that there will always be some governmental oversight in the development of any such organisation, and that the direction of travel of the OfS must respond, in some way, to the democratic mandate of the government of the day. But the fact that the shift in priorities of the OfS has so closely mirrored the political objectives of the current government, is of real concern to MillionPlus, and the wider higher education sector. The risk is that as this process continues the independence of the OfS becomes diluted. There is little contained within the strategy document that demonstrates how the OfS will carve out its own unique space between government and the sector nor how it will assert itself as an independent regulator. There is some fear amongst many in higher education that the new shift in the OfS will result in it becoming a subservient other to the Department for Education rather than a critical friend. The latter is in the interest of all involved since this is where the OfS can be most useful, by offering critique and expert insight to further the agenda of the day.

One important feature of the relationship between the OfS and the sector up until now has been open engagement. MillionPlus believes this is vital for the future of a health regulatory environment and higher

education system. It is crucial therefore that this principle is maintained through consultation with the sector on any significant changes to policy. MillionPlus believes there should probably be a more explicit commitment to open consultation in this strategy document. Although this can create extra burden at times which is a challenge for providers and sector organisations (such has been the case at points during the pandemic), it is important that this continues if the OfS is to be an evidence-led organisation that can effectively reflect the interests of students and providers. Moreover, all consultations should be meaningful insofar as being open to influence from a clear consensus that is found across the sector. There is a danger that some proposals are presented within consultations almost as a *fait accompli* and that the exercise becomes more performative and less substantive.

PROPOSAL 1: DO YOU HAVE ANY COMMENTS ABOUT ANY UNINTENDED CONSEQUENCES OF THE PROPOSED STRATEGY OR THE PRIORITIES SET OUT WITHIN IT, FOR EXAMPLE FOR PARTICULAR TYPES OF PROVIDER, PARTICULAR TYPES OF STUDENT, OR FOR INDIVIDUALS ON THE BASIS OF THEIR PROTECTED CHARACTERISTICS?

As MillionPlus has voiced in recent consultation responses, there is real concern about the overall shift away from a more contextualized approach to regulation within the OfS. Within this strategy document, the OfS is almost aiming to redefine the meaning of the term access and participation, by conflating this with social mobility. Access and participation is a concept that is concerned with 'getting in and getting on' while at university. MillionPlus is not objecting here to any measurement of graduate outcomes. Indeed, modern universities take graduate outcomes very seriously, as can be clearly evidenced by the efforts made within the universities to structure courses and create a whole wider culture that supports students to achieve as well as they can after their studies. But each component of a student's life journey - the before, during and after their studies - needs to be considered in turn if it is to be properly evaluated as there are a myriad of confounding factors involved in each.

The OfS argues that quality and standards and equality of opportunity are "inextricably linked". This may well be true, but the critical point here is that, in recent policy from the OfS, and in this strategy document, there is little attempt to actually interrogate how these two things are linked to each other. The proposals to introduce absolute minimum baselines for institutions ignore the nuance of how these two factors interact with each other, as does the attempt to bundle together continuation and employment outcomes into a single "Proceed" metric.

The concept of a 'regulatory baseline' features prominently in this strategy document but leaves much to be defined. It is unclear why something that is essentially a tool for regulation is so central. A baseline is not itself a vision for how higher education should be and is arguably a blunt tool if applied unwisely. It almost reads as if the regulatory baseline is the goal here, rather than the objective or impact of any such tool. The important question that should be addressed in the document is what purpose does a regulatory baseline serve and why is this approach better than others?

The definition for equality of opportunity that is presented in this strategy is problematic and does not appear to have considered the great deal of academic literature on the subject. MillionPlus would urge the OfS to explore the concept of equality of opportunity that is evidence-led and informed by notable research in this area. In general, the evidence base that is presented in the document appears limited. MillionPlus appreciates that this is a high-level, strategic document and not a piece of research, but it nevertheless seems an odd choice of sources to have listed. Not least because one, the NSS, was so recently under review by the OfS.

MillionPlus believes that the potential unintended consequences of the loss of a contextualized approach to HE regulation could be to undermine the government's ambition to level up the country, most obviously through education policy, but also in a broader sense. In order to level up and target those localities and areas that are in need of investment or change, there is surely a requirement to be sensitive to place and the context of that place. Ignoring the relative value or relative significance of programmes, institutions or

policies could therefore be a mistake. In many respects the direction of travel of the OfS & the DfE seems to be in conflict with that of other government departments. What is concerning in some of the recent output is that the OfS appears to want to actively remove contextualization as a point of principle, rather than take a more evidence-led approach to identifying where it is more and less useful.

Another unintended consequence of the OfS strategy outlined in the document could be excessive regulatory burden. It is hard to argue that the level of regulatory burden has diminished at all since the OfS was established, even though this was a stated objective of the organisation when it was founded (at least for those providers identified as "low-risk"). The level of burden has no doubt been influenced by 1) implementation issues 2) the level of policy churn in England over the past couple of years and 3) the ramifications of the coronavirus pandemic. These are all unavoidable in some ways, or out of the gift of the OfS to change. However, there are also extra burdens that have been placed on providers over recent years which are the responsibility of the regulator. And the plan of action outlined in the strategy document encompasses a new set of objectives which will undoubtedly result in some increased levels of burden for providers. In developing and implementing this strategy the OfS should make careful consideration to the level of burden that is being placed on providers and measure this against its own stated objectives to minimise such burden. It will need to do so if it is to act as a "risk-based" regulator and uphold the autonomy of providers where possible, two key principles that are outlined in the regulatory framework.

PROPOSAL 2: DO YOU HAVE ANY COMMENTS TO MAKE ON THE PROPOSED ADDITION TO THE REGULATORY FRAMEWORK?

n/a

ARE THERE ASPECTS OF PROPOSALS 1 AND/OR 2 YOU FOUND UNCLEAR? IF SO, PLEASE SPECIFY WHICH, AND TELL US WHY.

n/a

DO YOU HAVE ANY OTHER COMMENTS?

n/a