

- 4.3 The role of the QAA has been unclear since the establishment of the OfS, as has the increasing rhetoric around the Quality Code and its non-binding nature. Currently, the Quality Code still stands as the most comprehensive and useful guide to the management of quality and standards. If that is to be increasingly positioned as good advice/practice, institutions will lack clarity on the nature of national standards for quality management. The Regulatory Framework does provide pointers, but as a source of advice, it is more of a cautionary tale than a blueprint for quality and compliance.
- 4.4 Until recently, the QAA, as the quality arm of the OfS, gave some assurance that despite a new regulatory regime, the principles of the Quality Code, and the culture around quality, enhancement, and sharing sector practice, would continue. It is important that the OfS maintains that function so that the sector has something positive and developmental to engage in, and not be in a situation where the focus on the opinions and outputs of the OfS is similar to the approach to Ofsted, where the principal concern of providers is how to survive an inspection.
- 4.5 Fundamentally, if there is not a separate Designated Quality Body (DQB), there is a significant issue of governance, since the OfS will effectively be assessing its own work in the areas previously covered by the QAA. The role of the DQB needs to be carried out independently of the OfS by an independent organisation with a clear remit. ~~Highly~~
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Question 5:

How does the OfS measure value for money for students? How can this be measured in an objective, tangible way that is not based on economic or political judgements about the value of subject areas or types of institution?

- 5.1 The OfS has only a short section about value for money, which was published in January 2020. [Valueformoney whatshouldprovidersdo? OfficeforStudents](#) They mainly describe how they ensure value for money for the students through:
- their conditions of registration especially in relation to teaching quality and TEF;
 - requirements to provide good information to the students by providers adhering to CMA legislation;
 - asking institutions for financial transparency by publishing how they use the money and senior staff salaries.
- 5.2 HEFCE had tried to introduce a return for institutions on how they ensure value for money, which was also minimal in scope One more profitable approach would be to examine the value added to individuals by focusing on those students from underprivileged backgrounds and see how they progress through their first few years after university. Positive progression could be measured by salaries, professions, entrepreneurship, etc.

Question 7:

What is the nature of the OfS' relationship with higher education providers? Does the OfS strike the right balance between working collaboratively with universities and providing robust challenge?

- 7.1 From a Brunel perspective, the approach has been very much at arm's length. It is a mixture of formal consultations about intended increases to the regulatory scope and reactive responses to self-reporting. But even the reactions to self-reporting have been limited to "keep us informed". There is no advice or direction on how to respond to specific incidents.
- 7.2 This approach runs very much counter to the principles of good public regulation. For example, the Electoral Commission, which oversees the conduct of elections and compliance with political finance legislation in the United Kingdom, issues comprehensive guidance to a range of different participants to both further the understanding of the regulations and assist with compliance. This approach is consistent with good regulatory practice, such that regulators encourage and assist those it regulates to comply with the law through guidance material, training and advice provision. The approach taken by the Electoral Commission is highly valued by participants. For example, a study of election agents conducted after the 2019 election found high overall levels of satisfaction in the rating of the Electoral Commission as a useful source of advice and guidance.²
- 7.3 In general, it is regarded as good practice for regulators to set out their approach and methodology to enforcement and investigations in a written document. That document should not only describe the powers of the regulator but how and when it will deploy them. ~~University~~
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- 7.4 Contrary to the good practice outlined above, the current approach taken by the OfS is not collaborative and is not carried out in a spirit of partnership. As a consequence, compliance and consultation with the OfS are often burdensome and ineffective. The lack of trust shown by the OfS towards HE providers means that there is the potential for the conditions of registration to be seen as an opportunity for punitive action against HE providers rather than as a desire to ensure that students have a safe, effective and supportive learning environment which enables them to succeed and progress.
- 7.5 The cost of compliance is also considerable and frequently generates significant duplication of effort. For example, the ~~programme~~ programme introduced by the OfS (alongside the existing HESA data) has been especially costly, both in terms of person hours and the necessity to hire consultant programmers. Such costs have been further inflated by the changes in requirements introduced by the OfS within the project. We conservatively estimate that ~~has~~ has cost the University around £111k to date, including some £60k of staff time and around £50k on computer programming consultancy. This is in addition to the routine costs of compiling the B3 data on student outcomes, which we estimate take around 544 person-hours per

² Fisher, J. & Kumar, J. (2020) Attitudes of Electoral Agents on the Administration of the 2019 General Election. Report Produced for the Electoral Commission

annum, at an approximate cost of £115k. ~~OfS~~
~~staff~~

7.6 A further issue is that the OfS issues regular consultations which do not appear to represent genuine attempts to consult the sector. At Brunel, those consultations to which we have responded have proved to be very costly in person-hours. For example, the recent consultation on the TEF required comments from some 20 staff, totalling approximately 60 person-hours at an approximate cost of £2,200. Other examples include the consultations on regulating student outcomes, which involved seven members of staff, totalling some 96 person-hours at an approximate cost of £3,000. Despite the considerable cost of engaging in the consultations, the outcome of these has rarely led to changes of any consequence - a view shared by colleagues at other institutions. ~~OfS~~

~~staff~~
~~cost~~

7.7 Such a situation creates a clear disincentive to invest resource in the consultation process. As a responsible institution, we must regularly assess the costs and benefits of engaging in a wide range of activities. In the case of OfS consultations, we find that the cost and effort involved in providing a response are not warranted, the result being that the OfS becomes less aware of the views of HEIs. This is regrettable as HEIs are committed to providing a good student experience and supporting students, and our knowledge and experience in such matters are much closer to students' needs than that of the OfS. A ~~staff~~

~~staff~~

7.8 The language used in communications with providers further adds to the impression that OfS does not work in partnership with the sector. The opening statement on the consultation on Harassment and Sexual Misconduct ([Consultation on a new approach to regulating harassment and sexual misconduct in English higher education \(officeforstudents.org.uk\)](#)), extract below, which is not very "friendly". "

7.9 The OfS made itself clear from its inception that it does not seek to establish a relationship with providers but is determined to remain at arms-length as a regulator. This has not proved to be an effective approach. There is little evidence that it seeks to influence behaviours through collaboration, as practised successfully by HEFCE. Further, in the absence of appropriate guidance being provided by OfS, there is a concern that attempts by providers to bridge that void, for instance, through seeking guidance from the OfS on issues of ambiguity, would be taken by the OfS as being indicative of lacking competence or judgment on the part of the institution. HEIs receive numerous OfS consultations throughout the academic year that generate a significant amount of work for the HEIs, yet there is little evidence that the OfS has taken onboard those representations (see paragraph 7.6. above, for example). In sum, confining activity to providing 'robust challenge' and generating excess cost through large-scale consultation and increased regulation does not in and of itself, generate better outcomes for students. A partnership model, where the OfS and providers have a shared vision, is much more likely to deliver that goal.

Question 8: