



# Higher Education and Research Act 2017

## 2017 CHAPTER 29

### PART 1

#### THE OFFICE FOR STUDENTS

##### *Quality and standards*

#### **23 Assessing the quality of, and the standards applied to, higher education**

- (1) The OfS may assess, or make arrangements for the assessment of, the quality of, and the standards applied to, higher education provided by English higher education providers.
- (2) But the OfS must assess, or make arrangements for the assessment of, the quality of, and the standards applied to, higher education provided by—
  - (a) institutions who have applied to be registered in the register for the purposes of determining whether they satisfy any initial registration condition applicable to them relating to the quality of, or the standards applied to, higher education provided by them (see section 13(1)(a)), and
  - (b) registered higher education providers for the purposes of determining whether they satisfy any ongoing registration condition of theirs relating to the quality of, or the standards applied to, higher education provided by them (see section 13(1)(a)).
- (3) Where there are one or more sector-recognised standards, an assessment under this section of the standards applied—
  - (a) must relate only to the standards applied in respect of matters for which there are sector-recognised standards, and
  - (b) must assess those standards against sector-recognised standards only.

#### **24 Quality Assessment Committee**

- (1) The OfS must establish a committee called the “Quality Assessment Committee”.

- (2) The Committee has—
  - (a) the function of giving the OfS advice on the exercise of its functions under section 23, and
  - (b) such other functions that the OfS may confer on it.
- (3) While a body is designated under Schedule 4 to perform the OfS’s functions under section 23, the Committee also has the function of giving to the OfS advice on the exercise by the designated body of those functions.
- (4) The majority of the members of the Committee must be individuals who appear to the OfS to have experience of providing higher education on behalf of an English higher education provider or being responsible for the provision of higher education by such a provider.
- (5) In appointing members of the Committee who meet those criteria, the OfS must have regard to the desirability of their being currently engaged at the time of their appointment in the provision of higher education or in being responsible for such provision.
- (6) The majority of the members of the Committee must be individuals who are not members of the OfS.
- (7) Schedule 1 applies to the Quality Assessment Committee as it applies to committees established under paragraph 8 of that Schedule.

## **25 Rating the quality of, and the standards applied to, higher education**

- (1) The OfS may make arrangements for a scheme to give ratings—
  - (a) to English higher education providers regarding the quality of, and the standards applied to, higher education that they provide where they apply for such a rating, and
  - (b) to higher education providers in Wales, Scotland or Northern Ireland, in respect of whom the appropriate consent is given, regarding the quality of, and the standards applied to, higher education that they provide where they apply for such a rating.
- (2) “The appropriate consent” means—
  - (a) in the case of a higher education provider in Wales, the consent of the Welsh Ministers to the application of subsection (1) to the provider;
  - (b) in the case of a higher education provider in Scotland, the consent of the Scottish Ministers to the application of subsection (1) to the provider;
  - (c) in the case of a higher education provider in Northern Ireland, the consent of the Department for the Economy in Northern Ireland to the application of subsection (1) to the provider.
- (3) Such consent—
  - (a) may be given either generally in respect of all providers or in respect of providers of a particular description or named providers,
  - (b) is given by notifying the chair of the OfS, and
  - (c) is valid until it is revoked by notifying the chair.

- (4) For the purposes of applying the definition of “higher education provider” in section 83(1) to subsections (1)(b) and (2), the reference to “higher education” in that definition—
- (a) in the case of an institution in Wales, has the meaning given in section 83(1);
  - (b) in the case of an institution in Scotland, has the same meaning as in section 38 of the Further and Higher Education (Scotland) Act 1992;
  - (c) in the case of an institution in Northern Ireland, has the same meaning as in Article 2(2) of the Further Education (Northern Ireland) Order 1997 ([S.I. 1997/1772 \(N.I. 15\)](#));
- and the reference to “higher education” in subsection (1)(b) is to be read accordingly.

## **26 Report on operation of section 25 schemes**

- (1) Before the end of the initial period, the Secretary of State must appoint a suitable independent person for the purpose of preparing a report under this section.
- (2) A person is “independent” for this purpose if the person—
- (a) is not, and has never been, a member or employee of the OfS, and
  - (b) is not a servant or agent of the Crown.
- (3) A person is “suitable” for this purpose if the person—
- (a) has experience of providing higher education on behalf of, or being responsible for the provision of higher education by, a higher education provider, and
  - (b) appears to the Secretary of State to be a person who would command the confidence of registered higher education providers.
- (4) As soon as possible after the end of the initial period, the appointed person—
- (a) must prepare a report about the operation during that period of the section 25 scheme or schemes which were in operation for the whole or a part of that period, and
  - (b) must send the report to the Secretary of State.
- (5) The report must cover the following in the case of each scheme—
- (a) the process by which ratings are determined under the scheme and the sources of statistical information used in that process,
  - (b) whether that process, and those sources of statistical information, are fit for use for the purpose of determining ratings under the scheme,
  - (c) the names of the ratings under the scheme and whether those names are appropriate,
  - (d) the impact of the scheme on the ability of higher education providers to which the scheme applies to carry out their functions (including in particular their functions relating to teaching and research),
  - (e) an assessment of whether the scheme is in the public interest, and
  - (f) any other matters that the appointed person considers relevant.
- (6) The Secretary of State must lay the report before Parliament.
- (7) In this section—
- “the initial period” means the period of one year beginning with the date on which section 25 comes into force;

“section 25 scheme” means a scheme to give ratings in accordance with arrangements made under that section.

## **27 Performance of assessment functions by a designated body**

- (1) In Schedule 4—
  - (a) Part 1 makes provision about the designation of a body to perform the assessment functions, and
  - (b) Part 2 makes provision about oversight of the designated body by the OfS.
- (2) “The assessment functions” are—
  - (a) the functions of the OfS under section 23 (assessing the quality of, and the standards applied to, higher education), and
  - (b) the functions of the relevant body under section 46 (advice on quality etc to the OfS when granting degree awarding powers etc).
- (3) Where a body has been designated under Schedule 4 to perform the assessment functions, the functions under section 23—
  - (a) so far as they relate to the assessment of the standards applied to higher education provided by a provider, cease to be exercisable by the OfS, and
  - (b) otherwise do not cease to be exercisable by the OfS.
- (4) The OfS may by notice require a body for the time being designated under Schedule 4 (a “designated body”) to provide the OfS with information which is held by the designated body for the purposes of the performance of any of the assessment functions.
- (5) The OfS may give a notice under subsection (4) only in respect of information which is required by the OfS for the purposes of the performance of any of its functions.
- (6) A notice under subsection (4) may require the information to be provided—
  - (a) by a time specified in the notice, and
  - (b) in a form and manner specified in the notice.
- (7) If a designated body fails to comply with a notice under subsection (4) and does not satisfy the OfS that it is unable to provide the information, the OfS may enforce the duty to comply with the notice in civil proceedings for an injunction.

## **28 Power of designated body to charge fees**

- (1) In this section “designated body” means a body for the time being designated under Schedule 4.
- (2) A designated body may—
  - (a) charge an institution a fee for any activity undertaken, or service provided, by the body in the performance by it of functions under section 23(1) (power to assess quality and standards), or section 46 (advice on quality etc to the OfS when granting degree awarding powers etc), in relation to the institution,
  - (b) charge an institution a fee for any activity undertaken, or service provided, by the body in the performance by it of functions under section 23(2)(a) (duty to assess to determine if initial registration condition relating to quality or standards is met) in relation to the institution, and

---

*Status: This is the original version (as it was originally enacted).*

---

- (c) charge an annual fee to any registered higher education provider in respect of costs incurred, or to be incurred, by the body in the performance by the body of functions under section 23(2)(b) (duty to assess to determine if ongoing registration condition relating to quality or standards is met).
- (3) The amount of a fee payable under subsection (2)(a) by an institution may be calculated by reference to costs incurred by the designated body in the performance by the body of functions under section 23(1) or 46 in relation to a different institution or of its general functions.
- (4) The total fees payable under subsection (2)(a) must not exceed in any period of 12 months the total costs incurred by the body in that period in the performance by the body of its functions under sections 23(1) and 46 and of its general functions.
- (5) The amount of a fee payable under subsection (2)(b) by an institution may be calculated by reference to costs incurred by the designated body in the performance by the body of functions under section 23(2)(a) in relation to a different institution or of its general functions.
- (6) The total fees payable under subsection (2)(b) must not exceed in any period of 12 months the total costs incurred by the body in that period in the performance by the body of its functions under section 23(2)(a) and of its general functions.
- (7) The amount of a fee payable under subsection (2)(c) may be calculated by reference to costs incurred, or to be incurred, by the body in the performance by the body of functions under section 23(2)(b) which are unconnected with the provider or of its general functions.
- (8) The total fees payable under subsection (2)(c) in any period of 12 months must not exceed the total costs incurred by the body in that period in the performance by the body of its functions under section 23(2)(b) and of its general functions.
- (9) A designated body must publish—
  - (a) a statement of the amount of the fees which it charges under this section and the basis on which they are calculated, and
  - (b) revised statements where the amount of the fees or the basis on which they are calculated changes.
- (10) In this section references to the general functions of a designated body are to its functions under section 27(4) or paragraph 8(1) of Schedule 4 (duty to provide information and an annual report).