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STATUTORY INSTRUMENTS

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**2019 No. 1026**

**The Higher Education (Monetary Penalties  
and Refusal to Renew an Access and  
Participation Plan) (England) Regulations 2019**

**Monetary penalties: matters to which the OfS must have regard**

4.—(1) In exercising its power to impose a monetary penalty on a registered higher education provider under section 15(1) of the Act, in addition to any other matters it considers appropriate, the OfS must have regard to—

- (a) the nature, seriousness, duration and impact of the relevant breach;
- (b) any financial or other gain made by the provider as a result of the relevant breach which benefits the provider;
- (c) any financial or other loss avoided as a result of the relevant breach which benefits the provider;
- (d) where any gain described in sub-paragraph (b) or avoided loss described in sub-paragraph (c) can be quantified, the amount of any such gain or avoided loss;
- (e) any previous breach of the provider’s ongoing registration conditions<sup>(1)</sup>;
- (f) any steps taken by the provider following the relevant breach to avoid a breach in the future of its ongoing registration conditions;
- (g) the impact that imposing a monetary penalty on the provider is likely to have on—
  - (i) students on higher education courses at the provider,
  - (ii) students generally, or students of a particular description, on higher education courses provided by registered higher education providers.

(2) In this regulation “relevant breach” means a breach of one or more of a registered higher education provider’s ongoing registration conditions in respect of which the OfS is considering the imposition of a monetary penalty.

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(1) The OfS determines and publishes general ongoing registration conditions in accordance with section 5 of the Act. It may also provide that any of those conditions does not apply to a registered higher education provider in accordance with that section. The OfS may determine and impose a specific ongoing registration condition on a registered higher education provider in accordance with section 6 of the Act.