

Purpose of the baseline regulatory requirements

1. The responses to the June 2015 consultation on future approaches to quality assessment in universities and colleges in England, Wales and Northern Ireland endorsed the proposal to publish and maintain a baseline requirement for the quality of the academic experience for students. A common view was that the ‘threshold bar’ for entry should be set sufficiently high to ensure that students would receive an appropriately high-quality academic experience, that degree standards would be set appropriately and remain secure, and that the reputation of the system as a whole would be protected.
2. Respondents also identified a series of other requirements that providers should be expected to meet to ensure that student interests can be protected right from the start of a provider’s entry into the higher education system: specifically, a provider’s financial sustainability, management and governance arrangements; a provider’s ability to meet the expectations of consumer law as expressed through the Competition and Markets Authority (CMA) guidance; and its broader arrangements for student protection.
3. The baseline regulatory requirements therefore include the following elements:
 - a) The frameworks for higher education qualifications.
 - b) Other elements of the current UK Quality Code for Higher Education.
 - c) The HE Code of Governance, or other equivalent designated governance code.
 - d) The expectations of consumer law as expressed through the CMA guidance.
 - e) Student protection measures as expressed through the Office of the Independent Adjudicator’s (OIA’s) good practice framework and the Northern Ireland Public Service Ombudsman (NIPSO) equivalent, and the Statement of Good Practice on higher education course changes and closures published by HEFCE.
 - f) The financial sustainability, management and governance (FSMG) requirements of the relevant funding body.
 - g) The provider’s mission and strategy for its higher education provision.
4. In England and Northern Ireland, these components of the baseline regulatory requirements will be used in Gateway assessments for those seeking entry to the sector in England and Northern Ireland from academic year (AY) 2017-18. The student interest issues are clearly expressed in the Government’s Higher Education and Research Bill. In the technical note that accompanies the draft bill, the

Government states that, subject to the will of Parliament, “[a] provider will need to convince the OfS that it has the ability to offer high quality higher education provision; and give students a reasonable expectation that they will not be at risk of being unable to complete their course as a result of provider failure” (DfE 2016: 8). DfE state that the baseline regulatory requirements will be a feature of the new regulatory landscape, specifically “the Expectations of the UK Quality Code, the Frameworks for Higher Education Qualifications of UK Degree-Awarding Bodies, financial sustainability and good governance and management criteria, plus student protection requirements” (ibid).

5. It is expected that a similar set of baseline regulatory requirements, with variations that reflect the national context, will be adopted in Wales and Scotland. In Scotland, the regulatory requirements that already exist under the Further and Higher Education (Scotland) Act 2005 control entry to the sector, and this will continue.
6. This approach, and in particular the use of a shared set of reference points for providers across the UK, will be a key aspect of arrangements to protect degree standards, the student interest and the reputation of the UK higher education sector, and ensure that all UK providers continue to meet the Standards in Part 1 of the European Standards and Guidelines.
7. The approach will also provide individual funding bodies with flexibility in relation to the level of granularity in the reference points it considers appropriate for its own national context, thus allowing us to reflect the differing degrees of size, shape, complexity, maturity, and marketisation in the different countries.

Content of the baseline

8. The external reference points that comprise the baseline regulatory requirements already exist in the regulatory landscape and are developed and used by a range of organisations and bodies. It is important to note that the funding bodies are not seeking to take responsibility for these components, but to draw together the existing material that is important in assessing whether a provider is ready to enter the higher education sector, and to present this transparently and coherently for providers and for students.
9. The set of baseline regulatory requirements will include the following elements (links to relevant documents are provided in the text below):
 - a) The frameworks for higher education qualifications. The [Frameworks for Higher Education Qualifications of UK Degree-Awarding Bodies \(Qualifications Frameworks\)](#) are part of the Quality Code - Part A: Setting and Maintaining Academic Standards. There is one framework for England, Wales and Northern Ireland, and a separate one for Scotland (both are combined in one publication). The Qualifications Frameworks describe the achievement represented by higher education qualifications and apply to

degrees, diplomas, certificates and other academic awards granted by a higher education provider with degree awarding powers.

- b) The Expectations of the Quality Code. The [UK Quality Code for Higher Education](#) is a nationally agreed point of reference for providers who deliver or support UK higher education programmes. It sets out 19 Expectations that all UK higher education providers are required to meet in the way that is most appropriate for their organisation. Part A sets out what is expected of UK degree-awarding bodies in setting and maintaining the academic standards of the qualifications and credit that they award. Part B is concerned with the quality of the learning opportunities that are in place to support students in higher education and enable them to get the most out of their higher education experience. Part C focuses on the range of information that higher education providers make available about their provision for different audiences in different formats.

HEFCE and the Department for the Economy NI have stated that they do not wish to continue to use the 'Indicators' of the code, as many respondents to the June 2015 consultation believed that these detailed elements prompted an unhelpfully burdensome and formulaic approach to review by both providers and review teams.

- c) The relevant HE code of governance. The [HE Code of Governance](#), published by the Committee of University Chairs (CUC), provides a statement of core values, key elements of governance that support these values, and illustrative guidance on how these elements can be implemented. The Code's primary audience is members of HE institution (HEI) governing bodies. This approach is mirrored in the equivalent code for further education colleges (FECs), the [Code of Good Governance](#), which is published by the Association of Colleges (AoC). Both the CUC and AoC codes have elements that relate to mechanisms for ensuring that governing bodies have effective oversight of the academic experience, of learning and teaching, and of the student voice.

Additionally, the Committee of Scottish Chairs (CSC) has established an expert Steering Group to undertake a review of the [Scottish equivalent](#) to the HE Code of Governance in 2016. Counterparts to the Code of Good Governance for FECs exist in [Scotland](#), [Wales](#) and [Northern Ireland](#).

- d) The relevant guidance on providers' obligations under consumer law. The CMA provide [advice and guidance](#) to help higher education providers understand their responsibilities under consumer protection law when dealing with undergraduate students, and also recently published a [review of consumer law compliance](#) in the HE sector. The focus of the CMA guidance includes what providers are doing to ensure that students receive clear,

accurate and timely information, to ensure that terms and conditions are fair, and to ensure that complaint handling processes are clear and accessible.

Consumer law differs across devolved nations but the CMA guidance outlines the differences in each of the devolved administrations.

In England, HEFCE and the various representative bodies have also published a [Statement of Good Practice](#) on course changes and closures.

- e) The relevant good practice framework for handling complaints and academic appeals. The Office of the Independent Adjudicator's (OIA) [Good Practice Framework for Handling Complaints and Academic Appeals](#) provides an overview of the key factors to include in effective complaints and academic appeals processes. It sets out underlying principles and operational guidance to support institutions in areas including timeframes, progression between informal, formal and review stages, and record-keeping.

Additionally, in Scotland, the Scottish Public Services Ombudsman has published [The Scottish Higher Education Model Complaints Handling Procedure](#), while in Northern Ireland, the Northern Ireland Public Service Ombudsman refers organisations to the [Principles of Good Complaint Handling](#).

- f) The financial sustainability, management and governance (FSMG) requirements of the relevant funding body/mission and strategy for higher education provision. Individual funding bodies in [England](#), [Northern Ireland](#), [Wales](#) and [Scotland](#) will undertake checks to ensure that providers are financially sustainable, that financial management is sound, and that it is managed and governed effectively, with clear and appropriate lines of accountability for its academic responsibilities. For FECs in England, this includes seeking assurances from the [Skills Funding Agency](#) (SFA); in Wales, the [Welsh Government's Department for Education and Skills](#) (DfES) now funds FECs directly.
- g) The funding bodies also develop in-depth understanding of the context in which providers are operating and their strategic approaches to achieving their missions, responding to opportunities and tackling challenges.

10. In England and Northern Ireland, scrutiny of a provider's readiness to enter the HE sector or to progress from a period of enhanced scrutiny into the 'established provider' category will take place through QAA quality review visits. The contract for this activity requires the QAA to design an approach for operating review visits, including for any appeals by providers, and [to consult stakeholders on the proposed approach](#), through publication of a [draft review handbook for providers](#). As part of the consultation, QAA will be working with CMA and OIA to ensure that the approach includes an appropriate level of scrutiny in relation to relevant aspects of consumer

law and policies and practices for handling complaints and academic appeals. Feedback from the consultation process will be used to finalise the approach with HEFCE and the Department for the Economy in Northern Ireland. It is expected that a similar approach will be taken forward in Wales.

Decision required

11. The committee is asked to consider whether the baseline requirements are sufficiently comprehensive that they can be used as the basis for an assessment of whether providers can:
 - a) Deliver a high-quality academic experience;
 - b) Protect the integrity of degree standards;
 - c) Protect student interests.

12. Members are reminded that in the first instance the baseline regulatory requirements will be used in the entry gateway for providers seeking to enter the HEFCE and Department for the Economy NI funded sectors in England and Northern Ireland from AY 2017-18, as well as for providers coming to the end of their developmental period in AY 2016-17. A similar approach will be adopted in Wales in future years.

Next steps

13. Subject to the approval of the Committee, the baseline regulatory requirements will be published in November 2016.

14. Details of the baseline regulatory requirements will be published on the websites of the funding bodies, with brief summaries of each of the components of the baseline and links to existing material on the websites of QAA, CMA, OIA and other relevant organisations. A key consideration will be that the material is presented coherently for providers and, most importantly, for students. Therefore, a clear statement of the purpose and focus of each aspect of the baseline will be required. The information will need to be made visible to students and to providers seeking entry to the HE system, and so we will work with partners to ensure that the baseline is well publicised and that there are clear and visible links from websites such as the NUS.