



**INDEPENDENT
HIGHER
EDUCATION**

Independent HE Position Paper: Higher Education and Research Bill

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About Independent Higher Education

Independent Higher Education (Independent HE) is the UK's representative body for independent providers of higher education, professional training and pathways. Our members offer quality provision which is tailored to the needs of specific groups of students, including highly specialised courses in disciplines such as the creative and performing arts, as well as integrated foundation programmes which focus additional support on those from widening participation backgrounds. They are known for their innovative course design and delivery, including flexible learning which allows students to experience more than one provider and accelerated courses which have been developed for and in partnership with industries which require job-ready graduates.

The importance of the Higher Education and Research Bill

1. The Higher Education and Research Bill represents a significant and vital change in the way higher education is regulated in England. For the first time the Government will have a legislative mandate to regulate providers they do not directly fund, and create a system that ensures all institutions meet the same standards.
2. For the over 700¹ independent providers already operating in the UK, this Bill is a culmination of years of campaigning for a single system which enables providers to prove their merit, and allows their students to have access to information, funding and opportunities equal to those who attend traditional universities.

¹ IFF Research on behalf of BIS:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/524453/he-alternative-providers-2014.pdf

3. Up until now England has not had a coherent, sector-wide model of quality regulation to assure students, parents and employers of the student experience or the value of a specific higher education course. While publicly funded universities sit within one system, independent HEIs navigate a complex quality landscape of up to four intensive annual assurance processes, none of which match the processes that publicly funded universities or colleges undertake.
4. The sector is in need of a single, effective regulator. The Higher Education Funding Council for England's (HEFCE) role is to regulate on the basis of funding, yet in its *Financial health of the higher education sector: 2014-15 to 2017-18 forecasts*² it made clear that it no longer funds even the majority of learning and teaching, with students contributing near equal funds for the expenditure on their learning.
5. Independent HEIs, known in current regulatory parlance as 'Alternative Providers' (APs), have long been a feature of the UK's higher education sector; some of our member institutions are over 100 years old. This regulation is overdue and is strongly supported by high quality independent providers who want the opportunity to ensure that students can learn about and access the unique courses they offer.
6. The private/public distinction is no longer relevant to students who pay for their course wherever they study, particularly as independent HEIs often offer greater value for money by better matching provision to students' learning needs or by charging less than publicly funded universities for an equivalent course. All students have a right to expect that the same, strong regulator is protecting their interests and assuring the quality of higher education provision no matter where they study.
7. The Office for Students (OfS) as conceived in this Bill can and should be this regulator, but it is essential that the OfS board includes individuals who will be recognised by students as strong advocates for their interests and not just those of the sector and of Government. Such individuals must also take account of the views of the full spectrum of students, including those at independent HEIs who are not currently organised into formal student unions.

Regulation by the Office for Students

The registration system and its use of metrics

8. Registration conditions must be proportionate to the size of provider to avoid overburdening independent HEIs which are often small and specialist, and must spread the cost of regulation across far fewer students than a large university. A reduced regulatory burden will ensure that more student funding is directed to the student experience. The registration process must be seen as fair, transparent and of real benefit in order for many independent HEIs to engage with it. A considerable amount of work still needs to be undertaken to ensure that this is achieved.

² HEFCE. Financial health of the higher education sector: 2014-15 to 2017-18 forecasts: <http://www.hefce.ac.uk/pubs/year/2015/201529/>

9. We have significant concerns about the heavy reliance of the registration system on metrics developed for a traditional university model, and facilitated by a data service (HESA) owned by and oriented towards large, established universities. The system must facilitate the creation of metrics which can properly measure student outcomes across a much broader range of higher education providers if it is to be effective. With the pace of change proposed in the White Paper, it will not be able to effectively monitor student outcomes in 'alternative providers' until at least 2020 due to a lack of reliable and available data.
10. **We seek assurances that independent HEIs will not be disadvantaged by a system which has actively excluded them from participation for over a decade.** Alternative providers have been largely excluded from HESA until this past year, with only 63 submitting experimental data to HESA for the 2014/15 cohort of students. Only 13 completed the National Student Survey on their campus last year and most will complete the Destination of Leavers from Higher Education (DLHE) survey for the first time this coming year. This has two implications:
 - i. Key metrics will not be available until enough data is submitted to generate accurate and reliable judgements on student outcomes. It may take up to 2020 to generate sufficient data for use in regulating providers outside of the traditional university sector.
 - ii. The metrics generated are to be compared against UK Performance Indicators (UKPI) to make judgements on the quality of a registered provider. The UKPI have been developed using over a decade of HESA data submitted by traditional universities but no data from any other type of provider. This data does not reflect the students who attend most independent providers, as evidenced by the HESA return from May 2016. The UKPI must be reimagined and recalibrated to include a full set of independent HEI data in order for judgements to be fair and reliable.
11. The problems arising from the unavailability of comparable metrics will be compounded through the introduction of the Teaching Excellence Framework (TEF). Independent HE strongly supports the introduction of this counter-weight to the Research Excellence Framework (REF), as it should in time ensure that teaching is valued and celebrated within higher education colleges and universities. However, we feel TEF will not successfully engage with or accurately represent the value of many independent HEIs until the issues identified above are addressed.
12. We are particularly concerned about the extensive use of NSS and DLHE, which have been unavailable to most independent HEIs since their inception. The early years of NSS and DLHE were difficult for universities, as they sought to establish the best methods for encouraging student participation in the surveys. Independent HEIs will now face this same challenge, except not only will they be compared with universities who created and have shaped both surveys for over a decade, but the stakes of success are considerably higher. It is unlikely that most independent colleges will have reliable or accurate metrics for use in TEF until 2020.

Case Study – Court Theatre Training Company

Established in 1989, Court Theatre Training Company has an excellent reputation within the industry for offering a fully comprehensive professional and vocational actor training which develops reflective professionals in the practices of theatre and performance, highly equipped as specialists in their discipline. It is the first professional theatre in the UK with its own resident training company and this unique and innovative approach to training has only ever been seen before in Russia.

The intensive BA (Hons) Acting, at the Court Theatre Training Company is validated by Buckinghamshire New University and is very rigorous. Students complete 35 hours of contact time each week, and perform in a professional showcase and three public productions in a working fringe theatre during the training. A team of around 20 freelance working professionals deliver the course over six extended semesters. At capacity they can accommodate around 50 students and so offer a close-knit community but with significant limitations in a data environment designed for programmes with thousands of students. 80% of CTTC graduates gain work within the first month of leaving.

CTTC have always welcomed the opportunity to gather further information about the student experience, not only to celebrate their success but also to use the data to allow development and enhancement to take place. While they have collected data on the student experience and outcomes since their inception, they do have some concerns about how comparable data can be collected from a small specialist institution such as theirs, alongside the much larger departments of universities, or the bigger drama schools.

They are concerned that data must truly allow students and applicants, as well as graduates, to understand how their organisation ‘compares’ and is measured against other organisations. They already subscribe to the principle of transparency and emphasis on student choice, but remain concerned that the data collected may not present students with information that is easy to understand, measure, and appreciate unless it is reflective of the different sizes and programmes of providers.

Court Theatre has been undertaking the National Student Survey (NSS) since 2012, but changes to the NSS meant that that was also the last year in which they were able to publish responses, as their model requires a maximum number of students per year which now sits below the minimum threshold for NSS. Court Theatre will pay a considerable amount, especially in terms of the cost per student, to be registered with the Office for Students, yet until they can generate enough data to form an acceptable sample size, they will struggle to meet registration requirements.

Their students rely heavily on their Designation for student loans, and their Tier 4 licence, thus Court Theatre must achieve “Approved” status in the registration conditions to ensure students can continue to study with them. They cannot afford to lose these statuses until the metrics and data collection system can recognise the value in small, specialist and flexible providers like Court Theatre Training Company.

Promoting vocational and professional higher education

13. Independent HEIs are often established in response to student demand for provision which is not widely available at traditional universities. This has in recent years

meant a more vocational form of higher education, often highly specialised and preparing students for the cutting edge of a particular profession. The students who choose these courses may be focused on a specific career outcome or may be attracted to a specific combination of subjects and skills they wish to master. They may simply find themselves not engaged by or not suited to a traditionally academic, research-led learning environment.

14. The importance of vocational higher education, which may incorporate specific professional training into its programmes, becomes more pronounced as national participation rates increase. Higher level skills and education are becoming essential to an ever greater number of jobs as our economy responds to globalisation and technological change. It is critical to the UK's future success both as a knowledge economy and as a functional society that more of our citizens are prepared for the careers of tomorrow, and this must include those who do not consider themselves to be traditionally academic.
15. Vocational higher education must therefore be a priority for the sector going forward, and should be the keystone of Government policy in this area, aligned with but not entirely subsumed within the vision of higher level and degree apprenticeships. The Bill does not concern itself directly with the regulation and funding of technical education, and indeed stops far short of more radical proposals that we would like to see aired around the streamlining of all tertiary education under a single system. It would nevertheless be desirable for the Office for Students to assume a linking role between the further and higher education sectors in order to better coordinate the two regulatory systems and encourage more collaboration and cross-fertilisation of ideas across technical, professional and academic disciplines.
16. In order to empower the OfS in this role, we propose that its general duties in Part 1 Clause 2 be amended to include the responsibility to **promote the provision of higher education which meets the vocational and professional needs of students**. A further amendment to Schedule One under (2) requiring that **members of the OfS have experience of "providing vocational or professional education or awarding professional accreditations to higher education students"** would support the ongoing activity of promoting student choice in this area.

Coordination with the further education and skills sector

17. We propose also that the general duties of the OfS be amended to include a **requirement to coordinate with the regulatory authorities in further education and skills**, to ensure the opening of routes for students to transition successfully from further to higher education vocational and professional routes. Independent HEIs often provide pre-degree courses in both vocational and more traditional higher education subjects to better facilitate transition into degree-level study. More joined up regulation and funding systems would help providers to facilitate both student learning and funding in a more efficient way. We believe these pathways are essential to ensuring that widening participation goals can be met.
18. Flexibility of learning, and the development of flexible routes into degree study is a proven and popular means of widening participation. In North America the use of

flexible study routes such as articulation courses through local community colleges creates opportunities for students from widening participation backgrounds to obtain degrees. A report by the American Council of Graduate Schools found that community colleges enrol higher percentages of first generation students than the traditional four-year institutions³. In the UK these kinds of flexible routes face many regulatory and funding challenges which have not been properly addressed in this Bill.

19. Providers who wish to offer flexible and responsive pathways are forced to navigate several overlapping but separate regulatory frameworks, complicated further by disconnected processes for the designation of student funding. Providers who have proven their quality and governance effectiveness to one Government department or agency for higher education must then go through a different department to achieve designation for the funding a student needs pre-degree level. We believe that a far more streamlined and efficient approach could be achieved if the OfS were to coordinate the various processes for funding and regulation of those providers who deliver these flexible FE and Skills courses alongside their Higher Education activity.

Promoting innovation and collaboration

20. The risk of any regulatory system is that it can regulate to the most common model and thus impede competition, innovation and collaboration. We therefore welcome the Bill's prescription of a duty for the OfS to promote greater choice and opportunities for students by encouraging competition. But we propose also that OfS be given a duty to **promote innovation in the provision of higher education, where that innovation is in the interests of students and employers**. This would likely be an additional point under clause 2.
21. Publicly funded and independent HEIs have evolved separately because of differences in regulation and shared institutional bodies. To address this we believe **the OfS should have the duty to promote collaboration across the sector on areas which are in the best interests of students**. This could include shared governance of sector bodies such as those which provide admissions, data and professional development, and shared projects on issues such as widening participation and entrepreneurship, which are very valuable to students. A duty to encourage collaboration would also ensure that OfS can effectively undertake the responsibilities outlined in clauses 46 and 47 on validation, by promoting stability in these collaborative agreements.
22. One of the key innovations which independent HEIs have brought to the system is the ability of a student to choose the start date and completion time of their study. Students do not all choose a traditional academic year, but may instead continue their studies through the summer or choose breaks in study which are more suited to them. For example, two-year 'accelerated' degrees are often undertaken by those who would benefit more from a quicker entry into graduate employment than from a long summer break. In order to facilitate further such innovations, we propose that

³ Council of Graduate Schools (2012) Data Sources: The Role of Community Colleges on the Pathway to Graduate Degree Attainment. <http://cgsnet.org/data-sources-role-community-colleges-pathway-graduate-degree-attainment-0>

the OfS have the **duty to promote flexibility in the provision of higher education**. In addition, we propose that an appropriate wording should be found around “regulated course fees” under clause 10 to amend part (a) so that **fees are payable on the basis of the credit students will achieve** within the academic year identified in clause (b). Specific attention should also be given to part (2) to ensure that **the fee limit condition has due regard for the amount of credit received within the academic year for which the fee limit applies** and in relevant guidance for those with designation for student finance but not subject to the fee limit condition.

23. The Bill marks a shift in the relationship between the lead regulator and the Secretary of State which we feel may not be in the best interests of the independent sector. While independent HEIs are not covered in the Further and Higher Education Act of 1992, HEFCE has developed substantial capacity in this area over the last two years. Their joint working with the Department for Business, Innovation and Skills (BIS) and now the Department for Education (DfE) has been invaluable in creating a mutual understanding between the independent sector, Government and sector bodies. As set out in our response to the Green Paper, we strongly recommend that the whole ‘Alternative Providers’ team within HEFCE be transitioned to the OfS so as to ensure that their essential expertise is not lost and independent HEIs can continue to benefit from their support within the new organisation. To ensure that their expertise is shared appropriately with the Secretary of State, we recommend that the OfS should be able to provide advice to Government when it is required, not simply when it is requested. Currently the team in HEFCE can be proactive in providing advice which is relevant to their remit in this area, and this should not be lost as a result of the Bill. We therefore propose **an amendment to clause 70 to allow the OfS to provide advice to the Secretary of State without specific instruction**. We would also suggest that **clauses 2, 6, and 69 be amended to require the Secretary of State to have regard to this advice**.

The provision, use and publication of data

24. We welcome a system which gives students access to the same information, funding and opportunities at both public and independent HEIs, empowering them to choose the course which is right for them, and which will ensure that independent HEIs can offer places to all those students who would thrive in their unique learning environments.
25. Part 1 Clause 9 of the Bill outlines the mandatory transparency condition for certain providers. We welcome the flexibility of these requirements to ensure that transparency conditions are appropriate to the level of registration. **The transparency condition should, however also give special attention to sample sizes within this data**.
26. Given the range of providers who may fit the “prescribed description”, we do not feel it is appropriate for the publication of applicant data by course. In many cases this data would be too small for publication but would still increase the administrative burden on providers. At worst it could allow for the identification of students within the sample. While it may be appropriate for large institutions, ‘cutting’ the data in this way would disadvantage providers who may never achieve a sample size large

enough to protect the privacy of students. **We welcome assurances that clause 9 would not require any registered providers to provide course level data cut by gender, ethnicity or socio-economic background.**

27. We are concerned that Clause 62 of the Bill appears to require an institution to make financial information available to a third party. While we fully support the requirements of a robust Financial and Governance check as part of the registration process, we do not feel it is appropriate for an organisation which is not publicly funded to be required to provide any financial data to an additional third party. While it may be appropriate in the publicly funded sector, it is not appropriate for private organisations which provide this data for regulatory purposes only. Many rely on confidentiality as part of their wider activities. **We seek assurances that Clause 62 will not require independent providers to supply this type of data outside of a confidential agreement with OfS for regulatory purposes only.**
28. We believe that students should also be given sufficient assurances about how their data will be held and managed, particularly in reference to **Clauses 71 and 72**. We agree with Universities UK that there are legitimate concerns around the assurances that UCAS needs to be able to give to students about the data which it will be required to provide to the Secretary of State and other approved persons. **We support the amendments proposed by UCAS to clarify this.**

Independent quality assurance

29. As highlighted in our Green Paper response, we strongly recommend the maintenance of a quality assurance system, independent from the OfS which should be focused on student outcomes as a function of their primary responsibility to the Government. To ensure there is clarity in the separation of regulation from independent quality assurance we would welcome an **amendment to clause 26 part 3, ensuring the OfS will not intervene in the performance of a designated quality body beyond the oversight required under the provisions of schedule 4.**

Widening participation

30. For our members widening participation (WP) is about achieving social mobility for their students and allowing them to choose the qualifications which help them achieve their goals. Many design their courses around flexible pathways up to and including degree level study, which means they teach across levels traditionally defined as either 'further' or 'higher' education.
31. Their primary mechanisms for achieving social mobility are integrated in course design, content and student support, and less focused than public universities on financial support or outreach programmes, although there are excellent examples of both in the sector. Our members believe that innovation in higher education can help achieve the higher levels of participation desired by Government and that this should be recognised as a core duty of the OfS as the body with responsibility for WP.
32. Recent evidence from the 2016 statistical release by HESA on the student population across the 63 independent providers who submitted data shows that

these innovative course designs are having an impact on underrepresented groups. This was also the case in a wider survey of independent providers by IFF Research on behalf of BIS, which also showed significant evidence of flexible pathways. Independent providers had a significant number of BME and mature students when compared to publicly funded universities:

	Students from Black, Minority Ethnic backgrounds	Mature Students		Gender
		Over 25	Over 30	
2014/15 HESA Submission 63 providers*	34% Black 19% Asian		43%	52% men 48% women
2014 data (IFF research) on 276 providers (weighted)	46% non-white background	64%		51% men 47% women
Publicly funded Universities	10% Black 10% Asian		6%	56% women 44% Men (2012-13)

33. 40% of the students in the HESA sample were undertaking HND or HNC courses, and this increased to 50% for those not on what HESA defined as a ‘First Degree’. Looking more closely at the specific providers we see that they are offering models which allow students to progress through qualifications such as HNC/HNDs before being admitted to a first degree course as part of a flexible pathway to degree study as well as professional education which is at higher education level. They allow students to choose courses which will aid their social mobility and allow them to follow their career path, without the “all or nothing” approach of a full-time degree. This process is increasingly popular with students who did not transition to further study directly after school or who are returning to study with a specific career in mind.

34. We support the Government’s commitment to WP in the Bill, and welcome in particular the emphasis on ongoing support for students. **But we seek assurances that WP statements and agreements which may be applied to independent HEIs through the registration system will take into account the often unique approach already in place and not simply apply the existing template which the Office for Fair Access (OFFA) currently uses for publicly funded universities.**

35. We recommend the development of **a metric which measures attainment against entry qualifications**, to ensure that these supportive activities are recognised but also that there is not a perverse incentive to limit enrolments by students with lower qualifications or push students through pathways which are not suited to their learning needs. We believe this would be an effective metric to use on an institutional level basis and with potential application to the Teaching Excellence Framework.
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Case Study - City and Guilds of London Art School

Founded in 1854 as Lambeth School of Art, City and Guilds of London Art School has been in its current location in Kennington since 1879. The Art School teaches contemporary Fine Art, Conservation and Historic Carving at undergraduate and postgraduate level, as well as offering a Foundation Diploma in Art & Design. The School is a registered charity and is funded entirely by student fees and donations.

Magnus von Wistinghausen, Vice Principal of the art school views the Higher Education Bill as an opportunity to ensure any students with a passion for Art and Conservation can train with the best in their fields. "All our staff work successfully in their profession outside of the teaching they do here. This traditional Art School model, focusing on high levels of contact studio teaching, isn't measured by the dominant research rankings but makes our teaching relevant, up to date and integrated into the careers and professions our graduates train for. That deserves to be recognised. The HE Bill will ensure that when a student from any background shows a passion for Fine Art and Conservation, they will find their way to City and Guilds of London Art School."

The Art School has Designation for its Degree courses so that students who need to can access student loans to pay for the course. This has led to an increase in the number of both applicants and students from widening participation backgrounds. The School charges course fees of £9,000 per year, but as an 'Alternative Provider' students can only access £6,000 in tuition loans.

The Art School raises charitable donations for those students from disadvantaged backgrounds who cannot fund the remaining fees, but these donations are time limited and dependent on the generosity of external donors. "Without public funding we are currently barred from accessing the higher loan limit. Changes to the fees and funding system proposed in the Bill will enable our students to access the full £9000 tuition loans. This will mean that funding will no longer be a barrier and more students from all backgrounds will be able to attend the Art School."

Degree Awarding Powers and Validation

Degree Awarding Powers (DAPs)

36. We welcome the decision to create a new model for DAPs which is more suited to the higher education sector of the 21st century. The transfer of this authority to the OfS, a modern regulator, away from the outwardly archaic and opaque mechanism of approval by the Privy Council, will be more appropriate for a dynamic and diverse

sector which includes industry-led provision and overseas providers bringing their extensive experience to the UK from countries such as the US and Australia.

37. We must, however, maintain the UK's global reputation for academic standards and quality by continuing to set a high bar for the granting of DAPs. The power to award degrees is a great responsibility for which an HEI needs to be fully prepared and to have had its quality and viability confirmed through a rigorous and objective process.
38. We support a DAPs process which ensures that providers have strong internal governance arrangements which will protect against institutional failure. The current DAPs process is rigorous and effective in its role of assuring quality of provision and protecting the interests of students. We expect the new Developmental DAPs to follow similar processes as the current DAPs application, and assure only the same quality of provider achieves this bar.
39. However we do feel that for providers for whom validation is not the right option, the new Developmental DAPs becomes a vital tool to ensuring they can bring their courses to students. While the bar for DAPs must be set high and the process for Developmental DAPs should only be open to those who can show both their capability and longevity within the system, the process needs to reflect a broader range of experience within the sector. The current track record requirements based solely on validation models are too limited and should be expanded to allow new collaborative projects from experienced partners and those with transnational, personal or institutional track records to use this evidence in their DAP application. Probationary DAPs provide the opportunity to be flexibility in this area, while maintaining appropriate oversight for the first years of a providers operation in the UK.
40. As validation can no longer provide the complete solution for the sector to respond to demand for more choice and innovation, the Bill's provisions for developmental DAPs, and DAPs which are specific to the subject and level of courses, become ever more important. These specific, limited DAPs offer the opportunity for small and specialist institutions to award Degrees in subjects they know best without the need to provide evidence they can award Degrees in subjects they have never taught.
41. One area in which the current system needs to change is in the 'peer review' element introduced by the Advisory Committee on Degree Awarding Powers (ACDAP). In the context of a regulatory framework designed to enhance competition and encourage the entry of new providers into the sector, it is not appropriate for the ultimate decision on the award of DAPs to be taken by the representatives of institutions which are the challenged incumbents, and therefore have a vested interest in limiting competition. The DAPs process should be one of extended engagement centred around a transparent set of objective criteria which must be met. It should result in a clear outcome once all the necessary conditions have been satisfied which should not be subject to interpretation, particularly where such interpretation has a tendency to prejudice against innovation.
42. We therefore oppose the proposed amendment by Universities UK which would see "a legislative requirement for formal input from an independent committee into the

process of awarding DAPs to an institution”, particularly as their suggested model of the current ACDAP exhibits precisely the characteristics mentioned above of comprising individuals with a vested interest in blocking the entry of competitive new providers into the sector.

43. We would, however, support a **formal role for a ‘committee of peers’ in the sanction of registered providers and in particular the suspension or removal of degree awarding powers**. While such a sanction must always be supported by a substantial evidence trail indicating a significant fall in quality, student outcomes or standards of governance, it may ultimately also require a subjective judgement of whether the continued operation of the provider in question would risk damaging the reputation of English higher education. Given the new and significant powers which are proposed for the OfS to effectively cancel Royal Charters through the removal of DAPs and University title, it would be appropriate in such cases for it to seek the formal input of a committee in making such a judgement.

Validation

44. The majority of independent colleges have validation arrangements with universities in the UK and will continue to do so regardless of the provisions in the Bill to amend Degree Awarding Powers (DAPs). There are, however, providers for whom the current DAPs model has restricted what they can deliver for students due to its reliance on a track record of several years’ validation by a university as the only way to demonstrate their quality.
45. Validation arrangements currently represent the sole option for providers who are new to the UK sector as well as for established providers who remain too small or specialist for DAPs (as they are currently structured) to be the right choice for their staff or their students. These arrangements vary by cost and quality, and often dissolve when a university takes a different “strategic direction” or when one party launches a course which competes with the other.
46. The removal of student number controls and a greater reliance on student fees have led many universities to shift their focus away from validation towards internal expansion. This has not only limited the number of universities willing to validate, but has made the validation process more fraught with competition considerations.
47. As there is no national registry of validating universities, or prescribed system for validation, simply finding a partner can be a long and drawn-out process. Colleges with an international brand or intellectual property (IP) as part of their course can find validation difficult as the process involves the validating university taking ownership of the degree and all of the IP within it. Finally, if a college is seen to be a competitor to a validating university, most will simply decline to validate their programmes.
48. Validation partnerships also need to remain value for money, as students at independent providers pay the cost of their degree, including the cost of its validation. A lack of regulation in this area means that some students are paying more to have their degree validated than others, despite receiving the same degree. Fluctuations and unpredictability in costs and in agreements have a similarly

negative impact on students, and many independent colleges feel compelled to pay a higher cost (which is passed on to the student) just to ensure that there is continuity in the student's degree. This area of higher education needs much closer scrutiny along with regulation to ensure that students receive the stability and value for money they should expect from university-college collaborative partnerships.

49. A broader exploration of the issues and challenges faced by independent colleges operating within the current validation system is included as Appendix A, and detailed case studies of the experiences of three such colleges are included as Appendix B.

IHE Pilot Project: A centralised approach to supporting validation

50. As part of our work on the *Green Paper Fulfilling our Potential: Teaching Excellence, Social Mobility and Student Choice* consultation, we completed a small project with our members to identify the opportunities and challenges which have arisen from their validating partnerships. Following the proposals in the Green Paper, Independent HE partnered with the Open University and the Quality Assurance Agency (QAA) to identify how a centralised body such as the OfS could support the validation process to encourage diversity and innovation across higher education provision.

51. For our members, we hoped that a centralised body could support the streamlining of processes between validation and regulation, and emphasise the strengths of each. Higher education colleges seek a model of validation partnership which works with other higher education processes such as QAA Review, to reduce burden and its associated costs. Colleges also desired stability which comes from a partnership based on widening student choice and participation, and provided consistency and longevity through clear, transparent and justified costs.

52. Working closely with the Open University we have also been able to involve further education colleges in the pilot who face similar problems to our members in creating, maintaining and transitioning from validation partnerships. We will also shortly involve HEFCE in our activity, to ensure that all aspects of regulation are reflected in our findings.

53. Our pilot aims to provide a model which supports:

- i. Greater harmonisation of documentation between validating universities and greater alignment between the documentary requirements of validating universities and QAA Higher Education Review (HER) and HER for Alternative Providers.
- ii. Greater trust between validating universities and QAA/the Regulator.
- iii. More efficient and transparent processes for establishing a relationship with a validator.

- iv. A more open competitive system that minimises behaviours which create barriers for entry to providers.
 - v. Best practice for contractual arrangements that ensures institutional-level consistency of approach to validation arrangements.
 - vi. Clarity and transparency of validation costs.
 - vii. Better relationship management and support.
 - viii. A model that allows increased autonomy for providers as they mature.
 - ix. Support for alternative delivery models including accelerated degrees.
 - x. A greater emphasis on real partnerships between universities and further education colleges or alternative providers.
54. We hope to create both a model for validation which reflects best practice and the views of validating and validated institutions and that this project can shape the interventions OfS makes in future into validation agreements.
55. **The Bill will generate assurances for students and providers that there is an overarching body protecting the interests of students in these arrangements,** which is essential because it is students who mostly keenly feel the cost and consequences of an arrangement coming to a premature end but are currently given insufficient protections against this. We will support the role the OfS takes in validation through our above project but welcome further guidance on what activities the OfS will engage to support validation before it considers taking on a centralised validation role as an option of last resort.

Case Study - Le Cordon Bleu London

Le Cordon Bleu is the world's leading culinary institute, with 35 centres in 20 countries teaching over 20,000 students of over 100 nationalities. In London, Le Cordon Bleu offers one of the industry's most revered qualifications, the Grand Diplôme, consisting of the Diplôme de Cuisine and Diplôme de Pâtisserie.

Le Cordon Bleu's diplomas (similar to Certificates of Higher Education) are modular in nature, to which specific management and internship modules may be added. The resulting qualification is very similar to a Foundation Degree: Le Cordon Bleu Students are taught culinary, hospitality and business skills for up to 15 months of study.

In other countries however, Le Cordon Bleu offers bachelor's and master's degrees, on its own or in partnership with universities, which expand on these areas based on student choice. Le Cordon Bleu has the quality processes, external benchmarks and is widely regarded as the industry leader in their subject area, but they cannot deliver their own Foundation Degree in the UK because the validation process required to deliver degrees before DAPs are awarded cannot protect the intellectual property in their programmes.

Their international experience does not transfer to the UK, and instead they must be willing to hand over their recipes, techniques and individual culinary style to another institution in order to have their course recognised. The intellectual property of the course is then free for the validating institution to re-distribute as it sees fit. This is simply not an option for an Institute with a world-renowned reputation based on their intellectual property.

Each Institute must decide based on local regulations what courses to offer students. In the UK Le Cordon Bleu has chosen not to deliver degrees due to the validation process, which also means they do not deliver higher education which is regulated by the government, as validation is a condition of course designation by BIS. Students in the UK do not have the opportunity to access student finance to attend the London Institute, nor do they have the opportunity to gain credit for this learning which can be used to progress to further courses at other institutions around the world.

Le Cordon Bleu welcomes the opportunities for probationary DAPs in the Higher Education Bill, a process which would respect their vast experience and reputation while protecting the skills and techniques which are uniquely Le Cordon Bleu. With DAPs in place, Le Cordon Bleu could finally engage fully with HE Regulation, and with access to student finance more students would be able to study one of the world's most highly sought after qualifications.

APPENDIX A

Perspectives on Validation – Independent HE Members

In preparation for our ongoing Validation Project in partnership with the Open University and QAA, we conducted surveys, phone interviews and focus groups with members to understand their experiences with validation. These were then compiled into a report which was provided to the project partners.

Due to Confidentiality clauses and Non-disclosure Agreements, which members report are now a standard feature in validation agreements, many members felt they could not fully report some of the details which we felt were important to the project.

Below is an abridged version of the report which has informed the aims and objectives of our project and is the only account we are aware of which focuses solely on the perspectives of the validated college.

Finding a Validator

- *Lack of information:* The most common ways colleges report finding their validating partner was through personal or chance contacts or recommendations from other colleges who were able to provide contact details. Others report a trial and error search of universities with similar subject interests. Colleges have found the task of finding a validator to be the aspect of validation which took the longest, was the most complex and often relied on personal contacts which are not available to all.
- *No central registry:* Colleges were disappointed to find that there is no central registry of universities which were open to new validation partners, the subjects in which they would validate courses and the contacts to approach. Several report approaching the Council of Validating Universities for assistance but none was forthcoming.
- *Importance of dedicated staff/departments:* Most universities do not have a dedicated department which manages validation partnerships making it difficult to find contacts to begin validation discussions. The lack of institutional level validation departments was also noted in communication problems throughout the partnership and cited as a primary reason for the failure of a validating agreement. Those validating universities where there was a central validation department were viewed by members as the most efficient and helpful at creating and maintaining partnerships.

Transparency and consistency in the validation process

- Most validators provide little to no information on costs or resource requirements at the outset of the process. This is further complicated by clauses in many contracts which prevent colleges from sharing the costs of their validation with other colleges. Colleges report vastly different financial arrangements from a single university with different colleges, often differing by tens of thousands of pounds.

- Very few universities have clear and consistent approaches to validation available to colleges at the point of inquiry, including clear expectations for college policies and procedures. Combined with a lack of transparency in cost, it is impossible for colleges to evaluate the financial impact of validation with any one university. Clarity of cost and process in all stages of the institutional offer will remove this unnecessary barrier to bringing a course to market.
- Most universities follow a 'cost-per-student' model, which can alter during the course of study without notice or justification. This is a risky model which is often predicated on high student numbers, not achievable by small and specialist colleges.
- Transitioning from one validator to another is often as or more costly than the first validation. Validators often require colleges to drastically change practices, and re-write policies and procedures as these differ from one university to the next. For many colleges, it is not clear why, for example, an equality and diversity policy is so different between institutions which in principle are held to the same standard by the regulator.
- There is no transparency in the time it takes to validate. While colleges understand that some colleges may need more support than others, clarity in the university's timetable for validation should be achievable within the initial stages of inquiry. The current average turnaround of new courses is 18 months – 2 years. Colleges expect that this could and should be 6 months with better internal systems and transparency in the process.
- Finally, colleges felt strongly that universities should have a responsibility to support college partners who would like to seek degree awarding powers. Colleges feel that they are often prevented from developing their own internal processes which would support their move to degree awarding powers, by limiting university validation processes. Many feel that where validating arrangements become a profit making process, there is limited incentive to support an end to that partnership where degree awarding powers would be the outcome.

Contractual arrangements protecting students and colleges

Colleges expressed considerable concern over the lack of institutional-level consistency of approach to validation arrangements. They feel strongly that partnerships should be with institutions, not individuals, and should not be arbitrarily altered following changes in leadership.

- Agreements need a stronger contractual basis for the partnership. This could be achieved through legislation aimed to enhance longevity and security for students, or better guidance on how to ensure partnerships are both collaborative and equal.
- Colleges feel validation agreements could or should be subject to further scrutiny by the regulator and this could be a role for OfS.
- Colleges are very keen to ensure that there is an independent complaints process to protect the interests of students, when individual staff relationships and/or

institutional arrangements were not working. Colleges feel contracts do not offer enough protection for the college and the students in the validation arrangement, should there be a disagreement between partners. Many Colleges feel unable to report concerns of quality in the validation process or within the relationship for fear of losing their validation. None felt that the existing QAA concerns scheme offered appropriate protection given the current lack of contractual protections and longevity in their validation arrangements.

- Longevity must be encouraged in validation partnerships. Most colleges would prefer a 10-year agreement but currently have less than 5 years. As most facility and business contracts operate on 10 to 15-year models would make colleges more financially sustainable.
- Universities should not be able to increase fees for validation within the period of the agreement without explicit and reasonable clauses allowing for this. Fee increases need to be justified and the extent of colleges' ability to raise additional revenue through student fees should be considered in any increase.

Validation Documentation

Validated colleges expressed concern of the range and repetition of documentation which they need to submit across regulatory bodies and in particular within validation processes. Many felt that consistency in the way evidence of quality and internal processes were presented between both validators and regulators would both improve the rigour of the process and reduce its burden on the college. This is the area in which they found the widest variation between what was required by validating universities, and the most opportunity to align documentation requirements with those required by QAA.

Colleges made two recommendations:

- a. *Use existing documentation where possible in validation agreements.* Most members found the same questions were asked during both QAA's HER and their validator's initial institutional review. This led to documentation which was similar but whose largely superficial and presentational differences nevertheless required additional work.
- b. *Encourage convergence in the use of metrics where possible.* Some validators want module-level metrics while others want programme level or completion metrics. The intentions behind the metrics required by the validator need to be better understood between collaborative partners but most agree that both the validator and regulator should require similar annual metrics.

APPENDIX B

Case Studies of Validation Experiences

College A – Small and Specialist

A specialist arts college (A) wanted to have a new undergraduate course validated by their current partner (University A), who validated other similar courses. This partner was one of the larger validating universities with several colleges in their partnership portfolio. The university felt that this course was similar to another course they validated at a different institution, and allowed the other partner to object to the validation. Negotiations on the course ran for over 9 months and eventually College A felt they had to go down the more complicated route of a second validating partner.

College A had already begun initial discussions with a different university partner to validate their course; one who did not validate often but who ranked higher in the league tables than their existing validator. Initial discussions had started twelve months previously but University B had a very small team to manage validations, and only had the capacity to go through the validation process with one institution at a time. Costs of validation, and the services which could be offered to students changed frequently, at times almost doubling what the cost was for their existing validator with no additional services being offered. This university board was also not familiar with the two year accelerated degree model, which further delayed the process.

The new University followed a vastly different route than their existing partner to validation, asking for different documentation and to change their policies from what their existing partner had already approved. After 24 months University B had still not managed to progress the process to the institutional approval stage, although a financial agreement was reached in principle. College A then went through several meetings with a third potential partner although these discussions ended before institutional approval was sought.

College A was finally able to secure validation from their initial partner, following protracted and sensitive negotiation. During the negotiations and search for a new partner College A could not deliver a degree course at their London campus, despite the course being ready and eventually validated by University A. Another year of delays by the university partner resulted another one-year delay in the launch of the provision. The College spent substantial resource on all three negotiations, further adding to the costs of validation – a cost which takes from money spent on the student experience.

College B – Creative College

College B has two separate validating universities. This arrangement came about when their first validating partner was unable to validate a course because it competed directly with one of their courses. Each year they must submit to two separate internal

processes to satisfy each of their validators, a QAA annual review for the purposes of Tier 4, and an annual re-designation process so their UK and EU students can receive student finance.

Each body requests the same information but in a slightly different way, requiring the College to re-format their student data four times each November at the request of four different sources. This year they will submit data to HESA, adding a fifth re-imagining of the same data.

The college regularly gathers feedback from students and seeks to make course changes which reflect the students input. They also receive feedback from their separate external examiners which they must show is taken into consideration as part of their course design. However, each validating university needs to have these changes go through their internal processes which can differ in their view of the changes. To maintain consistency across their courses, College B often has to wait 12-18 months while the validating partners take changes through their internal processes separately before making the changes students want to see. By this point most students have graduated and the benefit of their requests is not seen. This then has a knock on effect on student satisfaction within the College – yet the College cannot make the changes the students have requested without this process.

There is also a financial impact as different charges are applied by each validating partner to the College; an operational impact as staff need to be deployed to manage the separate academic frameworks and reporting processes; an educational and quality impact as students on different courses at the same institution must be provided with different handbooks and experience processes such as assessment criteria, academic appeals and complaints in different ways; different timetables with different academic periods and semester breaks; different promotional and informative copy to students; training and development complications as staff need to be trained in two systems; and risk impacts as a result of different contractual terms and conditions for each validating partner. The internal resource to manage multiple partners far outstrips the costs charged by the individual universities for the process.

London College of International Business Studies (LCIBS)

Founded in 1870 by Sir Isaac Pitman, the London College of International Business Studies began as a further education college. A change in student demand led them to move towards higher education awards and they currently offer a range of HE courses culminating degree top-up programme validated by a well-known Swiss university. They have been searching for a UK university to validate their degree programmes since 2011.

LCIBS began a partnership with University A. Over the next year they spent tens of thousands of pounds in resource to develop the partnership and prepare for the formal review panel. A day after completing their successful QAA review, and before the panel date could be set, the University appointed a new Pro Vice Chancellor with responsibility for validation who terminated the process of all new validation partnerships.

This theme would continue over the following years, with a second potential university partner pulling out following a restructure of staff, and a third when the university had to terminate all their partnerships following issues with UKVI. Both partnerships cost the college tens of thousands of pounds in resource. They had also hired a consultant for almost £15,000 to help with their search.

LCIBS made inquiries with a further six universities but each asked for minimum numbers of students which were impossible within the colleges principle to keep low staff to student ratios and promote more collaborative learning. Universities were asking for £1000-£1500 per student as a validation cost, which would have pushed fees well beyond what LCIBS wanted to charge. The College has now spent almost £100,000 in resource in their attempt to find a validator. They are currently progressing very well with the Open University, and expect that cost for validation to run to £125,000 for the process and their own internal resource.

The cost for validation to LCIBS is likely to be over £225,000, which will need to be recovered in student fees. The delays caused by each validation attempt also have considerable opportunity cost.