

Committee:	Date:
Board of Governors of the Guildhall School of Music and Drama	14 th November 2016
Subject: Higher Education and Research Bill	Public
Report of: Remembrancer	For information
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Summary

This report advises the Board of the provisions of the Government's Higher Education and Research Bill, recently introduced to Parliament. The Bill will establish the Office for Students as a new regulator and funding provider for the higher education sector; introduce a single registration scheme for higher education providers, with conditions relating to governance, access and other matters; enable the introduction of the Teaching Excellence Framework, in order to assess teaching standards and determine which institutions will be able to increase tuition fees in line with inflation; and reform the system of degree-awarding powers to make it more flexible.

Recommendation

The Board is invited to receive this report and note the provisions of the Bill which may affect its work.

Main Report

1. The Higher Education and Research Bill was introduced into the House of Commons in the summer and has just completed detailed examination in the Public Bill Committee. It implements many of the changes proposed in the Government's White Paper, *Success as a Knowledge Economy* (May 2016).

Regulation

2. The Bill will establish a new regulator and funding provider for the higher education sector, the Office for Students. The Office will not be part of Government but its members will be appointed by the Secretary of State. It will inherit functions currently exercised by the Higher Education Funding Council for England and the Office for Fair Access. It will operate under a number of general duties including the promotion of quality, choice, competition, value for money and equality of opportunity.

Registration

3. One of the most important responsibilities of the Office for Students will be to maintain a new, single register of higher education providers. Registration will be open to any body which can meet the prescribed standards, and will be required for any provider wishing to receive public funding. A registration fee will be payable.
4. Important regulatory controls on the operation of higher education providers will be given effect by way of conditions attached to the registration. They include fee limits, access and participation standards, complaints procedures, student protection in the event of course closure, and governance arrangements. Some of these are dealt with in further detail below. Breach of a registration condition may be met with fines, suspension from the register, or, ultimately, de-registration.

Standards, access and fees

5. The Bill will enable the introduction of the Teaching Excellence Framework under the oversight of the Office for Students. It will operate by way of expert assessment, largely on the basis of a number of common 'metrics' such as employment data, retention and continuation data, and student satisfaction surveys. Providers will be able to submit additional evidence of a more qualitative nature. The Bill will allow fee limits to be set by reference to the Framework. The Government's intention is to allow registered providers to increase tuition fees in line with inflation (or a proportion thereof) only if they meet certain standards laid down in the Framework.
6. Providers seeking to charge higher-level fees will also have to put in place an 'access and participation plan' containing provisions intended to increase equality of opportunity. The plan will include uniform provisions laid down by the Secretary of State and may include other provisions suggested by the provider, subject to the approval of the Office for Students. The plans will differ from the current access agreements with the Office for Fair Access in that they will cover ongoing participation by students and not just initial access.
7. Any provider seeking registration will have to participate in the complaints scheme run by the Office of the Independent Adjudicator. It will also be a mandatory registration condition to publish, on request from the Office for Students, information about applications, offers, acceptances and course completion broken down by gender, ethnicity and socio-economic background.

Governance

8. Registration conditions will include a requirement for the provider's governing documents to be "consistent with the principles in [a list to be drawn up by the Office for Students], so far as applicable to the provider." It is not yet known what these principles will be, although the Government's White Paper indicated that they would be "comparable" to those currently contained in the

Higher Education Code of Governance. The Office for Students will consult on the details once the Bill has been enacted.

9. The White Paper indicated that the Bill would remove the current requirement for a higher education provider to obtain the agreement of the Privy Council in order to vary its governing documents. This measure does not, however, appear in the current version of the Bill.

Degree-awarding powers

10. Another important function of the Office for Students will be to administer a reformed system of degree-awarding powers. The new system will be more flexible than the present one: degree-awarding powers may be acquired without a 'track record' in providing higher education and may be limited in time or to specific courses. The Government's intention is to open up degree-awarding powers to a wider range of providers, including new providers, which will be able to obtain 'probationary' powers for three years as soon as they open. This proposal is among the most contentious elements of the Bill, with critics arguing that it may lead to a dilution of standards.
11. The new system will include a power for the Office for Students to vary or revoke degree-awarding powers, including those granted by the Privy Council under the current system. The precise grounds on which the Office may take such a step are not set out in the Bill. Any variation or revocation will be subject to a legal appeal to the First-tier Tribunal.

Other changes

12. The Office for Students will inherit the grant-making role of the Higher Education and Funding Council for England. This is not thought to herald any significant change to the operation of the current system.
13. The Office will also assume control over the title of 'university', and various miscellaneous powers to do with matters such as enforcement and the publication of information about courses.
14. Another Part of the Bill, which affects the work of the Board to a lesser extent, will merge the seven existing research councils (including the Arts and Humanities Research Council) into a new body, UK Research and Innovation.

Application to the Guildhall School

15. The new regime is expected to be in place by 2018, with elements of the Teaching Excellence Framework introduced earlier. The School will have to apply for inclusion on the new register of higher education providers and comply with any conditions of registration in order to continue to receive public funding and charge the present level of fees. These conditions will include the development of an access and participation plan and the publication of information as described in paragraphs 6 and 7 above.

16. Particular attention will be required as to the governance principles which are to be developed, with consultation, by the Office for Students (see paragraph 8 above). Engagement with the Government and the Office may be appropriate in order to ensure that the principles have regard to the unusual status of the School as a department of the City Corporation. This will be pursued in liaison with the Principal.
17. The School's ability to increase fees from their present level, in line with inflation, will depend on its attaining the required assessment level under the Teaching Excellence Framework. There have already been two Government consultations on the Framework, and the Principal advises that he continues to follow its development in order to prepare for its introduction in 2017.
18. The School's degree-awarding powers, granted by the Privy Council in 2014, will be unaffected by the Bill, although it should be noted that the Office for Students will in future have the power to vary or (in theory) revoke them.
19. Any further developments of interest during the passage of the Bill will be reported to the Board.

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