

# Specific Course Designation Guidance

**Policy and guidance for alternative providers of  
higher education in Northern Ireland**

**May 2021**

# **Contents**

	Page no.
<b><u>Purpose of this guidance</u></b> .....	3
<b><u>Background</u></b> .....	3
<b><u>Section 1: Course designation for NI Providers</u></b> .....	4
<b><u>Section 2: Criteria for Specific Course Designation</u></b> .....	5
<u>Criterion 1 – (a) Course Eligibility</u> .....	5
<u>Criterion 1 – (b) Disabled Students Allowance Course Eligibility</u> .....	7
<u>Criterion 2 – Quality</u> .....	8
<u>Criterion 3 – Financial Sustainability, Management and Governance</u> .....	9
<u>Criterion 4 – Academic Performance</u> .....	10
<b><u>Section 3: Making an Application</u></b> .....	11
<b><u>Section 4: Assessment of Applications</u></b> .....	12
<u>Minded to refuse</u> .....	13
<u>Notification of final decision - Unsuccessful applicants</u> .....	13
<u>Notification of final decision - Successful applicants</u> .....	13
<u>Length of designation, monitoring and review</u> .....	14
<u>Designation for teach out only</u> .....	14
<b><u>Section 5: Additional Information - Conditions of Designation</u></b> .....	14
<u>Continuing to meet quality assurance criteria (Criterion 2)</u> .....	15
<u>Submission of monitoring report</u> .....	15
<u>Reporting relevant changes</u> .....	15
<b><u>Annex A: Criterion 1 – Course Eligibility Evidence</u></b> .....	16
<b><u>Annex B: Reporting Changes of Circumstance</u></b> .....	17

## Purpose of this guidance

1. It is essential that Government ensures that there are robust processes in place to protect the interests of students and the reputation of the Northern Ireland higher education sector. This guidance is intended for alternative providers who wish to apply for specific course designation, and for those with existing designation, to allow eligible students from Northern Ireland to avail of student support.
2. This guidance explains the specific course designation process for alternative providers. In particular:
  - the criteria for granting designation;
  - the assessment and decision making process; and
  - the conditions of specific course designation.
3. This guidance should be read in conjunction with the Education (Student Support) (No.2) Regulations (Northern Ireland) 2009 ('the 2009 Regulations') and alongside any guidance produced by the Quality Assurance Agency in relation to monitoring reviews.

## Background

4. Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 provides the Department for the Economy with the power to make loans or grants available to eligible students in connection with their attendance on designated courses. There are two categories of course designation:

### *Automatic Designation*

Eligible first degree courses provided by UK universities and publicly funded institutions in Northern Ireland, England, Scotland, and Wales are automatically designated for student support under The Education (Student Support) (No.2) Regulations (Northern Ireland) 2009 ('the 2009 Regulations'). Schedule 6 to the Regulations also lists 'relevant' publicly funded Institutions of Higher Education (HE) in the Republic of Ireland for the same purposes.

Eligible HE courses delivered by Further Education colleges in Northern Ireland are also automatically designated for student support purposes.

Taught postgraduate courses are automatically designated if they are wholly provided by a publicly funded institution in Northern Ireland, England, Scotland, or Wales. Taught postgraduate courses delivered by these publicly funded institutions through a franchise arrangement with another provider will also be automatically designated, as the degree awarding body has full ownership of the course and students attending it are registered as students of that publicly-funded institution. With the exception of the administration of the Disabled Students Allowance (DSA), course designation is not available for postgraduate courses provided by other institutions.

### *Specific Course Designation*

Specific course designation is the process by which private/alternative providers of HE, including those registered in the 'Approved' category of the OfS register in England, can gain access for their eligible students to undergraduate student support (tuition fee and maintenance loans) and DSA. This student support is funded by the NI Department for the Economy ('the Department') via the Student Loans Company (SLC).

## **Section 1: Course designation for NI Providers**

5. Applicants should be alternative providers based in Northern Ireland. For applicants based outside of Northern Ireland, please contact the Department in the first instance. Contact details are included in the application pack.

### **Definition - Alternative Provider**

By 'alternative provider', we mean any provider of higher education courses which is not in direct receipt of recurrent funding from the Department for the Economy or from equivalent funding bodies in the Devolved Administrations; or does not receive direct recurrent public funding (for example, from a local authority, or the Secretary of State for Education).

6. It is important to note that, in Northern Ireland, designation is granted at course level, rather than provider level. Providers based in Northern Ireland must submit applications to the Department listing the relative details of each course requiring designation. Additionally, course designation is specific to the location at which the course is being delivered. In order for students to access student support for a course run by a provider at more than one location, each course at each of these locations must be specifically designated.
7. Providers must satisfactorily meet each criterion as set out in this guidance, in order to achieve and maintain course designation. Each application will be tested and assessed against these criteria, with consideration against each being dependent on the preceding criteria being met; i.e. applicants who do not meet criterion 2 will not be assessed against criteria 3 and 4.
8. Where courses are delivered by an alternative provider in partnership/collaboration with another provider, these too must be designated in order to attract student support. Where a franchise arrangement is in place, the franchised course will be assessed against criterion 1 (course eligibility) only.

### **Definition – Validated Courses**

Courses made available and taught by one institution that lead, on successful completion, to a qualification awarded usually by another institution with degree awarding powers (DAPs). Normally the course will have been designed by the teaching (and not the validating) institution. There will be a validation agreement in place, in which the validating institution seeks assurances regarding the quality and delivery of the course but allows the teaching institution a degree of control over how it teaches the course. The institution with DAPs is the validating and awarding body for the course, while

the institution which teaches the course has control of the provision, and full contractual responsibility to the student for the provision of education

### **Definition – Franchised Courses**

Courses made available by one institution where some or all of the teaching is provided by another body under a sub-contractual arrangement. The course will usually have been designed by the first institution, which will normally impose its own requirements regarding teaching and assessment. That first institution has full contractual responsibility to the student for the provision of education. Usually, that institution will also be the awarding body for the course qualification.

## **Section 2: Criteria for Specific Course Designation**

9. There are four key criteria which must be satisfied in order for a course to be granted designation for student support purposes:
  1. (a) Course Eligibility  
(b) DSA Course Eligibility
  2. Quality
  3. Financial Sustainability, Management and Governance
  4. Academic Performance
10. This section details each criterion, and provides examples of the evidence which providers are required to supply in order to allow for the relevant assessment to be made. As previously stated, the preceding criteria must be met before assessment begins on the next criterion.

### **Criterion 1 – (a) Course Eligibility**

11. When assessing if a course should be considered for designation for student support purposes, the Department will firstly determine whether it should be automatically designated. Those courses which meet the provisions of Regulation 6(1) of the Education (Student Support) Regulations (NI) 2009 (as amended) fall into the 'automatic designation' category.
12. Where automatic designation is not applicable, the Department will assess whether it meets the following course eligibility criteria for specific course designation, which apply to both validated and franchised courses. Additionally, applicants must demonstrate that the course is validated or approved by an appropriate body.

### **Criterion 1 – (a) Course Eligibility – Evidence**

To pass the course eligibility criterion, a provider must deliver courses that are eligible to receive student support and provide evidence of the appropriate awarding or validating body approval in place for these courses. This is intended to ensure that students can access student support and be able to achieve a qualification at the end of their course.

Eligible courses are defined below:

- a. The course should be a recognised course of higher education as listed in Schedule 3 to the 2009 Regulations, reproduced here as **Annex A**;
- b. It should be intended for students of 18 years or over;
- c. It should consist of at least one year's full-time or sandwich study. A part-time student must be studying at least the equivalent of 25% of a full-time course which means that a student must be able to complete the course in no more than four times the time it would take to complete the full-time equivalent. Some colleges have a credits system for their courses. A course of 60 learning credits in an academic year is usually the equivalent of 50% of a one-year, full-time course.
- d. The minimum entry standard should be 2 passes at A-level or equivalent; and
- e. The course must have been validated by a recognised United Kingdom awarding body, which is primarily responsible for monitoring quality control and ensuring that academic standards are maintained.

Validating and awarding body arrangements:

All courses must be validated or approved by an appropriate body. The validating or approving body must either be:

- a body with UK degree awarding powers on the Department's list of [Recognised Bodies](#); or
- for HNC/HND qualifications, either Pearson or the Scottish Qualifications Authority (SQA).

Providers must ensure that their courses (and locations) have appropriate awarding or validating body approval in place. In order to allow assessment against this element of criterion 1, applicants must submit signed copies of approval documents. The nature and content of the validation contracts will vary depending on the type of arrangement so the exact documents required will be different for every provider. All providers must however make sure that their documents include the following information:

- titles of validated courses;
- details of delivery model (duration of course and mode of study);
- start and end/renewal date of the validation arrangement;
- arrangements for periodic review of the agreement (both the date and how this will happen);
- name of delivery organisation and specified location(s) of the course delivery; and
- signature of agreement from the relevant authority within both organisations.

See also section 3 – Making an Application.

For courses approved by Pearson or SQA, a centre approval letter or certificate from the relevant awarding body will be required confirming that the provider is approved to deliver the courses applied for at the specified locations, and plans for their renewal if the duration of the course exceeds the remaining period of approval. Providers with degree awarding powers that are

listed on the Department's list of Recognised Bodies are not required to provide evidence of validation.

## **Criterion 1 – (b) Disabled Students Allowance Course Eligibility**

13. Disabled Students Allowance (DSA) is additional funding to help students with extra essential costs as a direct result of a disability. This can include a long-term health condition, mental-health condition, physical disability or specific learning difficulty such as dyslexia or dyspraxia. The course eligibility criteria for course designation for DSA is slightly different:

### **Criterion 1 – (b) DSA Course Eligibility – Evidence**

For Disabled Students Allowance (DSA), designation for full-time/part-time/in-attendance/distance learning *undergraduate* courses mirrors the designation criteria for student support.

In order to be automatically designated for *postgraduate* DSA, a postgraduate course must:

- a. normally require that participants hold a first degree (or equivalent qualification) or higher for entry;
- b. be at a level mentioned in Schedule 3A to the Education (Student Support) Regulations (NI) 2009, as amended. (That is, Postgraduate Certificate, Postgraduate Diploma, Master's degree, or Doctoral degree level; a course recognised by the Department for the purposes of converting a Postgraduate Certificate into either a Postgraduate Diploma, a Master's degree or a Doctoral degree; a course recognised by the Department for the purposes of converting a Postgraduate Diploma into a Master's degree or a Doctoral degree; or a course recognised by the Department for the purposes of converting a Master's degree into a Doctoral degree;
- c. in the case of a part-time course, be ordinarily possible to complete the course in not more than three times the period ordinarily required to complete the full-time equivalent;
- d. be either:
  - (i) wholly provided by an authority-funded institution in Northern Ireland, Scotland, or Wales;
  - (ii) provided by a publicly-funded institution situated in Northern Ireland, Scotland, or Wales, on behalf of an 'approved (fee cap)' provider in England, or on behalf of an authority-funded institution in Northern Ireland, Scotland, or Wales;
  - (iii) wholly provided by an 'approved (fee cap)' provider, or provided by an 'approved (fee cap)' provider on behalf of an 'approved (fee cap)' provider in England;
  - (iv) provided by an 'approved (fee cap)' provider on behalf of an authority funded institution in Northern Ireland, Scotland, or Wales;
  - (v) provided by an authority-funded institution in Northern Ireland, Scotland, or Wales, in conjunction with an institution which is situated outside the United Kingdom; or

- (vi) provided by an 'approved (fee cap)' provider in England in conjunction with an institution which is situated outside the United Kingdom; or
- (vii) not be a course for the initial training of teachers or a course taken as part of an employment-based teacher training scheme.

The Department also has the power to specifically designate postgraduate courses for postgraduate DSA under regulation 141(4) of the Education (Student Support) Regulations (NI) 2009, as amended.

Please note – with the exception of the Disabled Students Allowance, postgraduate courses will not be considered for specific course designation.

## **Criterion 2 – Quality**

14. To meet this criterion, applicants must demonstrate that they have a consistent history of delivering high quality higher education to students. This must be done through the Quality Assurance Agency (QAA).

### **Criterion 2 – Quality – Evidence**

Applicants must have a successful QAA Higher Education Review (Alternative Providers) if they are seeking to have a course designated. A successful HER (AP) is defined as one where the provider achieves a "meets UK expectations" and/or a "commended" rating for each of the four judgement areas. Applicants must remain registered with the QAA and comply with the conditions of that registration. When assessing the evidence against this criterion, the Department will check the QAA reports for any ongoing concerns, and will liaise with QAA to identify if there are any unpublished negative judgements or ongoing appeals. It is essential that providers wishing to have courses designated maintain a relationship with the QAA and continue to meet the expected standards through annual returns to QAA and any future reviews.

Please note - the HER (AP) process is likely to take a minimum of nine months to complete. New applicants, who have not already received a satisfactory HER (AP) judgement or had a review scheduled, should contact QAA as early in the process as possible. The Department will not confirm its decision on designation until applicants have a published HER (AP).

15. Following the approval of specific course designation, it is a requirement for all providers to continue to meet the quality assurance criteria. Providers are required to continue to maintain a relationship with the QAA; as such, providers will be subject to annual returns to QAA, monitoring and periodic review. Providers may also be subject to investigation under the QAA's Concerns Scheme. Each of these may result in an unsatisfactory judgement (e.g. one or more HER (AP) judgements of less than "meets UK expectations", or an annual monitoring outcome of less than "making acceptable progress"), or an upheld concern.
16. If a provider receives an unsatisfactory judgement, or has an upheld concern, the Department reserves the right to take action to protect students and ensure value for money for students and taxpayers. The Department's decision on any such action will take into account:



- the seriousness of the concerns raised by the QAA;
- the QAA's assessment of the provider's engagement and willingness to address the concerns;
- the provider's track record of compliance with the quality assurance criteria; and
- wider contextual information including academic performance data.

### **Criterion 3 – Financial Sustainability, Management and Governance**

17. The overall purpose of the financial sustainability, management and governance (FSMG) criterion is to ensure that students can be confident of the provider responsible for their course remaining financially viable for the duration of their studies.

18. To meet the criterion, applicants must demonstrate that the organisation is:

- financially viable and sustainable in the medium term;
- owned and managed by fit and proper persons; and
- properly constituted and fit to receive student support.

### **Criterion 3 – Financial Sustainability, Management and Governance – Evidence**

#### Financial Sustainability

Applicants must:

- provide at least the last 3 years of unqualified accounts which have been ratified by an independent, external, qualified auditor (or externally audited financial statements for each year of trading where the provider has not been trading for 3 years);
- provide financial forecasts for the next 3 years along with commentary on assumptions made and how risks are managed; and
- provide an outline of contingency arrangements for students if course are discontinued for any reason.

You must submit information, which illustrates:

i. Historical performance - a track record of financial performance evidenced by annual reports and externally-audited full financial statements for the three years prior to the application. The accounts must be audited each year by a registered auditor.

ii. Financial strategy - financial information such as a forward plan that reflects the overall strategic plan available at the point of submitting an application for specific designation, sets appropriate benchmarks and performance indicators, shows how resources are to be used, and how activities and infrastructure will be financed. This should include how applicants assess and review their sustainability, including the use of sustainability assessments.

iii. Forecasts - applicants must be able to provide evidence that they have:

- adequate cash flow to remain solvent, that is, sufficient liquidity to pay debts as they fall due; and
- a balance sheet, to include a statement on its policy on reserves.

#### Management and Governance

Applicants must:

- demonstrate that the organisation is owned and managed by fit and proper persons\*, including identifying key personnel (accountable officer, head of higher education, main contact, main shareholders, directors and trustees);

- confirm the legal status of the organisation; and
- describe the organisation's corporate governance arrangements\*\* and demonstrate that these are adequate, appropriate and adhered to. An outline of the issues to be covered is included in Annex A of the application pack. Relevant issues to be addressed by your evidence include a description of audit and governance processes, and risk management.

\*A fit and proper person:

- is of good character;
- has the qualifications, competence, skills and experience that are necessary for their role;
- is able by reason of their health, after reasonable adjustments are made, to properly perform the tasks of the office or position for which they are appointed; and
- has not been responsible for, been privy to, contributed to, or facilitated any serious misconduct or mismanagement (whether unlawful or not) in their employment or in the conduct of any entity with which they are or have been associated.

The Department will seek assurance from the provider in the first instance that the necessary checks and assessments have been carried out so that the organisation is content that it is owned and managed by fit and proper persons. Further to this, the Department will carry out the following checks on each of the trustees:

- Is the person bankrupt, subject to an Individual Voluntary Arrangement or a Bankruptcy Restrictions Order; and
- Is the individual disqualified from acting as a company director.

\*\* Corporate Governance is the system by which the business is directed and controlled.

The effectiveness of direction and control of an organisation depends on:

- Governance: how well an organisation plans, sets, communicates, undertakes and monitors its corporate objectives;
- Risk management: how the organisation identifies, considers and manages the risks to the achievement of corporate objectives; and
- Business controls: how the Board of the organisation assures itself and its stakeholders that it is in control of its business and the risks to the achievement of its objectives.

## Criterion 4 – Academic Performance

19. Applicants must demonstrate that their academic outcomes represent value for money for the students and the taxpayer, and that the students accessing student support are likely to achieve the qualification for which they are studying and achieve positive outcomes. The Department will consider academic performance and track record when assessing this criterion.

### Criterion 4 – Academic Performance - Evidence

When assessing this criterion, the Department will focus on indicators such as achievement rates, non-continuation rates, and any other relevant indicators. Applicants must provide relevant data to allow a judgement to be made – further details of this data is contained in the application pack. This relevant data should be drawn from data supplied by the Higher Education Statistics Agency (HESA). Where the applicant is not a HESA subscriber, alternative data sources (such as the Student Loans Company (SLC)) may be considered.

## Section 3: Making an Application

20. The Department for the Economy is responsible for managing the application process for specific course designation. Application packs can be requested from: Student Support Branch, Department for the Economy, Adelaide House, 39-49 Adelaide Street, Belfast BT2 8FD, via w-mail to [studentfinance@economy-ni.gov.uk](mailto:studentfinance@economy-ni.gov.uk) or by telephone to Student Support Branch on 028 90257715.
21. To ensure applications for specific course designation can be considered in time for the start of the relevant academic year, they must be submitted to the Department by the end of September of the preceding academic year. For example, where a provider wishes to have a course designated to allow students to receive student support (if eligible) for academic year 2021/22, the full application (and associated evidence) for course designation must be submitted to the Department by 30 September 2020. Applicants are advised that consideration of an application will take 28 working days, provided all requested information has been submitted.
22. As part of the application pack, the Department will provide a checklist of evidence requirements (as detailed in section 2 above) to help applicants ensure that all required documentation has been included.
23. If an incomplete application is submitted, the Department will take reasonable steps to obtain the information from the applicant so that the application can be processed in a timely manner. If the required information is not received, the Department will refuse the application.
24. Please note that timings for decisions are reliant on prompt and complete responses to queries from the Department. Where information is not provided, or if it is incomplete, this delays the assessment and decision making process. In such cases, the Department will not bear responsibility for the consequences of such delays.

### Information to be Included in Application

Guidance on completing the application form for specific course designation is included in the application pack. In addition to the evidence required for each of the criteria, as described in Section 2 above, applicants must provide the following information:

#### Full details of provider

- the applicant's name;
  - the applicant's principal address and legal address where they are different;
  - the applicant's UK provider registration number (UKPRN), where available;
- the applicant's Charity Commission number, where relevant;
- any other names under which the applicant operates;
  - confirmation that the provider is not under investigation, or details of an ongoing investigations including the organisation undertaking the investigation and the reasons for the investigation.

### **Details of the course(s) for which designation is being sought**

- course title;
- length of course;
- number of credits;
- mode of study;
- location(s) of course delivery;
- validating organisation;
- dates between which the validation agreement applies;
- annual course fees;
- estimated student numbers for course;
  - estimated student numbers of students ordinarily resident in Northern Ireland for course;
- date of course commencement.

### **Validation agreement**

The Department will require a copy of the appropriate validation agreement(s) for each course as evidence to support the application.

### **Franchised courses**

Where the application for specific course designation is in relation to a franchised course, as it will be assessed against criterion 1(a) or 1(b) (course eligibility) only, applicants are required to provide the information detailed under **Full details of provider** and **Details of the course(s) for which designation is being sought** only.

## **Section 4: Assessment of Applications**

25. The Department will carry out a detailed assessment of your application against the criteria set out in Section 2. Applicants are advised that this assessment will take 28 working days, provided all requested information has been submitted. The Department will consider all relevant information including advice received from other agencies, for example, the QAA, SLC, etc. Applicants must be prepared to engage with the Department during the application and assessment process, and to submit any other information that the Department may reasonably request in connection with the application.
26. The assessment process is rigorous and thorough. Checks against publicly available information (for example with Companies House) will be performed to verify the information provided with applications. Further reports will not normally be commissioned during the process, but reference may be made during the assessment process to publicly available information.
27. It is important that applicants submit complete information that allows the Department to process the application. The Department may, if necessary, contact applicants where information is not clear. Any additional information that is provided will inform the Department's decision.

28. In the event of failure to provide accurate information during the application process, and throughout the duration of the period of course designation, the Department reserves the right (under the Education (Student Support) (No.2) Regulations (Northern Ireland) 2009) to take necessary action including, but not limited to, the recouping of public money.

### **Minded to refuse**

29. If the Department is minded to refuse the application for course designation, it will notify the applicant of its intention, in writing, before reaching a final decision. This letter will state the reasons for proposed refusal and the Department's concerns. Applicants will be given the opportunity to make representations to address the issues raised in the letter before a final decision is made. This is not an opportunity to submit a brand new application and/or introduce new issues at this stage, unless there has been a material change of circumstances. The Department reserves the right to disregard any new information which does not address its specific concerns. Applicants will have 10 working days to make a representation.

### **Notification of final decision - Unsuccessful applicants**

30. Following receipt of the applicant's representations (see 'Minded to refuse' above), the Department will decide whether there is reason to change its initial decision. If it does not change its decision, the application will be unsuccessful.
31. The Department will write to unsuccessful applicants confirming the final decision and clearly setting out its reasons. Applicants will be expected to have addressed the Department's concerns, and meet all the appropriate criteria before a new application is submitted. If applicants wish to appeal this decision, they should, in the first instance, contact Student Support Branch in the Department (contact details will be included in the letter).

### **Notification of final decision - Successful applicants**

32. If, following the assessment of the evidence provided in the application pack, the application for course designation is successful, the applicant will receive a letter from the Department confirming the start date for designation and the next steps. Applicants will be required to comply with the conditions of designation (see Section 5) from the date of designation, including future requirements for re-designation.
33. The Department will contact the SLC with details of the course(s) and location(s) designated. SLC will contact applicants to finalise term dates and fee rates and will then upload the data onto its database.
34. Once the course(s) and location(s) are promoted on the SLC HEI portal, applicants can advise students that they can start submitting their student finance applications.
35. Designation will begin from the date stated in the letter from the Department. Applicants should plan the timing of applications carefully to ensure sufficient time to advertise the availability of student support to potential students so that they can make an informed decision.

## **Length of designation, monitoring and review**

36. Initial course designation will last for a maximum of one year, and providers will need to apply to have the course re-designated through the submission of a monitoring report. This report will include updated data for the purposes of assessing academic performance, and the most recent audited accounts.
37. The provider must also notify the Department of any QAA reviews taking place, and provide a copy of the reports when they are published. The Department will then assess whether the provider continues to meet the criteria for continuing course designation.
38. If, at any point during this cycle, it comes to the Department's attention that the provider is at risk of no longer meeting the terms of its course designation, the Department may seek input from the provider to allow for a judgement to be made.

## **Designation for teach out only**

39. Designation for teach out is intended to provide protection for continuing students, allowing them to complete their designated courses, achieve their qualifications and help to safeguard the investment that students and the taxpayer have made. During the period of designation for teach out, the provider is designated for existing students only; any new students the provider recruits will be unable to access student support.
40. When applying for designation for teach out only, providers should submit a signed Assurance Statement (which will include a copy of the Risk Register), along with the details of the course(s) for which the teach out designation is required. There is no requirement to follow the full application process in the case of teach out for existing designated courses (neither will new QAA registration be required).
41. Where the Department intends to grant designation for teach out, it will write to the provider with details of the terms and conditions. The accountable officer will be required to sign a declaration, accepting the terms and conditions for the period of teach out designation and agreeing to ongoing monitoring.
42. Providers with designation for teach out only, who wish to apply for specific course designation (so that they can access student support for new students), will be required to make a new application in line with this guidance and will be treated as a new provider.

## **Section 5: Additional Information - Conditions of Designation**

43. All providers that are granted specific course designation must continue to meet the criteria as detailed in section 1. Additionally, there are a number of conditions which apply. This section details the ongoing responsibilities of providers offering designated courses.

## **Continuing to meet quality assurance criteria (Criterion 2)**

44. As previously stated, it is a requirement for all providers to continue to meet the quality assurance criteria. Providers are required to continue to maintain a relationship with the QAA; as such, providers will be subject to QAA annual monitoring and periodic review. Providers may also be subject to investigation under the QAA's Concerns Scheme. Each of these may result in an unsatisfactory judgement (e.g. one or more HER (AP) judgements of less than "meets UK expectations", or an annual monitoring outcome of less than "making acceptable progress"), or an upheld concern.
45. If a provider receives an unsatisfactory judgement, or has an upheld concern, the Department reserves the right to take action to protect students and ensure value for money for students and taxpayers. The Department's decision on any such action will take into account:
- the seriousness of the concerns raised by the QAA;
  - the QAA's assessment of the provider's engagement and willingness to address the concerns;
  - the provider's track record of compliance with the quality assurance criteria; and
  - wider contextual information including academic performance data.

## **Submission of monitoring report**

46. As previously stated, initial course designation will last for a maximum of one year. Providers must, therefore, apply to have the course re-designated on an annual basis. Where a provider is applying for re-designation, and the details of the course remain unchanged, a monitoring report containing the following must be submitted to the Department for consideration:
- (i) the outcome of any QAA review;
  - (ii) updated data required to assess Criterion 4 – Academic Performance (see Section 2);
  - (iii) the most recent audited accounts; and
  - (iv) **Annex A** (Assurance Statement) of the Application Pack.

## **Reporting relevant changes**

47. Providers are required to report to the Department any changes that may affect their ability to continue to meet the criteria or conditions of designation. Providers must also report any changes of control or ownership. The full list of changes that require reporting can be found at **Annex B**.

## **Annex A: Criterion 1 – Course Eligibility Evidence**

### **Eligible Courses of Higher Education**

1. A first degree course.
2. A course for the Diploma of Higher Education.
3. A course for the Higher National Diploma or Higher National Certificate of—  
(a) the Business & Technician Education Council; or (b) the Scottish Qualifications Authority.
4. A course for the Certificate of Higher Education.
5. A course for the initial training of teachers.
6. A course in preparation for a professional examination of a standard higher than that of (a) examination at advanced level for the General Certificate of Education or the examination at higher level for the Scottish Certificate of Education; or (b) the examination for the National Certificate or the National Diploma of either of the bodies mentioned in paragraph 3, not being a course for entry to which a first degree (or equivalent qualification) is normally required.
7. A course (a) providing education (whether or not in preparation for an examination) the standard of which is higher than that of courses providing education in preparation for any of the examinations mentioned in paragraph 7(a) or (b) but not higher than that of a first degree course; and (b) for entry to which a first degree (or equivalent qualification) is not normally required.

Note – a course falling within 6 or 7 above is not a designated course where the governing body of a school has arranged for the provision of such a course to a pupil of the school.



## **Annex B: Reporting Changes of Circumstance**

This annex gives providers information about the changes that must be reported to the Department and when. If you are unsure of whether to report a change you should contact the Department. Failure to report changes is a breach of the conditions of designation.

### **Accountable officer and key personnel**

Providers must report changes to, and supply contact details (telephone, email and postal address) for, the following positions in the organisation. The exact titles may vary depending on the nature of the organisation. If you are unsure which individuals to report, then please contact the Department.

#### **Accountable officer**

The Department requires the provider to nominate an accountable officer to sign a declaration that commits the provider to meeting the criteria and conditions of designation. This person will receive official communications from the Department. This individual should be the head of the legal entity in receipt of designation. Within a charity/public organisation this individual would be expected to be the Chief Executive (or equivalent). Within a private company the individual would be expected to be a Director of the company and hold a position equivalent to the Chief Executive. Where there are particular circumstances that mean that this individual is not best placed to fulfil the role of accountable officer the Department will consider alternative nominations. Where this is the case the Department will require confirmation that this person has appropriate delegated authority in place.

#### **Head of higher education provision**

This individual should be the person in the organisation with overall responsibility for the higher education academic provision. This role will not be used as a point of contact for correspondence, but will be subject to a fit and proper person assessment.

#### **Main contact**

The person who the Department and HEFCE will usually contact for day to day queries. This person may be copied into official communications from the Department.

#### **Directors, trustees, shareholders**

Providers must notify the Department of any changes to its directors, trustees or shareholders that have occurred since specific course designated was granted. If, as a result of changes to 50% or more of the organisation's directors, trustees or shareholders, control of your organisation changes, then this must be reported immediately. For example, if you have five directors and, over the course of the year, three of these change, this would be reported as a change of control at the point at which the third director was appointed.

#### **Compliance risk**

Providers must report the following changes:

- any adverse regulatory outcomes, including from the Quality Assurance Agency or UK Visas and Immigration (including suspension or revocation of Tier 4 licence); and
- any loss of or change in validation or awarding body approval.

## **Changes in governance arrangements**

Providers must report any changes to the corporate governance structures that were reported in the successful application for designation.

Providers must report any changes in academic governance arrangements to the QAA.

## **Reputational risk**

Providers must report any change of circumstance that may have a reputational risk for the organisation or the higher education sector, including any significant legal action.

## **Change of name**

Providers must report any change of legal or trading name as soon as it is registered with Companies House or the Charity Commission.

## **Changes which may affect fit and proper persons**

Providers must report any changes that mean that the provider (as a legal entity), directors, trustees, shareholders (with more than a 20% holding) or the accountable officer has been:

- convicted of a criminal offence (anywhere in the world);
- subject to any adverse finding in civil proceedings;
- subject to any disciplinary proceedings by any regulatory authorities or professional bodies;
- involved in any abuse of the tax systems;
- involved with any entity that has been refused registration to carry out a trade or has had its registration terminated;
- involved in a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within a year of that connection;
- investigated by a professional body, a court or tribunal, whether publicly or privately;
- dismissed from a position of trust or similar;
- disqualified from acting as a company director or from acting as a charity trustee; or
- involved with a provider that has had its designation application refused or has been de-designated.

## **Material change in financial performance/position**

Providers must report whenever its financial performance and/or financial position is likely to become, or has become (whichever arises sooner), materially different to that detailed in the accounts supplied at application. For example:

- moving from a surplus to a deficit;
- the level of deficit or surplus has materially increased or decreased;
- a significant injection of funds means you will move from a deficit to a surplus;

- material changes in a parent company or Group occur which may adversely affect your position;
- any transactions and other exceptional financial events that result in a material change to assets, revenue or capital, for example:
  - any material investments or other transactions that occur in year;
  - any loans, overdrafts or mortgages taken out that are of a significant size relative to the assets of the organisation;
  - any change in capital structure.

### **Fraud, serious weakness or accounting breakdown**

Providers must report any incident that has occurred, or serious control weakness that has been identified, that raises concerns with regard to the reputation of the organisation or the control framework in place.

### **Changes to courses**

Providers must inform the Department immediately if a change is made to any of its designated courses that results in a minor change of title. These changes would typically not have a substantial effect on the course design or structure, or involve a change in type of award. Notifications should however be accompanied by evidence of support from the validating or awarding body.

If changes are made to designated courses that result in a significant change to course content, title, mode of study, duration or validating body, then a new application for specific course designation will be required.

Changes to designated courses that do not result in a change of title or other significant aspect of the course do not need to be reported. For example, revisions to course content or structure.

If a provider no longer wishes to have specific course designation for a particular course, this should be reported as a change of circumstance.

### **Change of location**

Providers should inform the Department if they intend to change the location of delivery of a designated course. This must be done prior to the change of location and, except in exceptional circumstances, at least three months before the change is due to take place.