HIGHER EDUCATION GREEN PAPER

SUMMARY

The government published its higher education Green Paper on Friday 6 November. The Green Paper covers a lot of territory and signals a number of potentially radical shifts that will have very significant implications for the future of the sector and its supporting infrastructure. There is a strong focus on promoting competition and choice, and the student interest, and transforming sector infrastructure to support these objectives.

The Green Paper is structured into four broad areas:

- Teaching excellence, quality and social mobility, which includes an outline of how the Teaching Excellence Framework (TEF) is going to work
- Market entry and opening the sector up to new providers
- Sector infrastructure, including the creation of the Office for Students (OfS)
- Simplifying the research funding system

The Green Paper has a strong emphasis on consultation, containing 28 questions on various proposals across the areas above. In a number of areas proposals are put forward, but the without setting out a preferred approach.

The objective of this briefing is to provide members with a summary and further analysis of the proposals set out in the Green Paper, to provide an update on Universities UK’s initial response and planned work in this area, and to invite member input to inform the Universities UK response.
DEVELOPING A UNIVERSITIES UK RESPONSE

The Universities UK press response, published on Friday 6 November, can be found on our website and initial analysis and reflections from Chris Hale, Director of Policy, on the UUK blog. Nicola Dandridge also wrote to members directly on Friday 6 November to share initial reflections from the Universities UK Board, which met that morning.

The board was clear that Universities UK needs to engage proactively with the Green Paper, but ensure we can clearly articulate a vision for how we want these changes to support what is already a successful sector and how our core values around institutional autonomy, co-regulation, the relationship between teaching and research, and the broader social role of higher education, should underpin and shape the proposals.

Priorities will be to ensure that:

- the Teaching Excellence Framework is proportionate and focused, allowing for diversity and not adding unnecessary regulatory burden. On this front we are pleased that at least initially any inflationary fee increase will relate to a recent quality assessment review, but we will need to be closely involved in shaping the full blown exercise. Nicola Dandridge is an observer on the TEF delivery group, which is helping us play a strong role in this area.

- with the proposed shift of QR funding from HEFCE in England (notwithstanding more detail on this to come through the Nurse review), the vital relationship between teaching and research is not damaged and that a wider institutional perspective is recognised and supported in the new regulatory framework and sector architecture.

- the move to create greater diversity and competition through opening up the market to alternative providers does not lead to an erosion of the necessarily high entry barriers to the sector.

We will continue our close contact with BIS and other stakeholders to ensure the sector view is understood.

To inform the full Universities UK response to the Green Paper (deadline 15 January 2016) it will be important that members share their views with us. We would encourage you to share your thinking or a draft institutional response on the questions set out in the Green Paper along with any additional reflections on the issues set out in this briefing.

Given the short period for consultation, which also includes Christmas, we would need input from members by Wednesday 23 December. Please send you input to christopher.hale@universitiesuk.ac.uk. We would welcome input on some or all of the 28 questions posed, or general comments on the Green Paper.

We will also be running workshops for members to provide views and input on the Green Paper at the Universities UK Members Meeting on Friday 4 December, which the Minister, Jo Johnson, will be attending. The Universities UK Regulation Task and Finish Group, chaired by Professor Simon Gaskell (Queen Mary University of London) will coordinate the UUK response. We will also be drawing on input from the Student
and Research Policy Networks and working closely with colleagues in Universities Scotland and Universities Wales.

The Nurse Review and Comprehensive Spending Review are both to be published shortly and will both have implications for how the Green Paper proposals develop. We have been influencing developments on both of these fronts, particularly making a strong case for sustained public investment in universities as set out in our spending review submission.

**SUMMARY AND ANALYSIS OF GREEN PAPER PROPOSALS**

### Teaching excellence, quality and social mobility

**Teaching Excellence Framework**

The main proposal in this section of the Green Paper is the outline for the TEF. This has been anticipated since it was first mooted in the Conservative Party manifesto earlier in the year. In essence the TEF is designed to give an increasing focus on teaching and provide students with the information they need to make informed choices. It is intended to operate as an incentive through being linked to the ability to make any future inflationary increase in fees and through acting as a reputational marker. A further technical consultation on the detail is proposed, but in summary the main points on the TEF in the Green Paper are as follows:

- It will be introduced in a phased way and criteria and metrics will develop over time.
  - Year one will relate to meeting expectations for quality and standards through a current quality assessment review and last up to three years. Meeting these expectations will enable inflationary fee uplifts from academic year 2017–18.
  - Year two will introduce high levels of TEF (two to four levels), although the detail on how these will work and their relationship to any future ability to increase fees, and the initial assessments under year one, will be subject to further consultation. to any future ability to increase fees, and the initial assessments under year one, will be subject to further consultation.
- All subject areas and modes of delivery will be covered, with the potential to evolve into postgraduate provision for future exercises. The preferred approach for higher-level TEF is for assessment at discipline level, but aggregated to produce an overall institutional-level award.
- The TEF will recognise those institutions that do the most to support access and participation of those from disadvantaged groups.
- The TEF will act as a mechanism for driving compliance with consumer law and requirements set out by the Competition and Markets Authority.
- It will be integrated with the quality assessment system, drawing on similar metrics and indicators, which will continue to act as the mechanism for setting and assessing baseline standards and quality within the TEF framework. The outcomes of the HEFCE consultation on quality assessment will feed into this.
- Whether or not an institution has adopted a Grade Point Average system for degree classification will form part of the TEF evidence, and taken account of in assessments, but not be a prerequisite for applying for future levels of TEF.
- There will be a rolling cycle of assessments, rather than all institutions being assessed at the same time. It will be for institutions to decide whether and when to apply for the higher levels of TEF. It is indicated that
a reassessment could be triggered by any concerns raised by the body running the TEF.

- TEF assessments will be independent and judgements will be made by a panel of independent experts.
- There will be a common set of benchmarked metrics, but it is recognised that there is a need for a flexible framework that respects diversity and that there is no one single definition of teaching excellence. The metrics set out in chapter three of the consultation will be consulted on. Institutions will also be asked to submit contextual information. Common metrics will be based on the following existing data collections:
  - Employment/destination
  - Retention/continuation
  - Student satisfaction
A number of additional metrics are proposed and will be consulted on.

As noted above, Universities UK has been closely involved in the discussions about how the TEF should develop. We have been keen to emphasise that the process should avoid significant additional bureaucracy and be proportionate in terms of the way it is linked to financial incentives. On the latter, the decision to link any ability to lift fees by inflation to current quality assessment review is therefore welcome. We will want to ensure that this link remains proportionate in terms how fee increases might relate to levels 2–4 of the TEF in the future.

**Social mobility**

In this section the government restates its objectives in this area and has asked Universities UK to set up a Social Mobility Advisory Group to support the sector in improving access and outcomes for under-represented groups. Specific reference is made to making progress against the government’s goals to widen participation (by doubling the number of socially disadvantaged students entering higher education between 2009 and 2020, that is, from 13.6% to 27.2%), and to contribute towards a series of 2020 Commitments to black and ethnic minority (BME) groups in higher education (expected to equate to around 50,000 additional full-time BME students).

The group would be chaired by Nicola Dandridge and consist of representation from universities, employers and schools, building on the significant work universities have already done in this area. Reference has also been made to exploring innovative ways to improve the progression of white working class boys and outcomes for disabled students.

The timetable for this programme of work is incredibly tight, with an initial report due in December 2015 and a further report with a series of recommendations and an action plan for implementation in May 2016. In shaping our priorities for this we have decided to invite, on an informal basis, a small group of people to contribute to an initial roundtable discussion in December, prior to convening the first working group meeting early in the New Year. The brief of the working group is far reaching and we want to engage the membership as widely as possible to ensure whatever is recommended is practical and will have an impact. We will therefore be creating a number of opportunities for members and other stakeholders to feed in their views, including the launch of a call for evidence in the New Year.

**Opening the sector to new providers**

The Green Paper sets out a desire to widen the range of providers delivering higher education so as to stimulate competition and value for money, and choice for students. It is proposed that to achieve this a single route into higher education is established, which also removes a number of barriers that the government have identified as holding back entry and growth of alternative providers. Proposals cover basic entry level to the
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sector, designation processes (both course and institutional), Degree Awarding Powers and University Title. The Green Paper puts forward a number of non-legislative proposals, which include alternative approaches to obtaining reassurances on quality and financial sustainability that do not rely so heavily on track record, and granting multi-year specific course designation for alternative providers (as opposed to having to reapply each year). There are also proposals to combine elements of different parts of the entry process, so as to streamline requirements.

In relation to Degree Awarding Powers (DAPs) the Green Paper proposes greater ‘risk based’ flexibility. It is also proposed that the four year track record requirement is reduced to three to speed up the process, and that government would introduce more flexibility on what constitutes ‘track record’. It also includes proposals for greater risk-based powers to give time-limited or restricted DAPs to providers with a shorter track record or limited evidence base.

In relation to University Title (UT) it is proposed that a similar risk based approach is applied. Significantly it is proposed that the current criteria for 1,000 full-time-equivalent students (of which 750 are studying for a degree) is further reduced or removed. It is also proposed that sanctions for the suspension or removal of DAPs or UT are developed.

The Green Paper expresses some concern over the reliance that alternative providers must place on validation agreements from those with DAPs. A number of proposals for opening up validation options are therefore proposed. This includes the proposed Office for Students (OfS) taking on these powers, provision of DAPs to non-teaching bodies or for existing bodies with DAPs to operate as a central validation body.

The final part of this section of the Green Paper deals with proposals for provider exit and student protection. It is stated that supporting struggling or failing providers is undesirable apart from in exceptional circumstances, but there should be a strong focus on protecting the interests of students and minimising disruption. It is proposed, therefore, that student protection is put in place and there will be a requirement for providers to have contingency arrangements in place. These would be in relation to ensuring continuity of provision or financial recompense. The proposals in this section are quite broad and it is expected that the new OfS would take forward these requirements.

The proposals for a single and more streamlined route into higher education for new providers is consistent with the Universities UK report on regulation published earlier this year.1 We have, however, consistently maintained the importance of ensuring high entry barriers to higher education, which is vital to the continued reputation of the system. Although much of the proposed streamlining of processes does make sense, we have some concerns over the proposals for shortening of requirements in a number of areas, notably for Degree Awarding Powers (reducing track record from four to three years) and for reassurances around financial sustainability for specific course designation. We do not believe these changes are in the student or public interest.

We are also concerned about the potential to further reduce or remove the current criteria for UT. This was reduced significantly under the last government, which has allowed an increase in competition and choice. We are particularly concerned about the implications of this change for maintaining quality and the student experience, as well as emerging differences.

1 http://www.universitiesuk.ac.uk/highereducation/Pages/HigherEdRegulationReport.aspx
around what a university is across the UK.

In our report on regulation we have recognised the need for student protection, but requirements must be proportionate to the risks across the system. Universities UK has recently signed up to the HEFCE statement of good practice on higher education course closures and changes, which already covers a number of the issues identified in the Green Paper.

**Simplifying the higher education architecture**

The Green Paper has a strong emphasis on reforming the higher education architecture to make it simpler and efficient, meet the needs of a changing sector that is less reliant on direct government funding, and more explicitly geared to the student interest.

The Green Paper sets out a number of principles that would underpin the proposed reforms and the main proposal is to establish a new higher education regulatory and student champion, the Office for Students (OfS). The OfS would essentially be created out of a merged HEFCE and Office for Fair Access (OFFA). It would established as an arms-length body (most likely a Non-Departmental Public Body) and have the following broad functions:

- Assurance around baseline quality and standards
- Run the TEF
- Promote widening access
- Operate the sector entry gateway
- Promote the student interest
- Promote and ensure value for money
- Assure financial sustainability and good governance
- Allocate remaining direct grant funding (although this is subject to consultation)

It is proposed that a number of these functions would be set out as statutory duties, and potentially includes the power for inspection, although the Green Paper also articulates a number of broad powers that would be reserved for the secretary of state. It also invites views on how data collection and quality assessment functions should be exercised in relation to the OfS. These functions are currently exercised by HESA and the QAA on behalf of HEFCE.

In relation to the last bullet point above on teaching funding, two options are proposed and open for consultation. One is for BIS to determine priorities and formula and the allocation distributed by the Student Loans Company (SLC). The other option is for BIS to continue to set priorities, but the responsibility for the formula for determining allocation would sit with the OfS. Under this second model it is proposed that BIS would, on the basis of OfS advice, instruct SLC to administer payment.

It is intended that the creation of OfS would lead to a single regulatory system with all providers being regulated on a similar basis and requirements streamlined as far as possible, albeit risk based. OfS would be tasked with developing this risk-based framework. Requirements for regulating alternative providers, currently sitting with BIS, would be passed over to the OfS.

It is also proposed that the OfS would be established on the basis of subscription and given powers that require all higher education providers to pay for the costs of the regulator.

The last part of this section of the Green Paper sets out proposals to deregulate and modernise the constitutional arrangements for higher education corporations (HECs), with the intention to give them greater flexibility to innovate and response to business opportunities.
Many of the proposals in this section of the Green Paper are consistent with the UUK report on regulation published earlier this year, in which we called for a lead regulator to provide a clearer gateway into the sector for providers and strengthen the student interest. UUK has also called for any new regulator to merge with OFFA, which is a helpful step toward strengthening effectiveness in this area and removing duplication.

There are a number areas, however, where we will be seeking further detail or raising particular issues. These include the following:

- It will be important for teaching funding to remain with the OfS. This will give it some policy levers (and sanctions), but it will also mean that it keeps the reporting burden for institutions to a minimum. Remaining teaching funding is also increasingly regulatory in nature and focused on market interventions, so it fits well with the proposed focus of OfS.

- It will be important to clarify the relationship between OfS and the SLC, and ensure there is no ambiguity in terms of BIS and SLC’s roles and powers. Any regulatory or accountability concerns should go through the OfS rather than direct interventions via the SLC that could undermine institutional autonomy.

- Data collection and discharge of quality assessment functions would need to remain at arm’s length from the regulator as is currently the case. This will allow co-regulatory approaches in these areas to remain and ensure there is continued plurality in the system.

- The proposed powers of the secretary of state will need careful scrutiny, particularly as they relate to data and the ability to set tuition fee caps. The powers of the director of fair access will also need careful consideration.

- Overall the new regulatory framework will need to be risk based and equitable in its approach; a one-size-fits-all approach may not be workable.

- There will need to be careful consideration of who pays for the new regulator given the public good functions it will be promoting and that many of its functions will support the delivery of government objectives for higher education. A co-regulatory approach will need to be underpinned by an equitable funding model.

**Simplifying the research funding system**

The final section of the Green Paper is relatively short and covers issues around how the research funding landscape can be simplified. It sets out options for how the two main elements of the dual support system could be allocated in the most effective and efficient way. This includes a variation of the status quo, ie allocating funding through two separate bodies (albeit with another body taking on HEFCE’s current research funding role), through to delivering dual support through an overarching body that brings together research council functions with management of block grant funding in England.

The full proposals in this area, however, will not be known until the Nurse Review publishes its report just ahead of the Comprehensive Spending Review on Wednesday 25 November.

The Green Paper also invites views on the Research Excellence Framework (REF) and how this can be improved in terms of reducing burden and securing benefits.

Notwithstanding the government’s commitment to dual support, UUK is concerned that a shift of QR to sit alongside research councils does
run the risk of gradual erosion in the medium to longer term. We will be seeking reassurances on maintaining the balance of funding across dual support and the mechanism through which dual support would be maintained under the new arrangements. This includes locking in the separation of the two different funding streams into any governance arrangements, ensuring decisions about funding across dual support are taken at arm’s length from government, and ensuring block grant funding is allocated on the basis of an independent process underpinned by peer review, with regard for supporting excellence wherever it is found.

A significant implication of any change in this area is that responsibility for teaching and research would be completely separated in policy terms in England. The Green Paper explicitly mentions that there will be no approach to regulating the higher education system, as is currently seen through HEFCE. In the past, HEFCE has been able to take a strategic oversight in terms of teaching and research funding, quality and capital, as well as wider institutional concerns such as financial sustainability.

Universities UK believes that the student interest, the longer-term success of the sector and its economic role, are reliant on universities being places of research, scholarship, teaching and knowledge exchange. This provides a strong platform for driving UK productivity, innovation and meeting high level skills needs. We will seek to work with government to ensure a more integrated approach is taken as these reforms develop.

**NEXT STEPS**

As noted above, the spending review and Nurse review are still to be published and will have implications for the proposals in the Green Paper. We will provide members with additional briefing on these developments.

A number of the proposals in the Green Paper, such as the TEF, will not require primary legislation. However, changes to HEFCE and OFFA, to create OfS, and possibly changes to market entry (for example DAPs), will. It is uncertain, however, at this stage when legislation would be introduced and whether it would be a Higher Education Bill or tagged onto other legislation. One option for government would be to publish a White Paper off the back of this consultation with the possibility of publishing a draft bill later in 2016 to help refine the proposals. We will be liaising closely with BIS on this and will keep members informed.