

## House of Lords Industry and Regulators Committee Enquiry into the Office for Students

### Response of the Association of School and College Leaders

#### A. Introduction

1. The Association of School and College Leaders (ASCL) is a trade union and professional association representing over 24,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business leaders and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million children and young people across primary, secondary, post-16 and specialist education. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
2. ASCL welcomes the opportunity to contribute to this consultation. Our response is based on the views of our members, obtained through discussions at ASCL Council, with relevant advisory groups, and prompted and unprompted emails and messages.
3. When considering the impact of any proposals on different groups, it is ASCL's policy to consider not only the nine protected characteristics included in the Equality Act 2010, but also other groups which might be disproportionately affected, particularly those who are socio-economically disadvantaged. We have answered any equality impact questions on this basis.

#### B. Key points

4. We are pleased that the inquiry will scrutinise whether the statutory duties of the OfS are clear, and examine its performance against those duties since its establishment.
5. We are also pleased that the inquiry will look at how the OfS' regulatory framework has developed since its inception, its independence from and relationship with the Government, and whether it has the necessary expertise and resources to carry out its functions.
6. The inquiry must also examine the OfS' work in relation to the financial sustainability of the higher education sector. This must include consideration of the extent of systemic financial risks in the sector, such as the reliance of some universities on overseas students, the poor general funding of FE colleges that also provide higher education, how the OfS considers and manages these risks, and the potential consequences of and processes for the failure of providers.
7. Our members have expressed concerns that the OfS is geared towards the work of universities and does not fully consider the wider range of students who undertake

higher education courses in colleges, even though HE in colleges is under the jurisdiction of the OfS.

8. Our concerns centre on the cost of registration by HE providers with the Office for Students, and the difficulties with recruiting independent assessors to quality roles.

### **C. Answers to specific questions**

**Question 1: Are the OfS' statutory duties clear and appropriate? How successful has the OfS been in performing these duties, and have some duties been prioritised over others?**

9. Yes. The statutory duties of the OfS are clear, although the OfS' regulatory obligations are open to interpretation.

**Question 2: How closely does the OfS' regulatory framework adhere to its statutory duties? How has this framework developed over time, and what impacts has this had on higher education providers?**

10. The OfS very closely adheres to an interpretation of its statutory duties. However, over time, the framework appears to have become rigid, possibly more so for universities which were less used than colleges to a quality framework, for example, being used to the workings of Ofsted.

**Question 3: What is the nature of the relationship between the OfS and the Government? Does this strike the right balance between providing guidance and maintaining regulatory independence?**

11. The OfS seems to have a close working relationship with the Government whereby it does what the Government requires. This strikes us as not as independent as it should be in order to provide guidance and maintain regulatory independence.

**Question 4: Does the OfS have sufficient powers, resources and expertise to meet its duties? How will its expertise be affected by the Quality Assurance Agency for Higher Education's decision not to continue as the OfS' Designated Quality Body?**

12. Yes, the OfS has sufficient powers and resources to meet its duties. In terms of expertise, this is less clear. We have responded to the consultation on the de-designation of the Quality Assurance Agency for Higher Education, and we feel this decision will have a significant impact on the OfS, especially in terms of its expertise to undertake any new role.

**Question 5: How does the OfS measure value for money for students? How can this be measured in an objective, tangible way that is not based on economic or political judgements about the value of subject areas or types of institution?**

13. This is not entirely clear. The measures used include the percentage of students starting who finish their qualification. However, over a three- or four-year period, the degree of student attrition will vary, so this measure is not particularly helpful.

**Question 6: How does the OfS engage with students? To what extent does input from students drive the OfS' view of their interests and its regulatory actions to protect those interests?**

14. The Office for Students undertakes surveys with students and seeks students' views during their reviews of providers. It is not clear how OfS' views of the interests of students drive its regulatory actions to protect those interests. However, recent consultations by OfS about personal relationships are clearly about protecting the views of students.
15. The OfS runs an "Uni Connect" outreach programme which operates through 29 partnerships of universities, colleges, schools and other local partners in England to offer activities, advice and information on the benefits and realities of going to university or college. Partnerships focus their work on local areas where HE participation is lower than might be expected given the GCSE results of the young people who live there. Since 2017 over 765,000 young people have engaged in the Uni Connect programme with around two and a half thousand schools and colleges. In general there seems to be favourable views from schools and colleges on this programme.
16. The OfS has also created the "DiscoverUni" programme to support prospective students in their research and decision-making. This UK wide service enables users to search for and compare UK undergraduate courses, giving access to course information and statistics taken from national surveys and data (the "Unistats" dataset). The data includes the National Student Survey (NSS) (an annual survey which allows final year students to provide feedback about their HE experience) and the Graduate Outcomes survey (an annual survey of graduates 15 months after they finish their course, showing employment outcomes and earnings).
17. There is also a central teacher and adviser resource hub presently being scoped with some ASCL members helping in this process. Alongside this are the development of subject guides to support pre-applicant students, giving a picture of what each subject offers, as well as careers and jobs that graduates progress into.
18. Whilst these resources are generally helpful for students in years 12 in particular there is an issue over whether the expense is necessary given that much of this information is already available through UCAS.

**Question 7: What is the nature of the OfS' relationship with higher education providers? Does the OfS strike the right balance between working collaboratively with universities and providing robust challenge?**

19. Our members tell us that the relationship is constrained and formulaic. Assessors are less willing to engage in discussion with staff in colleges than QAA assessors.

**Question 8: What systemic financial risks are present in the higher education sector? Is there the potential for significant provider failures if these risks crystallise, for example through an unexpected reduction in numbers of overseas students or an unexpected increase in pension costs? Are these risks limited to particular groups of providers or are they widespread or systemic in nature?**

- 20 The systemic financial risk for higher education is funding for core teaching of undergraduates. There is a risk of significant failure if the risks crystallise for both further education, which provides many of the students who progress to higher education each year, and higher education, which receives those students.

**Question 9: What business models are present in the UK higher education sector? Are these models resilient to the financial risks of the sector, and are universities focusing sufficiently on having a viable business model?**

21 Universities, in the main, can sustain the higher education sector by undertaking research, commercial business and recruiting students from outside of the UK. Also, many universities have put resources into buildings and especially student accommodation which bring in other commercial income. Colleges are less able to do this, although many do run commercial businesses and some recruit international students to help support their core business of teaching undergraduates.

**Question 10: How does the OfS oversee the financial sustainability of higher education providers and the higher education sector? Is its approach clear, and is its oversight sufficient to spot potential risks early on and take action accordingly?**

22 Currently, the OfS does not appear to fully oversee the financial sustainability of higher education providers or the higher education sector, as it has little to say about the funding and sustainability of higher education in colleges.

**Question 11: What is the OfS' tolerance for the failure of higher education providers, and what processes are in place to manage provider failure? Would the failure of a large provider follow a clear regulatory process or is there the potential for political considerations to play a role in such decisions?**

23 The OfS has little tolerance of failure. The process is set up to highlight failure rather than success. The failure of a large provider may follow a clear regulatory process, but mitigation is rarely taken into consideration. There is always potential for political considerations to play a role in decision-making, and the OfS appears to work closely to the political considerations of the time. An example is the recent consultation by the OfS on personal relationships in HE, which cites the views of ministers.

**Question 12: To what extent is the financial sustainability of providers determined by government policy and funding rather than the OfS' regulation? Is there a need for policy change or further clarity to ensure the sustainability of the sector?**

24 Yes. This is the case for HE in colleges. Colleges which offer higher education do so because of market need. The main funding – both revenue and capital – for colleges comes from the Government, and revenue funding has not increased in real terms since 2010. This is impacting on the ability of FE colleges to pay their teachers the salary increases required to keep up with inflation, and needs to change if the sector is to survive long term.

## **D. Conclusion**

25 We have outlined our key concerns in this response as expressed by our members. We feel that there are financial risks, which we have mentioned above, and which must be addressed to avoid a systemic failure of higher education providers, especially colleges.

26 We hope that this response is of value to your consultation. ASCL is willing to be further consulted and to assist in any way that it can.

Dr Anne Murdoch, OBE  
Senior Advisor, College Leadership  
Association of School and College Leaders  
April 2023