

Our response to the Office for Students' consultation on the payment of fees for investigations

Universities UK (UUK) is the collective voice of 140 universities in England, Scotland, Wales, and Northern Ireland. Its mission is to create the conditions for UK universities to be the best in the world, maximising their positive impact locally, nationally, and globally. Universities UK acts on behalf of universities represented by their heads of institution.

This document outlines UUK's response to the [Office for Students \(OfS\) consultation](#) on fees charged to providers subject to regulatory investigation.

Background

The Office for Students (OfS) has invited responses to a consultation on how it may charge universities and colleges to cover the cost of investigations. Section 71 of the Higher Education and Research Act 2017 (HERA) enables secondary legislation to be made that provides for the OfS to charge fees for other activities and services undertaken in the performance of its functions. The Higher Education (Investigation Fees) (England) Regulations 2022 came into force on 8 December 2022. They give the OfS the power to charge a fee that recovers the costs of investigating a registered higher education provider's activities.

Question: Do you have any comments about the guidance?

UUK welcomes a risk-based approach to regulation. We agree with the principle that low-risk providers which consistently demonstrate compliance with OfS conditions of registration should not face increases in their registration fees to meet the costs of investigations into other institutions where breaches have occurred. However, to

consider the proposals fully, we are reiterating that the OfS should be more transparent in explaining the processes that will trigger an investigation and what an investigation is likely to involve. ndi Tw 10. als i Tw 15 5 Td(11v)-1 b46r

investigation can inevitably encounter issues that incur unexpected costs, having an estimated figure would allow a provider to plan financially, and ensure there is a basis upon which the regulator is held accountable.

We would like to see the maximum travel and subsistence costs of the OfS's investigators stated clearly in the guidance once published on its website.

Where external organisations contracted to the OfS are considered necessary, these should be put out to tender, and the costs of the chosen provider should be communicated to the institution before the start of an investigation.

3. Recovering costs

Given the current perceived lack of clarity around the evidence-base and timeline for investigations, we are concerned that the planned approach risks jeopardising trust between the sector and the regulator. Institutions may fear that investigations become drawn-out 'fishing exercises' and a 'no win, no fee' system, which may often be perceived as a cover for high hidden costs, could also be detrimental to public trust in the regulator. It is for these reasons that we would encourage the OfS to be more transparent about their approach to investigations and clearly communicate the scope of an investigation with individual providers before the process begins.

