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Higher Education Directorate  
Department for Business, Innovation and Skills  
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UNITED KINGDOM

Via e-mail: [HE.consultation@bis.gsi.gov.uk](mailto:HE.consultation@bis.gsi.gov.uk)

Dear Sir or Madam

**Department for Business, Innovation and Skills' Technical Consultation: A new, fit-for-purpose regulatory framework for the Higher Education sector**

ICAEW is pleased to respond to the Department for Business, Innovation and Skills' Technical Consultation: *A new, fit-for-purpose regulatory framework for the Higher Education sector*. Please also note our wider response to the White Paper *Higher Education: Students at the Heart of the System* submitted on 19 September and our related response on an early repayment mechanism for student loans.

Please do not hesitate to contact me or Jonathan Jones, Head of Policy & Strategy, ([jonathan.jones@icaew.com](mailto:jonathan.jones@icaew.com); +44 (0)1908 248 292) should you wish to discuss any of the points raised in the attached response.

Yours faithfully

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## ICAEW REPRESENTATION

A NEW, FIT-FOR-PURPOSE REGULATORY FRAMEWORK FOR THE HIGHER EDUCATION SECTOR

**Memorandum of comment submitted in October 2011 by ICAEW, in response to the Department for Business, Innovation and Skills' Technical Consultation: A new, fit-for-purpose regulatory framework for the Higher Education sector published in August 2011**

<b>Contents</b>	<b>Paragraph</b>
Introduction	1
Who we are	2-3
Major points	4
Responses to specific questions	5-30

## INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the consultation paper *A new, fit-for-purpose regulatory framework for the Higher Education sector* published by the Department for Business Innovation & Skills.

## WHO WE ARE

2. ICAEW operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, we provide leadership and practical support to over 136,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. We are a founding member of the Global Accounting Alliance with over 775,000 members worldwide.
3. Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. We ensure these skills are constantly developed, recognised and valued.

## MAJOR POINTS

4. ICAEW welcomes the introduction of a lead regulator and single regulatory framework, to both promote the student interest and ensure providers are high quality, financially viable bodies. We also embrace the creation of a single gateway to the higher education sector and the desire to open up degree awarding powers. We believe these proposals have the opportunity to improve the higher education sector without unduly hindering the well-established education providers. However, as it is the institutions that form the back bone of the higher education system, it is important that their autonomy is protected and their overall contribution towards the sector is not diminished.

## RESPONSES TO SPECIFIC QUESTIONS

### Q 1: Respondent details

5. Please refer to paragraphs two and three above.

### Q 2: We have set out our proposals on what responsibilities HEFCE should have in its role as the lead regulator. In implementing these functions, are there any processes that could be improved, reduced or removed while still protecting the student interest and public funds?

6. ICAEW recognises the merits in HEFCE's enhanced role in promoting the interests of students as consumers. However, we do believe there are some processes that could benefit from further attention, such as ensuring the Key Information Sets are available in good time to allow students to make informed decisions. To maximise the effect of the KIS, it may be suitable to use data produced from the National Student Satisfaction Survey collected by HESA as a tool for monitoring the system.
7. We are also interested in how BIS envisages lighter touch regulation will be applied towards high performing providers. In implementing this function, it is important to take into account the track record of new providers with an excellent educational reputation outside HEFCE's previous remit.

**Q 3: Do we need to consider anything additional to the proposals set out to enable HEFCE's role as a student champion in terms of protecting the collective student interest?**

8. It is likely that we will see significant and rapid changes in numbers of student applications, courses chosen, and types of degrees offered. This turbulence is likely to place unprecedented strains on institutions' administration, resources and finances. With HEFCE's new role as student champion, and its on-going role of ensuring institutions are financially solvent, it will need to be both forward looking and very responsive to these rapid changes in supply and demand. We would suggest that HEFCE may need to allocate additional resource in this area to protect the interest of students.

**Q 4: With regard to HEFCE's role as a student champion, which of the two options is preferred around awarding compensation for collective interest cases – Option 1 where HEFCE would have this ability, or Option 2 where HEFCE would have to refer such cases to the OIA for its decision?**

9. If the OIA is to be retained, then ICAEW would support option 2 in order to retain the identity of the OIA as the designated operator of the student complaints scheme in England. However, the proposals for HEFCE to become the 'student champion' would seem to bring into question the future rationale for the OIA as a separate body.

**Q 5: Should this remain as an ability to recommend compensation awards, as now with OIA (Option 1) or should we introduce new provisions which will require the governing body to pay compensation (Option 2)?**

10. We recommend option 1 as being the most suitable here. It is important that a provider's autonomy continues to be respected and that it has the opportunity to reflect upon the recommendation of an independent body which has examined the case.

**Q 6: This document sets out the regulatory framework for designation for student support and HEFCE teaching grant – are there any processes within this framework that could be improved or reduced to make it more risk-based and ensure proportionate requirements and a level playing field while still protecting the student interest and public funds?**

11. ICAEW welcomes the risk-based approach to quality assurance and the acknowledgement that BIS expects to achieve substantial deregulatory change for providers that can demonstrate low risk.
12. We think there is the potential for certain crossed lines of responsibility, such as between HEFCE and OIA and that it will be important to guard against this. Equally, we judge that sensitive implementation of the White Paper proposals is needed to avoid unfairly disadvantaging certain HEIs and making them financially unviable in a premature manner.

**Q 7: While it is not Government's role to underwrite independent providers that have become unviable, how can we best protect the interests of students in the event a provider fails in some way or becomes insolvent?**

13. Primarily, we believe such students can best be protected by more careful examination of the policies that may contribute towards providers becoming financially unviable. In our response to the wider White Paper *Higher Education: Students at the Heart of the System*, we highlighted a number of areas where the manner of implementation of the Government's proposals would be key and that without due sensitivity and flexibility then institutional difficulties could result. We also considered what may happen to those providers trapped in the middle who cannot or choose not to require AAB (to attract the 65,000 high-achieving student places) and are not able to reduce the cost of their degree programmes to below £7,500 a year

(to attract the further 20,000 flexible places). ICAEW envisages that providers in this position that cannot remain financially stable at £7,500 or below a year could face financial difficulties. We believe a revision of this proposal is desirable to ensure the likelihood of a provider becoming financially unviable is reduced. Additionally, as in our answer to question three, HEFCE must ensure that it has sufficient resources and skills to anticipate which institutions are likely to be at risk and plan for that eventuality.

**Q 8: We welcome views on how flexible provision such as two year courses could be encouraged.**

14. As the consultation suggests, the market will be primarily responsible for encouraging two year courses. We have no objection to this in principle as long as quality assurance measures remain the same for these courses as they do for standard degrees.
15. Furthermore, we believe that competition between institutions will create a number of different degree courses to allow institutions to differentiate their products. To address the issue of the cost to providers, there would have to be sufficient demand to ensure offering accelerated courses is attractive. It may be possible to use the route into the professions here to stimulate demand. For example, ICAEW has initiated several university partnerships which include the award of a degree towards qualification as an ICAEW Chartered Accountant.

**Q 9: Do you agree that it is important to retain the Privy Council as an independent element in the process for awarding, renewing and removing degree awarding powers and university title?**

16. Yes, we agree that the Privy Council should remain an independent element in the process and we accept BIS' reasoning over the value that it brings and has been shown over many years to bring.

**Q 10: We have set out the action that we are going to take to establish HEFCE as the single gateway for entry to the HE sector and to clarify and streamline processes for designating HE providers for student support purposes and for HEFCE funding, for administering the application processes for both degree awarding powers and university title and for compiling, maintaining and publishing the Recognised and Listed Bodies and Recognised Awards Lists. Are there any other processes we should consider in this context?**

17. ICAEW drew attention in our main response to the White Paper of the need for research funding for HEIs not to be hindered in this process and that current levels are maintained.

**Q 11: Are there any requirements as set out within the TDAPs current criteria (see Annex), including evidence requirements, which would preclude non-teaching bodies from being eligible to apply for taught degree awarding powers?**

18. ICAEW does not envisage that any of the requirements contained in Section 1 of the Annex would preclude non-teaching bodies of proven quality and high reputation from being eligible to apply for degree awarding powers.

**Q 12: Would it be helpful to specify in the criteria that non-teaching bodies must demonstrate that their delivery partners were competent in the required areas?**

19. Yes, this would be important to maintain public confidence and to ensure appropriate quality. However, it would also be important that the evidence required to demonstrate this was proportionate, both in absolute terms and in relation to the role played by the delivery partner.

Equally, there should be no requirement to effectively duplicate evidence already provided to, for instance, HEFCE, OIA, and the Privy Council in some other way.

**Q 13: What evidence requirements should the non-teaching bodies themselves be expected to meet over and above what their delivery partners are able to demonstrate?**

- 20.** We believe the focus should be on non-teaching bodies to evidence the level and quality of their qualification. This could require evidence of the quality assurance of the awards including question-setting procedures, marking moderation and the overall design and creation of the award.

**Q 14: We would welcome your views on our proposal to link track record to the length of the degree programmes on offer and whether you see any risks with this approach.**

- 21.** ICAEW supports this proposal and believes any risk will be mitigated by the periodic quality assurance reviews.

**Q 15: We would welcome views on how else the track record criterion might be applied more flexibly. For example are there different types of track record or experience you think could be taken into consideration?**

- 22.** We envisage there will be many differing models of track record or experience, all of which should be taken into consideration. We do not agree that new providers should be subject to more frequent and/or in-depth reviews as standard protocol. It is possible that new providers may have a well-established track record prior to obtaining degree awarding powers (including being subject to other types of independent oversight) that limits the need for more frequent reviews.

**Q 16: Do you consider that alternative models for entry e.g. single subject taught degree awarding powers would give more scope for new providers to enter the system? Would you be interested in the development of a single-subject model?**

- 23.** Yes, it is logical that single subject degree awarding powers will allow and encourage new providers to enter the system. There may also be scope to adjust the regulatory requirements accordingly.

**Q 17: Do you consider a six year period for renewals of degree awarding powers in the first instance is appropriate? If not, what period would you like to see and why?**

- 24.** Yes, ICAEW views the current six year period as appropriate in the first instance.

**Q 18: Would you like to see a longer period between subsequent renewals?**

- 25.** No, six years appears to strike an appropriate balance.

**Q 19: What do you consider a reasonable number of renewals before being eligible for consideration for degree awarding powers indefinitely, subject to continuing satisfactory outcomes of periodic quality assurance reviews?**

- 26.** Due to the eclectic range of individual providers, we reason it is desirable to assess indefinite degree awarding powers on a case by case basis. Enforcing a strict quantitative requirement could preclude appropriate providers from gaining the rights as early as they could. Indeed, certain providers could also obtain degree awarding powers indefinitely before they are suitable. Adopting a more qualitative approach would ensure a greater consistency and higher

standard to be reached before powers are granted indefinitely. We could envisage a situation where a very high quality provider could be granted degree awarding powers indefinitely having passed their first renewal with flying colours.

**Q 20: Do you agree with our proposal to reduce the numbers criterion for university title to 1,000 full-time equivalent higher education students of which at least 750 are studying for a degree alongside a requirement that more than 50% FTE of an organisation's overall student body is studying HE? If you do not agree with this proposal could you please explain your reasons and also suggest an alternative proposal and why you think this would be better.**

**27.** We echo the sentiments expressed in the consultation: that the university title is prestigious, desirable and precious, and needs to be protected sufficiently. A proposal of this nature needs to be thought through with the cooperation of the university institutions and their concerns listened to. We are concerned that the proposed changes might lead to too many universities which could dilute the UK 'university brand' and detract from the UK's reputation for high quality education.

**Q 21: Would you welcome legislative change to make the process of changing legal status easier?**

**28.** Yes, provided that the costs were not disproportionate.

**Q 22: If so, why? It would be helpful to understand how and why this has been problematic in the past and what the benefits would be of making this process easier.**

**29.** If changing legal status leads to private investment which in turn leads to better teaching, facilities and operation then this is to be welcomed. However, as noted in the consultation, it is important to balance this with the wider social interest which will need to be adequately achieved. ICAEW hopes that it would be possible to accomplish such a balance without disproportionate time and financial costs and therefore the process should be simplified.

**Q 23: Do you have any other comments on any area of the document 'A new fit for purpose regulatory framework for the higher education sector'?**

**30.** We think that many of the Government's ideas are welcome and exciting. We agree that they have the potential to place students at the centre and open up matters at an institutional level. However, as with any large scale change, there are substantial risks too. In particular we are concerned that the new bureaucratic, regulatory and reporting regimes that are placed on institutions are not unduly onerous. We would urge BIS to reflect on some of the concerns we have highlighted in our general response to the White Paper as the manner of implementation is crucial.

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