



Question 1: Respondent details:

Name:	John Widdowson
Are you responding on behalf of an organisation? If so, which one?	Yes Mixed Economy Group of Colleges
What type of organisation is it?	FE Membership organisation.

Chapter 1: The introduction of an independent lead regulator

Question 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?

MEG supports the concept of HEFCE as a high quality, independent lead regulator, operating at arm's length from government. It is important that this role is seen to have teeth: the new HEFCE must be able to take action against institutions which consistently fail to meet financial, quality and administrative requirements.

HEFCE must also be clear about the duties and expectations of institutional governing bodies and in particular in ensuring that those bodies themselves follow statutory requirements and best practice

Within the HE in FE community, particular interest will be shown in the Council's ability to investigate concerns over market abuse by universities which offer franchised provisions, i.e. an insistence on a fee which the partner FE college does not think is warranted. Similar cartel-like approaches may develop over validation fees. It is not easy to find new franchise or validation partners, and pressures over such costs must be investigated if student choice and a free market is to be a reality rather than a theory.

Question 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?

See below Q4

Question 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?

This distinction between HEFCE and OIA is not sufficiently developed - more detail is needed about the roles and powers of each body. It is assumed that ultimately HEFCE is concerned to represent the collective student interest and OIA the individual student – but the detail of these separate remits is unclear. A power of reference is essential if the rights of individuals are to be given adequate consideration

Question 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)?

If the division of responsibilities between HEFCE and OIA is arranged as above, then it is difficult to see how compensation awards made by HEFCE could be effective. It may be more appropriate to make provision for HEFCE to fine institutions or governing bodies e.g. when there is deliberate or reckless action on their part to the detriment of student interests at the institution.

Chapter 2: A single regulatory framework for provider designation for student support and HEFCE teaching grant

Question 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?

MEG supports the central concept of one framework of conditions for all institutions drawing down public funds or with access to Student Loans. However, there are obvious issues centred on the different legal and financial structures a more diverse sector will bring. Other regulators (such as Companies House) may also need to be engaged.

We support the concept that autonomy must be earned by good governance and effective management.

We agree that membership of the QAA must be a component of such an approach. However, in turn, QAA must recognise that different, equally valid, HE cultures exist within its current and future membership. The Agency's current approach to most HE matters is predicated on a traditional university model: this must change in response to the wider definition of HE provision that is found amongst FE colleges, awarding bodies and private providers of HE. A holistic approach to HE must be adopted by HEFCE and its partner organisations if the level playing field referred to in this question is to be achieved

We support the suggestion that subscriptions to QAA and OIA should somehow reflect volume of HE if institutions are to be protected from sudden increases in costs out of all proportion to the quantity and level of services received.

Consistent data collection and consistent provision of information to students are accepted as parts of the proposed central framework. Our main concerns are to avoid duplication with other data collection activities such as those of the SFA and to also to ensure that national benchmarks such as NSS and KIS contain statements which reflect

the information needs of older, more mature students who are employed, living at home and have financial and/or family commitments.

We welcome suggestions that Non Prescribed HE will be the subject of on-going discussion over funding, data collection and ownership between HEFCE and SFA.

Question 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?

It is inappropriate for public money to be spent to prop up a failing organisation. Consideration could be given to asking all providers (new and existing) to pay an upfront "performance bond". This would cover the costs involved in managing the transfer of students in the event of performance failure.

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

With regards to accelerated courses, Costs to providers will only be reduced by economies of scale, i.e. larger student groups. Incentives therefore have to be found that attract students to these courses: deferred fees or tax breaks may be a way forward.

There are also strong arguments for some students to take longer than two years to achieve their qualification. Many students will take breaks between component parts of qualifications, including between an Fd and a top-up year to achieve an Hons qualification. The American Community College approach to adult participation in HE should not be excluded from considerations of flexibility – shorter provision is not the only approach that is of interest to adult learners.

Chapter 3: The adoption of a single gateway for entry to the higher education sector

Question 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?

We agree that the decision over awarding, renewing and removing degree awarding powers and university title must be made by an informed, independent and impartial group of people. These must be credible to the HE sector and to the public at large.

Question 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?

Clear procedures need to be in place to deal with providers who cease to satisfy the relevant criteria. In other words, powers must exist to remove or suspend providers from

the Lists. With private providers this raises the issue of proportionality and the various commercial factors which will apply.

Chapter 4: Reforms to Degree Awarding Powers (DAPs) and University Title (UT) criteria

Question 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?

Yes. It is difficult to see how a non-teaching body could meet the requirements of C1 and D1 as these are currently interpreted by QAA.

Question 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?

Taken to extremes, this potentially transfers a burden of TDAP to an institution which possibly has no strategic interest in seeking TDAP and creates a diversion from the delivery of HE. The continuity of the student experience will always rest with the awarding body, however it is delivered.

A more sensible approach would be to require non-teaching bodies to evidence a robust quality assurance procedure for taking on, monitoring and dealing with any arising issues around delivery partners who need to be competent to deliver degrees. Non-teaching validators should be required to quality assure the standard of their partners delivery and to have in place sanctions and other measures to remedy any problems. A clear risk management strategy will be needed by any non-teaching body.

Question 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?

Sections A1 (Governance and Management) and B1 Quality Assurance. Unless these are engrained in any potential HE provider, the quality of the HE experience offered by the organisation cannot be guaranteed. Such validators may also be required to provide safeguards for the continuity of the student experience in the event of their partner organisations ceasing to trade or operate. Financial guarantees may also be sought (perhaps in the form of delivery bonds) to underwrite this.

Question 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.

There is no reason to change the current requirement for a 4-year track record. This time period exposes most institutions to a range of experiences and tests their ability to deal with a range of challenges. It also meshes with the recent HEFCE Circular 2011/30 proposals.

Question 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?

This is not a problem area. There is no need to change this criterion. Currently indirectly-funded FE Colleges who wish to provide directly-funded provision in future will have a track record that is supported by the quality assurance mechanisms of their partner universities.

Question 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?

No – this is almost unworkable. It potentially raises expectations on the part of students and employers that then cannot be delivered. (If the institution becomes popular as a result of its single-subject provision and wishes to expand provision to meet demand, it cannot do so.) It clouds the relationship with franchising /validating partners. It will also raise potentially unanswerable questions around precise definitions of subject.

Question 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?

Six years is a very short time in higher education. Potentially, this allows one full degree programme (including a sandwich year out) to run one complete cohort and review performance; typically in year 5 or 6 of operation. If during the time of course review, the whole organisation is preparing for review of DAP, it is possible that resources can be diverted rather than focusing on important programme review.

*A ten year period is more logical and we would suggest that **all providers**, existing and new, should be subject to this level of review.*

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

Yes. Eight to ten years would be appropriate and would enable reviewers to gain a full picture of the how the institution manages it is own review processes and responds to required changes.

Question 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?

(See above - MEG does not necessarily support indefinite powers.)

Given an increased time between renewals of eight to ten years, two renewals should be sufficient to allow granting of indefinite powers.

However, with the broadening of the HE market, consideration should be given to a number of unintended consequences that may result from a reversion to indefinite awarding powers. What if a public provider is taken over by a commercial company and standards are not met? Where is the provision for withdrawal of powers to rest?

Question 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.

We do agree with the 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. However, clarification is needed, urgently, as to what constitutes a degree.

If in this case "degree" refers only to full Bachelor degrees or higher then we disagree. MEG considers that it is appropriate for the minimum criteria to include level 5 higher education qualifications such as Foundation degrees and non-prescribed HE qualifications.

We do not support the criterion that more than 50% FTE of an organisation's overall student body must be studying HE in order to qualify for university title.

Currently, there is a gap in the criteria that prevents large-volume, high-quality reputable FE colleges from gaining awarding powers to develop, deliver and award a range of qualifications up to level 6. This would better enable them to meet the needs of students and employers. At the moment, providers of large volumes of high-quality HE, such as the MEG member colleges, are excluded from such title and would continue to be so if this proposal was to be implemented. Some member colleges receive more teaching and learning grant from HEFCE than do some smaller universities, yet are unable to pursue title.

Chapter 5: Simplifying the process for changing corporate status

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

With appropriate safeguards to the public purse or assets which are currently publicly funded, yes.

Question 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.

There is a risk that a current public provider would be bought out by a commercial body. It may be helpful to consider the process and rationale by which Coventry University has developed its "University College"

Question 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'?

Currently, an institution may only apply for TDAP if the majority of their existing HE students are studying towards level 6 qualifications (or higher). This unfairly disadvantages FE colleges, which have been encouraged through planning and funding over recent years to develop Foundation degrees but not expand their honours level provision. It is suggested that the eligibility for application is changed to providers that currently deliver higher education to more than 1000 students including a minimum of 750 who are studying towards level 5 qualifications (or higher).

It may be more realistic, however, to review the current distinction between FDAP and TDAP and ask whether or not this remains a credible one. Given the purpose behind the HE White Paper, MEG suggests that this is no longer the case and that attention should now focus on institutional strengths rather than criteria based on a previous delivery model.

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27 October 2011.