

# The Association of Electoral Administrators

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## Response to the Government's Consultation on behalf of the Office for Students – Securing student success: risk-based regulation for teaching excellence, social mobility and informed choice in higher education

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### 1.0 INTRODUCTION

- 1.1 The Association of Electoral Administrators (AEA) was founded in 1987 and is the professional body representing the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has 1,863 members, the majority of whom are employed by local authorities to provide electoral registration and election services.
- 1.2 The AEA welcomes the opportunity to respond to the Government's consultation on behalf of the Office for Students "Securing student success: risk-based regulation for teaching excellence, social mobility and informed choice in higher education".
- 1.3 We note that two documents are relevant to the consultation: the Government consultation itself and the Guidance on registration conditions. We have therefore considered both documents separately, providing comments relating to the facilitating of electoral registration elements for each document.
- 1.4 In doing so, we consider that the majority of the questions outlined on pages 15 and 16 of the Government consultation are not relevant to the Association, so have been disregarded, as has the detail of the Guidance document except for that related to Condition L.

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### 2.0 Securing student success – risk based regulation for teaching excellence, social mobility and informed choice in higher education – Government Consultation on behalf of the Office of Students

- 2.1 **Page 69 Table – sub-heading "Requirements"** – *"Approved and Approved (fee cap) providers must comply with Registration*

*conditions, common baseline initial and ongoing conditions which focus on what matters most to students and on providing value to students as well as the taxpayer. These include quality and standards, data and transparency, financial sustainability and governance, participation in the TEF, student protection plans, and facilitating electoral registration."*

The Association notes that "Approved and Approved (fee cap) providers **must** comply with Registration conditions ..." which raises concerns that not all Higher Education providers for students will be covered by this requirement.

What requirement or encouragement will there be on those higher education providers who are not registered or only "Registered Basic" and not "Approved and Approved (fee cap) providers" to facilitate electoral registration?

- 2.2 **Page 89/90 Table – Overview of ongoing registration conditions and which categories they apply to – "Facilitate electoral registration - Condition L: The provider must comply with OfS guidance on facilitating electoral registration in cooperation with electoral registration officers."**

Robust guidance is required so that providers are actively encouraged to facilitate electoral registration, which will be for the benefit of students as well as Electoral Registration Officers (EROs).

Section 13(1)(f) of the Higher Education Research Act 2017 provides that the initial or ongoing registration conditions **may** include "a condition requiring the governing body of the provider to take steps as the OfS considers appropriate for facilitating cooperation between the provider and one or more electoral registration officers in England for the purpose of enabling the electoral registration of students who are on higher education courses provided by the provider."

It is therefore imperative that the Ministerial guidance is robust enough to ensure the facilitation of electoral registration as part of Condition L. We also recommend that the guidance is drafted in consultation with stakeholders such as the Electoral Commission and the AEA in order to make it practical.

- 2.3 **Page 92, Question: Do you agree or disagree with the general ongoing registration conditions proposed for each category of provider (see the Guidance for further detail)?**

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The Association fully agrees with the general ongoing registrations condition: *“Facilitate electoral registration - Condition L: The provider must comply with OfS guidance on facilitating electoral registration in cooperation with electoral registration officers.”*

## 2.4 **Page 112, Question: Do you agree or disagree with the proposed approach to risk assessment and monitoring?**

Paragraph 252 on page 108 states that “the OfS will begin by sampling 5% of all providers each year”.

A higher education provider could therefore meet the conditions when they apply to register. However, they may not be monitored each year if they are not within the 5%. The electoral register is revised and published annually which means students must register every year.

The facilitation of electoral registration must be ongoing year on year between the higher education provider and the EROs for their area.

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## 3.0 **Securing student success – risk based regulation for teaching excellence, social mobility and informed choice in higher education – Government consultation on behalf of the Office for Students – Guidance on registration conditions**

### 3.1 **Page 84 Facilitate electoral registration (Condition L) – “Summary – Legal basis: section 13 of HERA (not mandatory)”**

The Association has concerns that the legislation does not go far enough. As outlined above at 2.2, section 13(1)(f) of the Higher Education Research Act 2017 states “may”. We therefore note that it is not mandatory. However, Condition L states “the provider **must** comply with OfS guidance on facilitating electoral registration in cooperation with electoral registration officers”.

It is therefore imperative that the OfS guidance is more robust as outlined below and the Association is strongly of the view that the principles should apply.

### 3.2 **Page 84 paragraph 263 - Legal basis: “Section 13(1)(f) of the HERA provides that the initial or ongoing registration conditions **may** include “a condition requiring the governing body of the**

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*provider to take steps as the OfS considers appropriate for facilitating cooperation between the provider and one or more electoral registration officers in England for the purpose of enabling the electoral registration of students who are on higher education courses provided by the provider."*

The Association is strongly of the view that this condition must be included and for the power to be used in all instances to assist the joint working of higher education providers and EROs, and which will ensure that students are better able to register to vote and participate in democratic processes.

- 3.3 **Page 85 paragraph 266 – Rationale** – *"At the same time, while we want higher education providers to do more to help register their student populations, we recognise that each provider, and their local ERO, should have the freedom to decide what works best locally. So rather than setting out specific steps to be taken to aid registration, we will provide examples of good practice to help support the providers to decide which method(s) best meet their specific requirements and circumstances."*

The Association agrees with the local approach. However, we would be interested to know what the examples of good practice will be and how they will be developed with the electoral community.

We would also welcome the opportunity to comment on any draft examples of good practice.

- 3.4 **Page 85 paragraph 267 – Guidance** – *"The condition will require higher education providers to cooperate with EROs, in accordance with such steps as the OfS considers appropriate. The Secretary of State will issue guidance under section 2(3) of HERA as to how the OfS is to perform its functions in relation to this condition; the OfS will be under a statutory obligation to have regard to this guidance. Subject to the outcome of this consultation, we expect this Ministerial Guidance is likely to: ...."*

The Association welcomes the issuing of Ministerial Guidance. However, the approach needs to go a lot further than guidance and, as outlined in our response, needs to be more robust.

We believe that the education providers have a moral responsibility to ensure the needs regarding the registration of students are met. Paragraph 264 supports this view by stating that *"A healthy democratic society is one which has social justice at its heart. It is*

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*also dependent on the active participation of its citizens. The Government is, therefore, committed to helping ensure that everyone who is eligible to vote is able to do so, including students. However, people cannot vote until they have registered to vote and higher education providers have a major part to play in achieving this."*

As highlighted previously, the Association would welcome the opportunity to comment on any drafts of the Ministerial guidance following the consultation stage.

## 3.5 **Page 85 paragraph 267 – Guidance - bullet points –**

- *"reinforce the requirement for higher education providers to co-operate with EROs' requests under Regulation 23 of the Representation of the People (England and Wales) Regulations 2001 for information on students for the purposes for electoral registration. We want providers to understand that they have a legal obligation to co-operate with these requests*
- *include a direction for higher education providers to work in partnership with their local electoral services team to actively promote electoral registration amongst their student populations"*

The Association welcomes the Government's support but there is also a wider duty on higher education providers, including the raising of awareness of democratic engagement amongst students, particularly their understanding of being entitled to register at either or both their home or university address but only being able to vote once in the same election.

## 3.6 **Page 85 paragraph 268 – Guidance - "Through this condition, it is the Government's intention that higher education providers support EROs – who have a duty to maintain the completeness and accuracy of their local electoral register –through the following actions:**

- a. understanding their duty to comply with requests for student information (taking into account data protection requirements for the purposes of electoral registration under Regulation 23 of the Representation of the People (England and Wales) Regulations 2001*
- b. developing and maintaining partnerships between themselves and the ERO/EROs of any relevant area(s)*

*c. working with EROs to actively promote electoral registration amongst their students”*

Whilst the Association accepts that the above are all valid points, they may not necessarily produce appropriate outcomes. Action plans will be required, and in addition there will need to be a duty on the higher education providers to work towards and actively promote democratic engagement without the input from EROs as outlined above.

- 3.7 **Page 85/86 paragraph 269 – Guidance** – *“As regards the likely direction for higher education providers to work with EROs to actively promote electoral registration amongst their student populations, the Government will provide examples of good practice on student electoral registration on which higher education providers and electoral service teams can draw, as part of the Democratic Engagement Strategy, due to be published in November 2017.”*

The Association looks forward to seeing the good practice guidance referred to above, and would be happy to review and comment on any draft versions.

- 3.8 **Page 86 paragraph 270 – Guidance** – *“The OfS will expect higher education providers to demonstrate that they are complying with its electoral registration guidance and will monitor how they are delivering against actions specified in that guidance. For example, in relation to the Government’s intentions in paragraph 268 above:*

- *evidence higher education providers might provide to demonstrate that they are complying with action a. includes, for example, being able to demonstrate that, when approached by an ERO, they have complied with requests for student data*
- *evidence higher education providers might provide to demonstrate that they are complying with action b. includes, for example, being able to demonstrate how they have facilitated cooperation and developed a good partnership and how that partnership operates and what steps they have taken to achieve these*
- *evidence higher education providers might provide to demonstrate that they are complying with action c. includes,*

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*for example, providing a link to registering to vote on their intranet page or in email or postal communications”*

Whilst the Association welcomes the monitoring of how higher education providers are delivering against actions specified in the guidance, it would appear that the bullet points outlined above do not go far enough to ensure students are democratically engaged and are registered to vote. This needs to include the monitoring of outcomes and action plans being put in place and followed. The third bullet point should also include information and the link included in their campus welcome pack as well as any induction events held at the start of the new education year in September. Performance standards for higher education providers should be set out in a similar way to those set by the Electoral Commission for EROs and Returning Officers (ROs), including legislative provision for the withdrawal of fees for poor performance of an RO.

If following the monitoring of the higher education provider, poor performance is identified, what will be the penalty for not following the Ministerial Guidance and doing nothing to facilitate electoral registration amongst students? Will it result in the higher education provider no longer being registered, or a similar penalty as outlined at paragraph 3.8 in relation to RO fees?

It is noted that paragraph 278 on page 88 refers to penalties for late payment of fees being set out by the OfS and designated bodies, along with the position that the OfS may also take account of any failure to pay fees as a breach of a registration condition and may impose appropriate interventions or sanctions in line with its general powers set out under chapter 5. Will the penalties for failing to follow Ministerial Guidance to facilitate electoral registration amongst students be outlined in a similar way so that higher education providers are aware of the penalties? If facilitating electoral registration was the only condition that failed, would monetary penalties, suspension or de-registration be considered?

- 3.9 **Page 86, paragraph 272 – Guidance** – *“The Government proposes to review and evaluate the overall effectiveness of this condition, once it has been implemented over a sufficient period to facilitate the gathering of appropriate data in terms of numbers of students who have registered. The evaluation will examine how effective the condition has been at helping increase successful applications from students to join the electoral register.”*

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Whilst the Association welcomes the Government's proposal to review and evaluate the overall effectiveness of the condition, how long is a "sufficient period"? When will the review and evaluations take place? The review and evaluation will also need to take into account that some students may choose to register at home rather than at their university address.

**John Turner**  
**Chief Executive**

**5 December 2017**