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# HE Insight

## Regulatory Environment: Notes from a Uniac Event

### 29 January 2019

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## Introduction

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On 29 January, we hosted an event with Steve Butcher who is currently Head of Procurement and Efficiency at the Office for Students (OfS). The session was intended to provide an update on the future of accountability, governance, value for money and data in the sector.

The only firm conclusion that we can draw is that very little is certain. The general stance of the OfS is that, unlike HEFCE, it will not provide guidance about *how* providers should meet their regulatory obligations, nor will it offer ‘advice’. Future OfS interaction with individual providers increasingly seems as though it will be purely in the context of an assessment of compliance, or non-compliance, with the conditions of registration.

This leaves the sector, individual providers, and their governing bodies, with a choice – either to develop their individual approach to ensuring ongoing compliance with the OfS registration conditions, or alternatively, to seek opportunities to collaborate in the development of sector-wide “best practices” that represent a collective response to the OfS requirements.

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## Value for Money – with charts or without?

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Value for money is a case in point. The House of Commons Education Committee reported its concerns about sector value for money in November 2018. In their reply to that report, the OfS referred to expected work by Universities UK to devise a suggested sector-wide approach. At our 29 January event there was a suggestion that Universities UK has not taken up this baton with alacrity – however, we note an important update from BUFDG on 6 February which confirmed that Universities UK will be running a series of workshops (on dates to be confirmed) to inform the development of guidance to be published by early summer 2019.

That said, the same BUFDG update refers to the recent WonkHE article by Jim Dickinson which advocates [“Universities should take back control of the Vfm agenda”](#): that perhaps individual institutions should “look out at students instead of to regulators, and do the right thing before government and its regulator is forced to require you to do things that they say are right.”

The forthcoming Universities UK guidance on value for money will certainly be an important reference point for higher education providers. It is worth remembering, though, that (1) OfS is the regulator, and Universities UK, sits very much on the other side of the fence, as a representative of organisations that are being regulated; and (2) OfS scrutiny will be addressed towards individual providers rather than Universities UK. In a worst case scenario sanctions will fall on individual institutions. As such, adherence to any Universities UK guidance cannot guarantee individual providers that their approach will pass muster with OfS. So, although engagement with Universities UK’s development of guidance is important, we suggest it is at least equally important for individual governing bodies and senior executive teams to think through value for money for themselves from first principles – recognising multiple and distinct stakeholder groups: students, graduates, and government; ensuring clear communication to these



stakeholders about value; and addressing all aspects of internal operations and expenditure to ensure that delivery of value to these stakeholders is a primary driver. A further clear message from our 29 January event was that in assessing their value to students, providers need to engage, and be seen to have engaged, with students themselves. Any measures developed without meaningful student engagement will, as a matter of principle, be likely to fail.

At the moment, OfS thoughts on value seem primarily focused on the need for individual higher education providers to present “transparent” information to students about how tuition fee income is spent (and to ensure that there is transparency about bursaries that are available and any additional costs of study that students may incur). There is also an appetite to ensure transparent data is available about employment outcomes. Interpretation of all of this information, and comparisons across providers, has not been addressed yet. This will potentially be left to interested students themselves.

We understand that at this point there are no proposals that information offered to support transparency needs be audited – but we expect that such information will certainly need to be of auditable quality.

We know even less about government expectations of value from the sector. There have been some unsubstantiated suggestions that providers’ value for money submissions as part of the OfS registration process have generally been considered disappointing. Potentially the Office for National Statistics proposals to reclassify the accounting treatment of student loans may lead to a brighter spotlight from HM Treasury on the value offered by the sector. Production of an annual report by OfS, potentially from 2020, could prove to be the next catalyst for a further call by the sector to demonstrate its added value.

## Assurance Frameworks

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At the time of writing, we still await an update about which returns and submissions the OfS will expect from providers during the remainder of this transition period to 31 July 2019 and beyond. There was some speculation (but, we stress, no certainty) that the existing suite of accountability returns (including audit committee and internal audit annual reports) may not be required in respect of 2018/19 or future years. Although individual boards and audit committees might well determine that they want to continue with the existing assurance framework, there is a strong argument that governing bodies, with their audit committees, should be turning their thoughts to an evaluation of their own assurance requirements. This might well include development of a new board assurance framework (potentially along lines that will be familiar to NHS boards) that defines a coordinated approach to provision of the assurances required in the context of the sector’s new regulatory environment. One message that seems clear is that governing bodies and audit committees must ensure they are not simply the recipients of information and reports, but instead must actively articulate and drive the provision of the information that they believe is needed for their organisation to succeed.

Individual provider assurance frameworks seem most likely to be tested if providers find themselves amongst the 5% selected by OfS each year for a detailed review. It is suggested (and again this is speculative rather than definitive) that staffing constraints and the workload associated with provider registration means that neither the framework for such reviews, nor the initial tranche of reviews, is likely to materialise during 2019. Likewise it may also be the case that in the absence of particularly disturbing lead data indicators, OfS reviews are unlikely to be prioritised towards established providers.



## Data

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Data remains no less important in our new sector environment. Although final timescales for implementation remain uncertain, providers should by now be engaging with the beta testing phase of HESA's Data Futures project which will move to in-year collection of student data.

## How can we help?

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Firstly, if you found this briefing of interest, and would like a second chance to join the discussion, we are running a further event, over lunch, at the University of London on Thursday 11 April. There is no charge and everyone from the higher education sector is welcome. If you would like to attend, please reserve your place by contacting Amanda Tallon of Uniac at [atallon@uniac.co.uk](mailto:atallon@uniac.co.uk)

More substantially, whether you want to evaluate your Board and Audit Committee assurance framework in the light of the new regulatory regime, or to review your institution's approach to value for money, Uniac can help.

For further information on these, or any other aspect of Uniac's internal audit and assurance service, please do get in touch.



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