

Office for  
Students



# **Regulatory advice 17: Variation and revocation of degree awarding powers**

**Guidance for providers**

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On 1 April 2023 the Office for Students (OfS) began to deliver the assessment activities previously undertaken by the Quality Assurance Agency for Higher Education (QAA) in its role as the designated quality body. This means we are now responsible for assessing the quality and standards of courses offered by universities and colleges seeking registration with the OfS or authorisation to award their own degrees.

More information can be found at: [Quality and standards assessments - Office for Students](#).

This document remains in force, and should be read in conjunction with the operational guidance that is included at Annex B.

Degree awarding powers (DAPs) assessments will continue to be conducted by teams including academic experts, against the DAPs criteria set out at Annex C of the [Regulatory framework](#).

## General introduction

This regulatory advice sets out guidance about how and under what circumstances the Office for Students (OfS) might vary or revoke a provider's degree awarding powers (DAPs) authorisation. It applies to all higher education providers in England that hold a DAPs authorisation, irrespective of how that authorisation was originally granted.

1. Students who successfully complete a higher education course usually receive a certificate, diploma, or degree. If they are awarded a degree, it can be a foundation degree, a bachelors' degree, a masters' degree, or a doctorate. To award degrees a higher education provider needs to have authorisation for degree awarding powers (DAPs).
2. The Higher Education and Research Act 2017 (HERA) gave the Office for Students (OfS) the power to grant higher education providers in England authorisations to use DAPs. It also gave the OfS the power to vary or revoke DAPs authorisations for higher education providers in England irrespective of whether that authorisation was originally granted by the OfS or made under an Act of Parliament or by Royal Charter.
3. The OfS may authorise a registered higher education provider to grant:
  - a. Taught awards or research awards of any description, including degrees, diplomas and certificates
  - b. Taught awards or research awards of a specified description (for example, only at foundation or bachelors' level, or only in specific subject areas).
4. Variation of DAPs refers to the OfS's power to vary the scope of a provider's DAPs authorisation and can be either an expansion or a restriction of those powers.
5. Revocation of DAPs refers to the OfS's power to remove a provider's DAPs authorisation.
6. Section 46 of HERA requires the OfS to seek advice from the Designated Quality Body (DQB) regarding the quality of, and the standards applied to, the higher education provision of a

provider before making any form of order to vary a provider's DAPs or to revoke a provider's DAPs on the basis of concerns regarding the quality and standards of provision.

7. The Quality Assurance Agency for Higher Education (QAA) is the body designated by the Secretary of State to perform the functions required by section 46 of HERA. This regulatory advice also provides guidance on the role of the QAA in its capacity as the DQB in the variation and revocation process.

This advice should be read in conjunction with the following documents:

- The OfS's regulatory framework (OfS 2018.01)<sup>1</sup> which sets out in full the approach the OfS will take to the registration and regulation of providers.
- OfS Regulatory advice 12: How to apply for degree awarding powers.<sup>2</sup>
- QAA publication 'Degree awarding powers in England: Guidance for providers on assessment by QAA'<sup>3</sup> which explains the DQB's role in providing advice to the OfS as part of the DAPs assessment process.
- QAA publication 'Degree awarding powers in England: Guidance for providers on assessment for variation and revocation of degree awarding powers',<sup>4</sup> which provides guidance on the DQB's approach to assessment of providers where the OfS is considering varying or revoking a provider's DAPs authorisation.

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<sup>1</sup> See [www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/](http://www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/).

<sup>2</sup> See [www.officeforstudents.org.uk/publications/regulatory-advice-12-how-to-apply-for-degree-awarding-powers/](http://www.officeforstudents.org.uk/publications/regulatory-advice-12-how-to-apply-for-degree-awarding-powers/).

<sup>3</sup> Available at <https://www.qaa.ac.uk/reviewing-higher-education/degree-awarding-powers-and-university-title/guidance-and-criteria/applicants-in-england>.

<sup>4</sup> Available at <https://www.qaa.ac.uk/reviewing-higher-education/degree-awarding-powers-and-university-title/guidance-and-criteria/applicants-in-england>.

# Introduction to variation and revocation of DAPs

8. The overarching criteria for the authorisation of DAPs are:

<b>For New degree awarding powers (New DAPs)</b>	An <b>emerging</b> self-critical, cohesive academic community with a <b>clear commitment</b> to the assurance of standards supported by effective ( <b>in prospect</b> ) quality systems.
<b>For Full degree awarding powers (Full DAPs)</b>	A self-critical, cohesive academic community with a <b>proven</b> commitment to the assurance of standards supported by effective quality systems.

9. Guidance on the underpinning criteria for the authorisation for DAPs is set out in Annex C of the OfS's regulatory framework (OfS 2018.01).

10. The DAPs criteria are designed to ensure that a provider with DAPs has demonstrated a firm guardianship of academic standards, a firm and systematic approach to the assurance of the quality of the higher education that it provides, and the capacity to contribute to the continued good standing of English higher education. Therefore, the extent to which a provider meets the DAPs criteria underpins any decisions that the OfS makes in relation to DAPs.

11. The power to vary or revoke DAPs is an important element of the OfS's regulatory powers. The power to vary DAPs can be used positively, for instance to remove a time limit placed on a provider's DAPs authorisation. However, the OfS's variation and revocation powers can also be used to restrict or remove a provider's DAPs authorisation, to ensure that standards are maintained and students protected.

12. Steps to restrict or remove a provider's DAPs authorisation will normally only be considered when other forms of regulatory intervention have either been used and have failed to address the OfS's concerns, or where there are good reasons why the OfS considers that other forms of regulatory intervention are unlikely to be effective in addressing the concerns in practice. This is likely to be particularly relevant where concerns relate to ongoing conditions of registration that have particular relevance for DAPs, such as those for quality and standards, financial viability and sustainability, or management and governance.

13. Revocation of a provider's DAPs authorisation is likely to be rare and will, in the majority of cases, be considered only when the OfS has exhausted other forms of regulatory intervention, including variation of the authorisation. However, revocation would be likely where a provider with DAPs, for whatever reason, is not registered with the OfS. This is because allowing providers with DAPs to operate outside of the regulatory system would be a significant risk for students as the OfS would be unable to monitor the quality and standards of provision and ensure that standards were being set and delivered securely, and in line with sector recognised standards for England.

14. Table 1 below sets out the different uses of variation and revocation and when these interventions might normally be appropriate.

**Table 1: Uses of variation and revocation of DAPs**

Type	When it might normally be used	Examples (this is a non-exhaustive list)
<b>Variation</b>	As a positive action to extend a provider's DAPs authorisation	Where a provider holds DAPs on a time-limited basis, the authorisation can be varied so that DAPs are held indefinitely. Varying a New DAPs order into a Full DAPs order would also be a positive variation.
	As a regulatory intervention to restrict the scope of an existing DAPs authorisation	Where a provider is failing to meet the DAPs criteria at a particular level, such as for postgraduate awards, the OfS could restrict the DAPs authorisation to undergraduate awards only. Other variations could include restricting a provider's ability to validate provision for delivery by other providers or reducing the scope and duration of an existing authorisation to cover only awards for the completion of courses by existing students.
<b>Revocation</b>	When a provider is not registered with the OfS	Where a provider fails to register with the OfS or where a registered provider voluntarily applies for de-registration or is de-registered by the OfS.
	As a regulatory intervention	Where the OfS has significant concerns about the quality or standards of a provider's higher education provision that cannot be effectively addressed by other forms of regulatory intervention such as variation of DAPs.

## Variation of degree awarding powers

15. As set out in Table 1 at paragraph 14, the OfS's power to vary a provider's DAPs authorisation can be used for positive purposes or as a form of regulatory intervention.
16. In making decisions about whether and how to vary a provider's DAPs authorisation, the OfS is required by section 46 of HERA to seek advice from the DQB on the quality and standards of the higher education provision offered by the provider. This means that before considering a variation of DAPs, the OfS will ask the DQB to undertake an assessment of the provider's operation of its DAPs authorisation in relation to the DAPs criteria. The scope and nature of any assessment will be determined by the OfS and will be appropriate and proportionate for the type of variation under consideration and the OfS's current risk assessment of the provider.
17. In addition to seeking advice from the DQB, the OfS may, where it considers it appropriate, seek advice from others.
18. In deciding whether and how to vary a provider's DAPs authorisation, the OfS will have regard to the advice received from the DQB as well as any advice received from others in relation to quality and standards. The decision about whether and how to vary DAPs rests with the OfS.

## Variation of time-limited DAPs to indefinite DAPs

19. A provider granted any form of DAPs authorisation by the OfS will hold its authorisation on a time-limited basis in the first instance. Some providers that currently hold either Foundation DAPs, Taught DAPs or Research DAPs, originally awarded by the Privy Council, also hold these on a time-limited basis.
20. When a provider has held DAPs for three years, irrespective of how those DAPs were awarded (e.g. by the OfS or the Privy Council), it will normally be eligible to be considered for DAPs authorisation with no time limit, referred to as 'indefinite DAPs'.
21. Table 2 below sets out the types of DAPs authorisation that can be held and the minimum timeframes before the provider can be considered for indefinite DAPs.

**Table 2: Time periods for DAPs**

Types of DAPs held	Initial period of authorisation	Consideration for indefinite DAPs
New DAPs (granted by the OfS)	3 years	A provider will be assessed for Full DAPs after holding New DAPs for 3 years. It will normally be eligible for consideration for indefinite DAPs after operating with a full DAPs authorisation for 3 years.
Full DAPs (granted by the OfS)	3 years	A provider will normally be eligible for consideration for indefinite DAPs after operating with a full DAPs authorisation for 3 years.

Types of DAPs held	Initial period of authorisation	Consideration for indefinite DAPs
Foundation DAPs, Taught DAPs or Research DAPs (granted by the Privy Council)	6 years	A provider will normally be eligible for consideration for indefinite DAPs after operating with a full DAPs authorisation for 3 years.

22. A provider that is approaching the three year requirement for consideration for indefinite DAPs may contact the OfS to request that it be considered for indefinite DAPs.
23. An authorisation for indefinite DAPs will normally be granted at the same level at which a provider already holds time-limited DAPs:
- a. Foundation degrees only
  - b. Awards up to, and including, bachelor degrees
  - c. All taught awards
  - d. Research awards.
24. Where a provider has a subject-specific authorisation for Full DAPs, the indefinite authorisation will be made on the same basis. If a provider wishes to extend its DAPs authorisation to a higher level or on a wider subject basis, it will need to follow the process as set out in paragraphs 37-45.
25. When a provider becomes eligible for consideration for indefinite DAPs, the OfS will undertake an initial review of the provider's risk profile and any reported changes in the provider's circumstances, such as a change of ownership, in order to determine the type and scope of assessment that the DQB should undertake.
26. When considering a provider's risk profile, the OfS will take account of its most recent risk assessment of the provider and any regulatory interventions that may be in place such as specific conditions or enhanced monitoring requirements. The ongoing conditions that are likely to be relevant include but are not limited to:
- conditions relating to quality and standards
  - financial viability and sustainability
  - management and governance.
27. Where a provider's risk profile suggests there is an increased risk of a breach of one or more ongoing conditions of registration, or that there is or has been an actual breach, it is likely the OfS will ask the DQB to undertake a full assessment of the provider, including a visit, before determining if that provider's degree awarding powers should be extended to an indefinite basis.
28. A provider is not required to submit any additional information to support the OfS's initial review, but the OfS may request further information as it deems necessary.

## Assessment by the DQB

29. Before deciding whether to vary a provider's DAPs authorisation, the OfS will ask the DQB to undertake an assessment of the provider's arrangements against the Full DAPs criteria.
30. The DQB's assessment will not normally replicate the detailed scrutiny carried out when DAPs were first awarded but is intended to confirm that the powers in question have been exercised securely during the preceding three years. The OfS may, however, ask the DQB to carry out such detailed scrutiny where it considers this necessary. The OfS will ask the DQB to consider the impact of any significant changes during the period in which DAPs have been held. For example, where there have been significant changes to a provider's governance structure, the OfS might ask the DQB to undertake a more detailed assessment that includes a visit to the provider. However, where the OfS does not consider the provider to present increased risk, it may ask the DQB to undertake a desk-based assessment in the first instance. If the desk-based assessment results in concerns about a provider's ability to operate DAPs securely, this may then result in a DAPs review visit.
31. Where a provider holds time-limited DAPs for research degrees, the DQB's advice to the OfS will be informed by the views of UK Research and Innovation (UKRI).
32. The final outcome of the DQB's assessment will be advice to the OfS about whether the provider continues to:
  - a. Meet the Full DAPs criteria
  - b. Provide, and maintain the provision of, higher education of an appropriate quality
  - c. Apply, and maintain the application of, appropriate standards to that higher education.
33. Details of the DQB's approach to assessing providers seeking indefinite DAPs can be found on the QAA website.<sup>5</sup>

## The OfS's decision

34. The OfS will have regard to the advice provided by the DQB. It will also have regard to advice received from others where this has been sought, as well as other relevant considerations such as the OfS's general duties under section 2 of HERA. The OfS will also consider its own risk assessment for the provider and will decide whether or not the provider continues to meet the criteria for DAPs. The OfS may decide:
  - a. That the provider continues to meet the relevant Full DAPs criteria. In such cases the OfS will vary the provider's DAPs order to remove the time limit under section 42 of HERA and will make an indefinite DAPs order and will decide whether any additional restrictions are necessary to the order. The OfS will follow the process at Annex A.
  - b. That the provider does not continue to meet the relevant Full DAPs criteria. In such cases the provider would remain with time-limited powers until such time as the concerns in question had been resolved.

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<sup>5</sup> See <https://www.qaa.ac.uk/en/reviewing-higher-education/degree-awarding-powers-and-university-title/guidance-and-criteria/applicants-in-england>.

35. Where the OfS decides that the provider does not continue to meet the relevant Full DAPs criteria, it may take further action including:
- a. An extension of the time limit on the provider's existing DAPs authorisation to allow the provider to resolve the concerns in question and be reconsidered for indefinite DAPs with a reassessment point set for a future date.
  - b. Variation or revocation of the provider's existing DAPs authorisation where that would be appropriate in light of the nature and magnitude of the concerns identified.
  - c. Other forms of regulatory intervention and sanctions where that might be appropriate to address the concerns identified; for example, the imposition of specific ongoing conditions of registration.
36. If the OfS is minded to decide that a provider does not continue to meet the relevant Full DAPs criteria and is minded to take further actions, it will follow a process which is in line with relevant statutory requirements and public law principles. The precise process followed will therefore depend on the specific actions the OfS proposes to take, although this would normally involve the provider having an opportunity to make representations on a provisional decision and the OfS having regard to those representations before reaching a final decision. Any variation of the original order will be taken forward as per the process outlined at Annex A.

## **Variation to extend level-specific or subject-specific DAPs**

37. If a provider wishes to extend its DAPs authorisation, for example if it holds Foundation DAPs and wishes to extend its authorisation from Foundation DAPs to Taught DAPs, it can request that an extension to its powers be considered. In addition, a provider can also request an extension to its powers where it holds subject specific DAPs and wishes to extend the subject areas covered by its DAPs authorisation. Such requests can only be made by providers holding either Full or Indefinite DAPs authorisations.
38. As set out in paragraph 16 above, the OfS will seek advice from the DQB on the quality and standards of the higher education provision offered by the provider. If a request for an extension of powers is made, the OfS will undertake an initial review of the provider's risk profile and any reported changes in the provider's circumstances, such as a change in ownership, in order to determine the type and scope of assessment that the DQB should undertake. This will be appropriate and proportionate for the type of extension under consideration and the OfS's current risk assessment of the provider.
39. When considering a provider's risk profile, the OfS will take account of its most recent risk assessment of the provider and any regulatory interventions that may be in place such as specific conditions or enhanced monitoring requirements. The ongoing conditions that are likely to be relevant include but are not limited to:
- conditions relating to quality and standards
  - financial viability and sustainability
  - management and governance.
40. Where a provider's risk profile suggests there is an increased risk of a breach of one or more ongoing conditions of registration, or that there is or has been an actual breach, it is likely the

OfS will ask the DQB to undertake a full assessment of the provider, including a visit, before determining if that provider's degree awarding powers should be extended.

41. Depending on the type of extension of powers sought, the OfS may also assess the provider's eligibility. For example, for extension of powers from foundation DAPs to taught DAPs, the OfS will need to assess whether a provider meets the eligibility requirement relating to the proportion of students at Level 6 or above of the Framework for Higher Education Qualifications (FHEQ).
42. The OfS may require further information from a provider to inform its initial review.
43. If a provider holds taught DAPs with either a full or indefinite authorisation and wishes to seek authorisation to grant research degrees, it will need to submit a new research DAPs application. This is because there are additional underpinning criteria for research DAPs which will not have been tested through the taught DAPs process.
44. An application for research DAPs will be assessed on the basis of the Full DAPs assessment process set out in OfS Regulatory advice 12: How to apply for degree awarding powers.
45. If a provider is successful in its application for research DAPs it will initially hold two separate DAPs authorisations:
  - a. A Full or indefinite taught DAPs authorisation
  - b. A Full research DAPs authorisation.

If the provider is eventually granted indefinite research DAPs authorisation and, assuming that it has by then been granted indefinite taught DAPs authorisation, the OfS will amend the existing taught DAPs order to include research DAPs.

### **Assessment by the DQB**

46. Before deciding whether to extend a provider's DAPs authorisation the OfS will ask the DQB to undertake an assessment of the provider's arrangements against the Full DAPs criteria.
47. The DQB's assessment will not normally replicate the detailed scrutiny carried out when DAPs were first awarded, but it is intended to confirm that the powers in question have been exercised securely since those powers were granted. The OfS may, however, ask the DQB to carry out such detailed scrutiny where it considers this necessary. The OfS will ask the DQB to consider the impact of any significant changes during the period in which DAPs have been held. For example, where there have been significant changes to a provider's governance structure, or where the extension of powers sought represents a significant change to the provider's operations, the OfS might ask the DQB to undertake a more detailed assessment that includes a visit to the provider. However, where the OfS does not consider the provider or the extension requested to present increased risk, it may ask the DQB to undertake a desk-based assessment in the first instance. If the desk-based assessment results in concerns about the provider's ability to operate DAPs securely, this may then result in a DAPs review visit. Depending on the type of extension sought, the DQB may also require a provider to submit a detailed plan setting out how the provider intends to operate its extended powers.

48. The final outcome of the DQB's assessment will be advice to the OfS about whether the provider:
- a. Meets the Full DAPs criteria
  - b. Provides, and maintains the provision of, higher education of an appropriate quality
  - c. Applies, and maintains the application of, appropriate standards to that higher education.
49. Details of the DQB's approach to assessing providers seeking extension of powers can be found on the QAA website.
50. A provider undergoing a final assessment for Full DAPs at the end of its New DAPs probationary period can also request an extension to its authorisation as part of this process.

### **The OfS's decision**

51. The OfS will have regard to the advice provided by the DQB. It will also have regard to advice received from others where this has been sought, as well as other relevant considerations such as the OfS's general duties under section 2 of HERA. The OfS will also consider its own risk assessment for the provider and will decide whether or not the provider continues to meet the criteria for DAPs and, in particular, if the provider meets any new criteria that apply due to the extension of powers sought. The OfS may decide:
- a. That the provider continues to meet the relevant Full DAPs criteria and in addition meets any new criteria that apply. The OfS will follow the process at Annex A to extend the DAPs authorisation.
  - b. That the provider does not continue to meet the relevant Full DAPs criteria, with particular regard to any new criteria that apply. In such cases the provider would remain with its original powers until such time as the concerns in question had been resolved.
52. If through this process the OfS has concerns that the provider does not continue to meet the Full DAPs criteria in terms of how it is operating its original DAPs authorisation, it will follow the process as set out at paragraphs 35 and 36.
53. If a provider holds indefinite DAPs either at a specific level or covering a specific subject area and it successfully applies to award DAPs at either a higher level or in an extended subject area, it will initially hold two separate DAPs authorisations:
- a. One for indefinite awards covering a specified level or subject area
  - b. One for Full DAPs at the specified higher level or extended subject area.
54. If the provider is eventually granted indefinite DAPs for the higher level or extended subject area, the OfS will amend the existing DAPs order.
55. Where a provider holds New DAPs, the guidance on variation of DAPs authorisation from New DAPs to Full DAPs is set out in OfS Regulatory advice 12: How to apply for degree awarding powers.

## Variation of DAPs as a regulatory intervention

56. The variation of a provider's DAPs authorisation as a regulatory intervention is likely when:
- a. There is or has been a breach of one or more of the provider's ongoing conditions of registration (particularly where this relates to conditions of particular relevance to DAPs, for example: conditions relating to quality and standards; financial viability and sustainability; or management and governance).
  - b. Having considered the intervention factors set out in paragraph 167 of the regulatory framework, and having had regard to its general duties under section 2 of HERA, the OfS determines that variation of DAPs is appropriate.
57. The OfS may also consider varying a DAPs authorisation where a reported change in a provider's circumstances, such as a change of ownership, change of legal form, merger or federation with another provider, or a material change in the provider's business model (for example a move to focus on further rather than higher education), results in the DAPs criteria no longer being met. In such circumstances, the OfS may also consider whether it is appropriate to consider using powers to revoke DAPs authorisation because of any serious future risks relating to quality and standards (see paragraph 77).

### Assessment by the DQB

58. Before deciding to vary a DAPs authorisation, the OfS will ask the DQB to undertake an assessment of the provider's arrangements against the Full DAPs criteria.
59. The DQB's assessment will not normally replicate the detailed scrutiny that led to the provider's original DAPs authorisation but will instead be targeted to the specific area of concern. The OfS may, however, ask the DQB to carry out such detailed scrutiny where it considers this necessary. In cases where previous regulatory intervention has failed to rectify a breach of one or more conditions of registration, the OfS is likely to ask the DQB to undertake a review visit that will include significant re-testing of the extent to which the provider satisfies the relevant DAPs criteria. Where the OfS is advised of a change in a provider's circumstances that may have implications for DAPs, the OfS may ask the DQB to undertake a desk-based DAPs review in the first instance to determine whether a more extensive DAPs review visit would be appropriate.
60. If the provider's DAPs authorisation allows it to grant research awards, the DQB's advice to the OfS will be informed by the views of UK Research and Innovation (UKRI).
61. The final outcome of the DQB's assessment will be advice to the OfS about whether the provider continues to:
- a. Meet the Full DAPs criteria
  - b. Provide, and maintain the provision of, higher education of an appropriate quality
  - c. Apply, and maintain the application of, appropriate standards to that higher education.

### The OfS's decision

62. The OfS will have regard to the advice provided by the DQB. It will also have regard to advice received from others where this has been sought as well as other relevant considerations such

as the OfS's general duties under section 2 of HERA. The OfS will also consider its own risk assessment for the provider and will decide whether or not the provider continues to meet the criteria for DAPs. The OfS may decide:

- a. The provider continues to meet the DAPs criteria and no further action is required  
or
- b. There are concerns regarding the quality of, and standards applied, to higher education delivered by the provider but not to the extent that a variation of DAPs authorisation is required. In such cases, the OfS may decide that an alternative form of intervention is more appropriate such as the application of additional specific conditions  
or
- c. There are concerns regarding the provider's ability to meet the DAPs criteria to the extent that a variation of DAPs is appropriate.

63. If the OfS judges it necessary to vary a provider's DAPs authorisation, it will ensure that the variation is targeted to address the area of concern.

64. Examples of how the OfS might vary a provider's DAPs authorisation as a form of regulatory intervention include but are not limited to:

- a. Restricting a provider's DAPs authorisation by subject area, e.g. if the OfS decides that a provider is failing to meet the DAPs criteria in a particular subject area, the OfS may vary the DAPs authorisation to allow the grant of degrees in restricted subject areas only.
- b. Restricting a provider's DAPs authorisation by level, e.g. if the OfS decides that a provider is failing to meet the DAPs criteria in respect of its postgraduate provision, the OfS may vary the DAPs authorisation to allow the grant of degrees for undergraduate provision only.
- c. Removing a provider's ability to validate or subcontract provision delivered by other providers.

65. A variation to a provider's DAPs authorisation will remain in place until such time as the specific concerns that led to the variation have been addressed. In any event, the OfS will review a DAPs variation no later than 12 months after it comes into force to determine whether it should remain in place. At any point when the OfS reviews a DAPs variation, it will seek advice from the DQB about whether the provider continues to meet the DAPs criteria.

If the OfS decides that a DAPs variation is appropriate, it will follow the process outlined in Annex A.

## Revocation of degree awarding powers

66. HERA gives the OfS express powers to revoke any form of DAPs authorisation that has been granted to a provider irrespective of how it was granted.<sup>6</sup> This includes DAPs authorisations originally granted under Acts of Parliament or by Royal Charter.
67. It is anticipated that the power to revoke DAPs will be used rarely, and normally when there are significant concerns about a provider's ability to operate DAPs securely, and escalating regulatory interventions such as enhanced monitoring, the application of specific conditions or variation of DAPs, have been unsuccessful in addressing these concerns.
68. Revocation will also normally be used where a provider that holds DAPs authorisation is not registered.
69. Sections 44 and 45 of HERA sets out conditions A to C which must be satisfied before the OfS can consider a revocation of DAPs.

### Condition A

70. Condition A is satisfied if the provider ceases to be a registered higher education provider.
71. Condition A will apply where a provider with DAPs authorisation:
- a. Does not apply to register with the OfS
  - b. Applies to be removed from the Register
  - c. Has had its application for registration refused by the OfS
  - d. Is removed by the OfS from the Register.
72. The OfS will normally revoke DAPs for an unregistered provider because having providers operating with DAPs outside of the regulated system would be a significant risk for students, as the OfS would be unable to monitor the quality and standards of provision and ensure that standards were being set and delivered securely, and in line with the sector recognised standards for England.
73. The OfS will normally consider removing a provider from the Register where the provider does not satisfy the ongoing conditions of registration and other forms of regulatory intervention have either been used and have failed to address the situation, or there are good reasons why the OfS considers that such forms of regulatory intervention are unlikely to be effective in addressing the situation.
74. If a provider applies to be removed from the Register, or in cases where it will normally be appropriate to revoke authorisation because a provider does not register, the OfS will follow the revocation process set out in Annex A.

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<sup>6</sup> Subject to an exception for honorary degrees granted by virtue of the Ecclesiastical Licences Act 1533.

75. If the OfS removes a provider from the Register, it will follow and complete the de-registration procedures set out in HERA and the regulatory framework before initiating the revocation process set out in Annex A.
76. If the OfS has made a provisional decision to refuse an application for registration it will reach a final decision about whether or not to register the provider following the procedures set out in HERA and the regulatory framework before initiating the revocation process set out in Annex A.

## **Condition B**

77. Condition B is satisfied if the OfS has concerns regarding the quality of, or the standards applied to, higher education which has been or is being provided by a provider, and it appears to the OfS that those concerns are so serious that a variation of the provider's DAPs authorisation would be insufficient to deal with them, and it is appropriate to revoke the DAPs authorisation.
78. Where there are serious concerns about quality and standards, revocation is normally likely to be considered as a last resort when all other appropriate forms of regulatory intervention have either been used and have failed to address those concerns, or there are good reasons why the OfS considers that such forms of regulatory intervention are unlikely to be effective in addressing the concerns in practice.
79. Examples of serious concerns regarding quality include but are not limited to:
- situations where a provider fails to deliver well-designed courses that provide a high quality academic experience for all students and which enable a student's achievement to be reliably assessed; or
  - when the provider fails to provide all students, from admission through to completion, with the support that they need to succeed in and benefit from higher education.
80. Examples of serious concerns regarding standards include but are not limited to:
- situations where courses being delivered by a provider fail to meet sector recognised standards; or
  - the qualifications awarded to students do not hold their value at the point of qualification or over time in line with sector recognised standards.

## **Condition C**

81. Condition C is satisfied if, due to a change in circumstances since the DAPs authorisation was given, the OfS has concerns regarding the quality of, or the standards applied to, higher education which will be provided by the provider, and it appears to the OfS that those concerns are so serious that a variation of a provider's DAPs would be insufficient to deal with them and it is appropriate to revoke the DAPs authorisation.

## Advice from others

82. HERA requires the OfS to seek advice from the DQB before making an order to revoke a DAPs authorisation because of concerns about the quality and standards of higher education provision, so in particular cases where condition B applies. However, depending on the issue in question, the OfS may also seek advice from others.

## Assessment by the designated quality body (DQB)

83. Where the OfS is considering revoking a provider's DAPs authorisation on the grounds of condition B above, it will ask the DQB to undertake an assessment of the provider's operation of its DAPs authorisation against the relevant DAPs criteria.

84. The DQB's assessment will not normally replicate the detailed scrutiny that led to the provider's original DAPs authorisation. The OfS may, however, ask the DQB to carry out such detailed scrutiny where it considers this necessary. As consideration of revocation under condition B will be in situations where there are serious concerns relating to the quality and standards of provision, the DQB will normally be asked to undertake a detailed DAPs assessment that includes one or more visits to the provider. The DQB's assessment will focus on testing matters relating to the quality of, and standards applied to, higher education, including the provider's ongoing compliance with the DAPs criteria.

85. If the provider's DAPs authorisation allows it to grant research awards, the DQB's advice to the OfS will be informed by the views of UKRI.

86. On completion of a DAPs assessment, the DQB will provide advice to the OfS on its assessment of the provider and will include its views about whether the provider:

- a. Continues to meet the DAPs criteria
- b. Has the ability to provide, and maintain the provision of, higher education of an appropriate quality, and
- c. Has the ability to apply, and maintain the application of, appropriate standards to that higher education.

## The OfS's decision

87. The OfS will have regard to the advice provided by the DQB. It will also have regard to advice received from others where this has been sought, as well as other relevant considerations such as the intervention factors set out in paragraph 167 in the regulatory framework and the OfS's general duties under section 2 of HERA. The OfS will also consider its own risk assessment for the provider and will decide whether or not the provider continues to meet the criteria for DAPs. The OfS may decide:

- a. The provider continues to meet the relevant Full DAPs criteria and no further action is required, or
- b. There are concerns regarding the quality of, and standards applied to, higher education delivered by the provider but not to the extent that revocation of DAPs authorisation is appropriate. In such cases, the OfS may decide that an alternative form of intervention such as variation, is more appropriate, if this has not already been applied to the provider, or

- c. There are significant concerns regarding the quality of, and standards applied to, higher education delivered by the provider to the extent that a revocation of DAPs is considered to be appropriate.

88. If the OfS makes a provisional decision that a revocation of DAPs is appropriate, it will follow the process outlined in Annex A.

## **Student protection plan**

89. Ongoing condition of registration C3 requires a provider to have in place and publish an approved student protection plan (SPP). The SPP must set out the measures that the provider has or will put in place to ensure continuation of study for students where this is at risk because of a likely variation or revocation of DAPs.

90. Should the OfS decide to vary or revoke a provider's DAPs authorisation it will review the provider's SPP to ensure that the provisions of the plan remain sufficient to mitigate the risks to the continuation of study of the provider's students.

91. The OfS may require further mitigating measures to be included in an SPP and may require the plan to be revised and re-published.

## Annex A: Variation and revocation process

1. HERA sets out the detailed statutory process that the OfS must follow if it intends to vary or revoke DAPs, including requirements to:
  - a. Notify the governing body of the provider of its intention, which must include:
    - i. the OfS's reasons for proposing to take the step in question
    - ii. the period during which the governing body may make representations (which must be at least 28 days)
    - iii. the way in which those representations may be made
  - b. Have regard to any representations
  - c. Notify the provider of its decision, including the date on which the variation or revocation takes effect, and the rights of appeal and period where they can be brought.
2. A provider may appeal to the First Tier Tribunal against any decision to vary or revoke DAPs.
3. Where an appeal relates to a decision to vary DAPs, or against the date at which a revocation of comes into effect, then the grounds for appeal are:
  - a. That the decision was based on an error in fact
  - b. That the decision was wrong in law
  - c. That the decision was unreasonable.
4. If the appeal is against a decision to revoke DAPs, the grounds for appeal are not specified, and the First Tier Tribunal must consider the decision afresh and may take into account evidence that was not available to the OfS.
5. The decision to vary or revoke DAPS authorisation will not be implemented or take effect at any time when:
  - a. An appeal or a further appeal could be brought in respect of the decision to vary, or
  - b. Such an appeal is pending.
6. The decision to vary or revoke can take effect, however, if the provider's governing body notifies the OfS that it does not intend to appeal.
7. Where it has been determined that the decision to vary or revoke can take effect, the OfS will make an order under sections 44 and 45 of HERA either varying or revoking a provider's original DAPs order.
8. The OfS will publish information on a provider's entry on the Register about any variation in the provider's DAPs authorisation and the reason for this.
9. When a provider remains registered after the revocation of its DAPs authorisation, the OfS will publish the timing and reasons for the revocation on the provider's entry on the Register.

10. The regulatory framework provides that the OfS will on request review whether it has followed its procedures correctly. This means that providers can raise points about the process followed by the OfS when making representations in response to an OfS provisional decision as set out in this annex.



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