

# OfS Reportable Events Policy & Procedure

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## IMPORTANT NOTICE

**THIS POLICY WILL COME INTO EFFECT ON 1 JANUARY 2022 AND SHALL SUPERSEDE VERSION 1.5.**

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### **1. Introduction**

Registration with the Office for Students (“OfS”) comes with a number of mandatory conditions that the University must comply with. One of those is an obligation to report certain events that affects the business of the University to the OfS.

### **2. Purpose of Policy**

This Reportable Events Policy and Procedure has been written to facilitate the reporting requirement prescribed by the Office for Students (OfS) under ongoing condition of registration F3 “Reportable Event” within the OfS Regulatory Framework for Higher Education in England and the OfS Terms and Conditions for Funding of Higher Education Institutions. It provides University staff, students and any other stakeholder with an outline of the process for the escalation of any adverse event or circumstance that materially affects the business of the University.

### **3. Scope**

**3.1** This Policy & Procedure applies to all staff of the University.

**3.2** The University takes the view that the majority of incidents which occur in the course of University business are minor, localised and contained in their impact and normally resolved through local management action, with minimal impact on health and safety, service delivery, finances, or reputation. This Policy and Procedure is to address and report on events that are either more significant (that need to be reported to the senior management team) or that fall within the scope of the reporting requirements prescribed by the OfS, outlined below.

### **4. Policy Statement and Procedure**

#### **4.1 What constitutes a Reportable Event?**

**4.1.1** With effect from 1 January 2022, the regulatory framework defines a reportable event as:

..any event or matter that, in the reasonable judgement of the OfS, negatively affects or could negatively affect;

- a) The provider’s eligibility for registration with the OfS.

- b) The provider's ability to comply with its conditions of registration.
- c) The provider's eligibility for degree awarding powers, or its ability to comply with the criteria for degree awarding powers, where the provider:
  - i. holds degree awarding powers; or
  - ii. has submitted an application for degree awarding powers to the OfS, and for which the OfS has yet to reach a final decision.
- d) The provider's eligibility for university title, where the provider:
  - i. holds university title; or
  - ii. has submitted an application for university title to the OfS, and for which the OfS has yet to reach a final decision.

4.1.2 In interpreting 'the reasonable judgement of the OfS', the OfS will, as a matter of policy, consider whether a reasonable provider intent on complying with all of its conditions of registration and acting in the interests of students and taxpayers (rather than in its own commercial, reputational or other interests), would consider the event or matter to be material ("Materiality Test").

4.1.3 The University classes the types of events that may be reportable into the following categories:

4.1.3.1 Events or matters that are always reportable. These have been set out and identified in Table 1 in the Annex to this Policy and is subject to change in line with Regulatory Advice 16 - Guidance on Reportable Events.

4.1.3.2 Events or matters that are reportable due to a bespoke requirement imposed on the University by the OfS under Notice;

4.1.3.3 Events or matters that may be reportable because they otherwise fall within the definition of a 'reportable event' as per the definition in 4.1.1. These are matters for which the University is expected to make a judgement about reporting and apply the Materiality Test.

#### **Events or Matters that are always reportable.**

4.1.4 These have been set out in Table 1 in the Annex to this paper which is extracted from the updated OfS Regulatory Advice 16 - Guidance on Reportable Events. The Table sets out a non-exhaustive illustrative list of reportable events with those that are always reportable clearly identified.

**Other Events or Matters not flagged as always reportable but are reportable because they fall within the definition of reportable events.**

4.1.5 These are events or matters that are not identified as ‘always reportable’ in Table 1 ’ and that negatively affects or could negatively affect the University’s:

- a. Eligibility for registration.
- b. Compliance with its conditions of registration.
- c. Eligibility for degree awarding powers or compliance with the criteria for degree awarding powers (where the provider holds, or has applied to the OfS for, degree awarding powers).
- d. Eligibility for university title (where the provider holds, or has applied to the OfS for, university title).

4.1.6 In considering whether a matter falls within this definition, the University will need to reach a judgement about reporting in a particular instance by applying the Materiality Test (see para 4.1.2).

4.1.7 That judgement may depend on a number of factors, including the size and complexity of the University and the context in which an event or matter has taken place. For example, an investigation into a possible low value fraud involving one of a provider’s senior officers would be likely to constitute a reportable event, whereas an investigation into a fraud of a similar value involving a junior member of staff, would not.

4.1.8 The University is required to make a reasonable decision about whether a particular event or matter should be reported or not. In reaching its decision, the University will consider the particular event or matter and the context in which it has arisen, rather than the number and type of matters it has previously reported, or not reported.

**4.2 What do I need to report, when do I need to report and how do I report?**

4.2.1 The University is reliant on its staff and stakeholders to bring any matters or events set out in paragraph 4.1 to its attention, without delay. The OfS expect to be notified by providers within 5 working days of the University becoming aware of such an event or circumstance, whether this is before, during or after its occurrence.

4.2.2 In the event that you become aware of an incident, event or circumstance as set out in paragraph 4.1 of this Policy, please contact [OfS-Notifications@tees.ac.uk](mailto:OfS-Notifications@tees.ac.uk) without delay and include the following information:

1. A description of the event;
2. All relevant information and evidence relating to it;

3. What impact the event has/may have;
4. Details of any action you may have taken to mitigate the event, if at all;
5. Your contact details.

In the event that you are unable to email the details, you should contact the Governance Team in Legal & Governance Services on 01642 738423.

- 4.2.3 The Executive Director of Legal and Governance & University Secretary and/or its nominee is then responsible for assessing where necessary, materiality in accordance with paragraph 4.1.2 and determining, following consultation with the Vice-Chancellor and the Chair of Board of Governors as is considered appropriate by the Executive Director depending on the circumstances of the matter, whether a report needs to be submitted to the OfS and if so, the formulation of that submission.
- 4.2.4 For significant cases, in addition to the Chair of the Board of Governors and Vice-Chancellor, the Chair of Audit Committee, University's Internal Auditors and the University's External Auditors will also be notified.
- 4.2.5 Legal & Governance Services will maintain records of all Reportable Events reported or not reported as the case may be and will periodically review them to establish if there are trends that require further investigation.

## **5 Roles & Responsibilities**

### **5.1 OfS reporting**

The Accountable Officer (Vice-Chancellor) is responsible for reporting Reportable Events to the OfS via the OfS online portal and all events submitted are on behalf of the Chair of the Board of Governors. The Vice-Chancellor has delegated the operational responsibility for the reporting of Reportable Events to the OfS to the Executive Director of Legal and Governance & University Secretary (or nominee). A secure access key is required for this and is held by Legal & Governance Services.

### **5.2 Reporting to Legal & Governance Services**

To support the timely submission of Reportable Events to OfS, events must be reported by staff and other stakeholders to Legal & Governance services without delay via [OfS-Notifications@tees.ac.uk](mailto:OfS-Notifications@tees.ac.uk). Legal & Governance Services maintain responsibility for the co-ordination and submission of Reportable Events to the OfS.

## 6 Policy Enforcement – sanctions for non-compliance

A failure by staff to adhere to the terms of this Policy could result in disciplinary action.

## 7 Related Documents

Public Interest Disclosure (Whistleblowing) Policy  
Anti-Money Laundering Policy  
Criminal Finances Act (Anti-Tax Evasion) Policy  
Counter Fraud Policy  
Anti-Bribery and Corruption Policy  
Financial Regulations  
[Regulatory Advice 16 – Reportable events](#)

## 8 Dissemination and Communication Plan

This Policy and Procedure shall be reviewed at least every three years and should remain reflective of the requirements of the OfS Regulatory Framework.

Reviews shall be led by the Executive Director of Legal and Governance & University Secretary. Amendments and future versions of the Procedure will be authorised in line with the University’s Policy Framework.

## 9 Appendices

**Annex – Illustrative non-exhaustive list of events or matters with identification of those that are always reportable as per Annex A of Regulatory Advice 16 Guidance – effective 1 January 2022.**

Table 1

Type of event or matter	Is it always reportable?
a. Matters relating to a provider’s ownership, legal form or corporate structure, including but not limited to:	
i. The legal entity that is registered ceasing to exist. This might be as a result of: <ul style="list-style-type: none"><li>• The acquisition by another legal entity of the business operated by a provider</li><li>• A merger of the provider with another registered or unregistered higher education provider.</li></ul>	Yes
ii. A merger of the provider with another registered or unregistered higher education provider.	Yes

iii. A change of ownership, including through a sale, of the provider (see Definitions below).	Yes
iv. A change in the provider's legal form.	Yes
v. Amendments to the provider's governing documents Factors in favour of reporting may include: <ul style="list-style-type: none"> <li>• Amendments which affect the provider's ability to uphold and deliver in practice the public interest governance principles that apply to the provider</li> <li>• Amendments which relate to the treatment of the provider's charitable assets on dissolution of the provider.</li> </ul> Factors against reporting may include: <ul style="list-style-type: none"> <li>• Administrative amendments which do not affect the operative provisions of the governing document(s).</li> </ul>	No
vi. An acquisition by the provider of another entity. Factors in favour of reporting may include: <ul style="list-style-type: none"> <li>• The entity (to be) acquired is registered with the OfS or has submitted an application for registration and for which the OfS has not yet made a final decision.</li> </ul>	No
vii. A sale of a part of the provider or its parent.	No
<b>b. Matters related to the delivery of higher education in England, including but not limited to:</b>	
i. The provider resolving to cease carrying on its business principally in England.	Yes
ii. The provider resolving to fully or substantially cease providing higher education, whether or not this results in the closure of the provider.	Yes
iii. A change in the provider's business model, such as a move to focus on further instead of higher education.	No
iv. Loss, including suspension, of the provider's student sponsor licence.	Yes
<b>c. Matters relating to the quality and standards of a provider's higher education courses, including but not limited to:</b>	
i. A notification to the provider of an investigation by an awarding organisation or awarding body or by a professional, regulatory or statutory body.	Yes
ii. A notification to the provider that its awarding organisation or awarding body is to withdraw from the arrangement, where this is not a routine consequence of a planned contract review.	Yes
<b>d. Matters relating to student and consumer protection, including but not limited to:</b>	

i. The provider receiving a complaint that it has charged or advertised fees that exceed a statutory fee limit or a fee limit imposed as a result of an approved access and participation plan.	Yes
ii. A new campus, whether in the UK or internationally.	Yes
iii. Closure of a campus, department, or subject area, whether or not this is in the provider's approved student protection plan.	Yes
iv. Termination of a partnership arrangement, whether in the UK or internationally, where this results in a contract change for students.	Yes
v. Complaints from students that are upheld in full or in part by the provider, or by the OIA, and that result in redress for a student (including a full or partial fee refund) or changes within the provider.	No
<b>e. Matters relating to a provider's financial viability or sustainability, including but not limited to:</b> (Further education and sixth form colleges, whose primary regulator is the Education and Skills Funding Agency, are not required to report the events and matters set out in this section (e), to the OfS.)	
i. A likely drop in the provider's liquidity <sup>1</sup> to below 30 days' average expenditure unless this is the provider's normal cash management policy or is mitigated through an agreed revolving credit facility, overdraft or other financing.	Yes
ii. A likely breach of any financial covenant attached to a loan, where that breach has not been waived by the lender.	Yes
iii. For a provider with a legally binding obligation of, or which otherwise receives, financial support underpinning its financial viability and sustainability, the withdrawal of the obligation or that financial support (including as a result of a change of ownership or control of the provider, even where the new owner will offer a similar obligation or financial support), or an adverse change in the counterparty's financial position or other standing that could affect its suitability as a counterparty.	Yes
iv. A provider's external auditor has notified the provider that it may conclude that the provider is not a going concern, including where the provider is asked to submit additional information to the auditor in response to such a notification.	Yes
v. A provider's trustees or directors are considering making an assessment that the provider is not a going concern.	Yes

<sup>1</sup> Net liquidity days is calculated as: ((cash and cash equivalents + current asset investments - overdrafts - bank loans and external borrowing falling due within one year - loans from directors falling due within one year) / (total expenditure - depreciation and amortisation - changes to pension provisions and pension adjustments))\*365. The requirement here reflects the terminology used for the OfS's annual financial return.

vi. Any matter or event that may result in the provider being unable to pay its creditors as debts fall due.	Yes
vii. A change in the provider's actual or forecast financial performance or position.	No
viii. A change in financial commitments or borrowings.	No
ix. A change in forecast or actual student numbers that was not included in the most recent financial forecasts submitted to the OfS.	No
x. For a provider that is part of a larger corporate group, any adverse change in the group's financial position.	No
xi. The sale of assets.	No
xii. A redundancy programme.	No
<b>f. Matters relating to management and governance, including but not limited to:</b>	
i. Changes to the identity of the individual a provider wishes to nominate to the OfS as its accountable officer.	Yes
ii. Changes to the identity of the chair of a provider's governing body.	Yes
iii. A change of control of the provider (see Definitions below). <sup>2</sup>	Yes
iv. A matter relating to the provider's compliance with the Prevent duty as set out in the OfS's monitoring guidance.	Yes
v. A Prevent-related serious incident as per the Serious Incidents Guidance; or a Prevent-related change of circumstances as per the Prevent Related Change of Circumstances Guidance.	Yes
vi. The initiation of a governance review where this is not a routine part of a provider's planned arrangements.  Factors in favour of reporting may include: <ul style="list-style-type: none"> <li>• The review is initiated in response to whistleblowing, or other complaints</li> <li>• The review is initiated in response to welfare or safeguarding concerns about students or staff.</li> </ul>	No

<sup>2</sup> If, following the change of control, the provider will be under the control of another OfS-registered provider, or a provider that has submitted an application for registration and for which the OfS has not yet made a final decision, the provider must make this clear in its report.

<p>vii. The following events or matters relating to fraud or financial irregularity:</p> <p>(a) The provider receives a complaint or allegation that it may have committed fraud</p> <p>(b) The provider initiates an investigation into a possible fraud or financial irregularity involving the provider</p> <p>(c) The provider is notified that a third-party is investigating the provider in relation to a possible fraud or financial irregularity</p> <p>(d) A third-party makes a finding that the provider has committed fraud.</p> <p>Factors in favour of reporting may include:</p> <ul style="list-style-type: none"> <li>• Involvement of any member of the governing body, the accountable officer, or any other senior officer</li> <li>• The fraud exposes a systemic weakness in the provider's internal control arrangements that suggest other, as yet unidentified, cases could be taking place</li> <li>• The fraud involves public funding</li> <li>• The fraud is one of a repeating pattern of even small-scale frauds.</li> </ul> <p>Factors against reporting may include:</p> <ul style="list-style-type: none"> <li>• The monetary scale of the fraud is below £25,000 or two per cent of the provider's total income (whichever is smaller).</li> </ul>	No
<p>viii. Legal or court action.</p> <p>Factors in favour of reporting may include:</p> <ul style="list-style-type: none"> <li>• Involvement of any member of the governing body, the accountable officer or any other senior officer where this relates to their duties for the provider</li> <li>• An individual case, or a pattern of cases, exposes a systemic weakness in the provider's management and governance arrangements</li> <li>• Findings of a coroner where these relate to a student death and expose a systemic weakness in the provider's management and governance arrangements.</li> </ul> <p>Factors against reporting may include:</p> <ul style="list-style-type: none"> <li>• Isolated employment tribunal cases</li> <li>• The issue is a commercial dispute relating to business activities where the monetary scale of any adverse outcome is likely to be below £25,000 or two per cent of the provider's total income (whichever is smaller).</li> </ul>	No

<p>ix. Regulatory investigation and/or sanction by other regulators or funding bodies, for example the Education and Skills Funding Agency, Ofsted, the Charity Commission, the Equality and Human Rights Commission or the Arts Council.</p> <p>Factors against reporting may include:</p> <ul style="list-style-type: none"> <li>• The action is a routine inspection that is undertaken as part of a regulator’s planned oversight activities.</li> </ul>	No
<p><b>g. Matters relating to information provision, including but not limited to:</b></p>	
<p>i. Any matter which affects the accuracy of the information contained in the provider’s entry in the OfS Register.</p>	Yes
<p>ii. Inaccuracies or omissions in the information finally submitted by a provider to the OfS or the designated data body, including where this may have an impact on the OfS’s use of the data including in determining compliance with another condition of registration, the provider’s funding allocation, or statistics published by the designated data body.</p> <p>Factors in favour of reporting may include:</p> <ul style="list-style-type: none"> <li>• Inaccuracies or omissions mean that students or other activities are not included in returns when they should be or vice versa.</li> </ul> <p>Factors against reporting may include:</p> <ul style="list-style-type: none"> <li>• Minor or administrative errors which have been resolved through a validation process following initial submission of the data</li> <li>• Inaccuracies or omissions are restricted to a small number of students</li> <li>• Inaccuracies or omissions have a small impact on the OfS’s decisions or publications or on the designated data body’s process or publications.</li> </ul>	No