Department for Business Innovation & Skills

DETAILED IMPACT ASSESSMENTS

Higher Education and Research Bill

JUNE 2016

Contents

Introduction

1. On 16 May 2016, the Government published its White Paper *Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice*[1]. The reforms it sets out will help ensure that everyone with the potential to succeed at university, irrespective of their background, will be able to choose from a wide range of high-quality universities, access relevant information to help them make the right choices, and benefit from excellent teaching that helps them succeed in the labour market.

2. By introducing more competition and choice into higher education through this Bill, we will deliver better value for students, employers and the taxpayers who underwrite the system. It will also strengthen our world class capabilities in research and innovation and, by supporting a strong graduate premium, boost productivity across the whole of the UK.

Summary of Impact of the Bill

3. This document covers the reforms set out in *Success as a Knowledge Economy* that will be taken forward through the 2016 Higher Education and Research Bill. Alongside this we have published a summary analysis[2] of the proposals which sets out the economic and strategic case for further reform in the higher education sector and the wider impacts of the Bill. It also includes an overarching assessment of the Bill on competition and small and medium sized businesses.

4. The assessments of the costs and benefits for the following specific measures can be found in the rest of this document.
    - The Teaching Excellence Framework (page 6)
    - Sector Entry and the Single Gateway (page 59)
    - Information Sharing (page 104)
    - Student Protection (page 127)
    - Establishing the Office for Students (page 152)
    - Deregulating Higher Education Corporations and simplifying governing documents (page 170)
    - Power to Enter and Inspect (page 190)
    - Alternative Finance (page 203)
    - Establishing UK Research and Innovation (UKRI) (page 220)

[1] BIS (2016) *Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice* https://www.gov.uk/government/publications/higher-education-success-as-a-knowledge-economy-white-paper
[2] BIS (2016), *Higher Education and Research Bill Impact Assessment* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/524517/bis-16-264-he-research-bill-impact-assessment.pdf

5. As a whole, the proposed reform measures are expected to have a significant deregulatory impact on Higher Education Providers (HEPs). The net deregulatory impact of the reforms has been validated by the Regulatory Policy Committee.

6. The ability of high-quality institutions to maintain their fees in line with inflation will be a significant benefit to the sector. Total monetised benefits to HEPs are estimated to be on average around £1.1bn per year, mainly through the ability of high-quality institutions to maintain their fees in line with inflation.

7. For those measures in scope of the Business Impact Target[3], the average annual direct net benefit to business (as measured by the EANDCB[4]) is £28.2m.

Table 1: Summary of annual direct impacts on business from measures in the Higher Education and Research Bill (equivalent annual net direct cost to business (£m))

	Direct Cost to business (£m)	Direct Benefit to business (£m)	Net Direct Cost to Business (EANDCB) (£m)	In Scope of Business Impact Target
Teaching Excellence Framework	20.0	1146.0	-1126.0	No
Office for Students	25.1	0	25.1	No
Entry to the Sector and Single Gateway	24.8	54.5	-29.6	Yes
Deregulation	0	0.1	-0.1	Yes
Information Sharing	0.6	0	0.6	Yes
Student Protection	0.9	0	0.9	Yes
Enter and Inspect	0	0	0	Yes
Alternative Finance	0	0	0	Yes
UK Research and Innovation	0	0	0	No

[3] The Business Impact Target captures a narrower set of deregulatory measures. Under the Small Business, Enterprise and Employment Act 2015 the measures that are in scope of the Business Impact Target are described as "regulatory provisions". http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-03-03/HCWS574/

[4] Better Regulation Framework Manual (July 2013), "The EANCB of a regulation is defined as the annualised value of the present value of net costs to business and civil society organisations. This includes both annually recurring net costs and net transitional costs that occur as a result of the regulation being introduced / removed / simplified".

Definitions and acronyms

The following impact assessments use a number of terms to describe and distinguish between different types of Higher Education Provider and funding, these are defined as:

Alternative provider means any provider of higher education courses which is not in direct receipt of recurrent funding from HEFCE; or does not receive direct recurrent public funding (for example, from a local authority, or the Secretary of State for Education); and is not a Further Education College.

Further Education College (FEC) is a body corporate, established or designated under the Further and Higher Education Act 1992, for the purpose of establishing and conducting an educational institution, which may provide further and higher education for those who are over compulsory school age. FECs are eligible to receive funds from the Skills Funding Agency and HEFCE in the pursuit of their educational purposes.

HEFCE is the Higher Education Funding Council for England, a Non-Departmental Public Body established under the Further and Higher Education Act 1992.

Higher Education Institution (HEI) is defined as i) a university, or ii) an institution conducted by a higher education corporation, or iii) an institution designated as eligible to receive support from funds administered by HEFCE (aside from Further Education Colleges, which are defined above). At present, all English HEIs with the exception of five (the University of Buckingham, BPP University, *ifs* School of Finance, Regents University and the University of Law) receive support from funds administered by HEFCE and are listed here: http://www.hefce.ac.uk/whatwedo/invest/unicoll//highereducationinstitutions/

Higher Education (HE) providers refer to any provider of higher education courses whether provided directly as a teaching body or indirectly as an awarding body.

Publicly-funded providers refers to any provider of higher education courses which receives funds from HEFCE.

Student support is financial support for higher education students' tuition and living costs provided by the Government in the form of grants and loans under the Teaching and Higher Education Act 1998.

Title: **The Teaching Excellence Framework**	**Impact Assessment (IA)**
IA No: BIS007(F)-HE	**Date:** 01/06/2016
RPC Reference No: RPC-3339(1)-BIS	**Stage:** Final Stage
Lead department or agency: BIS	**Source of intervention:** Domestic
Other departments or agencies:	**Type of measure:** Primary legislation
Summary: Intervention and Options	**RPC Opinion:** Green

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANDCB in 2014 prices)	**One-In, Three-Out**	**Business Impact Target Status**
£mm	£10314m	-£1126m	Not In Scope	Non qualifying provision

What is the problem under consideration? Why is government intervention necessary?

The teaching quality experienced by higher education students is an important driver of the learning gain and, in turn employment prospects, providing employers and the economy with better access to high-skill workers. However:

1) Poor availability of high quality information for students on the standard of teaching and course outcomes hampers competition in the sector and means students risk making sub-optimal course choices.
2) There is variation in teaching quality in the higher education sector, within and between institutions.
3) There are weak incentives on Higher Education Providers to increase the standard of teaching in the higher education sector.
4) Looking forward, the student tuition fee cap, set at £9,000 in 2012 (now £8,546 in real terms), increasingly risks the ability of providers to deliver the high quality teaching students expect.

The Government's Manifesto commits to introducing a framework for high quality teaching. This intervention is necessary to improve the value for money received by students, taxpayers and employers; boost the graduate labour supply and thus increase productivity. It should also enhance the sector's international reputation as an excellent place to study.

What are the policy objectives and the intended effects?

1) Increase productivity in England;
2) Allow students to distinguish between institutions based on quality of teaching;
3) Reward the highest quality teaching and create incentives for other institutions to improve;
4) Re-balance the focus between research and teaching;
5) Make clearer information available to employers about the skills and quality of teaching available at different institutions; and
6) Improve higher education outcomes for students, and including those from a disadvantaged background.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1) Do nothing.
2) Allow institutions that meet or exceed the expectations (pass the QAA review) for quality and standards in England to increase their fees regardless of specific teaching quality.
3) Non-regulatory option: assess institutions on teaching quality, but reward institutions purely through signalling the quality of their course, rather than enabling better providers to charge higher fees. No legislation is required to introduce these changes and it would therefore be non-regulatory.
4) The Teaching Excellence Framework (TEF) (Preferred option): create a framework that both informs students about the quality of teaching at different institutions and incentivises institutions to deliver excellent teaching by providing them with greater freedom to operate through index-linked increases to the tuition fee cap.

Option 2 has been discounted on the basis that it will not allow significant differentiation of teaching quality to help inform student decisions or sufficiently encourage institutions to improve their teaching quality. Option 3 has been discounted on the basis that reputational rewards only would not be enough to sufficiently incentivise institutions to increase teaching quality, considering for example the sizeable quantum of funding allocated through the Research Excellence Framework (around £1.5bn a year). To achieve parity of esteem and focus between teaching and research the TEF will need to have a similar level of financial implications. Furthermore, institutions may not have the resources to increase teaching quality as a result of the existing charge cap.

<table>
<tr><td colspan="6">Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2020/2021</td></tr>
<tr><td colspan="2">Does implementation go beyond minimum EU requirements?</td><td colspan="4">N/A</td></tr>
<tr><td>Are any of these organisations in scope?</td><td>Micro
Yes</td><td>Small
Yes</td><td colspan="2">Medium
Yes</td><td>Large
Yes</td></tr>
<tr><td colspan="2">What is the CO_2 equivalent change in greenhouse gas emissions?
(Million tonnes CO_2 equivalent)</td><td colspan="2">Traded:
N/A</td><td colspan="2">Non-traded:
N/A</td></tr>
</table>

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Date: 3rd June 2016

Summary: Analysis & Evidence

Description: The Teaching Excellence Framework

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:-509	**High:** -150	**Best Estimate:** -242

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low	1.9	10	1319	**10647**
High	5.8		1363	**11007**
Best Estimate	2.8		1330	**10739**

Description and scale of key monetised costs by 'main affected groups'

Institutions collectively will experience average annual costs of £22m as a result of familiarising, signing up and applying to the Teaching Excellence Framework, once the TEF covers discipline level assessments. This is equivalent to an average of £53,000 per institution, significantly less than the Research Excellence Framework (REF) at £230,000 per institution per year.

Students/ Taxpayers will experience average annual fee charges of £1.3bn in real terms as a result of allowing high quality institutions to increase their fees by, we expect, some proportion of inflation. The student loan system ensures that any index-linked increase to the fee cap will not affect the up-front costs of higher education. Tuition fee loans will, for providers whose fees are capped, automatically adjust to ensure this is affordable, with graduates expected to repay their loans only once they are earning enough to qualify for repayments. Any additional loan amount (and interest) unpaid after 30 years will be written off.

Taxpayers will experience an increase in average cost of £7m per annum as a result of covering the cost of operating the independent TEF assessment panel.

Student Loans Company will experience an increase in average annual cost of £220,000 associated with adapting and operating systems and processes to manage its tuition fee loans, given a greater number of fee caps will be in operation due to the different TEF ratings.

Description and scale of key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0		1301	**10497**
High	0.0		1301	**10497**
Best Estimate	0.0		1301	**10497**

Description and scale of key monetised benefits by 'main affected groups'

Institutions that are successful in the Teaching Excellence Framework will benefit from being able to increase their fees up to inflation. The average annual benefit will be £1.3bn in real terms. The best performing providers who are currently charging at, or near the tuition fee cap, will avoid their fee income being eroded by inflation.

Other key non-monetised benefits by 'main affected groups'

Students will benefit from the framework as the effects of competition cause the quality and value for money of higher education to rise. This should lead to higher and more productive employment, and will help to support the graduate earnings premium, which on average is currently over £100,000 (in net present value terms) over a working life. Students should also benefit from increased information about where to study, improving their choices. In addition, those that attend successful institutions may see their institution re-invest increased tuition fee income into better teaching facilities.

Taxpayers will benefit from their investment into higher education, as an improvement in teaching quality and better matching of students into graduate jobs should lead to an increase in wages. As a result, there should be higher student loan repayments and tax revenue.

Employers should see higher profits from being able to employ more productive graduates.

Key assumptions/sensitivities/risks	**Discount rate (%)**	3.5

- RPIX is used to forecast fee increases. (Office for Budget Responsibility (OBR) from the Economic and Fiscal Outlook website estimates until 2020/21);
- RPIX is presumed to take the OBR Statistical First Release assumption of 2.8% onwards from 2025/26;
- Between the years 2020/21 and 2025/26 we assume the RPIX value linearly interpolates;
- Allowing the tuition fee cap to rise by up to inflation will impact UK/EU student fees but not international student fees;
- Number of providers charging £6,000 fees (plus inflation) and £9,000 (plus inflation);
- Higher Education Institutions and Further Education Colleges benefits are calculated using forecasted home/EU student numbers, based on BIS analysis until 2020/21. Thereafter we look at the average between 2013/14 and 2020/21, and use this average to estimate the percentage increase over the next 7 years (from 2020/21 onwards).
- Proportion of institutions receiving different TEF awards, the number of award ratings in each year, and the financial reward each award rating attracts;
- The proportion of providers that charge the new cap;
- The cost model underpinning the assessment process, which will be refined and developed starting with the TEF Technical Consultation in 2016;
- All costs and benefits are calculated in real terms;
- All costs/benefits are measured in academic years;
- The number of providers in the sector and their eligibility to apply to the TEF.[5]

BUSINESS ASSESSMENT

Direct impact on business (Equivalent Annual) £m:			**Score for Business Impact Target (qualifying provisions only) £m:**
Costs: 20.0	**Benefits:** 1,146	**Net:** 1,126	N/A

[5] See Annex A for more details on provider numbers.

Summary: The Teaching Excellence Framework

1. The Teaching Excellence Framework (TEF) will reward institutions that demonstrate high quality teaching, both by explicitly recognising the standard they have achieved and communicating this to future students, and by providing financial rewards in the form of inflation linked increases to the prevailing tuition fee cap. These incentives will motivate institutions to drive up the standard of their teaching, provide greater support to students considering giving up study and bring about a stronger focus on employability. It should also reduce the cost to the taxpayers of underwriting the Higher Education sector, bringing down the RAB[6] charge in the long run. Higher ratings of TEF award will be linked to higher quality of teaching and student outcomes. Institutions will be assessed based on a common set of metrics (initially the National Student Survey, the Destinations and Leavers Employment Survey and HESA non-continuation rates) as well as a qualitative submission provided by the HE provider. The applications will be reviewed by an independent panel that will make a decision on which institutions demonstrate the highest teaching quality.

Table 1: Summary of the main costs and benefits of the TEF

	Higher Education Providers	Students	Taxpayers	Employers
Costs	Costs associated with familiarising and applying. The TEF incentives expected to stimulate greater investment in teaching facilities, training and rewards.	Students at high-quality providers will see tuition fees rise by up to inflation. Students will only repay this additional loan if they earn over the repayment threshold.	Cost of the TEF assessment panel. Increase in student loan funding to ensure affordability of any fee rises, plus any increase in student numbers.	Potential increases in graduate salaries for employers, but met through revenues earned from graduates' greater productivity
Benefits	Teaching excellence recognised, helping attract more students, and able to increase capped fees by up to inflation to enable the maintenance of high standards. Overall reputation of the sector will be boosted, helping attract more international students	Students will have more information on the quality of teaching at different institutions and courses, supporting more informed choices and better outcomes. Better informed choices as well as long-term improvements in teaching quality will lead to better graduate outcomes	Lower drop-out rates and better graduate outcomes will mean greater and faster repayment of loans, as well as increased tax revenue.	Better signalling of quality of HE providers, and student/ graduate outcomes helping reduce search costs. HE providers better incentivised to tailor teaching to needs of employers. More productive graduates, increase employer profits

[6] The Resource Accounting and Budgeting (RAB) charge is the estimated cost to Government of borrowing to support the student finance system based on future loan write-offs and interest subsidies in net present value terms. For convenience, we express these costs as a proportion of the initial loan outlay.

Problem under consideration

Poor availability of high quality information on the standard of teaching at institutions

2. In order to make informed choices, students require access to high quality, independent and reliable information about the quality of teaching they are likely to experience at a provider or on a course they are considering, and in turn what this might mean for their career aspirations.

3. In practice, the information they need can be hard to find, inconsistent and often inadequate, making it hard for prospective students to form a coherent picture of where excellence can be found within and between different providers. This is supported by evidence in the Higher Education Funding Council for England (HEFCE)'s 2015 consultation "*Review of information about learning and teaching, and the student experience*"[7]. It showed that across a sample of HE provider websites, there were variations in terms of accessibility and how well the type of information matched students' needs and priorities. A 2015 Higher Education Policy Institute (HEPI) survey also found that "A substantial minority of students continue to find the information they were given before they started their course vague (21%) or even misleading (10%). One in three (34%) say that, knowing what they now know, they would have chosen a different course." That proportion is higher for students with fewer contact hours. Clear priorities of students while at university included: "having more hours of teaching", "reducing the size of teaching groups" and "better training for lecturers", but there is little information for prospective students on this in advance.[8]

4. The lack of robust, comparable metrics of teaching quality across courses and institutions means that prospective students must rely on imperfect proxies when making decisions. These proxies may include student satisfaction scores which are based on more factors than just the quality of teaching. This means that students then make institutional decisions on alternative factors such as location, course design and entry requirements.

Weak incentives to raise standards of teaching in the Higher Education sector

5. The financial and non-financial incentives to offer high quality teaching to students do not appear to be sufficiently strong. This is reflected in evidence from studies by HEPI and Which?/Higher Education Academy which have found, for example, that there may be significant variations across providers in terms of the number of contact hours received by students attending very similar courses[9]. For example, the 2013 HEPI Student Academic Experience Survey[10] found that students studying Mathematics reported receiving anywhere between 13 and 22 hours per week and Nursing students between 15 and 25 hours. This

[7] Review of information about learning and teaching, and the student experience: Consultation on changes to the National Student Survey, Unistats and information provided by institutions http://www.hefce.ac.uk/pubs/year/2015/201524/
[8] HEPI academic experience survey 2015 http://www.hepi.ac.uk/wp-content/uploads/2015/06/AS-PRINTED-HEA_HEPI_report_print4.pdf
[9] http://www.hepi.ac.uk/2015/06/04/2015-academic-experience-survey/
[10] http://www.hepi.ac.uk/wp-content/uploads/2014/02/1.Higher_Educational_Report.pdf

sort of variation is also seen in outcomes. For example, drop-out rates after the first year of study at English HEIs range from 0% to 15.2%.[11]

6. The absence of strong incentives to invest in high quality teaching may be attributed to several factors. One explanation may be the absence of strong demand-side competition in the HE sector. A 2015 report by the Competition and Markets Authority (CMA) "*An effective regulatory framework for higher education: a policy paper*"[12] for example indicates that there may be high switching costs for students (e.g. non-transferability of credits earned or high financial and social costs associated with moving to another institution).

7. Another explanation may be that the financial and non-financial incentives associated with research activity may be greater than for teaching; for example, over £1.5bn a year is allocated via the Research Excellence Framework. For universities which are comparatively more research intensive, they may see their reputation, their standing in prestigious international league tables and their marginal funding as being principally determined by scholarly output and this may have the effect of diverting focus away from teaching to research. There is evidence to suggest "strong orientations towards research often reveal a weak emphasis on teaching and vice versa"[13] while Palfreyman (2014) argues that "the career structure and funding of universities in the UK currently strongly discourages academics and faculties from putting any investment into teaching"[14]. Palfreyman (2014) also suggests that "the incentive balance between teaching and research creates one-dimensional faculty members who are too intensively focussed on research. The neglect of teaching leads to a secular decline in quality".[15]

Tuition fee cap is falling in real terms impacting future teaching quality

8. The current tuition fee cap has been in place since 2012, allowing publicly-funded higher education institutions to charge, for full time courses, up to £9,000 (£8,546 in 2012 prices)[16] per student if they have an access agreement, and up to £6,000 (£5,697 in 2012 prices)[17] without an access agreement. Over this period, there has been an increase in student numbers and costs, combined with a decrease in the amount of teaching grant funding available.[18] Between 2008-09 and 2013-14, institutions experienced a 12% increase in undergraduate student numbers. At the same time institutions experienced a 50% decrease

[11] Non-continuation following year of entry for UK domiciled young full-time first degree entrants 2012/13. https://www.hesa.ac.uk/component/content/article?id=2064
[12] Competition and Markets Authority (CMA) "An effective regulatory framework for higher education: a policy paper" https://assets.digital.cabinet-office.gov.uk/media/550bf3c740f0b61404000001/Policy_paper_on_higher_education.pdf
[13] Dimensions of quality" – Graham Gibbs, HEA, 2010
[14] Reshaping the University p133, David Palfreyman
[15] Reshaping the University, David Palfreyman
[16] Using Treasury GDP deflator
[17] Using Treasury GDP deflator
[18] Teaching grant supports high cost subjects, STEM subject, taught postgraduate courses, flexible learning, Student Opportunity allocation, funding for providers with distinctive provision and strategically important subjects. See http://www.hefce.ac.uk/lt/howfund/ for more information.

in teaching grant funding.[19] This was accompanied by increased expenditure requirements in terms of teaching costs, access agreements and research quality and quantity. Marketing costs and costs associated with international recruitment and visa compliance have also increased in this period.[20]

9. At the same time, the value of tuition fee income has declined in real terms as the maximum fee levels have remained constant. The Office for Fair Access (OFFA) data shows that since 2012/13, the proportion of institutions charging £9,000 for at least one course has increased from 64% to 99% in 2016/17. In 2012/13, 35% of institutions had an average fee of £9,000 in 2012/13 (i.e. fees on all courses were £9,000) compared to 39% in 2016/17.[21] If total real income available for teaching continues to fall then this may have an impact on the quality of higher education teaching and in turn student outcomes. However, in light of the variable quality of teaching and outcomes within the sector, the Government is keen to ensure value for money for the student by only increasing the price cap for those institutions that can demonstrate the best quality of teaching.

10. Around 60% of providers in the sector operate within the constraints of a tuition fee cap. The remaining 40% are Alternative Providers (APs). Students at these providers have access to up to £6,000 in tuition fee loans. However, these providers are able to charge higher fees, without a limit, with students covering the difference between fees and loans. In reality, many APs do not charge more than £6,000 in order to ensure that their students are able to cover the full costs of tuition. Therefore, in practice, this group of APs are also seeing the real value of their incomes decline due to a real terms decline in the tuition fee cap.

Rationale for intervention

Improved efficiency outcomes from better quality teaching

11. Strengthening the incentives to offer high quality higher education teaching will also bring about improved outcomes for students, employers and taxpayers.

12. For students, studying represents a worthwhile investment. While students may be required to meet tuition fees of up to £9,000 per year through a student loan, for a full time course, the average graduate is expected to earn comfortably over £100,000[22] (net impact) more over their working life compared to someone with only 2 or more A-Levels. In addition, median earnings of English women around 10 years after graduation are estimated to be just over three times those of non-graduates while median earnings of English men around 10 years after graduation were twice those of non-graduates.[23]

[19] HEFCE annual funding allocations. http://www.hefce.ac.uk/funding/annallocns/1314/
[20] BIS analysis of HESA Finance Plus data.
[21] https://www.offa.org.uk/publications/analysis-data-and-progress-reports/
[22] The Impact of University Degrees on the Lifecycle of Earnings: Some Further Analysis', (BIS, 2013)
[23] Britton, Shephard and Vignoles (IFS Working Paper – published 24th September 2015, http://www.ifs.org.uk/wps/wp201311.pdf)

13. However, there is also evidence that many students do not go on to take graduate-level jobs. The Destinations of Leavers from Higher Education (DLHE) longitudinal survey found that one in five employed graduates were not working in a professional job three and a half years after graduation[24], while others have put the number even higher. This highlights that the type of jobs graduates end up working in is an area of policy concern.

14. Although the graduate premium is still significant, and was sustained over the recession, there is some evidence that the earnings differential between graduates and non-graduates is declining. BIS evidence[25] shows that graduate earnings have decreased from around 55% higher to 45% higher than non-graduate earnings between 2006 and 2015. A recent report from the Bank of England[26] also found that "since 1995, the effect of having a degree has fallen substantially. In 1995, a degree would on average increase wages by 45% relative to having no qualifications at all; by 2015 this premium had fallen to 34%"[27]. This may be a result of an increase in the supply of graduates but also from students making sub-optimal institutional and employer choices, not least because of a lack of accessible and robust information on what they can expect from the different options available to them.

15. A recent OECD study also found that 6.9% of higher education students graduated with low basic skills in literacy/maths.[28] Although students are normally expected to have gained these skills earlier in their academic career, it is important that providers are able to ensure that their graduates leave fully equipped for employment. Furthermore, the Higher Education Academy (HEA)–HEPI Student Academic Experience Survey 2015 found that only 35% of students from England paying up to £9,000 fees thought they had received 'good' or 'very good' value for money[29]. One in three students (34%) says that, knowing what they now know, they would have chosen a different course. That proportion is higher for students with fewer contact hours.[30] If institutions invest more in teaching and focus more on employability, students are more likely to graduate with basic skills and/or skills that match employer requirements. This should support the return (in terms of the potential graduate premium) on students' higher education investment, and thereby help to improve their perceptions of the value of their degrees.

16. Employers will receive productivity gains if they are able to employ workers with the highest skills. In the absence of reliable information about which HE providers and courses offer the best teaching, it is harder for employers to identify and recruit the right level of skills. This

[24] LDLHE: Table 8, https://www.hesa.ac.uk/dlhelong1011_contents
[25] Graduate Labour Market Statistics Q1 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/432873/BIS-15-304_graduate_labour_market_statistics-January_to_March_2015.pdf
[26] http://www.bankofengland.co.uk/publications/Pages/quarterlybulletin/2016/q1/prerelease.aspx
[27] This finding is based on a wider definition of "graduate" than used by BIS and compares uses those without qualifications as a baseline rather than a wider group of non-graduates (including those with A-Levels as a highest qualification).
[28] http://www.oecd.org/unitedkingdom/building-skills-for-all-review-of-england.pdf, Table 1
[29] HEPI/HEA 2014 academic experience survey http://www.hepi.ac.uk/2014/05/21/hepi-hea-2014-student-academic-experience-survey/
[30] http://www.hepi.ac.uk/2015/06/04/2015-academic-experience-survey

also reduces the incentive for providers to improve their courses so that they meet employers' future skills needs. The Association of Graduate Recruiters (2015) says that almost a quarter of employers have open vacancies because they couldn't find the right skills in the most recent graduate cohort.[31]

17. This is supported by responses to the Higher Education Green Paper, where business groups welcomed the TEF proposals. The Confederation of British Industry (CBI) in particular has highlighted that the "TEF provides an opportunity to encourage high-quality teaching, as well as giving students and employers greater transparency – and can help address the current mismatch in the graduate labour market". Furthermore, the Chartered Institute of Personnel and Development (CIPD) agrees that "the TEF should reward and encourage institutions to develop teaching practices that are effective in enriching students' knowledge, skills and, crucially, career readiness."[32]

18. For the taxpayer, improved outcomes for graduates and greater job matching should result in higher employment and salaries for graduates, and so a greater proportion of student loans should be repaid.

Further de-regulation in the Higher Education Sector

19. As discussed in paragraphs 44 to 54, many providers are subject, either directly or indirectly, to price cap regulation that is currently limiting the fees they can charge students and which is acting as an increasing constraint on higher education activity. Average fee levels for new entrants for the academic year 2016/17 are estimated to be £8,891 for HEIs with access agreements compared to £8,470 for new entrants to HEIs in 2012. This suggests that as running costs per student have increased over time, and the teaching grant to institutions has fallen, institutions have been required to increase their fees within the overall cap to cover these costs. However, for those institutions already charging the maximum fee level, this is not possible. Additional costs felt by institutions include staff costs relating to pensions costs and national insurance contributions; widening participation and access spending; infrastructure investment to restore underinvestment in infrastructure and provide for a growing number of students; and new borrowing costs following declines in capital grant funding.[33]

20. In the absence of government action, the financial constraints faced by many providers may become even more severe in the near future, and so reduce the resources available to invest in teaching, leading to potentially slower or more piecemeal improvements in course quality and value for students, or even declines.

21. Allowing fees to increase in line with inflation for those providers that can demonstrate high quality teaching will ease this constraint. Providers will have greater financial freedom to

[31] 'Mind the skills gap – whose responsibility is it? (NCUB, 2015).
[32] CIPD: 'Fulfilling our Potential: Teaching Excellence, Social Mobility and Student Choice' Submission to the Department for Business, Innovation and Skills
[33] Financial health of the HE Sector report from HEFCE

make more or better quality spending decisions and investments which would not otherwise have been possible, to the ultimate benefit of students in terms of choice, quality and value. This includes the building of greater capacity to attract more students from poorer performing parts of the sector, so helping to make competition work more effectively. It is this increased ability of providers to make more effective spending decisions which makes this policy proposal deregulatory. Students will also continue to be protected through the provision of student loans, which do not have to be repaid until borrowers are earning above a threshold and will be written off entirely after 30 years.

Policy objectives

22. The key objective of this proposal is to increase UK productivity by increasing the skills match between graduates and employers' needs. While economic growth in the UK has recently outperformed many G7 economies[34], productivity continues to lag behind. The latest estimates for 2014 indicate that UK labour productivity (as measured by output per hour worked) was 18 percentage points below the average for the rest of the G7 economies: the widest productivity gap on an output per hour basis since comparable estimates began in 1991.[35] The TEF will support the Government's aims[36] of improving productivity by driving up the standards of teaching in UK higher education and expanding the number of students receiving high quality teaching; and by providing more and better quality information on teaching standards, learning environment and student outcomes to enable prospective students to make more informed decisions about which courses and institutions best suit their needs.

23. A related policy objective is to strengthen the financial and non-financial incentives to offer higher quality teaching. Improvements in the quality of teaching and available information about teaching standards in courses and institutions should deliver better value for money outcomes for students, employers, and taxpayers. Higher standards of teaching, and greater focus on employability for students, should help raise their productivity and enable them to secure better jobs and careers. It should enable employers to make more informed choices about the graduates they recruit, providing better understanding of the range of skills and knowledge they bring from their course, and deliver graduates who are more work ready following active engagement in their studies. Furthermore, we expect the TEF to address the current mismatch between graduates and employers in the labour market. With higher returns, more graduates will be able to pay back more of their loans, reducing the amount that needs to be subsidised by the taxpayer in the longer term. This is on top of the benefits to taxpayers from having a stronger economy powered by a higher skilled workforce.

24. By assessing institutions on the quality of their teaching and by publishing the results in a way which facilitates comparison across courses and institutions, prospective students will be able to make more informed decisions about which courses and institutions to attend. It will also enable employers to identify more easily which institutions provide their graduates

[34] http://www.ons.gov.uk/economy/nationalaccounts/uksectoraccounts/articles/economicreview/2015-03-04
[35] http://www.ons.gov.uk/economy/nationalaccounts/uksectoraccounts/articles/economicreview/2015-03-04
[36] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443898/Productivity_Plan_web.pdf

with the teaching and skills best suited to that employer, and expand high quality provision of teaching in the sector.

25. Excellent teaching requires the sector to be financially sustainable. Evidence shows that the majority of HEIs are setting some or all of their course fees at the cap, or very close to the cap.[37] Each year, institutions have tighter budgets as a result. Therefore, allowing institutions that demonstrate teaching excellence to raise their fees up to inflation should enable those who are currently delivering excellence to continue to do so and provide a strong incentive to the rest of the sector to improve. Higher levels of teaching quality will be linked to higher fee caps. This should bring a better balance to providers' competing priorities, raising the focus on teaching to a par with the UK's current reputation for world-class research and stimulating greater linkages between teaching and research (where they do not already exist) within institutions.

Description of options considered (including do nothing)

Option 0: Do nothing.

Option 1: Preferred option. Introduce the Teaching Excellence Framework.

26. Two other options were considered and rejected as long term solutions. These were:

a) **Link fee caps to the achievement of meeting or exceeding expectations for Quality Assurance.**

Under this option all institutions that meet or exceed the expectations for quality and standards in England (Quality Assurance (QA)) would be allowed to raise their fees from academic year 2016/17 onwards. Higher Education Institutions are already required to have a QA review as a condition of HEFCE grant funding. However, whilst QA is a good starting point, reliance on QA alone and in the longer-term will not enable significant differentiation of teaching quality to help inform student decisions and encourage institutions to improve their teaching quality. **For this reason, this option has been discounted as a long-term option.** This option is only used for Year One of the TEF while the wider assessment process of the TEF is developed.

b) **Non-Regulatory Option - Introducing a framework that signals the different teaching quality of different institutions, but incentivises institutions only at a reputational rather than financial level** (i.e. not linked to changes in the price cap).

This option is voluntary, but is unlikely to meet the policy objectives as the incentives for institutions to apply are not large enough. By comparison, the Research Excellence Framework allocates £1.5bn a year to institutions. To achieve parity of esteem and focus between teaching and research the TEF will need to have a similar level of financial implications. Furthermore, in some areas, it may limit improvements in quality due to the falling real value of the fee cap. It would also be more burdensome as, whilst

[37] https://www.offa.org.uk/publications/analysis-data-and-progress-reports/

the institutions would still incur the cost of applying to the TEF, they would not receive the benefit of a raised fee cap. **Therefore, this option has also been discounted.**

Analysis of considered options

27. Marginal costs and benefits are calculated for all Higher Education Providers over ten years, the standard timeframe for Government policy impact assessments. The base year for all prices is 2016. All figures laid out in the cost/benefits section are in constant prices. We outline our best estimates of the costs and benefits at this point in time: the costs and benefits relate to the legislation which will be set out in primary, secondary and administrative actions. There is an inevitable element of uncertainty in how the sector and students will respond to this policy.

28. The impact assessment reflects our expectations for English institutions and we have not included Devolved Administrations (DAs) in our modelling. We may update this depending on the DA's decisions about whether they will participate in the TEF Year Two onwards.

29. The assumptions used in this impact assessment are not final, and many will be refined in light of the responses to the '*Teaching Excellence Framework: Technical Consultation for Year Two'* (May 2016) which contains details on the assessment framework, assessment criteria and approach to metrics to be used in Year Two. The detailed assessment process will continue to develop throughout its life, in light of experience and improvements in the measurement of teaching quality and student outcomes.

Option 0: Do nothing

30. This option will leave publicly-funded higher education institutions able to charge, for full time courses, up to £9,000 per student if they have an access agreement, and up to £6,000 without an access agreement. It means the real value of tuition fee income will continue to decline with inflation. It does not incentivise the sector to increase the quality of teaching. Nor does it improve information asymmetries to students about the quality of teaching at individual institutions.

Costs

31. There will be no additional direct costs to institutions, employers, taxpayers, Government or students.

32. However, the 'do nothing' scenario does mean that institutions will continue to experience a real fall in tuition fee income. Therefore, each year, institutions will have smaller surpluses from fees, and will be unable to invest them into resources that may lead to better teaching at institutions. The average projected surpluses for the publicly funded sector is forecast to be below 3.5% of total income between 2015-16 and 2017-18.[38] This is well below well below the estimated level of 7% of total income required to maintain existing infrastructure;

[38] http://www.hefce.ac.uk/media/HEFCE,2014/Content/Pubs/2015/201529/HEFCE2015_29.pdf

let alone the level needed to increase and improve the HE capital stock.[39] Therefore, in the long run, without Government action, institutions will be less able to invest in teaching, impacting the service that students receive and resulting in less productive graduates in the employment market. This could lead to poorer student outcomes, reducing future earning for graduates, increasing skills gaps for employers and reducing tax revenues and student loan repayments.

Option 1: Preferred option. Introduce the Teaching Excellence Framework

33. The Teaching Excellence Framework will reward institutions that demonstrate high quality teaching, by ensuring this is signalled to students and enabling them to increase their fees by up to inflation. Higher ratings of TEF awards will be linked to higher quality of teaching. Assessments of teaching quality will look into certain areas, including: teaching quality, learning environment and student outcomes and learning gain. The TEF will be voluntary to all eligible institutions[40], and therefore we do not expect an institution to apply if they do not believe the benefits will outweigh the costs.

34. For the purposes of this Impact Assessment, we use the following framework:

- ***Financial incentives*** should benefit successful institutions currently charging the maximum tuition fee or loan fee cap: providers that see an increase in their tuition fee income or their student loan cap will benefit financially from the policy. This includes existing HEIs charging at the £9,000 tuition fee cap, FECs without Access Agreements currently charging £6,000 per student, and APs that are charging £6,000 per student. FECs with Access Agreements who are currently charging on average £7,000 despite having a fee cap of £9,000) and the remaining APs are not expected to benefit from financial incentives, as the policy will not have a direct impact on their tuition fee incomes.

- All institutions are expected to benefit from ***reputational incentives*** if successful in the TEF as this will feed into student decision making and so increase student numbers and associated tuition fee income.

35. The framework aims to be light touch and take into account the diverse range of provision and contexts that exist within the sector. We do not want to design a policy that results in institutions diverting much of their valuable resource away from teaching (or research) in order to apply for the framework. Furthermore, we intend to design the incentives to increase teaching quality in a way that does not offset incentives to increase widening participation at institutions, but instead works to improve outcomes for those from disadvantaged backgrounds.

[39] http://www.hefce.ac.uk/funding/finhealth/
[40] All Approved and Approved (fee cap) providers will be eligible to take part in the TEF, as long as they have one or more years of available data. Providers that do not have sufficient data will be able to be described as Meets Expectations on ‘procedural grounds’ if they hold a successful QA review.

36. HE providers are classed as businesses. Regulatory changes associated with the TEF will be permissive in nature; they will allow, but not force, businesses to do something. In this case, it will be up to institutions to decide whether to take part in the TEF. However, we expect take-up to be high due to the reputational and financial incentives associated with the TEF. This, in combination with the easing of the regulatory burden of the student fee cap for those providers that demonstrate teaching excellence, means that the **Teaching Excellence Framework will be deregulatory**.

The Bill

37. The Bill makes no changes to the legislation governing the setting of higher and basic fee caps.[41] This will remain, as now, under the control of Parliament, subject to the negative procedure for inflationary increases or the affirmative procedure for above inflationary increases. Government policy is that any fee increases under the TEF will not be higher than inflation and could not exceed the maximum fee agreed by Parliament. This Impact Assessment is drafted on that basis. To enable the implementation of differentiated TEF awards, we will be making a new provision in primary legislation that will enable the Secretary of State to administratively set different fee caps, up to the maximum set out in secondary legislation, based on an assessment of the quality of the provider. These fee caps cannot exceed the higher and basic fee caps set out in secondary legislation, meaning that Parliament retains full and unchanged control of the maximum fee that can be charged by institutions. The different levels of fees will correspond to TEF awards so that institutions will be able to charge up to the higher or basic amount set out in secondary legislation if they obtain the highest TEF level of award; or up to a lower level, set administratively by the Secretary of State, if they achieve a lower level award.

38. Where an Alternative Provider chooses to operate either as an 'Approved' or 'Approved (fee cap)' provider within the new operating model that will exist following the reforms set out in the White Paper: '*Success as a knowledge economy: teaching excellence, social mobility and student choice*' (May 2016), these maximum and differentiated fee or loan caps will apply to them.

How the TEF will work

39. The TEF will apply to all Full Time and Part Time students at participating institutions. Applying for the TEF is voluntary, as currently designed, in all Years. In line with proposals set out in the Green paper and further refined in consultation with the sector and other HE stakeholders, the Government's preferred option will work as follows:

Year One – institutional applications in 2015/16:

- A provider with a satisfactory and current QA award will be awarded a rating of Meets Expectations, which will last for one year only. **This will not increase burdens on**

[41] Sections 24 and 26 of the Higher Education Act 2004 permit the Secretary of State through secondary legislation to set and increase the maximum higher and basic amount fee caps which publicly funded institutions can charge students.

institutions, as they are already subject to these requirements, as part of designation or grant funding.

- The financial incentives for a rating of Meets Expectations in Year One will be:
    - Providers with fees capped at the basic amount of £6,000 will be able to maintain their fees, and corresponding loan, in line with inflation up to a maximum of £6,000 + inflation.
    - Providers with fees capped at the higher amount of £9,000 will be able to maintain their fees, and corresponding loan, in line with inflation up to a maximum of £9,000 + inflation.
    - Providers with uncapped fees will be able maintain their tuition fee loan cap in line with inflation up to a maximum of £6,000 + inflation.
- If institutions choose not apply for the TEF in Year Two, their fee cap will fall back to the higher level, without the interest, £9,000.

Year Two (Trial) – institutional applications in 2016/17

- Three TEF ratings will be awarded: Meets Expectations, Excellent and Outstanding. Any provider who opts to apply for the TEF and meets the baseline quality threshold will achieve at least a Meets Expectations rating. Higher ratings will be awarded for better performance. Providers that are successful in any level in Year Two will be able to keep their award for a maximum of three years.
- There will be no differentiation in financial incentives in Year Two. So, for all ratings, the Year Two financial incentives are identical to those given in Year One. Higher ratings will carry reputational weight, not financial weight. Therefore, the financial incentives for Year Two at all the TEF ratings will be:
    - The basic fee cap, and corresponding loan, will be maintained in line with inflation, on top of the existing inflationary increase from Year One.
    - The higher fee cap, and corresponding loan, will be maintained in line with inflation, on top of the existing inflationary increase from Year One.
- For providers with uncapped fees, the tuition fee loan cap will be maintained in line with inflation, on top of the existing inflationary increase from Year One.
- From Year Two onwards, the TEF assessment process will consist of both benchmarked core metrics and additional evidence that may be provided by the institution.
- The TEF assessments and judgements will be made collectively by an expert panel, chaired by a respected expert, and involving students, employer representatives and a widening participation expert.
- In order to limit the administrative burden associated with applying for the TEF, a number of proposals have been included in the Technical Consultation, with the intent to reduce the application burden on providers, including proposing a short (15 page) page limit. Furthermore, as the TEF will be voluntary, we do not expect institutions to apply if they

do not believe that benefits will outweigh the costs. We will also conduct a lessons-learned exercise following Year Two.

- Any institution may choose to re-apply in any year if they are not happy with their award.

Year Three – institutional applications in 2017/18

- As in Year Two, three TEF ratings will be awarded and any provider who opts to apply for the TEF and meets the baseline quality threshold will achieve at least Meets Expectations. As the TEF will be voluntary, it is assumed that institutions will only apply if they expect the benefits (reputational and financial) to outweigh the costs of application.
- From Year Three onwards, we will introduce differentiated fee cap and loan cap increases. All providers achieving a rating of Meets Expectations or higher will be eligible for an uplift, as a reward for good performance and to allow them to continue to invest in excellent teaching. Reflecting our wish to focus incentives where teaching is of higher quality, providers with a rating of Meets Expectations will be eligible for 50% of the inflationary uplift, while providers with a rating of Excellent or Outstanding will be eligible for 100% of the inflationary uplift.
- We will operate a history-blind system, meaning that a provider's fee/loan cap is solely dependent on their current TEF rating. This means coasting institutions will not be able to 'bank' increases gained if they performed better on the TEF in previous years, and new or improving providers will not be disadvantaged by being unable to catch up.
- There will be a single fee cap per provider, not different fee caps per cohort. This means that:
    - Where a provider's TEF rating drops for the academic year to which the new rating applies, they will have to lower the fees they are charging existing students.
    - Where a provider's TEF rating increases for the academic year to which the new rating applies, they will only be able to alter the fees for existing students if they have previously been explicit, in full compliance with consumer law, about the circumstances in which this might occur.
- A provider which falls below the baseline quality threshold will also lose any TEF award.
- Pilot assessments at a discipline level will also begin in Year Three, but with no financial consequences attached to them.

Year Four onwards – institutional applications 2017/18:

- Year Four of the TEF will, subject to the results of the disciplinary pilots, be the first year in which assessments at the ***discipline level*** will take place. This will continue in subsequent years.
- In Year Four onwards, in addition to disciplinary level awards, providers will continue to receive an institutional level award, based on an aggregation of the disciplinary level awards. The provider's fee and/or loan cap will be determined by the institutional level award

40. Currently, we expect there to be four ratings of the TEF from Year Four onwards.

41. Discipline level submissions are likely to be less detailed than at an institutional level. However, overall costs for submissions to an institution are likely to be greater as one submission will be required per discipline. To balance this, it is proposed that each award will last for five years from Year Four onwards, with the option to reapply in any year. The TEF will continue to be voluntary and as such we only expect institutions to apply if they expect the benefits (both reputational and financial) to outweigh the costs.

42. Any institution that applies for the first time will be able to access the highest level of inflationary fee uplift if successful. For example, if a provider chooses not to apply to the TEF in Years One-Three, but chooses to apply in Year Four and achieves the highest rating, it will be able to access the same uplifted maximum fee level as a provider which has been subject to the uplift each year.

43. In the new higher education landscape (see Box 1 overleaf), we assume that all Registered (basic) institutions will not be in scope for the TEF. However, all Approved and Approved (fee Cap) institutions with at least one reportable metric for each of the three areas from which core metrics are derived are expected to be in scope for the TEF from years 2018/19 onwards (Year Three of the TEF). The make-up of these models is defined below. It is important to be clear about the types of institutions in each model, as it will help inform the fees charged by Approved and Approved (fee cap) institutions, and therefore the associated likely benefits of the TEF. **To simplify the modelling, and for continuity all institutions in Years One and Two are classified according to new higher education landscape assumptions, as summarised in Box 1 and set out more detail in Annex A.**

Box 1: Higher education Landscape

As part of the wider higher education reforms, there will be a new single gateway system for the higher education sector. The current system involves three types of provider: publicly-funded higher education institutions, publicly-funded further education colleges and privately funded alternative providers.

Higher Education Providers in the current system

	Fee Cap	Loan Cap
HEIs	£9,000	£9,000
FECs with Access Agreements	£9,000	£9,000
FECs without Access Agreements	£6,000	£6,000
Alternative Providers	None	£6,000

In the new system, providers will instead be termed as Registered (basic), Approved or Approved (fee cap) providers. The diagram below gives an idea of how the old and new systems map across.

New Operating Model

Registered (basic)
- Providers currently outside the HE system
- Brand new providers

Approved
- Many APs that are currently designated
- Some new providers

Approved (fee cap)
- All current HEIs
- All current FECs with Access Agreements
- All current FECs without Access Agreements
- Some APs that are currently designated

Impact on different types of institutions

Registered (basic) Institutions

44. Registered institutions will not be in scope for the TEF. Therefore, we will not assess the impacts for these institutions. However, these institutions may lose out as a result of not being part of the TEF if students choose not to attend these institutions as they do not have a TEF rating. Registered institutions will know that they are not in scope for the TEF and this will form part of an institution's decision whether to become a Registered or Approved institution. This is therefore not a cost associated with the TEF and is instead related to the type of institution that an institution chooses to become.

Approved Institutions

45. Approved institutions will include a proportion of **Alternative Providers**[42]. This proportion will change each year as more institutions enter the Approved sector, and others leave. A single set of assumptions regarding the future number of HE providers is used throughout all regulatory impact assessments of the Higher Education Bill 2016. This is set out in detail in Annex A.

46. We do not have data on exact fees that **Alternative Providers** (APs) charge. However, we believe that there will be a small financial benefit to Approved APs. This is because we expect Approved APs to either charge the £6,000 tuition loan cap, or well above the £9,000. These providers would only have access to up to £6,000 of tuition fee loan and no access to teaching grant. We assume that APs that were charging between £6,000 and £9,000 in the old landscape would be financially better off moving to Approved (fee cap) (there are no barriers to switching).

47. BIS modelling of provider numbers estimates that approximately 70% of all Approved APs will charge above £9,000. This is based on the assumption that all institutions charging above £9,000 are assumed to be in the Approved part of the sector. These institutions will not benefit from indexed fee caps as they are already charging above the student loan cap. However, given students on their courses will have access to a higher student loan, which may cover a greater proportion of their overall fees, they may be able to attract more students as a result. In addition, they will benefit from the reputational advantage of a higher TEF rating. This will encourage more students to attend their institutions, once the Student Number Controls (SNCs) that restrict the number of students that an AP can recruit, are removed from Year Three as part of a separate reform to the HE landscape.

48. It is assumed that the remaining 30% of successful APs which charge the £6,000 cap will increase fees in line with inflation; and their student loan caps will also rise with their award so should not deter students. Therefore, these institutions will benefit from both a financial

[42] Privately-funded providers – for these purposes alternative providers refer only to institutions that has become a designated for student support funding by BIS

and reputational boost (from Year Three onwards, once Student Number Controls are removed).

Approved (fee cap) institutions

49. Approved (fee cap) institutions will include providers currently known as Higher Education Institutions **(HEIs), all FECs (with and without Access Agreements)[43] and a proportion of Alternative Providers** (as above this will change each year as the new system evolves).

50. All **HEIs** will benefit from both the TEF financial and reputational incentives. On average, HEIs charge the £9,000 fee cap. Given this concentration around the cap, and the cost inflation pressures HEIs are likely to face, we anticipate that HEIs which are successful during the TEF process will choose to increase their fees in line with inflation in Years One and Two, and in line with the percentage of inflation associated with their reward from Year Three onwards.

51. **FECs with Access Agreements** have the same fee cap as Higher Education Institutions (£9,000). These institutions are not expected to raise their fees in line with the new cap because on average these FECs charge £7,000 per student,[44] and so therefore already have the flexibility to do so if they wish. These providers will, however, benefit from the reputational advantage of the TEF as more students will choose to go to such institutions if they do well.

52. **FECs that do not have an Access Agreement** have their full-time tuition fees capped at £6,000, and part-time at £4,500. We assume that all FECs without an Access Agreement charge the maximum fee. Therefore, these institutions will potentially benefit from both the financial and reputational incentives associated with the TEF.

53. **Alternative Providers (APs)** that Approved (fee cap) are expected to provide a similar service to HEIs and charge similar fees. For this reason, we expect the Approved (fee cap) APs to charge £9,000 and to therefore benefit both financially and reputationally from doing well in the TEF, particularly once the SNCs are removed after Year Three.

54. **In both models, APs will only be able to reach higher ratings of TEF if they have enough data available to inform the metrics.** If they do not have enough data to inform the metrics, but have a successful QA review, they will receive a rating of Meets Expectations of the TEF on 'procedural grounds'. (At this point, we believe that in order for APs to reach higher ratings of the TEF, they will be required to have one or more years of data published on the National Student Survey, the Destination of Leavers from Higher Education Survey and the HESA Student Record on student retention and continuation. More information on this can be found in the Additional Evidence A at the end of this impact assessment.

[43] An access agreement sets out a university or college's fee limits and the access measures it intends to put in place e.g. outreach work and financial support.
[44] OFFA website https://www.offa.org.uk

Costs

55. Assumptions used in the cost analysis are outlined below. These may be subject to change following the outcome of the Technical Consultation:

I. All costs are in constant prices.

II. We expect institutions to apply to the framework if they believe the benefit (either financial and/or reputational) will exceed the cost of applying. See paragraph 34.

III. The number of institutions that are expected to fall in each of the ratings of quality will be roughly normally distributed. Our intention is that for Year Three and onwards, providers achieving Meets Expectations will receive a 50% inflationary uplift, while those achieving a rating of Excellent and above will receive a 100% inflationary uplift. There is a possibility that these percentages may alter, as the systems develops in the future. The number of institutions achieving each rating, and the financial reward associated with that rating, assumed to be as follows:

Table 2. Summary of Distribution of institutions in each TEF rating and associated financial reward rise for each year of operation

		Distribution of institutions across TEF ratings		% of inflation rise (on previous year fee)			
	Year One	Year Two-Three	Year Four onwards	Year One	Year Two	Year Three	Year Four onwards
Meets Expectations	100%	25%	20%	100	100	50	50
Excellent	-	50%	30%	-	100	100	100
Outstanding	-	25%	30%	-	100	100	100
Fourth rating	-	-	20%	-	-	-	100

To note: The proportion of providers that are rated as Meets Expectations from Year Two onwards does not include providers that will receive a Meets Expectations rating on 'procedural grounds'. It only includes institutions that have enough data to be considered for higher ratings as well.

IV. As shown above, we assume that a high proportion of institutions will achieve higher ratings of the TEF, i.e. those rated as Excellent or above. Therefore, institutions that will only benefit from reputational incentives (those FECs currently charging well below the fee cap, and APs currently charging well above £9,000) will only view their benefits as exceeding their costs if they receive an Excellent rating or above in any year as this will provide them with a reputational boost. Thus, we assume that institutions of this type who only expect to receive a rating of Meets Expectations will not apply. Therefore, using Table 2 above, we expect 75% of institutions that will experience only a reputational impact to apply in Years Two-Three, and 80% from Years Four onwards. The remaining 25% and 20% respectively will not apply. **This may lead to a small underestimate of the number of institutions that apply to the TEF**, as in reality, a few institutions only likely to receive a rating of Meets Expectations may still apply.

56. The TEF will allow institutions to hold awards for up to three years if awarded in Years Two or Three, and for up to five years if awarded in Year Four onwards. Institutions will also be able to choose to reapply each year if they want to try and improve their TEF rating. These assumptions are based on responses to the Green Paper consultation, where the majority of respondents favoured a five year award length. They could, however, be reviewed following the lessons-learned exercise that will operate as part of the TEF Year Two. This means that the proportion of institutions at each level will vary each year, although it is difficult to know how they will change. Therefore, for simplicity, we assume the proportion of institutions awarded each rating is as set out in Table 2 and then stays the same every year. **This may lead to an underestimate of benefits to institutions,** as in reality, we expect the number of institutions receiving higher ratings of the TEF to increase each year, as institutions receiving only a Meets Expectations rating will continue to reapply.

57. Year One will not represent any additional administrative cost to institutions, as we will use the existing QA process. From Year Two onwards, institutions will be judged on a wider set of evidence to demonstrate their teaching quality. Institutions are already required to return the main quantitative elements, as part of their conditions of grant funding and/or designation requirements. The quantitative data would primarily be based on elements taken from the National Student Survey, the Destination of Leavers from Higher Education Survey and the HESA Student Record on student retention and continuation. As this data is already collected, the main increase in cost will be where institutions choose to submit a qualitative submission as part of their TEF application. It is not expected that institutions that receive a Meets Expectations rating on 'procedural grounds' will incur any costs, as this will have been determined by existing QA process.

58. **In order to calculate the costs, two scenarios are analysed:**

- **Scenario One: Institutions apply every year to the TEF (high estimate);**

  Scenario One is the ***highest possible cost to institutions***. In reality, we would not expect all institutions to reapply. Those who received the highest ratings of the TEF would not choose to reapply until their award needs to be renewed, while only institutions aiming for a higher rating and who thought they had a realistic opportunity of being successful would choose to reapply. ***We would expect the overall cost to institutions to be considerably lower than in this scenario.***

- **Scenario Two: Institutions apply an average of every three years in Years Two and Three, and an average of five years from Year Four onwards (low estimate).**

  Scenario Two is our ***low estimate of costs to institutions***. This assumes that for those institutions that choose to apply for the TEF, they will not reapply to achieve a higher rating of the TEF, regardless of what rating of the TEF they receive, until their award needs to be renewed. In reality, we would expect some institutions to choose to reapply in order to achieve a higher rating of TEF award. ***We would therefore, expect the costs to institutions to be higher than in this scenario.***

59. In reality, we expect institutional behaviour to lie somewhere in between these two extremes. While this is something we will explore further as the detailed design of the TEF is consulted upon and finalised, the two key factors are likely to be:

(i) The proportion of institutions likely to be awarded each rating during each assessment year. At this stage, ahead of finalising the detailed design, it is assumed this will follow a broadly normal distribution (see Assumption IV).

(ii) The proportion of institutions who wish to apply sooner than that required to maintain their award – most likely because they believe they can achieve a higher TEF rating.

60. At this stage, our best estimate is based on the scenario where 25% of institutions apply every year and the remaining 75% hold their award until they need to reapply. This is based on the assumed allocation of the TEF awards and what this then implies in terms of the potential rewards of choosing to reapply in following years. It assumed that, depending on the year of operation, 20% to 25% of providers will receive a Meets Expectations rating and hence receive the lowest financial and reputational rewards. For this group there will be the strongest incentive to reapply, so we assume all 25% do so. In reality, it may be that some institutions judge that they cannot significantly improve on the case presented in the previous year and so will choose not to reapply. Correspondingly, we assume the remaining 75% of providers choose not to reapply as the benefits deriving from being rated as Excellent or above for the TEF will be satisfactory to them. In practice, it may be that some do choose to reapply to simply for the reputational rather than the financial benefits (e.g. moving from being rated as Excellent to being rated as Outstanding does not bring any further financial reward), if they perceived these reputational costs to exceed the cost of applying; but this proportion is difficult to estimate and any underestimate here is balanced by the conservative choice of 25% choosing to apply each year. Overall costs are therefore calculated by weighting Scenarios One and Two in the ratio 1:3.

Familiarisation costs

61. Estimates of familiarisation costs will depend on the detailed design of the TEF which will be consulted on for Year Two in the Technical Consultation. However, we have tested the familiarisation costs with our User Group (consisting of representatives from institutions, industry, and the student body). The expectation is that the TEF will be designed in a way that makes it clear how it will operate and what is required of providers so that they can quickly and efficiently decide whether to apply.

62. It is anticipated that familiarisation costs will relate to understanding the guidance and making an initial assessment of whether or not to apply. These costs will be made up of a director familiarising themselves with the guidance (one day), and asking a small junior team (three people) to consider how strong a case could be put forward (two days) and work with a finance colleague to assess what this might mean for revenues (one day). They would then want to consult with a senior board to take a decision on whether to apply or not (five directors for four hours initially, and eight hours when the assessment moves to discipline level).

Table 3. Wage rates by occupation and level[45]

Costs for time	Wage rate – from the Annual Survey of Hours and Earnings 2015	Wage assumed (£ per hour)	Number of workers	Hours required per worker
Director	Hourly rate for senior managers, directors and senior officials (familiarisation of guidance)	26	1	8
Board members	Hourly rate for senior managers, directors and senior officials (board members)	26	5	4 (Years Two and Three) 8 (Year Four onwards)
Junior team	Hourly rate for junior teaching and educational professionals	20	3	16
Finance colleague	Hourly rate for professional occupations (mid-level) (Finance colleague)	24	1	8
	Wages include non-wage costs of 19.8%, and are uprated to 2016 prices			

63. This suggests that in Year Two, an eligible institution is likely to see familiarisation costs as follows:

(£26 x 1 x 8) + (£26 x 5 x 4) + (£20 x 3 x 16) + (£24 x 1 x 8) = £1,880

64. For non-eligible institutions, after the guidance is read by the director, they will realise there is no point pursuing the TEF any further. Using the above figures, this is estimated to cost a non-eligible institution £208 (£26 x 8).

Scenario one: Institutions reapply every year

65. Institutions will not need to familiarise themselves with the TEF in Year One as they will be automatically offered an inflationary fee uplift if they pass their QA review. Years Two and Four will involve ‘full’ familiarisation costs as discussed above, as institutions will have to fully understand how the TEF works in Year Two, and how it changes with discipline level assessments in Year Four. When institutions re-apply in Year Three and Year Five onwards, they will be familiar with how the TEF works, so the familiarisation costs are assumed to be half of those in Years Two and Four.

[45] 2015 Age Group by Occupation (2digit SOC) – ASHE: Table 20.

Table 4. The number of institutions facing familiarisation costs in each year

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Incumbent Institutions	443	443	443	444	444	444	444	443	443	442
Eligible Incumbent Institutions	317	337	427	429	431	433	434	436	438	439
Non-eligible Incumbent Institutions	126	106	16	15	13	11	9	7	5	3
Number of new institutions	2	4	35	51	69	89	110	134	156	178
Eligible New Institutions	-	-	-	2	4	35	51	69	89	110
Non-eligible New Institutions	2	4	35	49	65	54	59	64	67	67

Table 5. Total Scenario One familiarisation costs to different types of institutions

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Total cost for eligible incumbent institutions	-	634,000	401,000	1,027,000	516,000	518,000	520,000	522,000	524,000	526,000
Total cost for non-eligible incumbent institutions	-	22,000	3,000	3,000	3,000	2,000	2,000	2,000	1,000	1,000
Total cost for eligible new institutions	-	-	-	5,000	5,000	42,000	62,000	83,000	106,000	132,000
Total cost for non-eligible new institutions	-	1,000	7,000	10,000	13,000	11,000	12,000	13,000	14,000	14,000
Total Cost to institutions	-	656,000	412,000	1,046,000	537,000	574,000	596,000	620,000	645,000	672,000

66. New entrants in each year will face non-eligible familiarisation costs in the year that they enter, and 'full' familiarisation costs once they become eligible for the TEF. This is because new entrants will need to familiarise themselves with the TEF when they enter the sector, will realise they do not have enough data to apply for the TEF until two years after entry (due to the need to build sufficient track record in the data sources used to inform the core metrics), and then once they do make a decision over whether or not it is in their interests to apply.

Scenario Two: Institutions apply an average of every three years in Years Two and Three, and an average of five years from Year Four onwards.

67. As in Scenario One, institutions will not need to familiarise themselves with the TEF in Year One. In Years Two and Three, we assume that on average institutions will familiarise themselves once over the two year period. For Years Four, onwards we assume that on average institutions will familiarise themselves twice over the seven year period.

68. New entrants will still familiarise themselves with the TEF that year. More detail on the number of institutions applying in each year can be found in Table 4.

Table 6. Total Scenario Two familiarisation costs to different types of institutions

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Total cost to eligible and non-eligible incumbent institutions	-	265000	265000	170000	170000	170000	170000	170000	170000	170000
Total cost to new non-eligible institution	-	2000	2000	4000	4000	4000	4000	4000	4000	4000
Total cost to new eligible institution				18000	18000	18000	18000	18000	18000	18000
Total cost to institutions	-	267000	267000	19100	191000	191000	191000	191000	191000	191000

69. The following table compares the familiarisation costs for the two scenarios:

Table 7. Estimated familiarisation costs for high, low and central scenario (£m)

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Low (Scenario Two)	0.00	0.27	0.27	0.19	0.19	0.19	0.19	0.19	0.19	0.19
High (Scenario One)	0.00	0.66	0.41	1.05	0.54	0.57	0.60	0.62	0.65	0.67
Best estimate	0.00	0.36	0.30	0.40	0.28	0.29	0.29	0.30	0.30	0.31

Application costs

Scenario One – high cost scenario:

70. Costs to institutions in **Year One** are expected to be zero. Institutions that are assessed by the Quality Assurance Agency (a process that would be carried out regardless of the TEF), and succeed will be given a Meets Expectations rating.

71. Information from the '*Research Excellence Framework (REF) Accountability Review: Cost, benefits and burden' report*[46] is used to form the basis for cost assumptions to institutions from Year Two onwards. The most comparable section of the REF submission is the research 'environment template'[47] . This element carries a weighting of 15%.

72. The report states that:

   a. 'environment template' took on average (estimating across HEIs) about 12% of central management time" to complete, while compiling the 'environment data' took on average 10% of central management time.

   b. Staff (At the Unit of Assessment level) spent a considerable amount of time preparing the environment template (17% on average).

73. While we do not have an average of the time spent across all staff levels, based on the estimates above we assume that approximately 15% of staff time (across central management and unit of assessment level staff) is spent on the environment template for REF and therefore, that the environment template accounts for 15% of the total cost of the REF. As highlighted in the report, the total cost of the REF to the Higher Education community was £232m, we assume that the cost of the environment template was in the region of £34.8m. In 2014, a total of 1,911 submissions were made to REF, implying a cost per submission of £18,000[48] (£18,700 in 2016 prices).

74. This estimate we believe to be a reasonable proxy of the potential cost to institutions of making a submission to the TEF. Much of the quantitative information which providers would be required to submit is already collected anyway, so any additional cost would relate mainly to further information (quantitative or qualitative) which providers choose to submit in support of their application. Our intention is to design the TEF in a way which is less burdensome than the REF, for example, while providers would have considerable flexibility in what additional information they chose to provide to demonstrate teaching flexibility, there are likely to be limits on the maximum length of the submissions in order to minimise the burden on providers.

75. Table 8 below sets out the total number of providers which we assume will apply to the TEF over the ten year appraisal period, broken down by institution type and motive for applying (financial or reputational). These numbers are taken from more detailed modelling work on forecast provider numbers which are set out in Annex A. A more detailed version of Table 8

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[46](http://www.hefce.ac.uk/media/HEFCE,2014/Content/Pubs/Independentresearch/2015/REF,Accountability,Review,Costs,benefits,and,burden/2015_refreviewcosts.pdf)

[47] This includes sections on the research strategy; both staff and research students; income, infrastructure and facilities; collaboration and contribution to the discipline. Within each written submission, as part of the description of the research environment, evidence is required about how it promotes equality and diversity. Sub-panels assess the research environment in terms of its 'vitality and sustainability', including its contribution to the vitality and sustainability of the wider discipline or research base

[48] (£232m x 0.15) / 1911 = £18,210

which provides a breakdown of the forecast numbers by type of provider can be found in the Additional Evidence B at the end of this impact assessment.

76. In **Year One** no submission is required. Therefore the cost to providers is £0.

77. In **Year Two** we assume a total of 313 providers will apply to the TEF. Assuming each institution that chooses to apply returns one submission each, then the total expected cost to the sector is approximately £5.9m[49].

78. In **Year Three** we assume a total of 395 providers will apply to the TEF. Again, assuming each institution that chooses to apply will be required to return one submission each, the expected cost the sector is £7.4m[50].

79. From **Years Four to Ten**, the number of providers which are forecast to apply to the TEF will rise significantly from 405 to 513 who now have the required number of years of data to become eligible to apply.

Table 8: Forecast number of providers that apply more detail on the number of institutions that apply for financial /reputational benefits can be found in Additional Evidence B)

	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8	YR9	YR10
Approved										
Total Applying	3	7	50	53	54	73	82	92	103	114
Total Applying and Receiving a Meets Expectation rating on Procedural Grounds	55	52	25	33	42	34	36	38	39	38
Total not Applying	7	8	13	12	14	15	17	19	21	22
Approved (fee cap)										
Total Applying	314	307	344	352	355	366	373	381	390	399
Total Applying and Receiving a Meets Expectations rating on Procedural Grounds	40	38	12	15	18	15	16	17	17	16
Total not Applying	26	37	34	30	30	30	30	31	31	31
Total Applying	**317**	**313**	**395**	**405**	**409**	**439**	**455**	**473**	**492**	**513**
Total Applying and Receiving a Meets Expectations rating on Procedural Grounds	**95**	**89**	**37**	**48**	**60**	**49**	**52**	**55**	**56**	**54**

Assumptions: A small number of providers will not be eligible to apply because they either have not had a successful QA review or do not have the necessary number of years of data. The rise in the number of providers from Year Four onwards reflects an increase in the number of existing and new APs who have the required number of years of data to become eligible to apply.

80. In addition to the providers that apply every year, more providers will receive a rating of Meets Expectations on 'procedural grounds' each year. It is not expected that these will incur

49 313 x18700=£5.9m

50 (395) x18700) x18700=£7.4m

any costs, as they will use the existing QA process. Detail on the number of providers expected to receive a rating of Meets Expectations on ‘procedural grounds’ in each year is outlined in the Additional Evidence B at the end of this impact assessment.

81. In Year Four, assessments at the discipline level will be introduced. These can range from a minimum of one to a maximum of 20[51]. For the purposes of this analysis we assume that all institutions have the maximum number of disciplines and submit a discipline level submission for all their disciplines plus an institutional level submission. In reality, some institutions will have fewer disciplines, particularly where they are more specialist institutions. It is assumed that providing the necessary information for a discipline level submission is less burdensome than for an institution level submission, for example because the information requirements may have a narrower, faculty specific focus. For the purpose of this impact assessment, it is assumed that the cost of a discipline level submission is a third of the average cost of a REF submission which is approximately £6,200[52].

82. Assuming institutions apply each year, each submitting 20 discipline level applications[53], then the total expected cost will be £58m in Year Four, rising to £74m in Year Ten (see Table 9 below). As noted this higher figure is driven in part by the marked increase in the total number of applicants over this period. The average cost per applicant (submitting 20 discipline level assessments and one institution level assessment) is estimated to be approximately £140,000 over the period.

83. In practice, there will be some variation across institutions, reflecting the number of discipline assessments they submit, how specialised the institution is, and also the amount of information institutions chooses to submit in support of their application.

Scenario Two – low cost scenario:

84. Application costs in Scenario Two are assumed to be zero in **Year One**. Institutions that are successful in Year One will be given a one year award; they will not be entitled to keep it for more than one year.

85. In Years Two and Three, institutions will keep their award for the three year period. From Year Four onwards, institutions will keep their awards for a five year period.

86. At this stage we do not know at which point institutions may choose to apply for their award. We assume that in Years Two and Three institutions will make on average one application across the two year period. We therefore take an average of the costs calculated for scenario one over this period. The average cost for Years Two to Three is £6.6m, or **£3.3m per year**.

[51] We have not decided how many categories of discipline will be assessed so we have assumed that disciplines will be measured in broad groupings, used by HESA, see link: https://www.hesa.ac.uk/component/content/article?id=1787

[52] (£18,700 x 1/3) = £6,233

[53] It is estimated that there is a maximum of 20 disciplines per institution (this is in line with 20 UCAS JACS codes, excluding combined study).

87. For Years Four to Ten, when awards last five years, we assume that institutions will make on average two applications during this seven year period. The average cost to all institutions during this period is £65m per application, and £130m[54] for the full period. The average annual cost per year is therefore equivalent to **£19m** (see Table 9 below).

Total costs:

88. Using the approach outlined above to derive our best estimate of costs (i.e. weighting Scenario One and Scenario Two in the ratio 1:3), average annual costs of Years Two and Three are **£4.1m per year**, while average annual costs for Years Four to Ten are **£30.3m per year (see Table 9)**.

Table 9: Annual costs of applications (£m)

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Low (Scenario Two)	0.0	3.3	3.3	18.7	18.7	18.7	18.7	18.7	18.7	18.7
High (Scenario One)	0.0	5.9	7.4	58.1	58.7	62.9	65.3	67.9	70.7	73.7
Best estimate	0.0	4.0	4.3	28.5	28.7	29.7	30.3	31.0	31.7	32.4

Total costs to institutions

89. The total cost of the TEF to institutions will cover both familiarisation costs and application costs. These costs are outlined below. **The average annual total cost to all institutions over the ten year period is £22.3m.** This is equivalent to an average annual cost of £53,000[55] per institution. To put this in context, the REF costs an institution on average £230,000[56] per year. Therefore, the TEF will be significantly less costly to institutions than the REF.

[54] 65 x 2=130m
[55] 22.3m/ 421(average number of institutions/year)=£53,000
[56] £35m (cost of REF to sector per year)/154(number of institutions applying to REF)=£227,272. http://www.hefce.ac.uk/media/HEFCE,2014/Content/Pubs/Independentresearch/2015/REF,Accountability,Review,Costs,benefits,and,burden/2015_refreviewcosts.pdf

Table 10: Total annual costs to institutions (£m)

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Low (Scenario Two)	0.0	3.6	3.6	18.9	18.9	18.9	18.9	18.9	18.9	18.9
High (Scenario One)	0.0	6.5	7.8	59.2	59.2	63.5	65.9	68.5	71.3	74.4
Best estimate	0.0	4.3	4.6	28.9	28.9	30.0	30.6	31.3	32.0	32.7

Benefits

90. The benefits below focus on the financial benefits of the TEF that flow from being able to operate within a higher charge cap if the institution demonstrates teaching excellence. It does not consider any financial benefits to an individual provider that might flow from an enhanced reputation for a high TEF reward (at a sector wide level the gains to one provider of a student switching will be offset by the loss to another provider. Although there will be an increase in allocative efficiency, we are unable to monetise this). As discussed above, those providers that are currently charging tuition fees near or at the cap are expected to benefit financially, whereas those charging tuition fees well below the cap will not. We believe there will be reputational benefits to some institutions but we do not attempt to quantify them. This is because although we expect institutions that receive higher ratings of the TEF will be able to attract more students, we do not know the scale of this. The methodological approach to estimating the total additional expected benefits from allowing different providers to charge higher fees depending on the TEF rating attained is described below.

91. For the counterfactual scenario, where students fees are assumed to remain fixed at their current levels, total student fee income for the each mode of study and institution (Full Time/ Part Time, HEI/FEC) is calculated by multiplying the relevant student numbers profile by the corresponding student fee cap. Thus for example, in nominal terms (relating to Tables 12 and 13), total student fee income for full time HEI students for an HEI in Year Three is equal to 1.055m students x £9,000 = £9,495m.

92. In real terms (see Tables 14 and 15), under the counterfactual scenario, the value of the tuition fee cap falls, reflecting the eroding impact of inflation. In real terms, the total student fee income for full time HEI students for an HEI in Year Three is equal to 1.055m students x £8,244 = £8,698m.

93. For the reform scenario, the calculation is more complicated and requires us to make assumptions regarding the distribution of TEF awards and the corresponding uplift received, as summarised in the table below:

Table 11: Assumed distribution of TEF ratings between institutions

		Distribution of institutions across TEF ratings		% of inflation rise (on previous year fee)			
	Year One	Years Two and Three	Year Four onwards	Year One	Year Two	Year Three	Year Four onwards
Meets Expectations	100%	25%	20%	100	100	50	50
Excellent	-	50%	30%	-	100	100	100
Outstanding	-	25%	30%	-	100	100	100
Fourth rating	-	-	20%	-	-	-	100

94. Firstly, we allow for inflation-linked increases in the fee cap across institutions and modes of study. In Year Two, receiving a Meets Expectations rating or above will allow institutions to increase their fee cap by full inflation. In Year Three, there are assumed to be three TEF ratings, with inflation-linked uplift ranges of 50% for those awarded a Meets Expectations rating, and 100% for those getting higher awards. For Year Four onwards, where there are assumed to be four TEF ratings, the inflation uplift is again 50% for those receiving a Meets Expectations rating and 100% for those scoring better. We have not modelled more than four different ratings of award within the TEF.

95. Secondly, we assume that the proportion of both Approved and Approved (fee cap) institutions attaining different ratings of the TEF is roughly normally distributed. In Years One to Three, we assume the split between Meets Expectations, Excellent and Outstanding ratings is 25%, 50%, 25% while from Year Four onwards, the corresponding split between Meets Expectations, Excellent, Outstanding and a fourth rating of the TEF is 20%, 30%, 30%, 20%. Although we know that the proportion of providers receiving each rating will change over time, due to institutions reapplying, this is a conservative and simplifying assumption.

96. Total expected student fee income is then calculated as the weighted sum of student income across the different TEF ratings where the weights are the proportion of institutions (and by implication students) assumed to fall within a particular TEF category. Thus for example, in nominal terms (relating to Tables 12 and 13), total student fee income for full time HEI students in Year Three is equal to:

- (£9,825 (per student tuition fee) x 0.75 (proportion of institutions rated as Excellent or above) x 1.055m (the number of students)) + (£9,677 x 0.25 x 1.055m) = £10,326m.

  Additional student fee income is then calculated by subtracting from this figure the corresponding counterfactual figure (£9,495m) to give £831m.

- In real terms (relating to Tables 14 and 15), total student fee income for full time HEI students in Year Three is equal to:

(£9,000 per student tuition fee) x 0.75 (proportion of institutions rated as Excellent or above) x 1.055m (the number of students) + (£8,863 x 0.25 x 1.055m) = £9,459m.

Additional student fee income is then calculated by subtracting from this figure the corresponding counterfactual figure (£8,698m) to give £761m in real terms.

97. Tables 12 to 13 overleaf illustrate how fee caps will be calculated for the TEF policy purposes. These figures are in cash or nominal terms as this is how the amount students will actually be charged. However, for the purpose of EANCB calculations within this impact assessment these amounts need to be expressed in constant price terms, as is done in Tables 14 and 15.

Table 12: Higher Education Institutions (HEIs): Estimated additional student fee income as a result of financial benefits (Approved (fee cap) Institutions[57]

£9,000 has been used for 'do nothing' modelling purposes, reflecting the current maximum fee cap.

Year	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
FT HEI Student Numbers (m)	1.00	1.02	1.04	1.06	1.07	1.09	1.11	1.13	1.16	1.18
Inflation (OBR RPIX)	2.5	2.8	3.0	3.1	3.1	3.0	3.0	2.9	2.9	2.8
Fees without TEF	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000
Fees a rating of Meets Expectations	-	9,252	9,530	9,677	9,827	9,975	10,124	10,271	10,420	10,566
Fees a rating of Excellent or above	-	-	9,530	9,825	10,130	10,433	10,746	11,058	11,379	11,697
Tuition Fee Income without TEF (£m)	8,955	9,180	9,360	9,495	9,585	9,787	9,994	10,205	10,420	10,640
Tuition Fee Income with TEF (£m)	-	9,435	9,911	10,326	10,724	11,246	11,795	12,360	12,952	13,561
Extra Income (£m)	-	255	551	831	1,139	1,459	1,801	2,155	2,532	2,921

[57] In practice all tuition fee caps will be rounded down to the nearest £5. £9,000 has been used for 'do nothing' modelling purposes, reflecting the current maximum fee cap.

Year	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
PT HEI Student Numbers (m)[58]	0.18	0.17	0.18	0.19	0.20	0.20	0.20	0.20	0.20	0.21
Inflation (OBR RPIX)	2.5	2.8	3.0	3.1	3.1	3.0	3.0	2.9	2.9	2.8
Fees without TEF	6,750	6,750	6,750	6,750	6,750	6,750	6,750	6,750	6,750	6,750
Fees with a rating of Meets Expectations	-	6,939	7,147	7,258	7,370	7,481	7,593	7,703	7,815	7,924
Fees with a rating of Excellent or above	-	-	7,147	7,369	7,597	7,825	8,060	8,294	8,534	8,773
Tuition Fee Income without TEF (£m)	1,181	1,148	1,181	1,249	1,316	1,331	1,347	1,362	1,378	1,394
Tuition Fee Income with TEF (£m)	-	1,179	1,251	1,358	1,47	1,530	1,589	1,650	1,713	1,776
Extra Income (£m)	-	32	70	109	156	198	243	288	335	383
Total	-	287	620	941	1,295	1,658	2,044	2,443	2,867	3,304

58 The figures show a scenario in which part time higher education entrant numbers increase by 10% per year following Autumn Statement announcements, which include a new system of maintenance support for higher education students wishing to study part time by 2018-19. The scenario assumes that part time numbers continue to grow until the number of part time higher education students returns to the levels seen in 2012/13 by 2027/28.

Table 13: Further Education Colleges (FECs) without Access Agreements: Estimated additional student fee income (Approved (Fee Cap) Institutions)[59]

Year	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
FT FEC without AA Student Numbers (m)	0.023	0.023	0.025	0.025	0.025	0.026	0.026	0.027	0.027	0.028
Inflation (OBR RPIX)	2.50	2.8	3.0	3.1	3.1	3.0	3.0	2.9	2.9	2.8
Fees without the TEF	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000
Fees with a rating of Meets Expectations	6,000	6,168	6,353	6,452	6,552	6,650	6,750	6,847	6,947	7,044
Fees with a rating of Excellent or above	-	-	6,353	6,550	6,753	6,956	7,164	7,372	7,586	7,798
Tuition Fee Income without the TEF (£m)	135	135	150	150	150	153	156	160	163	167
Tuition Fee Income with the TEF (£m)	-	138	158	162	167	175	183	192	201	210
Extra Income (£m)	-	3	8	12	17	22	27	32	38	43

[59] In practice all tuition fee caps will be rounded down to the nearest £5. £6,000 has been used for ‘do nothing’ modelling purposes, reflecting the current maximum fee cap.

Year	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
PT FEC Student Numbers (m)[60]	0.008	0.008	0.008	0.008	0.008	0.008	0.008	0.008	0.008	0.008
Inflation (OBR RPIX)	2.5	2.8	3.0	3.1	3.1	3.0	3.0	2.9	2.9	2.8
Fees without the TEF	4,500	4,500	4,500	4,500	4,500	4,500	4,500	4,500	4,500	4,500
Fees with a rating of Meets Expectations	4,500	4,626	4,765	4,839	4,914	4,987	5,062	5,136	5,210	5,283
Fees with a rating of Excellent or above	-	-	4,765	4,912	5,065	5,217	5,373	5,529	5,689	5,849
Tuition Fee Income without the TEF (£m)	34	34	34	34	34	34	35	35	35	36
Tuition Fee Income with the TEF (£m)	-	35	36	37	38	39	40	42	43	45
Extra Income (£m)	-	1	2	3	4	5	6	7	8	9
Total (£m)	-	4	10	15	21	27	33	39	46	52

[60] The figures show a scenario in which part time higher education entrant numbers increase by 10% per year following Autumn Statement announcements, which include a new system of maintenance support for higher education students wishing to study part time by 2018-19. The scenario assumes that part time numbers continue to grow until the number of part time higher education students returns to the levels seen in 2012/13 by 2027/28.

Table 14: Benefits to HEIs in real terms

Year	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
FT HEI Student Numbers (m)	0.995	1.02	1.04	1.055	1.065	1.087	1.110	1.134	1.158	1.182
Inflation (OBR RPIX)	2.5	2.8	3	3.1	3.1	3	3	2.9	2.9	2.8
Fees without the TEF	9,000	8,755	8,500	8,244	7,996	7,764	7,537	7,325	7,119	6,925
Fees with a rating of Meets Expectations	-	9,000	9,000	8,863	8,727	8,598	8,471	8,350	8,231	8,117
Fees with a rating of Excellent or above	-	-	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000
Tuition Fee Income without the TEF (£m)	8,955	8,930	8,840	8,698	8,516	8,443	8,370	8,305	8,242	8,186
Tuition Fee Income with the TEF (£m)	-	9,178	9,360	9,459	9,527	9,700	9,876	10,057	10,242	10,431
Extra Income (£m)	-	248	520	761	1011	1257	1507	1752	2000	2245
PT HEI Student Numbers (m)	0.175	0.17	0.175	0.185	0.195	0.197	0.200	0.202	0.204	0.206
Inflation (OBR RPIX)	2.5	2.8	3.0	3.1	3.1	3.0	3.0	2.9	2.9	2.8
Fees without the TEF	6,750	6,566	6,375	6,183	5,997	5,823	5,653	5,494	5,339	5,193

Year	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Fees with a rating of Meets Expectations	-	6,750	6,750	6,647	6,546	6,449	6,353	6,263	6,173	6,088
Fees with a rating of Excellent or above	-	-	6,750	6,750	6,750	6,750	6,750	6,750	6,750	6,750
Tuition Fee Income without the TEF (£m)	1,181	1,116	1,116	1,144	1,169	1,148	1,128	1,109	1,090	1,072
Tuition Fee Income with the TEF (£m)	-	1,147	1,181	1,244	1,308	1,320	1,331	1,343	1,354	1,366
Extra Income (£m)	-	31	66	100	139	171	203	234	264	294
Total Extra HEI Income (£m)	-	279	586	861	1,150	1,428	1,710	1,986	2,265	2,539

Table 15: Benefits to FECs in real terms

Year	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
FT FEC Student Numbers (m)	0.023	0.023	0.025	0.025	0.025	0.026	0.026	0.027	0.027	0.028
Inflation (OBR RPIX)	2.5	2.8	3	3.1	3.1	3	3	2.9	2.9	2.8
Fees without the TEF	6,000	5,837	5,667	5,496	5,331	5,176	5,025	4,883	4,746	4,616
Fees with a rating of Meets Expectations	-	6,000	6,000	5,908	5,818	5,732	5,648	5,567	5,487	5,411
Fees with a rating of Excellent or above	-	-	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000
Tuition Fee Income without the TEF (£m)	135	131	142	137	133	132	131	130	129	128
Tuition Fee Income with the TEF (£m)	-	135	150	149	148	151	153	156	159	161
Extra Income (£m)	-	3	8	11	15	19	22	26	30	33
PT FEC Student Numbers (m)	0.008	0.008	0.008	0.008	0.008	0.008	0.008	0.008	0.008	0.008
Inflation (OBR RPIX)	2.5	2.8	3	3.1	3.1	3	3	2.9	2.9	2.8
Fees without the TEF	4,500	4,377	4,250	4,122	3,998	3,882	3,769	3,662	3,559	3,462
Fees with a rating of Meets	-	4,500	4,500	4,431	4,364	4,299	4,236	4,175	4,115	4,059

Year	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Expectations										
Fees with a rating of Excellent or above	-	-	4,500	4,500	4,500	4,500	4,500	4,500	4,500	4,500
Tuition Fee Income without the TEF (£m)	-	33	32	31	30	29	29	28	28	27
Tuition Fee Income with the TEF (£m)	-	34	34	33	33	34	34	34	34	35
Extra Income (£m)	-	1	2	3	3	4	5	6	6	7
Total FEC Income (£m)	-	4	10	14	18	23	27	32	36	41

Approved institutions

98. There will be an average of 20 APs per year that benefit financially from the TEF. These are the APs that are expected to charge at the £6,000 cap. In addition to this, there will be an average of 39 APs per year that receive a rating of Meets Expectations on ‘procedural grounds’ due to a lack of data showing their track record at that particular time. The additional benefits to these APs have not been estimated as data is not available about the number of students at these institutions.

Approved (fee cap) institutions

99. Successful HEIs in each year will benefit from the financial incentives of the TEF. Their fee cap will rise in line with their associated reward, allowing greater flexibility to the institutions to choose what fee levels to set for their students. Assuming that 128 out of 129 HEIs pass their QA assessment in 2017/18, and all 129 HEIs pass the assessment every year from 2018/19 onwards,[61] there will be an average annual benefit to HEIs compared to the ‘do nothing’ scenario of £1.3bn (this is calculated in real terms).

100. The £1.3bn figure is calculated by assuming the higher fee cap will be maintained at £9,000 for full-time students and £6,750 for part-time students in real terms in all years. This is compared to the ‘do nothing’ scenario where the tuition fee cap would otherwise fall in real terms. Furthermore, it assumes the TEF will allow fees to increase in line with inflation for both part time and full-time students and all successful HEIs will choose to charge the higher fee. This assumption has been made based on evidence from the OFFA website that shows that all HEIs in 14/15 were charging on average £8,740[62] per student, which is approaching the fee cap. Therefore, we assume that these institutions will increase their fees if given the option. This assumes that variation in the range of fees charged by the sector do not increase as result of improved competition from the TEF.

101. As discussed above, all eligible FECs[63] without Access Agreements (an average of 108 per year) will financially benefit from the TEF. **This equates to an average annual benefit of £20 million a year to these FECs (the average of the final row in Table 15).** This is based on the assumption that all successful FECs without Access Agreements (around half of all FECs) will choose to charge the higher fee. In line with OFFA[64], we assume that all FECs without an Access Agreement charge the maximum fee. Therefore, all FECs without Access Agreements will increase their fees in line with inflation each year if given the option.

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[61] Estimated by QA based on current figures showing the number of institutions that pass QA
[62] https://www.offa.org.uk/publications/analysis-data-and-progress-reports/
[63] It is assumed that 20 out of all FECs (with and without Access Agreements) will not pass QA in Year One, and 10 of them from Year Two onwards will not pass. This is based on current QA figures showing the number of institutions that pass QA.
[64] OFFA website https://www.offa.org.uk

102. FECs with Access Agreements have the same fee cap as Higher Education Institutions (up to £9,000). These institutions are not expected to raise their fees in line with the new cap because on average[65] these FECs charge £7,000 per student; they are not charging the maximum cap (£9,000) although they have the flexibility to do so. If the cap increases, there is no reason why an FEC will choose to charge higher than £9,000.

103. We expect that some current Alternative Providers will choose to become Approved (fee cap) institutions. However, for modelling purposes, we do not assume that this leads to an increase in the overall number of students in Approved (fee cap) institutions compared to the current HEI model. Furthermore, we have not calculated the benefits to on average, the 20 new providers per year who receive a rating of Meets Expectations on 'procedural grounds', as we do not have access to student numbers at these institutions. Therefore, for modelling purposes, there will not be an additional financial benefit to the sector as a result of Approved (fee cap) APs. This is likely to underestimate the potential benefits to this part of the sector.

104. **Therefore, Approved (fee cap) institutions are expected to benefit financially by £1.3bn average annual benefit in real terms.**

Overall Benefit to Institutions

105. The sector is expected to experience **an average annual benefit of £1.3bn.** This is likely to be an underestimate as it does not include new providers that have received a rating of Meets Expectations on 'procedural grounds'. In addition to this, all successful institutions will experience a reputational advantage, which will mean that more students will be attracted to their institution, further increasing tuition fee incomes, and the quality of students or graduates. This will only be a net benefit to the sector in revenue terms if more domestic and international students are encouraged to study in England. If this does not change then it is expected that any change in student choices will be offsetting i.e. they will choose better institutions and courses at the cost of worse performers. The net benefit to the sector would then be neutral, even if for the economy as a whole it was better due to increased allocative efficiency i.e. students going to better institutions. We have not modelled what impact the TEF might have on total student numbers and therefore this source of potential benefit does not feature in our calculations.

106. A key driver of the benefits calculations is the RPIX[66], which will be the key index of price inflation for the purpose of calculating fee cap rises, which the OBR forecasts to be around 3% in the medium to long-term. For sensitivity testing purposes, we also consider the scenario where RPIX is on average 2.5% across the ten year period. Based on these assumptions, our estimates of the benefits to institutions would be £1.1bn, which still remains a significant benefit to sector. The sensitivity analysis around the RPIX is for

[65] OFFA website https://www.offa.org.uk
[66] RPIX is the All Items Retail Prices Index Excluding Mortgage Interest Repayments. RPIX forecasts are now published by the Office for Budget Responsibility (OBR).

illustrative purposes only and the OBR forecast remains our best view of what future inflation is likely to be.

107. It is also anticipated that these reforms will lead to a greater flow of information and evidence on teaching quality and its impacts, helping institutions in the longer-term with the efficient delivery of their teaching services. Again, we do not attempt to quantify the benefits this would generate.

108. Overall, we calculate that the **net average annual benefit to institutions across the ten year period is equivalent to £1.3bn.**

Impact on employers

Costs

109. Employers may experience costs associated with having to increase the salaries of graduates. If students leave university with higher skills and demand higher wages, employers may offer higher salaries, incurring a cost. Whether employers choose to meet graduates' demands will depend on the relative supply and demand of graduates, and will depend on whether graduates are viewed as more productive as a result of the TEF. This increased cost is not expected to be significant to employers as the increased costs will be offset by the increased productivity of their employees.

Benefits

110. Employers' assessment processes may be facilitated by the introduction of the TEF. The TEF will enable employers to better identify graduates that have attended an institution with excellent teaching and which provides their graduates with skills that are applicable for employment. In addition, there will be improvements in the matching between graduates and employers, increasing the efficiency of the graduate labour market. This will mean that employers may have to spend less time sifting through applications, giving them both an administrative saving.

111. Furthermore, employers may also benefit from productivity increases, if the TEF means that employers are more likely to hire the most suitable graduates for their jobs, they will spend less time training their new employees who have more appropriate skills. We are not in a position to value these benefits.

112. Responses to the higher education green paper support these assumptions. The CBI responded to say "The direction of the green paper is positive – the Teaching Excellence Framework (TEF) provides an opportunity to encourage high-quality teaching, as well as giving students and employers greater transparency – and can help address the current mismatch in the graduate labour market" while the "CIPD agrees that the Teaching

Excellence Framework (TEF) should reward and encourage teaching practices that are effective in developing students' knowledge, skills and – crucially – career readiness".[67]

Impact on students

Costs

113. All UK/EU students attending an institution that benefits from the financial incentives offered by the TEF, in any year, will experience an increase in tuition fees of no more than inflation, depending on the rating awarded and the fee decisions of the provider. Although such students may pay higher tuition fees compared to the 'do nothing' scenario, the maximum fee cap will be no higher than inflation. We therefore do not expect the real cost of tuition to change. Furthermore, students who take out student loans to cover their education will see their loan entitlement amounts automatically adjust. Students and graduates will continue to be protected with a progressive student loan system, in which borrowers incur no upfront fees and only begin to repay if their earnings are above the repayment threshold. After 30 years, any outstanding balance would then be written off. Students will experience no increase in the up-front costs of tuition, and only those who go on to earn sufficiently well that they repay all of their student loan will meet the full additional cost.

114. The loan outlay will increase by approximately £1.3bn due to the effect of higher tuition fees. We are not in a position to calculate how this will ultimately be split between graduates and taxpayers.

115. We do not expect any fee rises – in nominal terms - to deter students from applying to higher education due to the automatic adjustment that will occur to eligible loan amounts and the income contingent nature of repayments. Students attending institutions that benefit at a reputational but not financial level (FECs currently charging well below the fee cap, and APs currently charging well above £9,000), will not experience an increase in costs, for the same reasons that their institutions will not benefit from a rise in the fee cap (discussed in paragraphs 98 to 103).

116. Although tuition fees could change for a student during their course, institutions may decide to apply any changes only to new students, and any increase would not exceed inflation and the maximum cap set in secondary legislation. In any event, we expect institutions to provide up-front information to students. Institutions should make explicit to students when they enrol that their fees may change during their study. If institutions fail to do so and subsequently change the level of fees charged, students may have rights under consumer protection legislation.

Benefits

117. The Teaching Excellence Framework will benefit students in the following ways:

[67] CIPD: 'Fulfilling our Potential: Teaching Excellence, Social Mobility and Student Choice' Submission to the Department for Business, Innovation and Skills.

a) Identifying and rewarding the institutions that have the highest teaching quality, and improving information asymmetries. This will allow students to factor in the quality of teaching offered by a particular institution or particular discipline area into their decision-making process.

b) Increasing teaching quality across the sector, not just in the most successful institutions. By offering financial and reputational incentives, all institutions are more likely to strive for teaching excellence and focus on employability. This in turn should improve value for money and employment outcomes for students.

c) Students attending institutions that benefit financially from the TEF will see an increased benefit as those institutions are expected to reinvest their additional funds in teaching so that they are able to uphold their TEF reputation.

118. Improvements in information asymmetries will be gradual and increase as the TEF develops. In particular, rewarding all institutions that pass their QAA review with a rating of Meets Expectations in Year One will not mean that there is much more information to students about the relative quality of teaching in the majority of successful institutions, but rather it will highlight the unsuccessful minority. However, as the TEF develops, and higher ratings of the TEF are introduced, students will be able to see the quality of teaching at institutions at a more granular level, and the benefit to them will increase.

119. Furthermore, as the TEF develops each year, more students at all institutions will benefit in some respect from increases in teaching quality, as institutions compete for financial and reputational incentives. Students at consistently more successful institutions (particularly from Year Three onwards), may experience an additional benefit, if the institutions' reputations are upheld after the students graduate. Employers are likely to view graduates more highly if they have attended institutions with a strong reputation. This could impact on their lifetime graduate premium, which on average is estimated to be over £100,000[68].

Impact on Government/taxpayers

Costs

120. The Student Loan Company (SLC) may experience some additional administrative demands as a result of the TEF. This is because, compared to the 'do nothing' scenario, there will be a greater number of fee cap levels that the SLC will need to take into account.

121. Initial estimates from the SLC indicate that the potential costs of administering the TEF would be £1.1m in 2016/17. This is based on an estimate of days in resource time due to the complexities in the system that they would need to work on and test. We assume that the cost of any further changes for Year Two are likely to be minor, but that the SLC may incur further costs when this is introduced at discipline level. Therefore, we have assumed that there will also be additional costs of £1.1m in 2018/19.

[68] The Impact of University Degrees on the Lifecycle of Earnings: Some Further Analysis', (BIS, 2013)

122. As discussed above the additional student loan outlay to match any index-linked tuition fee cap will potentially have implications for the RAB charge[69] and therefore taxpayers for the fraction that students are unable to repay. This must be weighed against the benefits to both taxpayers and students of higher graduate earnings, which would also tend to offset RAB charge pressures. In fact, BIS analysis shows that an increase in fees for a single student cohort starting in 2016 by the full RPIX amount has a negligible RAB impact. As fees increase over time, the impacts will become more significant, and BIS will monitor developing position.

123. In a scenario where the TEF leads to better skills-matching and greater productivity among graduates, there is the potential for higher graduate earnings, which could benefit both taxpayers through both greater loan repayments and higher tax revenues.

Assessment Panel

124. The cost of the assessment panel will also be covered by the taxpayer.

125. The TEF will be assessed by an independent panel or panels. The current decision as to how these assessment panels will operate, how many panels will exist and how many members would sit on each panel has yet to be decided.

126. At present, it is intended that:

- In Year Two and Three there will be institutional level panels, overseen by HEFCE (OFS) and QAA
- In Year Four to Ten, there will be discipline level panels, supported by the Office for Students and other bodies it wishes to contract to.

127. HEFCE, in consultation with BIS and QAA have made assessments of the potential costs of running the TEF in terms of HEFCE, QAA and panellist time. For panellist costs these assumptions include estimates of panellist training, reading and assessing submissions, panel meeting time, moderation meetings, travel, accommodation etc. HEFCE and QAA cost assumptions include the team supporting the panel and running the TEF process. HEFCE believe these estimates to be conservative at this stage.

Scenario One

128. HEFCE estimates suggest that Year Two of the TEF will cost approximately £600,000 for HEFCE, and £700,000 for QAA in terms of running the TEF and supporting the TEF panels and £800,000 in terms of panellist training and operation. We use these assumptions for

[69] The model used is similar to the simplified version of the Student repayment model on the government website. However it has been adjusted to take account of recent policy changes such as the threshold freeze, Grants to Loans, new OBR figures and the new discount rate. https://www.gov.uk/government/publications/simplified-student-loan-repayment-model

both Year Two and Three. Therefore, the estimated cost of running the TEF in both Years Two and Three is equivalent to approximately £2.1m per year.

129. In Year Two, we estimate that there will be 313 submissions (i.e. one per institution) and 395 in Year Three – we therefore round to 350 submissions for both years. Using the HEFCE estimates of panellist time, this equates to approximately £2,300 of panellist time per submission. Given this estimate also includes significant training costs per panellist and in later years, panellists will be more familiar with the assessment process, we assume that this cost will fall in subsequent years. We therefore assume that the panellist cost per submission in subsequent years falls to £2,000. In Years Four to Ten, we assume that institutions will have both institutional level and discipline level submissions. Therefore, institutions will submit a maximum of 21 submissions each.

130. In addition, we estimate that the costs of supporting the panel members will increase slightly in Year Four to Ten to reflect the discipline level submissions. However, we don't expect this to increase significantly because we have assumed that the initial 'set up' costs in the first years of the TEF will be offset by the changes and efficiency gains made as the organisation responsible for administrating the TEF improves its processes in future years. We therefore assume that the costs of supporting the panel (done by the new Office for Students) will be approximately £1.5m per year.

131. Therefore, using the provider forecast numbers to estimate the number of submission per year, the total cost of running the panel would be £19m in Year Four, increasing to £23m in Year Ten.

Scenario Two

132. As highlighted above, in Years Two and Three, institutions will keep their award for the three year period. From Year Four onwards, institutions will keep their awards for a five year period.

133. As with the application costs, we assume that in Years Two and Three institutions will make on average one application across the two year period. Therefore, panel requirements will be lower. Scenario One assumed two applications in the same period. We therefore assume that the annual cost in Scenario Two is half of that in Scenario One, equivalent to an average annual cost in Year Two and Three of £1.1m.

134. In Year Four to Ten, Scenario One assumed that institutions make an application each year (i.e. seven applications over a seven year period). Scenario Two instead assumes that institutions make an average of two applications over the seven year period (once the award period has come to an end). The average cost per year between Year Four to Ten is £20.6m. The average annual cost for two applications during this period is therefore £5.9m[70].

[70] (£20.6m/7 years) x 2 applications = £5.9m

Total Assessment Panel Costs

135. Using the assumption outlined above that overall costs of covering the assessment panel will be calculated by weighting Scenario One: Scenario Two in the ratio 1:3, average annual costs are outlined in Table 16 below.

Table 16: Annual costs of panel process (£m)

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Low (scenario 2)	0.0	1.1	1.1	5.9	5.9	5.9	5.9	5.9	5.9	5.9
High (scenario 1)	0.0	2.1	2.2	18.5	18.7	19.9	20.6	21.4	22.2	23.1
Best estimate	0.0	1.3	1.4	9.0	9.1	9.4	9.6	9.8	10.0	10.2

Benefits

136. The TEF is expected to support higher economic productivity by increasing the number and quality of students graduating from English Higher Education Providers, and improving matching between employers and graduates. It should also help boost the reputation of the higher education sector, encouraging more international students to study in England. This should support graduate earnings levels and economic growth, and so lead to benefits to the taxpayer in the form of higher student loan repayments and greater tax revenues.

Small and Micro Business Assessment

137. In the higher education sector, the size of a provider is usually based on the size of its student population, as it is considered more relevant than employee numbers. For example, institutions with the same number of employees may have significantly different student populations, and therefore could greatly vary in size. However, for the purposes for the Small and Micro Business Assessment, we look at the number of employees at each institution.

138. 2014/15 HESA data shows that HEIs have on average 2,489 employees and that the smallest number of employees at a single HEI is 80. Analysis of the Further Education workforce data for England Report[71] shows that the average FTE staff per college is 383 for England. Therefore, we do not believe any HEI or FEC to be classified as a small business for this assessment.

139. However, we believe the average size of Alternative Providers is smaller: 95% (out of a sample of 160 APs) had 50 employees or fewer.[72] This includes all such providers, whether or not they offer courses eligible for student support. The most recent data suggests that APs account for 12% of all providers in the sector.[73]

[71] http://www.et-foundation.co.uk/wp-content/uploads/2014/09/SIR-Report.pdf
[72] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207128/bis-13-900-privately-funded-providers-of-higher-education-in-the-UK.pdf
[73] BIS Research Paper no.227 (2016): *Understanding the market of alternative providers of higher education and their students in 2014*

140. We have estimated that the TEF will have an overall deregulatory impact to all institutions. However, it may be the case that some larger institutions will benefit disproportionately more than smaller institutions (typically Alternative Providers in the current system).

141. This is because the TEF will not differentiate by size of provider. This is to ensure the benefits of the TEF apply uniformly to all students; regardless of the type of provider they attend. All HE providers will have the opportunity to apply to the Teaching Excellence Framework in order to have the quality of their teaching recognised. It is expected that the cost of applying for the TEF will be similar across all providers and therefore proportionately greater for smaller providers. As the TEF is voluntary we only expect institutions to apply if they believe the benefits will outweigh the costs to them.

142. In its early years, it is expected that many Alternative Providers will not have sufficient data to demonstrate their track record to achieve higher TEF awards. Where this is the case, in order to minimise any competitive disadvantage, the TEF assessment panel will flag that this is the reason for their award. This may have reputational impacts on these providers, and reduce their ability to compete for students. Furthermore, depending on whether which part of the sector they belong to, they will not be able to increase their tuition fees by the full amount of inflation or maximise the amount of student loan funding their students will be able to borrow to set against of their fees.

143. Overall, we believe that the TEF will provide a net benefit to small institutions, but this benefit will be relatively greater for larger institutions.

Additional Evidence A

Table 17: additional evidence 1: Maximum availability of metrics for APs in the next three years.

	Mid-2016 (Year Two TEF)	Mid-2017 (Year Three TEF)	Mid-2018 (Year Four TEF)
1 AP	All metrics – 3 years	All metrics – 3 years	All metrics – 3 years
+ 4 APs	2 years NSS 2 years employment 1 year non-continuation	3 years NSS 3 years employment 2 year non-continuation	All metrics – 3 years
+ 9 APs	1 year NSS 1 year employment	2 years NSS 2 years employment 1 year non-continuation	3 years NSS 3 years employment 2 year non-continuation
+ 50 APs		1 year NSS 1 year employment 1 year non-continuation	2 years NSS 2 years employment 2 year non-continuation
+ ~40 APs		1 year NSS 1 year employment	2 years NSS 2 years employment 1 year non-continuation

Additional Evidence B

Table 18: additional evidence: The number of providers expected to take part in the TEF in each year

	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8	YR9	YR10
Approved										
Those applying for financial benefits	1	3	20	21	21	28	31	35	39	44
Those applying for reputational benefits	2	4	30	33	33	45	50	56	63	70
Total Applying	**3**	**7**	**50**	**53**	**54**	**73**	**82**	**92**	**103**	**114**
Those applying and receiving a Meets Expectations rating on procedural grounds	**55**	**52**	**25**	**33**	**42**	**34**	**36**	**38**	**39**	**38**
Those not applying (not eligible)	7	6	3	4	5	4	4	5	5	5
Those not applying (benefits are not large enough)	-	1	10	8	8	11	13	14	16	18
Total not Applying	**7**	**8**	**13**	**12**	**14**	**15**	**17**	**19**	**21**	**22**
Approved (fee cap)										
Those applying for financial benefits	229	239	277	280	282	293	300	307	315	325
Those applying for reputational benefits	85	67	67	72	72	73	73	74	74	74
Total Applying	**314**	**307**	**344**	**352**	**355**	**366**	**373**	**381**	**390**	**399**
Those applying and receiving a Meets Expectations rating on procedural grounds	**40**	**38**	**12**	**15**	**18**	**15**	**16**	**17**	**17**	**16**
Those not applying (not eligible)	26	15	11	12	12	12	12	12	12	12
Those not applying (benefits are not large enough)	-	22	22	18	18	18	18	18	19	19
Total not Applying	**26**	**37**	**34**	**30**	**30**	**30**	**30**	**31**	**31**	**31**
Total Applying	**317**	**313**	**395**	**405**	**409**	**439**	**455**	**473**	**492**	**513**
Total Applying and Receiving a Meets Expectations rating on Procedural Grounds	**95**	**89**	**37**	**48**	**60**	**49**	**52**	**55**	**56**	**54**
Total not Applying	**33**	**45**	**47**	**42**	**44**	**45**	**47**	**49**	**51**	**53**

Title: Entry into the higher education sector and single entry gateway	**Impact Assessment (IA)**
IA No: BIS008(F)-HE	**Date:** 01/06/2016
RPC Reference No: RPC-3344(1)-BIS	**Stage: Final Stage**
Lead department or agency: BIS	**Source of intervention:** Domestic
	Type of measure: Primary legislation
Summary: Intervention and Options	**RPC Opinion:** GREEN

Cost of Preferred (or more likely) Option					
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2014	**One-In, Three-Out**	**Business Impact Target Status**	
£489.37m	£m	-£m	In scope	Qualifying provisio	

What is the problem under consideration? Why is government intervention necessary?

Currently, there are different regulatory systems for well-established HEFCE-funded Higher Education Institutions, and Alternative Providers (APs) of higher education. The process of entry into the sector is costly and burdensome, due to the barriers to entry for new entrants, including the need for validation agreements, granted by incumbent providers. There is an opportunity to move to a more streamlined, less burdensome regulatory framework that supports greater choice and competition, whilst protecting the student and the taxpayer interests and supporting the sector's reputation and growth.

What are the policy objectives and the intended effects?

The policy aims to address existing regulatory failures in the sector by creating a system where:

1. All HE providers can compete on a level playing field
2. Unnecessary bureaucracy is removed, primarily by cutting out duplicatory processes and through lighter-touch monitoring for the majority of providers
3. Barriers to entry into the sector are reduced/removed

As a result, students will benefit from improved value for money and greater choice and innovation in the sector. This should support long-term productivity growth.

What policy options have been considered, including any alternatives to regulation?

Validation – non-regulatory reforms chosen

Designation:

Option 0: "Do nothing" – existing separate process for AP designation.
Option 1 – creation of a single entry gateway, with a consistent, light-touch regulatory system

Degree-Awarding Powers (DAPs)

Option 0: "Do nothing" – DAPs awarded subject to QAA review, minimum four year track record.
Option 1 – granting probationary DAPs in parallel with entry at "Approved" levels.

University Title

Option 0: "Do nothing" – separate application for UT.
Option 1 – University Title granted in parallel with full DAPs

Will the policy be reviewed? It **will** be reviewed. **If applicable, set review date: 07/2023**

Does implementation go beyond minimum EU requirements?		N/A			
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes	
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:**		**Non-traded:**	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Jo Johnson Date: 3rd June 2016

Summary: Analysis & Evidence

Description: Entry into the higher education sector and single entry gateway

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 253.53	**High: 725.21**	**Best Estimate: 489.37**

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant	**Total Cost** (Present Value)
Low	0		20.5	**170.3**
High	0		34.1	**283.8**
Best Estimate	0		27.3	**227.0**

Description and scale of key monetised costs by 'main affected groups'

The measures here are aimed at reducing regulatory barriers. The two monetised costs are:
(1) The additional cost of complying with access agreement conditions for "Approved (fee cap)" providers
(2) The additional cost of Office for Independent Adjudicator (OIA) subscriptions for "Registered" providers

The two costs are a result of voluntary choices by HE providers, the benefits are assumed to at least outweigh the costs.

Other key non-monetised costs by 'main affected groups'

Costs of familiarisation with the new system – this will depend on the OfS' decisions in 2018/19.
Increased student choice, facilitated by a level playing field for providers will inevitably benefit certain providers (including existing and new APs) at the cost of others (most likely existing HEIs). This reform, in concert with other changes the Government is making, should support the sector increasing student numbers, particularly due to demographic changes, and among international students and those from underrepresented groups.

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant	**Total Benefit** (Present Value)
Low	0		64.3	**537.3**
High	0		107.2	**895.5**
Best Estimate	0		85.7	**716.4**

Description and scale of key monetised benefits by 'main affected groups'

Ongoing cost savings for providers in the sector:
1. Removal of annual re-designation of AP courses – from £2.9m to £6.1m annually
2. Creation of "Approved (fee cap)" – from £28.7m to £57.3m annually
3. Removal of separate application for Degree-Awarding Powers – £8.1m in 2018/19, then £1.1-£2.2m annually
4. Removed duplication between designation and Tier 4 visa sponsorship - £0.7m-£1.5m annually

Benefit to students:
1. Greater number of providers signing Access Agreements to provide support to students from underrepresented/ disadvantaged groups – £11.4m in 2018/19, rising to £29.3m in 2027/28

Other key non-monetised benefits by 'main affected groups'

A harmonised regulatory framework, reduced barriers to entry and growth in the sector, resulting in better value, quality and choice for students, and innovation in the HE sector.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5%

Behaviour of providers in the new system is very uncertain, including:
1. The rate of entry of new providers,
2. The rate of closure,
3. Providers' choice of operating models.

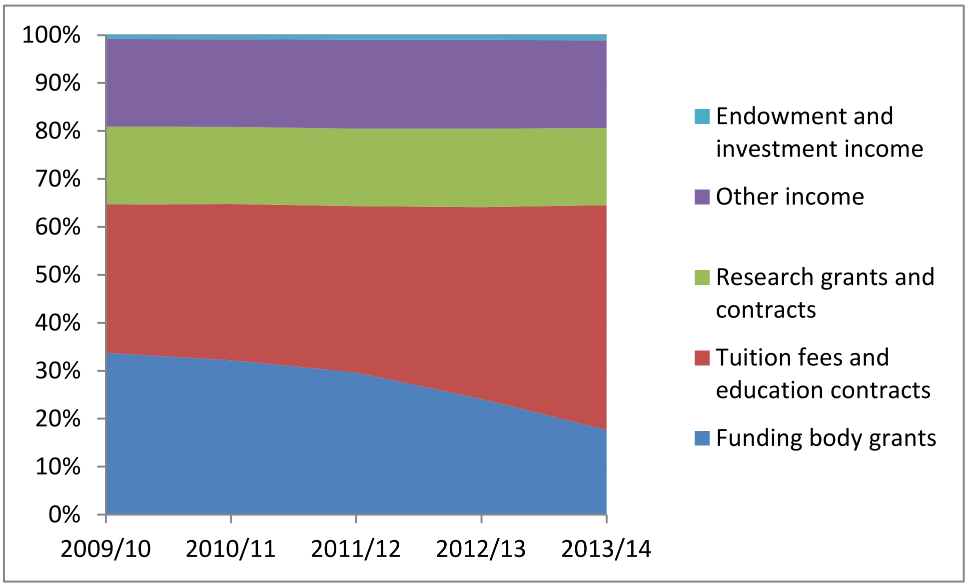
BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			**Score for Business Impact Target (qualifying provisions only) £m: -148.0**
Costs: 24.8	**Benefits: 54.5**	**Net: 29.7**	

Problem under consideration

1. The higher education sector in England currently has a wide variety of providers. 130 Higher Education Institutions (HEIs) get teaching grant funding from the Higher Education Funding Council for England (HEFCE) as do some Further Education Colleges (which also receive funding from Skills Funding Agency). Consequently, the academic standards, financial governance and other performance and delivery aspects of these providers are robustly regulated and monitored. However, as set out in Figure 1, these levels of grant funding are decreasing as a proportion of Universities' income. As a result, attaching conditions to grant is becoming less and less effective. To counteract this, Government has proposed to create the Office for Students[74], a new regulator with clear legislative powers to regulate the sector and encourage greater choice and competition, with students' interests at its heart.

Figure 1. Sources of income for UK HEIs, percentage split



Source: HESA finance data

2. APs of higher education do not currently receive grant funding from HEFCE, however, their students may be eligible for undergraduate student loans and they may have powers to award their own degrees, so they are also subject to a system checks and monitoring. This system of regulation, however, is quite different for APs; in many ways it is significantly more burdensome, for example they must go through an annual process of re-designation (discussed in more depth in the following section). This makes it difficult for new providers to enter the sector and compete with incumbent, publically funded providers.

[74] Please refer to the business case for the establishment of Office for Students, published alongside this.

Table 1. Number of existing HE providers, based on most recent data[75] for each category

Category	Number of HE providers
APs	**690**
Not in the system	580
Have access to student loans	110
of which with DAPs	*9*
Higher Education Institutions	**129**
Further Education Colleges	**244**
Without access agreements	150
With access agreements[76]	94
TOTAL HE providers	**1063**

3. Thus there are two different regulatory systems for well-established HEIs and newer APs. This means that new providers find it difficult to enter the sector and those that enter may face greater regulatory barriers compared to well-established providers. There has been a continued push to put all providers on a level footing in the HE system and align the regulatory systems as much as possible as way to promote innovation and improve choice for students. The 2011 Higher Education White Paper, "Students at the Heart of the System" announced measures to ensure all providers face the same burden, making it easier to secure Degree-Awarding Powers and University Title. However, only limited advances could be made in this area without legislative reforms.

4. There is currently very limited information about many of the APs that are not designated for student support, as they do not formally engage with government agencies (apart from those who have secured Tier 4 trusted sponsor status). Our latest research suggests that there were 690 APs (including those with designated courses) in England in 2014[77].

Entry into the sector for a new provider

Course validation

5. For a provider that wants to start offering recognised HE degrees, the first step is obtaining course validation. This first hurdle is currently based on a peer review process

[75] BIS (2016) "*Understanding the market of alternative providers of higher education and their students in 2014*", HEFCE HE provider register, OFFA and BIS internal data
[76] Only providers with access agreements with Office for Fair Access are allowed to charge more than £6,000 (and up to £9,000) for undergraduate degrees
[77] BIS (2016) "*Understanding the market of alternative providers of higher education and their students in 2014*"

whereby an existing provider with a power to award HE degrees has to quality assure the course of the market entrant. Course validation verifies that the course offered is genuinely meeting the standard of higher education. The courses are then also reviewed by the Quality Assurance Agency (QAA) as a part of their review of the validating institution.

6. While this process reduces the role of regulation in the process (by relying on the assurance offered by the existing provider) and has reputational advantages (the new provider can rely on the incumbent institution's reputation), there are several drawbacks. First, incumbent institutions do not have strong incentives to actively encourage entry of new providers as they are in effect creating competition for themselves. This means it is possible for high quality APs to be locked out of providing degrees if they cannot find a validating body willing to work with them. Secondly, it also leads to incumbent providers charging high fees for validation, which can usually amount to 10% of each student's course fees[78].

7. In addition, the administrative requirements can also act as a disincentive for institutions to play an active role in validation. The Competition and Market Authority, in their review of HE sector[79], pointed this out as one of the key issues with validation arrangements, "increasing regulatory scrutiny of institutional performance and oversight arrangements making validation increasingly risky". It has been noted that validation agreements are highly variable, with some validating HE providers taking a more hands off approach than others.

Specific Course Designation

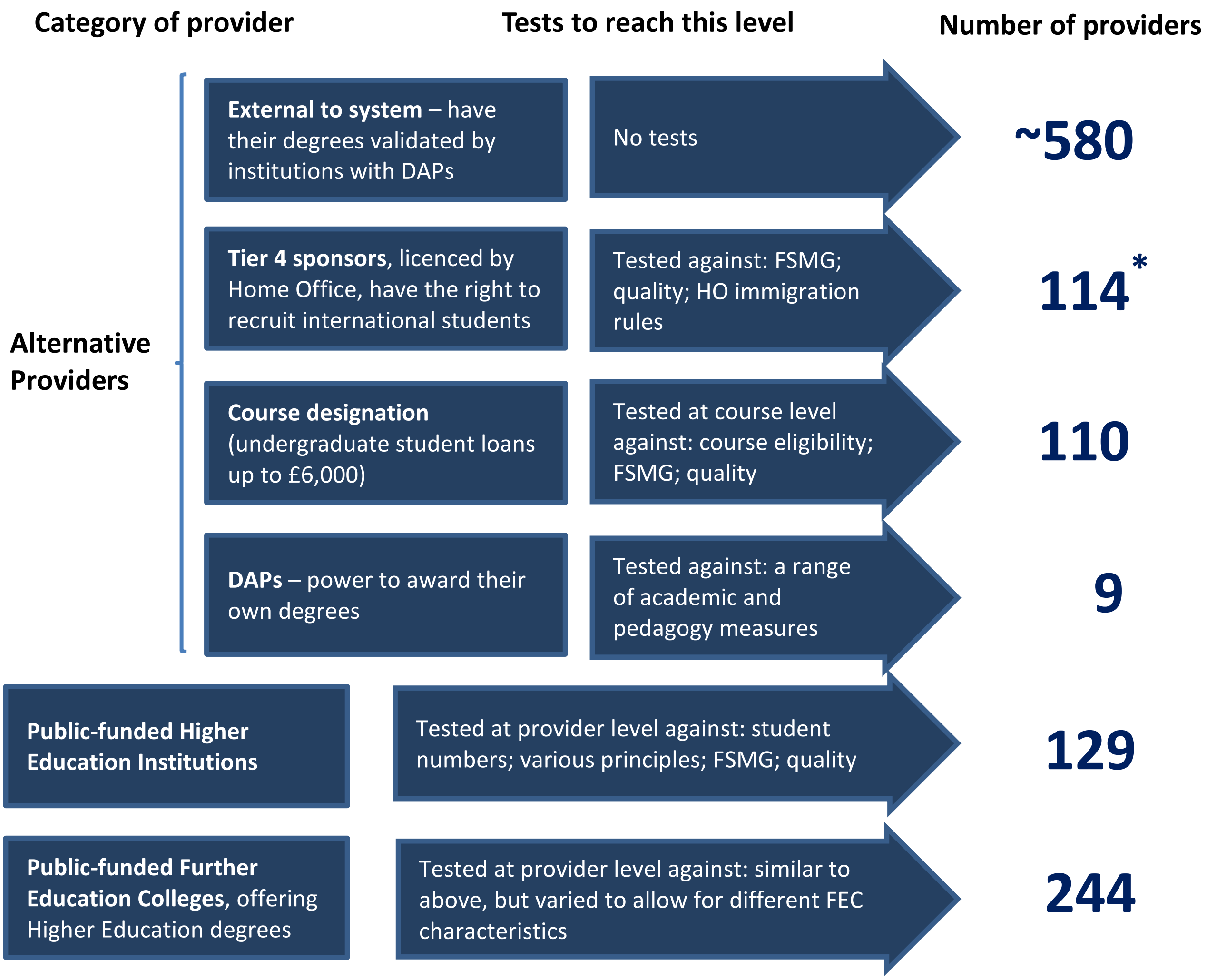
8. The majority of undergraduate students England are supported by the government through the system of tuition fee and maintenance loans. For APs, the government has to make sure that they are supporting students at institutions that offer high quality provision and are financially stable. Because of this, providers have to undergo thorough checks before they can offer student loans for students at their courses. The two key parts of this are:

    a. Financial Sustainability, Management and Governance (FSMG) checks, conducted by HEFCE. APs are required to provide their audited financial accounts, as well as evidence of meeting the standard requirements on governance arrangements

    b. Undergoing QAA Higher Education Review – a review of the provider's arrangements for maintaining academic standards and quality of the courses it offers.

[78] BIS survey of alternative providers with designated courses
[79] CMA (2015) "An effective regulatory framework for higher education"

Figure 2. Categories of HE providers in existing system



*** - Majority of the 114 APs with Tier 4 licenses are also designated for student support**

9. After achieving designation for a particular course, APs are then subject to annual re-designation, where they need to provide the evidence of their continued financial sustainability, student numbers and quality of course provision. This entails a significant administrative burden going through the process (e.g. collecting evidence). Many APs have also noted that this process heavily affects their financial planning and recruitment of students. APs only find out that they will have student support for the next academic year in the preceding March or, in more recent years, February, at the time when the vast majority of students have already applied and received offers. This places APs at a disadvantage, as they:

   a. Cannot plan ahead with any degree of certainty, which holds back investment.

   b. Cannot advertise their courses as eligible to receive student support until much later in the year compared to traditional higher education providers, making it harder to recruit students – many of whom will be depending on being able to access loan and other financial support.

c. Face a monetary and time cost of application

10. If a provider is already offering designated courses, but wants to extend student support to other courses or change any conditions of already designated courses, they have to make a separate application. This is a more light-touch application, only checking course eligibility; however, it is still a source of uncertainty for the providers.

Designation for HEFCE funding

11. APs currently have an option to become designated for public funding, however, the conditions are quite stringent and applications are very rare in practice. In addition to the standard criteria for course designation, the providers are required to prove that they bring new or highly distinctive provision into the HE sector or have an established reputation in the sector. They also need to demonstrate strong demand from students and a strong employment record of the students.

International Student Recruitment

12. In order to recruit students from overseas, an HE provider needs to act as a sponsor for their Tier 4 student visa. In order to be able to sponsor students, APs undergo a separate set of checks on quality and FSMG, as well as a range of migration checks from the Home Office. If a provider is designated for student support, they have to undergo similar checks of quality and FSMG twice for different purposes.

Degree-Awarding Powers

13. There are three types of Degree Awarding Powers (DAPs) – Foundation, Taught and Research. Under the current process providers must meet a four year track record requirement before being eligible to apply for DAPs. In order to obtain DAPs they are then scrutinised against a set of quality-linked criteria. APs are granted TDAPs on a 6 yearly renewable basis (publicly-funded providers are granted indefinite TDAPs). Because DAPs are granted for such a long period, and across all subjects, scrutiny is necessarily wide ranging.

University Title

14. Under the current process, an organisation holding taught DAPs may obtain university title subject to meeting further criteria on good governance and student numbers. Those not meeting the student number criterion could apply to be a University College. This has significant reputational advantages for the HE provider.

Rationale for intervention

Regulatory barriers to competition

15. The previous section outlined the comprehensive system of regulatory checks that currently exists to enable a provider to enter the HE sector. These protect the reputation of the sector and the degrees awarded and offer a form of consumer protection for the

students. However, these have become outdated and there is a need to move to a new framework that ensures openness and competition in the sector, minimises barriers to entry and ensures the burden of checks is proportionate to the risk presented to student or taxpayers interests.

16. The CMA's[80] report on Higher Education Regulation has highlighted that "sector-wide regulations could create barriers to entry and exit, potentially protecting incumbent providers from competitive pressures and reducing the number of courses available to students". It emphasised that "student choice and competition ... is likely to work best where the playing field, in terms of regulation, funding and information provision, is as level as possible".

17. Four particular concerns relating to the existing system can be identified:

Barriers to entry

18. New APs seeking to enter the higher education sector may face significant barriers to entry. A key source of these barriers is the fact that under the current system incumbent institutions play a pivotal role in the course validation process which is the first step new providers must go through before they can start offering recognised higher education degrees.

19. In the course validation process, an existing provider with a power to award HE degrees has to quality assure the course of the new provider. Since the incumbent is essentially vetting a new competitor, it has a disincentive to grant validation agreements. This also acts as a barrier to innovation in the sector. Those that do, normally charge quite high fees for validation, which puts validated APs under financial pressure and prevents them from investing more in improving their offer.

Cumulative burdens of securing additional powers and funding

20. Providers must go through a number of additional steps in order to enter the sector, become eligible for government funding and gain the power to award their own degrees. These can be onerous and time-consuming, with the cumulative burden involved putting some providers, in particular APs, off going through these processes and so put them at a disadvantage compared to incumbent competitors in terms of their ability to attract students.

Specific Course Designation

21. After achieving designation for a particular course, APs are then subject to annual re-designation, where they need to provide the evidence of their continued financial sustainability, student numbers and quality of course provision. This entails a significant administrative burden and means that designated providers cannot advertise financial support for their courses at the point when many students are looking to make decisions.

[80] Competition and Market Authority (2015) *"An effective regulatory framework for higher education".*

In the consultation responses to the HE Green Paper, many APs confirmed that this process heavily affects their financial planning and recruitment of students. On the other hand, HEIs do not have to face the same uncertainty. Again, this puts the APs at a disadvantage and does not allow them to genuinely compete for students.

Degree-Awarding Powers

22. Under the current process APs must meet a four year track record requirement before being eligible to apply for DAPs, at which point they then must go through a lengthy and burdensome process of applying. This means that they have to offer validated degrees for longer than needed. They also have to submit evidence on quality and FSMG again, having already submitted it for Tier 4 visa (where applicable) and course designation purposes.

University Title

23. Under the current process, an organisation holding taught DAPs may obtain university title subject to meeting further criteria on good governance and student numbers. University title has significant reputational benefits for the provider; however, this is a costly and lengthy process.

Separate regulatory systems for different types of providers

24. The regulatory burdens outlined above apply to APs of higher education. Publicly-funded HEIs and FECs are subject to comparatively more light-touch regulation.

25. As a result, because different providers are operating to different rules, this distorts competition by giving some types of providers an advantage over others in terms of their ability to attract students or offer better or more innovative courses which other institution are unable to offer.

Excessive/inflexible regulatory burden

26. Currently, regulatory requirements are applied on a blanket basis to all APs on an equal basis. It can often mean that financially stable, high quality providers are subject to an unnecessary level of bureaucracy, which hinders their operation. The main recommendations that regulation experts (OECD[81] and others) have made to ensure successful risk based regulation is that the regulator body responsible for overseeing the sector should be required to start with the risks rather than the rules, be properly empowered, have clear goals to assess risk against and finally keep the regulatory regime as simple as possible. The exact definition of risk based regulation varies but usually means establishing a systematised decision making framework and procedures to prioritise regulatory activities and deploy resources based on an assessment of the risks that regulated bodies pose to the regulator’s objectives. The current system for regulation of APs does not allow for this.

[81] OECD (2012) “Recommendation of the council on regulatory policy and governance”

Importance of competition

27. ***There are recognised benefits to increased competition.*** Competitive pressure in a sector drives the suppliers (HE providers in this case), to make their offer more attractive to the students, either through reducing prices, improving the offer, or both. Improvements in technology mean that there are even more opportunities for innovation. Making the sector more open would therefore be expected to improve the value of education for students, and so support wider social and economic goals.

28. A more competitive sector could also result in a greater number of providers entering the sector. This provides further pressure to improve the quality of teaching as well as adding diversity amongst providers which could help better meet student needs e.g. through the provision of more flexible learning options or addressing cold spots in terms of geographic coverage. More generally, it would put the sector in a better position to meet any further increases in demand for Higher Education e.g. as a result of widening participation measures or growth in the international higher education market. There are also wider economic benefits. Valero and Van Reenen (2016), for example, find that "increases in university numbers significantly raise future GDP per person". They have estimated that if there was one new university[82] added to each of the UK's ten regions (as defined in the study), UK GDP would go up by 0.7%.

Overall market failures in HE

29. At the same time, it is also important to recognise the important role of regulation in protecting students and ensuring the delivery of public policy goals for wider societal benefit. For example, in avoiding providers being incentivised to cut costs to the point that they endanger their finances or offer an inadequate standard of teaching to students. Regulation is necessary to ensure students are protected and the reputation of the sector at home and abroad is safeguarded.

30. The Competition and Markets Authority in its 2015 review of competition within the HE sector highlighted some of the reasons why appropriate regulatory controls are important in the sector:

    i. **Student choice may not be sufficient to drive quality.** HE can be characterised as an 'experience good', one for which the quality cannot be observed prior to taking the programme and cannot be easily compared to other programmes on offer (as students only tend to take one undergraduate course in their lifetime). The quality of HE is therefore difficult to predict, observe and define before students start studying. Students may therefore find it difficult to assess in advance the quality on offer and, as a result, may choose a course that does not meet their expectations.

    ii. **High switching costs.** There are also high barriers to switching (for example, credits might not be transferable and students may have to incur high financial and social costs if they switch institution), which means that students are unable or unwilling to

[82] Assuming the new universities have the same size distribution as the existing ones. It is likely that new providers would be significantly smaller than the incumbents.

switch if they want to study an alternative programme, or the quality on offer does not match their expectations.

31. Students therefore face two key risks if the sector is unregulated:

   d. Students may not have confidence that they are choosing the right course to suit their expectations;

   e. Providers may not be incentivised to provide a quality learning experience; and the overall reputation of the sector might be undermined.

Policy objective

32. The overarching policy objective is to create a higher education sector whereby:

- All HE providers can compete on a level playing field, irrespective of their “label” or history, making the sector more open and competitive;
- It is easier for existing providers to obtain Degree-Awarding Powers and University Title, again, while protecting students and the reputation of the sector;
- Many more HE providers are registered with the regulatory authority, in order to provide greater confidence to students;
- The administrative burden for existing and new providers of higher education is reduced while unnecessary bureaucracy and barriers for the sector as a whole are removed, primarily by cutting out duplicatory processes and through the application of a lighter touch approach for the majority of providers; and
- The regulatory system is aligned with Home Office, so that it is possible to proceed with a single set of tests of quality, rather than the current separation of systems.

33. As a result, students will benefit from improved value for money and greater choice and innovation in the sector.

34. This, in turn, should support long-term productivity growth.

Options under consideration

Course validation

Option 0: “Do nothing”. The existing framework is retained.

Option 1: Reform the validation system

- **Introduction of a revised Quality Code for validation (non-legislative).** The OfS would produce a revised Quality Code to set out what it expects validation agreements to look like (minimum expectations) and what exemplar validation looks like; to enable providers to measure the quality of any validation agreement; and to enable incumbents to advertise their validation agreements as being fully compliant with the Quality Code. There is the opportunity for this to be co-produced via consultation with the sector.

- **Encouraging or endorsing "exemplar" validating bodies (non-legislative).** The OfS would also take steps to encourage institutions and bodies such as the Open University Validation Service, to improve their validation arrangements and to develop their validation services as a lucrative line of business, in line with the revised code or the OfS could go a step further and request a number of providers to sign up to the higher standards in the code as "exemplar" providers endorsed by the OfS.
- **Giving the OfS the power to: i) contract with institutions to validate and; ii) validate degrees (legislative).** The OfS would have a power to commission institutions, by contract, to sign up to a code as exemplar providers. The OfS would also have a power to provide a validation service (in all likelihood contracted out to a third party), that Secretary of State would ask to exercise if the two reforms above do not lead to sufficient improvements in the cost and ease of validation.

Specific course designation

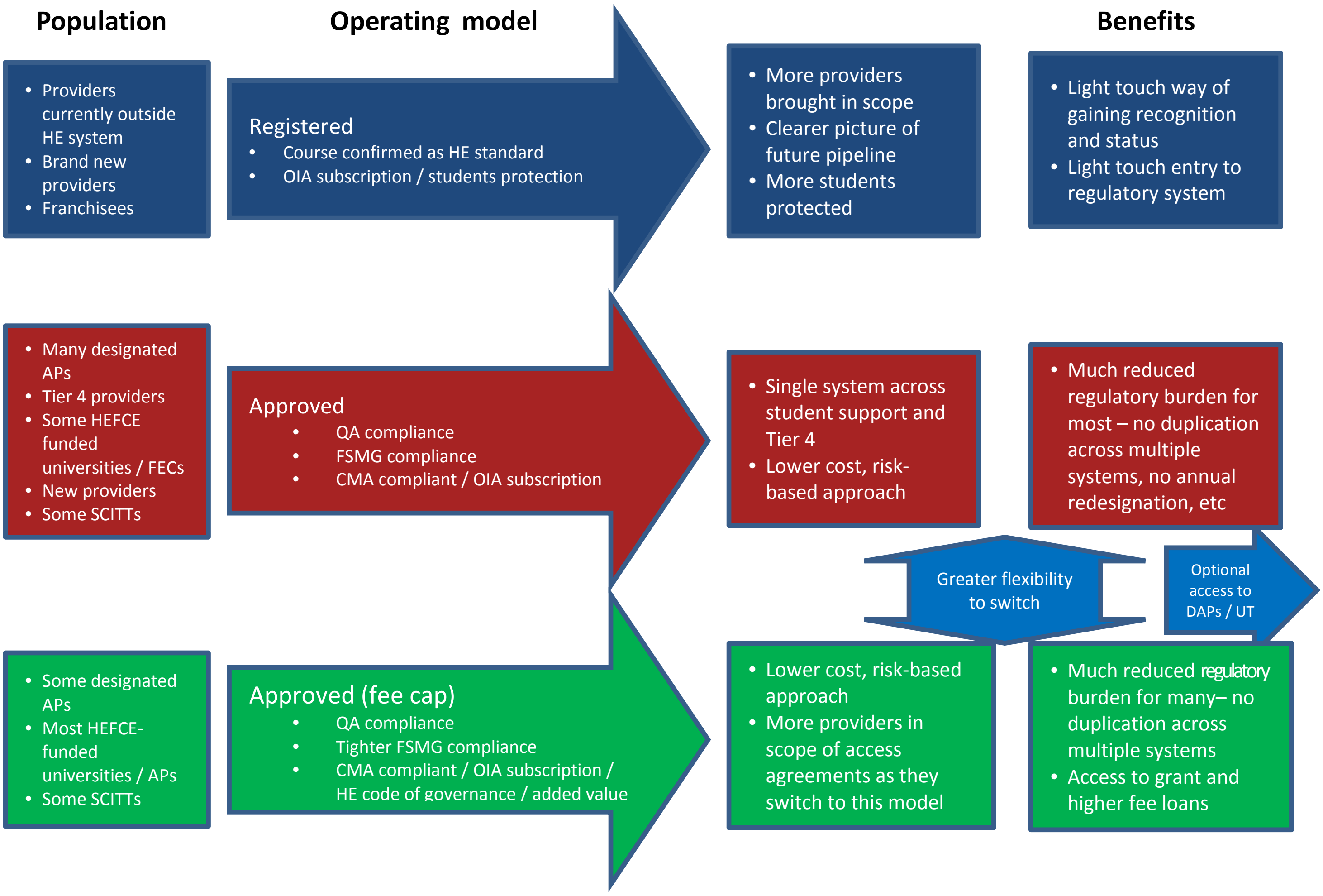
Option 0: "Do nothing".

- The existing framework of specific course designation is retained, which also entails a clear distinction between Higher Education Institutions and APs with specific course designation. Designation would remain at course level, and providers would still have to submit an annual data return to get re-designated.

Option 1 – move to a level playing field.

- This involves the creation of a "Registered" category, which will offer HE providers a chance to become officially recognised by the government, subject to a check of providers' qualifications meeting the Framework for Higher Education Qualifications (FHEQ), and subject to sign-up to the OIA.
- All providers seeking designation for student funding would be able to choose between two operating models (the ability to switch between these models is at present heavily constrained):
    1. "*Approved*": Similar to current system of specific course designation – a £6,000 tuition fee loan cap, with the current freedom to set fees at any level, and no requirement to sign up to an access agreement (but with a policy statement on widening participation in HE).
    2. "*Approved (fee cap)*": A £9,000 tuition fee loan cap, a cap on fees at £9,000, eligibility for teaching grant and a requirement to sign up to an access agreement if fees charged are more than £6,000. Those that do not sign up to an access agreement would face, as now, a £6,000 fee cap for undergraduate courses. Providers that select to follow "Approved (fee cap)" will be able to access government grant funding and as a result will be subject to tighter funding conditions, commensurate with the higher level of public funding received.

Figure 3. Proposed system of provider-level operating models



- All operating models would be at the provider level – replacing the existing system, where a provider could only offer student support for courses that have been designated. Both “Approved” and “Approved (fee cap)” would also grant the provider an opportunity to apply to recruit international students by sponsoring Tier 4 visas for international students, subject to additional migration checks by the Home Office.
- The new common system of risk-based regulation would be designed by the newly established Office for Students. Thus the frequency and intensity of the regulatory checks, as well as levels of risk that will trigger interventions, have not been determined at this point. We anticipate that this new system will build on good practice that is developed in the reforms to quality assessment that HEFCE will introduce for HEFCE-funded providers in 2016/17. The following processes could feature in the new system:
  - **Annually:** All providers are subject to an `annual review’ that will test that they continue to meet FSMG and quality requirements commensurate with the requirements of either “Approved” or “Approved (fee cap)”. This means an end to annual re-designation for APs and maintains the position for current HEFCE designated providers.

- **Based on specific provider's level of risk,** there could also be review visits to assess the provider against the threshold expectations for quality and standards, leading to certain types of further intervention where the provider does not meet those requirements.

Degree-Awarding Powers (DAPs)

Option 0: "Do nothing"

- Retaining the existing process for obtaining Degree-Awarding Powers, with a requirement of at least 4 years track record, with an "all or nothing" outcome of application for DAPs

Option 1 – more flexible requirements on obtaining DAPs.

- **Probationary DAPs.** Providers would have a new option of obtaining DAPs on a probationary basis for a 3 year period, subject to meeting the same FSMG requirements as for the Approved (fee cap) model. They would then be subject to rigorous monitoring over the 3 years, automatically obtaining full DAPs if the outcome of monitoring is satisfactory.
- **Full DAPs.** The track record requirement would be reduced to 3 years, and a wider range of evidence accepted. DAPs could be granted on a limited subject and/or limited level basis to enable easier access. All DAPs to be renewable in the first instance. Explicit sanctions to be introduced to suspend or remove DAPs (and UT on suspension/ loss/non-renewal of DAPs).

University title

Option 0: "Do nothing"

- University Title granted to institutions with Taught Degree-Awarding Powers that have at least 1,000 FTE students (750 FTE degree-level students), with 55 per cent of students studying HE courses. Institutions also need to meet the requirements on good governance and long-term financial planning.

- **Option 1 – University Title granted to all HE providers with full Taught Degree-Awarding Powers.**

Risk-based regulatory framework

Option 0: "Do nothing"

- The level of ongoing regulation (e.g. QAA reviews, course re-designation), remains the same, with no consideration for the level of risk of the provider.

Option 1 – risk-based regulatory framework.

- The level of regulation is tailored to the level of risk of the provider. OfS/HEFCE uses the institution data and information from previous reviews to determine the level of risk of the provider. For providers deemed to be low-risk, the burden of reviews is reduced. Conversely, where there are issues with financial sustainability or quality, there would be more extensive monitoring in place to ensure students are protected. Should this option be chosen, the OfS will have a duty to develop the framework and apply a risk-based approach to regulation. That means that it is too early to know specifically how many institutions this will affect or the extent to which the burden of legislation will be reduced. Assessment of this option thus can only be based at this stage on assumptions about what a likely framework might look like.

Background

The number of HE providers

35. A single set of assumptions regarding the future number of HE providers is used throughout all regulatory impact assessments of the Higher Education Bill 2016. This is set out in detail in Annex A. Due to the interrelated nature of the Government's reform programme we do not attempt to attribute specific impacts to specific measures, but the net effect is set out below:

    i. **A greater number of institutions entering every year**. It is assumed that 30 institutions will start offering HE courses each year following reforms, compared to 20 in the counterfactual. Not all of this change will feed through to an increased number of institutions in the sector, as there is expected to be a competitive churn in the sector.

    ii. **More providers will get (probationary) Degree-Awarding Powers.** The reforms will mean that providers would be able to get probationary DAPs in parallel with entering at "Approved" (if they meet the FSMG requirements equivalent to "Approved (fee cap)"). If the old system is retained, only very few providers will be able to meet the criteria.

    iii. **More providers will get designated.** Currently, annual re-designation requirements mean the regulation is deterring many providers due to the associated uncertainty and administrative burden.

    iv. **More providers gaining University/University College Title.** In the new system, University Title will be available to all providers with full Taught Degree Awarding Powers, reducing the burden on providers. Also, many more providers will become eligible as the requirement on the minimum number of students is removed.

36. Table 2 shows the latest data available on types of provider in the sector, while Tables 3 and 4 show how this might change following reform.

Table 2. Current number of HE providers (2014/15 data)

Category	Number of HE providers
APs	**690**
Not in the system	580
Designated	110
of which with DAPs	*9*
Higher Education Institutions	**129**
Further Education Colleges	**244**
Without access agreements	150
With access agreements[83]	94
TOTAL HE providers	**1063**

[83] Only providers with access agreements with Office for Fair Access are allowed to charge more than £6,000 (and up to £9,000) for undergraduate degrees. Those are assumed to enter as "Approved (fee cap)"

Table 3. Forecast number of provider, assuming all reforms are implemented

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
(1) Not in the system	**553**	**531**	**500**	**470**	**439**	**408**	**380**	**355**	**333**	**314**
(2) “Registered”	102	106	111	116	122	128	134	138	143	147
(3) “Approved”	88	98	110	122	135	149	162	174	186	197
(4) “Approved (fee cap)”	390	397	403	411	419	428	437	446	454	462
Total recognised (2)+(3)+(4)	**580**	**601**	**624**	**649**	**676**	**705**	**733**	**759**	**783**	**806**
Total designated (3)+(4)	**478**	**495**	**513**	**533**	**554**	**577**	**599**	**620**	**640**	**659**
Total validated (1)+(2) + part of (3) and (4)	**709**	**704**	**691**	**679**	**668**	**657**	**648**	**640**	**634**	**628**
Total with DAPs (part of (3) and (4)	**180**	**184**	**189**	**196**	**204**	**212**	**221**	**230**	**239**	**247**

Table 4. Net forecast change in the number of providers in the system, due to introduction of reforms

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Validated	-35	-22	-18	-15	-13	-12	-10	-8	-6	-4
Designated	+12	+19	+26	+34	+42	+53	+63	+72	+81	+90
DAPs	+40	+43	+47	+52	+59	+66	+74	+81	+89	+96

Number of students

English students

37. The proposed measures are expected to open up the HE sector, make it more competitive and improve value for money for students. This should both increase the attractiveness to students of participating in higher education and their ability to find an institution and course that suits their circumstances and career aspirations. A proportionate and more streamlined system of regulatory checks will ensure that while the sector grows, the quality standards for the sector remain high. Students benefiting from this change would include those school leavers who currently choose to enter the workforce directly, as well as more mature students who will now find it easier to identify an appropriate course.

38. As a result of the proposed policy measures, it is expected that more providers will sign access agreements, setting out the measures they will take to improve participation amongst students from underrepresented groups. This will work in concert with measures within the Teaching Excellence Framework reforms that mean providers will gain financial and reputational rewards for delivering high quality teaching across the different groups within their student population.

39. Over time, as we see greater competition and better student choice take effect, there is likely to be a redistribution of students across providers, for example from currently HEFCE-funded HEIs to new providers and existing APs, and from lower quality providers to those offering a better option to students.

40. Overall, we expect the Government's HE reforms, including the creation of a single entry gateway, to increase student numbers and support widening participation. However, we have not modelled this increase due to the challenges of accurately capturing the behavioural changes, amongst providers and individuals, that will result from these changes and ascribing them to a particular measure within this interconnected package of reforms.

International students

41. ***Improved quality of teaching overall.*** A greater number of providers should increase competition within the sector, leading to more innovation and improved choice for students, with a greater range of subjects, locations and teaching models available. It should also put more competitive pressure on incumbent providers to ensure they continuously improve their provision. These effects should benefit international as well as domestic students.

42. ***A larger number of providers are able to recruit international students.*** The proposed reforms would mean that a larger number of providers will be able to provide student loan funding for their students, which will consequently increase the provider's income. Increase in income will allow the providers to improve the quality of their course offering for all students, including international students. Secondly, the proposed policy

would remove duplicatory checks in gaining a Tier 4 sponsor status, which would allow a greater number of providers to recruit international students.

43. For both of these reasons, it is expected that these reforms will help English higher education providers become even more attractive to international students. The OECD has projected that the international student market (number of internationally mobile students) is likely to reach 8 million students a year by 2025[84]. If the proposed measures allow the UK (and England in particular) to maintain or even increase its share of the international market, this could have a large beneficial effect on the UK economy.

Assessing what the risk-based framework will look like

44. In the new system, the frequency and burden of re-designation (for APs) and QAA reviews will be greatly reduced for providers deemed low-risk. More widely, the OfS will also have an overall duty to apply regulation based on risk. However, the framework will only be developed once the OfS is in operation. It is expected that those providers assessed as low or medium risk will face lower regulatory burdens. However, at this point, with the policy design being developed, we are not able to robustly estimate how far burdens will be reduced. We instead use a set of indicative assumptions to reflect one possible scenario. A more detailed assessment will only be possible once the OfS is established (expected in 2018).

Estimating risk levels of different institutions

45. A simple way to estimate overall risk levels would be to assume an even split between high/medium/low-risk institutions. However, in the case of the HE sector this is unlikely to be a realistic assumption – currently HEFCE-funded institutions are mostly very stable financially and have a long history of providing HE courses.

46. Another approach would be to look at existing information about institutions and from this assume a rough distribution in terms of risk levels. This would give a much better picture of which providers are likely to end up in the high-risk bracket. The approach taken in this IA is to assume that there are only two categories of risk – low-risk and high-risk providers. The system designed by the OfS will certainly to be more sophisticated, with more differentiation of risk levels and associated regulatory checks, however, we believe that two categories are sufficient for an ex ante assessment of the broad impacts of these reforms.

47. ***Types of risk.*** The existing process for reviewing applications for specific course designation comprises of two components – an FSMG assessment and a review by QAA. This recognises the two key categories of risk in Higher Education – financial and governance risk (ultimately, risk of bankruptcy) and the risk of degrees not meeting the quality standards of the sector. It is reasonable to expect that these two categories will be a key part of the OfS's assessment.

[84] OECD (2012) "Assessment of Higher Education Learning Outcomes. Feasibility Study Report"

48. ***Financial risk.*** Higher Education Institutions are required to publish their annual accounts, which show a range of indicators of financial sustainability. APs also submit financial data to BIS as part of the annual re-designation process. Two indicators are used here to assume that a provider is high risk:

   a. *Operating loss in two consecutive financial years*: Making losses for two years could indicates that a provider's operating model might beis unsustainable in the long run. However, for providers with large amounts of vast amounts of assets, losses in two years might not threaten their existence significantly.
   b. *Net liabilities*: This addresses the issue above, identifying the institutions for which liabilities exceed assets, meaning that the provider would be less able to withstand bad financial results.

49. Based on these two indicators, 20% of APs and 5% of HEIs might be considered higher-risk in the risk-based framework.

50. ***Quality risk.*** The best available indicator for this is the provider success rate for their QAA reviews. If QAA deems an institution's quality assurance measures to be unsatisfactory, the institution has to implement improvements in order to remain approved by QAA. While an unsatisfactory outcome in the review could be caused by poor financial performance or non-compliance with bureaucratic burdens; it is also likely to indicate poorer provision. Over the past three years, 2% of the reviews for HEIs, 11% of the reviews for APs and 33% of the reviews for FECs found unsatisfactory outcomes.

51. ***Overall risk rating.*** These two indicators of risk are then combined into a single measure. It is assumed that for providers with high risk in one of the categories (financial or quality), the regulatory checks would be more frequent or more intensive. The overall risk profile of a provider is taken to be the average of the financial and quality risk.

Table 5. Estimates of financial and quality risks by type of HE provider

	HEIs	APs	FEC
Financial risk %	5%	20%	10%
Quality risk %	2%	11%	33%
Overall risk %	3%	16%	22%

Sources of data on burden on business

The estimates of the administrative impact on business come from several sources:

- HEFCE (2015) "*The cost to providers in England of existing quality assurance and quality assessment practices*". A report on the cost of the Quality Assurance system, which also assessed a range of related costs, including subscription charges for OIA, QAA etc.

- PA consulting (2009) "*Positive accountability. Review of the costs, benefits and burdens of accountability in English higher education*".
- BIS-funded research reports on the AP sector[85] (2013 and 2016) to understand its size and structure, including estimates of the number of APs in the UK and a survey of a sample of APs to understand their students, staff, range of courses offered and plans for the future.
- BIS ad-hoc survey of APs (2016). The survey was conducted over late 2015 and early 2016 to gather APs' views on the policies proposed in the Higher Education Green Paper and their future plans. Forty-two providers responded, with thirty-five offering complete responses to the survey. Full findings of the survey are provided in Annex B.

[85] BIS (2013) *"Privately funded providers of higher education in the UK"* and BIS Research Paper no.227 (2016): *Understanding the market of alternative providers of higher education and their students in 2014*

Analysis of policy options

52. Table 6 below summarises the net business impact of different policy measures, quantified as a part of this impact assessment. Benefits to business are shown as positive numbers. All numbers are shown in real (inflation-adjusted) terms, in 2016 prices. It is assumed that all impacts will grow in line with economy-wide inflation (RPIX).

Table 6. Summary of quantified impacts on business, £million

L	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Single entry gateway										
Creation of "Registered" (voluntary)	0	0	0	0	0	0	0	0	0	0
Creation of "Approved (fee cap)" – increased income	28.71	30.81	33.33	36.25	39.56	43.26	46.88	50.44	53.92	57.32
"Approved (fee cap)" – signing access agreements	-.39	-.46	-.53	-.61	-.69	-.76	-.82	-.89	-.95	-1.00
"Approved (fee cap)" – financial support to disadvantaged students	-11.35	-13.41	-15.58	-17.88	-20.06	-22.11	-24.05	-25.88	-27.63	-29.28
Move to multi-year, risk-based designation	.91	1.0	1.1	1.22	1.34	1.47	1.6	1.72	1.84	1.95
Saving in Tier 4 sponsorship review/application costs	.70	.77	.85	.93	1.03	1.13	1.23	1.32	1.41	1.50
Degree-Awarding Powers										
Saving in administrative burden of separate DAP application	8.12	.87	1.11	1.33	1.55	1.76	1.78	1.79	1.79	1.79
Saving in DAP application fees	1.69	0.18	0.23	0.28	0.32	0.37	0.37	0.37	0.37	0.37
Saving in validation costs due to extension of DAPs	0.32	0.36	0.40	0.45	0.19	0.23	0.25	0.27	0.28	0.28
University Title										
Saving in removed application costs	0.05	0.05	0.05	0.05	0.05	0.05	0.06	0.06	0.06	0.06
Total, £million, nominal	**28.74**	**20.17**	**20.95**	**22.02**	**23.3**	**25.4**	**27.3**	**29.2**	**31.1**	**33.0**

Course validation

Impact on business

53. As outlined above, validation agreements are currently the only way to enable new providers without their own DAPs to enter the sector. However, as outlined in the "problem under consideration" section, they act as a significant barrier to entry into the sector, thus hampering competition. One way to address that would be giving a body, external to the sector, an ability to validate degrees. However, as highlighted in the HE Green Paper consultation responses, there is a clear risk of centrally-validated degrees being perceived as less valuable, irrespective of the quality of education. In particular, there is concern that a centrally-validated degree could be seen as a signal that the provider has not met the quality criteria for either obtaining its own DAPs or finding another validating partner.

54. The proposed measure is therefore to improve the existing arrangements, to reduce the cost of entry and overall administrative burden of entering the sector. The non-legislative measures will be key to achieving this. Option 1c (legislation) would, in addition to enabling the OfS to contract institutions to validate, also provide OfS with an opportunity to validate degrees. However, this latter proposal is envisaged as a last-resort measure, only to be used if other measures do not work. As Option 1c would not impose any additional cost on business, the costs/benefits of it are not monetised.

Benefits

55. **More providers entering the sector/offering a greater number of courses.** There is a removed barrier to entering the sector/growth, where costs and complexity of validation arrangements were prohibiting providers from entering or offering new courses.

56. **Reduced cost/complexity**. It is expected that the impact of giving the OfS the power to validate degrees will mean a broader validation options for new entrants into the sector will be available. It will then mean a further reduction to the administrative cost of finding validation partners, agreeing a contract and complying with conditions of the contract.

57. If there is a reduction in costs for new entrants and providers who need to have their degrees validated it is assumed that this is matched by a corresponding decrease in income for validating institutions.

Cost

58. Giving the Office for Students a legislative power to validate courses would not mean an additional cost on the sector – institutions with DAPs would still have an opportunity to sign validation agreements with other providers.

Single entry gateway – Impact on Business

59. The proposed system of provider-level operating models will differ from the current system in four main ways:

i. Providers will be able to opt for the voluntary "Registered" model, which is expected to bring a lot of institutions into the system that were previously not recognised or approved by government;

ii. Single entry gateway. There will be a move from a system of specific course designation to institution-level operating models ("Approved" and "Approved (fee cap)"), which will enable APs to be subject to the same conditions as HEFCE-funded HEIs;

iii. The system of monitoring/renewal of designation will be changed to a less burdensome risk-based system; and

iv. There would no longer be duplication between the process of obtaining a Tier 4 visa and the designation process. At the moment there are duplicating checks of quality and FSMG for Tier 4 and designation.

Creating "Registered" status for providers

Benefits

60. The creation of "registered" status for providers will allow a greater number of providers to enter the system and be recognised by the government, subject to meeting the light-touch regulatory conditions. This will not require any mandatory action on the part of HE providers; rather it simply gives them the opportunity to provide an additional signal to prospective students that they meet the basic expectations around academic standards and the ability of students to make complaints.

61. In contrast, in the current system, providers have the option of either remaining outside the regulated system, or becoming part of the regulated system which, as it automatically means their students can access public support through the student finance system, means meeting a set of more demanding quality and financial management tests. The creation of 'registered' status introduces an intermediate status, where the provider is recognised as part of the English HE system, but without the expectations associated with being eligible to receive students funded through the student finance system. There will be no compulsion to register in this way, and providers can choose to remain outside the regulated system altogether. This is then classed as a "permissive" change, as defined in the Better Regulation Framework Manual.

62. The assumption is that the reputational benefits to providers of becoming 'registered' will at least be as big as the regulatory costs. The costs discussed ed in the section below therefore do not affect the estimate of net annual cost to business.

63. The reputational benefits to providers are very uncertain and difficult to estimate, and have therefore not been monetised.

Costs

64. To enter as "Registered", the provider will need to undergo a check on whether their qualifications are consistent with the Framework for Higher Education Qualifications

(FHEQ)[86], meeting the minimum standard of quality. At present, many of these providers are not subject to any quality checks.

65. "Registered" providers will also be expected to sign up to the Office for Independent Adjudicator (OIA). Currently, only the providers that access student support have to subscribe to the OIA (however, many others subscribe voluntarily). Table 7 below shows the existing subscription fees. On top of the "core" subscription fees, there is also a case-based element, which is charged for providers with an above-average number of disputes for their size band. Around 33% of providers currently pay those fees, with an average amount of £1,400[87].

Table 7. OIA subscription fees, 2016

Student numbers	OIA Band	HEIs and APs	HE in FE providers
Up to and including 200 students	AA	£410	£287
201 - 500*	A	£848	£594
501 – 1500	B	£1,711	£1,198
1501 – 6000	C	£9,200	£6,440[88]

66. To estimate the overall cost to the sector of entering as "Registered", it is necessary to understand the size distribution of those who may enter as "Registered" providers. We have taken as a reasonable proxy the existing size distributions of APs outside the system and FECs teaching HE courses. Table 8 overleaf shows the existing size distribution, as well as the assumed numbers in each band in 2018/19.

[86] http://www.qaa.ac.uk/publications/information-and-guidance/publication?PubID=2718#.VvpsxkZRy6Q
[87] HEFCE (2015) *Costs to HE providers of QA practices*
[88] OIA subscription bands are differentiated up to 100,000 students, however, there are no APs or FECs with more than 6,000 HE students.

Table 8. Assumed distribution of providers by size

	% FECs 2013/14	Number of FECs 2018/19	% APs 2014	Number of APs 2018/19
Up to and including 200 students	50%	**20**	79%	**49**
201 - 500*	31%	**13**	11%	**7**
501 – 1500	15%	**6**	8%	**5**
1501 – 6000	3%	**1**	1%	**1**
Number of providers	214	**40**	213	**61**
	Source: HEFCE regional profiles student data		Source: BIS (2016) “Understanding the market of APs of higher education and their students in 2014”	

67. The table below then shows the overall costs on “Registered” providers.

Table 9. Added cost of OIA subscriptions for "Registered" providers

£million	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Number of “Registered” APs	62	68	75	82	89	97	104	111	116	121
Total core fees	.04	.05	.06	.06	.07	.08	.09	.1	.1	.11
Number of “Registered” FECs	40	38	36	34	33	31	29	28	27	25
Total core fees	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.02	0.02
Total case fees	0.07	0.08	0.08	0.09	0.10	0.11	0.11	0.12	0.13	0.14
Total fees, £million	**0.14**	**0.16**	**0.17**	**0.18**	**0.20**	**0.21**	**0.23**	**0.24**	**0.26**	**0.27**

68. While these added checks will be supported by legislation, they would not represent an additional cost to business. The creation of “Registered” status would be defined as “permissive” legislation, as it allows rather than forces businesses (HE providers) to do

something they could not have done previously. There could then be a reasonable expectation that the benefits that providers will derive from entering at “Registered” will outweigh the costs of entry. Therefore it is assumed that the benefits to providers will at least equal any costs.

Creation of the *Single entry gateway*

Benefits

69. ***An increase in the number of designated providers.*** Increased clarity of the system and a bigger number of options for entry would provide a greater incentive for new HE providers to enter the sector.

70. The creation of the single entry gateway will also mean that eligibility for full undergraduate student loan funding (up to £9,000) and teaching grants would be extended to a bigger number of institutions (“Approved (fee cap)”). APs in the current system have an ability to become designated for HEFCE funding, however, the requirements are quite restrictive, and in reality, no APs have gained access. Thus, the creation of “Approved (fee cap)” is likely to mean an increase in provider’s income in one of the two ways set out below. It is assumed that this would only affect existing APs, as FECs teaching HE courses can already charge £9,000 fees by signing an access agreement, with no additional requirements on distinctiveness etc.

71. ***Access to teaching grant.*** Providers entering at “Approved (fee cap)” would gain access to HEFCE teaching grant. That grant is currently split into three key part: funding for high-cost subjects, the Student Opportunity Fund and targeted funding allocations. However, this grant funding aims to cover the added costs of this provision. Therefore, access to this funding is unlikely to lead to a net benefit for the institution; instead, it will allow the institution to teach a broader range of courses than before. It is assumed that overall, access to teaching grant will result in a zero net benefit to HE providers, however, more providers would gain access to the teaching grant and be enabled to teach higher cost subjects.

72. ***Increased course fees.*** The creation of Approved (fee cap) will mean that providers who otherwise would have their student loan funding capped at £6,000, could move to a model where would be able to offer their students up to £9,000 of student loans. It is assumed that they would only be incentivised to do this if their undergraduate fees are currently between £6,000 and £9,000. If fees are lower than £6,000, the provider would not gain anything from entering as Approved (fee cap) because student loan funding would already cover the value of their fees. If fees are higher than £9,000, they would be subject to a cap on fees and therefore lose income.

73. As explained below, access agreements mean that Approved (fee cap) providers have to support their students financially. They would then only have an incentive to enter at this model if the added income from course fees/teaching grant exceeds the cost of access agreements.

74. An increased amount of student support will mean that some providers could increase their fees for undergraduate courses, with the full amount still covered by the student loan. This would give them an increased income, which they could then invest in improving their offering for students. This investment could also be necessary for them to be able to compete with incumbent providers in the reformed sector.

75. It is expected that there will be significant competition for students in the new system, so it is unlikely that providers would immediately raise their fees up to the cap. An average number of students at designated courses at a designated AP is 501 according to AP finance returns to BIS. Using the assumptions about number of designated providers, this would result in a **£29 million benefit** to the sector in 2018/19, up to **£57 million** in 2027/28.

Table 10. Added income for APs moving into Approved (fee cap)

	2018/ 19	2019/ 20	2020/ 21	2021/ 22	2022/ 23	2023/ 24	2024/ 25	2025/ 26	2026/ 27	2027/ 28
Number of "Approved (fee cap)" APs	57	62	67	72	79	86	94	101	108	114
Net added income, £million	**28.7**[89]	**30.8**	**33.3**	**36.3**	**39.6**	**43.3**	**46.9**	**50.4**	**53.9**	**57.3**

Costs

76. Increased competition for incumbent providers as entry into the sector is made easier and the playing field for incumbent HEIs and APs is made more level.

77. **Signing access agreements.** As outlined in the above section on benefits, there would be a significant financial benefit to the providers that currently charge up to £9,000 from entering at "Approved (fee cap)". The added cost would be the more stringent requirements on financial sustainability, management and governance; and signing an access agreement. The FSMG test is unlikely to impose a markedly higher cost on the provider, as the biggest part of that (audited accounts) remains the same.

78. The most recent estimate of the cost to institutions of signing an access agreement and complying with conditions come from a 2009 paper, which suggests £0.8 million for the whole sector, or £6,670 per HEI[90]. However, the process since then has become significantly less burdensome so these costs should be treated as an upper estimate. Based on this cost, the table overleaf shows the overall administrative cost of signing the access agreements (which is outweighed heavily by the financial benefits).

[89] 57 (*number of providers*) x 501 *(students per provider*) x £1,000 (*expected increase in income per student) =* £28.7 million. £1,000 per student assumption of increase in tuition fee income is based on financial data for existing APs with designated courses.
[90] PA consulting (2009) "*Positive accountability. Review of the costs, benefits and burdens of accountability in English higher education*".

79. **Financial support for disadvantaged and other underrepresented groups.** Access agreements specify a range of measures that the HE provider has to undertake to advance equality of opportunity and improve access to HE for students from lower income backgrounds and underrepresented groups. This includes a range of financial support measures, including bursaries, scholarships and fee waivers. The Office for Fair Access (OFFA) publishes the cost of access agreements to providers on an annual basis91.

80. The most recent numbers cover access agreements for academic year 2016/17. They show average fees at providers with access agreements to be £8,781, or £8,391 after all the financial support, specified in the access agreement, is taken into account. Thus on average, an access agreement means the provider offering an average **£390** of financial support per student.

81. This would then be an additional cost to providers in the new system.

Table 11. Added cost of Access Agreements for Approved (fee cap) providers

	2018/ 19	2019/ 20	2020/ 21	2021/ 22	2022/ 23	2023/ 24	2024/ 25	2025/ 26	2026/ 27	2027/ 28
No. of "Approved (fee cap)" APs	57	61	67	72	79	86	94	101	108	114
x £6,670 administrative cost of agreeing an Access Agreement (AA) with OFFA										
Added admin cost	.38	.41	.44	.48	.53	.58	.62	.67	.72	.76
x £390 cost of AA measures x 501 avg. students										
Added cost of financial support	**11.35**[92]	**13.41**	**15.58**	**17.88**	**20.06**	**22.11**	**24.05**	**25.88**	**27.63**	**29.28**

Renewal of designation agreements

Benefits

82. In the existing system, APs with designated courses are subject to a process of annual re-designation, which means that they:

a. Face an administrative cost of going through the process every year

b. Face very significant uncertainty, as they are unable to advertise their courses as providing access to student loans

83. The new system, will adopt a risk-based approach, applied across all types of providers irrespective of their "label". This will affect APs in particular, as for them a burdensome annual re-designation process will be replaced with a more flexible and light-touch system of monitoring. Providers would get designated (at "Approved"/"Approved (fee cap)") and face flexible ongoing monitoring, based on provider's level of risk. The specific system of

91 https://www.offa.org.uk/publications/analysis-data-and-progress-reports/
92 57 (APs in approved (fee cap) model) x £390 financial support per student x 501 average students = £11.35 million

regulatory checks will be designed by Office for Student, the new regulator for the HE sector.

84. BIS's AP survey has identified that the existing annual re-designation process[93] takes up to 43.5 hours of academic staff time and 103.5 hours of administrative staff time at each institution, which amounts to **£2,610**[94] annual burden.

85. For modelling purposes, it is assumed that on average, providers would face a review visit from OfS every five years, based on HEFCE processes that will be in place from 2016/17. In practice, the frequency and intensity of reviews is likely to vary based on provider's level of risk. It is then assumed that the five-yearly review visit in the new system would have a similar administrative burden to re-designation, thus reducing the administrative cost by 80% over every five year period.

86. There would still be a degree of monitoring on an annual basis, which is expected to be proportionate rather than stringent. For low-risk providers, it is assumed that the costs will be 75% lower, at £652 a year[95]. For high-risk HE providers, it is assumed that a similar burden to the existing system will carry on.

87. The table below shows the calculation of the benefits. The proportion of providers who are classed as "high-risk" is estimated as 15% overall[96]. The numbers are calculated as:

    a. "Do nothing" cost of complying assumes that providers face annual re-designation, thus incurring £2,610 cost annually + £8,000 average cost of maintaining audited financial accounts (HEFCE estimates)

    b. Option 1 cost of complying assumes the full costs (£2,610+£8,000) incurred once every 5 years for low risk providers, and every year for high-risk providers. Low risk providers also incur £652 cost of annual monitoring.

[93] Online survey conducted for this IA. Figures represent a truncated mean, with top and bottom 10% removed to exclude extreme responses.
[94] Using hourly salaries from ONS (2016) "Annual Survey of Hours and Earnings 2015". The estimates of average hourly wage are £24.98 for "HE teaching professionals" and £10.49 for "Administrative occupations". 43.5x£24.98 + 103.5x£10.49 = £2,179. Adding the standard assumption on non-wage staff costs of 19.8%, it's £2,179x1.198 = £2,610
[95] Based on BIS estimates
[96] Using the estimates on risk in the background section and provider numbers: (3% x 129) (HEI) + (16% x 145) (AP) + (22% x 204) (FEC) / (129+145+204) = 15% - which is the weighted average proportion of high-risk providers.

Table 12. Cost saving due to removal of annual re-designation

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Designated APs number	145	160	176	194	214	235	255	275	294	312
Low risk	123	136	150	165	182	200	217	234	250	265
High risk (15% of total)	22	24	26	29	32	35	38	41	44	47
Expected Option 1 cost of complying, million	.6[97]	.7	.8	.8	.9	1.	1.1	1.2	1.3	1.4
"Do nothing" cost of complying	1.5[98]	1.7	1.9	2.1	2.3	2.5	2.7	2.9	3.1	3.3
Cost saving in the new system (£m)	**.91**	**1.**	**1.1**	**1.22**	**1.34**	**1.47**	**1.6**	**1.72**	**1.84**	**1.95**

88. The uncertainty that providers currently face is also affecting the recruitment of students, as the timings of designation mean that students do not normally find out at the time of application whether they will have access to a student loan. This is corroborated by the findings from the survey of existing APs with designated courses[99]. 82% of the providers surveyed agreed that "uncertainty related to annual re-designation had a material effect on their institution". In the qualitative responses, most of those affected highlighted difficulty recruiting students as a key issue, with examples including:

- *"We produce the prospectus at least 12 months in advance and we cannot stipulate that courses are designated for SLC funding"*
- *"You cannot plan a long term strategy based on annual re-designation process that confirms your courses eligibility 3 months before start of the course year. This affects adversely on recruitment and selection of learners, resource planning and overall quality assurance processes."*
- *"As for the last two years we have not been given approval until June/July; potential students have gone to a local university offering a similar course as student loans funding is secure there"*

89. This demonstrates that the removal of annual re-designation is quite likely to allow APs to recruit a markedly greater number of students, helping widen participation and increase competition in the sector.

[97] Option 1 estimate: (123 (*number of low risk APs*) x £652 (*cost of annual monitoring*)) = £0.08 million + (22 (*number of high risk APs*) x (£2,610 + £8,000)) = £0.57 million

[98] Counterfactual estimate: (£2,610 (*cost of annual re-designation*) + £8,000 (*cost of audited accounts*)) x 145 (*total number of APs)*= £1.54 million

[99] Internal BIS survey of APs with designated courses

90. However, we are unable to reliably estimate the extent to which the number of students recruited will increase, and whether these extra students are additional to the HE sector or would have otherwise studied at competitor providers. Given the scale of changes to the system, it is also difficult to distinguish the impact of this change from other reforms. Where the extra students recruited would have otherwise studied at HEIs or FECs, this change is likely to reflect a more efficient distribution of students, with a greater matching of supply to students' preferences. Due to these challenges, the impact of reduced uncertainty is not included within the overall estimate of direct impact on business, but noted as a non-monetised benefit to providers.

91. However, to illustrate the potential benefits of removed uncertainty, we assume that the changes in designation process will mean that "Approved" (with or without fee cap) APs are able to recruit 5-20% more students, net of displacement. Assuming that the average surplus earned per student will remain the same, this implies existing APs would be able to increase their operating surplus by 5-20%. Based on the financial data on APs with designated courses, a 5-20% higher operating surplus would on average amount to **£9,500-£38,300** per HE provider[100]. The table below demonstrates the potential impact on HE providers of three scenarios – low (5% more students), normal (10% more students) and high (20% more students).

Table 13. Expected increase in AP operating surpluses for three indicative scenarios

£million	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Number of designated APs	145	160	176	194	214	235	255	275	294	312
Business impact (5%)	**1.4**	**1.5**	**1.7**	**1.9**	**2.0**	**2.2**	**2.4**	**2.6**	**2.8**	**3.0**
Business impact (10%)	**2.8**	**3.1**	**3.4**	**3.7**	**4.1**	**4.5**	**4.9**	**5.3**	**5.6**	**6.0**
Business impact (20%)	**5.6**	**6.1**	**6.7**	**7.4**	**8.2**	**9.**	**9.8**	**10.5**	**11.2**	**11.9**

[100] Using confidential internal BIS/HEFCE finance data for APs with designated courses, average operating surplus per student is £383. Average number of students is 501.
For low estimate we assume: 501x5% = 25 additional students, 25x£383=£9,500 added surplus.
For central estimate, we assume: 501x10% = 50 additional students, 50x£383 = £19,100
For high estimate we assume: 501x20% = 100 additional students, 100x£383=£38,300

Costs

92. **Increased monitoring for high-risk providers.** In the new system, the burden of regulation will be tailored to the level of risk of the provider. For particular high-risk providers, this could mean a greater level of monitoring than in the current system (which would be more than outweighed by reduced amount of regulatory checks). While there could be increased costs on high-risk providers, it is unlikely, as the new system will be based on more flexible monitoring rather than rigid regulatory requirements. The added costs would be expected to be justified, as the burden of monitoring will be reallocated to where monitoring is most needed and students are at the biggest risk.

Duplication in Tier 4 process

Benefits

93. In order to be able to recruit international students, a provider has to have the status of Tier 4 visa sponsor Part of the requirements on providers to become a Tier 4 sponsor are the same as those for specific course designation – namely, FSMG check and Higher Education Review by QAA. If a provider is both designated and a Tier 4 sponsor, this implies duplication in the review process, imposing additional costs on the provider.

94. BIS monitoring data on existing designated APs shows that 40% of them currently have Tier 4 sponsor status. A HEFCE report on the cost of regulation[101] assesses the cost of a Higher Education Review for an AP at £12,000 a year. The key cost of an FSMG check is maintaining audited annual accounts – however, that would not be duplicated, and the administrative cost of submitting accounts/management statements is assumed to be minimal. The table below shows the calculation of the extra cost saving, if the duplication of QA reviews is removed. This assumes 100% duplication – which could be an overestimate, as part of the evidence collection work would be reused. The assumption is then that providers do not face the additional cost in the new system.

[101] HEFCE (2015) "*The cost to providers in England of existing quality assurance and quality assessment practices*".

Table 14. Cost savings due to removed duplication between Tier 4 sponsor application and course designation

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Designated APs	145	160	176	194	214	235	255	275	294	312
x 40% providers with Tier 4 licence										
Number of providers	58	64	70	78	86	94	102	110	117	125
x £12,000 annual cost of QAA review removed from the system										
Cost saving in the new system (£m)	**.70**	**.77**	**.85**	**.93**	**1.03**	**1.13**	**1.23**	**1.32**	**1.41**	**1.50**

Familiarisation with Single entry gateway

95. Overall, the creation of single entry gateway will streamline the process of entering the HE sector for new providers. The changes mean that the new providers will need to familiarise themselves with a different set of guidance than otherwise, which will help them understand the streamlined and simplified entry route. Existing providers will also need to familiarise themselves with the new system to understand what it might mean for them and to help decide whether they might want to change their activities in light of the new opportunities created by the new system, for example the ability of Alternative Providers to switch more readily to fee caps. It is assumed that they will only make such a change if they judge the benefits to be greater than the costs.

96. However, importantly, none of the changes listed above introduce any new tests that are significantly different from those that currently exist. The approach taken in the new regulatory framework will build on current approaches to testing providers ahead of entry and monitoring, but will be more streamlined and flexible. The reforms would reduce the frequency of regulatory checks for the vast majority of providers and remove duplication, but they would not introduce changes to the key regulatory checks – namely, the QAA Higher Education Review and FSMG[102] checks. We therefore believe that any familiarisation costs are likely to be quite small, and for new providers are actually likely to be less than otherwise.

97. The single entry gateway would be operated by the new regulator of HE sector, the Office for Students, which would assume similar functions to those currently performed by HEFCE and OFFA. The updated guidance on the processes would then be issued by the Office for Students once it is established. At this point, therefore, it is too early to estimate the costs of businesses familiarising themselves with the guidance, as the processes are

[102] Financial Sustainability, Management and Governance

yet to be developed. As highlighted in the previous paragraph, however, these costs are expected to be very low, especially relative to the overall impacts of the policy. Because of that, it is not considered proportionate to monetise familiarisation costs at this stage.

98. The most significant costs of this measure are likely to be associated with the HE providers' decision making in response to the regulatory changes. In particular, the wider range of options available will mean that HE providers will have to look at their long-term strategy and assess whether they need to be moving to a different operating model. Plus, the creation of probationary Degree Awarding Powers will increase the choice available to them and could lead them to consider whether they want to remain validated or acquire own DAPs.

99. The expectation is that a typical HE provider would establish a working group that would make an assessment of how the provider could respond to improved opportunities as a result of reform. This is expected to take two working days of a six person team. They would then present this assessment to the provider's senior management team/executive board, which would then consider their recommendations on how to update the provider's business plan in response to the reforms. On average, this is expected to take-up half a day (four hours) of six senior executives. The cost estimates have been developed working with the sector representative body for Alternative Providers, StudyUK, to ensure they are a fair representation of typical decision making processes in the sector.

100. The table overleaf shows the estimate of the costs.

Table 15. Cost of decision making for HE providers in response to reforms

Category	Cost
Cost of working group (16 hours x 6 staff members x £30.3[103])	£2,916
+ Cost of executive board time (4 hours x 6 staff members x £42.4)	£1,018
= Total staff cost	£3,935
+ overheads (+19.8%)	£4,714
Number of businesses affected (APs and HEIs in regulated system in 2018/19)	336
Total cost	**£1,321,104**

101. All the existing providers that will enter the regulated sector in the new system are assumed to face this cost, except FECs. For FECs, higher education is normally only a small part of their offer; and they are not expected to switch to a different operating model, given that the vast majority already receive grant funding from HEFCE. This would therefore constitute a one-time cost to 336 existing providers.

[103] £30.3 is a median hourly salary for "Senior professionals of educational establishments"; £42.4 is a median hourly salary for "Chief executives and senior officials", Source ONS (2016) "Annual survey of hours and earnings 2015"

102. These costs would not be incurred by the providers newly entering the sector after the reforms are introduced. Relative to the existing system, the costs of familiarisation with the regulatory system would be much lower, as the system is clearer and simpler.

Single entry gateway - Impact on students

Better value for students

103. The changes listed above would make the monitoring less burdensome for APs, reduce barriers to entry and create a consistent system for all HE providers. All of this will lead to a more competitive sector, where HE providers with the best offer are likely to benefit the most.

104. There are three possible responses:

    i. **A reduction in prices.** We do not expect this to be a widespread response. The cap on undergraduate tuition fees acts as a price ceiling in the sector and students have not shown strong sensitivity to the price of education. A reduction in price would lead to decreased income for the provider.

    ii. **Investment in improving quality.** Greater competition could mean that providers would need to increase their spending on staff, facilities and other factors that influence the attractiveness of their offer.

    iii. **Greater innovation and differentiation in their provision.** Greater competition could also lead them to look for more innovative ways of teaching to stand out from the competition and provide greater value for money. This could include greater use of IT in teaching, compressed degrees, new courses etc.

105. All of the potential effects of increased competition ultimately lead to significantly improved value for students. However, the behavioural response of different types of providers is quite uncertain at this point, and the impacts on the sector, while expected to be significant in the long-term, are difficult to robustly estimate at this point.

Financial support for students from underrepresented groups

106. As a result of the reforms, a much larger number of HE providers will sign access agreements with OFFA. This will mean that many more providers will provide financial support to students from underrepresented groups, which would widen participation in HE and advance equality of opportunity. This is expected to be a key financial benefit to students, resulting from these measures.

107. The section above on business impacts has estimated the size of the additional financial support new Approved (fee cap) providers would have to provide as a part of access agreements. This then represents a transfer from HE providers to students from disadvantaged backgrounds. The table below shows the expected size of the benefit to students (equivalent to the cost to business in the previous section).

Table 16. Financial benefit for students due to greater spread of Access Agreements

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Number of “Approved (fee cap)” APs	57	62	67	72	79	86	94	101	108	114
x £390 cost of Access Agreement financial support per student x 501 avg. students per AP										
Added cost of financial support	**11.35**	**13.41**	**15.58**	**17.88**	**20.06**	**22.11**	**24.05**	**25.88**	**27.63**	**29.28**

108. In addition to the direct impact above, there will be economic and social benefits to greater number of students able to being able to enter HE as a result of this financial support. We do not try to quantify these.

Providers moving to Approved (fee cap)

109. As explained in the “Impact on business” section, the creation of the “Approved (fee cap)” model will enable some providers to move to a model where they charge higher fees and provide courses that are eligible to attract student loan funding. This would then mean a higher cost for some students. However, as this is likely to be funded via student loans being available in the first instance, only a small proportion of this cost is likely to be incurred by students over the 10 year assessment period (as most of the repayment would occur at a later point).

110. The reformed system will be more competitive, with several regulatory barriers to competition removed. In a competitive sector, a provider can only increase their fees if students are still getting good value for money. Therefore, it is assumed that the impact of fee increases will be outweighed by a corresponding increase in teaching quality.

Single entry gateway - Impact on taxpayers

111. As mentioned above, there would be a cost to taxpayers of providers in “Approved (fee cap)” category charging higher fees than previously. This cost would overall be equivalent to the benefit to business.

Degree-Awarding Powers (DAPs) – Impact on business

112. Currently, DAPs are granted by the Privy Council, based on the recommendation of the Minister. To be eligible to apply for DAPs a provider must have at least four years’ experience of delivering HE programmes at least at undergraduate level. They are then scrutinised against a set of specific DAPs criteria covering governance and academic

management, academic standards and quality assurance, scholarship and pedagogical effectiveness, and environment supporting the delivery of HE programmes.

113. In the new system, a provider would be able to gain probationary DAPs for 3 years in parallel with gaining “Approved” or “Approved (fee cap)” status. The track record requirement for full DAPs would also be reduced to 3 years, with a wider range of evidence accepted. A successful probationary DAPs period, i.e. one where it could be demonstrated the specific DAPs criteria had now been met, will trigger access to full DAPs without a separate application and scrutiny.

Benefits

114. **The ability of a provider to get its own DAPs sooner than they would otherwise have (on a probationary basis).** The key benefit here is the reduction in the amount of time a provider needs to be in operation before they get the ability to award their own degrees. This amount of time would be reduced by 4 years. Other effects then follow from this.

115. **Not having to pay for validation throughout that period.** Currently, providers usually only enter the sector by signing a validation agreement with an existing provider, which can be quite expensive and burdensome. Moving from offering validated degrees to own degree-awarding powers then allows the new provider to compete on equal ground with incumbent providers in the sector, as they would not be subject to the cost of validation. This would mostly constitute a transfer between providers in the sector, with incumbent institutions’ income from validation reduced and new providers facing a lower cost.

116. Survey evidence[104] available shows that an average payment for validation amounts to about £540 per student as a minimum. For an average AP, this would amount to around £212,000 annually[105]. This is a huge financial burden on new entrants. For comparison, an average operating profit for an AP is only £150,000[106]. However, reforms to the validation process should mean that the cost will reduce.

117. While the validating institution does experience costs associated with providing a validation service, we expect these are unlikely to be higher than £25,000 (the cost of QAA review for APs[107]). This means that even with a significant reduction in the amount charged for providing validation services, there is still likely to be a net benefit for the validating institution. It is assumed that the average cost of validation will undergo a 50% cut, down to **£106,000**[108].

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[104] BIS survey of designated APs, unpublished

[105] Using BIS (2016) to estimate the average number of students per AP. 391 students per AP x £540 = ~£212,000.

[106] Based on the finance data for existing APs with specific course designation. Assumes that validated institutions without designation earn, on average, the same profit per each student enrolled as designated ones do (£380 per student).

[107] HEFCE (2015) “*The cost to providers in England of existing quality assurance and quality assessment practices*”.

[108] 50% assumption is based on internal BIS estimates.

118. **A reduction in the administrative cost of finding a validation partner for new entrants.** Throughout that 4-year period, it is likely that a provider would need to sign new validation agreements for new courses or renew their existing arrangements. Currently, APs report significant difficulties in finding a validation partner and renewing validation agreements. For existing APs with designated courses, 200 hours of their academic staff time and 168 hours of their administrative staff time are spent on finding a validation partner and finalising agreements[109]. This would amount to an annual cost of **£8,100**[110] per institution. For institutions without designation for student support, this figure is likely to be significantly higher, as it would be more difficult for them to find a validating partner.

119. However, if a provider gains DAPs, the provider would pay for validation for 4 fewer years (relative to a counterfactual of gaining a DAP only after meeting the 4 year track record requirement under existing rules). These 4 years represent a cost saving.

Table 17. Reduction in validation costs due to a simplified process of granting DAPs

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
New providers with DAPs that year ~	40	4	5	7	8	9	9	9	9	9
x £8,100 per year admin cost for 4 years[111]										
Cost saving	.32	.36	.4	.45	.19	.23	.25	.27	.28	.28
x £106,000 reduction in average cost of validation for 4 years[112]										
Cost transfer	4.22	4.68	5.25	5.94	2.53	2.99	3.34	3.58	3.7	3.72

120. **No separate application, or a less onerous application, would be needed to obtain Degree Awarding Powers.** Currently, applicants for DAPs are subject to a scrutiny by QAA, for which they need to provide a substantial amount of evidence, with no guarantee that they would be successful (although failure is rare). The criteria for DAPs are rigorous, in order to ensure that only providers which have demonstrated high quality teaching over many years are allowed to award their own degrees and thus safeguard the reputation of the sector. However, if validated providers offer substandard courses, the reputation of the sector is likely to suffer as well.

121. The regulatory checks to gain DAPs are currently more in-depth than the standard checks for designation and Tier 4 purposes, which has contributed to a relatively low number of applications and approvals to date. In addition, there is no assessment of financial

[109] Based on a survey of alternative providers
[110] Using hourly salaries from ONS (2016) “Annual Survey of Hours and Earnings 2015”. The estimates of average hourly wage are £24.98 for “HE teaching professionals” and £10.49 for “Administrative occupations”. 200X£24.98 + 168X£10.49 = £6,758. Adding 19.8% non-wage costs = ~£8,100.
[111] I.e. for 2021/22 it would be (40+4+5+7) (*number of providers gaining DAPs in the past 4 years)* * £8,100 (*annual admin cost)* = £0.45 million
[112] I.e. for 2021/22 it would be (40+4+5+7) (*number of providers gaining DAPs in the past 4 years)* * £106,000 (*annual admin cost)* = £5.94 million

sustainability, management and governance in the application process for Degree-Awarding Powers. In the new system, the Degree-Awarding Powers could be gained in parallel with gaining “Approved”/”Approved (fee cap)” status in the first instance (on a probationary basis, for 3 years), and upgraded to full DAPs if the probation period is successfully completed (subject to ongoing monitoring).

122. The cost of application for full DAPs then constitutes a cost saving for those who gain probationary DAPs. Providers that gain probationary DAPs would be subject to stringent monitoring, however, this monitoring would be ongoing throughout the probation period and would draw heavily on evidence collected through other processes (e.g. metrics used as part of the Teaching Excellence Framework). Thus while the level of scrutiny on providers would remain the same, there would be a reduction in administrative burdens of gaining DAPs. The cost of the application for Degree Awarding Powers is individual for each provider, and there have not been many applications in recent years to build up a robust sample. One provider that recently obtained DAPs has estimated their own staff costs at £192,000 over two years, plus £12,000 cost of consultancy services used for the application. Thus it is assumed that cost of DAPs to a provider is **£204,000**.

123. QAA also faces costs of scrutinising the applications for DAPs, which are currently fully covered by the provider. There is an initial application fee of £2,500. The further scrutiny fees are differentiated by type of DAPs (Foundation, Taught and Research) and whether the provider is already subscribed to QAA. For Taught DAPs, the fee for QAA subscribers will be £40,000[113], and it is assumed that the vast majority of providers applying will be already subscribed to QAA.

Table 18. Cost savings due to changes to the process of granting Degree Awarding Powers

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
New providers with DAPs that year ~	40	4	5	7	8	9	9	9	9	9
(1) x £204,000 cost saving of collecting evidence and visits for QAA review										
Saving in costs of preparing application	8.12[114]	.87	1.11	1.33	1.55	1.76	1.78	1.79	1.79	1.79
(2) x (£2,500 application cost + £40,000 cost of further scrutiny)										
Saving in application costs	1.69[115]	.18	.23	.28	.32	.37	.37	.37	.37	.37
Total (1) + (2)	**9.81**	**1.06**	**1.34**	**1.61**	**1.87**	**2.13**	**2.15**	**2.16**	**2.17**	**2.16**

[113] www.qaa.ac.uk
[114] 40 (new providers with DAPs) x £204,000 (cost of collecting evidence in current system) = £8.12 million
[115] 40 (new providers with DAPs) x (£40,000 (cost of scrutiny in the current system) + £2,500 (cost of application))= £1.69 million

Degree-Awarding Powers (DAPs) – Impact on students

124. The changes to the process of awarding DAPs will mean putting all providers on a level playing field, with new providers not having to pay for validation agreements for as long as they had to, and having more freedom to launch new courses. This will help the sector to become more competitive, with new providers better able to compete and traditional HEIs and FECs having a greater incentive to improve their offer.

125. The expected impacts of improved competition are similar to those outlined in the designation section. Greater competition is likely to lead to improved value for money for students, more choice and innovation in the sector. However, we do not seek to monetise these benefits.

Degree-Awarding Powers (DAPs) – Impact on taxpayers

126. Currently, Degree-Awarding Powers are awarded by the Privy Council, based on the review and advice from the Quality Assurance Agency. These costs are covered through application fees for DAPs, as mentioned above. In the new system, the DAP scrutiny will be replaced by ongoing monitoring, with decisions about awarding DAPs made by the OfS (or a body it contracts to).

University Title – Impact on business

Benefits

127. The proposed changes to the eligibility criteria for University/University College Title mean that every provider with full Degree-Awarding Powers up to bachelor level is eligible to gain University Title. This change does not mean a direct cost on business – it will in effect mean that a greater number of providers are eligible for University Title.

128. **The removal of the requirement to apply separately for UT and meet its associated criteria.** For those HE providers who would have applied for University Title under the existing system, there will now be a cost saving, as a separate application process will be removed. To estimate the number of providers who would have applied for UT or UCT without the reforms, the number of applications over the past 6 years (2010-2015) is used, with the rising trend assumed to continue (see Table 19 below). From 2018 onwards, the number of applications is then assumed to rise in line with the expected rise in the number of providers in the “Approved” (with or without fee cap) category under the new system.

Table 19. Applications for University/University College Title 2010-2015 *(Forecast numbers are shown in italic.)*

2010	2011	2012	2013	2014	2015	*2016*	*2017*	*2018*
1	0	1	3	0	2	*1.9*	*2.1*	*2.3*

129. The application process currently involves considerable staff time in terms of putting together the evidence; as well as legal fees spent on verifying that the provider is compliant with requirements of good governance. The number of applications is currently very low, which means that it is difficult to get robust evidence on the costs that providers are facing. In consultation with the BIS policy team, one provider was chosen as a representative case – i.e. there were no major difficulties in the process, and they met the standard requirements of gaining University Title. The provider has estimated the cost to them in the range of £15,000-£20,000. The upper bound is chosen as a main estimate here, to account for the possibility of more complex/problematic applications.

Table 20. Cost savings due to changes to University Title process

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Counterfactual no. of new UT[116]	2.3	2.3	2.4	2.5	2.6	2.7	2.8	2.9	3.0	3.1
Direct cost saving	.05	.05	.05	.05	.05	.05	.06	.06	.06	.06

130. It is expected that in the new policy, the vast majority of providers with Full Degree-Awarding Powers would want to gain University Title – given that it will be easier to do so in the new system.

131. **Reputational/competitive advantages.** For the providers listed in the table above (those who would not apply for University Title otherwise), the gaining of University Title should give rise to reputational advantages. While University Title does not give a specific practical advantage to an institution, it sends a message to prospective students that the institution is reliable and offers high-quality education. Enabling newer providers to gain University Title would thus mean they are perceived as more trustworthy/reputable, allowing them to compete with the incumbent providers. More equal competition with incumbent providers is likely to lead to a degree of redistribution of students across providers, as students find themselves more able to find a provider that better caters for their preferences, and so improve allocative efficiency within the sector.

132. An obvious potential source of estimates for the impacts of gaining UT is the performance of APs that have gained UT previously. However, there are only 2 APs that have gained University Title and have financial and student number data for after they have gained the title. The picture is mixed – one has experienced a large increase in student recruitment over the past 3 years, while for the other, student numbers have decreased slightly. Overall, this data does not seem sufficient to draw conclusions about the likely effects of the policy given the number of other factors that might influence student numbers at these institutions.

[116] Central estimates of the number of providers applying in a particular year can be a fractional number (e.g. 3.2). This reflects the uncertainty around numbers applying, with the cost saving representing our best central estimate at this point.

133. **Recruiting international students.** For similar reasons to those discussed above, it is expected that a provider gaining University Title will experience a competitive edge when looking to recruit international students and when looking to compete for national and international funding or grants.

Cost

134. In contrast, some respondents to the Green Paper consultation felt that extending University Title to a greater number of providers runs the risk of diluting the value of English universities. They argue that longevity and stability is key to the reputation of a university and, and entry of new providers could affect the reputation of UK HE. However, it could be expected that the reputation of the English HE sector is built on excellent research and teaching, and the reforms are expected to drive improvements in the quality of teaching. Consistent and high quality standards will also be applied to all providers with Degree-Awarding Powers, ensuring that only providers with excellent track record can become universities. It is therefore not expected that the reforms of the UT process will have any negative impact on the reputation of the sector.

University Title – Impact on taxpayer

135. Reviewing applications for University Title is currently a burden borne by government. HEFCE is responsible for reviewing the applications against the criteria, then providing briefing to BIS, which then passes its recommendation on to the Privy Council. In the new system that burden will be removed.

University Title – Impact on other groups

136. Given that UT has only reputational advantages for providers, no significant impact is expected on any other groups.

Risk-based regulatory framework

137. The proposed regulation would introduce a duty for the Office for Students[117] to create and operate a risk-based regulatory framework. That means the detail of the framework, including the number of providers in each category and its specific measures, will be developed and introduced at a later point. This means we are not able to accurately assess the impact on providers at this stage.

138. The move to flexible, risk-based regulation means that there would be fewer "fixed" responsibilities for a provider, instead, the level of regulation will be flexibly adjusted over the years. This adds to the challenge of estimating the regulatory savings at this stage.

139. The majority of the impacts from the risk-based regulatory framework are picked up in the section of designation. Risk-based regulation will also enable Degree-Awarding Powers to be granted in parallel with entry at "Approved" or "Approved (fee cap)", as providers would then be subject to risk-based monitoring. The proposal is that risk-based regulation

[117] Assuming it is created – otherwise the duty would lie with HEFCE

underpins the whole system, which makes it difficult to disentangle the direct costs and benefits of this change from other changes, for example, designation.

140. Because of the reasons above, the impact of this regulatory change will be quantified in the impact assessments associated with the relevant secondary legislation. The following only describes a general picture of the expected impacts.

   a. **Fairer allocation of administrative burdens.** The burden of regulation would specifically fall on providers where increased monitoring would add value to the students, to safeguard the quality of England's HE system.
   b. **Better management of high-risk providers**. In the new system, there would be a greater focus on the riskier providers, providing the OfS with more levers to regulate them. Risks would also be picked up on a more continuous basis through monitoring rather than through, for example, 4-yearly reviews for Degree-Awarding Powers.

Specific impact tests and better regulation requirements

Competition impact

141. The regulatory measures on course validation, designation for government funding, Degree-Awarding Powers and University Title covered within this impact assessment all have an explicit objective of improving competition in the sector. The expected impact of increased competition is reviewed within specific sections on each measure. As the impact is expected to be positive for all measures listed, an in-depth competition assessment is not required.

Small firms impact

142. The proposals will harmonise regulatory systems for HEIs, FECs and APs, reducing the barriers to entry for new HE providers. This is expected to directly benefit APs, but could indirectly negatively affect the HEIs through removing their competitive advantages. Looking at the size distribution at existing providers, it is clear that APs are, on average, much smaller than HEIs. The average number of students at an HEI is 14,000, compared to only 500[118] for APs with designated courses. This suggests that majority of benefits listed in the impact assessment, will primarily affect APs.

143. **Estimating the number of employees.** Normally, small firms are defined as firms with fewer than 50 full-time equivalent employees. Based on the survey of APs, 72% of those who responded would be classed as small.

144. However, the number of staff is not necessarily a good indicator of the size of an HE provider. Depending on the circumstances, an AP could have the most teaching staff on temporary contracts, while another AP will have all the teaching staff as permanent employees. The number of students is an alternative indicator of the size of the provider.

[118] With 117 median – meaning that majority of providers are much smaller than average.

Using the research on APs[119], there was on average 12.4 full-time equivalent students per one full-time equivalent member of staff. Then the equivalent cut-off for the number of students would be ~620 students per provider. Using the same research report, this would amount to 88% of APs.

145. Thus on both measures, the vast majority of existing APs would be classed as small firms. This means that the majority of benefits to business listed in this IA, averaging around £25 million a year, would go to small HE providers.

146. On the other hand, no publically-funded HEIs would be classed as small firms (HESA staff data 2014/15). They are the business most likely to experience an indirect negative impact from the measures, in the form of increased competition.

[119] BIS (2016) *"Understanding the market of alternative providers of higher education and their students in 2014"*

Title: **Information Sharing and Data Transparency Duties**	**Impact Assessment (IA)**
IA No: BIS005(F)-HE	**Date: 01/06/2016**
RPC Reference No: RPC-3337(1)-BIS	**Stage: Final**
Lead department or agency: BIS	**Source of intervention: Domestic**
	Type of measure: Primary legislation

Summary: Intervention and Options

RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present**	**Net cost to business per year** (EANDCB in 2014	**One-In, Three-Out**	**Business Impact Target Status**
-£5.5m	-£5.2m	£0.57m	In scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?

1) Higher Education Providers (HEPs) are currently required to send financial and other information to the Higher Education Funding Council for England (HEFCE) as a condition of receiving teaching grant funding. This information is vital to HEFCE's function of regulating the sector, ensuring institutional accountability and assurance. As the higher education landscape changes, legislation is required to ensure "Approved/Approved (fee cap)" providers[120] share information with the Office for Students (OfS).

2) Widening participation in higher education is a priority for the Government. One factor inhibiting wider participation is the information asymmetries in the sector. Prospective students from backgrounds where higher education is the norm have an advantage in access to information. This means that students are not always informed of the likely impact of their decision to apply for certain courses at certain institutions. Separately, without access to full data, policymakers and researchers cannot fully understand the extent to which students from different backgrounds are successful in applying to their chosen institutions and subjects.

Government intervention is necessary to ensure information is made available to the OfS and to students, to ensure institutional accountability and inform student choice and confidence in the fairness of the system. Further data will also enable policy makers and researchers to understand better areas of underperformance relating to widening participation and develop more effective and value for money policy solutions.

What are the policy objectives and the intended effects?

1) **Ensure the OfS has access to the information necessary to regulate the sector**, ensuring value for money for the student and taxpayer
2) **Improve student choice,** making it easier to find the course that will fulfil their career aspirations
3) **Support the development of more effective, value for money, policies through access to more data and information**. The availability of higher education data will enable sector and institutional performance to be monitored, creating pressure on underperformers to improve and enabling policy makers, supported by the work of researchers, to develop more targeted and effective policies. This will be boosted by securely linking to other existing data.
4) **Increase participation in higher education for students from disadvantaged backgrounds and underrepresented backgrounds**

[120] Approved providers are those whose students are eligible for student and tuition fee support

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: Do nothing. Retain the current arrangements for information provision.

Option 1. To introduce four measures that will tackle this information asymmetry:

(1) requiring Higher Education Providers (HEPs) to legally provide information that is currently provided to HEFCE to the OfS,

(2) providing information to students contained within the Key Information Set (KIS)

(3) requiring admissions services, such as UCAS, to share data with Government and accredited researchers to support policy development

(4) Asking HEPs to publish offer and retention rates broken down by gender, ethnicity and disadvantage, and 'Approved' providers without Access Agreements to publish an Access statement alongside this information.

We had considered alternatives to regulation for these measures.

To achieve the objectives achieved by measures 1, 2 and 4 we considered a series of detailed voluntary agreements with providers. However, we identified a risk that some of the parties in question (possibly those with whom we have the greatest concerns) would not participate meaning students, the OfS, and Government would not be able to systematically and routinely collect the information required to deliver Government policy objectives thereby undermining policy intent.

For objective 3, UCAS's original preference was to only (securely) share data for applicants who have explicitly "opted in". The Government consulted on the case for going further through legislation. UCAS had already previously signalled a willingness to go further and share more data with researchers, and only certain data with policy makers. However, given the public policy importance of this data, the Government believes that legislation is necessary to secure the future supply of this data to both researchers and policy makers.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date: 2020/21**

Does implementation go beyond minimum EU requirements?		N/A		
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions?		**Traded:**		**Non-traded:**

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Date: 3rd June 2016

Summary: Analysis & Evidence

Description: Information sharing and data transparency duties

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -11.0	High: 1.04	Best Estimate: -0.55

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low	0.0		0.5	**4.0**
High	0.0		1.3	**11.1**
Best Estimate	0.0		0.8	**6.9**

Description and scale of key monetised costs by 'main affected groups'

Business: Loss in UCAS revenue from data sales as data would be provided free to Government and accredited researchers. Some providers will face publishing costs and costs relating to the Widening Participation Statement, and from publishing information relating to the Transparency Duty.

Government: costs for data cleaning, processing and handling data requests from accredited researchers

Other key non-monetised costs by 'main affected groups' **N/A**

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low	0.0		0.0	**0.1**
High	0.0		0.6	**5.0**
Best Estimate	0.0		0.2	**1.3**

Description and scale of key monetised benefits by 'main affected groups'

Business: Savings to providers and research organisations as they would no longer have to pay UCAS for access to certain data

Government: Savings as a result of no longer having to pay UCAS for access to certain data

Other key non-monetised benefits by 'main affected groups'

Students: Greater information will enable students to identify and select the courses and institutions that best fit their aspirations. This should help support better outcomes and lead to lower dropout rates. There are particular benefits to disadvantaged students and other underrepresented groups as information asymmetries are reduced and the Transparency Duty highlights institutions that could do more in terms of widening participation, spurring them into further action, alongside the publication of an Access statement. There will also be a benefit from a well regulated HE sector as OfS has the confidence it will be able to obtain information required to fulfil its objectives.

Taxpayers: Assurance that information needed to regulate the sector and support wider policy objectives can be obtained going forward. Potential gains if more students attend courses that enable them to fulfil their potential, leading to increased loan repayments and benefits to the economy. Lower dropout rates should mean students are more likely to repay their student loan debt.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

- The loss to UCAS from data sales which is difficult to accurately forecast
- Uncertainty regarding UCAS response to potential lost income from data sales, either passing on via charges to institutions or students.
- Demand for access to data from researchers is higher than anticipated, resulting in greater processing costs to Government or to any intermediary which may disperse this data on Government's behalf
- Assumptions around the number and type of providers in the future and the number of students studying at these institutions

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m: 2.8
Costs: 0.64	**Benefits:** 0	**Net:** -0.57	

Problem under consideration

Information from institutions is needed to regulate the sector under the new higher education landscape.

1. Institutions are currently required to send financial and other information to HEFCE as a condition of receiving teaching grant funding. This information is vital to regulating the sector, ensuring institutional accountability and assurance, and for the Government and HEFCE, to be aware of potential risks in the sector. Without legislation there would be no formal legal requirement for approved providers who do not receive grant funding to provide information to the new regulator, the Office for Students.

Information asymmetries are a key market failure in higher education.

2. Imperfect information can result in students applying to institutions and courses that do not best suit their needs. If there is no clear information about the outcomes of entering different HE courses, applicants will not make the most effective course choices. Evidence suggests that currently students may not have the information available to choose the courses and institutions that will result in the best outcomes for them[121]. Improved data can also lead to better policy making and can create incentives for institutions to improve outcomes for students.

There is an under-representation of students from disadvantaged backgrounds[122] in higher education.

3. According to UCAS, for the academic year 2015/16, there has been a record entry rate by young people from disadvantaged backgrounds of 18.5%[123]. However, there is still more to do: the entry rate of young people from the most advantaged backgrounds is more than 2.4 times that of the most disadvantaged.

4. The Prime Minister has set a challenging goal in this area; setting out an ambition to double the proportion of people from disadvantaged backgrounds entering higher education by the end of this Parliament relative to 2009 levels[124]. This would mean raising the participation rate of disadvantaged young people from 13.6% in 2009, to 27.2% in 2020.

5. The Prime Minister has also set a goal of increasing the number of Black and Minority Ethnic students in higher education by 20% by 2020. Variable outcomes exist for certain ethnic groups, particularly at the most selective institutions. For example, in 2014 just 27 black students entered at Oxford University, out of an intake of more than 2,500[125]. Publishing

[121] HEPI academic experience survey 2015 http://www.hepi.ac.uk/wp-content/uploads/2015/06/AS-PRINTED-HEA_HEPI_report_print4.pdf
[122] Defined by POLAR (Participation of Local Areas), as a measure of educational disadvantage relating to Higher Education
[123] UCAS (2015) End of Cycle Report: UCAS Analysis and Research https://www.ucas.com/sites/default/files/eoc-report-2015-v2.pdf
[124] Speech by Jo Johnson, Minister for Universities and Science, 2015) https://www.gov.uk/government/speeches/higher-education-fulfilling-our-potential
[125] http://www.newstatesman.com/politics/education/2016/02/why-oxford-has-so-few-black-students-and-who-blame. Citing Oxford University admissions data for 2014 entry.

data on application rates, offer rates and outcomes will aid students in choosing between HE providers and will increase pressure on HEPs to improve their performance on widening participation.

Rationale for intervention

To make high quality data and information clearer and more readily available

6. It is important that Government intervenes to improve information provision in the higher education sector for four main reasons:

- To ensure financial data and wider information such as institutional risks are available to the Office for Students (OfS) so that they can monitor and regulate approved providers effectively, thereby ensuring value for money for the taxpayer and the student.

- To ensure that prospective students have access to all the relevant and necessary information they require to make an informed decision as to which course and institution to attend. The decision to enter higher education is an important one – although students do face costs, obtaining a degree has a significant impact on future earnings. But the returns vary for individuals, by course and the provider a student chooses. Key Information Sets[126] (KIS) are an important part of providing information to students, and there is a need to ensure the OfS has sufficient power to require providers to provide this under the new landscape.

- Institution-level information on participation and outcomes will make students aware of the likelihood of successfully applying for and then completing a course of study at that institution, aiding their decision making. Equally, through greater transparency, institutions will act to ensure they have a representative student body.

- The reasons for underrepresentation are not always fully understood. Access to good data is important in addressing this, but currently UCAS, who collect information as part of the application and offer-making process, do not provide access to individual level data routinely. The Social Mobility and Child Poverty Commission's report '*Data and public policy: trying to make social progress blindfolded*'[127] highlighted the importance of UCAS data to researching the transition from school to university in order to understand the drivers supporting social mobility.

To Widen Access and Improve Social Mobility

7. Greater public awareness of admission and offer-making information by institutions will enable better measuring and comparison of institutional progress in widening access.

[126] https://unistats.direct.gov.uk/find-out-more/key-information-set
[127] University College London (2015) 'Data and public policy: trying to make social progress': A report for the Social Mobility and Child Poverty Commission https://www.gov.uk/government/publications/data-and-public-policy-trying-to-make-social-progress-blindfolded

Institutions where disadvantaged and underrepresented students are low will be highlighted, incentivising them to make further progress in widening participation.

8. Requiring approved providers who do not produce Access Agreements to publish an Access statement, outlining their objectives and approach, will help to commit these providers to outreach activity and increase participation of students from disadvantaged and underrepresented backgrounds.

Policy objectives

9. The policies are intended to lead to the following benefits for the taxpayer and students:
    - **Ensure the OfS can be confident of the sector's sustainability and is providing value for money,** thereby benefiting students and the taxpayer;
    - **Increase participation in higher education for students from disadvantaged backgrounds** and from black and minority ethnic backgrounds – making progress towards the goals set by the Prime Minister;
    - **Improve student choices**, making it easier to find the course that will fulfil their career aspirations, potentially reducing student dropout rates; and
    - **Support the development of more effective, value for money, policies.** The availability of higher education data will enable sector and institutional performance to be monitored, placing greater pressure on underperformers to improve and enabling policymakers, supported by the work of researchers, to develop more targeted and effective value for money policies. This will be boosted by securely linking data to other existing datasets.

Information that is currently provided

10. Publicly funded Higher Education Providers (those in receipt of grant funding from Government) are required to provide financial sustainability and costing data[128], as well as Key Information Set (KIS) data as part of the Memorandum of Assurance and Accountability between HEFCE (Higher Education Funding Council for England) and grant-funded institutions as 'it is a condition of funding that institutions supply data requested by HEFCE'. In addition, providers that do not receive grant-funding (currently called Alternative Providers) provide similar information as part of the process for having their courses designated for student support funding. For the 2016/17 academic year KIS data will also be provided across all their courses. This requirement ensures parity with the HEFCE funded sector.

11. KIS provides comparable course level information on around 37,000 UK higher education courses. Institutions provide information (based on HEFCE research on the most useful

[128] Financial data which providers are required to provide under the Memorandum include information on the institution's expenditure, income, borrowing, cash flow and reserves.

information to prospective students) on their websites and this is then linked through to a central website (Unistats) which enables the information to be compared. Examples of information that is published are as follows:

- Student satisfaction responses from the National Student Survey (NSS);
- Student destinations on finishing their course from the Destination of Leavers from Higher Education (DLHE) survey;
- How the course is taught and study patterns;
- How the course is assessed;
- Course accreditation by professional bodies; and
- Course costs (such as tuition fees and accommodation).

12. The proposal to introduce a Transparency Duty will build on current information provisions, requiring providers to release and publish information on students who apply, receive offers, and accept as well as non-continuers by gender, ethnicity and social background at institution level. Whilst admissions data may already be published by individual institutions, the data is not consistently broken down by student background or in a way that is comparable.

Description of options considered

13. The options under consideration are:

- **Option 0: Do nothing.** Without legislation, government will no longer have the ability or levers to require approved providers to make this information available to prospective students and Government. The OfS, once created, would not have the ability to require this information other than on a voluntary basis or as a condition of teaching grant (which would only be for those institutions which qualify for it). By “doing nothing” we would lose our levers to direct Approved providers to provide the required information.

  Therefore, in order to achieve the above objectives, it would be necessary to rely on voluntary agreements with Approved providers in order to gather and publish the information we are seeking. In addition, a voluntary agreement with UCAS would be required committing them to share individual level data with Government and accredited researchers (and we would need to be confident that this would be a permanent prospect).

- **Option 1: Introduce legislation in three areas – the preferred option:**

  1) Legally require all the ’Approved’ providers to share financial and other necessary information with the newly created Office for Students (OfS);

  2) require ‘Approved’ providers to publish information in the form of Key Information Sets (KIS) as a condition of registration;

3) Require bodies providing shared admissions services, e.g. UCAS, to provide relevant application data, where it is needed;

4) Introduce a Transparency Duty for providers to publish an ethnic, gender and student background breakdown in every year of their intake, including application/offer/acceptance and progression rates and general representation in key subjects.

5) Require 'Approved' providers without Access Agreements to publish Access statements.

Analysis of options

Option 0: Do nothing

14. This option would be inconsistent with the new architecture being created and the intention to create a level playing field for providers. It does not legally ensure financial and other necessary information to regulate the sector is available to the OfS, nor consistent and comparable information is available to students through the Key Information Sets.

15. Doing nothing would mean there would be no assurance that full UCAS data would be available to researchers and Government analysts to analyse and further understand the barriers to social mobility.

16. Without the Transparency Duty , which aims to highlight institutions which could do more in widening participation, institutions may be less incentivised to undertake further outreach activity and improve their performance in ensuring a diverse student intake.

17. We would lack levers to nudge 'Approved' providers into improving access to HE if they were not required to make the application data transparent. There is a risk that some existing providers with access agreements could switch from the 'Approved (Fee Cap)' model to the 'Approved' model, and hence absolve themselves of any public commitment on widening access.

18. In order to achieve the above policy objectives without legislation it would be necessary to rely on:

    - Voluntary agreements with HE providers to supply the necessary financial information required by the OfS to regulate the sector and information from students
    - Voluntary agreements with individual providers will be required to ensure information contained within the Transparency Duty and the Access statement (for Approved providers without Access Agreements) is published.

19. There is a risk that some providers may choose not to participate in voluntary agreements, for example, if they felt that the benefits of these arrangements would not outweigh the costs of doing so. As a result, students, the OfS, and Government would not be able to systematically and routinely collect the information required to deliver Government policy

objectives as individual organisations could opt out of the agreement thereby undermining policy intent.

20. Government had also discussed with UCAS a voluntary approach to sharing data from all applicants seeking to enter higher education following UCAS' recent decision to restrict access to only those applicants who have explicitly "opted in" to make their information available. This would lead to smaller, possibly unrepresentative, samples of data, impacting on government's ability to devise effective policy to widen access to higher education and increase social mobility.

21. UCAS is taking steps to make more of this data (but not all) available to researchers and the Government. However, legislation is still needed to ensure all of the data needed by researchers and policymakers is available and that the access to this data is independent of the UCAS policy.

Costs

22. There will be no additional costs to institutions.

23. However Government and students (particularly those from disadvantaged backgrounds) may lose out if:

- The way the sector is funded in the future changes, and financial and KIS data is no longer available to regulate the sector which helps to ensure value for money and informs student decision making;
- Difficulties remain in researchers and policymakers obtaining access to data to develop the evidence and effective widening participation policies;
- Information asymmetries remain, with potential students making sub-optimal decisions which result in a cost to them and for the exchequer which provides student support; and
- Institutions do not carry out outreach activity because they have not been spurred to do so through the Transparency Duty or through the publication of an Access statement for Approved providers without Access Agreements.

24. We are unable to quantify the potential costs of a voluntary agreement given the uncertainties around the proportion of providers who would likely agree to sign up to voluntary agreements.

Benefits

25. There will be no additional benefits to institutions where there are no voluntary agreements in place.

26. For institutions that agree to provide data relating to the Transparency Duty and produce an Access statement (where relevant), students will have access to information that will help inform their decision making. This will benefit them as more informed students are less likely

to drop out during the course of their study. Published application data will also mean that providers that could do more to improve access to HE would be highlighted, spurring them into further progress. The policy objectives will only be realised if agreements with a significant number, if not all providers are made.

27. If further UCAS data is voluntarily provided, government and researchers would benefit (they would no longer have to pay for access to some of this data) and students would benefit from more effective widening participation policies as a result of improvements to the evidence base. These benefits are explained further in Option 1 below.

28. We are unable to quantify the benefits of a voluntary agreement given the uncertainties around the proportion of providers that would agree to sign up to voluntary agreements and the uncertainties around what data will be provided by UCAS under a voluntary agreement. We conclude that the policy objectives will not be met with voluntary agreements.

Option 1: Implement legislation

29. Marginal benefits are calculated for all Higher Education Providers over 10 years starting in 2017. This is the standard timeframe for government policy impact assessments

Policy measure 1: Implement legislation requiring Higher Education Providers (HEPs) to provide financial and student information

30. Without legislation, under the proposed higher education landscape there will currently be no legal requirement on Higher Education Providers (HEPs) to provide financial and student information. The current Memorandum of Assurance and Accountability between HEFCE and grant-funded institutions confirms that "it is a condition of funding that institutions supply data requested by HEFCE". The requirement also extends to Designated Alternative Providers (who are not in receipt of grant funding).

31. Data requested from HEFCE includes financial and accounting information to ensure regulation of the sector and the safeguarding of public funds. In addition, providers that do not receive grant-funding, will be required to provide Key Information Set (KIS) data as part of their process for having courses designated for student support funding, for the 2016/17 academic year across all their courses.

32. Implementing legislation will mean that the OfS will require all approved Higher Education Providers to provide the necessary data requested by OfS to carry out its duties, and require the publishing of information to support informed student decision making through the KIS.

33. The details of the information that the OfS will require and the information that should be provided to students will be set out in guidance to the sector and not in legislation. It is anticipated that HE providers will continue to be required to provide broadly the same information that is currently provided. Therefore, it is not expected that legislation will lead to an increase in burdens to any party. Flexibility will, however, be retained to enable the detail of this requirement to be adjusted if, for example, this is needed to support OfS functions, to improve the information provided to students or different data sources emerge.

Costs

Business

34. Legislating to require all Higher Education Providers to provide financial and KIS data to the OfS should not result in any additional burdens on institutions as a result of the policy compared to the 'do nothing' scenario. Under the current system, all Alternative Providers (APs) with access to student support and all grant funded providers (HEIs) currently provide this data (APs are due to provide KIS data by 2016/17). Legislation will provide assurance that this information will continue to be provided.

Students/Government

35. There will be no additional costs to students/Government.

Benefits

Students

36. For the specific proposal of implementing legislation to require HEPs to provide student information there will be no significant additional benefit to students compared to existing arrangements, as this information is currently provided under the Memorandum of Assurance and Accountability. The legislation will, however, provide assurance within the new HE sector landscape that institutions will continue to provide the OfS and students with the necessary information to ensure regulation of the sector and inform student decision making.

Government

37. Legislating the requirement will clearly define the expectations on HEPs regarding information provision. It is in the government's interest to have certainty that financial data which will help ensure the safe-guarding of public funds and KIS data will be available in the future. KIS information will also be available to government to inform decisions of how to support disadvantaged students and encourage them to enter higher education. It is not possible to monetise the benefit.

Policy measure 2: Enable the OfS to require bodies providing an admissions service connected with the provision of higher education e.g. UCAS to provide relevant data, where it is needed

38. UCAS is an independent charity owned by the HE sector which provides information, advice, and admissions/applications services to facilitate educational progression. UCAS receives no direct public funding; it is financed by student application fees, institutional membership fees and revenue from its commercial activities. UCAS is governed by a Board of Trustees, the majority of whom are leaders of higher or further education providers.

39. UCAS carries out an important public function by delivering an admissions service on behalf of Higher Education Providers. Existing legislation does not require UCAS to make individual-level data available to Government.

40. New legislation will require UCAS to share individual-level data at the end of each higher education application cycle. This data will be shared, held and used securely by OfS and Government analysts. It will also be made available to researchers through appropriate intermediaries such as the Administrative Data Research Network (ADRN), to enable accredited researchers to securely access the data where their work is in the public interest. However, as is currently the case, institutions/bodies will have to request and continue to pay UCAS for application data as it comes in during the higher education application cycle if they would like to know the progress of applications throughout the year.

41. For the purpose of this impact assessment we assume that UCAS will provide a portion of the data voluntarily (our best estimate is that 50% of this data will be provided voluntarily), with legislation ensuring the remaining data is provided. The legislation will also ensure that the access to data is ensured irrespective of future changes of UCAS policy.

Costs

Business - UCAS

42. In order to calculate the costs to UCAS, we first look at their current revenues, and try to estimate how much of this will be lost as a result of making their end of cycle data free of charge. UCAS' 2014 Directors' Report & Consolidated Accounts[129] demonstrates UCAS' incoming revenue streams as follows:

[129] https://www.ucas.com/sites/default/files/ucas_consolidated-signed_accounts.pdf. Pg. 25

Table 1: UCAS Incoming Resources

	2015 £	2014 £
Institutional and applicant fees		
Provider fees	10,673,006	10,614,853
Applicant fees	13,652,054	13,445,215
	24,325,060	24,060,068
Other income		
Data sales	90,828	23,920
Supporting Professionalism in Admissions	31,979	232,507
Data and brand charge	3,886,544	2,804,875
Management and resourcing recharge	2,009,732	2,634,449
Fraud grant	67,000	–
Other income	225,837	387,796
Recharge	(46,559)	–
	6,265,361	6,083,547
Investment income	171,869	167,405
Charity income excluding gift aid	30,762,290	30,311,020
Trading operations		
UCAS Media Limited	16,002,840	13,136,478
Investment income	2,759	2,037
	16,005,599	13,138,515
Intercompany	(5,943,846)	(5,565,019)
Group income	40,824,043	37,884,516

43. In their response to the Green Paper proposals, UCAS identify the following areas of policy impact that could affect their revenues.

Applicant Fee Income

44. In its response to the Green Paper, UCAS set out its concerns that sharing applicant data could put some prospective students off making an application. 8% of respondents to their survey said that they would consider not applying to higher education at all, if UCAS were to share their data without their consent[130]. The Government does not, however, believe that this policy will have a net negative impact on applications to university.

45. The Government takes data security very seriously and will take steps to ensure that this data is used securely by all parties, which will be explained to UCAS applicants. The Government provides secure access to researchers to other datasets which hold individual level data, such as the National Pupil Database, which contains detailed data on pupils in schools and colleges. Access to this data is subject to strict conditions, requiring researchers and organisations to have appropriate data security procedures in place. The Government takes the view that making this data available to accredited researchers could actually improve confidence for students entering higher education, and could therefore result in an increase in participation.

[130] https://www.ucas.com/corporate/news-and-key-documents/news/37000-students-respond-ucas%E2%80%99-applicant-data-survey

46. For the purposes of this analysis we therefore assume that this policy has a neutral impact on student participation.

Loss in revenue for data and bespoke analysis

47. The areas that relate most to a revenue loss in bespoke analysis and in data sales in Table 1 are ‘data sales’ and ‘data and brand charge’. We believe that there will be a small proportion of income lost in these areas, as although data for the end of the cycle will be published, other parties may still be interested in data during the cycle, in order to keep track with applications as they occur. Furthermore, institutions are still likely to request bespoke analysis, as UCAS analysts will be more experienced with the data and have the opportunity to provide ‘value-added’ analytical services.

48. Revenue from data sales increased between 2014 and 2015. Revenue from both data and brand charges has varied over recent years. For forecasting purposes we assume that revenue from both data sales and data and brand charges increase in line with inflation only, using HMT inflation assumptions. Data sales in 2017 are estimated to be £95,351 while data and brand charges are estimated to be £4,068,472.

49. In the absence of any forecast data, we assume UCAS experience a combined revenue loss in ‘data sales’ and ‘data and brand charge’ of between 2.5% - 12.5%, with a best estimate of 7.5% per year as a result of making more data available to researchers, government and institutions. This equates to a revenue loss in Year 1 of between £0.10m and £0.52m with a best estimate of £0.31m.

50. However, some of this revenue loss would have occurred anyway due to the steps UCAS voluntarily planned to take providing more of the data. We assume, in a central scenario that UCAS would have provided 50% of the data voluntarily (with a low estimate of 25% and a high estimate of 75%). We apply these proportions to estimate the costs to UCAS as a result of the legislation. This is shown below:

Table 2: Estimated revenue reductions as a result of the legislation (Year 1)

	Low	High	Best
Assumed additional % data required as a result of legislation	**25%**	**75%**	**50%**
Reduction in UCAS revenue	**£0.03m**	**£0.39m**	**£0.16m**

51. It is important to note, however, that this only relates to revenues. It does not take account of any reduction in the costs that would otherwise be associated with generating these revenues.

52. As part of this requirement UCAS will need to prepare and transfer data to government. UCAS currently send unpublished data to Government and we assume the additional costs of sending the individual level dataset is not likely to be significant. As unpublished data is already shared with other organisations we do not assume familiarisation costs for UCAS.

53. In their response to the Green Paper, UCAS indicated that the loss in revenues is likely to be passed on to institutions or applicants through increased subscription fees.

Government

54. The cost to Government is assumed to equal the set up costs of cleaning the data and de-identifying individual data so that it can be securely used by researchers. We do not assume the Government will face significant infrastructure costs relating to the receipt of data[131].

55. Without current access to the data and information on the likelihood of potential demand as a result of the legislation it is difficult to provide a reliable estimate of the potential costs to Government.

56. Our central assumptions are based on analytical resource required to work with other, similar datasets. It is assumed that an initial resource cost of two experienced analysts is required in year 1, with on-going annual resource requirement of 2 analysts to process information requests from external researchers. In year 1, assuming 2 analysts on an annual salary of £52,000, uplifted for non-wage costs, the cost equates to approximately £125,000[132]. From year 2, assuming this requires 2 analysts on an annual salary of £39,000, this equates to an on-going cost of £100,000[133]. Given the significant uncertainties we assume a low scenario of £65,000 and £50,000 and a high scenario of £250,000 and £200,000[134] for one-off and ongoing costs respectively. These are set out in the table overleaf. The exact costs will depend on the process of data transferring and access procedures for accredited researchers.

[131] The data file received from UCAS is likely to be smaller than student record data that Government receives from the Higher Education Statistical Agency (HESA), which is around 6GB.
[132] £52,005*1.198 (uplift for non-wage costs)*2 = £124,604
[133] £39,419*1.198*2=£94,448
[134] The low scenario assumes that only one analyst is required in Year 1 and following years. The high scenario assumes that upto 4 analysts are needed in Year 1 and subsequent years.

Table 3: Costs to Government

	Low	High	Best
One-off costs	£65,000	£250,000	£125,000
Ongoing costs	£50,000	£200,000	£100,000

Benefits

Business

57. Research organisations and institutions are likely to benefit from the policy as accredited researchers will be able to access data from Government. We do not know the proportion of current UCAS revenue that relates to data and analytical requests made by businesses (as opposed to Government). We therefore do not assume that all costs incurred by UCAS as a result of revenue losses from fewer data and bespoke analysis requests will directly translate as benefits to business.

58. Table 3 above showed UCAS' estimated loss of revenue

59. We estimate high and low estimates of how these revenue losses (£0.16m from Table 2) may translate into benefits to the business using two scenarios below:

- Scenario I (low): Currently, businesses request 25% of data or bespoke analysis from UCAS (low estimate) and will now be able to benefit from the anonymised data made publicly available
- Scenario II (high): Currently, businesses request 75% data and bespoke analysis from UCAS (high estimate) and will now be able to benefit from the anonymised data made publicly available. Equal weight is given to both scenarios to estimate the expected average annual benefit to business. The benefits associated with the two scenarios are shown in Table 4:

Table 4: Average annual benefit to institutions depending on scenario

	Low	High	Best
Reduction in UCAS revenue	£0.03m	£0.39m	£0.16m
% share total data demand from business	25%	75%	50%
Savings to Business (share of UCAS revenue foregone)	**£0m**	**£0.29m**	**£0.08m**

60. We therefore estimate that the average annual benefit to business is between £0.0m and £0.29m with a best estimate of £0.08m. These figures reflect different assumptions around the proportion of data which would be provided by UCAS under a voluntary arrangement.

Students

61. The provision of data will benefit students, as its main objective is to reduce information asymmetries in the sector; improving access to HE and improving social mobility as a result. If important data about students is available to the OfS and Government, they will be better able to identify the best ways to support students from disadvantaged backgrounds and encourage them to attend university. Therefore, prospective applicants/students from disadvantaged backgrounds who would have not normally attended university will benefit from the provision. In addition, as a result of this policy, students are likely to make better course choices and therefore less likely to drop out during their study. Although **we expect these benefits to be significant, we do not know how many additional students from disadvantaged backgrounds will enter Higher Education and what the impact on retention would be as a result of the policy and are unable to quantify the benefit.**

62. Furthermore, students will benefit in the long run as the evidence base will be rich enough to inform prospective students of how their outcomes, including employment, may change as a result of choosing one university over another. We do not have enough information at this stage to know the value of informing prospective students about their potential outcomes and consequently **are not in a position to quantify this.**

Government

63. As with business, the extent to which Government benefits from depends on the proportion of data and bespoke analysis currently requested by Government. **It is estimated that the average annual benefit to Government will be between £0m and £0.29m with a best estimate of £0.08m.**[135]

64. There is also expected to be a productivity gain to taxpayers. Through insight gleaned from this data Government can better design policy to improve outcomes for all groups, alongside more information being available to students. This would help them better understand how attending different institutions may affect their outcomes, leading students to attend courses that are most suitable to them, enabling them to fulfil their potential and become more productive graduates. This will increase the rate of loan repayments and lead to a more productive workforce and economy. We do not currently have enough data to quantify this

[135] Equivalent to the benefits to business in Table 4.

Policy measure 3: Introduce a Transparency Duty for providers to publish an ethnic, gender and socio-economic breakdown for every annual intake, further broken down by application, offer and retention rates in key subjects and for Approved providers without Access Agreements to publish an Access statement

65. The Prime Minister recently committed the Government to legislate for a "Transparency Duty" requiring providers to release comprehensive data on the number of students who apply for courses, receive offers, accept and drop out from higher education broken down by gender, ethnicity and social background of students at institution and subject level.

66. The purpose of this policy is to publish information to highlight institutions where improvements to higher education access for students from disadvantaged and underrepresented backgrounds could be made, incentivising further action. This specific proposal follows the emphasis made by the Green Paper on the value of data availability. This information will also be sent to the Office for Students to publish in a form that would be comparable to prospective students.

Information requested

67. Information covered by the Transparency Duty such as gender, socio-economic background and ethnicity is already available for some institutions (much of it public already). However, the information is not consistently available across all institutions and broken down according to student characteristics and stage of application.

Costs

Institutions

68. This duty is expected to apply to all institutions whose students are in receipt of student support. This means that a wider set of institutions will have to provide and publish more data than they have had to in the past. Overall, however, we believe this would not add significant costs to the sector as we anticipate that institutions who recruit through UCAS (the vast majority of full-time undergraduate students are recruited through UCAS) will ask UCAS to send much of this information on their behalf to the Office for Students. We do not envisage there being significant data transfer costs to UCAS.

Publishing Costs

69. The cost of publishing data on each provider website is assumed to be around £180 per provider per year[136] which equates to £80,000 in year 1[137]. The £180 estimate is based on

[136] Internal discussions with BIS' publishing and IT team suggest that 1 day of staff time will be required. Based on 1 day staff cost equivalent to an annual salary of £39,000. We assume web-hosting costs are unlikely to be significant and are absorbed by institutions.

[137] Estimated at 450 (total number of providers and institutions) *180 in year 1. These are annual reoccurring costs which will increase in subsequent years as the number of providers increases. It is assumed that there is sensitivity of 33% around the central estimate due to the uncertainty, implying a lower and upper bound estimate of £53,000 and £106,000.

costing information provided by BIS' publishing and IT team, and includes the cost of uploading and quality assuring the content.

Data Collection Costs

70. In addition to publishing costs, some providers which do not currently recruit through UCAS will experience an additional increase in costs as a result of the duty. These institutions will face an increased reporting burden as they would need to report directly to the Office for Students. We assume that around one third of Approved Providers, and one third of current designated providers, use the UCAS admission system.[138]

71. Under the Duty, providers will be required to collect and publish data on applicants, and the number of applications provides a better estimate of the number of individuals that will be reported on. We estimate around 2.65 applications are made by each person accepted onto a course.[139] Assuming a reporting cost of £5 per student[140] we estimate affected approved providers are likely to face a reporting burden of around £200,000[141] in year 1, with a low estimate of £150,000 and high estimate of £250,000.[142] [143]

Familiarisation Costs

72. Providers are likely to face familiarisation costs in understanding the Transparency Duty and the information required. Based on the time needed for providers to familiarise themselves with previous data requirements, we assume each institution will need around a day to familiarise themselves with the information on what will be required. This equates to a familiarisation cost of £33,000 in year 1 (low estimate of £25,000, high estimate of £41,000).[144] We also acknowledge that UCAS will face familiarisation costs, and have assumed a higher familiarisation cost, double that of the average for each provider at £500 given their larger responsibilities of sending data on behalf of other institutions (£375 and £625 for low and high estimates).[145]

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[138] Based on internal analysis of UCAS and SLC data we assume around 15,000 designated Alternative Provider entrants do not apply through UCAS.

[139] This is based on internal analysis of UCAS application and acceptances data by type of provider.

[140] Assuming data entry for a single student record takes 15 minutes and is quality assured by 2 members of staff. The 15 minutes estimate is based on the time needed to populate approximately 20 entries that will provide information on applications, offers, entrants and retention broken down by gender, ethnicity and social background at institutional and subject level. Assumed administration staff costs of £8 per hour plus non-wage costs assumed at 19.8% (Year 1= 0.25*2*8*1.198)

[141] 40,000 non-UCAS AP applications each with a reporting burden of £5. £.(200,000=5*40000). Low estimate is 25% lower than our central estimate, with high estimate 25% higher than central estimate.

[142] Costs in future years are based on the growth in approved providers each recruiting the current average number of entrants from alternative providers that use UCAS.

[143] In our estimates we assume Further Education colleges without Access Agreements are large institutions and are therefore able to absorb the reporting burdens without significant additional costs.

[144] This is estimated as G7 wage costs for one day, including non-wage costs of 19.8%, multiplied by the number of existing providers (and subsequent provider growth in future years). Year 1 = (£52,000/52/5)*1.198*137.Low estimate is 25% lower than our central estimate, with high estimate 25% higher than central estimate.

[145] Low estimate is 25% lower than our central estimate, with high estimate 25% higher than central estimate.

73. To estimate the IT and system familiarisation costs of providers that do not use UCAS we base our assumptions on a previous Impact Assessment that estimated the set-up costs for institutions to provide Key Information Set data to HEFCE.[146] The estimates were based on a pilot study by HEFCE with several institutions. In the absence of other evidence we have assumed that the familiarisation costs in the Transparency Duty data requirement will be similar for each institution. Using this approach we estimate a familiarisation cost of £0.19m in year 1[147]. We believe that this is a conservative estimate as the set-up costs in the HEFCE pilot are also likely to include familiarisation with the guidance, which is covered elsewhere in our estimates.

Access Statement costs

74. Providers which are 'Approved' and do not currently have Access Agreements will also be required to publish a statement illustrating their commitment to improving access to HE for underrepresented groups. This requirement will be light-touch, requiring the provider to set out its widening participation recruitment policy including the approach and objectives. The statement is intended to outline providers' existing work on widening participation and is not intended to require providers to undertake significant additional commitments. The statement is deliberately open to institutional interpretation and will not be prescribed or challenged by Government. Based on our assessment of the number of Approved Providers in the new system, we assume around 200 providers are likely to be impacted by the requirement in year 1.

75. We estimate that the formulation of the statement will require around a total of 1.5 days of senior staff time, which will include drafting the statement and approving it internally. The costs are based on an Impact Assessment which placed Non-financial reporting requirements on businesses.[148] This Impact Assessment costs the time spent for drafting, amongst other requirements, a statement on diversity policy for management, to be included in the Annual report of a company. The cost was estimated to be on average around £283 for each business, and takes into account the different time required across Director, Senior managers and Junior staff. Across the companies surveyed, the total amount of time required to produce the annual report equated roughly to around 13 hours (or 1.5 days of time) with middle managers providing the majority of the resource.

76. We take as a reasonable proxy for a middle manager's salary the cost of a team leader analyst within BIS, which after allowing for non-wage costs amounts to around £360 staff

[146] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32413/11-1050-impact-assessment-students-at-heart-of-system.pdf
[147] Based on the previous IA, estimates of set-up costs are around £1,400 per institution. This is multiplied by the number of existing providers and to estimate familiarisation cost. Year 1 = 1,400*137. Future year costs are lower as familiarisation costs are only for new providers entering the sector. (Year 2 costs approximately £15,000).
[148] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/506640/BIS-16-35-IA-non-financial-reporting-directive-consultation-impact-assessment.pdf

time per institution. This leads to a total cost of approximately £75,000 in year 1. We assume a low and high estimate of £50,000 and £100,000 respectively.[149]

77. We do not assume additional familiarisation costs related to the Access statement beyond those included in providers understanding the requirements of the Transparency Duty, as the proposed statement is intended to be light-touch and not prescriptive.

Students

78. There are not expected to be additional costs to students as a result of the duty.

Government

79. Government is not expected to experience any additional burdens as a result of the policy.

Benefits

Institutions

80. Institutions may benefit through increased application rates as a result of the Transparency Duty. If disadvantaged prospective students see, as a result of the duty, that students similar to them have taken part in higher education, or attended certain institutions, it may incentivise them to apply to higher education too. Conversely, there may be an unintended consequence for individual institutions if the data shows that students from certain groups do not attend certain institutions or HE in general, potentially deterring students from those groups from applying to HE. Overall we expect the policy to lead to an increase in student participation (see below).

Students

81. Greater public provision of admission information by institutions will enable measuring and comparing institutional progress in widening access. Institutions which have low representation of students from particular groups will be highlighted, incentivising them to make further progress leading to potential increases in higher education entrants from disadvantaged backgrounds.

82. All prospective students will benefit from having clearer and more information available to them about groups of students at certain institutions. It will allow students to make more informed choices about the most suitable institutions to attend. If students are more aware about how their decisions on institutions may affect their outcomes, the duty should lead to more students fulfilling their potential.

83. The publication of an Access statement from Approved providers without Access Agreements, alongside the Transparency Duty, will encourage further outreach activity,

[149] Number of affected providers multiplied by staff costs (52,000 x 1.198)/(52/5) x (1.5) x 200). Low estimate is 25% lower than our central estimate, with high estimate 25% higher than central estimate.

leading to an increase in participation from disadvantaged and underrepresented students. We do not have data to show how this will affect outcomes; therefore, we are not in a position to quantify this benefit.

Government

84. Taxpayers may benefit indirectly from the Transparency Duty. If more students are at institutions that are the best match for them, then they are more likely to fulfil their potential in the labour market. This will lead to increased productivity and higher returns on taxpayers' loan outlays. We do not have enough data to quantify this.

Small and Micro Business Assessment

85. 2014/15 HESA data shows that HEFCE funded Higher Education Institutions (HEIs) have on average 2489 employees and that the smallest number of employees at a single HEI is 80. Analysis of the Further Education workforce data for England Report shows that the average FTE staff per college is 383 for England. Therefore, we do not believe any HEI or FEC to be classified as a small business for this assessment.

86. However, according to a BIS survey of Alternative Providers (APs) 95% (out of a sample of 160 APs) had 50 employees or fewer. The AP survey included all such providers, which in the new regulatory system would include many out of scope of the Student Protection Proposal, as they would choose to either be unregistered or registered (not approved). Therefore these findings are unlikely to be representative of the APs in scope. However, as we do not hold further detail of the split between small business in or out of scope of the proposals, we assume that 95% of APs in scope of the proposal are classed as small. Our expectation is that this is an overestimate.

87. Data on the number of providers in the sector show that there are considerably more APs in the HE sector than HEIs and FECs. This suggests that there are a relatively large number of small businesses in the HE sector. However, although there are a large number of APs, they only had 12% of the total number of HE students in 2014/15.

88. For the information sharing and data transparency duties, we estimate that, proportionately, the burden on small institutions will be greater than for larger institutions but the incremental burden compared to current practice will be small.

Table 5: Present Value total monetiseable costs and benefits for all policies (£m)

Monetised costs to business and government (PV)	*Low*	*High*	*Best*
Loss UCAS revenue from data sales and analysis	£0.2m	£3.4m	£1.3m
Cost to APs of Transparency Duty	£2.0m	£3.3m	£2.6m
Publishing costs of Transparency Duty	£0.6m	£1.1m	£0.8m
Cost of Access statement	£0.4m	£0.9m	£0.6m
Provider familiarisation costs (understanding requirements)	£0.0m	£0.1m	£0.1m
UCAS familiarisation costs (understanding requirements)	£0.0m	£0.0m	£0.0m
Provider IT familiarisation costs	£0.3m	£0.5m	£0.4m
Government processing costs	£0.5m	£2.0m	£1.0m
TOTAL COSTS	**£3.9m**	**£11.2m**	**£6.8m**

Table 6: Monetised benefits to business and government (PV)

	Low	High	Best
Cost savings to business	£0.1m	£2.5m	£0.7m
Cost savings to government	£0.1m	£2.5m	£0.7m
TOTAL BENEFITS	**£0.2m**	**£5.0m**	**£1.4m**

Title: Student protection in the event of course closure or provider exit	**Impact Assessment (IA)**
IA No: BIS010(F)-HE	**Date: 01/06/2016**
RPC Reference No: RPC-BIS-3349(1)	**Stage:** Error! Unknown document property name.
Lead department or agency: BIS	**Source of intervention: Domestic**
	Type of measure: Primary legislation
Summary: Intervention and Options	**RPC Opinion:** GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANDCB in 2014	**One-In, Three-Out**	**Business Impact Target Status**
£m	£m	£0.9m	In scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?

In the event of a closure of higher education course, campus or provider there are some protections in place at present including Consumer Law, the Office of the Independent Adjudicator and voluntary sector led schemes. However these routes can be burdensome and costly for the student and may not help students affected by closure to continue their study. Practice also varies from one provider to another. Government intervention is required to help ensure students are able to continue their studies in the event of course closure. This will be more important in the future as we enable more high quality new providers to enter the sector and increase student choice.

What are the policy objectives and the intended effects?

The policy intent is to protect the student when, through no fault of the student the provider is unable to fully deliver their course of study. Government is seeking for students affected by course closure to be able to continue their studies. We intend the Office for Students (OfS) to require, as a condition of registration with the OfS through the single gateway, approved providers to have in place a student protection plan. The plan should set out what arrangements the provider has for students in the event of a specified event, such as course, campus, department or institutional closures and/or de-designation for student support purposes or removal of tier 4 licences. The OfS will assess the plan to ensure if meets the requirement.

What policy options have been considered, including any alternatives to regulation?

- Option 0: “Do Nothing” – maintain the current position where there are no explicit expectations for a student protection plan in the event of course, campus or provider closure. Protection varies between providers.
- “Option 1” – introduce as a requirement of registration with the OfS a requirement for HE providers classified as ‘approved’ or ‘approved (fee cap)’ to have a student protection plan in place. The OfS will issue guidance on what they might expect the plan to cover and the OfS will assess whether they deem the plan satisfactory and likely to be carried out.
- “Option 2” – as option 1 but the criteria for the protection plan are set by the OfS and are prescriptive about the protections that HE providers must offer. This option was discounted early in the policy appraisal process, the Government having had due regard to feedback from the Green Paper consultation process.

Will the policy be reviewed? It **will** be reviewed. **If applicable, set review date: Month/2022**

Does implementation go beyond minimum EU requirements?	N/A			
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)	**Traded:**		**Non-traded:**	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: Jo Johnson Date: 3rd June 2016

Summary: Analysis & Evidence

Description: Student protection in the event of closure of HE course, discipline, campus or provider

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: -7.64	High: -8.34	Best Estimate: -7.9

COSTS (£m)	Total Transition (Constant Price) **10** Years		Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low	Optional7		0.4	**7.6**
High	Optional.1		0.4	**8.3**
Best Estimate			0.4	**7.9**

Description and scale of key monetised costs by 'main affected groups'

HE providers will incur costs from introducing a student protection plan. Cost per provider estimated to be £11,052 with total transitional costs estimated to be £4.8m. On-going costs from ensuring the plan remains satisfactory and credible are estimated to be £4.1m. HEPs will have the autonomy to decide how they will support students who would be affected in the event of a course closure as long as the plan is assessed by the OfS as credible.

Other key non-monetised costs by 'main affected groups'

HE providers face costs through informing the OfS of any planned closures; however this will only affect providers that are affected by closure and will be a low burden approach. OfS will incur costs in producing and publishing the protection plan guidance and assessment of the plans. We are not able at this stage to monetise the costs to providers of implementing their plans in the unlikely event that this is required, only producing and publishing them. It is anticipated that plans will differ across providers according to their particular circumstances, the extent to which they have plans currently in plan and preferences over how to provide their students with assurance. This in turn will depend to a large degree on the detailed guidance drawn up by the OfS. As it would be wrong to pre-empt the decisions of the OfS in developing this guidance at this enabling stage an updated IA will be produced when detailed guidance is developed to include an assessment of implementation costs.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low	0		0	**Optional**
High	0		0	**Optional**
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to quantify or monetise the benefits for the main affected groups as the greatest benefits will only apply where there is a closure. There is uncertainty regarding the number of closures and at which level this could be (course, campus, provider). Therefore we do not have a robust idea of the numbers or types of students that might be affected, therefore benefits have not been quantified or monetised.

Other key non-monetised benefits by 'main affected groups'

Increased transparency for students on how they will be treated in the event of course closure. This can support their course choice and confidence in the provider and should save them financial and emotional distress in the event of closure compared to if a plan was not in place. HE providers will benefit from having a clearer process in place for how to deal with closures. Government may face reduced financial risk regarding losing public investment in HE providers.

Key assumptions/sensitivities/risks	**Discount rate (%)**	3.5

The OfS will determine the guidance, assessment and frequency of any updates to the protection plans. These are yet to be determined and are an uncertainty in the analysis based on currently available information. Cost estimates should be seen as broadly indicative and will be updated once the OfS guidance has been established. The OfS guidance for the student protection plans are assumed to be based on the statement of good practice.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m: 4.5
Costs: 0.9	**Benefits: 0**	**Net: -0.9**	

Background

Importance of competition

1. There are recognised benefits to increased competition. Competitive pressure in a sector drives the suppliers (HE providers in this case) to make their offer more attractive to the students, either through reducing prices, improving the offer or both. Improvements in technology mean that nowadays there is even more opportunity for innovation. Making the sector more open would therefore be expected to improve the value of education for students.

2. The CMA's[150] report on higher education regulation has highlighted that "sector-wide regulations could create barriers to entry and exit, potentially protecting incumbent providers from competitive pressures and reducing the number of courses available to students". It emphasised that "student choice and competition ... is likely to work best where the playing field, in terms of regulation, funding and information provision, is as level as possible".

3. A more competitive sector could result in a greater number of providers, improved quality of teaching and increased diversity among providers. Removed regulatory barriers would mean that providers are better able to compete, thus increasing competitive pressure to improve quality and innovate.

4. More HE providers and a greater diversity between them would mean students have a better choice and are more able to pick a course that suits their needs. It would also mean that any increases in demand for higher education (e.g. as a result of widening participation measures) would be met. There are also wider economic benefits. Valero and Van Reenen (2016) find that "increases in university numbers significantly raise future GDP per person". They have estimated that if there was one new university[151] added to each of the UK's ten regions (as defined in the study), UK GDP would go up by 0.7%. Assuming that increase was the direct result of an increase in the number of providers, it would then have a £12.5 billion economic impact.

Market Entry proposals

5. A key plank of the proposed HE reforms is the introduction of a single regulatory gateway, operated by a new regulatory body (the Office for Students), a new HE body that is due to be established in 2018. The OfS is intended to have regulatory functions in relation to HE providers in England, which will help put different types of HE provider on a more level footing, align the regulatory systems different providers currently face and make it easier for new providers to enter the sector.

[150] Competition and Market Authority (2015) "An effective regulatory framework for higher education".
[151] Assuming the new universities have the same size distribution as the existing ones. It is likely that new providers would be significantly smaller than the incumbents.

6. Following the introduction of a single gateway, providers will have three options for registration;

    i. "Registered (basic)": this will offer HE providers a chance to become officially recognised by the government, subject to providers' qualifications meeting the Framework for Higher Education Qualifications (FHEQ), and subject to sign-up to the Office of the Independent Adjudicator (OIA).

7. All providers seeking designation for student funding would be able to choose between two operating models (the ability to switch between these models is at present heavily constrained):

    ii. "Approved": Similar to current system of specific course designation – up to a £6,000 tuition fee loan cap, with the current freedom to set fees at any level, and no requirement to sign up to an access agreement (but with a new policy statement on widening participation in HE).

    iii. "Approved (fee cap)": Up to a £9,000 tuition fee loan cap, up to a £9,000 cap on fees, a requirement to sign up to an access agreement if fees charged are more than £6,000, and eligibility for government grant. Providers that select to follow "Approved (fee cap)" will be subject to tighter funding conditions, commensurate with the higher level of public funding received.

8. The above tuition fee figures are subject to any uplifts available under the Teaching Excellence Framework.

9. The greater competition this and other changes will bring about will significantly benefit students, in the form of better value, more innovation and greater choice. But a natural feature of a dynamic sector is that while some providers flourish, helping the sector to grow overall, others find themselves less attractive to students and, in some cases, may need to close a course, programme, campus or ultimately need to exit the sector.

Problem under consideration

10. Over the past two decades we have seen changes to the HE landscape including some growth in the number of providers in the sector and it is expected that the sector will continue to expand and evolve in the future. Greater competition will bring about significant benefits to students, in the form of better value, more innovation and greater choice. Under the planned reforms, we expect the number of students and institutions overall to grow.

11. But a natural feature of a dynamic sector is that while some providers flourish, helping the sector to grow overall, others find themselves less attractive to students. A likely consequence of improving competition, as it drives up standards and encourages greater responsiveness to the preferences of students and employers, is that some providers may need to close a course, programme, campus or ultimately exit the sector, more than we have historically seen.

12. Fundamentally the responsibility for handling a closure whether of a course, discipline, campus or even provider rests with the provider and, in some cases, with the validating or awarding body.

13. If we accept that as part of a diverse and innovative sector, providers may need to stop providing a particular course or activity then the focus for Government is to ensure students are adequately protected. Students should know upfront what support would be offered to them in such an event. The Government is also committed to upholding the reputation of the sector as well as minimising any impact on Government finances.

14. It is also important to recognise the important role of regulation in protecting students and ensuring the delivery of public policy goals for wider societal benefit; for example, in avoiding providers being incentivised to cut costs to the point that this endangers their finances or offer an inadequate standard of teaching. Regulation is necessary to ensure students are protected and the reputation of the sector is safeguarded.

15. There are many different reasons why a provider might decide to close a course. These include:
    a. A decline of student interest in courses leading to unsustainable student numbers resulting in competitive / financial pressures
    b. A strategic decision to close a course or campus
    c. The removal of course or institutional designation (the ability to access the student finance regime)
    d. The non-renewal of degree awarding powers or revocation of a provider's Tier 4 Sponsor Licence (the Home Office issued licence which allows a provider to teach International Students).

16. There are times when a closure will be planned, for example following a strategic business decision to close a course or campus, and this usually means an orderly exit with well-structured plans for how the course will close with minimal disruption for students. Provider closure is currently an infrequent occurrence. Where providers have experienced significant changes in recent times (for example the recent announcement of the withdrawal of Heythrop College from the University of London), the change has often been planned and managed, and for most students that has meant being 'taught out'[152] and so they are able to complete their courses.

17. At other times the situation may be more immediate, like the revocation of a Tier 4 Sponsorship Licence (In August 2012, for example, London Metropolitan University had its Tier 4 sponsor licence revoked due to non-compliance with sponsorship requirements, meaning that c.2,700 international students at the provider had their visas put at risk). In this instance the plan for responding was reactive rather than pre-arranged. There have been a very small number of more disorderly exits at other institutions, arising for a range

[152] Where providers decide to close a course or programme many 'teach-out' current students without taking on new students in order to minimise disruption for current students.

of reasons, resulting in greater disruption for students and potentially having a more significant negative impact on the reputation of the sector.

18. Whilst the likelihood of an immediate closure scenario is rare the potentially negative impact of such a situation would be high for students.

Rationale for intervention

19. The overarching policy in HE is to ensure all students that have the potential to benefit from going to University can do so. Any sort of Government intervention should not be about preventing closures but ensuring that closures are orderly and do not to create barriers for students to continue their studies.

20. It is important for Government to ensure any closures are orderly for three reasons:

    i. Government wants to ensure that students' interests are protected.

    ii. Government has a role in ensuring taxpayers money is spent appropriately.

    i. We have an HE sector with a strong international reputation that we want to be successful and competitive. Disorderly closure could impact on the sector's reputation.

21. There are currently various mechanisms for student protections (some of which are voluntary) which already exist in the HE system:

    a. For all HE providers;

        - A voluntary sector agreed statement for good practice on handling course changes and closures
        - Consumer law may apply
        - The QAA Quality Code Part B; Indicator 3 – That providers operate a process to protect the academic interests of students when a programme is closed (although this is limited to the course/programme level)
        - 'Good will' within the sector where providers may be seen to have a duty to support their students in the event of a closure

    b. For HEPs that receive direct grant funding from the Higher Education Funding Council for England (HEFCE);

        - The Office of the Independent Adjudicator: from 1 September 2015 all Higher Education Providers with courses designated for student support funding were required to join the OIA scheme.

c. For HEPs whose courses are validated[153] and do not receive grant funding from HECFE but who have access to the student funding system :

- The OIA scheme as set out above;
- The role set out in guidance for the validating body (Pearson's for Higher National courses; bodies with Degree Awarding Powers for other courses) in continuity of provision;
- Explicit provision being made for 'teach-out[154]' arrangements – however this has yet to be tested.

22. Some providers already have full course closure plans[155] and students have clear routes or arrangements to continue their studies in the event of a closure. However the practice of having a plan is variable and also voluntary and so some students continue to be exposed under the current system and may suffer considerable financial losses in the event of provider exit, including;

a. Students may remain liable to repay tuition fee loans that the Student Loans Company (SLC) have already issued to providers on their behalf. This would be reviewed on a case by case basis but the final decision would depend on the nature of the failure and provisions being made by the institution. This creates uncertainty and stress for the students affected.

b. Visa reapplication costs – International students whose sponsoring institution has their Tier 4 Licence revoked face having to reapply for their visa even if they manage to transfer to a suitable alternative course any OfS action in this area will need to be consistent with the Home Office Tier 4 regime and individual student requirements.

Policy objective

23. The policy intent for these proposals is to protect the student when, through no fault of the student:

[153] Validation is the process by which a degree-awarding body ('the validating organisation') judges a module or programme developed and delivered by another organisation ('the teaching organisation') and approves it as being of an appropriate standard and quality to contribute, or lead, to one of the validating organisation's awards. Students normally have a direct contractual relationship with the teaching organisation". Essentially, Alternative Providers without Degree Awarding Powers that want to offer degree courses must have courses approved/ validated by a provider that can award its own degrees. Degrees are awarded by the body with degree awarding powers, but taught by the Alternative provider.

[154] Wherever possible the course must continue until the last year of students have graduated; this is known as 'teach out'.

[155] Oxford Brookes University provides a clear outline of their closure process online; https://www.brookes.ac.uk/asa/apqo/quality-and-standards-handbook/programme-design-and-approval/programme-closure/

a. the provider decides or is unable to deliver the student's course of study due to, for example, course, programme, discipline, campus or provider closure; or

b. if the student can no longer attend due to removal of an institution's designation or Tier 4 license.

24. This policy aims to do this in a proportionate and risk based way which does not undermine student choice and competition, whilst minimising additional burdens on providers and does not create a barrier to entry to the HE sector.

25. In order to protect students from the impacts of any potential course closure we intend to;

a. Specify, on the face of legislation, that the OfS can require providers that register through the single gateway to have in place a student protection plan. The mechanism for achieving this will be via the conditions of registration that the OfS will impose on registered providers.

b. At this stage, we intend that conditions of registration relating to student protection plans should, as a matter of policy, only be applied to approved and approved (fee cap) providers who register via the single gateway. The OfS should issue guidance to providers on how to meet the condition. The plan should set out what arrangements the institution has, or will make, for students in the event of a specified event, such as course, campus, department or institutional closures and / or de-designation for student support purposes or removal of tier 4 licences. The plans should, at a minimum, apply to institution students (new or existing) who are studying at level 4 or above and be easily accessible to those students. The plan should in the OfS' view be satisfactory and credible.

c. Use changes to validation guidance and wider validation policy[156] to ensure there is clarity over how students are protected in the event of course closure under validation arrangements.

d. Have providers notify the OfS of proposed closure of provision such as closure of a faculty, campus or provider level. This will allow the OfS to maintain visibility across the sector, help build an intelligence base and act as an early warning mechanism to understand whether and how students are being protected. We envisage that this is as a condition of registration under the regulatory gateway rather than a requirement that will be placed on the legislation.

e. As part of the OfS duty to operate the gateway and register of providers, it should also keep list of name changes / historical providers, to enable those that might need to (e.g. employers) to verify genuine historical institutions. This would be to ensure graduates of providers no longer operating are able to demonstrate their qualifications are legitimate.

[156] As part of changes to the validation policy proposals the validation guidance will make it clearer that it should be explicit which provider is responsible for putting in place the student protection plan for students studying the validated course.

26. The policies we are proposing will lead to benefits for students: we expect there to be a more consistent approach across providers to student protection in the event of course closure. Table 1 shows the difference between the existing protections and the proposed protections.

Table 1: Differences between existing and proposed protections

Existing protections	Proposed protections
• Voluntary (sector owned) Statement of Good Practice guidance on HE course changes and closures • Few institutions make known to their students what, if any, the student protection plan is. • Consumer and contract law.	• Consistent requirement for all approved and approved (fee cap) regulated providers to have in place a student protection plan. • Approved and approved (fee cap) regulated providers to make known to students, in an accessible way, what the student protection plan is. • Student protection plan to form part of the provider's terms and conditions / enrolment contract. • Consumer and contractual rights and obligations continue to apply.

27. We are not proposing to set out in legislation detailed criteria of what a student protection plan (SPP) must contain. The OfS will set out in guidance broad requirements and expectations that the plan should reasonably cover – the intention will be for the guidance to be helpful and illustrative rather than prescriptive and it should not act as a barrier to entry into the sector. The OfS will be responsible for assessing the SPPs as part of the terms and conditions of OfS registration and will determine whether the plan is satisfactory and credible. The OfS may require some specific information in order to assess the plan and the guidance should also set out how the OfS intends to assess the plan.

28. The existing sector owned "Higher Education Course Changes and Closures: Statement of Good Practice[157]" provides an example of the sort of content the OfS may expect student protection plans to meet, and what it may wish to cover in its guidance.

29. We do not expect the OfS to be established until 2018 and therefore will need to develop, issue and publish, guidance ready for the when they start to operate. It is not possible to know with certainty what would be included in their student protection plan guidance. The analysis is based on the assumption that it will largely follow the Statement of Good Practice noted above. Key recommendations in the Statement of Good Practice are;

[157] http://www.guildhe.ac.uk/wp-content/uploads/2015/11/Statement-of-good-practice-Nov15.pdf

- Transparent, fair and accessible policies and practices governing course closure and changes. This mainly concerns ensuring terms and conditions are accessible in one place and set out in a way that is clearly understood by students.
- Ensuring students have clarity of options, timely notification and having clear arrangements for consulting with students when changes occur. This should include a clear process to ensure continuity of their studies and minimise any potential negative impacts on students affected by changes and closures.
- Ensuring providers set out the arrangements for continuity of provision for students in the event of the closure of a HE course. If ‘teaching out’ in the institution is not possible, HEPs should seek to offer alternative courses either within the institution, help students to transfer to other providers (including transfer of credits) or where these options are not possible refund all or part of the fees paid by the students.

30. The OfS will also have responsibility for assessing the SPPs and determining the frequency with which they should be updated. The assessment and frequency of updated to the plan will be proportionate based on provider risk, although the exact criteria remain uncertain at this stage as the OfS will not be set up until 2018.

31. Even with a rationale for Government intervention and a policy intent focussed on protecting the student, it should be a clear expectation of the HE sector that it is the responsibility of each provider to take complete care of their student, even in the event of a course closure.

Analysis of considered options

Option 1: Do nothing

32. This option would mean there would not be an explicit requirement for providers to have a coherent, approved, student protection plan in place which lets their students know, and gives them confidence in, what the arrangements will be made if their course, campus or provider closed or if their providers tier 4 licence or designation for student support is removed. HE providers would also not be required to inform the OfS of any planned closure.

33. There will continue to be some protections that already exist in the system (set out in para 21 above) but these are not necessarily applied consistently across the sector, which may mean some students might be more exposed compared to others in the event of a course closure.

34. Students do have a number of avenues for recourse should a HE provider close a course/campus or exit, including;

- The Office of the Independent Adjudicator (OIA) was set up to look at complaints that cannot be resolved between the HEP and the student. Students can approach the OIA in the first instance before going to the courts. The service is free of charge to students and can often consider complaints more quickly than the courts. From 1 September

2015 all Higher Education Providers with courses designated for student support funding were required to join the OIA scheme.

- ‘Good will’ within the sector, wherein in practice most providers that find themselves in a course closure situation will want to assist their students and help them continue their studies e.g. by helping then to find another provider to attend. This may be with the help of others bodies (HEFCE, UCAS, BIS, Home Office etc).

35. Validating bodies will also play a role in helping to take/place students. However, there is no actual *obligation* for providers to do this and is entirely down to validation agreement between the two providers how students would be protected.

36. Consumer law may apply to the agreement between students and the HE provider, in which case students may be entitled to remedies contained in the Consumer Rights Act 2015, *including* a refund of fees.

37. Both the routes through the courts (Consumer Rights) and the OIA have the potential to be a drawn out process, though court action may be costly and involve a degree of risk which students may not be prepared to take. Both of these options are unlikely to prioritise supporting the student to continue their studies.

38. The Higher Education Course Changes and Closures: Statement of Good Practice will remain voluntary, which includes recommendations on continuity of study for students but as this is on a voluntary basis students would not be able rely on the HEP complying with this.

Costs

39. We currently have limited information on Alternative Providers and therefore we only have a partial evidence base relating to the number of course, campus and provider closures from recent years across the whole HE sector.

Higher Education Providers

40. In the do nothing option we would not expect there to be any additional direct costs to HEPs.

41. However HEPs may face an indirect cost in the risks to the reputation of the wider HE sector. If providers close courses in a disorderly manner this could discourage potential students from attending HE and potentially make the UK a less attractive prospect to international students which could have large financial implications for HEPs that have a high proportion of international students.

Students

42. In the do nothing option there would continue to be inconsistent coverage of student protection in the event of course, campus or provider closures with no clarity on how they will be protected. Students;

- May be liable to repay tuition fee loans for payments that the SLC have already issued to providers, even if they cannot complete the course. This would depend on the circumstances of the closure and individual and would need to be reviewed on a case by case basis.
- In the case of international students whose sponsoring HEP has had their Tier 4 licence revoked are likely to face visa application costs associated with having to reapply. It currently costs £328 to apply for a UK student visa[158], we assume international students would incur the same cost if required to reapply due to their provider having their Tier 4 licence revoked.
- May be unable to complete their course at their provider, or be unable to transfer to another provider. This could mean having to re-start their course potentially losing any credit for education already completed[159]. Students may not be able to complete their current modules or year resulting in an ill-defined break point in their students. Even if they can transfer to an alternative HEP, the course content may not be compatible.
- May be forced to relocate to continue their studies at an alternative provider. This may be a major inconvenience, potentially moving them away from friends and family, and from a location which could have been a major influence behind their decision to study at that institution.
- May face considerable stress and uncertainty associated with being informed they cannot continue their studies, particularly for international students who face being deported from the country if they cannot arrange a new visa with a different institution.
- May face issues in the labour market if they hold a degree for an institution that has lost its credibility due to disorderly provider exit.

43. Internal BIS forecasts of provider numbers over the next 10 years suggest there may be a small number of provider exits following the HE reforms. However we do not know at this stage which providers and therefore which students such closures might affect.

[158] https://www.gov.uk/tier-4-general-visa/overview

[159] This was highlighted in a 2015 Competition and Markets authority report on the HE sector *An effective regulatory framework for higher education*. The report concluded “There are also high barriers to switching [course], (for example credits might not be transferable and student may have to incur high financial and social costs if they switch institution”).
https://assets.digital.cabinet-office.gov.uk/media/550bf3c740f0b61404000001/Policy_paper_on_higher_education.pdf

Government

44. If there are no explicit requirements for student protection, then Government faces the following risks;

   a. In the case that HEPs have not put in place arrangements for students to 'teach out' or transfer to another provider, Government may forego the investment (and expected benefits in the form of higher earnings and therefore tax receipts) that have already been made in the student's education through tuition fee and student support loans (if students lose credit for education already completed).

   b. Indirect costs from potential damage to the HE Sector, including a reduction in the size of the sector, a decline in the numbers of graduates entering the labour market and a reduction in international students, all of which could have a substantial impact on future tax revenues.

Wider society

45. The key risk to wider society regards the reputation of the UK HE sector. If a provider closes courses in a disorderly way this could reduce confidence in the UK HE sector, potentially impacting on both domestic and international participation. Universities UK[160] estimate that in 2011/12 the total revenue earned by UK Universities amounted to almost £28 billion and the sector directly employed over 378,000 people. Any damage to the reputation to the sector could put the sector's revenue, but also direct and indirect employment at risk.

Benefits (monetised and non-monetised)

Higher Education Providers

46. At present there are some protections in place for students in the event of course, campus or provider level closure; however, as outlined earlier, these are variable across the sector. In some instances of closure, some HEPs may not prioritise students, and may have other creditors to satisfy. Although disruptive and damaging to students, this option represents minimal burden to HEPs and may be the preferred option for some providers.

Students

47. There are not expected to be any direct or indirect benefits to students.

Government

48. There are not expected to be any direct or indirect benefits to Government.

Wider society

49. There are not expected to be any direct or indirect benefits to wider society.

160 http://www.universitiesuk.ac.uk/highereducation/Documents/2014/TheImpactOfUniversitiesOnTheUkEconomy.pdf

Option 1: Introduce a requirement of registration with the OfS for HE providers to have a Student Protection Plan in place that meets OfS guidance (preferred option)

50. HE providers that are classified by the OfS as ‘approved’ or ‘approved’ fee cap through the single gateway will be required to have in place a Student Protection Plan which clearly sets out the arrangements for students in the event of course, campus, department or provider closure and /or de-designation for student support purposes, or revocation of tier 4 licenses. The Student Protection Plan should be transparent, fair and accessible and made explicitly known to the students.

51. HE providers that are classified as ‘registered’ by the OfS will not be explicitly required to have a student protection plan, but will be encouraged to have a plan on a voluntary basis. HE providers operating outside of the single gateway will not be covered by the student protection plan proposals.

52. Providers in scope (approved or approved fee cap) will also be required to notify the OfS of closure at the faculty, campus or provider level.

Costs (monetised and non-monetised)

53. This analysis is based on the assumption that the OfS guidance will broadly follow the Higher Education Course Changes and Closures; Statement of Good Practice as outlined in para 28.

Higher Education Providers – one off costs

53. Only those HE providers that register with the OfS and are classified as approved or approved (fee cap)[161] will be in scope of the Student Protection proposals. Providers that register with the OfS and are classed as ‘registered’ will not be required to meet the proposals, but can undertake these on a voluntary basis. Registration with the OfS is voluntary[162] however public funding will only be available to HEPs that are classed as ‘approved’ or ‘approved (fee cap)’ with the OfS.

54. Internal forecasting estimates suggest that there will be around 478 providers in scope of the student protection proposals in 2018/19 when they are due to be introduced, rising to 659 by 2027/28 (see table 2 below). These HE provider forecasts are common across a number of HE Bill Impact Assessments. These can be found in annex A of this document. Estimates suggest there will be around 655 providers that are out of scope of the proposals in 2018/19, decreasing to 460 by 2027/28. Both the estimates of providers that are in and out of scope of the proposal include new and existing entrants in the HE sector.

[161] The IA covering introduction of the OfS includes further details of the different operating models. These are not covered in detail in this IA.
[162] Many providers have a duty to be registered.

Table 2. HE Providers in and out of scope of the Student Protection Proposals

Single Gateway category	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Approved	88	98	110	122	135	149	162	174	186	197
Approved (fee cap)	390	397	403	411	419	428	437	446	454	462
Total in scope of student protection proposals	478	495	513	533	554	577	599	620	640	659
Registered	102	106	111	116	122	128	134	138	143	147
Outside the gateway system	553	531	500	470	439	408	380	355	333	314
Total providers out of scope of student protection proposals	655	637	612	586	561	536	514	494	476	460

Initial production and publication costs

55. Where HEPs in scope of the proposal do not already have a student protection plan in place they will incur one-off costs in the production and publication of their student protection plan. A recent BIS survey of Alternative Providers (see annex B) found that approximately 47% of those surveyed already have a contingency plan in place. As we do not have data covering the whole HE sector we use the AP survey as a proxy and therefore our analysis assumes 53% of providers would be required to put in place a protection plan and incur direct one-off costs from the introduction of this proposal. We assume 253 providers will face these direct costs in 2017/18 and we assume 100% of new entrants will incur one-off costs from producing a student protection plan. The profile of the HE providers in scope and assumed to require a plan is in table 3.

Table 3: Forecast of HE providers expected to be in scope and assumed to face one-off costs associated with producing a protection plan

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28	Total
Providers facing on-off costs of producing student protection plans	253	16	18	20	21	23	22	22	21	20	437

56. The Alternative Provider survey also included an estimate of the average amount of time required to produce a student protection plan, putting it at 231 administrative/managerial hours and 252 academic hours. We assume a 75/25 split of administrative and managerial time as the survey does not provide this breakdown, but we assume managers would only have limited involvement in the drafting of protection plans (oversight role). We undertake sensitivity analysis on this assumption; providing a high cost estimate of a 50/50 split of administrative and managerial time and a low cost estimate of a 90/10 split. Annual Survey of Hours and Earnings (ASHE) data provides an estimate of the median gross hourly earnings for these employees, to which we then add 19.8% non-wage labour costs. This provides a total cost of producing a student protection plan of £11,670 per institution.

57. As explained above, BIS internal analysis[163] has been used to estimate the total number of providers in scope of the proposal (see para 54). Under the assumption that 53% of providers do not currently have a plan in place this means that 437 providers will incur a one off cost from the introduction of the student protection proposal over the 10 year appraisal period.

58. Given the protection plan costs and total providers in scope the total one off cost to business is estimated to be around £4.83m in present value terms.

[163] Further detail of the HE provider forecast modelling is provided in the technical note on provider entry. This has been supplied separately as it underpins all of the HE provider forecasts in the HE Bill Impact Assessments.

59. The OfS will be responsible for the assessment of whether a provider has met the requirement to have a Protection Plan in place and whether they will be able to implement it in the case of closure. This should be a proportionate and risk-based approach which should take account the likelihood and impact of course, campus and provider level closure. As part of the OfS guidance it should set out the assessment process it will use, including where a more robust plan may be needed. The guidance and assessment criteria are uncertain at this stage of policy development, but these will be proportionate and risk-based to reduce burden on business whilst maintaining student protection principles.

60. HE providers in scope will also be required to inform the OfS of any proposed closure of discipline, campus or institution to ensure the OfS has a comprehensive view of the HE sector. The OfS will be responsible for determining how providers should inform them of such changes, although this is expected to be a light touch requirement that could be completed through email or letter.

Costs of implementing the plans

61. Some providers will also face one-off implementation costs in the event of course closure and the need to activate the plan they have set in place. This will only be for that subset of providers who both face a closure event and who did not already have an effective plan in place.

62. We are not able, at this stage, to estimate or monetise the potential cost to that subset of providers who may ultimately need to implement their plans. This will depend upon the detail of the plans they choose to put in place. Providers will be free to design a protection plan in line with the OfS guidance that best suits the needs of their students. This could include a range of different measures in the event of course closures such as teaching out students or offering financial support to students. These two examples could have very different financial costs in the event that providers needed to implement their plans. Teaching out will incur costs such as retaining staff, use of teaching space, providing on-going support for students, whereas financial support may have a larger up-front cost but minimal on-going costs.

63. Given the strong dependency between these implementation costs and the guidance the OfS will develop, we are not in position to estimate these implementation costs. It would be inappropriate at this stage where we are only taking an enabling power to pre-empt the OfS considerations and the further research and analysis they will wish to undertake. However, once the OfS had developed its guidance then they (if listed in the regulators in scope of the better regulation framework) or BIS will produce an updated Impact Assessment that taking account of these potential implementation costs.

HEPs – on-going costs

64. HEPs in scope of the Student Protection Plans will be required to keep the plan up to date. There are a number of instances that could trigger an update to the protection plans, for example:

    a. Change or update to the OfS guidance

    b. Change in circumstances of the provider

    c. Where providers choose to change/update their plan

65. It will be for the OfS to determine the guidance and frequency with which the guidance will be updated; however we would not expect the broad principles (such as those listed in paragraph 29) to change. We would expect changes to the guidance to be infrequent, and to take account of the cost to providers of reflecting them. However a more detailed assessment of the on-going costs to business will be made once the OfS has been established and further detail on the guidance is known.

66. The OfS will have responsibility for monitoring the financial sustainability, management and governance of HEPs and this will feed into their ongoing assessment of the Provider's Student Protection Plan. Where the risk profile of the provider remains stable, it would be fair to suggest that the monitoring process might have an annual "declaration/confirmation" that the plan is still accurate and relevant. For the purposes of the Impact Assessment we assume there will be no additional on-going costs to business if there have been no change in circumstances for providers.

67. Where the risk profile of a provider changes, the OfS may judge that the impact on students also needs to be reconsidered, and so may suggest that the protection plan is reviewed to ensure it remains satisfactory and credible. Based on analysis of HESA and AP financial data[164] we estimate that 9% of HEIs and 43% of APs may undergo a significant change[165] in their financial situation over a three year period.

68. Using the assumptions above regarding the proportion of providers that are expected to experience a change in financial circumstances we expect there to be 369 instances[166] over the 10 year appraisal period where providers would need to update their student protection plan. As it is uncertain the extent to which providers would need to update their

[164] HESA finance data 2012/13-2014/15 and BIS AP internal finance data

[165] A provider is assumed to undergo a significant change in financial position, if: 1.Their annual operating surplus as a % of income has gone up or down by 10 percentage points; AND 2.Their annual operating surplus as a % of income has moved between one of the categories below:

a. Large surplus – More than 20% of income
b. Moderate surplus – 5-20% of income
c. Near-zero surplus (+-5% of income)
d. Moderate loss – -5-20% of income
e. Large losses – loss of more than 20% of income

[166] This is based on the number of providers in scope (including new entrants) of the proposals and the % expected to experience a change in financial circumstances. This is referred to as 369 instances rather than providers as it may be the case that some providers move into and out of different risk categories over the 10 year period, so the same provider may be required to update their plan more frequently due to their circumstances.

plan (as this will be a risk-based assessment) we have assumed that providers incur 100% of the one-off cost of introducing the plan (£11,052) when required to update their plan. This is likely to be an overestimate as this assumes the plan will need to be completely re-written which would only occur where there were very they significant changes in provider circumstances.

69. Based on the assumptions above, this would result in ongoing costs of £4.08m across the 10 year appraisal period.

70. We do not include in our estimate of on-going costs the fact that HEPs may wish to update their guidance more frequently than that would be required by the OfS or a change in circumstances as this would be over the minimum standard required by the proposals and it is assumed the provider would judge the benefits to outweigh the costs.

Students

71. It is not expected that students will experience any direct costs as a result of the policy changes.

72. There is the potential for an indirect on-going cost if students were required to continue their provision of study at another institution, which could be further from home or have more expensive costs of living. However this is not as a direct cost of the policy and may occur in any case if a course is destined to close. Even with the potential for increased costs through transfer to a different provider this is likely to outweigh the costs of the counterfactual ‘do nothing’ option where students are left with uncertainty in the continuity of their study.

73. Any impact would vary by the circumstances of the type of closure (course, campus or provider) and the individual circumstances of the student which means it has not been possible to quantify or monetise these potential indirect costs. Some providers may also add further protections to their SPP that includes financial remuneration to cover any increased costs for students, but this will be determined by HE Providers.

74. As above the policy intention is that the Student Protection Proposals (i.e. the idea that conditions of registration will require providers to have in place a student protection plan) will only apply to HEPs that are classed as ‘approved’ or ‘approved (fee cap)’ by the OfS. Accordingly, there remains a risk to students attending HEPs that fall outside the scope of that approach. Internal BIS forecasts estimate that the number of providers operating outside of the system or out of scope of the proposals will decrease from 655 in 2018/19 to 460 by 2027/28. Although this appears to be a large number these are forecast to be small institutions that only account for a small proportion of the sector overall.

75. It is also anticipated that the extent to which such protections exist will be one factor in students’ wish to take into account when making their choice of institution.

Government

76. Government will incur direct costs in the establishment of the OfS, but these costs fall within the scope of the OfS funding model Impact Assessment. We expect the OfS to keep a list of name changes/historical providers to enable the verification of institutions for those graduates of providers no longer operating. As the OfS will operate the gateway and register of providers, compiling this list should not incur any additional burden as the information should already be held by the OfS.

77. There will be a number of providers that are out of scope of the student protection proposals; however as per the policy approach described above; these HEPs will not receive public funding and therefore there are not expected to be any direct costs to Government.

Wider society

78. Even with the protections offered by the proposals there will continue to be providers that are not required to have student protection plans in place that, in the event of a course, campus or provider closure, although students will continue to have consumer protections. Disorderly exit of any providers which are out of scope of these proposals could have a negative impact on the reputation of the wider HE sector.

Benefits

HEPs

79. HEPs may benefit from having a clearer process in place for dealing with closure and the continuation of provision for their students. The introduction of the student protection proposals could increase confidence in the HE sector which could have a longer term positive impact on the ability of HEPs to recruit students, compared to HEPs or other education providers that do not have such plans in place.

Students

80. For those students directly affected by a closure at a HE Provider in scope, they will benefit from having access to the student protection plan, which will set out clearly what will happen to them in the event of closure, including arrangements for continuation of their study. This should ultimately help them in continuing their studies with less expense, uncertainty and stress than if their provider did not have adequate plans in place.

81. Students at HE providers that are in scope of the proposals but do not experience a closure may experience benefits associated with the knowledge that the HE provider has a clear student protection plan in place.

82. Students at providers that are out of scope of the proposals could also experience benefits either through the working of competition (when comparing providers students look at what assurances are given should they face course or institution closure) or simply

through the establishment of a new set of norms regarding how responsible providers operate.

Government

83. Government will benefit from reduced financial risk, flowing from:

- HEPs – providers in scope of the student protection proposals are those that receive public funding. The student protection plans put in place by these providers should mitigate some of the risks faced by Government of sudden or immediate HEP closure (i.e. loss of public funds invested in providers through student loan support or historical grant funding).
- Students – the financial implications outlined above (repayment of tuition fee loans and eligibility for student support) should be mitigated by the Student Protection Plans as students have increased likelihood of 'teach out' or transfer arrangements.

Wider society

84. There is a possible English HE sector reputational advantage as institutions will have clear student protection plans in place which set out how students will be treated in the event of course, campus or provider closure. This could make England a more attractive country to study than others where there are limited or no student protections in place.

Option 3: (discounted)

85. A third option was considered whereby the requirement to have student protection plans was more prescriptive in terms of the particular protection that providers must offer their students, such as a requirement for all in scope provides to offer students financial recompense. This option was consulted on in the HE Green Paper and the consultation responses varied: there was widespread acceptance of the policy objective of ensuring students are protected if a provider is not able to fully deliver the student's course. 70% (238 out of 338 respondents) of those who responded to the Green Paper consultation question on contingency arrangements, agreed with the proposal to introduce a requirement for all providers to have contingency arrangements to support students in the event that their course cannot be completed.

86. There was widespread acceptance of the policy objective of ensuring students are protected if a provider is not able to full deliver the student's course.

87. Most respondents were supportive of the proposal, so long as:

    d. All providers are obliged to sign up to requirement;

    e. There was a risk based approach to meeting the requirement, to ensure costs and burdens are proportionate and do not endanger innovation.

88. The view was generally that very prescriptive requirements would be overly burdensome for providers and would be unable to recognise the different operating models and environments faced by different HE providers.

89. Having taken into account all responses to the Green Paper, including the feedback gathered from the sector and HE organisations through that consultation this proposal has not been developed further as an option.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

90. As there have not previously been any consistent requirements for providers to have and make clear plans for how it will protect students in the event of closures, it is difficult to estimate with certainty the potential impact of the policy on HEPs, students, Government and wider society. The responsibility for setting out guidance on the student protection plans will be with the OfS which has not yet been established. The development of more detailed plans will allow us to develop better estimates of the benefits and costs of the student protection plan. The current estimates are based on the best available information we have at present.

Risks and assumptions

91. The key assumption in the Impact Assessment is that the OfS guidance on the student protection plans largely contains similar principles as set out in the Sector Owned Statement of Good Practice on course changes and closures and Consumer Law but is applied across the sector more consistently. There is a risk that if the OfS either increases or reduces the student protection plan requirements it could place students either at a higher risk (if requirements are substantially reduced) or place HEPs at considerably higher burden (increasing the costs) than is required to meet the stated policy objectives. However, this would be in the context of the OFS principles of risk-based regulation, being unlikely to introducing excessive burdens.

92. This risk is mitigated by the powers for the Secretary of State to issue guidance and directions to the OfS.

93. The analysis is based on the best information and data we currently have available. The assumptions regarding the proportion of HE providers that do not currently have a contingency plan are based on a survey of Alternative Providers. We are aware that different HE providers currently face different regulatory environments and therefore may be more or less likely to currently have contingency or protection plans in place. However we do not have sector wider information on the numbers of providers with plans in place, therefore we have applied the findings from the Alternative Provider survey (53% do not have a protection plan in place) to the whole sector. This is the same approach we have used to estimate the number of hours required to produce the protection plan.

Small and Micro Business Assessment

94. In the higher education sector, the size of a provider is usually based on the size of its student population, as it is considered more relevant than employee numbers. For example, institutions with the same number of employees may have significantly different student populations, and therefore could greatly vary in size. However, for the purposes for the Small and Micro Business Assessment, we look at the number of employees at each institution.

95. 2014/15 HESA data shows that HEFCE funded Higher Education Institutions (HEIs) have on average 2489 employees and that the smallest number of employees at a single HEI is 80. Analysis of the Further Education workforce data for England Report shows that the average FTE staff per college is 383 for England. Therefore, we do not believe any HEI or FEC to be classified as a small business for this assessment.

96. However, according to a BIS survey of Alternative Providers (APs) 95% (out of a sample of 160 APs) had 50 employees or fewer. The AP survey included all such providers, which in the new regulatory system would include many out of scope of the Student Protection Proposal, as they would choose to either be unregistered or registered (not approved). Therefore these findings are unlikely to be representative of the APs in scope. However, as we do not hold further detail of the split between small business in or out of scope of the proposals, we assume that 95% of APs in scope of the proposal are classed as small. Our expectation is that this is an overestimate.

97. Figure 4 demonstrates that there are a large number of APs in the HE sector, considerably more in comparison to HEIs and FECs, which suggests there are a relatively large number of small businesses in the HE sector. However as shown in Figure 2 although there are a large number of APs they only had 12% of the total number of HE students in 2014/15.

Figure 1 Number of providers in each category, 2014/15

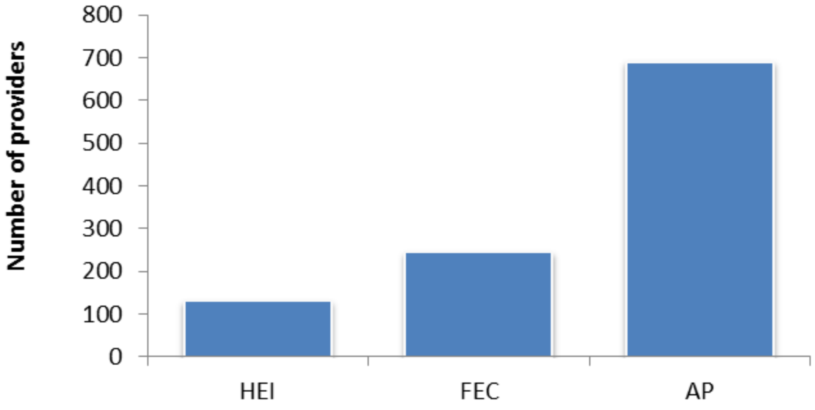
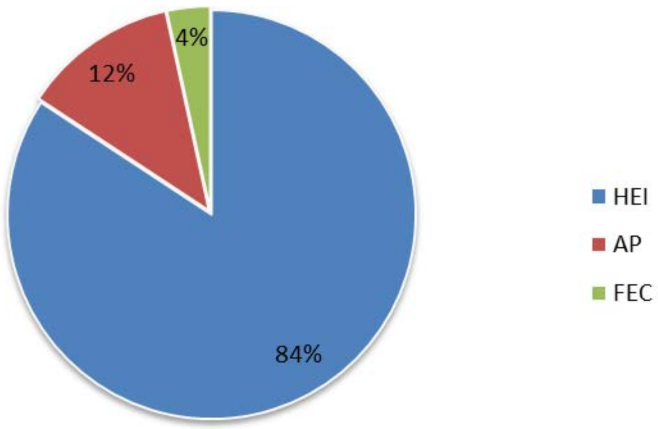


Figure 2 Breakdown of higher education students in 2014/15, by type of provider



98. The Student Protection proposal will cover all types of providers and will be implemented using a risk-based approach. We would expect new entrants to be smaller and they will have limited financial history, which due to the risk based approach may require them to explain further their approach or put in place additional guarantees than providers who have a stable financial position. Therefore the burden on smaller, in particular new providers may be disproportionately greater than for larger providers.

99. The estimated average one-off cost of £11,052 from the requirement to have a student protection plan in place is an average across all HEPs. Although we expect the burden to be proportionately larger for small businesses, we would expect costs to be higher for larger businesses which have a wider course offering and larger student population. However larger providers may benefit from economies of scale as the basic principles of any student protection plan could be applied across different faculties in a relatively light touch way; smaller providers will not benefit in this way and therefore costs are expected to be proportionately higher for these providers.

100. As the guidance for the student protection plans has not yet been agreed it has not been possible to assess the additional costs to small providers compared to larger providers. Once the OfS has been established we will make a more detailed assessment of the additional burden for small providers.

101. Full or partial exemption of small providers from the requirement to have a Student Protection Plan would significantly reduce the effectiveness of the policy. This is because it would undermine the policy objectives to ensure students are protected from course closure and this protection for students should not be reduced simply due to provider size.

102. An extended transition period or temporary exemption for small businesses would mean that students attending small providers would not be protected against course closure for the period of time that the transition is extended or exempted so is not appropriate for this policy.

103. Varying the requirements by type and/or size or business will not achieve the policy objectives, as it will result in differential scrutiny based simply on provider size which is not necessarily a relevant proxy for course closure. As stated above, the policy will be implemented using a risk based approach, which is more appropriate for this type of policy.

104. When the OfS brings forth the guidance for providers, consideration will be given as to whether small providers would benefit from having further information, user guides or training which is specific to their size of business. This is something that will be raised with the regulator once it has been established.

105. It would not be possible to give smaller businesses financial aid, as the HE Bill proposals intend to create a level playing field between all types of providers. Offering financial aid to smaller businesses will contradict these proposals.

106. It would not be possible to make student protection requirements voluntary as this would result in inconsistent protection for students, which is the issue that the proposal seeks to address. Paragraph 27 provides an overview of the Statement of Good Practice for course changes and closures which is already in place on a voluntary basis. Although this is a good starting point it does not guarantee student protection and there are students that remain unprotected in the event of course closure.

107. Overall, there will be a relatively greater burden on smaller businesses compared to larger businesses as a result of the requirement for providers to have a Student Protection plan but it is not possible to mitigate these as it will contradict the policy objectives and result in some students remaining unprotected in the event of course closure.

Title: **Introducing Registration Fees for Office for Students**	**Impact Assessment (IA)**
IA No: BIS006(F)-HE	**Date: 01/06/2016**
RPC Reference No: RPC-3338(1)-BIS	**Stage: Options**
Lead department or agency: BIS	**Source of intervention: Domestic**
Other departments or agencies: HEFCE, OFFA	**Type of measure: Primary legislation**
Summary: Intervention and Options	**RPC Opinion:** GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2014	**One-In, Three-Out**	**Business Impact Target Status**
£0m	£-230.3 m	£25.1m	In scope	Non qualifying provisio

What is the problem under consideration? Why is government intervention necessary?

The existing regulatory system for higher education is outdated. There is a strong case for establishing a new market regulator that reflects the fact that funding comes predominantly via the student and to capture the full diverse range of providers within the HE sector. Currently, HEFCE and OFFA (main regulating bodies in the HE sector) are fully taxpayer funded. It is proposed that part of the cost of regulation is borne by the sector rather than the taxpayer, given budget pressures and moving to a similar model to central regulators in other sectors (e.g. healthcare, school education, utilities).

What are the policy objectives and the intended effects?

Move to a funding model for the central regulatory body, which:

- Results in savings for the taxpayer
- Allocates costs fairly
- Does not create barriers to entry
- Does not add a disproportionate cost to any provider.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: "Do nothing" – Office for Students (OfS) fully funded by the government
Option 1: Giving the OfS a power to charge registration fees to providers.

Will the policy be reviewed? It **will** be reviewed. **If applicable, set review date: 2023/2024**

Does implementation go beyond minimum EU requirements?		Yes			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes	
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:** **N/A**	**Non-traded:**		

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Jo Johnson Date: 3rd June 2016

Summary: Analysis & Evidence

Description: Introducing registration fees for Office for Students

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low	0		19.9	**168.9**
High	0		30.2	**255.9**
Best Estimate	0		27.2	

Description and scale of key monetised costs by 'main affected groups'

HE Sector – A proportion of the ongoing annual administration costs will be transferred to the sector. Decisions on the final structure of charging will be subject to consultation and taken in secondary legislation – the estimates here are purely indicative.

Other key non-monetised costs by 'main affected groups'

There will be small familiarisation costs for the HE providers when the new system is introduced.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low	0		19.9	**168.9**
High	0		30.2	**255.9**
Best Estimate	0		27.2	**230.3**

Description and scale of key monetised benefits by 'main affected groups'

The costs of regulation transferred to the sector will constitute a net benefit to taxpayers.

Other key non-monetised benefits by 'main affected groups'

A co-funding model will help support greater efficiency in regulating the sector through greater transparency and accountability. A better regulated sector should lead to more choice and competition in the HE sector, improving student outcomes and value for money. It should also support confidence in the sector; allowing for better choices to be made, enabling a more diverse range of providers to develop and making it even more accessible to those from currently under represented backgrounds.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

The OfS operating model is being developed. All cost estimates should therefore be seen as broadly indicative and subject to change following more detailed work on the size, shape and operation of the OfS, as well as the timing and nature of the transition to this new body.

The OfS funding model – it is assumed that the majority of costs are covered by the sector, but with continued taxpayer support to ensure fairness and not create a disproportionate burden to a provider of any size.

BUSINESS ASSESSMENT (Option 1)

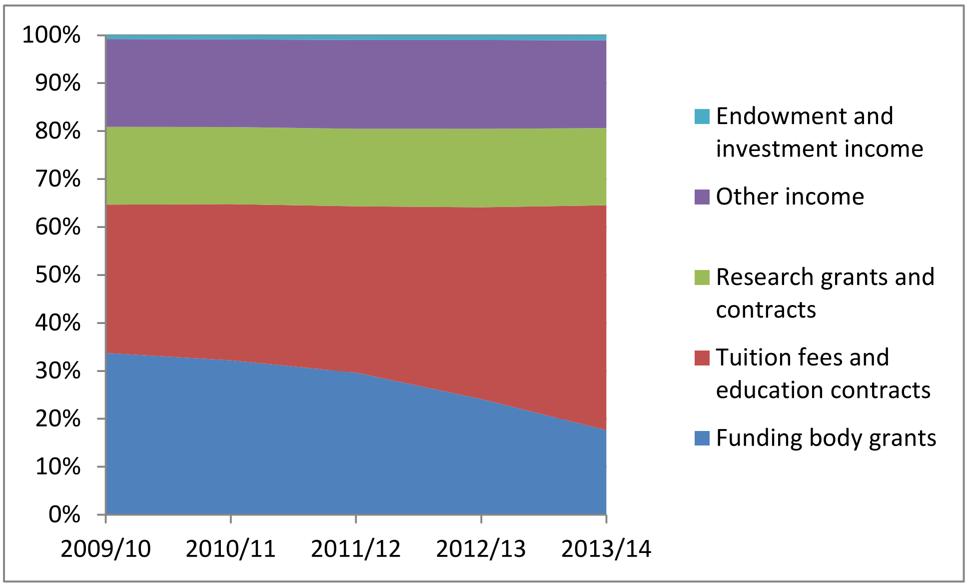
Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 25.1	**Benefits: 0**	**Net: 25.1**	-

Background

Creation of the Office for Students (OfS)

1. The higher education funding system in England has undergone many changes over the past 20 years. Most notably, there has been a sizeable shift in the way Higher Education Institutions (HEIs) are funded. As Figure 1 below clearly shows, the proportion of funding for teaching provided by direct grant from the Higher Education Funding Council for England (HEFCE) has declined significantly, while the share of funding from tuition fees has increased.

Figure 1. Sources of income for UK HEIs, percentage split.



Source: HESA finance data

2. Given the student, supported by taxpayers, is now the primary funder of higher education, we need a new market regulator that operates on behalf of the student and tax payers; supporting a competitive environment and promoting choice, quality and value for money. The existing regulatory system, built on a declining proportion of direct grant funding and which does not apply to all providers in the sector, is outdated and in need of reform, with a streamlining of the regulation under one body and a consistent set of conditions for all providers.

3. It is therefore proposed that a new regulatory body, the Office for Students (OfS), will be established, with a new focus on competition and choice and combining the existing regulatory functions of HEFCE and OFFA (the Office for Fair Access). It will have clearer and consistent powers to regulate the sector, by attaching regulatory conditions to providers that enter the system. The conditions will be consistent between all types of providers – Higher Education Institutions, Alternative Providers, Further Education Colleges and new entrants.

4. The two core parts of the new regulatory system would be the creation of the OfS and the single entry gateway it will operate for prospective Higher Education Providers. This will form the essential 'framework' on which to base the regulatory requirements of higher education (such as quality assurance, widening participation, data and information requirements). These requirements would be applied by the OfS as a condition of having gone through the gateway and becoming a formally recognised provider.

5. As a result of the reform, we would:

    - **Enable more new universities to enter the system so students can choose from a wider range of institutions.** The reforms will make it easier for new high quality providers to enter the sector, achieve degree awarding powers and secure university status.
    - **Raise teaching standards and improve student choice in higher education.** A new Teaching Excellence Framework will assess providers' performance across different aspects of teaching (teaching quality, learning environment, student outcomes). Through this, students will have access to better and more relevant information than ever before when choosing a course. OfS will be responsible for operating the Framework.
    - **Place students at the heart of higher education regulation.** For the first time, the principal regulator for the higher education sector will have an explicit legal duty to promote choice and consider the student, employer and taxpayer interest in all its regulatory and funding decisions.
    - **Improve transparency to put more information in the hands of students.** The reforms will make more information available to students than ever before, to enable potential students to make better choices and to shine a spotlight on universities that need to go further on social mobility. Universities will be required to publish detailed information about application and success rates, broken down by ethnicity and socio-economic background.
    - **Enhance the reputation of our world-class higher education system.** The new regulator will operate a risk-based approach to regulation that concentrates regulation where it is needed while reducing burdens on the best performing providers. The measures, for the first time, establish a power to "enter and inspect" a provider where there are suspicions about serious misuse of public funds.
    - **Deliver a more efficient regulatory regime**. The Green Paper set out a vision for transforming the HE landscape to create a simpler and more efficient regulatory system and reduce the number of organisations that have a publicly funded regulatory role. Through bringing together the functions that currently sit across different bodies into a coherent market regulator, we can avoid duplication of effort and streamline the regulatory functions, with more power in the hands of the sector as co-funders of the regulator to ensure costs are driven down.

6. Only the functions currently funded by government will be brought together within OfS, and neither HEFCE nor OFFA currently have legislative powers to charge registration fees. The

entirety of OfS set-up costs will be funded by government. The establishment of the OfS in itself is therefore not going to have direct costs or benefits to business, though there may be some small familiarisation costs. There will be indirect benefits to the sector in terms of clearer regulatory architecture and where the greater confidence it provides students leads to greater uptake (domestic and international). As there will be no direct impact on business, associated with establishing OfS, its impacts are not assessed here.

Problem under Consideration

7. Currently, the operating costs of HE regulatory bodies are borne partly by the sector (Quality Assurance Agency, Higher Education Statistics Agency, Office for Independent Adjudicator, etc) and partly by the Government (HEFCE, OFFA). In simplifying the regulatory architecture, we will look to build on this co-funding model.

8. There are other instances where an economic regulator is partly funded by the sectors they regulate. These include school education (Ofsted), telecommunications (Ofcom), electricity and gas (Ofgem); and water (Ofwat).

Rationale for intervention

9. There are several reasons for partly funding the OfS through registration charges. These include:

   - **Fairness**: Currently costs of HEFCE/OFFA are fully covered by the taxpayer. This effectively means that a taxpayer who has never been through the HE system would still contribute to the administration costs of the regulator. For those who have studied, taxes paying for the operation of the regulatory body would come on top of their student loan repayments, despite them being out of education for potentially many years.
   - **Budgetary pressures**: The Government has announced targets to reduce public spending in this Parliament. The model where providers cover some of the costs of the new regulator would realise savings to the taxpayer, contribute to the stability of public finances and enable government funding to be focused towards areas of market failure where funding is required to deliver public policy outcomes in a way that represents value for money.
   - **Accountability**: Asking providers to contribute to the cost of OfS would give them an incentive to hold the regulator accountable and challenge the efficiency of the regulatory system. This will be encouraged by a responsibility on the OfS to report on the costs of administering the regulation of the sector.

Policy objective

10. It is envisaged that the OfS will have powers to charge providers a fee as a condition of registration.

11. Under the new single gateway system a higher education provider could choose to operate as a *"Registered - Basic"* provider, where they are simply recognised by the government, or

as an *"Approved"* or *"Approved (fee cap)"* provider, which would enable them to gain access to student loan and grant funding, as well as recruit international students167. We do not include *"Registered - Basic"* providers in this analysis as their cost of regulation is likely to be negligible[168]. An *"Approved"* or *"Approved (fee cap)"* provider will, however, require a greater level of monitoring and regulation. The details of the charging structure that will apply to them will be set out in secondary legislation and subject to consultation. However, we would expect the following principles to be considered when designing a system of fees:

- **Allocating the costs of the system proportionately to not create an undue burden on a particular provider.** Fairness dictates that providers, that are costlier to regulate, would need to incur relatively higher registration fees. That could also create additional incentives to improve efficiency
- **Not creating disproportionate barriers to entry.** Entry of new providers is important as it improves choice for students and incentivises innovation from existing providers. Newer providers to the "Approved" part of the sector would cost OfS the same, or possibly even more than incumbent providers to regulate in the initial years of their operation, as OfS would need to assure that entrants offer high quality provision and are likely to be financially sustainable. However, the full cost of regulation could be unaffordable to new providers and thus could discourage entry.
- **Not creating a competitive disadvantage for smaller providers.** Similar principle applies to smaller providers. If all providers were charged the same fees irrespective of size, the burden of fees would form a much higher proportion of smaller providers' budget, and would prevent them from competing on a level playing field with large HE providers. This would dictate that fees should be proportionate to size of the provider, to ensure regulation does not distort competition in the sector. Ensuring that smaller providers are not disproportionately affected by regulation is also in line with the *Better Regulation Framework Manual*[169]*.*

Options under consideration

12. This impact assessment covers giving the OfS the power to charge the registration fees.

 Option 0: Do nothing: Government does not have the power to charge providers registration fees, therefore the regulatory body for higher education would remain fully funded by the taxpayer.

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[167] **"Registered - Basic"** providers would be formally recognised by government, subject to check of their qualifications and requirements on student protection. They would not gain access to government funding or ability to recruit international students.

"Approved": Gain access to up to £6,000 tuition fee loans for undergraduate students, with no cap on tuition fees, and no requirement to sign up to an access agreement (but with a policy statement on widening participation in HE). Able to recruit international students as a Tier 4 visa sponsor.

"Approved (fee cap)": A £9,000 tuition fee loan cap, a cap on fees at £9,000, a requirement to sign up to an access agreement if fees charged are more than £6000, and eligibility for government grant. Able to recruit international students as a Tier 4 visa sponsor.

[168] "Registered" providers would not be subject to monitoring, and would only undergo a light-touch check of their qualifications.

[169] Better Regulation Framework Manual

Option 1: **Office for Students gaining a power to charge registration fees**. This would recognise that OfS would have benefits both for the providers, the students and the economy at large.

13. The specific funding model will be subject to public consultation, to gather the sector's views on the principles and design of the funding model. The funding model would then be set out in a statutory instrument, and fully assessed in a corresponding impact assessment.

Expected OfS operating costs

Establishing baseline operating costs

14. The proposed regulatory powers and duties, which are assessed in this impact assessment, will be laid out in primary legislation. Before primary legislation is introduced, it is too early to make final decisions on the operating model of OfS, a number of its key cost drivers and its exact fee structure and level. The following analysis should therefore only be seen as indicative at this stage ahead of further more detailed work on its design and implementation, and agreeing a charging structure in secondary legislation subject to HM Treasury consent.

15. The estimates of operating costs of HEFCE and OFFA come from the 2014-15 accounts of the two organisations[170]. Table 1 shows the overall expenditure of HEFCE and OFFA in 2014-15. "Operating expenditure" covers the costs that form the baseline for our estimates.

Table 1. HEFCE and OFFA expenditure 2014-15

£ thousand actual	HEFCE 14-15	OFFA 14-15
Operating expenditure		
Staff costs	14,492	953
Support costs	10,346	268
Other		382
Depreciation, amortisation (non-cash)	167	
Grants payable	4,124,513	
Historic provision	1	
Gross Expenditure	**4,149,519**	**1,603**
Gross operating expenditure	**25,005**	**1,603**

[170] HEFCE annual report and accounts 2014/15 http://www.hefce.ac.uk/about/reportsaccounts/
OFFA annual report and accounts 2014/15 https://www.offa.org.uk/publications/annual-reports/

16. To this figure, two sets of adjustments are made to reach the baseline cost estimate (i.e. costs before allowing for efficiencies stemming from the merger of HEFCE and OFFA functions into a single regulatory body).

17. The first set of adjustments involves two deductions to the HEFCE gross operating expenditure figure of £25,005,000:

- It has been estimated that 17 FTE posts in HEFCE are directly responsible for the Research and Knowledge Exchange function[171]. In the new system, it is envisaged that this will move to UK Research and Innovation (UKRI), as a part of future consolidation of research funding under one body. As there were a total of 242 FTE staff at HEFCE in 2014/15, it is assumed that there would be a cost saving of around 7% (17/242). This would amount to a £1.7m (£25m x 7%) deduction[172].
- While HEFCE only has duties to regulate England's HE providers, it also performs similar functions for the Devolved Administrations on a contractual basis. The powers allocated to the OfS will also only relate to England. Therefore, to get comparable estimates, the costs of contracts with Devolved Administrations have to be excluded from the baseline estimates. This would amount to a £353,000 deduction. Table 2 below shows the costs of the delivery contracts with HEFCE. Future arrangements between the OfS and the Devolved Administrations would be subject to review after any legislative change.

Table 2. England-only costs of HEFCE in 2014/15

Cost category	Cost (£000s)
HEFCE operating costs	25,005
- Research funding	-1,745
- NI contract	-197
- Wales contract	-47
- Scotland contract	-109
England-only HEFCE costs	**22,907**

18. The second set of adjustments relate to the inclusion of two additional items of expenditure associated with HEFCE's responsibilities around regulation, quality assessment and data collection:

- BIS currently has partial responsibility for managing alternative providers (APs) of higher education, including monitoring, designation and annual re-designation. This would be fully transferred to OfS in the new system (with the regulatory conditions the same for all types of providers). As a baseline for that part of the costs, we use the

[171] Source: Internal BIS estimates
[172] No further data on specific costs of this staff is available, so it is assumed that proportion of HEFCE operating costs spent on research funding is equivalent to the proportion of this staff in the organisation.

figures on BIS staff costs and overheads that cover this area, totalling £816,000 altogether.

- HEFCE funds both HESA (Higher Education Statistics Agency) and QAA (Quality Assurance Agency for Higher Education) to deliver a number of activities integral to regulation, around quality assessment and data collection. HESA and QAA both gain the majority of their funding via registration fees paid by institutions. However, there are certain activities necessary for the sector, which are not directly covered by providers' registration fees, such as the Higher Education Data and Information Improvement Programme (HEDIIP) which HEFCE is funding HESA to undertake. For activity such as this, HEFCE funds QAA and HESA directly, and this activity may reasonably be considered to be part of the OfS baseline, because it relates directly to regulatory costs. Table 4 overleaf shows the cumulative costs of these contracts amounts to £6.449 million a year.

19. Taking all of these adjustments into account, the initial baseline estimate for OfS operating costs (before allowing for efficiency savings) is estimated to be £31.573m as shown in Table 3 below. This does not include costs of operating the new Teaching Excellence Framework, which will not form a part of registration fees and will be assessed in a separate impact assessment.

Table 3. Total baseline estimated OFS operating costs, £ thousand

Category	Cost
A: HEFCE 14-15 total operating costs (England only)	£22,907
B: OFFA 14-15 total operating costs	£1,603
C: BIS AP resource transferring	£816
D & E: HEFCE funding passed to HESA and QAA	£6,449[173]
TOTAL	**£31,573**

Expected efficiencies

20. The figure of £31.6 million above provides a baseline for the costs of OfS, based on current expenditure on related functions. Once created, the OfS is likely to generate cost savings, stemming in part from the merger of HEFCE and OFFA functions and in part from the move to a more risk-based, efficient regulatory framework.

[173] HEFCE annual accounts 2014-15

21. At this point, further design work needs to be carried out to accurately estimate the difference in costs between creation of OfS and the "do nothing" scenario, for example, the risk-based regulatory framework has not been created.

22. The central assumption in this impact assessment is that a 10% efficiency saving will be achieved relative to baseline operating costs. This means that the baseline for operating costs is £28.6m for 2015/16. It is assumed that the running costs will rise in line with economy-wide inflation. Adjusting for forecast RPIX inflation[174], the expected operating cost for 2018/19 is then **£30.9 million**.

Dynamics of the operating cost

23. As mentioned, there is a range of related reforms due to be introduced in the HE sector, which the creation of OfS will enable. These reforms will open the market to high quality new providers and create a level playing field between established providers and new ones. This is expected to lead to a significant increase in the number of providers within the regulated system, improving choice for students and putting pressure on existing providers to improve their offer. That would mean OfS having responsibility for a greater number of providers.

24. It is expected that operating costs will increase over time as the number of providers in the regulated sector rises. HEFCE's initial estimate suggested that if the number of providers in the sector was to double, their operating costs would increase by 50%. This does not include "*Registered"* providers, as the costs of regulation for them are assumed to be negligible relative to total costs[175].

25. The tables below show the indicative number of providers which would be regulated and the estimated operating cost of OfS[176] over time. It is assumed that the OFFA component of operating costs increases at the same rate as HEFCE cost. The increase in operating costs over time is due to two factors: (i) increase in the number of regulated "Approved"/"Approved (fee cap)" providers and (ii) inflation. The same assumptions on the number of providers in the new system are used across all Impact Assessments in the 2016 HE Bill[177].

[174] OBR Economic and Fiscal outlook March 2016;
[175] It is also assumed that the mix between "Approved" and "Approved (fee cap)" remains constant throughout the period. This is a simplifying assumption and it does not have a significant impact on total cost.
[176] Increase in gross operating costs is calculated with 50% of costs fixed and 50% directly proportionate to number of "Approved"/"Approved (fee cap" providers. E.g. for 2019/20 it's (£30.9 million * 50%) (fixed element) + (£30.9 million * 50%) * (499/482) (variable element) = £31.5 million * 1.031 (RPIX inflation) = £32.5 million.
[177] Detailed forecast is provided in Annex A

Table 4. Expected OfS operating cost by year

	2018/ 19	2019/ 20	2020/ 21	2021/ 22	2022 /23	2023/ 24	2024/ 25	2025/ 26	2026/ 27	2027/ 28
Total “Approved” /”Approved (fee cap)”	478	495	513	533	554	577	599	620	640	659
Operating cost of OfS, £million	**30.9**	**32.5**	**34.1**	**35.7**	**37.6**	**39.4**	**41.4**	**43.3**	**45.2**	**47.2**

Analysis of policy options – Giving OfS power to charge registration fees

26. An alternative non-legislative option to the recommended proposal is not appropriate in this case as a legal power is needed for OfS to charge registration fees to the sector. The only alternative would be for taxpayers to fully fund the Office for Students, which is the ‘do nothing’ option.

27. This impact assessment covers primary legislation to give OfS the power to charge registration fees. The actual amounts charged or the funding model would not be set out in legislation, and decisions on them are due to be made at a later point, and will be refreshed regularly. There will be a separate public consultation on the issue to get views of the sector on the precise charging model. The description of “Option 1” below assumes a potential shape of the future system; however, the actual funding model could end up being quite different following consultation with the sector.

Giving OfS power to charge registration fees

28. The key principles, as discussed above, to be applied in determining the shape and level of registration fees are:

    1. Fairness
    2. Not creating disproportionate barriers to entry
    3. Not disadvantaging any particular category of providers

29. There are likely to be trade-offs between these principles, and the Government will consult on how to achieve the right balance between them. At this stage, it makes sense to assume a simple system, which is consistent with the above principles. Such a system could be:

    - **The cost of regulating new providers is covered by the Government for a set period until the new institution is established.** Entry of new providers into the sector would be good for students through the creation of competitive pressures on certain parts of the sector. There is a risk that asking new providers to cover the costs of regulation could place a disproportionate burden on them during their first few years of operation. To reduce the barriers to entry, registration fees could be waived for first few years, while the provider gets on a more stable footing. It would not necessarily be fair, as an alternative, to ask incumbent providers to fund the entry of their competitors.

- **Registration fees would be proportionate to the number of students at the institution.** Smaller institutions have lower income and could potentially suffer disproportionately from the burden of legislation. Government's Better Regulation Framework thus suggests that policymakers should have particular regard for small firms (those with less than 50 employees[178]) in designing new policy. Making the fees proportionate to size of the institution would thus help to ensure smaller institutions are able to compete with larger ones and grow.
- **Fees differentiated between different operating models of the provider.** Providers on different models will face different processes and ongoing monitoring[179]. It is anticipated that providers entering as Registered would have to pay, at most, a minimal registration fee – they will incur a very small cost to OfS and this would avoid creating a barrier to entry. Institutions in Approved (fee cap) category would then have a proportionately higher registration fee, reflecting the more in-depth financial and monitoring checks that would be needed to give Parliament assurance on those providers that receive direct grant funding and the administrative costs of signing an access agreement.

Split between costs covered by sector and taxpayer

30. The previous section set out an estimate of expected operating cost of OfS at approximately £30.9 million in 2018/19. As outlined above, the costs are expected to be split between government and the sector, subject to the outcome of consultation. Below we estimate the costs that might be covered by the taxpayer, with the remaining OfS operating costs being assumed to be covered by providers.

31. There are three key parts of cost that might be funded by government in the new system.

1. **Costs of regulating the new providers (those that entered in past 3 years).** As set out above, there is a pro-competition argument for the taxpayer to meet a new provider's regulatory costs in its early years (assumed here to be during its first three years). It is very difficult to specifically ascribe the operating costs of OfS to a particular provider it will regulate. Large, well-established providers could be more expensive to regulate due to a greater range of courses taught and thus bigger burden of reviews. On the other hand, some smaller new providers could be less financially stable and have less well-established quality assurance practices, which might lead to more intensive monitoring and reviews. In the absence of any specific evidence and further modelling, we assume

[178] While Better Regulation Framework suggests that enterprises with smaller number of employees are treated differently, however, for Higher Education Providers full-time equivalent students are a better indicator

[179] Registered" status involves a basic check of whether qualifications are consistent with *The Framework for Higher Education Qualifications (FHEQ)*. Gaining "Approved" status involves a check of Financial Sustainability, Management and Governance, as well as a review by QAA. Gaining "Approved (fee cap)" status also involves a higher level of FSMG checks and an option to charge fees of up to £9,000 if the provider signs an access agreement with OfS.

that the cost to OfS of regulating a provider is the same irrespective of size and experience.

A distinction is, however, made between “Approved” and “Approved (fee cap)” providers, as only “Approved (fee cap)” providers will sign access agreements and require more intensive auditing in respect of the money they receive in grant funding, in line with “Managing Public Money”. Based on that, and subject to further modelling, average cost of regulation is assumed to be £61,400 for “Approved” providers and £65,400 for “Approved (fee cap)” providers. Table 5 overleaf sets out the calculation:

- Cost of regulation for an “approved provider” is simply the operating costs of OfS, excluding £1.56m OFFA running costs[180], divided by the total number of “Approved” and “Approved (fee cap)” providers –£61,400 (£29.4m/478).
- For “approved (fee cap)”, there is an add-on cost to OfS of the access agreement system. Assuming OFFA running costs provide an indication of the ongoing cost of ensuring fair access, this cost is then split by the number of “Approved (fee cap)” providers in the sector (i.e. in 2018/19 £1.56m/390= £4,000) and added to “Approved” cost.
- The numbers of providers that enter within 3 years of the current academic year are extracted from the same provider number forecast model as overall figures[181]. This includes both providers that are completely new and those that were not designated for student support previously. It is expected that the number of new providers entering the system will be higher in the first 4-5 years of the new system, and stabilise afterwards, as reflected in the table.
- Table 6 shows overall government support for new providers, calculated as the number of new providers at “Approved” multiplied by the cost of regulation, plus the number of new providers at “Approved (fee cap)” multiplied by the cost of regulation. For example, in 2018/19 this would be 22x£61,400 + 9x£65,400 = £1.9 million.

[180] Access agreement (ex-OFFA) costs are assumed to rise in line with other costs – thus increasing due to increased number of providers and inflation.
[181] Methodology behind provider numbers explained in the technical note on provider number forecast, used throughout all HE Bill Impact Assessments.

Table 5. Cost of regulation by provider

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
OfS operating cost	£30.9m	£32.5m	£34.1m	£35.7m	£37.6m	£39.4m	£41.4m	£43.3m	£45.2m	£47.2m
Operating cost (excluding OFFA)	£29.4m	£30.9m	£32.5m	£34.2m	£36.m	£37.9m	£39.8m	£41.7m	£43.6m	£45.6m
Approved/Approved (fee cap) providers	478	495	513	533	554	577	599	620	640	659
"Approved" cost of regulation	**£61,400**	**£62,400**	**£63,300**	**£64,200**	**£65,000**	**£65,600**	**£66,400**	**£67,300**	**£68,200**	**£69,200**
Additional fair access costs	£1.6m	£1.6m	£1.7m	£1.8m	£1.9m	£2.0m	£2.1m	£2.2m	£2.3m	£2.4m
Approved(fee cap) providers	390	397	403	411	419	428	437	446	454	462
"Approved" (fee cap) cost of regulation	**£65,400**	**£66,400**	**£67,200**	**£68,000**	**£68,700**	**£69,300**	**£70,000**	**£70,800**	**£71,600**	**£72,500**

Table 6. Government funding for costs of regulation of new providers

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
"Approved" providers, entering in that year	22[182]	11	12	14	15	16	15	15	14	14
"Approved" (fee cap) providers, entering in that year	9	5	5	6	7	7	7	7	7	6
Cumulative Approved (up to 3 years)[183]	22	33	45[184]	37	41	44	46	46	45	43
Cumulative Approved (fee cap) (up to 3 years)	9	14	20	16	18	20	21	21	21	20
Cost of regulation Approved	**£61,400**	**£62,400**	**£63,300**	**£64,200**	**£65,000**	**£65,600**	**£66,400**	**£67,300**	**£68,200**	**£69,200**
Cost of regulation Approved (fee cap)	**£65,400**	**£66,400**	**£67,200**	**£68,000**	**£68,700**	**£69,300**	**£70,000**	**£70,800**	**£71,600**	**£72,500**
Total cost of government support to new providers (£m)	**1.9**	**3.0**	**4.2**	**3.5**	**3.9**	**4.3**	**4.5**	**4.6**	**4.5**	**4.4**

2. **Funding for activities that have wider economic benefit**. Beyond the direct regulatory functions, it is expected that OfS will be well placed to perform other functions, which would not directly benefit the providers, but would have large societal benefits. Examples could include the OfS undertaking work directly for Government, such as the production of analysis and research about the HE sector or specific monitoring work which they do that has external benefits to society beyond a given institution, such as tackling extremism through the Prevent framework. The table below shows the expected size of support for those activities. Figures reflect early internal BIS estimates.
3. **Transition costs.** To relieve the burden of transitioning into the new system for providers, part of the operating costs are expected to be funded by government in the first year of the new system. The estimated cost is expected to be £8.2m.

[182] Only includes those that enter that year at "Approved"; and were previously not regulated or had a "Registered" status.
[183] Cumulative figures are a sum of the providers entering in the last three years. Forecast numbers are fractional so may not sum up exactly,
[184] 22+9+10=41

Table 7. Indicative expected split between OfS costs funded by Government and through registration fees, £million

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Total government support	**14.9**	**8.0**	**8.8**	**9.4**	**10.2**	**11.0**	**11.9**	**12.7**	**13.7**	**14.8**
New provider support	1.9	3.0	4.2	3.5	3.9	4.3	4.5	4.6	4.5	4.4
Wider benefits	4.8	5.0	4.6	5.9	6.3	6.7	7.3	8.1	9.2	10.3
Transition funding	8.2									
Total registration fees	**16.0**	**24.4**	**25.2**	**26.3**	**27.4**	**28.4**	**29.5**	**30.5**	**31.4**	**32.4**

Impact on business

Costs

32. "Total registration fees" in the table above then represents an added cost to business.

33. There are also likely to be small familiarisation costs for businesses, reflecting the change in the regulatory architecture and added payment for registration.

Benefits

34. Reforms will mean that the regulatory system is clearer and more efficient. The regulatory framework will be more flexible; to ensure that the burden of regulation is proportionate to level of risk.

Impact on the taxpayer

Costs

35. There is no additional cost expected for the government from this option – by definition it would see providers meeting a greater proportion of the cost of regulating their activities.

Benefits

36. Relative to the "do nothing" option, the cost saving for the government would be equivalent to the amount of OfS running costs covered by the sector – listed in the table above as "total registration fees".

Specific impact tests and better regulation requirements

Competition impact

37. The structure of the registration fees for OfS could have an impact on competition, even if this is relatively minor. However, as the design of registration fees is still in early stages of development and subject to a public consultation, it is difficult to provide any in-depth analysis.

38. The previous sections make assumptions on what the likely registration fees would be. Two aspects of the model are there to ensure it does not distort competition but instead works with the Government's broader reform programme to promote competition in the sector:

    a. Size of registration fees proportionate to number of students at the provider – thus everyone will face a similar burden relative to their size

    b. Costs of regulation of new providers subsidised by government during the first three years of operation

39. Thus the funding model will be designed with an explicit principle of not distorting competition.

Small and micro-business assessment

40. For Small and Micro-sized Businesses (up to 49 full-time equivalent employees) the burden of legislation can be disproportionately greater. According to the Better Regulation Framework Manual, it is therefore the default option that small and micro-businesses are exempted from new regulatory measures. Failing that, it needs to be ensured that the burden is proportionate, so as to not disadvantage smaller businesses.

41. As highlighted in the section on analysis of policy options, the funding model for OfS will not be set out in the Higher Education and Research Bill, but via secondary legislation and subject to a separate public consultation. Therefore, the way the registration fees will affect smaller versus larger businesses is not clear at this stage. The proposed likely scenario in this impact assessment is that government makes a greater contribution in 2018/19 to aid the transition into a new system. It is also expected that the government would cover the registration fees for providers in their first 3 years of operation. Following that, the fees would be proportionate to the number of students attending the institution. So while this measure imposes a new burden on smaller providers, it ensures that the burden is proportionate for smaller providers and removed for new providers.

42. Other measures in the proposed Higher Education and Research Bill, for example, improving the validation of degrees for new providers, reducing the burden of re-designation

and creating a single entry gateway, will reduce the burden of existing legislation on smaller providers.

Title: Deregulating Higher Education Corporations and simplifying the Privy Council Approval process	**Impact Assessment (IA)**
IA No: BIS009(F)-HE	**Date: 01/06/2016**
RPC Reference No: RPC-BIS-3345(1)	**Stage: Final**
Lead department or agency: BIS	**Source of intervention: Domestic**
	Type of measure: Primary legislation
Summary: Intervention and Options	**RPC Opinion: Green**

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANDCB in 2014 prices)	**One-In, Three-Out**	**Business Impact Target Status**
£1.29m	£1.21m	-£0.13m	In scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?

1) Higher Education Corporations (HECs), a subset of all Higher Education Providers (HEPs), face more stringent regulation than other publicly funded HEPs, which acts as a competitive barrier within the Higher Education (HE) sector. Intervening in this area will remove unnecessary and burdensome requirements on HECs that are currently specified within legislation.

2) All publicly funded HEPs are subject to a lengthy process of Privy Council approval when seeking to amend their governing documents, which is unnecessarily burdensome and restrictive. This process can be significantly streamlined to give publicly funded HEPs greater flexibility and control over their governance.

What are the policy objectives and the intended effects?

1) Deregulate the constitutional arrangements that govern HECs by removing unnecessary statutory requirements that are specified within legislation. This would give HECs greater freedom to respond to changes in the HE sector, supporting fairer competition in the sector and improving student outcomes.

2) Remove the requirement for most publicly funded HEPs to submit any changes to their governing documents to the Privy Council for approval, reducing their cost burden.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: Do nothing. The disparity in constitutional arrangements set down in legislation that govern HECs will remain. The lengthy process of amending governing documents requiring Privy Council approval will remain. The restrictive constitutional arrangements for HECs and greater cost burden for all publically funded HEPs will remain, resulting in less competition in the HE sector and thus poorer outcomes for students.

Option 1: Deregulate HECs. Deregulate the constitutional arrangements set down in legislation that govern HECs so that they are subject to similar requirements to other publicly funded HEPs. Simplify the Privy Council approval process and remove the requirement for publicly funded HEPs (excluding chartered, statutory or civil corporations that are out of scope) to submit any changes to their governing documents to the Privy Council for approval. Responsibility for protection of the public interest in governing documents would transfer from the Privy Council to the Office for Students (OfS), who would be responsible for monitoring the governance of these providers, as well as any others on the register that are subject to a governance condition.

Will the policy be reviewed? It **will** be reviewed. **If applicable, set review date: After 5 years (2022)**

Does implementation go beyond minimum EU requirements?		N/A			
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes	
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:** **N/A**		**Non-traded:** **N/A**	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Jo Johnson Date: 3rd June 2016

Summary: Analysis & Evidence

Description: Deregulate HECs. Simplify Privy Council approval process.

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £0.73m	**High:** £1.85m	**Best Estimate:** £1.29m

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant	**Total Cost** (Present Value)
Low	0	0	0	**0**
High	0		0	**0**
Best Estimate	0		0	**0**

Description and scale of key monetised costs by 'main affected groups'

Direct costs of this measure are assumed to be negligible. Familiarisation costs are assumed to be negligible. The governing documents will be submitted each year to the OfS; they will only focus only on the changes linked to the protection of the public interest rather than all changes, which will reduce overall costs faced by the Government. The monetised benefits section (below) factors in the difference in costs to HEPs and Government between the current Privy Council approval process and the proposed streamlined process.

Other key non-monetised costs by 'main affected groups'

Increased flexibility resulting from this change will give HECs the option to amend their governing documents. They could incur some direct costs if they do so for business reasons, but it is their choice rather than an imposition. There could potentially be a one-off increase in HEP burden to bring governing documents in line with the public interest principles set out by the OfS. However, the public interest principles are likely to be very similar to those currently in place, so this impact is likely to be minimal.

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant	**Total Benefit** (Present Value)
Low	0	0	£0.085m	**£0.73m**
High	0		£0.215m	**£1.85m**
Best Estimate	0		£0.15m	**£1.29m**

Description and scale of key monetised benefits by 'main affected groups'

Benefits to deregulating HECs are largely intangible through greater flexibility, so have not been monetised.
Removing the Privy Council approval process: Transitional benefits are assumed to be zero.

- HEPs: £140,000 cost saving annually,
- Government: £10,000 cost saving annually

Other key non-monetised benefits by 'main affected groups'

Increased flexibility for the HECs to revise their governing documents, e.g. to respond to the changes in the HE sector more quickly and easily, supporting greater sector competition and improving student outcomes. The flexibilities associated with streamlining the governing document approval process will allow HEPs to take advantage of the business opportunities more quickly, making them more efficient, more competitive in the sector and able to deliver greater value for money.

Key assumptions/sensitivities/risks | **Discount rate (%)** | 3.5

Governing documents will be submitted to the OfS on an annual basis as part of its overall responsibility for monitoring the financial sustainability, management and governance (FSMG) of HEPs with a governance condition, this will include the publicly funded HEPs (including HECs) previously captured by Privy Council oversight. The OfS will consult on, publish and maintain a list of 'public interest principles' against which it will monitor the governing documents of publicly funded HEPs.
Key assumed figures for monetised benefits can be found in the Evidence Base.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m: -£0.66m
Costs: £0	**Benefits: £0.13m**	**Net: £0.13m**	

Background

1. The higher education (HE) sector in England currently has a wide variety of providers. For the purposes of this Impact Assessment all of these providers are known as Higher Education Providers (HEPs), although this is not an official legal term.

2. There are currently 109 publicly funded HEPs that require Privy Council approval for their governing documents[185]. These providers take a variety of legal forms as listed below and summarised in Table 1:

    a. **Higher Education Corporations (HECs)** – statutory institutions incorporated under provisions in the Education Reform Act 1988[186]. All receive direct funding[187] through the Higher Education Funding Council for England (HEFCE). There are currently 46 HEIs. Examples include: University of Bournemouth, Oxford Brookes University, Sheffield Hallam University.

    b. **Chartered Corporations –** established by Royal Charter[188] with the agreement of the Queen. There are currently 30 such institutions. Examples include: University of Warwick, University of Bristol, University of Leeds.

    c. **Statutory Corporations –** created through specific private Acts of Parliament. There are 4 statutory corporations – University of Durham, University of Newcastle, University of London and Royal Holloway.

    d. **Civil Corporations –** created by public or private Acts of Parliament. There are 2 civil corporations – University of Oxford and University of Cambridge both established under common law.

    e. **Designated Institutions –** HEPs that have been designated for HEFCE funding by the Secretary of State under provisions in the Education Reform Act 1988. There are 27 designated institutions. These currently consist of 25 companies, examples of which are Liverpool School of Tropical Medicine, Canterbury Christchurch University, University of Winchester; and 2 institutions that are not companies, which are the University of Chester (a registered charity and unincorporated association regulated by a Charity Scheme) and the Guildhall School of Music and Drama (a Department of the City of London Corporation).

[185] As of November 2015
[186] As amended by the Further and Higher Education Act 1992.
[187] Among other things, this direct grant funding helps support the provision of more expensive courses (e.g. Medicine) and also support the Government's aim of widening participation.
[188] Royal Charters have been granted since the 13th century and at one time they were the only means of incorporating a body (turning it from a collection of individuals into a single legal entity). A body incorporated by Royal Charter has all the powers of a natural person, including the power to sue and be sued in its own right. As such Royal Charters were used to establish organisations of public interest such as cities or universities.

Table 1: Summary of different types of Higher Education Provider

Type of HEPs	Number	Example
Higher Education Corporations	46	University of Bournemouth
HE Chartered Corporations	30	University of Warwick
HE Statutory Corporations	4	University of Durham
HE Civil Corporations	2	University of Oxford
HE Designated Institutions (companies)	25	Liverpool School of Tropical Medicine
HE Designated Institutions (not companies)	2	University of Chester

3. For the purposes of this Impact Assessment, being publicly funded refers specifically to direct grant funding through HEFCE (such providers' courses are automatically designated for student support funding). Among other things, this direct grant funding helps support the provision of more expensive courses (e.g. Medicine) and also support the Government's aim of widening participation. Private HEPs, whether they are able to access the student funding system or not, do not receive direct grant funding though HEFCE and so are out of the scope of this Impact Assessment.

4. For the purposes of this Impact Assessment, we have assumed further that providers who are currently publicly funded will continue to receive public funding in the future, and therefore continue having to comply with a list of public interest principles.

Deregulate Higher Education Corporations

5. Higher Education Corporation (HEC) is the legal status conferred on HEPs incorporated under the Education Reform Act 1988. The HEC status was created when the then polytechnics transferred from local education authority (LEA) funding to central government funding via HEFCE. Polytechnics were tertiary education teaching institutions offering advanced, usually vocational, courses across many fields at diploma and degree level; they were governed and administered at national level.

6. As independent universities, polytechnics were given responsibility for their own governance, management and staffing and, it was considered necessary to set down a detailed legislative framework within which they would operate. Also, as these new providers joined the HEFCE-funded sector, there was concern about how they would operate and their ability to maintain the reputation of the HE sector.

7. It was therefore considered necessary to retain an element of control over them and as a result, HECs became subject to tighter regulation than other differently constituted publicly funded HEPs. The relevant legislation sets out detailed requirements for the content of a HEC's governing documents, for example detailed provisions around the make-up, appointment and tenure of board members.

8. Now, over 20 years later, HECs are still subject to greater regulation than other publicly funded HEPs despite being well-established and financially stable. This puts them at a competitive disadvantage compared to other (sometimes newer) publicly funded HEPs which, due to being differently constituted (for example as chartered corporations or companies), are subject to less regulation.

Simplify Privy Council approval process

9. Any publicly funded HEP must seek approval from the Privy Council[189] for any changes to its governing documents, no matter how minor. This applies to all HEPs that receive direct public funding, including HECs, but not private providers.

10. The requirement for Privy Council approval recognises the fact that there is public interest in the governing documents of publicly funded HEPs, which it is currently the duty of the Privy Council to protect on behalf of the Government. To do so, the Privy Council normally takes advice from BIS (the Secretary of State being the relevant Privy Counsellor on HE matters) and the Charity Commission.

11. The governing documents of a publicly funded HEP include various provisions that are designed to protect the public interest. For example to:

    a. Ensure protection for students and staff;
    b. Protect academic freedom[190];
    c. Promote equality and diversity;
    d. Give the governing body the power to remove any of their members from office[191];
    e. Include a Statement of Primary Responsibilities of the governing body;
    f. Ensure that its decision-making processes are free of any undue pressures from external interest groups, including donors, alumni, corporate sponsors and political interest groups.

12. There are currently 109 publicly funded HEPs that require Privy Council approval to amendments to their governing documents (see Background above).

[189] The Privy Council is the mechanism through which interdepartmental agreement is reached on those items of Government business which, for historical or other reasons, fall to Ministers as Privy Counsellors rather than as Departmental Ministers. The Privy Council formally advises the Queen on the exercise of the Royal Prerogative.
[190] This is defined by the Counter-Terrorism and Security Act 2015
[191] The governing body must remove a member from office if they breach the terms of their appointment.

13. As it stands, if any publicly funded HEP wants to amend its governing documents, the Privy Council approval process can take anything between 2 and 12 months depending on the nature of the change.

14. If a publicly funded HEP wants to make an amendment to its governing documents it must go through a number of stages before the amendments are made official:

    a. Proposed changes to governing documents are submitted informally to Privy Council for comments.

    b. Proposed changes are circulated around Privy Council advisors for comments (for HE matters this involves BIS, providing advice on behalf of the Secretary of State as the relevant Privy Counsellor for HE matters, and also the Charity Commission).

    c. Comments are collated and sent to the publicly funded HEP.

    d. If required, this process will go back and forth as many times as necessary until an agreement in principle is reached, when the Privy Council will conclude that they have “no further comments”. In most scenarios, this process involves minimal involvement by the Government whose role is to simply check that the proposed amendments to the governing documents align with the public interest.

    e. Formal resolution is proposed internally at the publicly funded HEP and voted upon by its governing body.

    f. Proposed changes to the governing documents are submitted formally to the Privy Council who forward to their advisors (BIS and the Charity Commission) for advice. Again, in most scenarios, the changes to governing documents will not conflict with the public interest, so this stage of the process does not involve significant resource on the part of Government.

    g. Once a final version of the governing documents is agreed by both the publicly funded HEP and the Privy Council, then the proposals are officially approved by the Privy Council.

15. The above process also requires legal time for the publicly funded HEP (including the costs of hiring solicitors) at each drafting stage of the process amending the governing documents. This is to ensure that any changes to the governing documents do not contradict UK law, for example employment, charity or equality laws. Although there is some cost to Government of checking that proposed amendments to the governing documents align with the public interest, most of the cost burden of this process falls on publicly funded HEPs in terms of legal advice associated with the above Privy Council process.

16. This lengthy process means that publicly funded HEPs are not well placed to respond quickly to changes in the HE sector, and may not be making the necessary minor amendments to their governing documents that could result in greater efficiency and competitiveness in the long term.

17. A potential example of this lengthy process preventing publicly funded HEPs from timely institutional change concerns board members of the governing body. Usually board members can serve two terms of four years or three terms of three years at a publicly funded HEP. However, if a publicly funded HEP happened to be facing a period of financial uncertainty and also losing some of their most experienced board members at the same time, there would be a case to extend these board member term times, in order to provide stable and continuous leadership through a difficult period. This would require an urgent change to their governing documents, but under the current system this would be delayed by the Privy Council approval process.

18. Another potential example concerns the passing of legislation, for example legislation making age discrimination illegal. In this case, publicly funded HEPs with long standing statutes in their governing documents concerning the age of board members, e.g. that board members must retire after a certain age, would be required by law to amend their governing documents. As they were going through the Privy Council process to amend their governing documents (before it was completed), they would technically be failing to comply with UK law despite complying with the process for doing so; in that time they would be at risk of a judicial review.

Summary

19. Overall there are two regulatory issues in this impact assessment that are having an impact on publicly funded HEPs:
    a. HECs face more stringent regulation than other publicly funded HEPs, which acts as a competitive barrier within the HE sector.
    b. All publicly funded HEPs are currently subject to a lengthy process of Privy Council approval when seeking to amend their governing documents, which is unnecessarily burdensome and restrictive.

20. The cumbersome nature of these regulations has been recognised in the past, both of these issues are currently ingrained in primary legislation so can only be overridden by further primary legislation.

21. Previous efforts to reduce the burden on publicly funded HEPsvia non-legislative means were unsuccessful. In 2006, publicly funded HEPs were provided with guidance on how to amend their governing documents to be more flexible in the future. It was suggested that they undertake a full-scale review of their governing documents and simplify them where possible, making sure they aligned with the public interest. However, due to the time, effort and cost required by the publicly funded HEPs to undertake the full scale review, very few chose to do so at the time.

Rationale for intervention

22. In the absence of legislative change, the disparity in legislative requirements between HECs and other publicly funded HEPs will remain. Being subject to more stringent regulatory control puts HECs at a competitive disadvantage, reducing competition in the HE sector and leading to sub-optimal outcomes.

23. In the absence of government intervention, all publicly funded HEPs would have to undergo a lengthy Privy Council approval process every time they amend their governing documents. This process can be significantly streamlined to give most publicly funded HEPs greater flexibility and control over their governance.

24. However, a balance must be met between allowing publicly funded HEPs the flexibility to innovate and protecting the public interest. Given that these HEPs receive direct public funding it is necessary to maintain some oversight of their governing documents to ensure that taxpayers' money is being used responsibly.

Policy objective

Office for Students (not covered in this impact assessment)

25. One of the overarching policy objectives of the HE Bill is to simplify the operating environment of publicly funded HEPs, including consolidating the monitoring of financial sustainability, management and governance (FSMG) into the Office for Students (OfS).

26. Establishing the Office for Students will transfer the existing HEFCE and Office for Fair Access (OFFA) powers to the OfS and also give them the powers to attach regulatory conditions to providers that enter the system. The OfS would be responsible for the regulatory requirements of higher education including monitoring FSMG as well as quality assurance, widening participation, data and information requirements.

27. Responsibility for the public interest in the governing documents of publicly funded HEPs will transfer from the Privy Council to the OfS. The OfS will consult on, publish and maintain a list of 'public interest principles' against which it will in future monitor the governing documents of publicly funded HEPs. The OfS may also use aspects of this list in setting governance conditions for other HEPs, however this is out of scope for this IA. Before publication the OfS will consult Government, the sector as a whole and other relevant stakeholders, such as the Charity Commission, the Privy Council, the Office for the Independent Adjudicator (OIA) and the Committee of University Chairs (CUC). This exercise will update and modernise the current set of 'public interest principles' drawn up in 2006 and clarify expectations.

28. More detail on the OfS can be found in the OfS impact assessment.

Deregulate Higher Education Corporations

29. As a part of the overall HE Bill package, this policy seeks to deregulate the constitutional arrangements set down in legislation that govern HECs: their powers, their requirements on the content of their governing documents and their power to dissolve. This essentially means removing unnecessary statutory requirements on HECs that are specified within legislation. It is not appropriate to treat HECs differently to other publicly funded HEPs as they are mature institutions that no longer require the level of prescriptive regulation that was thought necessary in 1992. This would place HECs on a more equitable footing with other publicly funded HEPs that are incorporated under more flexible constitutional arrangements. This will give HECs greater freedom to innovate, take advantage of new business opportunities when they arise and to respond to changes in the HE sector, so supporting greater sector competition and improving student outcomes.

Simplify Privy Council approval process

30. This policy seeks to remove the requirement for most publicly funded HEPs (including HECs) to submit any changes to their governing documents to the Privy Council for approval. The current process for Privy Council approval can be lengthy, costly and can slow down institutional change. This can put publicly funded HEPs at a disadvantage when competing with private HEPs that have more flexible constitutions that allow them to approve changes to their constitutions through their own internal approval processes. The policy aims to transfer responsibility for the protection of the public interest in governing documents from the Privy Council to the OfS as part of its overall responsibility for monitoring the financial sustainability, management and governance (FSMG) HEPs. Under the new system, publicly funded HEPs that want to amend their governing documents, after legal advice and drafting, would only have to propose a formal resolution internally to be voted upon by their own governing body. The responsibility for assuring the HEPs governing documents align with the public interest would lie with the Office for Students (OfS) who would monitor them annually (see Office for Students above).

31. These proposals will apply to 73 of the 109 publicly funded HEPs that are under the purview of the Privy Council. Publicly funded HEPs that are incorporated by Royal Charter or as statutory or civil corporations will still require formal Privy Council approval.

32. Royal Charters (and amendments to them) are granted by the Queen. There are around 600 bodies incorporated by Royal Charter across a wide spectrum of sectors including, for example, engineering, accountancy and architecture; only 30 of these are publicly funded HEPs. Consequently, using the HE Bill to override the Privy Council approval process of governing documents for these publicly funded HEPs could have significant and widespread ramifications if we were deregulating this process for some Chartered Corporations and not others. It would set a precedent that others may push to follow, potentially creating tensions with other parts of government, who may not think this is suitable for their sectors, and significant additional work across government.

33. There are six publicly funded HEPs that are statutory or civil corporations created by private Acts of Parliament or recognised by a public act (in the case of the Universities of Oxford and Cambridge). Overriding the Privy Council approval process for these bodies would complicate the HE Bill and delay its passage. Inviting the relevant institutions to petition for their own legislative changes to remove the mechanisms for Privy Council approval of governing documents would not carry this risk and allows them to decide whether they wish to continue to be subject to Privy Council oversight. BIS would support any such petition and work with the institutions to bring about the change.

Description of options considered

34. **Option 0: Do nothing.** The disparity in constitutional arrangements set down in legislation that govern HECs will remain. The lengthy process of amending governing documents requiring Privy Council approval will remain.

35. **Option 1: Deregulate Higher Education Corporations and simplify Privy Council approval process.**
    - Deregulate the constitutional arrangements set down in legislation that govern HECs so that they are subject to similar requirements as other publicly funded HEPs.
    - Remove the requirement for publicly funded HEPs (excluding chartered, statutory or civil corporations) to submit any changes to their governing documents to the Privy Council for approval.

Analysis of considered options

Option 0: Do nothing

36. The disparity in constitutional arrangements set down in legislation that govern HECs will remain. The lengthy process of amending governing documents requiring Privy Council approval will remain.

Costs

37. There would be no additional direct costs to institutions, government or students. However, HECs would continue to face disparity in legislative requirements compared to other publicly funded HEPs, which is an indirect cost of keeping current legislation unchanged. Also publicly funded HEPs would continue to submit amendments to their governing documents to the Privy Council. This can be a time consuming process which can sometimes be lengthened further if the amendments are substantial or complex. The Privy Council clearance process ensures protection of the public interest; however this can be achieved in a less burdensome way. Some HEPs may be choosing not to amend their governing documents because of the cost and are therefore choosing to work within or around out-dated provisions, which is not in the best interests of the business or students.

Benefits

38. There would be no additional benefits to institutions, students or Government.

Option 1: Deregulate Higher Education Corporations and simplify Privy Council approval process

39. Deregulate the constitutional arrangements set down in legislation that govern HECs so that they are subject to similar requirements to other publicly funded HEPs.
40. Remove the requirement for publicly funded HEPs (excluding chartered, statutory or civil corporations) to submit any changes to their governing documents to the Privy Council for approval.

Deregulate Higher Education Corporations

Costs

41. There could be some direct costs (legal advice etc.) to institutions that amend their governing documents as a consequence of their greater freedom and flexibility. Importantly though, this deregulation will give HECs the option, so rationally they would only choose to amend their governing documents if the benefits of doing so outweighed the associated costs. This policy aims to make the regulatory environment faced by HECs as similar to that faced by other publicly funded HEPs as possible. The environment that HECs operate within will not change, they will just be subject to less stringent regulation, so we would expect familiarisation costs to be negligible and are, as such, they are assumed to be zero.

Benefits

42. HECs will be subject to similar regulatory requirements to other differently constituted HEPs, hence competition in the HE sector will not be distorted by the constitutional arrangements set down in legislation that currently govern HECs (i.e. their powers, their requirements on the content of their governing documents and their power to dissolve).

43. This will increase the flexibility that HECs have to revise their governing documents to meet their needs without the need to go through the current unnecessary and burdensome prescriptive processes. Increasing the flexibility that HECs have to revise their governing documents will allow them to meet their needs better. For example they will be able to respond to changes in the HE sector more quickly and easily, which will support greater sector competition and improve student outcomes.

44. Another aspect of the changes is to provide greater flexibility for a HEC to detail its own powers and shed light on the current perceived lack of clarity in which HEC's powers are set out. This will address the perceived problems around the powers of HECs that can create difficulties when HECs seek to, for example, raise capital, engage in joint venture activities (as potential funders question their powers) or engage in interest rate hedging arrangements. The powers of HECs are more limited than those of chartered corporations or companies, which have the powers of a natural person. As HECs are subject to public

administrative law, they may exercise only those powers that are set out in legislation rather than being able to exercise all the powers of a natural person. Even though legislation provides HECs with the powers they need to meet their objectives, it goes on to set out a long list of specific powers, which is what creates the confusion and uncertainty. Therefore, this clarity on powers will be beneficial from a business perspective.

Simplify Privy Council approval process

Costs

45. There could potentially be a one-off costs to publicly funded HEP to bring governing documents in line with the 'public interest principles' set out by the OfS. However, this impact is likely to be minimal as the 'public interest principles' are likely to be very similar to those currently in place and, following the OfS review to modernise these, may be fewer in number. In advance of publishing a list of 'public interest principles', the OfS will consult Government, the sector as a whole and other relevant stakeholders. If any of the revised principles included were new there would be a reasonable period for adjustment to make the changes, such as when the HEP in question was next updating its governing documents, so avoiding unnecessary cost.

46. Overall, shedding light on any publicly funded HEP governing documents that do not fully comply with OfS' 'public interest principles', and then requiring them to update them accordingly, would have a positive long term impact aligned with the public interest.

47. No direct costs to students or Government would be expected. The reduction in costs to Government, in terms of the difference between the proposed new system and the current system, is estimated in the benefits section below. The overall government resource required to make sure that the governing documents of publicly funded HEPs align with the public interest will be reduced by the proposed changes compared to the system currently in place.

Benefits

48. The current process of Privy Council approval for amendments to governing documents can be lengthy, costly and can slow down institutional change, potentially putting publicly funded HEPs at a disadvantage when trying to compete with other HEPs that have more flexible constitutions. Two specific examples of how the Privy Council approval process can slow down institutional change can be found in the Background section (paragraphs 17 and 18). The freedoms and flexibilities this deregulation will bring about will enable these publicly funded HEPs to adapt and innovate more quickly to take advantage of business opportunities thus making them more competitive in the sector.

49. There are many reasons why a publicly funded HEP may need to amend its governing documents. These include:

    a. To increase the maximum length of appointment for board members to retain relevant experience when dealing with a period of instability;

    b. To make changes in trust fund provisions to allow income to be utilised to maximum effect;

    c. To keep governance consistent with external guidance and the expectations of regulatory bodies;

    d. To ensure compliance following changes in the law (e.g. to remove age discriminatory provisions);

    e. To confer University Title[192].

50. The above examples provide some insight into why a publicly funded HEP would want to amend its governing documents and the various benefits it could receive from doing so. These benefits are difficult to quantify, however they include:

    - Enhancing stability during periods of turbulence within the HEP;
    - Freeing up income to allow for greater investment;
    - Meeting the ‘public interest principles’;
    - Avoiding costly legal disputes;
    - Developing their University brand.

51. However, it is possible to quantify the **benefit to publicly funded HEPs** of no longer being subject to the Privy Council approval process to some extent, as set out below:

    a. Estimated legal fees for a publicly funded HEP on a typical straightforward Privy Council case would be between £2,000 and £5,000; however a complicated case could go as high as £25,000 (though these are relatively rare). These figures refer to the legal fees associated with the Privy Council process only. They do not include legal fees that would be incurred from a governance change regardless of whether or not this needed to be approved by the Privy Council. Essentially if a publicly funded HEP wants to amend its governing documents, regardless of the Privy Council process, they would require legal advice to make sure their changes comply with the law, including employment, charity and equality laws.

    b. As discussed earlier, not all publicly funded HEPs are within scope of these proposals. Those incorporated by Royal Charter and statutory or civil corporations (36 of the 109 publicly funded HEPs) will still require formal Privy Council approval unless they petition for changes to their respective Acts to remove the mechanisms for Privy Council approval of their governing documents. BIS would support them in doing so.

    c. The Privy Council receives around 50-70 requests for changes to governing documents each year. For the purposes of this Impact Assessment, we assume an average of 60.

[192] University Title is the right for institutions to use the title ‘University’ or ‘University College’ in their name.

We also assume that the aforementioned 36 publicly funded HEPs will still be subject to the Privy Council approval process, so will not benefit from the proposed changes to legislation;

d. Assuming that these 36 publicly funded HEPs (which represent a third of the 109 publicly funded HEPs) account for a similar same share of total requests we can then assume that **40 requests** for changes to governing documents each year will no longer be subject to the Privy Council approval process[193].

e. We assume that the average cost to a publicly funded HEP is **£3,500** (half way between the £2,000 and £5,000 seen above), although this may be an underestimate as in rare cases this could even go as high as £25,000.

f. Thus the benefit to publicly funded HEPs can be estimated as **£140,000 each year** (£3,500 x 40 = £140,000).

g. A sensitivity analysis of £2,000 as a minimum and £5,000 as a maximum per request to change governing documents is included. This results in a low estimate of £80,000 and a high estimate of £200,000[194].

Table 2: Annual estimated benefits to publicly funded Higher Education Providers

Average number of requests each year	Number of publicly funded HEPs in scope	Average number of requests in scope	Average legal cost of complying with process	Total benefit to publicly funded HEPs in scope
60	73 out of 109 (67%)	60 x 0.67 = 40	£3,500	£3,500 x 40 = **£140,000**

52. There is also likely to be **savings for the taxpayer due to reduced Privy Council cost**:

a. The Privy Council receives around 50-70 requests for changes to the governing documents each year. For the purposes of this Impact Assessment, we assume an average of 60. Although it is possible that a publicly funded HEP may make more than one request in a year this is unusual, so we have assumed that a publicly funded HEP does not make more than one request per year; this is an average of 60 across the 109 publicly funded HEPs. These changes range from simple word changes, for example, changing references to 'chief executive' to 'principal', to complex changes involving, for example, a Supplemental Charter to significantly revise a Royal Charter. At present all changes must be submitted to the Privy Council for approval.

[193] With two thirds of providers in scope, the expected number of requests which would no longer required Privy Council approval is 60 x 2/3 = 40

[194] Lower bound estimate of £80,000 is equal to 40 x 2,000. Upper bound estimate of £200,000 is equal to 40 x £25,000.

b. These changes have to be submitted to the Privy Council for informal comment and subsequently formal comment. On both occasions the Privy Council currently seeks views from BIS officials.

c. It is assumed that each request is considered twice by BIS and twice by the Privy Council. Assuming an average of 60 requests, this implies at least 120 individual ‘considerations’ by the Privy Council and at least 120 individual ‘considerations’ by BIS, a total of 240. This is likely to be an underestimate as some more complex issues may require more ‘considerations’ by either BIS or the Privy Council.

d. In the new system, the OfS will review the governing documents of any HEPs with a governance condition as part of their annual monitoring of FSMG. For providers that need to comply with the list of public interest principles, the OfS will focus only on changes, including those linked to the ‘public interest principles’. It may be that providers have not made any changes in these areas and, because publicly funded HEPs will be required to inform the OfS if they have made any changes to their governing documents over the previous year when submitting their FSMG documents, there would be no more than one ‘consideration’ per provider. Publicly funded HEPs will no longer have to submit their governing documents to Government every time they make a change, but instead the OfS will only review them once a year, if changes have been made.

e. Under the new system, we assume that the degree of interaction between publicly funded HEPs and the OfS will be less than is currently the case with BIS. Accordingly, we therefore assume that each request is considered once by the OfS (compared to twice by BIS). **Assuming that, on average, 60 requests are received each year this implies that the OfS will manage 60 individual ‘considerations’ each year.**

f. Under the new system the Privy Council, would only be required to consider requests from 39 (approximately one third) of the 109 publicly funded HEPs[195]. Assuming that these 39 publicly funded HEPs account for a third of the total requests submitted, this would imply[196] they submit 20 of the 60 requests which are assumed to be received each year. **Assuming that the degree of scrutiny by the Privy Council remains unchanged under the new system, this implies a total of 40 ‘considerations’ managed by the Privy Council.[197]**

g. Overall, the changes could result in a **reduction from 120 to 40 ‘considerations’ by the Privy Council and 120 ‘considerations’ by BIS to 60 ‘considerations’ under the new OfS mechanism[198]**.

[195] Chartered, statutory and civil corporations will still be required to submit all changes to their governing documents to the Privy Council for approval. Under the new system BIS will not comment on the detail of the changes as this will be picked up by the OfS in annual monitoring.

[196] We are making the implicit assumption here that publicly funded HEPs still requiring Privy Council approval to make governance changes are as equally likely to submit a request as those publicly funded HEPs which do not longer need to do so.

[197] In assuming the same degree of scrutiny we are assuming here that each request to the Privy Council still requires the same amount of resource as for two individual ‘considerations’.

[198] BIS and OfS ‘considerations’ are assumed to be of equal resource for the purposes of this calculation.

Table 3: Resource saving of reducing "considerations by government"

Current system		New system
120 'considerations' by BIS	→	60 'considerations' by OfS
120 'considerations' by Privy Council	→	40 'considerations' by Privy Council
Total: 240 'considerations' by Government	→	**Total: 100 'considerations' by Government**

h. Privy Council estimate that all the cases of this kind (i.e. the average of 60 requests a year) take up approximately 10% of a manager's time and approximately 15% of a Senior Executive Officer's (SEO) time, on average. For BIS, the equivalent figure is approximately 10% of an SEO's time. Assuming the manager's salary to be £47,995 and the SEO's salary to be £35,409, the approximate cost of a "consideration by the Privy Council" and a "consideration by BIS" can be calculated.

Table 4: Assumptions of resource saving across government calculation[199]

Category	Assumption
Manager's salary	£47,995
Senior Executive Officer (SEO) salary	£35,409
Privy Council total resource spent on the Privy Council approval process each year	10% of a manager's time 15% of a SEO's time
BIS total resource spent on the Privy Council approval process each year	10% of a SEO's time

i. The total resource cost for the Privy Council, under the current system, is estimated to be £12,113[200]. Assuming the number of 'considerations' handled by the Privy Council is approximately 120 this equates to an estimated cost per 'consideration' of around £100.[201]

[199] Grade 7 and Senior Executive Officer's salaries are assumed to be the equivalent of the minimum London salary for BIS employees at this level (https://intranet.bis.gov.uk/wp-content/uploads/2014/04/BIS-2015-Pay-Ranges.docx)
[200] 10% x G7 (earning £47,995) + 15% x SEO (earning £35,409) x 19.8% non-wage labour costs = £12,113.
[201] £12,113 divided by 120 = £100.94, rounded to £100 for the purposes of this IA.

Table 5: Cost of a 'consideration' by the Privy Council

Total employee salary cost to Privy Council each year	Assumed number of considerations by Privy Council each year	Cost per 'consideration' by the Privy Council
£12,113	**120**	**£100**

j. The total resource cost for BIS, under the current system, is estimated to be £4,242[202]. Assuming the number of 'considerations' handled by BIS is approximately 120, this equates to an estimated cost per 'consideration' of around £35.[203]

Table 6: Cost of a 'consideration' by BIS

Total employee salary cost to BIS each year	Number of considerations by BIS each year	Cost per 'consideration' by BIS
£4,242	120	£35

k. Under the current system, the total cost of 240 'considerations' by Government in the current Privy Council approval process is estimated to be £16,200. This comprises £12,000 cost to the Privy Council and £4,200 to BIS, as discussed above.[204]

l. Under the new system, the total cost of 100 'considerations' by Government (assuming the cost per 'consideration' for the OfS is the same as for BIS) is estimated to be £6,100. This comprises £4,000 cost to the Privy Council and £2,100 to the newly formed OfS.[205]

m. The total benefit (cost saving) to Government per year: £16,200 - £6,100 = £10,100. Rounded to £10,000 for simplicity.

[202] 10% x G7 (earning £47,995) x 19.8% non-wage costs = £4,242.
[203] £4,242 divided by 120 = £35.35, rounded to £35 for the purposes of this IA.
[204] Cost to Privy Council is 120 x £100 = £12,000 approx. Cost to BIS is 120 x £35 = £4,200 approx. Due to rounding these estimates do not correspond exactly to the figures in Tables 5 and 6.
[205] Cost to Privy Council is 40 x £100 = £4,000 approx. Cost to OfS is 60 x £35 = £2,100.

Table 7: Total benefit (cost saving) to government per year

Current system		New system	
Privy Council 'considerations' each year	**120**	Privy Council 'considerations' each year	**40**
Cost of a ‘consideration’ by the Privy Council	**£100**	Cost of a ‘consideration’ by the Privy Council	**£100**
Total cost of Privy Council 'considerations' each year	**£12,000**	Total cost of Privy Council 'considerations' each year	**£4,000**
BIS 'considerations' each year	**120**	OfS 'considerations' each year	**60**
Cost of a ‘consideration’ by BIS	**£35**	Cost of a ‘consideration’ by the OfS	**£35**
Total cost of BIS 'considerations' each year	**£4,200**	Total cost of OfS 'considerations' each year	**£2,100**
Total cost of Privy Council and BIS 'considerations' each year	**£16,200**	Total cost of Privy Council and OfS 'considerations' each year	**£6,100**
Total benefit (cost saving) to government per year		£16,200 - £6,100 = £10,100 ≈ **£10,000**	

n. A sensitivity analysis of plus or minus 50% is included to demonstrate the wide variability in government resource required to deal with a request to change governing documents depending on the nature of the change. This results in a low estimate of £5,000 and a high estimate of £15,000.

53. **The total benefits to HEPs (£140,000) and government (£10,000) total approximately £150,000 each year.** These annual benefits are modelled over a 10 year period to reach a Net Present Value.

Factors affecting both deregulatory measures

Costs

54. It should be noted there could be a minimal amount of double counting in the unlikely case that a HEC wanted to update its governing documents in response to both the deregulation of the constitutional arrangements and also the change to the Privy Council approval process. Once again, and importantly, it is their choice rather than an imposition.

Benefits (monetised and non-monetised)

55. Publicly funded HEPs will benefit from the transparency associated with the fact that the OfS will consult on, publish and maintain a list of 'public interest principles' against which it will monitor these HEPs. Before publication the OfS will consult Government, the sector as a whole and other relevant stakeholders, such as the Charity Commission, the Privy Council, the Office for the Independent Adjudicator (OIA) and the Committee of University Chairs (CUC). These 'public interest principles' will provide clarity that these HEPs are expected to include in their governing documents.

Risks and assumptions

56. Governing documents will be submitted to the OfS on an annual basis as part of its overall responsibility for monitoring the financial sustainability, management and governance (FSMG) of any HEPs subject to a governance condition. This includes HEPs in receipt of public funding. These HEPs will no longer have to submit their governing documents to Government every time they make a change, but instead once a year, with the OfS only reviewing them if changes have been made. This means that publicly funded HEPs will be free to make changes to their governing documents (by proposing a formal resolution internally to be voted upon by the governing body) at any point throughout the year. This could imply that there is a risk that the governing documents would be subject to less scrutiny and changes that are against the public interest could be made in the short term.

57. However this risk will be mitigated for the following reasons;

    a. The OfS will consult on, publish and maintain a list of 'public interest principles' against which it will monitor publicly funded HEPs in receipt of public funding. These 'public interest principles' will provide clarity and transparency of what these HEPs are expected to include in their governing documents.

    b. As the regulator for the HE sector the OfS will be best placed to consider publicly funded HEPs' governing documents in the context of its wider monitoring of HEPs overall quality and FSMG. This is not possible in the current Privy Council process.

    c. As the vast majority of publicly funded HEPs are charities, members of their governing body will also be charity trustees so would be held personally and legally accountable, rather than the HEP as an entity, should they attempt to exploit the governing documents for short term gains.

58. The average cost to a publicly funded HEP of the current Privy Council approval process when amending their governing documents was assumed to be £3,500 (the midpoint of the estimated range from £2,000 to £5,000[206]), however in rare cases the cost could be as high as £25,000. We have assumed conservative estimates in the calculations, but there is scope for a much larger benefit in specific cases that would have required much more detailed legal advice.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

59. Both measures in this Impact Assessment have relatively simple aims of reducing the regulatory burden, firstly on HECs and secondly on publicly funded HEPs that wish to amend their governing documents (excluding chartered, statutory or civil corporations).

60. The first measure aims to deregulate HECs so that they are subject to the similar regulatory requirements as other, differently constituted, publicly funded HEPs, and hence is clearly deregulatory.

61. Publicly funded HEPs (including HECs) will still be required to produce governing documents; the second measure would simply remove the lengthy process to have amendments approved by Privy Council. There could potentially be a one-off increase in institutional burden to bring governing documents in line with the ‘public interest principles' set out by the OfS. This impact is likely to be minimal as the ‘public interest principles’ are likely to be very similar to those currently in place and, following the OfS review to modernise these, may be fewer in number. However, shedding light on any publicly funded HEP governing documents that do not fully comply with OfS’ ‘public interest principles’, and then requiring them to update them accordingly, would certainly only have a positive long term public interest impact. The likely minimal impact of this cost justifies the level of analysis used in this section of the Impact Assessment.

[206] Informal estimate provided from historical cases.

Title: **New Powers to Enter and Inspect Higher Education Providers**	**Impact Assessment (IA)**
IA No: BIS004(F)-HE	**Date: 01/06/2016**
RPC Reference No: RPC-3335(1)-BIS	**Stage: Final**
Lead department or agency: BIS	**Source of intervention: Domestic**
	Type of measure: Primary legislation
Summary: Intervention and Options	**RPC Opinion:** GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANDCB in 2014	**One-In, Three-Out**	**Business Impact Target Status**
£0m	£0m	£0m	In scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?

Currently neither BIS nor its partner organisations have a statutory right to enter and inspect higher education (HE) providers if it is suspected that a provider has committed a serious breach of conditions of receipt of funding or designation. Investigation visits to HE providers have been with permission and by prior arrangement, which reduces the opportunity for investigators to obtain compelling evidence. A power is needed to enable BIS and the Office for Students (OfS), the proposed new regulator, to enter and inspect, if there is a reasonable suspicion a provider has committed a serious breach of conditions of OfS funding, registration or the Student Support Regulations. This would increase investigators' ability to obtain compelling evidence.

What are the policy objectives and the intended effects?

This policy aims to enable more effective investigation and increase the likelihood of BIS or the OfS obtaining evidence where it is suspected a HE provider has committed a serious breach of conditions of OfS funding, registration or the Student Support Regulations. The aim is to allow serious breaches to be tackled as swiftly and effectively as possible, safeguarding the interests of students and the taxpayer, and protecting the sector's reputation. The intended effects are greater compliance with conditions (deterrent effect), increased likelihood of serious breaches being uncovered and appropriate sanctions being applied to the provider, better safeguarding of public money, better protection for students and the reputation of the sector.

What policy options have been considered, including any alternatives to regulation?

Option 0: Do nothing.
Option 1: Introduce primary legislation to create new powers to enable BIS and the Office for Students to enter and inspect HE providers, if it is suspected that the provider has committed a serious breach of conditions of OfS funding, registration or the Student Support Regulations.

The policy objectives can be achieved through Option 1. In the absence of primary legislation, guidance for 'Alternative Providers' (APs) has been strengthened to make it a condition of designation for student support funding that APs must allow BIS immediate access where BIS has reasonable cause to suspect fraud or irregularity has occurred. However, there is no power to enforce this condition of immediate access, and a provider may refuse entry. if no action is taken, the ability of BIS to investigate will be no be as effective as with Option 1, and public funding and the student interest will not be as well safeguarded.

Will the policy be reviewed? It **will** be reviewed. **If applicable, set review date: Two years after launch**					
Does implementation go beyond minimum EU requirements?		N/A			
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes		**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:**		**Non-traded:**	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Jo Johnson Date: 3rd June 2016

Summary: Analysis & Evidence

Description: New powers to enter and inspect HE providers

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m) 0		
			Low:	High:	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low			0	**0**
High			0	**0**
Best Estimate			0	**0**

Description and scale of key monetised costs by 'main affected groups'

N/A - Because the policy change alters only minimally the scope of relevant investigations, or of the providers who may be subject to them, we expect that the number and nature of inspections which would go ahead under the proposed policy to be highly similar those which would go ahead without the policy. The primary difference is that the inspection is carried out sooner. Thus, additional costs to providers who are not breaching their conditions of receipt of public funding and/or designation are expected to be negligible (while additional costs to noncompliant providers are not relevant).

Other key non-monetised costs by 'main affected groups'

N/A - see above.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low			0	**0**
High			0	**0**
Best Estimate			0	**0**

Description and scale of key monetised benefits by 'main affected groups'

N/A – Because it is not possible to reliably estimate the extent of past, present or future non-compliance with conditions of funding and/or designation, it is not possible to quantify the benefits, which are discussed qualitatively, with reference to quantified examples from past investigations.

Other key non-monetised benefits by 'main affected groups'

By ensuring the maximum amount and quality of relevant evidence can be collected when investigators have established reasonable suspicion of a breach of conditions of OfS funding, registration or the Student Support Regulations, this policy will enable better identification and recovery of misused public funds, enable funds to be recovered more quickly and enable future payments to providers to be stopped if necessary. The policy may deter non-compliant behaviour and reduce reputational risk of the HE sector as a whole.

Key assumptions/sensitivities/risks	Discount rate (%)	3.

A potential risk of the policy is that it may encourage non-compliant providers to hide evidence 'as they go along', limiting the effectiveness of entry powers to achieve the main policy aim.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 0	Benefits: 0	Net: 0	0

Problem under consideration

1. Currently neither BIS nor its partner organisations (e.g. the Higher Education Funding Council for England) have a statutory right to enter and inspect higher education (HE) providers if it is suspected that a provider has committed a serious breach of conditions of receipt of (direct or indirect) public funding and/or designation. Investigation visits to HE providers have been with permission and by prior arrangement, which allows an opportunity for a provider to interfere with or remove evidence prior to the visit. A key issue in investigating allegations of serious irregularities, including fraud and malpractice, has been the ability of BIS and its partner organisations to obtain compelling evidence of what is suspected may have happened.

2. Concerns about the practices of some 'alternative providers' of HE have underlined the need for powers to enter and inspect higher education (HE) providers if it is suspected that a provider has committed a serious breach of conditions of OfS funding, registration or the Student Support Regulations.

3. Around 100 'alternative providers' (APs) offering higher education (HE) in England have courses designated by the Secretary of State for student support. This means that students on these courses can (provided they meet other eligibility criteria) apply for government-funded financial support, including student loans which are used to pay their tuition fees. The Student Loans Company (SLC) pays the tuition fees directly to the provider on behalf of the student. Total expenditure on HE student support in the academic year 2013/14 was around £11.8 billion. Around £714 million (6%) of this expenditure was at APs.

4. From 2010/11 to 2013/14, the number of students accessing student support at Alternative Providers (APs) rose from 6,600 to 53,300 (including a 41% rise between 2011/12 and 2013/14). Over the same period, expenditure on students at APs increased from £52 million to £714 million (6% of the £11.8 billion total expenditure on HE student support in the academic year 2013/14).

5. Following this rapid expansion of the AP sector from 2010/11 to 2013/14, concerns arose relating to the practices of some APs, including around quality and value for money. In 2014, BIS and the National Audit Office (NAO) conducted a variety of investigations which found concerns at around 20 APs. These concerns included APs recruiting students in receipt of student support onto courses BIS had not approved, recruiting students who did not have the capability to complete their courses, and failing to register students with the awarding body.

6. The NAO published its report 'Investigation into financial support for students at alternative Higher Education Providers' in December 2014[207]. The report highlighted that "BIS has no

[207] NAO (2014) *Investigation into financial support for students at alternative higher education providers* https://www.nao.org.uk/wp-content/uploads/2014/12/Investigation-into-financial-support-for-students-at-alternative-higher-education-providers.pdf

rights of access to Higher Education Providers. This affects the extent to which it can investigate when concerns are raised".

7. The NAO report sets out that between 2012 and 2014, BIS suspended payments to 7 providers and their students while it investigated concerns that providers had enrolled students claiming student support for courses that BIS had not approved. The NAO also reported that:

    - BIS revoked all course designations with immediate effect for 1 provider where it concluded students had accessed support for unapproved courses but the provider had knowingly reported that the students were on approved courses (Guildhall College).
    - BIS concluded issues were substantiated at 2 providers and took steps to recover overpayments from providers and students (London Empire Academy and ICE Academy).

8. Currently BIS works with its partner organisations to investigate if an AP is suspected of breaching its conditions of designation. BIS has established a Rapid Response Investigation Team (RRIT) comprising key partner organisations (the Student Loans Company, Quality Assurance Agency, Government Internal Audit Agency and HEFCE) which investigates concerns. This typically involves one or more of the RRIT members visiting the institution concerned, with the consent of that institution, to gather evidence. RRIT investigations have resulted in a few cases in removal of the provider's designation for student support where the team has no confidence in the provider.

9. A key issue in investigating allegations of fraud and malpractice has been the ability of BIS and its partner organisations to obtain compelling evidence of what is suspected may have happened. It has been necessary to give notice of inspection and the consent of the provider has been required, which reduces the opportunity for investigators to obtain compelling evidence.

10. While the impetus for these powers has come from experiences with a small number of APs, it is considered that powers to enter and inspect should also apply to HEFCE-funded providers. While the risk appears lower in the HEFCE-funded sector, it still exists and a power of entry and inspection would increase effectiveness in investigating any serious breaches of conditions in future. In any case, under the new regulatory system there will not be the same distinction between alternative providers and HEFCE-funded providers.

11. A key high-profile case of problems at a provider in the HEFCE-funded sector is that of London Metropolitan University (LMU). Inaccurate student data returns provided to HEFCE by the University meant that it had been receiving more funding than it was due. The investigation into these concerns was hampered by access issues. HEFCE's published statement[208] on its dealings with LMU states that HEFCE was unable to obtain the information it needed to further its investigations from the University 'for some time'. Access

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[208] HEFCE News Release (2009) *HEFCE's dealings with London Metropolitan University (LMU)* http://www.hefce.ac.uk/news/newsarchive/2009/HEFCEs,dealings,with,London,Metropolitan,University/

to this data was gained in February 2008. In July 2008, HEFCE notified the University that it intended to commission independent audit work on its data and the student record system. BDO Stoy Hayward were commissioned for this assignment, but they were unable to gain early access to the University. In September 2008, the HEFCE Board confirmed a reduction in funding to London Metropolitan University of £15 million for the year 2008-09. It subsequently decided to recover excess funding of £36.5 million paid for the years 2005-06, 2006-07 and 2007-08**.**

Rationale for intervention

12. If these powers are not put in place, the ability of BIS and its partner organisations to act swiftly to root out malpractice will be limited and leaves open the risk of similar cases to the ones referenced above occurring again in the future. They will not be as well-equipped to protect public funding and the student interest. Higher education should deliver lasting value to graduates – and to the taxpayers underwriting the student loan system. These measures are a key part of ensuring appropriate protection for students and the taxpayer. Additionally, these measures will help protect the high reputation of the HE sector. The HE sector has been concerned at the reputational damage caused to HE in the UK by the actions of ‘rogue’ providers.

13. As described above, investigation visits to HE providers have had to be with permission and by prior arrangement, which reduces the opportunity for investigators to obtain compelling evidence. A statutory power in primary legislation is needed to enable BIS and the Office for Students (the proposed new regulator) to enter and inspect, if there is a reasonable suspicion a provider has committed a serious breach of conditions of OfS funding, registration or the Student Support Regulations. This would increase investigators’ ability to obtain compelling evidence of what may have happened.

14. The Department has explored and put in place alternative safeguards to primary legislation where possible. Guidance for APs has been strengthened to make it a condition of specific designation that APs must allow BIS immediate access where it has reasonable cause to suspect fraud or irregularity has occurred. There is currently no power to enforce this condition of immediate access: rather, if, in a particular instance, access is not provided, BIS could exercise its discretion to apply a range of sanctions against the provider. As a practical matter, it is anticipated that in any case if a provider had committed fraud or serious malpractice, the provider would not permit access, and BIS currently has no enforceable legal power of entry and inspection.

15. In light of the problems explored above, these powers were proposed in the consultation paper ‘*Fulfilling our Potential: Teaching Excellence, Social Mobility and Student Choice*’ which was published in November 2015[209]. The consultation paper set out that these powers are needed to allow serious breaches of conditions to be tackled as swiftly and

[209] Page 64-65, paragraphs 7 and 8 (under heading ‘Managing risk’) of the HE Green paper ‘Fulfilling our Potential: Teaching Excellence, Social Mobility and Student Choice’ published by BIS in November 2015.

effectively as possible. There was a small majority of consultation responses in favour of the proposed powers.

16. We do not expect these powers to be used except in extremis, and they are only ever likely to be applied to a few providers. However, it is considered important to have them in place to draw on when needed, and the existence of the power will in itself have a deterrent effect.

Policy objective

17. The aim of this policy is to enable more effective investigation and increase the likelihood of BIS or OfS being able to obtain compelling evidence where it is suspected that an HE provider has committed a serious breach of conditions of OfS funding, registration or the Student Support Regulations[210]. The aim is to allow serious breaches to be tackled quickly and effectively, safeguarding the interests of students and the taxpayer, and protecting the reputation of the sector.

18. The powers would operate through associated powers of inspection attached to the power of entry, which would allow investigators to take copies of documents, seize records or computer equipment and require staff on the premises to give reasonable assistance in retrieving information. As a safeguard for the sector, BIS or OfS would need to obtain a court warrant to gain entry before the power could be exercised. The bar for a court warrant to be granted is high, with rigorous evidence requirements. This should ensure that exercise of the power is appropriately limited.

19. We propose it would be a criminal offence if someone obstructs entry and/or inspection of an HE provider, and that a person guilty of this offence should be liable on conviction to a fine of up to £2,500. This would follow the approach to enforcement for schools inspections.

20. The intended effects of the policy are:

- Greater compliance by providers with due to deterrent effect
- Increased likelihood of serious breaches being uncovered and appropriate sanctions being applied to providers, potentially including criminal prosecutions if evidence of criminality is found
- More effective safeguarding of public money
- Better protection for students and for the reputation of the HE sector.

21. As set out above, the policy aim can only be achieved through primary legislation.

Background - Higher Education Providers

22. The higher education sector in England currently has a variety of providers. The majority of universities still access some grant funding from the Higher Education Funding Council for England (HEFCE) as do some Further Education Colleges (as well as funding from the Skills Funding Agency). These levels of funding have, however, decreased as income from tuition fees has increased. HEFCE attaches conditions to the grant funding it provides.

23. Some providers do not receive grant funding from Government agencies (for policy development purposes categorised as Alternative Providers) but choose to apply to have a number of their courses designated as eligible for student support, meaning that course participants can, if they wish to, apply for government-funded financial support. For a course to be designated requires certain conditions to be met, which are set out in guidance.

24. A third group of providers are those that do not receive grant funding and do not have their courses designated for student support purposes – this may be because their courses are not eligible for student support (e.g. postgraduate provision) or because they have chosen not to become designated (even if their courses are eligible).

25. Under the new regulatory system there will not be the same distinction between alternative providers and HEFCE-funded providers, with more of a level playing field.

Impact of Option 1

Methodology

26. The majority of the impacts of the chosen policy are non-quantifiable, but the quantified examples from recent investigations cited below demonstrate that very substantial benefits may result from the policy. The policy's primary intention is to ensure the maximum amount and quality of relevant evidence can be gathered where there is a reasonable suspicion that a serious breach of conditions of OfS funding, registration or the Student Support Regulations has occurred or is occurring.

27. While we know what the outcomes of past investigations were, it is not possible to say to what extent the outcomes of those investigations would have been different if the authorities had had, and used, entry powers. Expected impacts are thus discussed largely qualitatively, with reference to the investigations which have occurred in recent years to provide context where appropriate.

28. What can be said is that Option 1 may substantially impact on protecting public funding as it is more likely that compelling evidence of serious breaches will be found. This may enable future payments to the provider to be stopped, and past payments to be recouped.

Direct benefits

Improved identification of breaches leading to increased recovery of misused funds, and stopping of future payments

29. Option 1 may increase the amount of misused funds that can be recovered relative to the do-nothing scenario by increasing investigators' ability to obtain compelling evidence. It may also mean that any future scheduled payments can be stopped. In addition, it may mean a provider that would otherwise have been designated for future years, is not, and these future payments to the provider are not made. This is a direct but non-monetisable benefit, as we are unable to robustly estimate the extent of non-compliance with conditions of funding and/or designation, or the propensity of any provider to hide evidence if given the opportunity. In the absence of monetisation, we can provide some context for this benefit by briefly discussing the types of investigations that BIS and partner agencies have carried out in recent years and their outcomes.

Past investigations

30. Working with partner agencies, BIS investigated twenty alternative providers between 2012 and 2015 for suspected serious breaches of conditions of designation. We cannot know whether there was further compelling evidence which may have yielded any different results in these cases.

31. Investigating officials assessed the list of past cases and opined that in six cases, it is likely they would have attempted to use entry powers had they been available, based on what was known when it was established a (voluntary) inspection was needed for a given investigation.

32. The following example of a recent investigation from the December 2014 NAO report illustrates the considerable sums of money which can be involved. At the HE provider ICE Academy, BIS concluded that more than 1000 applicants had applied for student support at undesignated campuses following allegations in April 2013. £1.5 million in tuition fees and £5.4million in maintenance loans was overpaid. In terms of HEFCE-funded providers, the London Metropolitan University investigation referred to in the section below further illustrates the considerable sums which can be involved.

Increased speed of recovery of misused funds

33. A second benefit of the chosen policy is that it may enable faster recovery of overpayments to providers through eliminating the 'delay period' between the authorities requesting access to, and entering, the provider's premises. In other words, investigations may be conducted and potentially concluded more quickly.

34. The taxpayer benefit of recouping public money faster can be calculated by applying the social discount rate, pro-rated for the expected period of delay to recovery under the counterfactual, to the expected recovery amount. This assumes that the misused funds had a value to society of zero before being recovered, and once recovered would be allocated to some useful activity. As an example, if we can recover £1 million of wrongly-claimed student finance in sixty days, or we can recover it today, then we would prefer to recover it today

(because an identical sum of money has a higher value today than in the future). Based on society's discount rate, 3.5% as per Green Book guidance, the £1 million in two months is worth approximately £994,360 to society today, so the benefit of the chosen policy option enabling recovery today rather than in two months would be £5,640.

35. Where eliminating the delay period would make a difference is in very serious cases which identify very large overpayments and/or where there might be very long delays between having reasonable cause to suspect conditions of OfS funding, registration or Student Support Regulations are being breached and being able to access the provider and collect evidence if there were no powers to enter.

36. A possible example of this scenario would be HEFCE's investigation into London Metropolitan University in 2008. Based on HEFCE's statement on the recovery of funding from that university, and on its overview of the timeline of events[211], we have inferred that the relevant 'delay period' between the point when the authorities may have had reasonable cause to justify entry under the proposed new policy, and actually gaining access with the consent of the university, was approximately eight months[212]. The repayment amount was ultimately determined to be around £36.5m, and was scheduled to be repaid in annual instalments between 2008/09 to 2012/13. Applying previous logic, if all of the payments in the schedule were to occur eight months earlier (as a result of the authorities hypothetically entering and collecting the required data rather than waiting eight months for access) it would have represented a hypothetical benefit of around £800,000 in 2015 terms. This example makes very simplifying assumptions, and shouldn't be taken to mean that entry powers would have yielded this amount of benefit in the LMU case, but demonstrates that the benefit of earlier repayment under the chosen policy could be large in more extreme cases in the future, the likelihood of which we are not able to reasonably estimate.

Speed of recovery from providers which cease operating

37. Some providers under investigation may run into financial difficulties and cease operating in the course of the investigative period or afterwards, for reasons which may or may not be related to the investigation[213]. Increasing the speed of investigations may improve the government's recovery rate of misused funds in the case of providers which become insolvent, if it is able to halt ongoing funding and/or request and collect overpaid funds before the provider goes into administration. However, this would likely be more of distributional impact if the government successfully recovering overpayments before bankruptcy results in a reduction of proceeds available to legitimate creditors with legal claim to the provider's liquidated assets. The NAO report 'Investigation into financial support for

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[211] HEFCE News Release (2009) *HEFCE's dealings with London Metropolitan University (LMU)* http://www.hefce.ac.uk/news/newsarchive/2009/HEFCEs,dealings,with,London,Metropolitan,University/

[212] There were "requests for detailed explanations of discrepancies…" in May and June 2007. "Various communications and meetings over the next six to nine months resulted in five visits" in February and March 2008, and access to data was gained in February 2008.

[213] An inspection which hastens a provider's going into administration, perhaps by bringing to light funding condition breaches which, once known, jeopardise the providers' whole operations, would not be the cause of the provider's failure and thus a provider's failure in this scenario would not be considered as an impact of this policy.

students at alternative Higher Education Providers' published in December 2014[214] references BIS's investigation of Guildhall College. In August 2012 BIS concluded that the College had knowingly registered 281 out of 585 students on designated courses when the students were intending to study other, non-designated courses. In October 2012, BIS revoked the college's designation and the college judicially reviewed BIS. In July 2013 the Court ruled in BIS's favour. The College went into liquidation. Formal notice of £658,000 owed to BIS was lodged with the liquidator, but has not been recovered.

Indirect benefits

Enter and Inspect as a deterrent for fraud

38. The threat of entry and inspection without warning (and any publicised prosecutions which occur relating to the policy) can reasonably be expected to act as a deterrent to designated HE providers not complying with their conditions of OfS funding, registration or Student Support Regulations, by making it less easy to hide or remove incriminating evidence from the authorities. This is an indirect benefit to the taxpayer, but also to students, who can be harmed directly or indirectly by provider fraud or mismanagement.

39. There is the potential that individuals working at providers who are implicated in the breaching of conditions of OfS funding, registration or Student Support Regulations or those who may be inclined to do so in the future, will alter their behaviour as a result of this policy and take steps to conceal evidence of non-compliance as they go along. For example, the proposed powers of the policy only extend to searching the commercial premises of the provider and not the private residence of a provider's management, where evidence could also be hidden if the manager was intent on doing so. Knowing this, an employee or manager involved in purposely breaching the provider's conditions could make a habit of storing important data and files at home. Behaviour changes like this could reduce the effectiveness of the policy.

Reduction of reputation risk for the HE sector

40. As an indirect result of improving compliance levels and increasing the speed of resolving irregularities and fraud, the chosen option should reduce reputational risk to the HE sector as a whole.

Costs

Inspection-related costs

Inspection costs to the taxpayer

41. Inspections under the chosen policy will involve small legal and enforcement costs, and small investigations costs (e.g. potentially imaging of IT equipment) to the taxpayer which current inspections based on provider consent do not have. A court order needs to be

[214] NAO (2014) *Investigation into financial support for students at alternative higher education providers* https://www.nao.org.uk/wp-content/uploads/2014/12/Investigation-into-financial-support-for-students-at-alternative-higher-education-providers.pdf

obtained which will represent a cost to the court system. BIS or the Office for Students will need to make a legally defensible case for entry; establishing this will require legal advice. Once a court order has been obtained, a police officer may be in attendance when the power of entry is exercised, in accordance with the court order.

42. These costs are not expected to be significant given that we expect use of these powers to be very limited. Based on projected growth in alternative providers as given in the separate Market Entry impact assessment, and on the proportion of cases in 2012 – 2015 where investigating officials believe entry powers may have aided their investigation, we would expect an average of three requests for court orders per year over the ten year period 2017/18 to 2027/28.

Costs to providers

43. Inspection-related costs for alternative providers of the chosen policy are expected to be very limited, because very similar investigations, involving a mutually-agreed investigation visit, would have occurred in the do-nothing scenario (albeit more slowly) where BIS or the Office for Students has a reasonable suspicion that a serious breach of conditions has occurred. It is important to note that any costs incurred by providers who are ultimately found to be breaching conditions of OfS funding, registration or Student Support Regulations would not be considered as costs to business for the purposes of the impact assessment.

Inspection numbers: alternative providers

44. Providers have so far consented to inspection, but the process of agreeing and setting up the investigation visit involves a time lag (the typical delay period for alternative providers between 2012 and 2015 was two to four weeks). If an alternative provider did refuse entry, the authorities currently have the power to apply sanctions which can in theory induce them to cooperate, for example by removing the provider’s designation status and halting future payments. Outright refusal of an alternative provider to allow an inspection even after sanctions are imposed would imply strongly that suspicions of a breach of conditions are correct, so it is reasonable to discount the provider costs of any inspections occurring under the proposed policy which would not have eventually occurred voluntarily in the do-nothing case (because the additional inspections are those most likely to relate to cases of breached conditions).

45. Thus, the introduction of powers to enter and inspect does not mean there will be additional inspections for alternative providers who are not breaching their conditions of OfS funding, registration or Student Support Regulations, but rather that inspections will occur sooner for those where reasonable suspicion of fraud or malpractice exists.

Costs of accommodating inspections

46. Inspections where the power of entry is exercised, like mutually-agreed investigation visits in the counterfactual, will occur at a reasonable hour. Costs to providers associated with accommodating an investigation visit (e.g. staff hours spent verifying court orders, showing investigators where to find documents and data, standing by and observing while they collect evidence) are assumed to be very similar in the counterfactual and under the chosen policy option. Because inspectors under the chosen option will have powers to remove evidence

from the premises of the provider, it is even possible that inspection time, and thus the staff costs of accommodating inspections, will be reduced (see next section for more on seizure of evidence).

Seizure of documents and evidence

47. Under the chosen policy inspectors would have the power to seize documents, computers or other items found on the provider's premises during an inspection which it believes may be relevant to an investigation, a power that doesn't currently exist. Items seized will be retained only as long as required for the investigation, and would then be returned to the provider. It is likely that materials would only be removed if it is not possible to make copies to take away, and returned promptly wherever possible. Thus, there is a potential cost to business of the chosen policy option for those providers who are not breaching their funding and/or designation conditions, which temporarily lose access to documents or IT equipment needed for day-to-day operations while investigations are carried out. The length of time, the nature and the amount of materials taken away are likely to vary widely on a case-by-case basis (if materials are removed at all), so it is not possible to robustly monetise the potential cost to providers of seizure of evidence. To have established a sufficient case to legally enter a provider's premises with a court order implies investigators have a fairly clear understanding of the concern they have, and what sort of evidence they are looking for. Further, these measures would only be used in extremis.

Familiarisation costs

48. Familiarisation costs of this measure are expected to be negligible for designated alternative providers, who are already aware from the updated guidance of 2015 that they are required to allow BIS immediate entry as a condition of being designated for funding purposes, if BIS has a reasonable suspicion of fraud or irregularity. Familiarisation costs for HEFCE-funded providers are likewise expected to be negligible, as providers are already subject to HEFCE financial monitoring and compliance arrangements. Familiarisation will form part of the wider familiarisation with the package of new measures in the HE Bill.

49. It is not expected that providers would need to train employees in relation to this measure, although we would expect providers to inform staff of the new policy, including that in the event of an investigation they would have to cooperate or face a criminal penalty. We could add that any official exercising the power would explain clearly to employees that they were required to cooperate, and the consequences of obstructing entry.

Small and micro business assessment

50. This policy will affect all HE providers subject to conditions of OfS funding, registration or the Student Support Regulations. Providers currently in receipt of HEFCE funding are generally large. The alternative provider population is made up of smaller organisations, with research estimating around 75% of alternative providers to employ ten or fewer full-time equivalent staff[215]. It is not appropriate to make an exemption for small or micro providers.

[215] BIS (2016) 'Understanding the market of alternative providers of higher education and their students in 2014'

Business Impact Target

51. As discussed throughout the impact assessment, costs for providers of the proposed policy are expected to be negligible, and impacts cannot be reasonably monetised. Therefore, this policy change has a zero score for the purposes of the Business Impact Target.

Implementation

52. These measures will be implemented from the date of creation of the proposed new regulator, the Office for Students

Title: Alternative Student Finance	**Impact Assessment (IA)**
IA No: BIS003(F)-HE	**Date: 01/06/2016**
RPC Reference No: RPC-3334(1)-BIS	**Stage:** Error! Unknown document property name.
Lead department or agency: BIS	**Source of intervention: Domestic**
Other departments or agencies: SLC, HMRC	

Summary: Intervention and Options

RPC Opinion: Green

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANDCB in 2014	**One-In, Three-Out**	**Business Impact Target Status**
£m	£m	£m	In scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?

Some prospective Muslim students could be deterred from entering higher education if they consider the interest payable on student loans is inconsistent with the principles of Islamic finance. Primary legislation currently gives the Secretary of State the power to offer loans and grants to support students in England, but the Secretary of State does not currently have the power to offer any alternative student finance products which might meet the needs of some prospective students (and commercial alternatives are not readily available). Government intervention is therefore required to change the primary legislation and enable the Secretary of State to offer alternative student finance products.

What are the policy objectives and the intended effects?

The aim is to enable the Secretary of State to offer alternative student finance products which address the potential concerns of some prospective Muslim students about the student finance products currently available. The effects will depend on how the power in primary legislation is used (which will be set out in secondary legislation and supported by further impact assessments), but the intention is that more prospective students should feel able to access student finance and pursue higher education, and should feel more comfortable with the options available to them. Widening participation in higher education is a priority for this Government, and enabling alternative student finance products will help support this agenda.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0 (do nothing): The Government would continue to provide interest-bearing loans only, and no new student finance option would be made available. Doing nothing will mean positive real rates of interest could continue to deter some prospective Muslim students from accessing higher education.

Option 1 (preferred): Introduce primary legislation to allow for alternative student finance to be offered alongside equivalent student loans. The option will be developed further and secondary legislation and further impact assessments will be required. Currently, the Takaful model (see paragraph 16) is the lead model. It is based on mutual lending where graduates' payments fund the studies of future students. It would be available to students of all faiths and none, with no financial advantage or disadvantage relative to equivalent student loan.

Will the policy be reviewed? It **will** be reviewed. **If applicable, set review date:** Two years after launch.

Does implementation go beyond minimum EU requirements?	N/A			
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Mediu mYes**	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)	**Traded:** N/A		**Non-traded:** N/A	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: Jo Johnson   Date: 3rd June 2016

Summary: Analysis & Evidence

Description: Alternative Student Finance

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m) 0		
			Low: 0	High:0	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low				0
High				0
Best Estimate				0

Description and scale of key monetised costs by 'main affected groups'

We do not believe there to be direct costs to businesses or individuals at the current stage of policy development. The alternative product is likely to be delivered on the basis of existing processes which individuals use to apply for student finance and which graduates and their employers use to make payments into the student finance system. We do not therefore anticipate additional cost to businesses who currently hire graduates.

Other key non-monetised costs by 'main affected groups'

Delivery costs to government are unknown at this stage (though the intention is to maximise value for money and use existing systems where possible while ensuring consistency with Sharia principles). Costs to Government will include ongoing costs of subsidising the system, in addition to operating costs. These will be estimated for impact assessments to support secondary legislation, based on further engagement with key parties. There could be negligible additional costs to students who currently take out student loans from researching the options. There may be some additional costs to students who would previously not have accessed student funding, including when they access the finance and when they make their contributions as graduates (but these will be equivalent to those incurred by students accessing the equivalent student loan).

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low				0
High				0
Best Estimate				0

Description and scale of key monetised benefits by 'main affected groups'

Evidence gathered so far shows demand for this product exists but further evidence is needed to estimate its scale among prospective students of all religions and none. This prevents us from monetising direct benefits at this stage. In analysis to support secondary legislation we will look to do more to estimate likely demand, for example using stakeholder engagement and surveys.

Other key non-monetised benefits by 'main affected groups'

This policy will support additional participation among some prospective students whose religious beliefs may prevent them from taking out student loans and who are unable to access sufficient financial support from e.g. family. Additional participation will lead to direct benefits for these individuals in the form of a lifetime graduate net salary premium (approximately £168,000 for men and £252,000 for women), and to the exchequer (higher lifetime income and National Insurance payments). The product could also improve the experience and completion rates for some Muslim students who, evidence from key stakeholders suggests, currently experience stress over taking out a financial product which contradicts their beliefs. Wider indirect benefits are expected from increasing the supply of higher-skilled workers in the economy.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

We are unable at present to make robust estimates of demand levels for the proposed alternative product. It could be low (since many Muslim students currently access equivalent student loans), or high (if there is large-scale displacement from loans to the alternative, including students of all faiths and none). At this stage the costs to Government of establishing and operating the system are unknown. Further analysis will be needed to support the development of the system, including secondary legislation.

BUSINESS ASSESSMENT

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 0	Benefits: 0	Net: 0	0

Background

1. The Government understands there are concerns that the principles of Islamic finance might prevent some prospective Muslim students from taking out loans which have a positive real rate of interest, and therefore deter them from pursuing their education.

2. Responding to concerns, the coalition Government conducted a consultation "*Sharia-compliant student finance: Consultation on a Sharia-compliant alternative finance product*" in April 2014[216]. Views were sought on a particular product (the Takaful model, see paragraph 16) including its acceptability and likely demand. The consultation had almost 20,000 responses. The consultation was restricted to student finance in England (student finance is devolved to Scotland, Wales and Northern Ireland).

3. The present Government has sought to develop the model and explained that subject to Parliament it intends to introduce an alternative model of student financial support through new primary legislation. Primary legislation is necessary to give the Secretary of State the power to offer alternative student finance alongside loans and grants. This impact assessment covers the introduction in primary legislation of this power. Further detail will need to be set out in secondary legislation, and there will be further work to develop the model to full operation.

4. Further analysis will be needed to support this forthcoming work. During this analysis, we will seek to obtain and refine estimates of demand, and the potential for burdens on business and individuals. We will seek to do this, for example, by engaging with key stakeholders and using surveys. As we use analysis to support development of the product, minimising burdens on business will be a key aim.

Problem under consideration

5. Interest is payable on student loans. Before 2012 interest rates on income contingent repayment (ICR) loans were based on whichever is the lower of the Retail Price Index (RPI) or the current bank rate plus 1%. In 2012 higher education funding was reformed, to ensure it remained sustainable and fair. Interest rates changed, such that students now incur interest rates of RPI + 3% whilst studying, followed by an interest rate of between RPI and RPI + 3% dependent on income post study. Since some prospective Muslim students consider interest to be forbidden (haraam), they might be deterred from accessing student finance and therefore pursuing higher education.

[216] BIS(2014) *Consultation on a Sharia Compliant Alternative Finance Product* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/303423/bis-13-1311-consultation-on-a-sharia-compliant-alternative-finance-product.pdf
BIS(2014) *Government Response to a Consultation on a Sharia Compliant Alternative Finance Product* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/349899/bis-14-984-government-response-to-a-consultation-on-a-sharia-compliant-alternative-finance-product.pdf

6. A further change to student finance was made more recently - maintenance grants are being replaced by loans from academic year 2016/17. The impact of this change on equality was considered in accordance with the Public Sector Equality Duty. The analysis set out that "[Muslim students who did not access interest bearing loans] will no longer have access to funding for living costs as non-repayable finance is no longer available"[217]. These circumstances might make it harder for Muslim students to find the sums necessary from family or work to fully fund their education if they do not want to access interest bearing student loans.

7. If a number of talented people, particularly concentrated in a particular religious group, are not accessing higher education then this risks undermining the Government's commitment to widening participation and improving social mobility and limits the benefits to individuals and society of higher education.

Rationale for intervention

8. The Government recognises a demand (which it will seek to understand more fully and quantify in further policy development) for a non-interest-bearing alternative form of student finance which is in keeping with the Islamic principle of interest-bearing financial products being forbidden to its adherents. According to interest groups this demand has increased as a result of recent policy to ensure higher education funding is fair and sustainable. These include: i) real positive interest rates being applied to student loans as of 2012 (which may have made the prospect of a student loan less permissible under the principles of Islamic finance for some prospective students); ii) increases in the level of tuition fees; and iii) the conversion of grants to loans which could reduce the viability for students to rely solely on (extended) family for financial support as a substitute for a loan[218].

9. As far as we know, there has been no alternative student finance solution consistent with the principles of Islamic finance launched in the market, despite the apparent demand. (There is also no provision of or direct competition with Government for equivalent student loans in the existing market for student finance products). It is possible that the stated government commitment to providing student finance consistent with the principles of Islamic finance might have prevented firms from creating products in this space in anticipation of a government product with which they would be unable to compete.

10. The unmet demand for student finance consistent with the principles of Islamic finance might mean that some would-be students may be prevented from participating in higher education on the basis of their religious beliefs. Others participate in spite of their

[217] BIS (2015) *Student Finance Equity Analysis – The Education (Student Support)(Amendment) Regulations 2015* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482110/bis-15-639-student-finance-equality-analysis.pdf

[218] Anecdotal evidence suggests that family support or work are likely ways in which Muslim students have dealt with the lack of a non-interest-bearing financing solution historically, the other way being not going to university.

preference for an alternative, and may experience emotional stress which negatively affects their experience of higher education, potentially resulting in non-completion of courses. Alternatively, they might restrict their choice of course or institution to reduce the amount they borrow, and therefore make choices which are not optimal for them and limit their potential.

11. Enabling additional participation in, and better experiences of, higher education will result in benefits for the affected individuals but also to the wider economy through positive spillovers of higher education. It will also improve equality of outcomes. Government intervention is required to enable the creation of an alternative student finance offering alongside equivalent student loans which will increase access to higher education in England.

Description of options considered

12. There were effectively only two options under consideration (which were discussed with key stakeholders during formal consultation in 2014)[219].

Option 0: Do nothing

13. No new finance option would be made available. The status quo would persist, meaning that some would-be students may not participate in higher education because they cannot access the finance they need in a way which is acceptable to their religious beliefs. Other students may take out an equivalent loan to study even if doing so causes them emotional stress to do so, and / or limit their choices to reduce the amount of loan they use.

Option 1: Introduce primary legislation to allow for alternative student finance to be offered alongside financially equivalent student loans

14. Primary legislation would give the Secretary of State the power to introduce an alternative student finance product alongside existing student loans. Details of the alternative student finance product would be set out in secondary legislation.

15. The key principles for an alternative student finance product were set out in the consultation exercise in 2014 and are:
    - The product should be available to everyone, on the same eligibility basis as an equivalent student loan;

[219] BIS(2014) *Consultation on a Sharia Compliant Alternative Finance Product* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/303423/bis-13-1311-consultation-on-a-sharia-compliant-alternative-finance-product.pdf
BIS(2014) *Government Response to a Consultation on a Sharia Compliant Alternative Finance Product* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/349899/bis-14-984-government-response-to-a-consultation-on-a-sharia-compliant-alternative-finance-product.pdf

- Repayment levels and totals must be commensurate with those of an equivalent student loan, so no group is in a better or worse financial position than their peers;
- Making repayments should be as easy as for users of an equivalent student loan, therefore it should be possible for repayments to be made directly through the tax system;
- Applications should operate in the same way as for an equivalent student loan, so there is no excessive burden;
- The product should be transparent in its workings and easy for potential students to understand.

16. As further described in 2014, a Takaful model was developed specifically to support students seeking alternative student finance. It was widely supported and viewed as acceptable[220]. The model's underlying principle is one of communal interest and transparent sharing of benefit and obligation, with the contributions of graduates participating in the fund being used to provide finance to future students who elect to join the fund. The element of borrowing money and paying back with interest to a third party (which is not compliant with Islamic finance principles) would not exist.

17. Students obtaining finance from the fund would do so in the same way as those applying for the equivalent student loan. There would be a contractual agreement that the individual would later pay a Takaful contribution for the benefit of members of the fund. These contributions would be made once the individual was in employment and earning above the repayment threshold, which would be set at the same level as existing student loans.

Alternatives to regulation

Providing additional information about student loans

18. As an alternative to regulation we have considered providing additional information on gov.uk highlighting the advantages of income contingent repayment student loans to prospective students who are reluctant to take them out. However, for individuals who are fundamentally opposed to the concept of interest (i.e. those most likely to not participate in higher education in the do-nothing scenario), this would be unlikely to address the issue.

Incentivising private sector solutions

19. The Government has not particularly sought to encourage a private sector alternative student finance offer for one group of students, given the role of Government in providing student finance for all eligible students in England. A private sector product would not be

[220] The Takaful model is the preferred option accepted by 81% of respondents at consultation; only 2% of nearly 20,000 respondents thought it was unacceptable.

able to offer the same favourable financing terms to prospective students as the Government, so the Government's aims of widening participation and promoting equal access to education would not be met.

Description and scale of key monetised costs and benefits by main affected groups

Option 0: Do nothing

20. A do nothing (or alternative to regulation) option would have essentially zero cost to business, since business would experience no changes and have no new role to play. The student loan repayment system, operated by businesses through PAYE for their graduate staff, would not be changed.

21. Advice and guidance would be widely available on gov.uk to all students, at negligible cost to Government. There may be a need to widen the accessibility of the additional information available on student finance to other channels other than Student Finance England website, which may result in some actual cost.

22. This option would, however, have limited benefit, since the limited additional information that could be provided to prospective students might not influence beliefs which have endured under the current student finance arrangements and associated communications.

Option 1: chosen policy

Benefits

Direct benefits to individuals – increase in HE participation

23. In consultation (2014) it was shown that some Muslim students in the current system would prefer to use alternative student finance but nevertheless do choose to take out equivalent loans to be able to study. It was also apparent that of those would-be students who will not (or strongly prefer not to) take out an interest-bearing loan, some receive financial help from extended family to go to university[221], while others may choose not to go to university at all in the absence of alternative student financing.

24. Making an alternative student finance product available will remove a barrier to participation in higher education among prospective students who will not take out an interest-bearing student loan for religious reasons. The introduction of a positive real interest rate on equivalent student loans in 2012 may have reduced the number of Muslim students willing to take out an equivalent student loan on religious grounds (i.e. the previous loan without real interest may have been marginally acceptable within some

[221] The Federation of Student Islamic Societies (FOSIS), and some other stakeholders in discussion, have suggested that Muslim students often use their extended families to raise money to fund higher education.

students' religious beliefs but the introduction of positive real interest may have pushed the student loan outside of the margin of acceptability).

25. In particular, it will support additional participation in higher education among those students who will not obtain a loan for religious reasons and who do not have access to sufficient private financial support from family or friends to go to university. The 2012 tuition fee increase and recent replacement of grants with loans may have made it more difficult for some students to rely solely on financial assistance from family and friends.

26. The benefits to individuals of graduating from higher education are clear, including having a higher probability of being employed relative to someone without a higher education and experiencing a 'graduate premium' in lifetime earnings. For example, BIS research in 2011[222] showed having an undergraduate degree increased an individual's average employment likelihood by 2.6%, while research in 2013[223] found that the mean net graduate premium was approximately £168,000 for men and £252,000 for women in 2013 terms over the average graduate's lifetime (with substantial variation depending on the subject studied). The benefit an individual derives from higher education might be increased if the individual has chosen the right course and institution for them, rather than making choices to minimise borrowing costs.

27. Thus, there are likely to be large benefits for individuals who are enabled by this policy to participate in higher education who would not have done so otherwise. A basic model assuming an additional 0.1% of participation among Muslims at a typical age for higher education[224] suggests an additional 842 participants over the ten years following the policy's introduction, who would receive a total graduate premium benefit in those years of around £8.9m in net present value terms (see Table 61 below). For context, the 2011 census found that 24% of Muslims in the UK (approximately 435,000 people) had Level 4 and above (i.e. degree-level) qualifications, relative to 27.2% for the rest of the population[225].

28. The model uses the estimated lifetime graduate net salary premium from research conducted for BIS in 2013[226], applying a discount to reflect typical progression in earnings to estimate the hypothetical annual net benefit to the additional graduates in the early years following their graduation. The lifetime graduate premium estimates account for costs associated with studying (foregone earnings, tuition fees, interest repayments

[222] BIS Research Paper No. 45 (June 2011): *The Returns to Higher Education Qualifications* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32419/11-973-returns-to-higher-education-qualifications.pdf
[223] BIS Research Paper No. 112 (August 2013): *The Impact of University Degrees on the Lifecycle of Earnings: Some further analysis* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229498/bis-13-899-the-impact-of-university-degrees-on-the-lifecycle-of-earnings-further-analysis.pdf
[224] Assumed for simplicity to be 0.1% of 18-24 year-olds in the first year the product is introduced, and then 0.1% of 18 year-olds thereafter. Higher education and student finance are of course available outside these age ranges.
[225] Muslim Council of Britain (2015) *British Muslims in numbers: A demographic, socio-economic and health profile of Muslims in Britain drawing on the 2011 Census* https://www.mcb.org.uk/wp-content/uploads/2015/02/MCBCensusReport_2015.pdf
[226] BIS research paper No. 112 (Walker and Zhu, August 2013): The Impact of University Degrees on the Lifecycle of Earnings: Some further analysis

and so on), as well as taxes, so the benefits expressed are net of costs. We assume all courses are 3 years, so the hypothetical benefits accrue in seven of the ten-year period. See Appendix 1 for more details.

Table 1: Estimated graduate premium benefits to Muslim students who participate in higher education (undergraduate level) as a result of the policy (2017/18 – 2026/27)

	Assumed level of additional participation among Muslims of typical age for HE entry		
	0.05%	**0.1%**	**0.50%**
Number of additional graduates expected	421	842	4212
Graduate premium benefits to individuals (2016 NPV)	£ 4,462,153	£ 8,924,305	£ 44,621,526

See Additional Evidence for a brief explanation of assumptions

29. However, as we do not currently have strong enough evidence to estimate the extent of the additional demand (i.e. we cannot justify any of the assumed levels of additional participation used for illustration in the table above), we have not included a monetised benefit in this impact assessment.

30. Results of the 2014 consultation, which received approximately 20,000 responses from individuals and organisations, suggested that demand exists in England for alternative student finance[227], and that the proposed Takaful model would likely be acceptable to a significant proportion of individuals seeking such a solution to their student finance needs[228].

31. Of the 1,095 responses by individuals in the consultation to the question “To what extent, if any, are you aware that students with religious objections to the charging of interest have been affected by the changes in tuition fees and student loans?”, 13% said they would not go to university as a direct result of both requiring an interest-bearing loan and increased tuition costs, as no other means of financial support was available to them. 12% of the group said they had not gone to university, attributing interest-bearing loans and no alternative financial means as a direct cause. Other attributes of the respondents are not known, making it difficult to draw robust inferences as to the size of the potential additional demand for higher education (for example, it is not clear how many of the

[227] 94% of consultation respondents answered “Yes” to the question: “Do you believe that there would be demand among students and potential students for an alternative finance product which was Sharia-compliant?”
[228] 81% of consultation respondents answered “Yes” to the question: “Do you believe that students and potential students whose faith has resulted in concerns about the interest rate on loans would find this alternative finance product acceptable?” Only 2% of respondents considered the Takaful model unacceptable.

thousand respondents in question are Muslim or of a relevant age, let alone how reflective the sample is of prospective Muslim students generally).

32. The Student Income and Expenditure Survey collects data on religion from a representative sample of current students. The 2011/12 survey[229] contains information on loan take-up by Muslims and other religions. It shows that in practice many Muslim students took out Government student loans at the time when they did not carry a real positive interest rate. Take up was lower for Muslim students in 2011/12 relative to respondents stating "no religion," but not the lowest among other stated religions.

33. There is a chance that the policy may increase participation among non-Muslim prospective students, of all religions and none, in parallel, but we do not have any evidence of demand in this group to assess this.

34. In future policy development, we would look to collect further evidence where possible to estimate the demand for the alternative financial option, with a focus on those (hard to reach) individuals who anticipate they would not partake in higher education without it.

35. Given the public sector equality duty, it is clear we have to consider introducing alternative student finance as a matter of principle, notwithstanding imperfect evidence about the exact level of demand.

Direct benefits to the Exchequer - Higher income tax and National Insurance receipts

36. Additional higher education graduates benefit the Exchequer because their higher lifetime earnings result in higher income tax and National Insurance payments than would have otherwise been made by those individuals. BIS research[230] in 2013 estimated that the net benefit to the Exchequer of a graduate was around £264,000 for men and £318,000 for women (in 2013 terms) over the graduate's lifetime.

37. Using the same simple model as above, again with an arbitrary assumption of a 0.1% addition in HE participation among Muslims at an age typical for higher education would suggest a total benefit to the exchequer in the ten years following the policy's introduction of around £12m in present value terms (see Table 2 below and Additional Evidence for more details). More evidence to estimate additional participation rates as a result of the policy would allow monetisation of this benefit in future analysis.

[229] *Student income and Expenditure Survey 2011 to 2012* https://www.gov.uk/government/publications/student-income-and-expenditure-survey-2011-t0-2012
[230] BIS Research Paper No. 45 (June 2011): *The Returns to Higher Education Qualifications*

Table 2: Estimated net exchequer benefits resulting from policy-enabled increase in HE participation (UG level) (2017/18 – 2026/27)

	Assumed level of additional participation among Muslims of typical age for HE entry		
	0.05%	**0.1%**	**0.50%**
Number of additional graduates expected	421	842	4212
Net benefit to exchequer – income tax and National Insurance (2016 NPV)	£ 5,982,148	£ 11,964,296	£ 59,821,482

See Additional evidence for a brief explanation of assumptions

Indirect benefits - Wider economic benefits

38. It is widely acknowledged in the economic literature that skills are a driver of economic productivity and a critical element of other drivers of productivity, namely enterprise and innovation[231]. Skills also contribute to the development of a more efficient, effective and professionalised public service sector. The Government believes there are clear and recognised benefits to the economy from increasing the supply of workers with high level skills. These skills are needed to meet demand from employers and stimulate an innovation led economy, not least because changes in technology are increasing the demand for high skilled workers in the UK and internationally.

39. The UKCES Employer Skills Survey looks at skills shortages faced by employers both within their existing workforce and among potential recruits. It has shown that skills shortages are a growing challenge for firms looking to fill vacancies – there was a substantial increase in the number of reported skill-shortage vacancies in 2015 compared to 2013. The 2015 survey report found that a lack of skills for solving complex problems accounted for 39% of all skill-shortage vacancies.

40. The future demand for skills is expected to continue to focus on white collar, high skilled jobs. It is expected that the policy will deliver indirect benefits to employers facing skill shortages and to the wider economy in general as a result of increasing the supply of graduates. There is also likely to be a beneficial spillover effect for businesses that employ these graduates; employers would benefit alongside individuals and the Exchequer as set out above, but the effect on employers is not quantified in the current context.

[231] See OECD (2015) *Future of* Productivity for a review of the latest evidence on the drivers of productivity growth https://www.oecd.org/eco/growth/OECD-2015-The-future-of-productivity-book.pdf

Indirect benefits - Emotional benefits to students opting for alternative finance who would have taken a loan

41. As previously mentioned, it is possible that the majority of demand for the product will come from individuals who would have otherwise taken out an equivalent student loan. Anecdotal evidence from the 2014 consultation suggested that for at least some Muslim students, the choice to take out an interest-bearing loan in the absence of an option consistent with their religious beliefs is a source of emotional stress which can persist throughout the individual's studies, even resulting in a choice to stop studying. This suggests that it is not appropriate to view the choice of students using the alternative finance product who would have otherwise taken out a loan as pure economic displacement, as their choice to use the new product may involve emotional or psychological benefits which improve their experience and outcomes in higher education (for example, increasing the likelihood of completing their course). These benefits are not possible to quantify given our current evidence base.

Costs

42. The precise details of how the product will be delivered and administered have not been decided at this stage. However, given the policy objective that the proposed product should be as easy to access as a student loan, it is assumed that it would not create significant additional costs to individuals applying for student finance nor to businesses facilitating the repayment of student finance through the PAYE system. The expectation of low or negligible costs to each of these parties is explained in more detail below, including what further information we intend to collect in future policy development to test and monetise these assumptions.

Direct costs to individuals ***– expected to be negligible***

43. The changes required to accommodate the new financing option within the existing student finance architecture would not significantly alter the experience of students applying for equivalent loans, or those who would have applied for a loan if the alternative student finance option had not been available to them. As with equivalent loans, there will be no application fees or similar to apply for the proposed product. The student loan application form is expected to be updated with a tick-box option enabling the student finance applicant to select whether they wish to apply for an alternative option or the equivalent student loan.

44. The exact wording and explanations in student finance application guidance will need to be determined in further policy development to ensure the options' economic equivalence is clear (i.e. so students can understand easily from the application form that there are no financial or convenience benefits of choosing one option over the other). If this information is clear, some prospective students might not spend any additional time on their applications. It is possible, however, that some students would consider the two options more carefully, including those students who would have accessed student finance in the counterfactual scenario anyway. Students interested in the alternative student finance product would either tick that box and continue, or otherwise may spend

some time assessing the proposed new product further to determine whether it is compliant with their religious principles[232].

45. For those prospective students who would not take out student finance under any circumstances, there may be a modest time-cost to assessing the new financing option if they ultimately decide that it does not adequately meet their interpretation of Sharia-compliance (because they would not have spent the time researching the option in the counterfactual where the option did not exist). From our consultation and policy development to date, evidence suggests that the proposed product would be an acceptable solution to a majority of Muslims demanding non-interest-bearing student finance. We therefore expect the number of individuals in this scenario and the associated time cost to be small. Moreover, the time spent assessing the options by a young, unskilled and likely unemployed individual has a relatively opportunity cost.

46. For students who would prefer an alternative financial solution but would ultimately be willing to take out an equivalent student loan in the counterfactual, any extra time spent researching the alternative option (to determine their views on it rather than the economic/financial equivalence which will be made very clear) would not be considered as an additional cost. This is because these students would be expected to sign up for student finance regardless (and choosing an equivalent loan after researching the new product would violate their stated preference for a non-interest bearing solution).

*Direct costs to businesses **– expected to be low***

47. As of September 2016, HMRC will be collecting repayments of two "plans" of loans – Plan 1 (pre-2012 student loans) and Plan 2 (post-2012 student loans). From the academic year 2017/18 onwards, they will also be collecting repayments on postgraduate loans (Plan 3). The alternative finance product is currently proposed to operate as an additional type of repayment running alongside a plan, rather than a fourth plan type (though as mentioned policy and operational development is ongoing and will be subject to further analysis where necessary).

48. The changes required to accommodate the new financing option within the existing student finance repayment architecture would not currently be expected to impose additional costs on businesses hiring graduates. In keeping with the policy aim to make the proposed alternative student finance product as straightforward for students to access and repay as the equivalent student loan, it is intended that the contractual payments or contributions by the student, once employed, will be collected via the PAYE system in the same way that student loan interest and principal repayments are

[232] The consultation demonstrated (corroborating other reports) that Islamic finance and Sharia principles are open to interpretation and it is common for there to be different views and schools of thought. As a result, some individuals may not agree that the proposed Takaful model is Sharia-compliant; even if the majority of respondents to the consultation suggested that it would be acceptable to a large number of Muslims seeking a Sharia-compliant student finance solution.

collected. Self-assessment or direct payments would be available for those outside PAYE, as they are for those repaying an equivalent student loan.

49. At present, HMRC determines whether an employed individual has a student loan (or student loans), what type of loan it is, and when the individual should be paying it back through the PAYE system. After determining an employed individual's repayment status, HMRC sends a start notice to the individual's employer to notify them to start collecting student loan payments from the individual's pay. The employer is not responsible for identifying the student loan status of their employees, nor what type of loan an employee may have. HMRC informs the employer what needs to be taken, from whom, and when.

50. Thus, from the perspective of the employer hiring a graduate under the proposed policy, nothing will change - HMRC will determine a new employee's student finance repayment 'type' and will inform the employer what needs to be taken and when. It is not the intention that the employer becomes responsible for determining whether an employee's student finance repayments are based on the new alternative student finance model or the equivalent student loan. It is, however, possible that the employer might want to understand more about the system and so read any updated guidance, and that they might have questions to answer from their employees or questions they need to ask of HMRC or the SLC. We would expect any such costs to be negligible, though will investigate further including through discussion with employers.

51. It is also not the intention that higher education institutions should be required to change their functions when they receive funding for tuition through the student finance system in relation to individuals accessing the alternative student finance product.

Direct costs to HM Government and the Student Loans Company (SLC)

Implementation and delivery costs

52. The precise set-up, management and governance of the proposed new finance facility have not yet been determined. We will seek to use an architecture which represents value for money, which might include using existing processes and systems at certain points while ensuring the appropriate separation of the current and new systems for Sharia compliance. The costs to Government will include ongoing subsidy of the system (as Government also subsidises equivalent student loans). We do not currently have any reason to think the underlying profile and risks of this population will be different from the population using equivalent student loans.

53. BIS, the SLC and HMRC will work together to assess, as we develop this policy, how the new facility will work in practical terms. We thus expect to be able to monetise the cost to government and SLC in future analysis, including those supporting secondary legislation in due course.

Opportunity cost to exchequer of ring-fenced student finance repayments

54. The structure of the proposed alternative student finance product could require that graduate contributions are made into the designated fund, with the funds therein earmarked exclusively for future participants in the alternative student finance scheme. Student finance displaced from equivalent student loans into the new product could thus be an opportunity cost to the exchequer (because previously, their graduate repayments could have been used for any government spending, but now may only be used to finance new and existing students participating in the alternative student finance scheme).

55. However, we anticipate that, if this is the case, the scheme could be managed in such a way that the ring-fencing required to achieve Sharia compliance will have a minimal impact on the government's spending flexibility.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach);

56. Based on evidence from our consultation we are confident that demand for the proposed alternative student finance product exists among prospective students in the Muslim population in England. As described throughout the impact assessment, we are not currently in a position to robustly estimate the size of this demand, or any potential for extra demand from non-Muslims.

57. In the absence of evidence allowing us to estimate how many people would take out the product, we have qualitatively discussed the likely impacts on different parties. We believe that the approach taken in this impact assessment to be proportional for the following reasons:
    a) Costs to individuals and businesses are expected to be low (with justification);
    b) There is potential for large-scale benefits if additional higher education participation is realised (also justified);
    c) Details of how Government can best deliver the product in a way which represents value for money is under discussion with relevant parties;
    d) Secondary legislation (including more detailed analysis) is required for the product to be introduced, and we have outlined areas in which we would seek more evidence in the meantime;

    Even if no additional participation is realised (i.e. there is only displacement), the policy would still be achieving equality and widening access aims by increasing choice and satisfaction for students, and will help this Government achieve the Prime Minister's ambition to increase the number of black and minority ethnic group students going to university by 2020[233].

[233] https://www.gov.uk/government/speeches/higher-education-fulfilling-our-potential

Risks and assumptions

58. Due to the lack of available evidence it is difficult to fully assess the risks associated with the implementation of this proposed policy change at this stage. We are basing our assumptions largely on data from the Government's 2014 consultation, as prior to this there was no firm evidence to inform policy.

59. We are seeking primary legislation to give the Secretary of State the power to offer alternative student finance. The intent is to assess the risks to government and the Student Loans Company in further analysis, including those to support secondary legislation.

Additional Evidence: Model of potential benefits to individuals and the exchequer of additional HE participation among young Muslims as a result of the policy

We constructed a basic model to estimate the potential scale of direct benefits to individuals and the exchequer at different levels of additional HE participation. The main assumptions of the model are:

- The annual graduate premium and net exchequer benefits are based on findings in the 2013 BIS research paper No. 112 (Walker and Zhu, August 2013): *The Impact of University Degrees on the Lifecycle of Earnings: Some further analysis*
- Benefits to both the individual and Exchequer are modelled to vary over the lifecycle.
- All undergraduate courses are assumed to last 3 years, and there is 100% completion by additional HE participants.
- The model covers a 10 year period which, because courses are assumed to last 3 years, means that benefits accrue over 7 years.
- The estimated number of Muslims in different age brackets is based on 2011 census figures. We assume that the break-down of ages within different age group in the census is constant (i.e. there is an equal number of 18, 19, 20 year-olds etc. in the 18-24 group)
- We have assumed no migration.
- We assume that the ‘additional’ proportion of young Muslims deciding to enter HE as a result of the policy will apply to 18-24 year-olds in the first year the policy is introduced, and then to 18 year olds only in subsequent years.
- As per the main text on direct benefits, we illustrated the model’s results with assumed increases in participation of 0.05%, 0.1% and 0.5% of the Muslim population of the typical age for HE entry. As discussed previously, we do not have evidence on the likely behavioural response to the introduction of these new finance products so the model’s results are intended to be illustrative pending future evidence-gathering and analysis. For context, the 2011 census found that 24% of Muslims (approximately 435,000 people) had Level 4 and above (i.e. degree-level) qualifications, relative to 27.2% of the rest of the population[234].
- Benefits that spill over to the employer are not included in this analysis, only benefits to the individual and the Exchequer, so total benefits could possibly be higher.

[234] Muslim Council of Britain (2015) *British Muslims in numbers: A demographic, socio-economic and health profile of Muslims in Britain drawing on the 2011 Census*

Title: **Research and Innovation Reform**	**Impact Assessment (IA)**
IA No: N/A	**Date: 01/06/2016**
Lead department or agency: BIS	**Stage: Final stage**
Other departments or agencies: HEFCE, Research Councils, Innovate UK	**Source of intervention: Domestic**
	Type of measure: Primary legislation

Summary: Intervention and Options

RPC Opinion: N/A

Cost of Preferred (or more likely) Option				
Total Net Present Value £255m	**Business Net Present Value N/A**	**Net cost to business per year N/A**	**One-In, Three-Out** Not in Scope	**Business Impact Target Status** N/A

What is the problem under consideration? Why is government intervention necessary?

The UK has a world leading reputation in research and innovation. Scientific and technological advancements have revolutionised the way we lead our lives and driven prosperity and societal well-being. For every £1 invested by the Government on research and development, private sector productivity rises by 20p. Our share of highly cited articles is second only to the US, and the UK has overtaken the US to rank first by field-weighted citation impact. The strengths of the current research and innovation system are clear and Government is committed to retaining them. But we believe the system has the potential to become even more effective. Currently, the research and innovation funding framework consists of nine different legal entities, each with an individual remit, and only able to fund research and innovation in the precise way set out by legislation. These limits of the current governance of research and innovation funding present challenges to the effective funding of the inter- and multi-disciplinary research needed to address the grand challenges facing the world now, and in the future.

What are the policy objectives and the intended effects?

These reforms offer a huge opportunity to strengthen the strategic approach to future challenges and maximise value from Government's investment of over £6bn per annum in research and innovation. They will deliver a greater focus on cross-cutting issues and enable the system to respond rapidly and effectively to current and future challenges.
The integration of research and innovation funding will give a strengthened, unified voice for the UK's research and innovation funding system, facilitating the dialogue with Government and partners on the global stage, and also in improved collaboration between the research base and the commercialisation of discoveries in the business community, ensuring that research outcomes can be fully exploited for the benefit of the UK. The removal of unnecessary duplication in the existing bodies will result in a simple, easier and more agile system that will benefit researchers, research institutes and businesses, with more time for research and innovation leaders to focus on

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: "Do nothing" - Retain the current research and innovation funding structures
Option 1: Retain the current research and innovation funding structures, and create an additional research funding body to establish mechanisms for supporting multi- and inter-disciplinary research
Option 2: Create UK Research and Innovation, a single non-departmental public body operating at arm's length from Government, bringing together the seven Research Councils, integrating the research functions currently performed by HEFCE within this new body, and integrating Innovate UK while retaining its distinctive business focus and separate funding stream.

Will the policy be reviewed? Yes. **If applicable, set review date:**

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** **No**	**< 20** No	**Small** **No**	**Medium** **No**	**Large** **No**
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** **N/A**	**Non-traded:** **N/A**	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: Date: 3rd June 2016

Summary: Analysis & Evidence

Description: Option 2: Create UK Research and Innovation (UKRI)

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £255m

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low		1		
High				
Best Estimate	£4m		£4m	£30m

Description and scale of key monetised costs by 'main affected groups'

There would be an additional administrative cost associated with delivering a greater focus on cross-cutting issues that are outside the core remits of the current funding bodies, and a one-off transitional administrative cost of establishing UK Research and Innovation. These are difficult to quantify, as they would depend on the final organisational design of UKRI. However, as an indicative scenario, we have assumed that the ongoing costs would be £4m per annum from 2018-19, and the one-off transitional cost would also be £4m, falling in 2017-18. This equates to a 10 year present cost of £30m. Funding recipients will see little change except for a simplified process, but there could be a very small transitional cost to researchers, research institutes and businesses as they familiarise themselves with UK Research and Innovation. We estimate that these costs will be short term, and negligible.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low				
High				
Best Estimate	None		Not Quantified	£285m

Description and scale of key monetised benefits by 'main affected groups'

Currently, there are a number of functions and outputs that are duplicated across the Research Councils. UK Research and Innovation provides the opportunity to remove this duplication, increasing efficiency and reducing some costs. The exact size and nature of these financial benefits will depend on the final organisational design of UKRI, and are difficult to quantify. As an indicative scenario, we assume that these administrative savings would be £5m per annum from 2018-19 onwards, equating to a 10 year present financial benefit of £35m. In addition, there are considerable wider economic benefits to the integration of the Research Councils and the research functions of HEFCE. These include a greater focus on cross-cutting issues, such as multi- and inter-disciplinary research, enabling the system to respond rapidly and effectively to current and future challenges. There are further economic benefits to the integration of Innovate UK and research funding. Bringing together research and innovation funding functions under a single organisation, led by a strategic board comprising representatives from both communities, will result in a strengthened, unified voice for the UK's research and innovation funding system, facilitating the dialogue with Government and partners on the global stage. These economic benefits are difficult to quantify, but we have looked at an indicative scenario, and have estimated the 10 year present economic benefit to be £250m. We have not annualised these benefits, as they would be realised over a long time period.

Other key non-monetised benefits by 'main affected groups'

In addition to boosting productivity, science, research and innovation produces other important benefits that are harder to monetise but clearly demonstrated by strong case study evidence. Such non-market benefits include improved health and wellbeing, better development of public policy and delivery of public services, and cost avoidance through resilience to shocks. We would expect the strengthened strategic approach to future challenges that would be delivered by these reforms to result in improvement in the level of these non-market benefits.

Key assumptions/sensitivities/risks — **Discount rate** 3.5

The organisational design of UK Research and Innovation has not been finalised. All costs and benefits should therefore be seen as broadly indicative and subject to change following more detailed work on the design of UK Research and Innovation, as well as the timing and nature of the transition to this new body.

The implementation timetable has not been finalised, but for the purposes of this assessment we have assumed that UKRI will be operational from 2018-19, with transitional costs falling in 2017-18.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	0

Evidence Base

1. The UK has a world leading reputation in research and innovation. Scientific and technological advancements have revolutionised the way we lead our lives and driven prosperity and societal well-being. For every £1 invested by the Government on research and development, private sector productivity rises by 20p. Our share of highly cited articles is second only to the US, and the UK has overtaken the US to rank first by field-weighted citation impact.

2. The UK's success in research and innovation is underpinned by our highly effective funding mechanisms, which are recognised as a global exemplar. The strengths of the UK's approach to funding research and innovation were highlighted in Paul Nurse's recent review of the Research Councils[235], in responses to the Higher Education Green Paper consultation and in responses to stakeholder engagement on Innovate UK. Foremost among these strengths is our adherence to the Haldane principle, which states that decisions about the allocation of funding to research projects are best taken independently of Government, by those who have the expertise and experience to know how the money will be spent. Respondents to the Higher Education Green Paper consultation emphasised that delegated decision making is a key aspect of Haldane, with discipline specific experts needing to have responsibility for funding decisions in their areas.

3. The Dual Support funding system, described by Sir Paul Nurse, as 'one of the bedrocks of UK research', was also identified as critical to the UK's world-leading reputation. Dual Support combines project funding for excellent research proposals, which is forward-looking and assessed through peer review – currently delivered by the Research Councils, with formula based quality-related research funding that rewards performance retrospectively based on peer review and proven impact from the research– currently delivered by HEFCE. The system sustains a dynamic balance between strategically relevant research and internationally peer reviewed and research which is directed from within institutions.

4. Respondents to stakeholder engagement on Innovate UK emphasised its vital role in supporting the commercial exploitation of the UK's excellent research. Innovate UK uses a variety of approaches to encourage business and university collaboration, including through funding collaborative R&D projects and through the network of catapult centres. It works in tandem with the research community and across government to translate scientific excellence into economic impact.

5. We commissioned Sir Paul Nurse to look to the future and consider how Research Councils can evolve to support research in the most effective ways - reflecting the requirements to secure excellence, promote collaboration, and allow agility, and in ways that best contribute to sustainable growth. Sir Paul's report and recommendations describe a research landscape best able to respond to current and future challenges. He found that 'the research endeavour has to be permeable and fluid, allowing the ready transfer of ideas, skills and

[235] Ensuring a successful research endeavour: review of the UK research councils by Paul Nurse, BIS, November 2015 https://www.gov.uk/government/collections/nurse-review-of-research-councils

people in all directions between sectors, research disciplines, the span of the research endeavour, and its potential beneficiaries.'[235]

6. The recommendations in Sir Paul's report underpin the structural reforms that will be taken forward through the Higher Education and Research Bill. In developing our reforms we have also been guided by responses to the Higher Education Green Paper consultation and responses to stakeholder engagement on Innovate UK.

7. Our approach has been based on the following key principles:
   - The need to strengthen strategic thinking on cross cutting priorities and develop a more agile and responsive research and innovation funding system;
   - The need to retain the world class strengths of the current system, including the Haldane principle, the Dual Support system and Innovate UK's distinct business facing focus;
   - The importance of subsidiarity, with decisions needing to be taken at the lowest effective level and leaders in particular fields of activity given full responsibility for decisions in their areas; and
   - The need to reduce bureaucracy, freeing up research and innovation leaders to focus on strategic decision-making.

Problem under consideration

8. The strengths of the current research and innovation system are clear and Government is committed to retaining them. But we believe the system has the potential to become even more effective.

9. Currently, the research and innovation funding framework consists of nine different legal entities, each with an individual remit, and only able to fund research and innovation in the precise way set out by legislation. These limits of the current governance of research and innovation funding present challenges to the effective funding of the inter- and multi-disciplinary research needed to address the grand challenges facing the world now, and in the future.

10. An example of how the current research and innovation funding structure is unable to address today's challenges is in the allocation of The Global Challenges Research Fund. This Fund is a new resource funding stream for science, announced as part of Spending Review 2015[236]. It provides £1.5bn of resource spend between 2016 and 2021 to ensure that UK research takes a leading role in addressing the problems faced by developing countries. This Fund will harness the expertise of the UK's research base to pioneer new ways of tackling global challenges such as in strengthening resilience and response to crises; promoting global prosperity; and tackling extreme poverty and helping the world's most

[236] UK aid: tackling global challenges in the national interest, DfID and HMT, November 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478834/ODA_strategy_final_web_0905.pdf

vulnerable. The Fund will be allocated to research, across all disciplines, and independently of Government, in line with the Haldane Principle. To do that effectively, the Government would allocate the fund to the research councils and require them to hold the funds, manage the peer review and competitive process to award funding and distribute the funds, as a single process. The current legislative framework prohibits that approach because it is not within the remit of any of the Research Councils to hold, manage or distribute the necessary inter-and multi-disciplinary grants from the Fund. This means the Fund would be held by BIS. However, to ensure decisions about the allocation of funding to individual research projects is taken independently of Government, in line with the Haldane principle (as described in paragraph 2), we would need to set up a 'work around', with the associated overheads.

11. In the future, we anticipate that more and more of the research and innovation needed to tackle the world's grand challenges will need to be inter- and multi-disciplinary. For example, a HEFCE report in 2015 found that 'UK interdisciplinary research is growing in intensity, in line with a global trend'[237.] Sir Paul Nurse also noted in his report that 'Business problems are rarely focused on a single research discipline', going on to recommend that 'the Research Councils and Innovate UK should work closer together to deliver the multi-disciplinary research needed for business'[235]. The challenges that the restrictive current research and innovation funding framework presents to the effective pooling of resources in order to deliver multi and interdisciplinary research mean that the we do not have the optimal capability to undertake multi- and inter-disciplinary research. This presents an increasing risk to the UK's world leading position in science, research and innovation.

12. Sir Paul Nurse's review found that, by utilising their collective convening power, the Councils and Innovate UK have been able to promote interactions between the academic and business communities. But he identified the need for a 'smoother pathway to more applied research,'235 observing that the integration of innovation and research funding functions could help address this. Bringing together research and innovation funding functions under a single organisation, led by a strategic board comprising representatives from both communities, will drive up awareness among research leaders of the needs and interests of the business sector, as well as enabling the business community to identify opportunities arising from research. This will catalyse more informed funding decisions, maximising benefits to the UK economy from the Government's significant investment in research and innovation.

13. The current research and innovation funding structure also leads to a large amount of duplication of functions and activities across the nine funding bodies. Some of this duplication could be reduced by the bodies working closer together. As outlined in their response to the Higher Education Green Paper and the Nurse Review[238], Research Councils have already committed to a programme to improve the efficiency and

[237] A review of the UK's interdisciplinary research using a citation-based approach, HEFCE, July 2015 http://www.hefce.ac.uk/pubs/rereports/Year/2015/interdisc/Title,104883,en.html
[238] Research Councils UK: response to the Higher Education Green Paper and the Nurse Review, RCUK, January 2015, http://www.rcuk.ac.uk/media/news/160115/

effectiveness of their operations, and a move toward operating as a single collective organisation, underpinned by centrally-led common functions. However, there is further duplication that is unavoidable for these separate legal entities and the requirements placed on them through the current legislation. For example, each of the nine bodies are legally required to manage, monitor and report on their funding separately, with each separate accounting officer having in place finance teams, systems and processes to deliver these functions.

14. The administrative costs of the nine funding structures in 2014-15 are shown in Table 1. HEFCE's administrative costs were £25m in 2014-15. HEFCE currently has responsibility for allocating teaching grants, as well as research grants. In the new system, it is envisaged that the teaching functions will move to the Office for Students (OfS). It has been estimated that 17 FTE posts in HEFCE are directly responsible for the Research and Knowledge Exchange function[239]. As there were a total of 242 FTE staff at HEFCE in 2014/15, our estimate is that 7% (17/242) of the administrative costs are for functions related to Research and Knowledge Exchange funding. This was equal to £2m in 2014-15. This is a lower bound assumption mirrored in the OfS Impact Assessment, to give an estimate of the proportion of HEFCE's current administrative spend that could be attributed to research, as opposed to teaching, functions. This is not an indication of the intended split of staff between UKRI and OfS, which is subject to further work on the detailed organisational design of the new bodies. This estimate excludes the costs of the Research Excellence Framework (REF), which is currently being reviewed by Lord Stern.

Table 1 – 2014-15 administrative costs for funding bodies

Funding body	Administration costs (2014/15)
NERC	£14m
MRC	£24m
STFC	£12m
BBSRC	£16m
AHRC	£4m
EPSRC	£11m
ESRC	£3m
Innovate UK	£19m
HEFCE	£2m
TOTAL	**£105m**

[239] Source: Internal BIS estimates

Rationale for intervention

15. Government is grateful for the actions taken by the Research Councils to strengthen coordination and cross-cutting decision making, including through the work of Research Councils UK (RCUK) and the Research Councils Together programme. We also value the joint working between the Councils, HEFCE and Innovate UK. But, as detailed above, the current legislation that governs the current funding body landscape places restrictions such that it is not able meet the challenges of the future, and therefore further legislation is necessary to address this.

16. We have already announced our intention to take forward Sir Paul Nurse's recommendations to create UK Research and Innovation (UKRI), a single non-departmental public body operating at arm's length from Government. UKRI will bring together the seven Research Councils and integrate Innovate UK while retaining its distinctive business focus and separate funding stream. We also announced that we would look to integrate Innovate UK within the new body while retaining its distinctive business focus and separate funding stream. Wider changes to the Higher Education funding system set out in the HE Green Paper also provide an opportunity to further strengthen, streamline and simplify the research and innovation landscape by integrating the research funding functions currently performed by the Higher Education Funding Council for England (HEFCE). Responses to the consultation held on the HE Green Paper highlighted the need to protect the Dual Support system (explained in paragraph 3) within a single body. We agreed with this and for the first time, subject to Parliament, we will provide a legal basis for that protection.

17. In parallel, the creation of the Office for Students (OfS) will simplify the regulatory landscape by bringing together under a single sector regulator the regulatory functions of HEFCE and the Director of Fair Access (DFA). This new body, with a specific focus on promoting the student interest, will have a remit to introduce a single regulatory framework for all HE providers in England. It will bring together the expertise and shared agenda of HEFCE and the DFA, supported currently by the Office for Fair Access, to streamline their functions and give a single body the responsibility for all widening participation functions and student access spending.

Policy objectives

18. The creation of UKRI offers an opportunity to strengthen the strategic approach to future challenges and maximise value from Government's investment of over £6bn per annum in research and innovation. It will deliver:

- a greater focus on cross-cutting issues that are outside the core remits of the current funding bodies, such as multi- and inter-disciplinary research, enabling the system to respond rapidly and effectively to current and future challenges;
- a strengthened, unified voice for the UK's research and innovation funding system, facilitating the dialogue with Government and partners on the global stage;
- improved collaboration between the research base and the commercialisation of discoveries in the business community, ensuring that research outcomes can be fully exploited for the benefit of the UK;

- better mechanisms for the sharing of expertise and best practice – for example, around management of major projects and large capital investment – driving up the effectiveness of decision making;
- more time for research and innovation leaders to focus on strategic leadership through the centralisation of back and middle office functions and the reduction of administrative responsibilities; and
- improved quality of evidence on the UK's research and innovation landscape through the pooling of multiple datasets and information sources, underpinning effective funding decisions.

19. In addition, these reforms will remove unnecessary duplication across the research and innovation funding landscape and enable clear governance, resulting in a simple, easier and more agile system that will benefit researchers, research institutes and businesses.

Description of options considered (including do nothing)

20. The options considered in this impact assessment are:

    Option 0: "Do Nothing" - Retain the current research and innovation funding structures.

    Option 1: Retain the current research and innovation funding structures, and create an additional research body, to establish mechanisms for supporting multi- and inter-disciplinary research.

    Option 2: Create UK Research and Innovation, a single non-departmental public body operating at arm's length from Government, bringing together the seven Research Councils, integrating the research functions currently performed by HEFCE within this new body, and integrating Innovate UK while retaining its distinctive business focus and separate funding stream.

21. Our preferred option is Option 2, as it delivers the policy objectives set out above.

Option 0: "Do nothing" - Maintain the current research funding structures

22. The "Do Nothing" option would maintain the current research and innovation funding structures. As set out in paragraphs 9 to 11, the limits of the current governance of research and innovation funding present challenges to the effective funding of the inter- and multi-disciplinary research needed to address the grand challenges facing the world now, and in the future. This option does not meet the Government's policies and public commitments, for example the commitment to fund research according to the Haldane principle. Neither does it address the inherent duplications and costs of having 9 separate legal bodies which we are intending to replace with one, or avoid the complex governance arrangement and 'work-arounds', with the associated overhead costs, that is needed to meet the new research environment and challenges.

23. As outlined in paragraph 13, Research Councils have already committed to a programme to improve the efficiency and effectiveness of their operations, and a move toward operating as

a single collective delivery organisation, underpinned by centrally-led common functions. This programme aims to streamline, standardise and simplify Research Council operations. It will commence in April 2016 and is expected to deliver significant savings in operational costs of between 20% and 25% over the subsequent three years. However, this programme will not address the further duplication of functions and activities that is unavoidable if they continue to operate as separate legal entities.

Option 1: Retain current research funding structures and create an additional research funding body to establish mechanisms for supporting multi- and inter-disciplinary research.

24. This option is to create a new body, alongside the nine existing research and innovation funding bodies, to establish mechanisms for supporting multi- and inter-disciplinary research. This option would result in ten separate legal entities responsible for funding UK research and innovation, and therefore would not deliver many of the policy objectives outlined in paragraphs 18 and 19.

Costs

25. This option would add another body to an already complex research and innovation funding landscape, increasing, rather than reducing, complexity and bureaucracy. This would add to the duplication of functions and activities of the nine existing research and innovation funding bodies that is outlined in paragraph 13.

26. There would be an additional administrative cost of running this new body. It is difficult to estimate the exact size of this cost, as it would depend on the final organisation design of the body. As an indicative scenario, based on the administrative costs of the current system shown in Table 1, we estimate that the administrative cost of delivering a greater focus on cross-cutting issues would be around £4m per annum from 2018-19 onwards.

27. There would also be one-off transitional costs of establishing this new body. It is difficult to estimate these costs, as they would depend on the purpose and design of the new body, but as a indicative scenario, we have assumed that they will be equal to the annual cost of the new funding body, with a £4m cost falling in 2017-18.

28. There will be transitional costs to researchers, research institutes and businesses as they familiarise themselves with the new body. As the remit and user base of this new body would be quite narrow, we estimate that these costs would be short term, and negligible.

Benefits

29. As outlined in paragraph 23, Research Councils have already identified 20-25% operational savings as part of their change programme.. Although these savings are already agreed, we consider that they would be more difficult for Research Councils to deliver under this option than under Option 2.

30. There would be some wider economic benefits associated with the formation of this new body. A greater focus on cross-cutting issues, such as multi- and inter-disciplinary research should enable the system to respond rapidly and effectively to current and future challenges.

31. These economic benefits are difficult to quantify, but we have looked at an indicative scenario. For every £1 invested by the Government on R&D, private sector productivity currently rises by 20p, which means a 20% rate of return on this spend. The science and research funding allocations for 2016 to 2020[241] show that the total Research Council budget will be around £3 billion per year. If these reforms resulted in a one percentage point increase in the rate of return achieved on just 5% of this total spend, from 2020-21 onwards, this would give an economic benefit of around £115 million. This is the estimated total economic benefit that would be accrued by the next 10 years of research spend (spend from 2016-17 to 2025-26, with an increase in the rate of return from 2020-21). The majority of these economic benefits would not be realised within the 10 year period, but over a much longer time period.

32. In addition to boosting productivity, science, research and innovation produces other important benefits that are harder to monetise but clearly demonstrated by strong case study evidence. Such non-market benefits include improved health and wellbeing, better development of public policy and delivery of public services, and cost avoidance through resilience to shocks. We could expect that some improvement in the delivery of multi- and inter-disciplinary research would lead to some improvement in the level of these non-market benefits.

33. While we would expect some improvement in the delivery of multi- and inter-disciplinary research, maintaining, and adding to, the current fragmented research and innovation funding landscape would not realise the majority of the benefits outlined in paragraphs 18 and 19.

34. The estimated 10 year net present value of Option 1 is £85m. This takes into account the transitional costs of setting up the new body and its ongoing administrative costs, and the economic benefits of a greater focus on these cross cutting issues.

Risks and Assumptions

35. All costs and benefits should be seen as broadly indicative and subject to change following more detailed work on the design of the new body, as well as the timing and nature of the transition to this new body. The costs and benefits have been rounded to the nearest £5m.

36. The implementation timetable has not been finalised, but for the purposes of this assessment we have assumed that the new body would be operational from 2018-19, with transitional costs falling in 2017-18. Values throughout the Impact Assessment are shown in real 2016-17 prices.

Option 2: Preferred option: Create UK Research and Innovation

37. The preferred option is to create one organisation that will facilitate greater strategic coordination of research and innovation activity, driving the UK's future productivity and growth, to be known as UK Research and Innovation (UKRI). UKRI will be an executive Non-

Departmental Public Body (NDPB) and will bring together the seven Research Councils, HEFCE's research funding functions and Innovate UK in one organisation that will facilitate greater strategic coordination of research and innovation activity.

Costs

38. There would be an additional administrative cost associated with delivering a greater focus on cross-cutting issues that are outside the core remits of the current funding bodies, such as multi- and inter-disciplinary research. It is difficult to estimate the exact size of this cost, as it will depend on the final organisational design of UKRI. As an indicative scenario, as in option 1b, based on the administrative costs of the current system shown in Table 1, we estimate that the cost of delivering these additional functions would be around £4m per annum from 2018-19 onwards.

39. Funding recipients will see little change except for a simplified process, but there could be a very small transitional cost to researchers, research institutes and businesses as they familiarise themselves with UKRI. This could involve familiarisation with new email addresses and phone numbers. We estimate that these costs will be short term, and negligible.

40. There would also be a transitional administrative cost of establishing UKRI. This would depend on the final organisation design of UKRI, and so is difficult to quantify, but as an indicative scenario, we have assumed that it would be equal to the estimated annual cost of the new body's additional functions, with a £4m transitional cost falling in 2017-18.

Benefits

41. As outlined in paragraph 23 Research Councils have already identified 20-25% operational savings as part of their change programme. The creation of UKRI means that we can better embed these savings, and ensure that they lead to better outcomes, and therefore better value for money for the taxpayer.

42. Currently, there are a number of functions and outputs that are duplicated across the Research Councils. UKRI provides the opportunity to remove this duplication, increasing efficiency and reducing some costs. Potential areas for consolidation include services such as HR, procurement, finance services, auditing and IT and communications. In addition there will be opportunities to remove duplication and improve strategic alignment in some specific programmes of work such as business planning, grant administration and analytical and evaluation work (including annual reporting of impact and performance). The exact size and nature of these financial benefits will depend on the final organisational design of UKRI, and are difficult to quantify, but we have looked at an indicative scenario. We estimate that the total annual administrative cost of UKRI will be the sum of the administrative costs of the nine current funding bodies shown in Table 1 (£105m pa), and the cost of delivering a greater focus on cross-cutting issues (£4m pa), outlined in paragraph 38[240]. As an indicative

[240] We have assumed that the administrative cost of research and innovation funding is constant, in cash terms, between 2014-15 and 2016-17. This is based on internal BIS analysis of the administrative budgets for 2015-16 and 2016-17

scenario we have estimated that the administrative savings would be equivalent to 5% of this total annual administrative cost. This gives an estimated administrative saving of around £5m per annum, from 2018-19 onwards.

43. There are wider economic benefits to the integration of the seven Research Councils and the research functions of HEFCE. These reforms will deliver a greater focus on cross-cutting issues, such as multi- and inter-disciplinary research, enabling the system to respond rapidly and effectively to current and future challenges. These reforms will mean more time for research and innovation leaders to focus on strategic leadership, through the centralisation of back and middle office functions and the reduction of administrative responsibilities. These reforms will result in an improved quality of evidence on the UK's research and innovation landscape through the pooling of multiple datasets and information sources, underpinning effective funding decisions. There would also be benefits to researchers, research institutes and businesses from interaction with a simpler, easier and more agile research funding landscape, allowing more time to focus on research and innovation.

44. These economic benefits are difficult to quantify, but we have looked at an indicative scenario. For every £1 invested by the Government on R&D, private sector productivity currently rises by 20p, which means a 20% rate of return on this spend. The science and research funding allocations for 2016 to 2020[241] show that the total Research Council allocation will be around £3 billion per year, and for modelling purposes only, we have modelled that this allocation will continue to 2025-26. If these reforms resulted in a one percentage point increase in the rate of return achieved by just 10% of this total spend from 2020-21 onwards, this would give an economic benefit of around £230m. This is the total economic benefit that would be accrued by the next 10 years of research spend (spend from 2016-17 to 2025-26, with an increase in the rate of return from 2020-21). The majority of these economic benefits would not be realised within the 10 year period, but over a much longer time period.

45. There are further economic benefits to the integration of Innovate UK and research funding. Bringing together research and innovation funding functions under a single organisation, led by a strategic board comprising representatives from both communities will result in a strengthened, unified voice for the UK's research and innovation funding system, facilitating the dialogue with Government and partners on the global stage. These reforms will result in improved collaboration between the research base and the commercialisation of discoveries in the business community, thereby ensuring that research outcomes can be fully exploited for the benefit of the UK. These reforms will catalyse more informed funding decisions, maximising benefits to the UK economy from the Government's significant investment in research and innovation.

46. These economic benefits are difficult to quantify, but we have considered an indicative scenario. The returns to innovation support are estimated to be 50% per £1 invested[242]. With

[241] Science and research funding allocation: 2016 to 2020, BIS, March 2016 (https://www.gov.uk/government/publications/science-and-research-funding-allocation-2016-to-2020)
[242] This is the total benefit to the immediate recipients of the funding, and the spillover benefit to wider businesses

the introduction of New Innovation Finance Products, spending on business-led innovation for the period 2016-2020 will remain flat, in cash terms, and for 2016/17 will be around £470m. For this indicative scenario we have assumed that this annual allocation will continue to 2025-26. If these reforms resulted in a one percentage point increase in the social rate of return achieved by just 10% of this total spend from 2020-21 onwards, this would give an additional economic benefit of around £20m. This is the total additional economic benefit, excluding leverage effects, that would be accrued by the next 10 years of innovation spending under the given scenario (spend from 2016-17 to 2025-26, with an increase in the rate of return from 2020-21). The majority of these economic benefits would not be realised within the 10 year period, but over a much longer time period.

47. In addition to boosting productivity, science, research and innovation produces other important benefits that are harder to monetise but clearly demonstrated by strong case study evidence. Such non-market benefits include improved health and wellbeing, better development of public policy and delivery of public services, and cost avoidance through resilience to shocks. We would expect the strengthened strategic approach to future challenges that would be delivered by these reforms to result in improvement in the level of these non-market benefits.

48. The estimated 10 year net present value of Option 2 is £255m. This takes into account the additional administrative costs of setting up UKRI, and delivering the new inter- and multi-disciplinary functions, and the economic benefits of the reforms.

Risks and Assumptions

49. All costs and benefits should be seen as broadly indicative and subject to change following more detailed work on the design of UKRI, as well as the timing and nature of the transition to this new body. The costs and benefits have been rounded to the nearest £5m.

50. The implementation timetable has not been finalised, but for the purposes of this assessment we have assumed that UKRI will be operational from 2018-19, with transitional costs falling in 2017-18. Values throughout the Impact Assessment are shown in real 2016-17 prices.

Annex A: Forecast number of providers following the reforms

The following shows the forecast impact of proposed Higher Education and Research Bill reforms on the number of providers in the sector. This is summarised in Table A1 below. It looks at the current structure of the HE sector, and recent trends and applies a set of assumptions about how individual HE providers will respond to the reforms. It is important to stress that these estimates are subject to considerable uncertainty, and should be regarded as illustrative of the broad changes we expect. Overall, as a result of the reforms, it is expected that:

a. **We will give HE providers the opportunity to become ‘Registered’ with the Office for Students; and remove the unnecessary bureaucracy from the system.** As a result, we expect the number of providers recognised (in one of the three Registered categories) by the government, to increase: with 580 in 2018/19, rising up to 806 by 2027/28. Consequently; the number of providers outside the system would decrease from 553 in 2018/19 to 314 by 2027/28.

b. **A large proportion of providers will become Registered - Basic – which will mean improved oversight of the sector and student protection.** It is expected that 62 providers will enter that category in 2018/19; with total number in this category rising to 121 in 2027/28.

c. **With the costs, bureaucracy and timescales associated with entering the HE system all reduced, we can expect to see significant entry of alternative providers to the Approved and Approved (Fee Cap) categories** with 145 in 2018/19 and 311 in 2027/28. The increase will include both brand new entrants to HE; those who have previously been put off from seeking regulatory approval and designation, and who have hence been outside the system; those seeking student support for postgraduate courses; and those fulfilling the requirements of their Tier 4 trusted sponsor status.

d. **We will also promote competition by offering more flexible options for providers to obtain their own Degree Awarding Powers. As a result, we expect far more degree-level providers, currently reliant on incumbent providers to validate their degrees, will choose to award their own degrees.** The number of APs with DAPs is expected to increase from 9 in 2014/15 to 51 in 2018/19; and to 118 by 2027/28, particularly as existing institutions gain their own DAPs and no longer rely on validation arrangements.

e. **The number of FECs offering HE courses is expected to remain stable throughout – changes to the system will not have very significant effects on them, and majority of FECs already offer HE courses.**

f. **All providers, currently receiving public funding from HEFCE, are expected to remain in the sector, as they are large and financially stable.**

Table A1: Forecast number of Higher Education providers, 2018/19-2027/28

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Outside the system	**553**	**531**	**500**	**470**	**439**	**408**	**380**	**355**	**333**	**314**
Recognised as in the system	**580**	**601**	**624**	**649**	**676**	**705**	**733**	**759**	**783**	**806**
Registered - Basic	***102***	***106***	***111***	***116***	***122***	***128***	***134***	***138***	***143***	***147***
APs	62	68	75	82	89	97	104	110	116	121
with DAPs	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*
without DAPs	*62*	*68*	*75*	*82*	*89*	*97*	*104*	*110*	*116*	*121*
FECs	40	38	36	34	33	31	29	28	27	25
HEIs	0	0	0	0	0	0	0	0	0	0
Approved	***88***	***98***	***110***	***122***	***135***	***149***	***162***	***174***	***186***	***197***
APs	88	98	110	122	135	149	162	174	186	197
with DAPs	*30*	*31*	*32*	*34*	*37*	*40*	*44*	*47*	*51*	*54*
without DAPs	*58*	*68*	*78*	*88*	*98*	*108*	*118*	*127*	*135*	*143*
FECs	0	0	0	0	0	0	0	0	0	0
HEIs	0	0	0	0	0	0	0	0	0	0
Approved (fee cap)	***390***	***397***	***403***	***411***	***419***	***428***	***437***	***446***	***454***	***462***
APs	57	62	67	72	79	86	94	101	108	114
with DAPs	*21*	*24*	*28*	*33*	*38*	*43*	*48*	*54*	*59*	*64*
without DAPs	*36*	*37*	*38*	*40*	*41*	*43*	*45*	*47*	*49*	*50*
FECs	204	206	208	210	211	213	215	216	217	219
HEIs	129	129	129	129	129	129	129	129	129	129

Annex B: Survey of Alternative Providers with designated courses

Methodology

The survey was conducted over December 2015 – January 2016, to gather Alternative Providers' (APs) views on the policies proposed in the Higher Education Green Paper; as well as their future plans. It has been conducted via an online questionnaire on surveymonkey.com, and was sent to key contacts in all APs that are currently designated for student support. Out of the 111 providers it was sent to, 44 providers have responded, with 35 providers offering complete responses to the survey (32 per cent response rate). Qualitative responses to the questions were treated as confidential and are not included below. For numerical questions about administrative burdens, truncated means are provided (excluding top and bottom 5% of the responses) to ensure the findings are more representative. Responses to questions with fewer than 5 respondents were not provided as not representative.

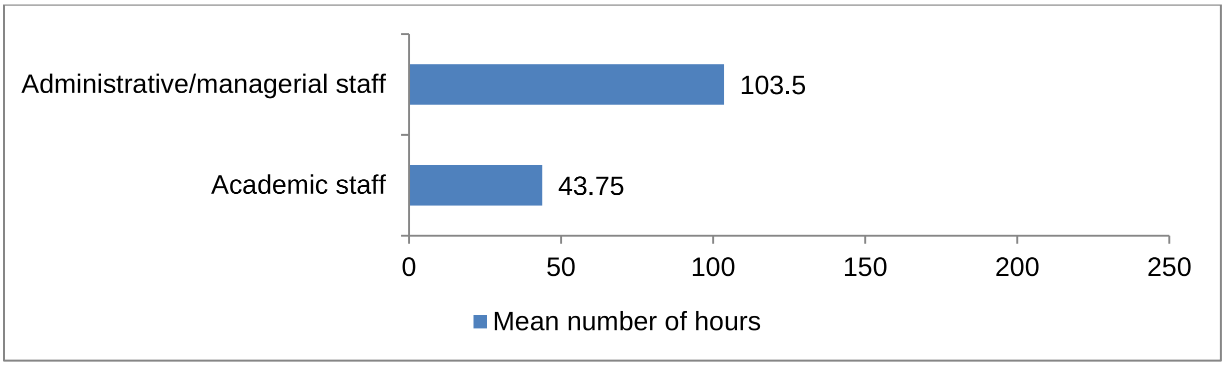
Findings

Current position

Question 1. Did your institution have a specific plan (e.g. documented in institution's business plan) to get more courses designated for student support within the next 5 years?

Response	% respondents
Yes	46%
No - too burdensome	14%
No - courses not currently designated would not meet the requirements	11%
No - financial return would not be sufficiently large	7%
Not applicable	23%
n	44

Question 2. Approximately, how many hours of staff time are spent on compliance with annual re-designation requirements on an annual basis?



Question 3. Prior to the announcement of reforms in Higher Education Green Paper, did your institution have specific plans to apply for Degree-Awarding Powers within the next 5 years?

Response	% respondents
Yes	36%
No	64%
n	39

Question 4. How many hours of staff time in your institution have been spent on obtaining DAPs?

Insufficient number of responses.

Future operating model

[Respondents are explained the reforms suggested in 2015 Higher Education Green Paper, related to streamlining and creating a single route of entry into the sector]

Question 5. Is your institution planning to get designated under the new system?

Response	% respondents
Yes	100%
No	0%
n	34

Question 6. If the system outlined above was implemented, under which model would your institution be more inclined to enter the system?

Response	% respondents
Model 2a[243]	59%
Model 2b[244]	41%
n	34

Question 6a. What is the main reason for your choice?

Model 2a		Model 2b	
Lower administrative burden	58%	**Greater amount of student loan funding available**	57%
Ability to charge higher (uncapped) fees	32%	**Access to teaching grants**	7%
Other	11%	**Other**	36%
n	19	n	14

Question 7. Following the changes to the system, are you planning to apply for Degree-Awarding Powers in the next 5 years?

Response	% respondents
Yes	59%
No	32%
Not applicable	9%
n	34

[243] Here and afterwards – Model 2a was a working title for this category, currently replaced by ‘Approved’.
[244] Model 2b is currently replaced by ‘Approved (fee cap)’

Impact of changes to the sector

Question 8. As a direct result of changes to the system, is your institution more likely to?

Response	% respondents
Offer more courses designated for government support	62%
Recruit more students to undergraduate courses	73%
Recruit more students to other courses	35%
Have a greater % of students receive government support	39%
Start offering a new/different range of courses	46%
Expand your facilities	62%
Hire new academic staff	73%
n	26

Question 9. Based on your knowledge of the HE sector, which of the following would you expect following the introduction of reforms?

Response	% respondents
More new providers being set up	16%
More existing providers entering the system (getting designated)	28%
More existing providers going up to get their own Degree-Awarding Powers	56%
n	32

Question 10. Currently, there are 129 HEFCE-funded universities and 110 alternative providers with specific course designation. Once the unnecessary barriers to progression are removed, one would expect the sector to reach an "optimal" size, with the overall number of institutions relatively stable. How many institutions do you think are optimal for English higher education sector?

Response	% respondents
250-300	67%
301-350	17%
351-400	3%
400-500	7%
501+	7%
n	30

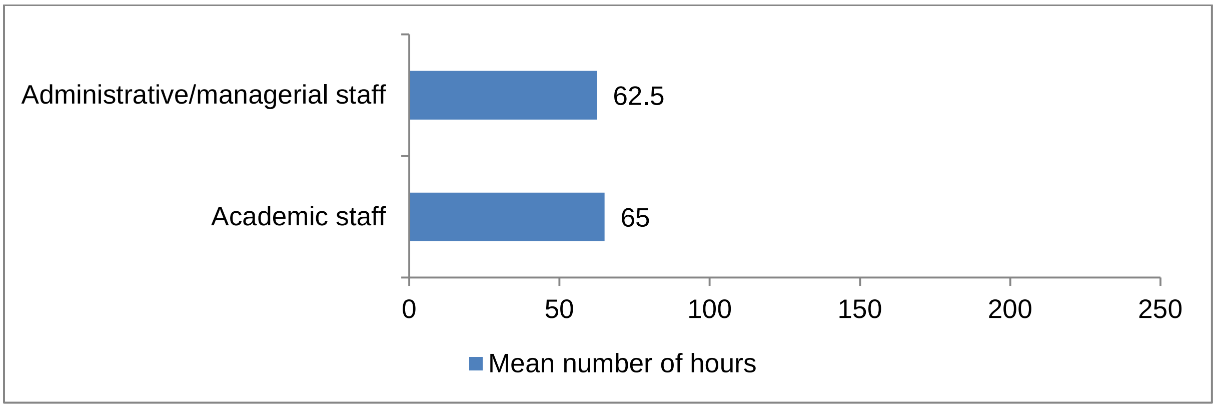
Contingency plans

[Respondents are explained the reforms suggested in 2015 Higher Education Green Paper, related to student protection in the event of provider exit]

Question 11. Do you have an existing contingency plan in place that satisfies the above requirements? (Mindful of the fact that the detailed requirements will be subject to consultation and further policy development)

Response	% respondents
Yes	47%
No	53%
n	34

Question 12. How many hours of staff time do you believe would be needed to finalise and agree a contingency plan, consistent with the above requirements?



Subject specialisation

Question 13. Are you partnered with any other HE institutions in England (offer joint degrees, work together to develop curriculum)?

Response	% respondents
Yes - with institutions that complement our provision	21%
Yes - with institutions that offer similar courses	21%
Yes - both	9%
No	49%
n	33

Question 14. Does your institution have a particular subject specialism?

Response	% respondents
Yes	82%
No – generalist/offer a range of subjects	18%
n	34

Question 15. How many institutions in the UK have a similar subject specialism?

Response	% respondents
More than 50	10%
20-49	14%
10-19	24%
5-9	21%
Fewer than 5	31%
n	29

Question 16. Are any of the courses taught unique to your institution? (a student would not be able to study a course with a similar curriculum at any other institution in England)

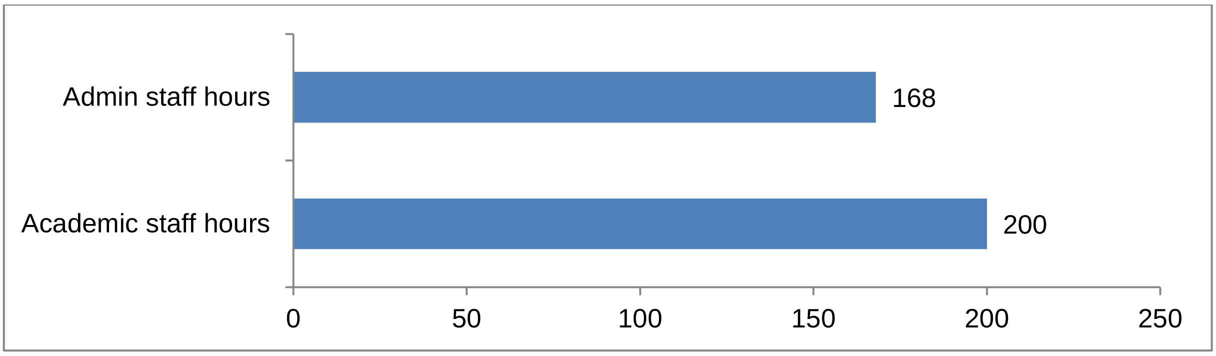
Response	% respondents
Yes	35%
No	65%
n	34

Course validation

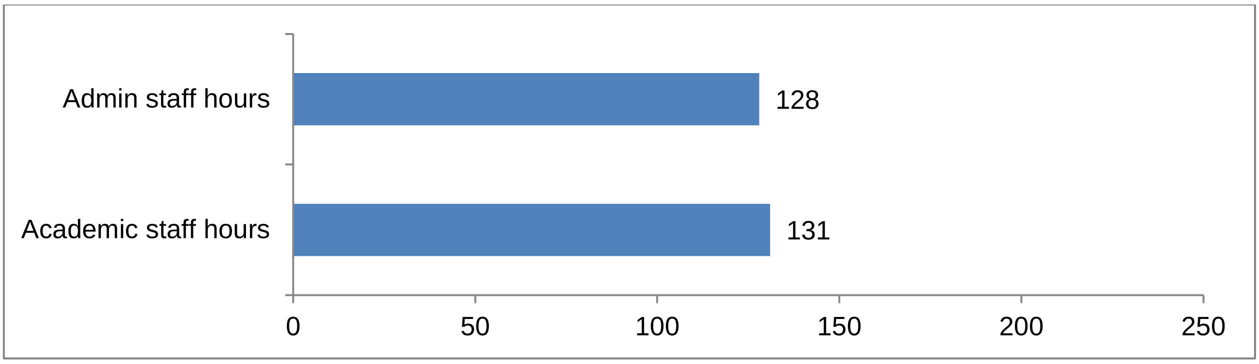
Question 17. Does your validation contract specify a payment for validation?

Response	% respondents
Yes	67%
No	33%
n	33

Question 18. How much staff time (in hours) was spent on finding a validation partner and agreeing the validation contract?



Question 19. How much staff time is spent on complying with validation contract conditions (focusing only on things that your institution would not otherwise do)?



Question 20. Has your institution ever faced difficulties in obtaining/renewal of a validation agreement?

Response	% respondents
Yes	36%
No	64%
n	32

Annual re-designation

Question 21. What would you expect to happen to the designated courses offered at your institution, if they lost their specific course designation?

Response	% respondents
Reduction in student numbers	49%
Reduction in course fees	0%
Closure of the course	51%
n	33

Question 22. Does the uncertainty related to re-designation of your institution's courses have a material effect on your institution?

Response	% respondents
Yes	82%
No	18%
n	34

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