

## **New powers to enter and inspect higher education providers**

### **Department for Business, Innovation and Skills**

**RPC rating: fit for purpose**

#### **Description of proposal**

Currently, neither the Department, nor its partner organisations, have the right to enter and inspect higher education (HE) providers if they suspect that a provider has committed a serious breach of funding conditions. An example of such a breach would be knowingly overstating the number of students enrolled on approved courses, to obtain increased funding. Currently, inspections of HE providers can be conducted only with the provider's permission and with their prior agreement.

The impact assessment (IA) states that the proposal would enable BIS staff and the staff of the Office for Students, the proposed new HE regulator, to apply for court orders to enter and inspect HE providers. These would be granted only if the Department could make a legally defensible case for entry.

#### **Impacts of proposal**

The IA states that, in the majority of cases, HE providers already grant permission for inspections, as recent government guidance recommends that withholding this permission may be taken into account in the assessment of future funding. The Department, therefore, expects that application would be made for just three court orders a year and would expect to conduct an inspection in each of these cases. This is based on evidence from investigative officials on the number of cases where they would have used such a power, if it had been available, in the last three years. The Department also states that the speed of existing investigations may be improved.

The costs to HE providers that have court orders granted against them associated with accommodating an investigation visit, would include staff time spent verifying court orders, showing investigators where to find documents and data and observing while they collect evidence. The Department has not monetised these costs. The IA states that the Department is unsure what percentage of these costs would accrue to non-compliant firms because it does not know against which providers the power would

have been used and which could have been prosecuted, if the measure had been in place.

The IA states that HE providers would incur the cost of the time staff spent familiarising themselves with the measure. The Department expects these costs to be negligible, as this proposal introduces only a simple change from the existing government guidance on HE inspections, with which HE providers will recently have familiarised themselves.

The IA states that there would be benefits to the tax payer from being able to identify more easily serious breaches in funding conditions. This would ease the recovery of misused funds and stop future payments for inappropriate purposes.

The IA states that the measure would involve small costs to the legal system, from processing additional court orders, and to BIS and the Office for Students, from carrying out additional investigations.

The RPC verifies the estimated equivalent annual net direct cost to business (EANDCB) of zero for reporting purposes. This will be a qualifying regulatory provision that will be accounted for under the business impact target.

## **Quality of submission**

The Department has not been able to monetise the costs to HE providers of accommodating inspections or familiarisation with the measure. The IA would benefit from including costs for these impacts and from discussing further what percentage of the cost of accommodating inspections would be borne by non-compliant HE providers. However, the Department has demonstrated that the scale of these costs is likely to be very small.

The IA states that very few traditional HE providers (such as those that receive HEFCE funding) are small or micro businesses, although approximately 75% of alternative HE providers are. The IA states that it is not possible to exempt these providers, as cases where the Department suspects a breach of funding conditions, and the provider does not allow an inspection voluntarily, disproportionately involve alternative HE providers. Therefore, although a high proportion of the costs may fall on small businesses; these costs will be very small and, at least, fall partly on non-compliant businesses. Exempting small businesses would also lose a high proportion of the benefit of the policy. This appears reasonable.

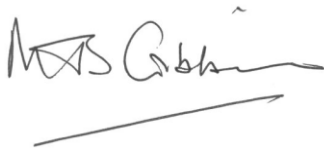
## **Departmental assessment**

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Classification	Qualifying regulatory provision
Equivalent annual net direct cost to business (EANDCB)	Zero (not quantified)
Business net present value	Zero (not quantified)
Societal net present value	Zero (not quantified)

### RPC assessment

Classification	Qualifying regulatory provision
EANDCB – RPC validated	Zero
Business impact target score	Zero
Small and micro business assessment	Sufficient



**Michael Gibbons CBE**, Chairman