
Deregulating higher education corporations and simplifying the Privy Council approval process

Department for Business, Innovation and Skills

RPC rating: fit for purpose

Description of proposal

The proposal will make the following two changes to the regulatory framework for higher education providers (HEPs):

1. Remove any additional statutory requirements for higher education corporations (HECs) that other publicly funded HEPs are not subject to.

HECs are ex-polytechnic universities, which have been subject to greater regulation, when compared to other HEPs, since their funding was transferred to central government funding. The intention of the additional requirements was to assist HECs with their establishment and growth. However, the Department believes the additional regulation is no longer required and that the regulatory framework creates a competitive disadvantage relative to other publicly funded HEPs.

2. Simplify the requirements for some publicly funded HEPs to agree any changes in their governing document with the Privy Council.

All HEPs are currently required to clear any changes in their governing documents with the Privy Council to provide assurance that the changes are in the public interest. However, this process is burdensome and takes between two and 12 months to complete. Consequently, publicly funded HEPs are slower to adapt than their privately funded counterparts.

Impacts of proposal

Deregulating HECs

Benefits

HECs will benefit from increased flexibility, which will allow them to respond to changes in the higher education sector in ways that are more suited to their needs. This will affect their governance and ability to operate as a business, for example when raising capital. This is expected to result in a more level playing field with other HEP competitors. The Department has been unable to monetise this benefit.

Costs

There may be some cost associated with amending governing documents. However, HECs are only expected to make amendments where the benefits are expected to outweigh the costs.

Simplifying Privy Council clearance

Benefits

Two thirds of publicly funded HEPs are expected to benefit as a result of the proposal, as around a third of publicly funded HEPs are chartered and are not within the scope of this proposal. On average, the Privy Council receives around 60 requests for clearance each year. Therefore, of these 60 requests, it is estimated that 40 will benefit from the simpler clearance process. The Department's best estimate of the legal fees associated with the Privy Council clearance process is £3,500 per request; therefore, the proposal is expected to result in a £140,000 saving to HEPs each year.

The RPC verifies the estimated equivalent annual net cost to business (EANCB) of -£0.1 million. This will be a qualifying regulatory provision that will score under the business impact target.

Quality of submission

The IA should include the source of its data. In particular, the IA would benefit from stating the origin of the £2000-£5000 range for legal fees related to the Privy Council process.

Although the Department has quantified the benefit of reduced legal fees arising from the simplification of the Privy Council clearance process, the IA should discuss the time spent amending governing documents to satisfy the Privy Council. The IA would also benefit from a more detailed explanation of why familiarisation costs resulting from the deregulation of HECs are expected to be negligible.

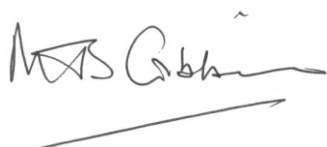
The IA would benefit from a clearer division between the impacts of the proposals relating to this IA and the proposal to establish the office for students (OfS). Paragraphs 43 and 44 refer to the cost of complying with the OfS public interest principles; however, it appears that this cost is not a result of the proposals to which the IA relates, as the establishment of the OfS is not part of this proposal.

Departmental assessment

Classification	Qualifying regulatory provision (OUT)
Equivalent annual net cost to business (EANCB)	-£0.13 million
Business net present value	£1.21 million
Societal net present value	£1.29 million

RPC assessment

Classification	Qualifying regulatory provision (OUT)
EANCB – RPC validated ¹	-£0.1 million
Business Impact Target (BIT) Score ¹	-£0.5 million
Small and micro business assessment	Not required (deregulatory)



Michael Gibbons CBE, Chairman

Jonathan Cave did not participate in the scrutiny of this case to avoid a potential conflict of interest.

¹ For reporting purposes, the RPC validates EANCB and BIT score figures to the nearest £100,000.