Department for Education

Securing student success: Regulatory framework for higher education in England

Impact assessment

July 2018

Contents

Title: Securing student success: Regulatory framework for higher education in England	Impact Assessment (IA)
IA No: DfE-103	**Date:** 07/2018
	Stage: Final
RPC Reference No:	**Source of intervention:** Domestic
Lead department or agency: Department for Education	**Contact for enquiries:**

Summary: Intervention and Options

RPC Opinion:

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**
£20.1m	£137.8	-£13.6		

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

Over the last twenty-five years, the higher education sector in England has evolved significantly in how it is structured and funded. A consequence of these changes has been that the current regulatory framework, and the funding and regulatory bodies that oversee it, are becoming less effective at achieving further continuous improvements in competition and choice. A strong economic case exists to move from a funding council model to a market-based regulator with more effective powers to protect the interests of students and taxpayers and ensure they are able to achieve the best possible outcomes and value for money on their investment in higher education.

What are the policy objectives and the intended effects?

The overarching policy objective is to promote greater competition that will offer students a greater choice of high quality providers in the HE sector, with the goal of improving access, progress and to deliver outcomes and value for students, employers, and the tax payers who underwrite the system. This will be achieved by creating a new single regulator, and a new HE regulatory framework that 1) creates a level playing field for all providers 2) removes unnecessary barriers to entry while maintaining a high bar 3) removes existing complexities in the system 4) improves the availability of information so that students can make informed choices 5) protect student interests 6) promotes access and participation and 7) takes a risk-based approach to regulation.

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 existing regulatory framework is retained.

Option 1 – **Introduce a new regulatory framework (preferred)**. The newly established Office for Students (OfS) will regulate the HE sector with a new regulatory framework that: 1) creates a clear and single gateway into the sector that levels the playing field for providers 2) introduces initial and on-going registration conditions that are designed to ensure the OfS delivers a high bar for entry 3) adopts a risk-based approach to regulation 4) reforms the existing validation system making it easier for new high quality providers to have their courses validated by a body with UK degree awarding powers 5) introduces a faster, more flexible and cost saving process for obtaining Degree Awarding Powers (DAPs) and 6) makes it simpler to obtain a University Title.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date: After 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, 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: 07/2018

Summary: Analysis & Evidence

Policy Option 1

Description: Delivering positive outcomes for students – the new approach to regulation in Higher Education

FULL ECONOMIC ASSESSMENT

Price Base Year 2018	PV Base Year 2018	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 15.1	**High: 25.1**	**Best Estimate: 20.1**

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Cost** (Present Value)
Low	3.5		40.7	341.8
High	5.9		67.9	569.6
Best Estimate	4.7		54.3	455.7

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

Meeting the new initial and ongoing conditions of the OfS register is estimated to cost providers £10.1m per year, on average. Familiarisation and transition costs are estimated to be £2.2m and £2.5m, respectively. The creation of the Approved (fee cap) category increases tuition fee income to providers (taking into account financial support they offer students through an Access and Participation Plan) by £12.3m to £29.6m – this cost is shared by students and the Government via income contingent student loans.

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

Increased student choice, facilitated by a level playing field for providers, is expected to benefit certain providers (including existing and new APs) more than others (most likely existing HEIs).

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Benefit** (Present Value)
Low	0		43.1	356.9
High	0		71.9	594.8
Best Estimate	0		57.5	475.8

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

The introduction of a new risk-based monitoring and assurance framework will save providers between £4.2m and £8.3m per annum. The creation of the Approved (fee cap) category will increase provider income by an estimated £12.3m to £29.6m annually (net of any financial support they offer students through an Access and Participation Plan).

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

The new regulatory framework should create a more competitive HE sector that leads to an improvement in choice, quality and value for money outcomes for students and taxpayers. This is a key, and we believe large, benefit that we are unable to monetise.

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

A key uncertainty in calculating the impact of these reforms is forecasting future provider numbers in the registration categories that will exist in the new framework. Throughout our analysis we have used a single set of assumptions regarding the future number of HE providers. Due to the interrelated nature of the Government's reforms to the HE sector we do not attempt to attribute specific impacts in provider numbers to individual measures.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			**Score for Business Impact Target (qualifying provisions only) £m:** -68.0
Costs: 19.3	**Benefits:** 32.9	**Net:** 13.6	

Problem Under Consideration

1. **This final impact assessment outlines the expected costs and benefits of the proposed new higher education regulatory framework as set out in Securing student success: regulatory framework in higher education in England[1], published 28th of February 2018.**

2. **It revisits and develops the analysis carried out in the impact assessments published in December 2017 in support of the *Higher Education and Research Act (2017)*[2]. These earlier impact assessments provide more background information on the current regulatory framework in the HE sector and the rationale for reforming it. These can be found at the following link: http://www.legislation.gov.uk/ukia/2017/182**

3. Over the last twenty-five years, the higher education sector in England has evolved significantly in how it is structured and funded. Since the Further and Higher Education Act 1992 there has been a marked rise in the number and diversity of providers as former polytechnics and colleges of higher education have been granted university status and new, smaller and more specialist higher education institutions known as Alternative Providers (APs) have entered the sector. These developments have together helped lay the foundations for stronger competition between new and existing providers.

4. At the same time, there has also been a fundamental shift in the way the sector is funded, away from grant support towards student fee income. Now that the majority of funding for the sector comes from students, this has raised their expectations in relation to the quality of teaching, their wider academic experience and their prospects after graduating.

5. A consequence of these changes has been that the current regulatory framework, and the funding and regulatory bodies that oversee it, are becoming less effective at achieving further continuous improvements in competition and choice. A strong economic case therefore exists to move from a funding council model to a market-based regulator with more effective powers to protect the interests of students and taxpayers and ensure they are able to achieve the best possible outcomes and value for money on their investment in higher education.

[1] https://www.officeforstudents.org.uk/media/1047/ofs2018_01.pdf

[2] These are updated versions of the impact assessments that accompanied the White Paper, Success as a Knowledge Economy, which were published in June 2016. They can be found at https://www.gov.uk/government/publications/higher-education-and-research-act-impact-assessments.

Rationale for Intervention

6. In addition to moving to a more market-based regulator, the regulatory framework it oversees needs to address particular barriers to competition that exist within the higher education sector, as well as ongoing information asymmetries regarding the different stages of the academic journey and the quality of teaching which students can expect. These features of the sector can serve to limit the ability of students, and taxpayers, to achieve the best possible outcomes, including value for money, on their investment in higher education.

Restrained competition in the higher education sector

7. Previous reforms have served to lay the foundations for a better functioning and more competitive market in the HE sector. However, as the Competition and Market Authority (CMA)[3] has noted, while competition in the HE sector has developed, there are still certain aspects of the current system which are hampering stronger competition.

8. For example, a condition of entry into the sector is that new providers must rely on incumbents to validate their degrees who may be reluctant to do so, particularly if the new entrant would be a direct competitor. New providers must also go through a time consuming process to become eligible for government funding and to gain their own degree awarding powers, which can put them at a disadvantage in terms of their ability to attract students.

9. The current operating framework is also highly complex and fragmented with some providers subject to more restrictive and burdensome regulation than others. This has the effect of distorting competition by giving some providers an advantage over others in terms of their ability to attract students or offer better or more innovative courses compared to other providers.

10. A more detailed description of the barriers to competition, which still exist in the HE sector, can be found in the earlier 2016 impact assessment which was published in support of the White Paper *Higher Education: Success as a Knowledge Economy*[4].

11. Restrained or distorted competition can lead to poorer student outcomes in a number of ways. For instance, it reduces the incentive for incumbent providers to raise their game in improving the quality of teaching and the wider academic experience they offer. It can also diminish the range of courses they provide,

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

[4] https://www.gov.uk/government/publications/supporting-evidence-for-the-higher-education-white-paper-2011.

limiting the development of new or more innovative courses and modes of delivery (for example, for distance learners or mature students).

Imperfect or incomplete information about HE provision

12. An inherent characteristic of higher education is that it is a so-called *experience* good, which means that its quality and value cannot be easily or accurately determined beforehand. This particular feature of higher education makes it difficult for students to make informed decisions about which course and institution to attend.

13. The problem is compounded by an information landscape that the 2016 White Paper identified as being inadequate. Students may take a range of different factors into account when deciding which institution or subject to choose. This includes the quality of teaching at different providers, potential employment outcomes, as well as the wider academic journey from the point of admission to graduation[5]. Without reform, prospective students would continue to be faced with information that was incomplete, unreliable or not readily available.

14. In the case of information on quality, this is being addressed through the ongoing development and application of the Teaching Excellence and Student Outcomes Framework (TEF)[6]. This aims to assess the quality of teaching at institutions – and the courses they offer – with the results published in a way that facilitates comparison across institutions, enabling prospective students to make more informed decisions about where teaching excellence can be found. To date the TEF has operated on a voluntary basis. As part of the new regulatory framework, TEF will operate on a mandatory basis for providers with more than 500 students.

15. It will be the role of the new regulatory framework to address the lack of transparency which may exist around the track record of providers with regards to their application, offer, acceptance, completion and attainment rates, especially for disadvantaged groups, and the particular areas where providers need to improve.

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[5] For more information on student decision making behaviour can be found in *Supporting evidence for the higher education white paper* BIS Economics Paper No14. https://www.gov.uk/government/publications/supporting-evidence-for-the-higher-education-white-paper-2011.

[6] For more information on TEF please refer to HEFCE guidance which can be found at http://www.hefce.ac.uk/lt/tef/.

Policy Objectives

16. The overarching policy objective is to promote greater competition, choice and standards in the HE sector with the goal of improving access, progress and outcomes for students investing in higher education, as well as delivering better value for money for students, employers, and taxpayers who underwrite the system. The new regulatory framework will preserve the HE sector's world-class reputation for teaching and research and support the sector's role as a driver of social mobility and productivity growth.

17. The OfS has now published[7] its regulatory framework which sets out 4 primary regulatory objectives.

18. All students, from all backgrounds, and with the ability and desire to undertake higher education:

    - Are supported to access, succeed in, and progress from, higher education
    - Receive a higher quality academic experience, and their interests are protected while they study or in the event of provider, campus or course closure
    - Are able to progress into employment or further study, and their qualifications hold their value over time
    - Receive value for money

19. These objectives will be achieved by:

    - Creating a level playing field for all providers who are regulated in the same way regardless of their 'label' or history.
    - Minimising the barriers to entry for new high quality providers so that they can enter the sector and compete on an equal footing with incumbent providers.
    - Removing existing complexities and duplication in the regulatory system which can be disproportionately burdensome and limit the ability of some providers to attract students.
    - Improving the availability of information about all aspects of the academic journey so that all students can make an informed choice about which course and institution best fits their needs and career aspirations.

[7] https://www.officeforstudents.org.uk/media/1406/ofs2018_01.pdf.

- Ensuring that minimum standards around quality, financial sustainability, governance and safeguards in the event of course, campus or provider closure are in place to protect student interests.
- Ensuring that appropriate access and participations plans and statements are in place to improve access, success and progression outcomes for students from disadvantaged backgrounds.
- Adopting a risk-based approach to regulation and monitoring with providers posing a greater risk to student outcomes receiving comparatively greater and more frequent scrutiny than lower risk providers.

Options Under Consideration

20. The options under consideration are:

Option 0 – Do Nothing. The existing operating framework is retained. The potential for stronger and more effective competition in the HE sector remains limited owing to the continued persistence of barriers to entry for new high quality providers and differences in the way HEIs and APs are regulated which hampers greater competition between the two sets of providers. This would mean that students, employers and taxpayers are unable to achieve the best possible outcomes.

Option 1 – Introduce a new regulatory framework (preferred). The newly established Office for Students (OfS) will oversee the HE sector using a new regulatory framework that:

- Creates a clear and single gateway into the sector that levels the playing field for providers. The OfS will introduce the OfS register, which will streamline the process of entering the HE sector for new providers, and make it easier for providers to change operating models. This should improve competition and innovation in the sector.

- Introduces initial and on-going registration conditions that are designed to ensure the OfS delivers a high bar for entry but minimises unnecessary burdens around registration. These conditions make sure standards are met to protect the interests of students, employers, taxpayers and the wider reputation of the HE sector.

- Adopts a risk-based approach to regulating and scrutinising providers whereby providers which are judged to pose a greater risk to student and taxpayer outcomes are subject to greater and more monitoring.

- Takes steps to improve the existing validation system and address some of the barriers that providers may face which will make it easier for new high quality providers to have their courses approved by the sector, thereby lowering the barriers to entry.

- Introduces a faster, more flexible and cost saving process for obtaining Degree Awarding Powers (DAPs), meaning that providers will no longer be reliant on validation agreements with incumbent institutions which can limit effective competition.

- Streamlines the process for obtaining University Title, removing the student numbers criterion, which can restrict eligibility, meaning that more providers can apply and thus compete with well-established institutions that already have University Title.

21. Option 1 listed above meets our policy objectives by creating a more competitive HE sector that should lead to an improvement in choice, quality and value for money outcomes for students and taxpayers.

Analysis of Policy Options

22. The 10-year appraisal period used in this assessment is from the academic year 2018/19 to 2027/28. The new regulatory framework for higher education will become operational in the 2019/20. Providers can apply to register with the OfS from 3rd April 2018. For simplicity, our analysis assumes that the application cost to providers registering for 2019/20 is incurred in 2018/19. All costs and benefits are expressed in 2018 price terms.

23. We have undertaken a sensitivity analysis on our final estimates, however, for simplicity the figures in this impact assessment focus on central estimates. The high and low estimates used in the summary sheets of this impact assessment are based on being 25% higher and lower than our central estimate.

24. A key uncertainty in calculating the impact of these reforms is forecasting the future number of providers in the new regulatory categories of the OfS register (see page 18 for a description of the different categories). The forecasts used in this impact assessment can be found in Annex A. These are taken from more detailed modelling work which is set out in our enactment impact assessments[8]. Throughout our analysis of the new regulatory framework we have used a single set of assumptions regarding the future number of HE providers. Due to the interrelated nature of the Government's reforms to the HE sector we do not attempt to attribute specific impacts in provider numbers to individual measures. See Annex B for a sensitivity analysis of our provider forecasts.

25. In line with the practice adopted by the OBR when forecasting Government expenditure, we assume that the previous policy intention of inflation-linked fee rises beyond 2018/19 is still in place.

Do Nothing Option

26. Under this option, the existing regulatory framework is maintained. Owing to changes in the way the sector has evolved and is now structured and funded, the current regulatory levers, would become increasingly not fit for purpose, and would not be able to deliver the best possible outcomes for students, taxpayer and employers.

[8] These forecast numbers are the same as the ones used in the impact assessments that accompanies the Higher Education and Research Act (2107) https://www.gov.uk/government/publications/higher-education-and-research-act-impact-assessments

Impact on providers

27. Under the existing framework, the following competition concerns would persist:

- There would continue to be separate regulatory and monitoring systems for different types of HE providers. This would mean that some providers would not be able to compete on a level playing field in terms of their ability to attract students.

- New high quality providers would continue to find it difficult to enter the sector because they would need to still rely on incumbent institutions to validate their degrees.

- All new high quality providers would still be subject to restrictive eligibility criteria for gaining DAPs and then face a lengthy and burdensome application process which could discourage them from applying.

- Under the current regulatory requirements providers face uniform monitoring; no account is taken of the risk that a provider might pose to student and taxpayer outcomes. This means that lower risk HE providers can be subject to disproportionate scrutiny.

Impact on students

28. The additional burdens, multiple gateways and barriers to entry, faced by new high quality providers will hold back stronger more effective competition in the sector. Students will not be able to achieve the best possible access, success and progression outcomes.

29. For example, students may face more limited improvements in choice and diversity of HE provision (e.g. with regards course content and mode of delivery); the quality of teaching and the wider academic experience; and ultimately the value for money they get from their significant investment in HE.

Impact on taxpayers

30. The complexity and fragmentation of the existing operating framework means that the costs to government of monitoring and regulating the sector are likely greater than they could be. The OfS will be charging providers registration fees, which will either cover or offset, costs to the taxpayer of regulating HE. The impact of registration fees is not included here but will be covered in a separate impact assessment.

31. If students are unable to achieve the best access, success and progression outcomes possible, it could also mean that the costs to the taxpayer, in terms of

student's future ability to repay student loans (as reflected in the RAB charge), would be greater than otherwise. It could also mean that additional tax revenues may be lower than they could be because a lower proportion of students would successfully enter higher paid employment after graduation.

Analysis of Option 1

32. Under this option a new risk-based[9] regulatory framework would be created and overseen by a newly established market regulator, the Office for Students (OfS). This would replace the existing regulatory systems which, owing to the way the sector has evolved and is now structured and funded, are no longer fit for purpose and effective in delivering the best possible outcomes for students and the taxpayer.

33. We have taken a proportionate approach in this impact assessment. Where there has been new or significant policy development since the Higher Education and Research Act received Royal Assent on 27th April 2017, we have carried out new analysis to evaluate the additional costs and benefits to providers, students and the taxpayers. Where there has been no further development or refinement of policy proposals, we have referred back to the analysis set out in the enactment impact assessments[10]. See Annex C for a list of new analysis undertaken.

Summary of impacts on Providers

34. The new regulatory framework introduces a wide range of specific reforms that impact providers. This section provides a high level overview of the overall impact that the new regulatory framework is likely to have on providers. A more detailed description of the individual policy measures and their specific impact on providers is presented later in the impact assessment.

35. Our analysis is structured into 6 key areas:

    1) Impact on Providers of Creating the OfS Register (page 18).

    2) Impact on Providers of the Initial and Ongoing Registration Conditions (page 28).

    3) Impact on Providers of Moving to a Risk-Based Monitoring and Assurance Framework (page 48).

    4) Impact on Providers of Reforming the Validation System (page 54).

[9] The OfS was established on 3rd April 2018.

[10] See http://www.legislation.gov.uk/ukia/2017/182

5) Impact on Providers of Creating a More Flexible Degree Awarding Powers (DAPs) process (page 55).

6) Impact on Providers of Making it Simpler to Obtain University Title (page 58).

36. Table 1 (page 17) summarises the overall net impact on providers of the different components of the new regulatory framework. Overall, we expect the introduction of the reforms to be deregulatory, indeed, the net present value to providers (i.e. businesses) over the ten-year appraisal period is estimated to be £137.8m. There is an estimated cost to providers of £10.3m in 2018/19, however, in 2019/20, when the regulatory framework will come into effect fully, there is an estimated net benefit of £6.5m, which is estimated to increase to £31.8m in 2027/28.

37. The net benefit figure has been calculated by subtracting the cost to providers of submitting additional evidence under the new regulatory framework, from the benefits of streamlining the system and reducing duplication. For some providers, the new approach will require reinforcing data collection systems to ensure the relevant information is being collected at frequent intervals. The cost of any new data collection is not factored in here, as these will depend on the detailed requirements of the framework and outcomes of OfS work to develop a data strategy (to be published by the end of the year). This impact assessment has estimated the direct costs and benefits, and does not take into account indirect costs and benefits which might occur as a result of the new approach. The operational costs of the framework will be monitored and evaluated by the OfS to ensure that this continues to be proportionate given its wider set of aims.

Impact on students

38. The introduction of the new regulatory framework should enable students to achieve better value for money on their investment in HE. This is because competition should drive increased choice, quality and innovation, which will allow students to achieve better outcomes in terms of access and success in HE and career progression after they graduate.

39. A more detailed description of the impact on students can be found in the section “Impact on Students” (page 60).

Impact on taxpayer

40. The creation of the OfS register should improve outcomes for students. It will also enable taxpayers to achieve better value for money, both in terms of higher loan repayment and increased tax revenues as a result of students securing better paid jobs after they graduate.

41. The OfS will monitor registered providers and will enforce regulation to promote value for money by:[11]
    i. Ensuring that providers do not exceed the tuition fee levels set by government
    ii. Offering quality and assurance
    iii. Promoting excellent teaching
    iv. Providing the right information
    v. Ensuring good governance
    vi. Protecting students' interest
    vii. Checking providers' finances
    viii. Making sure there are contingency plans

42. A more detailed description of the impact on the taxpayer can be found in the section "Impact on Taxpayers" (page 63).

[11] https://www.officeforstudents.org.uk/advice-and-guidance/regulation/value-for-money/how-do-we-promote-value-for-money/

Table 1: Summary of the quantified impacts to providers £ million.

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Creating the OfS Register	**-2.5**	**14.4**	**16.5**	**18.8**	**21.2**	**24.0**	**26.6**	**29.1**	**31.6**	**33.9**
Providers Moving to Approved (fee cap)	-0.3	12.3	14.0	16.0	18.2	20.7	23.0	25.3	27.5	29.6
Recruiting International Students	0	2.2	2.4	2.7	3.0	3.3	3.6	3.8	4.1	4.3
Familiarisation of the OfS Register	-2.2	0	0	0	0	0	0	0	0	0
Initial and Ongoing Registration Conditions	**-7.9**	**-12.4**	**-9.6**	**-9.7**	**-9.9**	**-10.0**	**-10.2**	**-10.4**	**-10.6**	**-10.7**
A2: Access and Participation Statements	-0.5	-0.5	-0.5	-0.5	-0.6	-0.6	-0.6	-0.6	-0.7	-0.7
B6: Teaching Excellence and Student Outcomes Framework Participation	0	-2.8	-0.9	-0.9	-0.8	-0.8	-0.9	-0.9	-0.9	-0.9
C1: Student Contracts	-0.9	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3
C3: Student Protection Plan	-3.2	-0.7	-0.8	-0.8	-0.9	-0.9	-0.9	-0.9	-1.0	-1.0
E1: Public Interest Governance	-0.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
E3: Accountability	0	-0.8	-0.9	-0.9	-1.0	-1.0	-1.0	-1.1	-1.1	-1.1
F1: Transparency Information	0	-0.8	-0.6	-0.6	-0.7	-0.8	-0.8	-0.9	-0.9	-1.0
F2: Student Transfer Arrangements	0	-0.9	0.0	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
G3: Pay Registration Fees	0	-5.5	-5.5	-5.5	-5.5	-5.5	-5.5	-5.5	-5.5	-5.5
Registration 19/20	-2.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Moving to a Risk-Based Monitoring and Assurance Framework	**0**	**4.2**	**4.6**	**5.1**	**5.7**	**6.2**	**6.8**	**7.3**	**7.8**	**8.3**
Removal of Annual Re-designation	0	3.5	4.0	4.5	5.0	5.6	6.1	6.6	7.1	7.6
Lower Frequency of Reviews	0	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7
Reforming the Validation System	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Creating a More Flexible DAPs process	**0**	**0.2**	**0.2**	**0.3**	**0.3**	**0.3**	**0.3**	**0.3**	**0.3**	**0.3**
Making it Simpler to Obtain a University Title	**0**	**0.1**	**0.1**	**0.1**	**0.1**	**0.1**	**0.1**	**0.1**	**0.1**	**0.1**
Total	**-10.3**	**6.5**	**11.8**	**14.5**	**17.4**	**20.5**	**23.5**	**26.4**	**29.1**	**31.8**

Impact on Providers of Creating the OfS Register

43. Under the Higher Education and Research Act 2017, the OfS must establish a register; this creates a single and clear gateway into the regulated higher education sector. All providers can choose the category of registration they want to apply for, based on the requirements and benefits of each category, and will have the option to change category over time in light of any changes to their mission and business model.

44. As set out in the new regulatory framework *Securing students success: regulatory framework for higher education in England*, the OfS[12] will have two registration categories[13]:

- **Approved.** Providers in this category will have a lower tuition fee loan cap; the freedom to set tuition fees at any level; and no requirement to have an Access and Participation Plan. However, they will need to publish an Access and Participation Statement.

- **Approved (fee cap).** Providers in this category have a higher tuition fee loan cap; a higher cap on tuition fees; and are required to agree with the OfS an Access and Participation Plan. Providers without an OfS-approved plan will have a lower cap for tuition fee loans and tuition fees, and they need to publish an Access and Participation Statement. Providers that are registered in the Approved (fee cap) category can also access Government grant funding, but as a result of this they will be subject to a small number of additional regulatory requirements, which will be proportionate to the amount of public funding received.

[12] https://www.officeforstudents.org.uk/media/1047/ofs2018_01.pdf

[13] The original Higher Education and Research Bill and the consultation on the proposed regulatory approach of the OfS included three registration categories. The Registered (basic) category was withdrawn following consultation responses on the basis that 1) students might assume greater protection than that provided by this category 2) challenges from the sector that high and low risk providers were not being treated proportionately and 3) concerns from Alternative Providers about the burden of data collection. The withdrawal of this category does not affect the forecasted Approved or Approved (fee cap) numbers.

Table 2: Overview of registration categories

		Approved (fee cap)	Approved
Public grant funding	Eligibility for direct grant funding provided by UKRI through Research England under section 97 of HERA	Yes	No
	Eligibility for OfS teaching grant funding or any other OfS payments under sections 39 or 40 of HERA	Yes	No
	Ability to apply for research council funding	Yes	Yes[14]
Access to the student support system	Ability for eligible students studying on eligible undergraduate courses to apply for support under the Education (Student Support) Regulations 2011 (as amended).	Yes Up to the higher amount with an OfS-approved access and participation plan.	Yes Up to lower fee amount with uncapped fees.
	Ability for eligible students studying on eligible postgraduate courses to apply for support under the Education (Student Support) Regulations 2011 (as amended).	Yes	Yes
	Ability for eligible students studying on eligible courses to apply for Disabled Students' Allowance under the Education (Student Support) Regulations 2011 (as amended).	Yes	Yes
Tier 4 sponsorship licence	Eligibility to make an application to the Home Office to recruit international students with a Tier 4 sponsorship licence[15]	Yes	Yes

[14] To access research council funding, providers registered in the Approved category will need to meet criteria specified for 'Independent Research Organisations' (IRO) by UKRI). This will involve a separate validation process, although the OfS and UKRI will seek to coordinate and reduce duplication wherever possible and the OfS will work with UKRI as it develops its process to minimise any burden on providers. A provider's ability to access these sources of funding does not depend on its registration status, as the criteria for IRO status is set separately by UKRI.

[15] The Home Office has proposed that registered providers in the Approved or Approved (fee cap) categories will be assessed as having met the necessary higher education educational oversight requirements for an application for a Tier 4 sponsor licence. A registered provider is one which meets

		Approved (fee cap)	Approved
Degree awarding powers and university title	Eligibility to apply for authorisation to grant one or more of the following awards: a. Foundation degrees b. Awards in specific subjects c. Awards at bachelor-level d. Any taught awards e. Research awards	Yes	Yes
	Eligibility to apply to use 'university' or 'university college' in a provider's title	Yes	Yes

45. The creation of the OfS register establishes a single entry gateway, which levels the playing field across all registered HE providers, regardless of their previous label or history. The main differences between the current operating system and the new regulatory framework are as follows:

- There will be a new single entry gateway, this will make it easier for providers to apply for grant funding and for their students to access higher student fee loan support. See page 21.

- There will no longer be duplication between the process of becoming a Tier 4 sponsor[16] and achieving course specific designation[17]. At present, there is duplication of quality and financial sustainability, management and governance (FSMG) checks. See page 23.

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the OfS eligibility requirements to register, i.e. it is an English higher education provider, and is registered with the OfS and satisfies all its conditions of registration. The ability of a registered provider to sponsor students under Tier 4 will be conditional on remaining on the OfS Register. If a provider is not eligible to register with the OfS, it may continue with its current Tier 4 educational oversight arrangements.

The Home Office remains responsible for setting the eligibility and suitability criteria for a Tier 4 licence, and decisions on Tier 4 licences will remain solely with the Home Secretary. The provisions of the OfS's regulatory framework do not constrain the ability of the Home Office to determine the requirements for educational oversight as part of the process for obtaining a Tier 4 licence. If a provider also delivers provision not regulated by the OfS, for example, further education, it will also need to obtain and maintain educational oversight for those courses from the relevant body.

[16] A Tier 4 sponsor is an education provider that offers courses of study to full-time students in the UK. Provider need a Tier 4 sponsor licence if you want to enrol students from outside the European Economic Area (EEA).

[17] The process known as specific course designation allows eligible students on a course to access student support loans from the Student Loans Company (SLC).

- We also consider the impact to existing providers familiarising themselves with the new OfS register and the opportunities it creates. See page 26.

Providers Moving to Approved (fee cap)

46. Under the new single entry gateway, all providers seeking registration can choose between two registration options, Approved and Approved (fee cap). Presently, APs can apply for grant funding and higher fee loan support, but this is heavily constrained and applications are very rare in practice.

47. Creating a single gateway should enable more APs to join the Approved (fee cap) category. Our modelling assumptions forecast that 41 APs will register as Approved (fee cap) in 2019/20 with the number increasing to 99 in 2027/28. Individually, these providers can increase their income in one of two ways.

48. First, they gain access to grant funding. This funding aims to cover the additional cost of providing high cost subjects (which cost more than the higher tuition fee cap) as well as support other policy aims such as widening HE participation. This allows them to teach a broader range of courses, which improves their offer to students making them a more attractive place to study. We have not quantified the impact of improving access to grant funding because it depends on future decisions about its level, which will need to recognise both the greater number of providers potentially eligible for receipt as well as the Government's broader fiscal objectives.

49. Second, in return for accepting a fee cap, providers can gain access to the higher level of tuition fee support for their students which may allow them to charge higher course fees without adversely impacting demand (because greater loan funding would ensure their upfront affordability)[18]. This greater source of revenue, as well as increasing profits for profit motivated APs, should lead to greater investment in improving the quality of facilities and teaching for their students. This investment could be necessary to compete with incumbent providers in the reformed sector.

50. It is expected that there will be significant competition for students in the new regulatory framework, which could act to slow or even constrain any price rises. We make a conservative (from the perspective of assessing the benefits to providers of these reforms) assumption that APs successfully entering the

[18] The creation of Approved (fee cap) means that APs, who would otherwise have their student loan funding capped at the lower level, could move to a model where they can offer their students up to the higher level in tuition fee loans. An increase in student support may allow some providers to increase their fees for undergraduate courses with the full amount covered by the student loan.

Approved (fee cap) category increase tuition fees by £1,000, per academic year, on average[19]. The average number of students enrolled on a designated course at an AP is 501 according to AP finance returns to DfE. Using our provider number assumptions, the gross additional income (excludes financial support to students which is measured below) to the sector would be £20.7m in 2019/20, increasing to £49.8m in 2027/28.

Table 3: Added tuition fee income and cost of APs moving into Approved (fee cap), £ millions, 2018 prices

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Number of Approved (fee cap) APs	0	41	47	54	61	69	77	85	92	99
Gross additional tuition fee income	0	20.7	23.7	27.0	30.8	34.8	38.8	42.6	46.3	49.8
Total Cost of *Access and Participation Plan* (£m)[20]	0.3	8.4	9.6	11.0	12.0	14.2	15.7	17.3	18.8	20.2
Net additional tuition fee income (£m)	-0.3	12.3	14.0	16.0	18.2	20.7	23.0	25.3	27.5	29.6

51. As outlined in the table above, there would be a significant financial benefit to some providers entering at Approved (fee cap). The added cost would be agreeing and delivering an Access and Participation Plan.

52. Access and Participation Plans must specify the range of measures that the HE provider plans to undertake to safeguard and promote fair access to higher education, and then ensure that students can participate and succeed on their higher education course. This includes a range of financial support measures, including bursaries, scholarships and fee waivers. Our best estimate of the

[19] Increasing tuition fee prices by £1,000, on average, is a behavioural assumption, and therefore, is prone to uncertainty. We acknowledge that APs have different business models and starting points for tuition fees levels, which means that not all price responses will be the same. It is possible that some APs increase tuition fees by more than £1,000 because they make fully utilise the available student support. Other APs may reduce tuition fees to bring their prices within the cap and gain access to grant funding. Some APs may not change their price because they want to access grant funding or to use the higher level student support to cover their already high fee price.

[20] To get our figures we do the following calculation £390 (financial support) multiplied by 501 (the average number of students at an AP) plus £6,670 the annual administration cost. This gives a per provider cost of £202,000. We then multiply this by the number of providers in scope each year.

annual administration cost of agreeing an *Access and Participation Plan* with the OfS is £7,430 per provider[21].

53. The most recent numbers cover Access Agreements (the predecessor of Access and Participation Plans) for academic year 2016/17. They show average fees at providers with Access Agreements are £8,781 or £8,391 after all the financial support, specified in Access Agreements, is taken into account. Thus on average, an Access Agreement costs the provider an average of £390 in financial support, per student. We assume Access and Participation Plans offer the same level of support.

54. The total cost to APs of producing an Access and Participation Plan is shown in Table 3[22]. Based on these figures, the estimated financial benefits to APs joining Approved (fee cap) greatly outweighs the costs.

Recruiting International Students

55. To recruit international students, providers need to apply to the Home Office for Tier 4 visa sponsorship status. Currently, the reviews and checks HEFCE-funded providers undergo are sufficient for Tier 4 regulation. Providers without HEFCE funding are subject to an Education Oversight Review[23] (EOR). This review requires a Higher Education Review (HER) and a Financial Sustainability, Management and Governance (FSMG) check which are also carried out for course designation purposes. Hence, designated APs wanting to recruit international students are currently subject to duplicate regulation.

56. Under the new system, all Approved and Approved (fee cap) providers will be able to apply to the Home Office to become a Tier 4 visa sponsor. This means that APs can recruit international students without an EOR, which removes the duplication found in the existing framework for APs seeking loan support for their domestic students and Tier 4 status.

57. DfE data estimates that around 45% of designated APs have a Tier 4 sponsor status. We use this proportion to estimate the number of APs that will seek designation and Tier 4 status in the new system. Table 4 shows the cost savings to these providers if the EOR is removed. Specifically, by removing the EOR requirement these providers will no longer need:

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[21] The most recent estimate of the annual cost to institutions of signing an Access Agreement and complying with conditions come from a 2009 paper (http://www.hefce.ac.uk/media/hefce/content/pubs/2009/rd0109/rd01_09.pdf) which suggests £0.8m for the whole sector, or £6,670 per HEI. We have adjusted this figure to 2017 prices, and use it as proxy for Access and Participation Plans.

[22] The administration cost to providers of writing an Access and Participation Plan is incurred the year before the plan is put in place, this is why there is a £0.3m cost in 18/19.

[23] http://www.qaa.ac.uk/reviews-and-reports/how-we-review-higher-education/educational-oversight.

i. An additional FSMG check. They will still need to submit financial information to satisfy the conditions of registration. However, they will no longer need to submit these documents for an EOR, which saves them the administrative cost of submitting the same documents twice. We assume this cost saving is minimal and so have not quantified these.

ii. A HER. We assume this saves them £23,200 per year, which is the estimated average annualised cost of an HER for an AP[24]. This figure may be an overestimate because it assumes that none of the data providers are collecting for monitoring and assurance purposes can be used for a HER.

Table 4: Cost savings due to removing the duplication in recruiting international students for designated Alternative Providers, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Number of Approved and Approved (fee cap) APs[25]	0	136	154	173	194	216	236	256	275	293
Number of Approved and Approved (fee cap) APs seeking designation and tier 4 status	0	63	72	80	90	100	110	119	128	136
Cost saving in the new system (£m)	0	1.5	1.7	1.9	2.1	2.3	2.6	2.8	3.0	3.2

58. Some providers are solely seeking a Tier 4 licence and not student loan support for their domestic students. Under the new system, these providers must register with the OfS as Approved and comply with the initial and ongoing registration conditions. This will ensure that such providers meet high standards and that the reputation of UK HE and students' interests are protected.

59. There are approximately 30 providers who currently hold a Tier 4 licence but have no loan support for their domestic students. Our provider forecast model includes these providers in our forecasts, and as such, the impact to these providers of meeting the initial and ongoing conditions are estimated in the next section (page 28).

[24] "The cost to providers in England of existing quality assurance and quality assessment practices", HEFCE, 2015. This report has limited data on APs. The estimated total cost of a HER was £127,000 and £49,000 for HEIs and FEC, respectively. We estimate that the average administration burden for an AP would be between a HEI and FEC, which is £88,000. An AP undergoes a HER every four years, so the annualised estimated cost is £22,000. We adjust this to 2018 prices to get £23,200.

[25] This number excludes Tier 4 only Approved Providers

60. Under the new system, the EOR will be replaced by data-led monitoring and risk assessment (see page 48 for more detail). It is currently unclear if this move will result in a net cost or benefit to Tier 4 only providers. On the one hand, they will incur the transitional and on-going cost of collecting additional data (data collection is discussed in more detail in paragraphs 138 to 140), as well as the cost of complying with all of the conditions of registration. On the other hand, they will no longer have to undergo an EOR, and therefore, no HER.

61. The removal of the requirement for a HER will produce cost savings to Tier 4 only providers. Instead, providers that are assessed as being at low risk of breaching each of the ongoing conditions will be required to submit data to the OfS for monitoring, tell the OfS about reportable events (see paragraph 494 of the regulatory framework) and undergo random sampling. The net impact of removing the cost of the HER and introducing a cost of random sampling is estimated in the table below[26]. This assessment does not reflect the administrative cost to providers of setting up data collection systems, although for some providers the data should be readily available and is likely being used by the provider for its own purposes. As outlined in paragraph 140, the OfS will monitor and evaluate the administrative burdens placed on providers due to the operation of the framework and ensure that this continues to be proportionate.

Table 5: Cost saving of Tier 4 only providers from replacing HERs with random sampling reviews, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Number of Approved providers seeking Tier 4 only	0	34	37	40	43	46	49	51	53	54
Cost saving in the new system (£m)	0	0.8	0.9	0.9	1.0	1.1	1.1	1.2	1.2	1.3

Familiarisation of the OfS Register

62. Existing providers need to familiarise themselves with the OfS Register to understand what it might mean for them and to help them decide whether they might want to change their activities in the light of the new opportunities created[27].

[26] The methodology behind our calculation is the same as outlined in paragraphs 143 to 145. We estimate that a HER costs an AP an estimated £23,200 per year. Under the new system, a random sampling review is assumed to cost £3,360 and is on average 5 times less frequent, which equates to a cost saving of £23,100 per provider.

[27] We assume there are no additional familiarisation costs to new providers because they would have incurred a cost of familiarisation in the old system, we assume it is equal.

63. The most significant costs are likely to be associated with the providers' decision making in response to the reforms. In particular, the wider range of options available will mean that providers will have to look at their long-term strategy and assess whether they wish to move to a different operating model. In addition, the creation of new Degree Awarding Powers (DAPs) options[28] will increase the choice available to them and could lead them to consider whether they want to remain validated or acquire their own DAPs.

64. The expectation is that a typical provider would establish a working group that would make an assessment of how to respond to the opportunities created as a result of the reforms. The average amount of resource devoted to this working group and its estimated cost is summarised in Table 6[29]. These cost estimates have been developed working with the sector representative body for Alternative Providers, Independent HE.

65. We assume that all existing regulated providers registering with the OfS will need to familiarise themselves with the registration process. Therefore, an estimated 495 existing providers will incur an estimated one-off familiarisation cost of £4,400 in 2018/19. The total familiarisation cost is £2.2m (see table below).

66. We do not quantify the familiarisation costs for new and non-regulated providers joining the OfS register, as these providers would have needed to familiarise themselves if entering the existing operating system, and we assume these costs are similar.

[28] See "Creating a more flexible DAPs process" for an explanation of New DAPs.

[29] Hourly wage data have been updated using provisional ASHE data for 2017. Data is taken from Table 20.5a – Age Group by Occupation (SIC 2 digits - Gross Hourly Wage – All category) and has been adjusted to 2018 prices. A 19.8% uplift has been applied to the wage rate figures to include non-wage costs. Eurostat defines wage and salary costs as direct remunerations, bonuses, and allowances paid by an employer in cash or in kind to an employee in return for work done, payments to employees saving schemes, payments for days not worked and remunerations in kind such as food, drink, fuel, company cars, etc. Non-wage costs are defined as the employers' social contributions plus employment taxes regarded as labour costs less subsidies intended to refund part or all of the employer's cost of direct remuneration. Using Eurostat data, non-wage costs as a percentage of wage costs were approximately 19.8% at the time of writing. The underlying data can be found at http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do

Table 6: Cost of decision making for HE providers in response to reforms, 2018 prices.

Category	Cost
Cost of Working Group (16 hours x 6 staff members x £31.4[30])	£3,000
+ Cost of executive board time (4 hours x 6 staff members x £55.7[31])	£1,300
= Total Staff cost	£4,400
Number of business affected (existing APs and HEIs in regulated system in 2018/19).	495
Total Cost (£m)	£2.2m

[30] ASHE data shows that the median hourly wage for a HE teaching professional is £25.83 - Occupation (2311) – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2)

All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £26.23. We then add an uplift of 19.8% to get £31.4.

[31] ASHE data shows that the median hourly wage for a Chief executive and senior official is £45.83 - Occupation 1115 – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2).

All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £45.83. We then add an uplift of 19.8% to get £55.7.

Impact on Providers of the Initial and Ongoing Registration Conditions

67. Providers must comply with the initial and ongoing registration conditions, these are common baseline requirements that need to be met to protect the interests of students, employers, taxpayers and the wider reputation of the HE sector. They are designed to ensure the OfS delivers a high bar for entry but minimises unnecessary burdens around registration, so that high-quality new providers are not disadvantaged.

68. This section measures the costs to providers of meeting these initial and ongoing conditions. It also measures the cost to existing providers of having to register with the OfS in 2018/19 in order to remain in the regulated sector in 2019/20.

Access and Participation Plans

Condition A1: An Approved (fee cap) provider intending to charge fees above the basic amount to qualifying persons on qualifying courses must:

i. have in force an access and participation plan approved by the OfS in accordance with the Higher Education and Research Act 2017 (HERA).

ii. take all reasonable steps to comply with the provisions of the plan.

Scope: Approved (fee cap) – high fee limit providers only

Type: Initial and Ongoing

69. To register in the Approved (fee cap) category and be permitted to charge the higher fee limit, a provider must have an Access and Participation Plan approved by the OfS as an initial and on-going registration condition.

70. An Access and Participation Plan sets out how an Approved (fee cap) provider charging fees above the lower fee cap and up to the higher fee cap intends to safeguard and promote fair access to higher education, and then ensure that students can participate and succeed on their higher education course. The provider must use a proportion of the extra fees (above the basic amount) on access and participation activities agreed with the OfS's Director for Fair Access and Participation. Providers able to charge the higher fee limit currently must have Access Agreement in place. This is to be replaced by an Access and Participation Plan, however the process for developing and agreeing this should be similar so this condition is assumed to impose no additional cost to existing providers.

Access and Participation Statements

Condition A2: An Approved provider or an Approved (fee cap) provider charging fees up to the basic amount to qualifying persons on qualifying courses must:

i. publish an access and participation statement.

ii. update and re-publish this statement on an annual basis.

Scope: Approved and Approved (fee cap) - low fee limit providers only.

Type: Initial and Ongoing

71. All Approved and Approved (fee cap) providers without a higher tuition fee loan cap must publish an annual Access and Participation Statement illustrating their commitment to improving access to HE for underrepresented groups. This new and ongoing condition of registration will be light-touch; the content of statements is at the discretion of the provider and will not be approved by the OfS.

72. The cost per provider of creating an annual statement were developed in consultation with the OfS, drawing on their expertise and frequent engagement with providers. We assume that the formulation of an annual statement takes 3 days of mid-level staff time to write and 4 hours of senior staff time to review. Clearance is assumed to take a combined total of 20 hours of board member and senior management team (SMT) time. The total estimated cost for each provider is £1,680[32].

73. Providers are required to update their published statements on an annual basis. We assume that each provider will undergo the same review and clearance procedures as their first submission, but writing will take 50% less time (1.5 days). As such, the estimated average burden of updating an annual statement is £1,470 per provider.

74. Providers in scope of this condition must publish an access and participation statement each year. The cost of publishing data on each provider website is assumed to be around £180 per provider per year. The £180 estimate is based on costing information provided by DFE's publishing and IT team, and includes the cost of uploading and quality assuring the content.

[32] DfE have developed these figures jointly with the OfS. Our assumptions on the time taken to produce documents for the OfS have been used for several conditions. See Annex D for more details around how we arrived at this cost.

75. Using the costings above, Table 7 estimates the total cost to providers of publishing an Access and Participation Statement. The cost to providers will be £0.5m in 2018/19 increasing to £0.7m in 2027/28.

Table 7: The cost to providers for publishing and resubmitting an Access and Participation Statement, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Number of providers registering with the OfS in scope	279	21	21	22	23	21	20	20	19	18
Initial cost of the Access and Participation Statement to providers (£m)[33]	0.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Number of Approved and Approved (fee cap) providers in scope	0	275	292	309	326	344	361	377	392	406
Ongoing cost of the Access and Participation Statement to providers (£m)[34]	0	0.4	0.5	0.5	0.5	0.5	0.6	0.6	0.6	0.6
Total cost of the Access and Participation Statement to providers (£m)	0.5	0.5	0.5	0.5	0.6	0.6	0.6	0.6	0.7	0.7

Quality and Standards

Condition B1: The provider must deliver well designed courses that provide a high quality academic experience for all students and enable a student's achievement to be reliably assessed.

Condition B2: The provider must support all students, from admission through to completion, with the support that they need to succeed in and benefit from higher education.

Condition B3: The provider must deliver successful outcomes for all of its students, which are recognised and valued by employers, and/or enable further

Scope: Approved and Approved (fee cap).

Type: Initial and Ongoing

[33] This cost is calculated by multiplying the number of new providers registering with the OfS, who need to write an Access and Participation, by £1,680.

[34] This cost is calculated by multiplying the number of new providers registering with the OfS, who need to update their Access and Participation, by £1,470.

Condition B4: The provider must ensure that qualifications awarded to students hold their value at the point of qualification and over time, in line with sector recognised standards.

Scope: Approved and Approved (fee cap).

Type: Initial and Ongoing

Condition B5: The provider must deliver courses that meet the academic standards as they are described in the Framework for Higher Education Qualifications (FHEQ) at Level 4 or higher.

Scope: Approved and Approved (fee cap)

Type: Initial and Ongoing

76. Providers in the current regulatory system must demonstrate that their courses meet quality and standards requirements. Therefore, these initial and on-going registration conditions are not new. The difference is how Approved and Approved (fee cap) providers are monitored with respect to standards and quality, which is discussed later on (see page 48).

Teaching Excellence and Student Outcomes Framework (TEF) Participation

Condition B6: The provider must participate in the Teaching Excellence and Student Outcomes Framework (TEF).

Scope: Approved and Approved (fee cap)

Type: Ongoing

77. The Teaching Excellence and Student Outcomes Framework (TEF) has two principal aims: firstly, to strengthen the incentives to offer high quality teaching; and secondly to provide prospective students with more reliable, comparable and readily available information about where teaching excellence and the best student outcomes can be found, enabling them to make better decisions about where and what to study. Details of how TEF would work were set out in the White Paper, *Success a Knowledge Economy* which was published in May

2016[35] and in the TEF Impact Assessment that accompanied the 2016 Higher Education and Research Bill[36].

78. This ongoing condition means that participation in the TEF is mandatory for all Approved and Approved (fee cap) providers. Understanding that the costs of participating in the TEF are independent of the number of students enrolled at an institution, the costs associated with the TEF are expected to be proportionately higher for smaller providers. Accordingly, the registration condition only applies to Approved and Approved (fee cap) providers with more than 500 undergraduate HE students. The aim of this condition is to the deliver the maximum benefits and transparency for students.

79. The impact of this condition falls on Approved and Approved (fee cap) providers participating in the TEF that would otherwise not have done so if the TEF condition was not introduced. These providers will incur an application and familiarisation cost each year. There are potential financial and reputational benefits of joining the TEF, however, we do not quantify them in this impact assessment, and focus on the costs only.

80. Our modelling assumes that the condition will increase the number of TEF applications by around 22% in 2019/20 and between 8% and 6% from 2019/20 to 2020/21.[37] The estimated cost per provider is around £80,000 per application, on average.[38] This figure is based on our TEF model that has been revised since the Bill Stage to reflect our current policy position. A description of the changes to the model can be found in Annex E. The total costs of the condition are shown in Table 8.

Table 8: The impact of the TEF condition on providers, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Application Costs (£m)	0.0	2.6	0.9	0.9	0.8	0.8	0.9	0.9	0.9	1.0
Familiarisation Costs (£m)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

[35] BIS (2016) *Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523396/bis-16-265-success-as-a-knowledge-economy.pdf

[36] The detailed impact assessment can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/528005/bis-16-295-he-research-bill-detailed-impact-assessment.pdf.

[37] Our internal modelling forecasts that around 34 providers will enter TEF in 2019/20 due to the condition. All these providers will need to apply in 2019/20. From 2020/21 onwards, we forecast that applications, due to the condition, will be between 10 to 13 per year.

[38] The £80,000 is an average cost, which we acknowledge is likely to differ across providers.

81. It is worth noting that the additional applications to TEF created by this condition would also impose an assessment cost on the Government, this is measured on page 63.

Guidance on consumer protection law

> **Condition C1:** The provider must demonstrate that in developing and implementing its policies, procedures and terms and conditions, it has given due regard to relevant guidance about how to comply with consumer protection law.
>
> **Scope:** Approved and Approved (fee cap).
>
> **Type:** Initial and Ongoing

82. Approved and Approved (fee cap) providers must demonstrate they have considered and acted upon the Competition and Markets Authority guidance on consumer protection law. This covers the published guidance on how HE providers can meet their legal obligations to comply with consumer protection law as it relates to students[39]. HE providers should already be complying with the consumer law and the costs of non-compliance are not measured here.

83. Therefore, this condition only represents an additional burden to providers in terms of providing evidence to the OfS to demonstrate they have considered and acted upon his guidance. New registrants will have to submit a short self-assessment describing how, in developing its policies, procedures and terms and conditions, it has given due regard to relevant guidance. We estimated that it will cost each provider £1,680, on average to produce the self-assessment[40].

84. In order to determine whether a provider continues to comply with this condition on an ongoing basis, the OfS's judgement will be informed by the provider's behaviour, as well as information submitted by the provider or available to the OfS. One example of such behaviour is that the provider regularly reviews the adequacy and effectiveness of its policies and procedures relating to the provision of information; terms and conditions; and complaints handling. The costs of the OfS checking compliance is included within the estimate of costs for random sampling and so is not included here.

85. To model the cost of meeting the ongoing condition, we assume that a mid-level staff and senior manager will both spend 8 hours per year (16 hours is total)[41],

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[39] More information on this can be found at: https://www.gov.uk/government/publications/higher-education-consumer-law-advice-for-providers

[40] See Annex D or a more detailed cost breakdown.

[41] This was the amount of time, and staff level, the OfS felt necessary to be compliant.

reviewing their policies and procedures in place to comply with consumer protection law. Thus, providers will pay an ongoing annual cost of £440 per year[42]. Table 9 summarises the estimated cost to the sector.

Table 9: The cost to providers of meeting the consumer protection law condition, 2018 prices, £ millions

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Number of providers registering with the OfS	508	25	26	27	28	27	26	25	24	23
Initial cost of the student contract condition to providers (£m)	0.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Number of Approved and Approved (fee cap) providers	0	506	529	553	578	604	629	652	674	695
Ongoing cost of the student contract condition to providers (£m)	0	0.2	0.2	0.2	0.3	0.3	0.3	0.3	0.3	0.3
Total Cost	0.9	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3

Student Complaints

Condition C2: The provider must:

i. Co-operate with the requirements of the student complaints scheme run by the Office of the Independent Adjudicator for Higher Education, including the subscription requirements.

ii. Make students aware of their ability to use the scheme.

Scope: Approved and Approved (fee cap).

Type: Ongoing

86. Providers already have to subscribe to the OIA if they want student fee loan support so there is no change for Approved and Approved (fee cap) providers.

[42] (8 hours * £17.2 mid-level staff member) + (8 hours * £37.7 senior staff member) = £440.

Student Protection Plans (SPP)

Condition C3: The provider must:

i. Have in force and publish a student protection plan which has been approved by the OfS as appropriate for its assessment of the regulatory risk presented by the provider and for the risk to continuation of study of all of its students.

ii. Take all reasonable steps to implement the provisions of the plan if the events set out in the plan take place.

iii. Inform the OfS of events, except for the closure of an individual course, that require the implementation of the provisions of the plan.

Scope: Approved and Approved (fee cap).

Type: Initial and Ongoing

87. Students are making a considerable investment when they commit to a programme of study, investing their time, energy and money. It is important that they should be able to complete those studies and have the opportunity to achieve their degree or award. Student protection plans need therefore to have ensuring continuity of study as their core purpose.

88. Approved and Approved (fee cap) providers must have in force a student protection plan which has been approved by the OfS, setting out what actions it will take to minimise any impact on students' continuation of study should the provider discontinue the course, subject, discipline or exit the market completely. Providers are required to take all reasonable steps to comply with the provisions of that plan.

89. The plans will be able to support continuity of study through adequate, appropriate and consistent protection for students. Key measures of whether a plan is effective will be whether it is transparent, clear, fair and publicised to students. These plans would need to be reviewed regularly to ensure that they remain fit for purpose.

90. Table 10 estimates the total cost to providers of a Student Protection Plan being a condition of registration. These costs include the cost to providers of producing and updating a student protection plan (which includes a familiarisation cost). These costs do not include the one-off cost of implementing the plan if a provider

were to exit the market completely. An explanation of how these costs are calculated can be found in the HERA Impact Assessments[43].

Table 10: The cost to providers of compiling and maintaining a Student Protection Plan, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Cost of SPPs to providers (£m)	3.2	0.7	0.8	0.8	0.9	0.9	0.9	0.9	1.0	1.0

Financial viability and sustainability

Condition D: The provider must:

i. Be financially viable;

ii. Be financially sustainable;

iii. Have the necessary financial resources to provide and fully deliver the higher education courses as it has advertised and as it has contracted to deliver to them;

iv. Have the necessary financial resources to continue to comply with all conditions of its registration.

Scope: Approved and Approved (fee cap).

Type: Initial and Ongoing

91. Approved and Approved (fee cap) providers must demonstrate that they are financially sustainable, have the necessary resources to enable them to deliver higher education courses in full and as advertised and to comply with the conditions of registration. Providers will need to demonstrate this through the submission of audited financial statements and financial forecast information on an annual basis.

92. APs and HEIs currently have these requirements as part of the specific course designation and annual accountability return processes, respectively, so this is not a new condition. There is a difference in how the OfS will monitor compliance

[43] From page 96 of http://www.legislation.gov.uk/ukia/2017/182. The figures is this impact assessment are slightly different because they have been updated to 2018 prices.

with these conditions of registration. The details are still being worked through, but this will not be more burdensome than previous requirements.

Public Interest Governance

Condition E1: The provider's governing documents must uphold the public interest governance principles that are applicable to the provider.

Scope: Approved and Approved (fee cap).

Type: Initial and Ongoing

93. Some Approved and Approved (fee cap) providers may need to amend their governance documents to ensure compliance with the public interest governance principles. The OfS's guidance is clear that providers can use a broad suite of documents to demonstrate compliance with the public interest governance principles and so it is expected that there will be significant variation between providers as to how many will need to amend or write polices to ensure the principles are fully reflected. Consequently, it is not possible to estimate the cost associated with updating 'governing documents'.

94. During the initial registration process, providers will need to submit a self-assessment of how their governing documents uphold the public interest governance principles. This is a new requirement for all Approved and Approved (fee cap) providers and the estimated costs of this are outlined in the table below[44].

Table 11: The cost to providers of meeting the public interest governance condition, 2018 prices, £ millions

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Number of providers registering with the OfS	508	25	26	27	28	27	26	25	24	23
Cost of the student contract condition to providers (£m)	0.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

[44] Using our standard assumption, we estimate the producing a self-assessment is £1,680 - see Annex D for more details around how we arrived at this cost. The sector cost is calculated by multiplying £1,680 by the number of providers registering with the OfS each year.

Management and governance

Condition E2: The provider must have in place adequate and effective management and governance arrangements to:

i. Operate in accordance with its governing documents.

ii. Deliver, in practice, the public interest governance principles that are applicable to it.

iii. Provide and fully deliver the higher education courses advertised.

iv. Continue to comply with all conditions of its registration.

Scope: Approved and Approved (fee cap).

Type: Initial and Ongoing

95. Providers with specific course designation already provide a summary of their management and governance arrangements as part of existing requirements and HEIs include a summary of their governance arrangements in their audited financial statements in the statement of corporate governance as required by the OfS (and previously the HEFCE) accounts direction. Therefore, there is no change for Approved and Approved (fee cap) providers. The other costs of compliance with the ongoing conditions of registration are detailed elsewhere in this impact assessment and are not duplicated here.

Accountability

Condition E3: The governing body of a provider must:

i. Accept responsibility for the interactions between the provider and the OfS and its designated bodies.

ii. Ensure the provider's compliance with all of its conditions of registration and with the OfS's accounts direction.

iii. Nominate to the OfS a senior officer as the 'accountable officer' who has the responsibilities set out by the OfS for an accountable officer from time to time.

Scope: Approved and Approved (fee cap).

Type: Initial and Ongoing

96. The OfS will publish an accounts direction from time to time to set out its requirements for the content and publication of a provider's audited financial statements. The OfS's first account direction includes disclosures required about senior staff pay[45]. The disclosure requirements for HEIs are similar to those required previously, with the exception of senior staff remuneration, and so these do not give rise to additional costs for HEIs. For APs, there are some additional requirements beyond senior staff pay – all of the disclosure requirements arise in the financial statements for the AP's first full financial year after it is registered with the OfS and so there is a considerable lead time for APs to prepare. With the exception of senior staff remuneration, the AP should have to hand the information required to be disclosed. In addition, APs already produce audited financial statements for the previous regulatory requirement and so the cost of the additional disclosures, with the exception of those about senior staff remuneration, should be minimal. Therefore only the costs associated with senior staff pay have been estimated in this assessment.

97. Senior staff pay has increased significantly over recent years. In 2015/16, the median salary of a Vice-Chancellor (VC) in the UK was 6.4 times more than that of the average higher education institution staff member. In the same year, the highest paid Vice-Chancellor received £434,000 including benefits in kind. When other benefits such as pension contributions and bonuses are included, the average remuneration package of a Vice-Chancellor was over £280,000.

98. The OfS's account direction will require Approved and Approved (fee cap) providers to disclosure the number of staff with a basic salary of over £100,000 per annum, broken down into bands of £5,000. They must also disclose full details of total remuneration package and job title for the head of the provider, including bonuses, pension contributions and other taxable benefits. The regulatory framework refers to this information being required for each member of staff with a basic salary of over £150,000 per annum – due to 2018-19 being a transition year, the OfS has not implemented the full requirements of the regulatory framework for 2018-19. This impact assessment assumes that these will be implemented in future in order to ensure a full picture of the likely costs of regulation.

99. Providers already have an obligation to collect and submit staff remuneration data, and this data is published in their annual accounts. The additional cost to providers of this condition stems from having to justify these salaries for the head of the provider and, expected in future years, the provider's most senior staff.

[45] https://www.officeforstudents.org.uk/publications/regulatory-advice-9-accounts-direction-guidance-on-preparing-and-publishing-financial-statements/

100. The costs associated with producing a justification document are presented in Table 12.

101. According to the Times Higher Education VC pay survey[46], 95% of Vice Chancellor are paid over £150,000 per year. We use this figure to estimate the number of Approved and Approved (fee cap) providers who need to justify their salaries[47].

102. The OfS estimate that it will take a mid-level staff member 3 days to write a justification document[48], which will cost the provider an estimated £410. A senior staff member will need to review the justification document before sending for clearance. Since the justification only takes 3 days to write, we estimate that this takes the 4 hours. Clearance will take an estimated 20 hours at £55.8 per hour. Hence, the total annual cost of producing a justification is £1,680 per provider[49]. Providers in scope will need to pay this cost each year. Table 12 calculates the estimated cost to the sector.

Table 12: The additional cost to providers of the Senior Staff Remuneration accounts direction, 2018 prices, £ millions

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Providers in Scope	-	504	527	551	576	599	622	643	663	682
Cost of the senior staff remuneration condition to providers (£m)	-	£0.8	£0.9	£0.9	£1.0	£1.0	£1.0	£1.1	£1.1	£1.1

Notifications of Changes to Register

Condition E4: The governing body of the provider must notify the OfS of any change of which it becomes aware which affects the accuracy of the information contained in the provider's entry in the Register.

Scope: Approved and Approved (fee cap)

Type: Ongoing

46 https://www.timeshighereducation.com/features/times-higher-education-v-c-pay-survey-2017.

47 This figure only uses Vice Chancellor salary data. However, the 95% is likely to be an upper bound as the vast majority of providers included in the Times Higher Education survey are HEIs. APs and FECs are smaller and will likely pay their VC and senior staff less.

48 See Annex D for more details around how we arrived at this cost.

49 This cost is only incurred by providers that have staff members which are paid over £150,000 per year.

103. Providers must notify the OfS of any changes to their entry on the register. Regulated providers currently have the same responsibility for HEFCE's register, so there is no additional cost.

Facilitating Electoral Registration

Condition E5: The provider must comply with guidance published by the OfS to facilitate, in cooperation with electoral registration officers, the electoral registration of students.

Scope: Approved and Approved (fee cap)

Type: Ongoing

104. Voter registration and participation are important because a healthy democratic society is dependent on the active participation of its citizens. The Government is, therefore, committed to helping ensure that everyone who is eligible to vote is able to do so, including students. However, people cannot vote until they have registered to vote and HE providers have a major part to play in achieving this.

105. A recent Cabinet Office survey identified a gap in the awareness and understanding of the current electoral registration legislation amongst many HE providers. Many are not aware of their legal duty under Regulation 23 of the Representation of the People (England and Wales) to comply with Electoral Registration Officers' (EROs') requests for data that EROs believe is required for the maintenance of complete and accurate local electoral registers.

106. Approved and Approved (fee cap) providers are required to demonstrate how they are complying with this electoral registration duty. This should increase the awareness of provider's current legal duty and should encourage HE providers to work with EROs in data sharing agreements, communication with students at relevant times and exposure to local candidates which can provide momentum to encourage students to register.

107. In judging whether a provider has complied with guidance published by the OfS to facilitate, in cooperation with electoral registration officers, the electoral registration of students, material that the OfS may consider includes:

- The substance of decisions and actions taken by the provider.
- The provider's cooperation with electoral registration officers.
- The outcomes achieved by the provider, including whether students are registered on a register of electors

108. The OfS will not prescribe how providers should comply, and will not ask providers to submit any additional evidence to the OfS if they are demonstrating satisfactory behaviour. Therefore, we expect this condition to impose a negligible (if any) burden on providers, and, as such, we do not quantify a cost here.

Transparency Information

Condition F1: The provider must provide to the OfS, and publish, in the manner and form specified by the OfS the transparency information set out in Section 9 of HERA.

Scope: Approved and Approved (fee cap).

Type: Ongoing

109. Under the Transparency Information condition (referred to as the Transparency Duty in the enactment impact assessment), Approved and Approved (fee cap) providers are required to publish, and supply to the OfS, information on levels of applications, offers, acceptances, completion and attainment rates broken down by gender ethnicity and socio-economic status.

110. The Transparency Information is designed to shine a spotlight on the track records of registered providers in relation to student access to higher education, course completion and attainment. Making this data available should equip potential students with important information about their prospective provider, and encourage providers to continue their efforts in widening access.

111. Table 13 estimates the total cost to providers of the Transparency Information. These costs include data collection, publication and familiarisation costs. An explanation of how these costs are calculated can be found in the HERA Impact Assessments[50]. There is an estimated zero cost in 2018/19 because Transparency Information is an ongoing condition.

Table 13: The cost of the Transparency Condition to providers, £millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Cost of the Transparency Condition to providers (£m)	0	0.8[51]	0.6	0.6	0.7	0.8	0.8	0.9	0.9	1.0

[50] Analysis begins on page 75 of http://www.legislation.gov.uk/ukia/2017/182

[51] This includes a £400,000 reporting burden, a £91,000 publication cost, a £120,000 familiarisation cost and a £160,000 IT cost, how these figures are calculated are explained in https://www.gov.uk/government/publications/higher-education-and-research-act-impact-assessments.

Student Transfer Arrangements

Condition F2: The provider must provide to the OfS, and publish, information about its arrangements for a student to transfer.

Scope: Approved and Approved (fee cap)

Type: Ongoing

112. There are likely to be occasions where students may wish, or find it necessary, to transfer from one course or provider to another. The reasons for this are varied. For example, a student may realise that the course, the qualification, the institution or the wider student experience does not meet their expectations. Alternatively, the personal circumstances of the student may change. Promoting student transfer would increase the ability of students to exercise choice and support wider goals on ensuring the higher education system offers value for money.

113. Approved and Approved (fee cap) providers must provide to the OfS, and publish, information about the provider's arrangements for student transfers. This condition is designed to be light touch and avoids undermining the autonomy of providers.

114. Meeting this ongoing condition would require providers to prepare and publish a document outlining their student transfer arrangements. We envisage that producing such a document would cost an estimated £1,680[52] and to publish this document would cost an estimated £180[53]. Therefore, in total it will cost the provider an estimated £1,860. This cost will be incurred in the first year of joining the OfS and would be a one-off cost since providers would not need to update the document to meet the ongoing condition (and it is assumed that they will only very rarely change these requirements). The total cost to all Approved and Approved (fee cap) providers is shown in Table 14.

Table 14: The cost to providers of meeting the Student Transfer Arrangement condition, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Cost of Student Transfer condition to providers (£m)	0.0	0.9	0.0	0.0	0.1	0.1	0.1	0.0	0.0	0.0

[52] See Annex D for a more detailed breakdown of our costing assumptions.

[53] Based on DfE internal estimates on publication costs.

Provision of Information

Condition F3: For the purposes of assisting the OfS in performing any function, or exercising any power, conferred on the OfS under any legislation, the governing body of a provider must:

i. provide the OfS or a person nominated by the OfS, with such information as the OfS specifies at the time and in the manner and form specified.

ii. permit the OfS to verify, or arrange for the independent verification by a person nominated by the OfS, of such information as the OfS specifies at the time and in the manner specified and must notify the OfS of the outcome of any independent verification at the time and in the manner and form specified.

iii. take such steps as the OfS reasonably requests to co-operate with any monitoring or investigation by the OfS, in particular, but not limited to, providing explanations or making available documents to the OfS or a person nominated by it or making available members of staff to meet with the OfS or a person nominated by it.

The requirements in paragraphs (ii) and (iii) do not affect the generality of the requirement in paragraph (i).

Scope: Approved and Approved (fee cap)

Type: Ongoing

Condition F4: For the purposes of the designated data body (DDB)'s duties under sections 64(1) and 65(1) of HERA, the provider must provide the DDB with such information as the DDB specifies at the time and in the manner and form specified by the DDB.

Scope: Approved and Approved (fee cap)

Type: Ongoing

115. Approved and Approved (fee cap) providers must supply the information the OfS and DDB need in order to perform their functions. One function is monitoring and assuring individual providers to ensure the ongoing (and specific) registration conditions are being met (this is discussed in a later section, see page 48). Another function, is collecting of data for wider monitoring purposes, horizon scanning and thematic reviews at a sector level.

Mandatory Fee Limit

Condition G1: A provider in the Approved (fee cap) category must charge qualifying persons on qualifying courses fees that do not exceed the relevant fee limit determined by the provider's quality rating and its access and participation plan. **Scope:** Approved (fee cap) **Type:** Ongoing

116. This condition ensures that an Approved (fee cap) provider does not exceed its prescribed tuition fee limits – this requirement is not new. We assume full compliance so this condition has no impact on providers.

Complying with terms and conditions of funding

Condition G2: The provider must comply with any terms and conditions attached to financial support received from the OfS and UK Research and Innovation (UKRI) under sections 41(1) and/or 94(2) of HERA. A breach of such terms and conditions of funding will be a breach of this condition of registration. **Scope:** Approved (fee cap) **Type:** Ongoing

117. Providers are required to comply with any terms and conditions imposed on financial support supplied by the OfS or UKRI, whether grant, loan or other payments. There is no cost to providers of meeting this condition for registration purposes.

Pay OfS registration and OfS other fees and designated bodies' fees

Condition G3: The provider must pay: i. Its annual registration fee and other OfS fees in accordance with regulations made by the Secretary of State. ii. The, fees charged by the designated bodies. **Scope:** Approved and Approved (fee cap) **Type:** Ongoing

118. All providers registered with the OfS will be charged a registration fee, which will impose an additional cost to providers. Proposals on how OfS registration fees will be calculated, and an estimated cost to providers, are set out in a separate impact assessment.[54]

119. HEFCE currently funds the Higher Education and Statistics Authority (HESA) and the Quality Assurance Agency (QAA) to carry out certain activities necessary for the sector. Under the new regulatory landscape, the Designated Quality Body and Designated Data Body, will carry out some of these functions. These bodies will have the power to charge providers fees to recoup the cost of undertaking these statutory activities.

120. The average annual HEFCE funding over the last three years to HESA and QAA was £0.9m and £4.6m, respectively. We assume that, in the new system, the DDB and DQB recovers these annual costs from providers via subscription and other fees. Thus, providers registered with the OfS face a total additional cost of £5.5m per year, it is unclear how these costs will be divided amongst providers.

Registration for 2019/20

121. Existing providers will need to register for the OfS in 2018/19 to remain in the regulatory system for 2019/20. To make this process straightforward the OfS will look to use existing evidence where possible to enable providers to demonstrate they meet the initial condition of registration.

122. Existing providers will have to familiarise themselves with the registration process and submit an application that meets the initial condition of registration. The cost of meeting the new initial conditions – Access and Participation Statements, Student Protection Plans, Student Contracts, Governance – have already been measured.

123. Our internal estimates are based on the OfS registration guidance – 'Regulatory Advice 2: Registration of current providers for 2019-20'[55]. Since the registration involves collecting existing evidence it should not place any significant new demands on providers. Given the OfS guidance, we conclude that it should take no longer than 40 hours for senior HE professionals to familiarise themselves with the registration process and oversee a team of junior workers to

[54] See https://consult.education.gov.uk/he-landscape-reform/ofs-registration-fees-and-other-fees-stage-2//

[55] https://www.officeforstudents.org.uk/publications/regulatory-advice-2-registration-of-current-providers-for-2019-20/.

prepare the application[56]. Given these assumptions we estimate a senior staff cost of £1,500 per provider[57].

124. Providers will need to collate existing evidence to send to the OfS, we believe that the application will also likely be signed off at a board level before being submitted. We assume it would take 120 staff hours of junior staff time to collate the evidence and submit the application form. We also assume an executive board will spend 24 hours discussing and signing off the application (this is 6 staff members for 4 hours). In total, submitting an application form is estimated to cost £5,100[58] for each existing provider (this includes senior staff time).

125. Based on our modelling assumption, we forecast there will be some 495 providers in the regulated sector that will need to register with the OfS. Therefore, the total cost to the sector of registering is estimated to £2.5 million, which is incurred in 2018.

[56] The guidance is 67 pages longer we believe it would take no longer than a few days to read.

[57] ASHE data shows that the median hourly wage for a Senior professional of educational establishment is £30.97 - Occupation (2317) – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2). All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £31.44. We then add the uplift of 19.8% to get £37.7. £1,500 is approximately £37.7 multiplied by 40 hours.

[58] 120 hours * £18.7 (junior staff wage – assumed to be the same wage as an HEO outside of London – DfE internal estimates) + 40 hours * £37.7 (senior HE professional – underlying data taken from ASHE 2016) + 24 hours * £55.7 (board level wage – underlying data from ASHE 2017) = £5100.

Impact on Providers of Moving to a Risk-Based Monitoring and Assurance Framework

126. The current approach to monitoring for regulated providers is outlined in Table 15. It shows that publicly and APs are subject to different regulatory and monitoring systems.

Table 15: Current system of monitoring and assuring HE providers.

Monitoring for:	HEFCE-funded HEIs	HEFCE-funded FECs	APs with specific course designation
Academic quality and standards	Annual provider review	Annual provider review	HE review (APs) by QAA
Financial sustainability, governance and management	Annual accountability return	ESFA monitoring	Annual Re-designation by HEFCE on behalf of DfE
Information provision	HESA data	ILR data	HESA AP data

Annual Provider Review[59]

127. HEFCE introduced a new operating model for quality assessment for the academic year 2017/18. It was designed to be risk-based and proportionate. The aim was to target regulatory activity on those providers that are a greater risk to student outcomes and the reputation of the wider HE sector.

128. The Annual Provider Review (APR) process, which is undertaken by HEFCE, is a desk-based exercise that draws from existing data and evidence to develop indicators and metrics that is used in a contextualised way to form a confidential risk-assessment for each provider on quality and standards.

129. Where concerns about quality and standards are found during the APR process, the provider receives a quality review visit from the Quality Assurance Agency for Higher Education (QAA) to investigate in more detail the areas of concern.

[59] http://www.hefce.ac.uk/pubs/year/2016/201629/

130. To assure providers compile reliable data and evidence around quality and standards for the APR, HEFCE undertakes the five-yearly HEFCE Assurance Review (HAR)[60]. This review is also used as an opportunity to assure financial sustainability, governance and management data supplied in the annual accountably process (see below).

HEFCE Annual Accountability Process[61]

131. The Annual Accountability process collects data and evidence on FSMG, data quality and value for money. This includes audited financial statements and financial forecasts. This process is a component of the APR submission, and is used when evaluating a provider's risk. As mentioned, a HAR is an accountability review that is used to assure the evidence around FSMG, data quality and value for money supplied by providers.

HE Review (APs)[62]

132. To apply for specific course designation APs must undergo a HER (AP) by the QAA. A review must take place every four years to ensure that providers maintain the necessary academic quality and standards that it offers to justify public funding. The process is in-depth peer review which involves desk-based research as well as provider visits.

Annual Re-designation[63]

133. As part of the annual re-designation process, APs have to submit annual updates to the Higher Education Funding Council for England (HEFCE), who conduct analysis on behalf of the Department for Education (DfE). APs need to provide the evidence of their continued financial sustainability (which includes audited accounts and financial forecasts), student numbers and value for money.

134. The evidence and data an AP has to supply is not based on risk and 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.

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60 http://www.hefce.ac.uk/reg/ha/

61 http://www.hefce.ac.uk/reg/ha/aar/

62 http://www.qaa.ac.uk/en/Publications/Documents/HER-AP-Handbook-17.pdf

63 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/631441/Specific_course_designation_guidance-2017.pdf

HESA and ILR data

135. All providers that currently belong to the regulatory system must supply data to a designated data body. This data is used as part of the monitoring process. HEIs and APs with designation must submit student and financial records to HESA each year. The records APs collect are currently less detailed than HEIs. FECs submit data to the Individual Learning Record (ILR), however, data on HE students is also captured in HESA.

New System

136. The OfS will introduce a unified and risk-based approach to monitoring compliance with the ongoing registration conditions by Approved and Approved (fee cap) providers. This benefits APs in particular, as the burdensome annual re-designation process which features in the current system will be replaced with a more flexible light-touch system of monitoring based on the provider's level of risk.

137. To monitor Approved and Approved (fee cap) providers, the OfS will create 'lead indicators' based on regularly obtained data. If these suggest a provider is at risk of breaching its baseline requirements, the provider may face additional or enhanced monitoring. For low risk providers, the new system will be light touch, the aim is to target regulatory activity on providers that are a greater risk to the reputation of the sector and to student outcomes.

138. To provide additional assurances around the monitoring approach, and to act as an incentive upon providers to meet the registration conditions on an ongoing basis, the OfS will also carry out a "random sampling" approach where 5 per cent of all providers will be reviewed each year[64]. The OfS would use reviews primarily to test the effectiveness of routine monitoring to identify any areas of non-compliance.

Data requirements in the new system

139. Data will form a key part of how the OfS functions underpinning monitoring and assurance. Providers will be monitored against their ongoing conditions, through lead indicators. To develop effective lead indicators for the HE sector the OfS needs to be able to rely on the regular provision of up-to-date and high quality data from several different sources. Much of this data will be collected on behalf of the OfS by the Designated Data Body (DDB).

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[64] A provider who has been 'sampled' will then be exempt from further sampling for 5 years, subject to not demonstrating increased levels of risk through ongoing monitoring.

140. The OfS's data led monitoring system will build on the existing systems that supported significant data flows between HEFCE, HESA and providers. The new system, however, will involve a different approach to data collection and additional and timelier data than what HEFCE has previously required, which could impose an additional burden on providers. This, however, should be seen in the context of enabling a risk-based approach to regulation and removing the need for annual reviews and other more burdensome regulatory activity.

141. The Office for Students continues to develop its approach to lead indicators and will produce its data strategy by December 2018, which will outline how it will support the operation of the new regulatory framework. For this reason, there is currently too much uncertainty to estimate the extent to which this will be an additional burden, and how this might differ according to type of provider. As part of its data strategy, the OfS will set out how it will ensure that the data collected is necessary and proportionate for the purposes of the OfS and its statutory customers.

Removal of Annual Re-designation

142. In the existing system, APs with specific course designation are subject to different regulatory checks. More specifically, they:

- Face an annual administrative cost of going through the process of re-designation each year, this is estimated to be £2,800[65].
- Have to bear the cost of a QAA HER (AP) every four-years (as well as some on-going costs), this is estimated to be £93,000[66] per review (or an average annualised cost saving of £23,200).

143. Under the new regulatory framework, APs will no longer have to undergo annual re-designation process, saving them an estimated £2,800 per year each in administration costs. The total cost savings to the sector is estimated in Table 16 below. Instead of annual re-designation, they will now be monitored using data-driven 'lead indicators'. This could mean that APs, as either Approved or Approved (fee cap) providers, will need to increase the amount of data they are required to supply. However, this will not be known for sure until the 'lead indicators' have been finalised.

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[65] BIS' AP survey identified that the existing annual re-designation process takes up to 43.5 hours of academic staff time and 103.5 hours of administration staff time at each institution, which amounts to £2,800.

[66] A recent report by HEFCE estimates the total staff costs per HER for a HEI and FEC is £127,000 and £49,000. The evidence for APs is more limited. However, the report mentioned that it depends on the size and complexity of the provider. We expect APs to fall in the middle of HEIs and FECs on these characteristics so estimate the cost to be approximate £88,000 per review and adjusted it to 2018 prices to get £93,000.

144. In addition, APs no longer need to undergo a HER in the new system, which is an intensive peer review process that assesses the quality of HE provision. This takes around 9 months and costs an AP an estimated £93,000, on average every four years.

145. In the new regulatory framework, providers will be subject to a 'random sampling' approach to monitoring and assurance in which providers have a 5% chance of being reviewed each year. The OfS estimate that a random sampling review would take on average 120 hours of provider time, at various staff levels and cost approximately £3,360[67].

146. This means that, under the new system, an AP is expected to pay £3,360 every twenty years, instead of £93,000 every four years, which is an annualised saving of £23,200.

147. Table 16 estimates the benefits of moving to the new risk based monitoring approach. These calculations do not include any additional monitoring that may arise if a breach is identified in the lead indicators. This is because we assume that all providers are compliant with the ongoing registration conditions.

Table 16: Cost saving to Alternative Providers due to moving to a random sampling approach, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Number of Approved and Approved (fee cap) APs[68]	0	136	154	173	194	216	236	256	275	293
Total cost saving of removing annual re-designation (£m)	£0.0	£0.4	£0.4	£0.5	£0.5	£0.6	£0.7	£0.7	£0.8	£0.8
Total cost saving of removing the HER (£m)	£0.0	£3.2	£3.6	£4.0	£4.5	£5.0	£5.5	£6.0	£6.4	£6.8
Total cost of random sampling (£m)	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0
Total cost saving (£m)	£0.0	£3.5	£4.0	£4.5	£5.0	£5.6	£6.1	£6.6	£7.1	£7.6

148. Currently, an AP's ability to recruit students is potentially restricted because the timing of the designation process may mean that students do not normally find out at the time of application if they have access to a student loan. This is corroborated by findings from the survey of existing designated APs, 82% of whom agreed that "uncertainty related to annual re-designation had a material effect on their institution".

[67] See Annex D for more details around how we arrived at this cost.

[68] This number excludes providers who are only seeking Tier 4 sponsorship status.

149. We are unable to reliably estimate the extent to which the number of students at these APs will increase, and whether they are additional to the HE sector or would have otherwise studied at competing 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.

Lower Frequency of Reviews for HEIs and FECs

150. To provide assurances about monitoring, all publically funded HE providers currently must undergo a five-yearly HEFCE Assurance Review (HAR). The OfS estimate the average cost of a HAR to be £3,070[69] per provider.

151. The OfS will take a different approach to monitoring and assurance by reviewing a random sample of providers (5 per cent) each year. The exact requirements of a 'random sampling review' have yet to be confirmed, however the clear intention from the OfS is that it will be different to a HAR. The OfS estimate that a 'random sampling review' costs approximately £3,360[70].

152. Providers will benefit from the new approach to monitoring and assurance because even though a 'random sampling review' is estimated to be more expensive than a HAR, it is less frequent (one every 20 years on average instead of a HAR every 5 years). Table 17 estimates the cost savings to HEIs and FECs providers moving to a 'random sampling review'.

Table 17: Cost saving to HEIs and FECs from moving to a random sampling review, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Number of Approved (fee cap) HEIs and FECs	0	379	387	385	404	414	423	432	441	429
Total cost of current HAR system (£m)	0	0.8	0.9	0.9	0.9	0.9	1.0	1.0	1.0	1.1
Total cost of random sampling (£m)	0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Total cost saving (£m)	0	0.8	0.8	0.8	0.8	0.9	0.9	0.9	1.0	1.0

[69] See Annex D for more details around how we arrived at this cost.

[70] See Annex D for more details around how we arrived at this cost.

Impact on Providers of Reforming the Validation System

153. Validation agreements are the only way for new providers without Degree Awarding Powers (DAPs) to deliver degrees as part of the regulated sector. However, shortcomings in current validation practices act as a significant barrier to entry into the sector, thus hampering competition.

154. The OfS will take steps to improve the validation system, making it easier for providers to find a validating partner, with the following measures:

- **Improvement of validation services (non-legislative).** As part of its duties, in particular to have regard to the need to encourage choice and competition where this is in the interests of students and employers, the OfS will be able to take concrete steps to improve validation services, and address some of the barriers new providers can face when seeking a validating partner. The OfS will aim to address the lack of transparency and opportunity for providers to compare various offers.

- **Encouraging or endorsing "exemplar" validating bodies (non-legislative).** The OfS will actively encourage providers to develop validation services, and will set out exemplar validation arrangements to help informed negotiation between validators and providers who seek validation. Registered providers with degree awarding powers who are offering "good" or "excellent" validation arrangements will be encouraged by the OfS to extend their validation services to other registered HE providers.

- **As a last resort, become a validator itself, if authorised to do so in regulations made by the Secretary of State.** This is only possible if the OfS is authorised to do so by the Secretary of State by regulations which will be subject to Parliamentary scrutiny.

155. These proposed measures should improve the validating system by reducing the cost and overall administrative burden of entering the sector. The non-legislative measures will be key to achieving this. The legislative option is envisaged as a last-resort. Since the key measures are non-regulatory and should impose no additional cost to providers, we do not monetise the costs and benefits of reforming the validation system.

Impact on Providers of Creating a More Flexible Degree Awarding Powers (DAPs) process

156. DAPs are currently granted by the Privy Council following advice from the Secretary of State of Education. Currently, to apply for taught DAPs a provider must have at least four years' experience delivering HE programmes at least at an undergraduate level[71]. 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.

157. Under the new system, the four-year track record will be reduced to three years. Providers who do not have a three-year track record will be able to apply for "New DAPs". Providers who meet the relevant tests for New DAPs will be authorised with DAPs on a 3-year probationary basis. Providers would be able to gain New DAPs for three years in parallel (or subsequent) to gaining Approved or Approved (fee cap) status. During the probationary period the providers will be subject to rigorous monitoring, only obtaining full DAPs after final scrutiny. DAPs can now also be granted on a limited subject and/or limited level basis to enable easier access. All OfS DAPs authorisations will be renewable in the first instance. The OfS will have explicit powers to vary or revoke DAPs[72].

158. A wider number of DAPs options should encourage more providers to apply for DAPs who would have otherwise remained as validated. Providers will be able to get its own DAPs sooner because they can apply on a probationary basis and they only need a three-year track record to apply for full DAPs.

159. Based on our modelling assumptions, we forecast some the number of new DAPs each academic year. We assume that 50% of providers will apply for New DAPs and the other 50% full DAPs. It is difficult to judge what providers' behaviour will actually be.

Table 18: The number of new providers with DAPs.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
New APs that obtain DAPs	0	26	11	12	12	13	13	13	13	13
Of which New DAPS	0	13	5	6	6	7	7	7	7	7
Of which full DAPs	0	13	5	6	6	7	7	7	7	7

Numbers do not sum due to rounding

[71] For Foundation Degree Awarding Powers, the experience must be at least at level 5

[72] Further information on the new types of DAPs is set out in "Simplifying Access to the Market: Degree Awarding Powers & University Title"

160. The key benefit of this policy change is the reduction in the amount of time a provider needs to be in operation before they can award their own degrees. This amount of time would be reduced by 4 years for New DAPs and 1 year for full DAPs.

161. Currently APs without DAPs operate in the HE sector by signing a validation agreement with an existing DAPs provider, which can be quite expensive and burdensome. Moving to DAPs helps the AP to compete with incumbent providers, as they would not be subject to the cost of validation. This would mostly constitute a transfer between providers in the sector, with incumbent income from the validation provider reduced and new providers facing a lower cost.

162. Survey evidence[73] estimates that the average payment for validation amounts to a minimum of £540 per student. Thus, the total validation cost for an average AP would be approximately £212,000 per annum[74]. This is a significant financial burden on new entrants, for comparison, the average operated profit for an AP is only £150,000[75]. However, improvements to the validation process (see page 54) should mean that the cost will reduce. Due to these changes it is estimated that the average cost of validation will undergo a 50% reduction to £106,000 per annum.

163. Currently some APs report significant difficulties finding a validation partner for new courses or to renewing existing arrangements. 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[76]. This would amount to an annual cost of £8,500 per institution.

164. If a provider gains DAPs they would pay for validation for either one or four fewer years depending on if they apply for full DAPs or New DAPs, respectively (relative to the counterfactual of gaining DAPs after meeting the four-year track record requirement in the existing year).

165. Hence the total cost saving to an AP of not needing validation is estimated at £114,100 (£106,000+£8,100) per year. £106,000 of this is cost transfer from the validating provider to the AP so has a net impact of zero.

[73] DfE survey of designated APs, unpublished

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

[75] 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).

[76] DfE survey of designated APs, unpublished

166. Table 19 estimate impact of changing the process of granting DAPs. In 2019/20, incumbent firms will save £0.2m on administration costs and £2.7m in validation costs. This latter figure is income foregone to the incumbent validation institution, which means it is a cost transfer and has a zero net impact.

Table 19: Cost savings due to changes to the process of granting Degree Awarding Powers, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Cost savings (£m)	0	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Cost transfer (£m)	0	2.7	2.5	3.1	3.8	3.2	3.4	3.4	3.5	3.5

Impact on Providers of Making it Simpler to Obtain University Title

167. 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, obtaining it is a costly and lengthy process.

168. The changes to the eligibility criteria for University/University College Title mean that every provider with full and indefinite DAPs at least to bachelor level is eligible to apply for University Title. The only remaining criterion is that providers must have more than 55% of full time equivalent students on HE courses. The current criterion for having a minimum overall number of students is removed. This change does not mean a direct cost on providers – it will in effect mean that a greater number of providers are eligible for University Title.

169. For those HE providers who would have applied for University Title under the existing system, there will now be a cost saving, as a lengthy application process will be greatly simplified. The cost of an application in future would be much reduced, as the remaining criterion can be checked by the OfS without providers submitting additional information. To estimate the number of providers who would have applied for University Title without the reforms, the average number of applications over the past 8 years (2010-2017) is used as our baseline. From 2019/20 onwards, we increase this baseline in line with the expected rise in the number of providers in the "Approved" (with or without fee cap) category under the new system.

170. 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. Based on data collected from a provider, we estimate that the cost to providers of gaining University Title is £20,000[77].

Table 20: Cost savings due to changes to the University Title process, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Counterfactual No. of new UT[78]	0.0	2.4	2.6	2.7	2.8	3.0	3.1	3.2	3.3	3.5
Direct cost saving (£m)	£0.0	£0.05	£0.05	£0.05	£0.06	£0.06	£0.06	£0.06	£0.07	£0.07

[77] This estimate was used in the enactment impact assessment "Entry into the Higher Education sector and single entry gateway" for more detail see http://www.legislation.gov.uk/ukia/2017/182

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

171. It is expected that under the new framework, the vast majority of providers with full, indefinite DAPs would seek to gain University Title – given that it will be easier to do so in the new system.

172. For those providers that would not have otherwise applied for University Title they will now, under the reforms, be able to gain a reputational advantage. 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 better compete with the incumbent providers.

173. 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 DfE 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.

174. In contrast, some respondents to the HE Green Paper consultation[79] 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.

175. All Registered providers must meet registration conditions, i.e. conditions in relation to financial sustainability, management, governance and quality are eligible to apply. 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 University Title process will have any negative impact on the reputation of the sector.

[79] Published November 2015. See https://www.gov.uk/government/consultations/higher-education-teaching-excellence-social-mobility-and-student-choice

Impact on Students

176. We do not quantify the impact on students because of the significant challenges associated with accurately capturing the behavioural changes amongst providers and individuals that result from introducing the new regulatory framework and ascribing them to a particular measure within this interconnected package of reforms.

Creating a single gateway entry

177. The creation of a single entry gateway should lessen administration burden, reduce barriers to entry and create a fair and proportionate regulatory system for providers. All of this is likely to lead to a more competitive sector, where providers with the best offer benefit the most.

178. There are three possible provider responses:

- **Investment in improving quality.** Greater competition could mean that providers would need to increase their investment in staff, facilities and other factors associated with the wider academic experience that influence the attractiveness of their offer.

- **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 new course content and greater modes of delivery (e.g. accelerated degrees and distance learning)

- **A reduction in prices.** The cap on undergraduate tuition fees for Approved (fee cap_ providers acts as a price ceiling in the sector and students have not shown strong sensitivity to the price of education. A reduction in price could lead to decreased income for the provider (depending on how student enrolments change due to this reduction).

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

180. The creation of the Approved (fee cap) category will enable more providers to move to a model where they charge higher fees and provide courses that are eligible to attract higher levels of student loan funding. We estimate that providers

will raise fees by £20.4m in 2019/29 increasing to £50.2m in 2027/28. This would then mean a higher cost for some students. These additional tuition fee costs are paid directly to the HE providers, as such, these costs are simply an equal transfer between these two groups and thus has a net wider economic impact of zero in any year of the appraisal period, though it does represent a deregulatory benefit to HE providers.

181. Increasing fees would then mean a higher cost for some students. However, as this is likely to be funded by student loans, 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).

182. 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 without having an adverse effect on student enrolment numbers if the course and the wider academic experience at the institution continues to be judged as good value for money. Therefore, it is assumed that the impact of fee increases will be outweighed by a corresponding increase in non-monetised benefits associated with improved quality, choice and innovation.

183. As a result of creating a single gateway, more providers are expected to join Approved (fee cap) so that their students can gain access to higher tuition fee loans. This requires providers to agree with the OfS an *Access and Participation Plan* setting out the measures they will take to improve participation amongst students from disadvantaged and underrepresented groups in Higher Education. The financial benefits to students have been quantified in Table 7. We estimate they will receive an additional £8.3m in finance support measures (including bursaries, scholarships and fee waivers) in 2019/20 increasing to £19.6m in 2027/28[80]. This benefit is included in our net present value calculations, but the overall impact is zero because the financial support to students is a direct cost to providers.

Initial and ongoing conditions of regulation

184. The new registration conditions, which include measures such as Student Protection Plans, the Transparency Condition and Access and Participation Statements will ensure that while the sector expands, providers continue to be incentivised to widen participation and ensures students' interests are protected. A more detailed description of the benefits of these measures to students is

[80] The level of financial support does not match the figures in Table 4 because they also include the administration cost of writing and agreeing an Access and Participation Plan.

included in the enactment Impact Assessments accompanying the Higher Education and Research Act[81].

Validation

185. Improving the validation system should make it easier for providers to find a validation partner which reduces the barriers of entry to the sector and increases competition. The expected benefits to students of improved competition are similar to those outlined above.

Degree Awarding Powers

186. The changes to the process of gaining DAPs will make it simpler for new providers to enter the market, as they will no longer have to rely on validation arrangements with other providers. This will help the sector to become more competitive, enabling new providers to compete on a level playing field. The expected benefits to students of improved competition are similar to those outlined above.

[81] https://www.gov.uk/government/publications/higher-education-and-research-act-impact-assessments

Impact on Taxpayers

187. The taxpayer makes a significant investment in Higher Education through the provision of loans and other support to help students meet the cost of study through direct grant funding (in 2015-16, funding body grants totalled around £5.2bn representing around 14.9% of total sector income). The creation of the single entry gateway and risk based regulatory framework will provide better safeguarding of public money.

188. It is proposed that the cost of regulation is primarily 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). This funding model will result in savings for the taxpayer, while allocating costs fairly across providers (more detail is provided in the OfS registration fees impact assessment).

189. Indeed, as mentioned in the paragraphs 118 and 119, HEFCE currently funds HESA and QAA an estimated £5.5 million per year to carry out certain activities necessary for the sector. Under the new regulatory landscape, providers will fund these activities through subscription fees, which will save tax payers money.

190. The creation of the Approved (fee cap) category will enable more providers to move to a model where they charge higher fees. The upfront costs to pay this additional tuition will be typically met by the Government through the provision of loans. The income contingent nature of student loan repayments means that the cost of paying any additional fee amounts will be shared between the student and taxpayers.

191. Under the new regulatory framework, students are expected to achieve better access, success and progression outcomes. This is likely to mean that the costs to the taxpayer in terms of subsidising the sector (as reflected in the RAB charge) are reduced (for example because more students complete their studies). It could also mean that tax revenues may increase because a higher proportion of students successfully enter higher paid jobs after graduation.

192. The Teaching Excellence and Student Outcomes Framework (TEF) participation condition imposes an additional cost on the Government because they must process an additional 22% of TEF applications in 2019/20 and between 8% and 6% from 2019/20 to 2020/21[82]. Table 21 outlines the cost of

[82] Our internal modelling forecasts that around 34 providers will enter TEF in 2019/20 due to the condition. All these providers will need to apply in 2019/20. From 2020/21 onwards, we forecast that applications will fall to between 10 to 13 per year, this is because once providers have applied for TEF they only need to re-apply every 3 to 5 years.

these additional assessments, which have been estimated using a revisited version of our previous model (see Annex E for more detail).

Table 21: Additional TEF assessment cost to Government from TEF condition, £ millions, 2018 prices.

	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28
Assessment Costs (£m)	0.0	0.6	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2

Small and Medium Business Assessment

193. In the Higher Education sector, provider size is normally based on its' student population, as it is considered more relevant for most policy questions than the total number of employees. It is possible for institutions with the same number of employees to have significantly different student populations, and therefore they may greatly vary in size. However, this small and micro business assessment will analyse provider size by the number of employees.

194. HESA data for 2016/17 show that HEIs have on average 3,060 employees, with 95 employees being the smallest number at a single HEI. Analysis of the Further Education workforce data for England Report[83] shows that the average FTE staff per college is 383 for England. Therefore, we do not believe any HEI or FEC is a small business for this assessment.

195. We therefore only apply the small and micro business assessment to APs. Currently, there exists two separate regulatory systems, one for well-established HEIs and the other for APs, who are subject to a different, and more stringent, system of checks and requirements, making operating in the sector significantly more burdensome. The Regulatory Framework should level the playing field allowing APs to better compete and attract more students. Therefore, overall, we expect package of policy reforms to be positive for APs, and disproportionately so.

[83] Frontier, 2014, http://www.et-foundation.co.uk/wp-content/uploads/2014/09/SIR-Report.pdf.

Monitoring and evaluation

196. The Department for Education is committed to evidence based policy making and will evaluate and monitor the impact of these regulatory reforms against their stated aims and the expectations set out within this Impact Assessment. This will be through a combination of:

- Analysing data from the new OfS register and the data collected by the Higher Education Statistics Authority to understand the effect of these reforms in increasing competition and diversity within the sector.

- The Department will also use the student record and UCAS application data, acquired under powers granted to it by HERA, to evaluate the impact of the reforms, including the transparency duty placed on providers, to widen participation in Higher Education.

- Use of survey data, in combination with the Longitudinal Education Outcomes dataset, to understand graduate outcomes and perceptions of value for money;

- The Independent Review of the Teaching Excellence and Student Outcomes Framework (TEF), will be carried out in the academic year 2018/19. The remit of the review is set out in s26 of HERA. This will be supported by the DfE's own work to commission evaluation evidence on the impact of TEF year 2, and the OfS's work on the delivery of TEF, including piloting options to move to subject level.

197. The Office for Students is responsible for the implementation of its new regulatory framework and its day-to-day operation. The OfS will have a duty to prepare an annual report on its performance and the operation of the new framework. While the focus of the OfS is ensuring the sector delivers on the needs of students.

198. In line with the Better Regulation Framework, the Department will also undertake a post-implementation review. As the new framework will not formally commence until the academic year 2019/20 and there will be a lag in the data necessary to conduct such a review, we do not anticipate this happening until after 2022.

Annex A – Provider Forecasts

Further detail of the HE provider forecast modelling is provided in the technical note. This is included in the enactment[84] impact assessments and underpins all of the HE provider forecasts.

	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
Outside the system	643	612	582	553	525	500	478	458	441	426
Recognised as in the system	508	531	555	580	606	631	654	677	698	718
Approved	129	144	159	176	192	208	222	236	249	260
APs	129	144	159	176	192	208	222	236	249	260
with designation and without DAPs	80	86	92	99	106	112	117	122	126	130
with designation and DAPs	15	20	27	33	40	47	54	61	68	75
with Tier 4 only	34	37	40	43	46	49	51	53	54	56
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)	379	387	395	404	414	423	432	441	449	457
APs	41	47	54	61	69	77	85	92	99	106
with DAPs	30	32	33	35	38	40	42	44	46	48
without DAPs	11	16	21	26	32	37	43	48	53	58
FECs	206	208	209	211	212	214	215	217	218	219
HEIs	132	132	132	132	132	132	132	132	132	132

[84] http://www.legislation.gov.uk/ukia/2017/182

Annex B – Sensitivity Analysis

199. This section tests the robustness of our final estimates by performing a sensitivity analysis on our provider number assumptions. We show that the net present value (NPV) and business net present value (BNPV) remain positive and significant, to changes in our forecasting assumptions. This supports the deregulatory status of the new Regulatory Framework.

200. There are four main uncertainties in our provider forecasts:

- It is uncertain how designated APs, which are currently in the regulatory system, will behave in the first year of operation of the OfS register. We do not think providers will want to relinquish their regulated status as this is likely to be important to the decision-making of their prospective students, and because the new regulatory framework is designed to be less burdensome. However, it is less clear if they will join Approved or Approved (fee cap).

- It is uncertain how existing APs currently outside the regulatory system will behave in the first year of the OfS register. A number of them would likely want to join the OfS register – either as Approved or Approved (fee cap) – given the potential benefits of the reforms, but it is difficult to quantify how many because we have less knowledge about these providers since they are outside the current regulatory system.

- Providers can switch over time between the different categories of the regulatory framework (i.e. a provider may move from Approved to Approved (fee cap) or look to gain DAPs), however, there is limited evidence on what this rate of switching will be at this stage.

- It is uncertain how many new providers will enter the market each year. Our forecasts assume that 30 new providers per year will enter the HE market, but not necessarily the regulatory system.

201. We consider the following four changes to our provider number assumptions, which tests the limits of our model:

1. **Fewer new providers.** We reduce the number of new providers entering the HE market from 30 to 10.

2. **Lower entry and switching.** We reduce the number of providers entering the regulatory framework from outside the system by 50%. We also reduce the amount of switching between categories by 50%.

3. **Fewer Approved (fee cap).** We assume that a lower proportion of existing designated APs joining Approved (fee cap) in the first year of the OfS (10% instead of 30%), choosing instead to join Approved, which also reduces numbers in the subsequent years.

4. **All.** We consider the combined impact of the above all three changes.

202. The table below compares the Net Present Value (NPV), Business NPV and Equivalent Annual Net Direct Cost to Business (EANDCB) for each of the four changes with our best estimate, which was used in this impact assessment.

	NPV (£m)	BNPV (£m)	EANDCB (£m)
Best Estimate	**20.1**	**137.8**	**-13.6**
Less new providers	**17.9**	121.11	-12.0
Lower entry and switching	16.8	114.6	-11.4
Less Approved (fee cap)	21.3	101.9	-10.1
All	16.2	69.7	-6.9

203. The NPV does not change substantially across the different forecasting changes, ranging from £21.3m to £16.2m. The main reason why the NPV remains largely unaltered is because it is driven by the number of providers in Approved and Approved (fee cap). In all four changes above, these numbers do not change drastically. The reasons why are as follows:

1. **Fewer new providers.** Cautiously, we assume that only a small proportion of new providers end up as Approved and Approved (fee cap). Hence, reducing the number from 30 new providers to 10 new providers has a small impact on the NPV.

2. **Lower entry and switching.** Our original model assumes that only a small percentage of providers enter Approved and Approved (fee cap) from outside the system. Therefore, a 50% reduction has little impact on overall Approved and Approved (fee cap) provider numbers.

3. **Fewer Approved (fee cap).** This does not change the total number of Approved and Approved (fee cap) providers, it alters the distribution between each category.

204. The BNVP ranges from £69.7m to £137.8m. This is a large range, but it is comfortably positive, and thus deregulatory. The size of the BNVP is most sensitive to the number of APs that join Approved (fee cap) and charge higher

tuition fees. In the **All** scenario[85], the number of Approved (fee cap) APs is significantly reduced, to what we believe are extremely conservative numbers, and the BNVP is still significantly above zero.

[85] The reduction in the All scenario is greater than the sum of its three individual parts because there is a compounding effect of applying all three assumption changes at once. That is, we are starting from a lower base with lower growth, rather than just considering a lower base or lower growth separately.

Annex C – New Analysis

The table below outlines the overall structure of our impact assessment. There are 8 main sections (which are bold in the table). For each main section we indicate if any new analysis has been undertaken for the purposes of this impact assessment.

Impact on Providers of Creating the OfS Register	**No new analysis**
Creating the OfS Register	Same as Enactment IAs
Providers Moving to Approved (fee cap)	Same as Enactment IAs
Recruiting International Students	Same as enactment IAs
Familiarisation of the OfS Register	Same as enactment IAs
Initial and Ongoing Registration Conditions	**New analysis**
A1: Access and Participation Plans	No Analysis Required
A2: Access and Participation Statements	New
B1,B2,B3,B4,B5: Quality and Standards	No Analysis Required
B6: Teaching Excellence and Student Outcomes Framework Participation	New
C1: Guidance on Consumer Protection Law	New
C2: Student Complaints	No Analysis Required
C3: Student Protection Plan	Same as Enactment IAs
D: Financial viability and sustainability	No Analysis Required
E1: Public Interest Governance	New
E2: Management and Governance	No Analysis Required
E3: Accountability	New
E4: Notifications on Changes to Register	No Analysis Required
E5: Facilitating Electoral Registration	No Analysis Required
F1: Transparency Information	Same as enactment IAs
F2: Student Transfer Arrangements	New
F3: Provision of Information	No Analysis Required
G1: Mandatory Fee Limit	No Analysis Required
G2: Complying with Terms and Conditions of Funding	No Analysis Required
G3: Pay Registration Fees	New
Registration 19/20	No analysis required
Moving to a Risk-Based Monitoring and Assurance Framework	**New analysis**
Removal of Annual Re-designation	New
Lower Frequency of Reviews	New
Reforming the Validation System	**No new analysis**
Creating a More Flexible DAPs process	**No new analysis**
Making it Simpler to Obtain a University Title	**No new analysis**
Impact on Students	**No new analysis**
Impact on Taxpayers	**New analysis**
B6: Teaching Excellence and Student Outcomes Framework Participation	New
G3: Pay Registration Fees	New

Annex D – OfS and DfE cost estimate assumptions

To develop the costs of several initial and ongoing registration conditions DfE worked closely with the OfS to make sure the assumptions used in our analytical model were reasonable and a fair reflection on the costs faced by the average provider.

There are several conditions – Condition A2: Access and Participation Statements, Condition C1: Student Contracts, Condition E1: Public Interest Governance, Condition E3: Accountability and Condition F2: Student Transfer Arrangements – which require providers to either publish or submit short documents to the OfS. These conditions all require different information, but involve similar processes (produce, review and senior management sign off for the document), and therefore should have a similar regulatory burden.

DfE and the OfS have developed a common costing across these conditions, which reasonably reflects the burden to the average provider based on the information contained in the Regulatory Framework document published by the OfS on 28th February. A breakdown of these costings are shown below.

Table D1: Estimated costings used for several conditions (A2, C1, E1, E3, F2)

Activity	Cost
Produce documents, mid-level HE staff (24 hours x £17.2[86])	£410
+ Review documents, senior management (4 hours * £37.7[87])	£150
+ Clearing documents, executive board time (2 hours x 10 staff members x £55.7[88])	£1,110
= Total Staff cost	£1,680

[86] ASHE data shows that the median hourly wage for 'other managers' is £22.48 - Occupation (12) – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2)

All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £22.82. We then add an uplift of 19.8% to get £17.2.

[87] ASHE data shows that the median hourly wage for a Senior professional of educational establishment is £30.97 - Occupation (2317) – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2). All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £31.44. We then add the uplift of 19.8% to get £37.7.

[88] ASHE data shows that the median hourly wage for a Chief executive and senior official is £45.83 - Occupation 1115 – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2).

All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £45.83. We then add an uplift of 19.8% to get £55.7.

Our analysis required an estimated average provider cost for a HEFCE Assurance Review (HAR). Colleagues from the OfS provided the cost estimates below, which they thought was a reasonable assessment of the average provider burden based on their experience of the process while working at HEFCE.

Table D2: Estimated costings used of a HAR

Activity	Cost
Produce briefing backs for visit (40 hours x £17.2[89] mid-level HE staff)	£690
+ Review the packs (16 hours * £37.7[90] senior management)	£600
+ Hosting on-site visit, (8 hours * £37.7 senior management)	£300
+ Interviews (4 hours * £37.7 senior management + 5 hours * £55.7[91] board members/head of provider)	£430
+ Drafting response (16 hours * £37.7 senior management)	£600
+ Clearing response (8 hours * £55.7[92] head of provider)	£450
= Total Staff cost	£3,070

[89] ASHE data shows that the median hourly wage for 'other managers' is £22.48 - Occupation (12) – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2)

All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £22.82. We then add an uplift of 19.8% to get £17.2.

[90] ASHE data shows that the median hourly wage for a Senior professional of educational establishment is £30.97 - Occupation (2317) – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2). All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £31.44. We then add the uplift of 19.8% to get £37.7.

[91] ASHE data shows that the median hourly wage for a Chief executive and senior official is £45.83 - Occupation 1115 – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2).

All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £45.83. We then add an uplift of 19.8% to get £55.7.

[92] ASHE data shows that the median hourly wage for a Chief executive and senior official is £45.83 - Occupation 1115 – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2).

All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £45.83. We then add an uplift of 19.8% to get £55.7.

Our analysis also needed to estimate the cost of a random sampling review. This review has not been fully designed yet, but we know it will be different to the HAR so we could not use the estimated costs above (Table D2) as a benchmark. Instead, the OfS provided their best estimated of the average provider cost of a random sampling review based on the latest policy development.

Table D3: Estimated costings used of a random sampling review

Activity	Cost
Prepare for visit (64 hours x £17.2[93] mid-level HE staff)	£1,100
+ Review the preparation (24 hours * £37.7[94] senior management)	£900
+ On-site visit, (24 hours * £37.7 senior management)	£300
+ Sign off (8 hours * £55.7[95] head of provider)	£450
= Total Staff cost	£3,360

[93] ASHE data shows that the median hourly wage for 'other managers' is £22.48 - Occupation (12) – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2)

All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £22.82. We then add an uplift of 19.8% to get £17.2.

[94] ASHE data shows that the median hourly wage for a Senior professional of educational establishment is £30.97 - Occupation (2317) – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2). All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £31.44. We then add the uplift of 19.8% to get £37.7.

[95] ASHE data shows that the median hourly wage for a Chief executive and senior official is £45.83 - Occupation 1115 – ASHE: Table 14.5a (2017) (https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2).

All ASHE data is uprated to 2018 prices using OBR RPIX estimates published in March 2018. This means a 2018 hourly wage of £45.83. We then add an uplift of 19.8% to get £55.7.

Annex E – Policy Changes to the Teaching Excellence and Student Outcomes Framework and Tuition Fees

205. Following the publication of the White Paper, *Success a Knowledge Economy* in May 2016, there have been a series of developments and announcements which have meant changes to the way in which the TEF – now referred to as the Teaching Excellence and Student Outcomes Framework[96] – will work.

206. Firstly, Parliamentary amendments to the Bill and feedback from the HE sector on the UK Government's Technical Consultation on TEF Year 2, has led to further refinements of the original proposals, as detailed in Table E1 below.

Table E1: Key policy amendments

	Original proposals	**Revised proposals**
Differentiated fee uplift	Impacts fees in academic year 2019/20) based on assessments taking place in academic year 2017/18.	Impacts fees in academic year 2020/21)[97] based on assessments taking place in academic year 2018/19.)
Subject level assessment	First assessments in academic year 2018/19.	First assessments in academic year 2019/20)[98]
Award ratings categories	3 award ratings (with a possible move to 4 from TEF Year 4 onwards) named *Meets Expectations, Excellent and Outstanding*	3 award ratings only and renamed *Bronze, Silver and Gold*

[96] This reflects feedback from TEF Year 2 participants surveyed as part of a lessons learned exercise that the previous name could be misinterpreted as implying a narrow focus on teaching rather than the broad-based assessment of teaching and outcomes that it assessed by TEF.

[97] This means that in Years 2 and 3 all providers applying to TEF will be able to raise their tuition fee levels by the full inflation rate, regardless of the level of TEF award they receive.

[98] This means that pilots of the subject level assessment will run for two years rather than one

207. Secondly, the Government has published several new documents in recent months concerning the TEF's design and practical operation.

- For the design of Subject-level TEF, the government published its plans for the first year of subject level pilots in July 2017[99] and also launched a consultation on the design in March 2018[100]. There are currently two different assessment models being considered:

Table E2: Alternative subject-level assessment models

	Description	Submission requirements
Model A	'By exception' model giving a provider-level rating and giving subjects the same rating as the provider where metrics performance is similar, with fuller assessment (and potentially different ratings) where metric performance differs	Provider-level submissions limited to **15 pages** as in provider-level TEF. Subject submissions only produced for 'exceptions' and limited to **5 pages** per subject
Model B	'Bottom-up' model fully assessing each subject to give subject level ratings, feeding into the provider-level assessment and rating. Subjects are grouped for submissions, but ratings are still awarded at subject-level	Provider-level submissions limited to **10 pages**. 35 subjects are mapped into 7 groups which are used for submissions. Subject level submissions will have variable maximum page lengths: **5 pages for each group in which a provider has 1 subject** with the page limit increasing by **1 page** for each additional subject the provider has in that group.

- In October 2017, the findings of a lessons learned exercise were published which highlighted further refinements to the existing assessment process and

[99] Department for Education (2017) *Teaching Excellence Framework: Subject-level pilot specification* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/629976/Teaching_Excellence_Framework_Subject-level_pilot_specification.pdf

[100] Department for Education (2018) *Teaching Excellence and Student Outcomes Framework - Subject-level consultation document* https://consult.education.gov.uk/higher-education-reform/teaching-excellence-and-student-outcomes-framework/

the steps which were being taken to further strengthen the way that the TEF will hold providers to account for delivering excellent teaching[101]. This indicated that from academic year 2019/20, subject to the findings of the Subject-level TEF consultation and an independent review (due to take place in academic year 2018/19), it is expected that TEF will move to a five-year cycle. If this occurs, from this point onwards, TEF ratings would last for five years, with providers able to reapply for assessment either three, four or five years after their last application. This would deliver value for money for the sector and be a proportionate approach to adopt once the TEF has been independently reviewed. This policy change is being consulted on as part of the Subject-level TEF consultation and is therefore subject to change, but has been assumed in this analysis for the purpose of the impact assessment.

208. Thirdly, the Teaching Excellence and Student Outcomes Framework (TEF) has completed its second year of operation. A total of 281 HE providers in England applied and received an award in June 2017 (see Table E3 below). This has allowed us to update our underlying modelling assumptions regarding take-up and results in light of real-world experience. This is discussed in further detail below.

Table E3: TEF Year 2 results, by level of award and type of provider

	HEIs		FECs		APs		TOTAL	
Provisional	0	(0%)	13	(12.6%)	9	(89.0%)	62	(22.1%)
Bronze	23	(18.7%)	31	(30.1%)	1	(1.8%)	55	(19.6%)
Silver	61	(49.6%)	45	(43.7%)	3	(5.5%)	109	(38.8%)
Gold	39	(31.7%)	14	(13.6%)	2	(3.6%)	55	(19.6%)
Total	**123**	(100%)	**103**	(100%)	**55**	(100%)	**281**	(100%)

Source: HEFCE (2017) http://www.hefce.ac.uk/lt/tef/
Note: percentage figures in parenthesis sum vertically. Provisional awards last for one year only

209. Fourthly, the Prime Minister has announced a tuition fee freeze for academic year 2018/19, details of which are set out in a Written Statement published on 9th October 2017[102]. It confirms that for HEFCE funded providers with a TEF award, the maximum tuition fee for full time courses will remain at £9,250 in 2018/19 (£6,165 for those without an OFFA access agreement). For HEFCE funded providers that do not have a TEF award, the corresponding caps will continue to be £9,000 (£6,000 without an OFFA access agreement). With regards to part-time courses, the maximum tuition fee cap for HEFCE funded provided with a

[101] Department for Education (2017) *Teaching Excellence and Student Outcomes Framework: lessons learned from Year 2* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/651157/DfE_TEF_Year_2_Lessons_Learned-report.pdf

[102] http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-10-09/HCWS145/

TEF award will be £6,935 (£4,625 without an access agreement). For HEFCE funded providers without a TEF award, the corresponding caps will continue to be £6,750 (£4,500 without an OFFA access agreement).

210. Lastly, as already noted, TEF will be an ongoing condition of registration for Approved and Approved (Fee Cap) providers with more than 500 undergraduate higher education students. This however is not the focus of this annex.

Analytical approach and revised modelling assumptions

211. In light of these events, we have made the following revisions and additions to the assumptions used in the earlier 2016 impact assessment to model the impacts of the TEF on providers and students.

Tuition fee levels

212. In line with the Written Statement on Student Finance made by Jo Johnson, the (then) Minister of State for Universities and Science on the 9th October 2017, the model uses the same tuition fee levels for full and part-time students at HEIs and FECs in the academic year 2018/19 (with no access agreements) as for academic year 2017/18. Thereafter, in line with practice adopted by the OBR when forecasting Government expenditure, it is assumed that the previous policy intention of inflation-linked fee rises is still in place. This is purely a modelling assumption for the purpose of this document only and in no way should be considered to prejudge the review of post-18 education and funding announced by the Prime Minister on the 19th of February 2018. [103] In particular, it should not in any way be considered a commitment by Government to raise fees in this manner which, in any case, would be subject to Parliamentary approval.

Application *and re-application behaviour*

213. Modelling assumptions about TEF participation have been updated to reflect new information about the number of providers that chose to participate in TEF Year 2, the results of which were announced in June 2017.

214. The number of HE providers that chose to apply in TEF Year 2 was found to be less than the total number of providers which are deemed eligible do so. While nearly all HEIs chose to apply, around 50% of eligible FECs and APs did so (see Table E3 below)[104]. In the case of FECs, feedback gathered from the lessons learnt exercise indicated various reasons for this, including focusing on other priorities, not requiring the financial incentive of an inflationary fee uplift or not requiring the reputational advantage due to recruiting from a small and local area.

[103] https://www.gov.uk/government/news/prime-minister-launches-major-review-of-post-18-education

[104] In TEF Year 2, 123 out of 132 eligible HEIs applied. 103 out of the 206 eligible FECs applied while 55 out of 114 eligible APs did so.

Table E4: Application rates to TEF Year 2

	Total number applying	Total number eligible	% Application rate
HEIs	123	132	93.2%
FECs	103	206	50%
APs	55	114	48.2%
TOTAL	**281**	**452**	**62.2%**

Source: HEFCE (2017) http://www.hefce.ac.uk/lt/tef/
Note: Figures include applications for full and provisional awards

215. Taking into account the results of TEF Year 2, under the assumption participation in TEF was ***voluntary for all providers***, we would have expected the number of FECs and APs participating in the TEF to continue increasing but at a diminishing rate, to the point that by TEF Year 8 around 75% of eligible FECs and APs would be applying.

216. We assume further that if TEF participation had remained voluntary, there would have been a very small increase in the number of HEIs applying, but that participation would not reach 100% of HEIs. This is because the remaining HEIs that have not applied to TEF Year 2 do not have an undergraduate student population. Rather they are institutions which are more specialised or research based or only have a postgraduate student population.

217. Our modelling assumptions are set out in Table E4 below. This constitutes a revised counterfactual scenario which has been used in the Regulatory Framework Impact Assessment to estimate the additional costs and benefits of making TEF mandatory for Approved and Approved (Fee Cap) providers with more than 500 undergraduate HE students.

Table E4: Participation rate for HEIs, FECs and APs over time

	HEIs	FECs	APs
TEF Year 2	93%	50%	48%
TEF Year 3	94%	60%	60%
TEF Year 4	95%	65%	65%
TEF Year 5	95%	70%	70%
TEF Year 6	95%	72.5%	72.5%
TEF Year 7	95%	74%	74%
TEF Year 8	95%	75%	75%
TEF Year 9	95%	75%	75%
TEF Year 10	95%	75%	75%

218. As a result of the aforementioned refinements, application and re-application behaviour of providers is assumed to be as follows:

- In TEF Year 1, every provider who had successfully passed their quality assurance review received a TEF award and it is assumed that all of these providers applied the full inflationary uplift. The TEF award lasted for one year only;

- In TEF Year 2, all eligible providers wishing to participate in TEF had to re-apply. For TEF Years 2 to 4, it is expected that TEF awards will be valid for up to a maximum of three years. However, if a provider wishes to try and improve their rating, they are currently able to re-apply each year, at voluntary cost to the provider;

- From TEF Year 5 onwards, it is assumed that TEF awards will be valid for up to five years with providers able to reapply for assessment either three, four or five years after their last application, again at voluntary cost. This assumption is based on current proposed policy, but is subject to the findings on the Subject-level TEF consultation.

- From TEF Year 3 onwards, providers applying to TEF will comprise a mixture of:

    - newly eligible providers who are applying for the first time;

    - a proportion of providers who received a TEF award and are re-applying in order to try and improve their original rating; and

    - a proportion of providers whose TEF award has expired and they are re-applying to continue their participation in TEF.

219. In our modelling, we assume a high and low cost scenario. In the high scenario, we assume that providers participating in TEF will apply annually in TEF Year 2 to 4 and then once every three years, on average, from TEF Year 5 onwards. This forms the basis of a high cost scenario since we do not expect that all eligible providers receiving a TEF award will choose to re-apply as often as this because they may be satisfied with the rating they have achieved.

220. In the low scenario, we assume that providers participating in TEF will apply only once in TEF Years 2 to 4 and then once every five years, on average, from TEF Year 5 onwards. This forms the basis of a low cost scenario because some providers may need to reapply more often to try and improve their rating.

221. To calculate the central scenario, we take the mid-point from these low and high scenarios. The justification for using the mid-point is that in TEF Year 2, 25%

of providers achieved gold, 50% silver and 25% bronze. Assuming that the breakdown of ratings stays the same over time, we further assume that that 50% of providers (all of bronze and half of silver provides) would reapply according to the behaviour set out on our high scenario (i.e. they would want to apply as soon as possible in order to achieve a higher rating). The other 50% we assume will behave as outlined in the low scenario (i.e. they are satisfied with their rating so will only reapply when necessary).

222. In our modelling, we assume that providers submit a total of 7 subject level assessments, which are of half the page length of a provider-level assessment (10 pages to a base of 5 pages according to Model B), and accordingly cost half as much. This modelling assumption, which is based on Model B, represents what we believe is a high cost scenario since we think it likely providers will submit a smaller number of subject level assessments, which by definition would mean fewer pages, and correspondingly lower costs.

223. We could have alternatively used Model A as the basis for our modelling assumptions. Data from TEF Year 2 suggests that approximately 28% of all subjects across participating providers will be generated as exceptions. The second level of the new **Common Aggregation Hierarchy** (recently published by the Higher Education Statistics Agency) is being proposed as the system used to define ‘subjects’ for the purpose of the subject-level TEF of which there are 35 subjects. This would imply a maximum of 28% x 35 = approx. 10 subject level assessments. While the number of subject level submissions possible is greater under Model A than Model B, the cost of each submission may be lower under Model A since they would have slightly fewer number of pages. Since we do not have robust information to accurately estimate the cost per page of a subject-level assessment, we have used Model B as the basis for our cost calculation.

224. Finally, it is worth noting this revised impact assessment uses updated economic modelling assumptions to reflect new or more up to date statistics and information, in particular:

- the most recently published official statistics on inflation, salaries and earnings; and
- the latest DfE internal forecasts of HE provider and student numbers.

TEF Participation: Revised provider forecasts

225. Table E5 below sets out revised forecast number of providers participating in TEF in each year, taking into account updated assumptions about provider numbers in light of the TEF Year 2 results and policy amendments agreed as the

Bill passed to Royal Assent. These are compared with the forecast numbers set out in the earlier 2016 impact assessment.

226. As can be seen, revised forecasts of the number of providers applying to the TEF in each year is lower than in the earlier 2016 impact assessment. This is because, in light of the TEF Year 2 results, we have adjusted the number of TEF providers in 2016/17 to match actual data. We have also assumed a more gradual take-up rate between 2017/18 and 2020/21[105]. The provider numbers following 2019/20 are roughly comparable with differences due to minor updates in our provider forecast model.

Table E5: Forecast number of participating (eligible) providers

	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26
2016 Bill Impact Assessment	317	313	395	405	409	439	455	473	492	513
Revised numbers	281	303	334	368	405	433	460	482	500	518

Note (1): TEF participation is assumed to be voluntary for all providers in both the 2016 Bill and Revised Impact Assessment
Note (2): Lower forecast numbers in the revised impact assessment reflect the new assumption that no all providers may choose to participate in TEF even though they have passed QA and have the necessary number of years of data
Note (3) Providers with provisional awards are included in the forecast numbers in the revised impact assessment.

Costs

227. The same submission, familiarisation and assessment costs as the 2016 TEF impact assessment were used. Therefore, the main changes are driven by our revisions of our provider forecasts and number of applications and submissions.

Familiarisation costs

228. Familiarisation costs relate to understanding the guidance and making an initial assessment of whether or not to apply. In the earlier 2016 impact assessment, the familiarisation costs incurred by Approved and Approved fee cap providers were assumed to depend on whether they are eligible to apply[106]. Eligible providers were assumed to incur the full familiarisation costs while non-

[105] The reason for the large jump between 2017/18 and 2018/19 reflects the assumption made in the Bill impact assessment that the OfS was expected to come into force in 2018/19, which would have seen more providers eligible for TEF. It is now known that the OfS will come into force 2019/20, and this is reflected in a more gradual take-up rate.

[106] Approved and Approved fee cap providers are eligible to apply for TEF if they have at least two years of relevant data.

eligible providers were assumed to incur partial familiarisation costs on the basis that the full guidance does not need to be read once it becomes apparent that the provider is not eligible to apply.

229. In light of the TEF Year 2 results, and to be consistent with the modelling of the Regulatory Framework proposals, it has been deemed appropriate to distinguish now between participating and non-participating providers (comprising non-eligible providers and eligible providers who choose not to participate). Non-participating providers are assumed to incur partial familiarisation costs while participating provider incur full familiarisation costs.

230. Table E6 below compares familiarisation costs at the different stages of the legislative process. Familiarisation costs have been re-estimated at the point of Royal Assent and reflect the updated modelling assumption that the costs associated with TEF Year 1 (which are zero) and TEF Year 2 occur in the same academic year 2016/17. Across the ten-year period, average annual familiarisation costs are estimated to be around £0.26m per annum at the point of Royal Assent. This compares with around £0.36m at the Bill stage.

Table E6: Estimated familiarisation costs (£m)

	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26
2016 Bill Impact Assessment	0	0.36	0.30	0.40	0.28	0.29	0.29	0.30	0.30	0.31
Revised numbers	0.6	0.2	0.3	0.5	0.4	0.4	0.3	0.3	0.3	0.3

Note: Figures may not sum due to rounding. At enactment stage, it is assumed for the purposes of the IA that the cost associated with TEF Year 1 (which are zero) and Year 2 occur in the same academic year, 2016/17.

Application costs

231. An important driver of costs is the number of times providers apply to TEF. As described in the 2016 impact assessment, it is assumed that institutions receiving a TEF award in Year 2 will be able to keep their award for a maximum of three years with provisional awards lasting just one year. From Year 5 onwards, when subject level assessments are due to begin, awards are assumed to last for five years. Institutions will continue to have the option to re-apply if they are not happy with their award and it is expected they will only choose to do so if they expect the benefits (both reputational and financial) to outweigh the costs.

232. As set out in the 2016 impact assessment, institutions applying to TEF will submit a range of quantitative and qualitative evidence to demonstrate their teaching quality. Table E7 below sets out the costs estimates at the different stages of the legislative process.

233. Estimated average annual application costs at the point of Royal Assent was around £8.9m per annum over the ten-year period. This compares with £22.1m at the Bill stage. The reason why there is such a reduction to application costs is due to our modelling assumption of the number of assessments required being revised downwards to reflect the latest policy position.

Table E7: Estimated application costs (£m)

	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26
2016 Bill Impact Assessment	0	4.0	4.3	28.5	28.7	29.7	30.3	31.0	31.7	32.4
Revised numbers	5.1	2.7	3.4	10.3	10.7	10.9	11.5	11.8	12.0	12.4

Note: Figures may not sum due to rounding. At enactment stage, it is assumed for the purposes of the IA that the cost associated with TEF Year 1 (which are zero) and Year 2 occur in the same academic year, 2016/17.

Assessment costs

234. The 2016 impact assessment sets out the modelling assumptions around provider and subject level assessments. Following the same approach, Table E8 below sets out the estimated additional assessment costs.

235. Average annual assessment costs are estimated to be around £6.7m per annum over the ten-year appraisal period at the point of Royal Assent. This compares with £2.9m per annum at the Bill Stage. The reason the cost is significantly less is the same as for application costs; the number of submissions are assumed to be less to reflect changes to policy.

Table E8: Estimated assessment panel costs (£m)

	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26
2016 Bill Impact Assessment	0.0	1.3	1.4	9.0	9.1	9.4	9.6	9.8	10.0	10.2
Revised numbers	1.9	1.6	1.7	3.8	3.4	3.4	3.5	3.6	3.7	3.8

Note: Figures may not sum due to rounding. At enactment stage, it is assumed for the purposes of the IA that the cost associated with TEF Year 1 (which are zero) and Year 2 occur in the same academic year, 2016/17.

Benefits

236. As explained in the 2016 impact assessments, the benefits to providers participating in TEF are:

(i) The reputational benefit of receiving a TEF award. This is especially relevant for providers receiving higher TEF awards, as this is expected to put them at a competitive advantage and make them more attractive to prospective students.

(ii) Secondly, as explained in the Bill IA, when first introduced, TEF awards were linked to fee (loan) caps. Following a freeze for academic year 2018/19, our analysis assumes, in line with practice adopted by the OBR when forecasting Government expenditure, that the previous policy intention of inflation-linked fee rises beyond 2018/19 is still in place.

237. We do not quantify the reputational benefits associated with TEF. These are expected to be significant for those providers receiving higher awards, with students now choosing them over providers with lower awards. At a sector wide level, we would expect TEF – by encouraging innovation, continual improvement and diversity – to boost the overall standing of the Higher Education system. This might encourage more international students to seek to study at English HE institutions, as well as increase its attractiveness as a study option for domestic students.

238. The revenue benefits will be linked to the extent to which TEF and future fee cap decisions (which following the passage of HERA must follow an affirmative legislative procedure) enable providers to increase their fees. It will also depend on the initial fees policy of those affected by this policy change. This benefit is based on modelling assumptions only and is subject to the findings of the review of post-18 education and funding.

239. As with the earlier 2016 impact assessment, only the financial benefits associated with FECs (without access agreements) have been quantified. A summary of the additional financial benefits associated are set out below.

Table E9: Tuition fee income: FECs (without access agreements). Nominal Terms (£m).

	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26
2016 Bill Impact Assessment	-	4	10	15	21	27	33	39	46	52
Revised numbers	-	4	9	13	18	22	29	35	42	48

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