

# Final stage impact assessment

Title: Teacher Regulation – Strengthening the teacher misconduct regime

Type of measure: Primary legislation - Children’s Wellbeing and Schools Bill

Department or agency: Department for Education

IA number: DfE-CWSB-07

RPC reference number: RPC-DfE-24016-IA (1)

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Date: 20 March 2025

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## 1. Summary of proposal

1. The current teacher misconduct legislation gives power to the Secretary of State to consider and decide on cases of serious teacher misconduct and to determine whether prohibition from teaching is appropriate. A prohibition order prevents individuals from carrying out teaching work in a range of specified educational establishments. The Teaching Regulation Agency (TRA) operates the teacher misconduct regime and exercises this power on behalf of the Secretary of State.
2. Legislation sets out the framework within which the regime must operate, and this includes defining those to whom the regime applies. Currently, in order to be within scope of the teacher misconduct regime, an individual must be employed or engaged to undertake teaching work (as defined in regulation 3(1) of the Teachers' Disciplinary (England) Regulations 2012) within a specified setting (specified settings are currently a school, sixth form college, 16-19 Academy, relevant youth accommodation or children's home). It also sets out that the Secretary of State may investigate a case where an allegation is referred to her.
3. The combined effect of all three proposed provisions is that more teachers will fall under the jurisdiction of the TRA's regime. They will capture any provider of education and training that enters into a funding agreement and receives funding from the Secretary of State for further education provision and also online education providers and Independent Educational institutions that are not schools. These changes mean that the TRA will have more cases; the fact that serious misconduct which may bring the profession into disrepute would be investigated by a professional regulation body should already be in the reasonable contemplation of any teacher and that should be the case

regardless of their employment status at the time the conduct in question took place, what specific type of organisations they teach or taught in and whether it was a Department for Education (hereafter “DfE” or “the department”) civil servant, or another person, which referred their conduct to the Secretary of State.

4. These changes all close identified weaknesses or gaps in our current regulatory regime which may prevent or hinder the investigation of serious misconduct by teachers and so allow teachers who may be a risk to children’s wellbeing to continue to oversee children’s education.

## 2. Strategic case for proposed regulation

5. There is a pre-existing regulatory regime which applies to teachers in England. This is operated by the Teaching Regulation Agency (TRA) on behalf of the Secretary of State. The regime is primarily set out in [The Teachers’ Disciplinary \(England\) Regulations 2012](#) and permits the TRA to investigate and, if needs be, prohibit from teaching individuals who have committed serious misconduct and so present a risk to children’s wellbeing.
6. The TRA is an Executive Agency. It publishes data on its performance and activity, primarily in its Annual Report and Accounts which are laid before Parliament. The most recent Report confirmed the following activity by the Teacher Misconduct Unit (“TMU”)<sup>1</sup>:

### Key outcomes for TMU

During 2023-24 TMU has:

Outcomes	2023-24	2022-23	2021-22	2020-21
assessed referrals of teacher misconduct	1,684 *	1,038	714	628
begun an investigation into cases of alleged serious misconduct	625	482	298	416
held hearings (resulting in teachers being prohibited)	244 (157)	207 (137)	149 (108)	58 (39)
imposed IPOs	153	95	77	110
held set aside hearings (resulting in the prohibition order being removed)	7 (6)	9 (8)	14 (10)	20 (10)

\* The increase in referrals during 2023-24 has been largely driven by an increase in the number of referrals made by members of the public

7. We work closely with the TRA both to monitor its work and ensure that the regulatory regime is as robust as possible. These are specific proposals drawn up in response to known identified weaknesses and gaps. They will allow action to be taken against more teachers who may have committed serious misconduct and so be a threat to children’s wellbeing. The need for these measures has been informed by our experiences

<sup>1</sup> Teaching Regulation Agency Annual Report and Accounts for year ended 31 March 2024, [Teaching Regulation Agency Annual Report and Accounts 2023-24](#), page 18.

operating within our existing legislative framework and from the 2022 consultation on the said measures.

8. We are proposing these changes based on our experience running the existing regulatory regime found primarily in the Teachers' Disciplinary (England) Regulations 2012. These particular changes have been drawn up alongside the Teaching Regulation Agency, and were consulted on in 2022. These changes found broad support at that time.
9. **Problem: Some teachers in schools are not captured by the TRA's regime if the misconduct they committed took place while they were not carrying out teaching work in a specified setting.**
10. The original policy intent behind the teacher misconduct regime was that it should capture individuals who have committed serious misconduct when they were not employed or engaged in teaching work (e.g. teacher on a career break, supply teachers or those who teach infrequently) and who are likely to try and return to teaching work in the future.
11. **Evidence to support problem statement:** It is impossible to estimate how many people a) currently carry out teaching work in a setting which is not part of the TRA's regime or b) not currently, but intend to in future, carry out teaching work in a setting which is in the jurisdiction of the TRA regime, and who may have committed serious misconduct even when they were not employed or engaged in teaching work. (This is unlikely to come to light until a referral is made once the legislation is enacted). However, there is a clear policy interest in ensuring that such individuals are not permitted to teach children purely because the serious misconduct they committed took place at a time when they were not carrying out teaching work. Example: An individual carries out teaching work in a school from January to June, they have a break and return to the school in September. During this break they commit serious misconduct. Currently they would not be in jurisdiction of the TRA regime, therefore the TRA would not be able to consider the case. This is because the TRA can only consider cases where the serious misconduct was committed whilst the individual was employed or engaged to carry out teaching work or at the point a referral to the Secretary of State was made, meaning that an individual could return to teaching work and present a potential risk to children. The new measure would bring the individual into the TRA's jurisdiction because they would be able to consider cases where the serious misconduct took place 'at any time'. Any subsequent investigation by the TRA would consider whether it is in the public interest, necessary and proportionate to take a case forward. A range of factors will be considered such as the seriousness of the misconduct, the length of time away from the teaching profession, any child protection matters and the likelihood of returning to the profession.
12. **Problem: Some educational settings are not within jurisdiction of the TRA's regulatory regime. This means that the TRA may not know about any misconduct which takes place in them. What results is that children in some settings are less protected than those in settings which are in scope.**

13. Some educational settings which cater for children of compulsory school age (FE settings, SPIs, ITPs, online education providers and Independent Education Institutions (IEIs) that are not schools) are not at present specified as relevant settings meaning that the TRA does not have jurisdiction to investigate any referrals relating to serious misconduct that have been committed in these settings, or prohibit from teaching individuals who have committed serious misconduct and who are employed, or have been employed to carry out teaching work, in these settings. It is not possible to provide figures on how many people outside a regulatory regime may be impacted by that regime if they were part of it, but the evidence is illustrative of the risk here.
14. **Evidence to support problem statement:** 86% of respondents to the 2022 consultation on the Bill measures, welcomed the proposal to extend the misconduct regime to FE and Post-16 Providers. Respondents agreed that it was only right for individuals working in these settings to be subject to the same misconduct regime as teachers. They added that this would provide a consistent approach and better protection across all schools, colleges and post 16 providers within the state funded education system, and ensure that learners under the age of 19 are protected wherever they are receiving their education. It should apply to all establishments that are required to comply with the department's statutory guidance, 'Keeping children safe in education' (KCSIE) and that by doing so it will reduce the safeguarding risk of a prohibited person trying to work between the different sectors.
15. **Problem: Information about possible misconduct cannot always be acted upon straightaway.**
16. There are instances where a DfE official may undertake work which uncovers serious misconduct, for example DfE officials may uncover fraud during an academy audit, or the Standards and Testing Agency may uncover serious exam malpractice during an investigation. At present, DfE officials cannot make a referral on the back of such information. Instead, a referral by an external third-party must be sought. This adds time and risk since it falls to an employer to choose whether to refer cases, which in turn does not always guarantee a referral will be made (particularly in cases where potential referrers assume that either someone else will refer or that in some instances the matter is so high profile that the Secretary of State will already be aware).
17. **Evidence to support problem statement:**
18. We do not collect statistical evidence about the number of cases which are at present referred to the TRA by a third-party in relation to a matter which a DfE official may have already known about. To collect such data would be disproportionate. Equally, we have no proportionate way of identifying cases where what sits behind such a referral may have been known to a DfE official who was unable to refer the matter to the TRA. Currently when a DfE official receives information that suggests an act of serious misconduct has occurred they would need to liaise with the employer to remind them of

their duty to consider referring the case to the TRA, but this does not guarantee that a referral will be made. So, for example, a piece of correspondence is received into the DfE which alleges that there has been exam malpractice, colleagues currently have to remind the employer of the teacher misconduct policy leaving the employer with the choice as to whether they wish to refer the case to the TRA. These changes mean that DfE officials will be able to refer to the TRA directly.

### 3. SMART objectives for intervention

19. The overarching aim of the teacher misconduct regime is to protect and safeguard pupils, maintain public confidence in the teaching profession, and uphold proper standards of conduct, whilst ensuring the regime is operated fairly and with maximum efficiency. These measures support these aims by closing identified gaps in the regime which permit teachers who may have committed serious misconduct to continue to teach as they are not considered to be within jurisdiction of the TRA's regime:

Intervention summary	Policy objectives from intervening
Expanding the TRA's regime to capture anyone who has ever been 'employed or engaged' in teaching work.	Reduce risks to pupils' wellbeing by ensuring that teachers and those engaged in teaching work who have previously committed serious misconduct can be held accountable for this, even if they were not employed in teaching work at the time the misconduct took place.
Expanding the TRA's regime so that the TRA is able to consider cases and potentially prohibit from teaching work those in more educational settings, specifically FE settings, SPIs, ITPs, online education providers and Independent Education Institutions (IEIs) that are not schools.	Extend parity of treatment by ensuring that all children receive the same protection regardless of the educational setting they are being educated at.  Reduce risks to pupils' wellbeing by preventing those who have committed serious misconduct from undertaking teaching work.
Allow referrals to be made to the TRA regardless of the source.	Reduce an identified risk that arises when it is a DfE official who uncovers potential serious misconduct as part of their daily activities. At present, in these cases a third-party must be engaged to make a referral to the TRA. This introduces ambiguity into whether the referral will be made (where it might be appropriate to choose to do so) and/or a delay in a referral being made.

## 4. Description of proposed intervention options and explanation of the logical change process whereby this achieves SMART objectives

20. Theory of change diagram:

<b>Inputs and activities</b>	<b>Outputs</b>	<b>Change mechanism</b>	<b>Outcomes</b>	<b>Impacts</b>
Expansion of TRA regime so that cases of serious misconduct can be considered regardless of when the activity took place.	Cases of potential serious misconduct which are currently not within jurisdiction of the TRA may now be investigated.	Legislation is required to change the TRA's statutory regime so that the Secretary of State can act in the desired fashion.	Ability to investigate cases which currently cannot be investigated. where it is appropriate to do so.	Risks to children from being educated by those who have committed serious misconduct is reduced.
Expansion of the TRA regime to more educational settings.	More individuals subject to the TRA regime if they commit serious misconduct.	Legislation is required to change the TRA's statutory regime in order for the Secretary of State to act in the desired fashion.	Cases which currently cannot be investigated are now subject to investigation and prohibition, if appropriate.	Parity of treatment for children since it is not fair for some individuals with knowledge of serious misconduct to choose whether to make a referral and others not. Therefore, protecting more children regardless of where they are educated.

<b>Inputs and activities</b>	<b>Outputs</b>	<b>Change mechanism</b>	<b>Outcomes</b>	<b>Impacts</b>
			Bringing more educational settings within scope of the regime would enable the Secretary of State to consider serious misconduct across the broad range of education settings where young people access their education. It will also ensure that these settings do not employ prohibited teachers. This will require these in-scope settings, by statute, to consider making a referral to the TRA in cases where an individual has been dismissed for serious misconduct.	Changes which are made are made with greater departmental oversight, meaning fewer children are attending independent schools which are unsafe or otherwise inappropriate as a result of a material change.
Permitting referrals by departmental officials	Cases of misconduct discovered by departmental officials in their daily activities can now be referred directly to the TRA.	Legislation is required to permit this	Less delay and ambiguity in cases such as these, since there is no reliance on a third-party making a referral.	More cases brought to the TRA's attention.

21. Our preferred option with regards to the first two measures both involve the expansion of the existing regulatory regime found primarily in The Teachers' Disciplinary (England) Regulations 2012. This expansion will bring into scope more people – those who (a)



have committed serious misconduct but not while employed in teaching work and who are likely to try and return to the classroom. and (b) those who work in the specified educational settings and have committed serious misconduct (or will do so in future).

22. We cannot safely estimate how many people there are in (a) and (b) above. However, we can make some reasonable statements:

- a. Our preferred option **specifically** targets a known group of people – those who are, or may again be, involved in teaching work and have committed serious misconduct. The TRA has a robust assessment process in place, so we are confident that only those who have potentially committed serious misconduct worthy of investigation will be caught by these changes.
- b. The impacts are **measurable**. The TRA already publishes data in its annual report and accounts on the number of referrals, investigations and hearings. The impact of this change can be measured through these statistics.
- c. These changes are **relevant**. There is a clear public interest in preventing those who committed serious misconduct from undertaking teaching work, regardless of where the individual is working or when the serious misconduct occurred.
- d. These changes are not **time-bound**, in that they will apply from when the legislation is brought into force until any further regulatory change is made.
- e. We are also confident that the impact of these measures will, in the aggregate be low. The figure for those referred under the TRA's current regime was only 0.3% of the total teaching staff in specified settings. We do not have any evidence to suggest that there are many people undertaking teaching work in schools who have committed serious misconduct but not while employed as a teacher. Neither do we have evidence to suggest that a very high proportion of those working in FE settings, SPIs, ITPs, online education providers and Independent Education Institutions (IEIs) that are not schools have similarly committed serious misconduct.

23. Our preferred option with regards to the third measure simplifies an existing process rather than introducing a new burden or changing the scope of the existing regime. This measure merely makes it easier to make referrals regarding potential serious misconduct to the TRA and does not change (i) who is referred to the TRA or (ii) how the TRA respond to such a referral. In those respects' the net impact of this change is therefore expected to be nominal.

## 5. Description of shortlisted policy options carried forward

24. Our assessment of shortlisted options is as follows.<sup>2</sup> As per the HMT Green Book Guidance, we have listed ‘Critical Success Factors’ of options to solve the problems outlined in section 2. These are:

- a. **Adequacy:** whether the options meet the policy objectives in section 3 to a good enough extent.
- b. **Costs:** costs incurred on the inspector / government are able to be funded and proportionate to the size of the problem.
- c. **Efficiency:** the extent to which benefits from options outweigh costs.
- d. **Achievable:** whether options are able to be achieved (e.g., legislated for, guidance published) in the time available, to begin solving problems by the desired times.
- e. **Deliverable:** able to be operationalised by e.g., the Inspectorate.

25. We have clarified, where necessary, greater specificity of one or more of the Critical Success Factors for each of the six problems below.

Shortlisted options (rated against critical success factors A to E)	A	B	C	D	E
BAU: no changes to existing approach.	R	n/a	R	G	G
Bring into the TRA’s scope “historical” misconduct but place a “statute of limitations” on this.	R	G	G	G	G
Bring additional settings into regulation on a “voluntary” basis, perhaps by changing delivery/financial agreements.	A	R	R	G	G
Make legislative changes	G	G	G	G	A

**Key for RAG:** **G** = Green. Meets CSFs, Preferred way forward. **A** = Amber. Meets CSFs but is less attractive, could carry forward. **R** = Red. Fails to meet CSFs, drop).

26. We have ruled the BAU option out and not taken this forward to the shortlist because to do so would leave gaps in our regulatory framework, as evidenced in section 2. These gaps undermine the overarching objectives of the Teacher Misconduct Regime which are to protect and safeguard pupils and maintain public confidence in the teaching profession whilst ensuring the regime is operated fairly and with maximum efficiency.

<sup>2</sup> Note – as per the final stage impact assessment template, we have removed the longlist from the published version.

27. Option 2 would bring into the scope of the TRA's regulatory regime serious misconduct committed by someone who was not at the time engaged in teaching work but would introduce a "statute of limitations"-type provision, so that misconduct committed, say, more than ten years previously would not be within scope.
28. This approach would have the benefit of being deliverable since it would impose limits on the number of people who, potentially could be brought into the scope of the TRA. It would also, on one reading, be fairer since it would mean that people would not be required to answer for incidents which took place many years previously. However, this approach would not achieve the policy goals. It is unclear why someone should be held accountable for an incident which took place 9½ years previously, but not if the same incident took place 10½ years ago.
29. To safeguard children and young people, it is only right to extend the legislation to all individuals who have at any time undertaken teaching work. There is always the risk that an individual who commits serious misconduct whilst not teaching may return to the teaching profession in the future. It is right that the Secretary of State is able to consider serious misconduct that occurred at any time, including before the individual was first employed to undertake teaching work. In deciding whether it is necessary and proportionate to take a case forward, the TRA will carefully consider, alongside the public interest, the seriousness of the behaviour, any mitigation presented by the teacher, the length of time away from the teaching profession, any child protection matters and the likelihood of returning to the profession. We are clear that in each case there will be a robust assessment to determine whether it is proportionate and in the public interest to take a case forward.
30. Many of the settings impacted by this change are already part of the TRA's regulatory regime, including the requirement to make referrals to the TRA where serious misconduct has taken place. Many of the settings impacted by this change - Further Education colleges (and those designated as being within the FE sector under the Further Education Act 1992); Special Post 16 Institutions (SPI's) and Independent Training Providers (ITPs) ; and an online education setting– are already undertaking safer recruitment checks as a consequence of their funding agreements with, or accreditation by, the DfE since these funding agreements or accreditation schemes already require settings to "have regard to" *Keeping children safe in education* (KCSIE). KCSIE already requires settings to not employ prohibited teachers, meaning that the administrative checks required by statute by this change will already be taking place. Option 4 would be to expand upon this and continue to bring settings into regulation via non-legislative arrangements.

31. This option, however, would be very inefficient. It would require the department to both identify the settings to be brought into regulation and then enter into commercial (or similar) agreements with them all. This would be a disproportionate cost both to the department and to the impacted settings. Further, there would be a risk that some settings would not be covered either because they would not be identified or because an agreement could not be reached. This option is not therefore preferred.
32. Option 5 is our preferred approach. It requires making legislative changes in three areas – bringing into scope historical misconduct, bringing into scope more educational settings and allowing referral by DfE officials. We are content that this is the only option which have the policy goals of protecting and safeguarding pupils, regardless of where they learn. While this policy will generate costs for the TRA and for the businesses impacted, we think that these are manageable. We do not have figures on how many cases will be referred to the TRA from these additional settings, but we do not anticipate that this change will lead to a major increase in the TRA's caseload because the overall number of those prohibited in 2023/34 under the current regime is very low at 0.3% of the teaching staff and, as noted above, those businesses impacted (by being required to make referrals to the TRA) will in the main already have necessary processes in place arising from their funding agreements or similar arrangements with DfE. On the basis of this we are content that this approach is efficient and deliverable since, to a degree, the legislation will be codifying existing practices.
33. On Critical Success Factor E (Deliverability) this option is amber-rated. This is because implementing this approach will require training to be provided to DfE staff so that they are aware of their new responsibilities in this area and understand its limitations i.e. that information may only be identified in the course of everyday activities. However, we have a plan to deliver necessary training to relevant staff in line with the intended passage of the legislation. [Impact assessment continued on the next page with the regulatory scorecard].

## 6. Regulatory scorecard for preferred option

### Part A: Overall and stakeholder impacts

(1) Overall impacts on total welfare		Directional rating
<b>(i) Description of overall expected impact</b>	<p>This policy supports the overarching objectives of the teacher misconduct regime to protect and safeguard pupils, maintain public confidence in the teaching profession, and uphold proper standards of conduct, whilst ensuring the regime is operated fairly and with maximum efficiency.</p> <p>Together they improve children's wellbeing by allowing more people who have committed serious misconduct to be considered for prohibition from unsupervised teaching work.</p> <p>While there are costs to businesses from this change, these are minimal administrative costs and, in the main, these costs will already be absorbed by impacted businesses under pre-existing funding agreements with the department.</p> <p>The main impact of this policy will be felt by those teachers who, by operating outside the TRA's jurisdiction have so far avoided investigation and prohibition as appropriate.</p>	<p><b>Positive</b></p> <p><b>Based on all impacts (incl. non-monetised)</b></p>
<b>(ii) Monetised impacts</b>	<p>NPSV: -£0.4m (-£8.1m - -£0.2m)</p> <p>This estimate only includes monetised costs, as we did not have sufficient evidence to monetise benefits. All monetised costs are costs to business, and as such, discussed in the costs to business section.</p>	<p><b>Negative</b></p> <p><b>Based on likely £NPSV</b></p>

(1) Overall impacts on total welfare	Directional rating
<p><b>(iii) Non-monetised impacts</b></p>	<p>There are large non-monetisable benefits by reducing the opportunity for teachers to avoid accountability for serious misconduct. We have discussed these benefits in more detail in the costs and benefits to households section, as it's likely that parents and children will be the main beneficiaries. However, there are likely indirect spillover benefits to society, through factors like improved attainment that should be noted.</p> <p>As serious misconduct can encompass activities such as fraud, not all cases of teacher misconduct lead to direct harm to children. However, extending the TRA regime is expected to reduce the risk of serious misconduct in the specified settings. A case of non-fatal child maltreatment is estimated to have a lifetime cost to the victim of £0.07m. If 4 such cases are prevented in the regulated settings, it would more than offset the costs to businesses incurred over the ten-year appraisal period.</p> <p>There will be additional administrative and resource costs to the Teaching Regulation Agency, an executive agency of the DfE, due to any increase in the number of referrals, demand for misconduct hearings and investigations. However, estimating these additional costs is difficult because i) each case is different, and requires different time and resource, and ii) we don't know how many additional hearings and investigations will take place. But the systems and resources for the operation of the current regime are already in place. Therefore, we have not monetised these costs. These costs will be a burden to the public sector, rather than any cost to business or households.</p>
<p><b>(iv) Any significant or adverse distributional impacts?</b></p>	<p>None identified. The revised regulatory regime this legislative change will permit will apply to all teachers in England who are in jurisdiction of the TRA's regime. It is impossible to anticipate which teachers, in which locations, will in future commit serious misconduct.</p>

## (2) Expected impacts on businesses

### (i) Description of overall business impact

This change brings into the TRA's regulatory regime by statute the following types of settings: Further Education colleges (and those designated as being within the FE sector under the Further Education Act 1992); Special Post 16 Institutions (SPI's) and Independent Training Providers (ITPs); and online education settings.

These settings may need to, among other things, revise their hiring and dismissal practices to ensure that they do not employ prohibited teachers and make referrals to the TRA in cases of serious misconduct. These checks are set out in our statutory guidance, *Keeping children safe in education guidance (KCSIE)*.

However, in-scope providers must already "have regard to" *KCSIE* under funding agreements or accreditation schemes with the department. We therefore think that in nearly all cases impacted providers will be making the required checks, meaning that the costs will be minimal.

The only group of settings which we know are not conducting the checks which this legislative change will require of them (and so may face costs from having to understand and put in place new administrative processes), are those online education providers not already accredited by DfE via our voluntary scheme. We estimate that there are around 60-70 such providers.

In all cases, however, we think these costs to be justified since (i) this requirement is already placed on all settings currently subject to the teacher misconduct regime, and (ii) these changes are considered proportionate to protect and safeguard pupils, maintain public confidence in the teaching profession, and uphold proper standards of conduct. Not imposing these costs would permit settings to either hire, or not make referrals of, teachers who have committed serious misconduct.

**Negative**

<p><b>(ii) Monetised impacts</b></p>	<p>EANDCB: £0.0m (£0.0m - £0.4m)</p> <p>Note: Our central (and low) estimate rounds down to £0.0m per year as the total estimated cost to business is less than £0.5m over the 10-year appraisal period.</p> <p>We have identified three cost impacts on education settings which will arise from our legislative proposals. These costs all stem from administrative and/or process changes which in-scope settings will need to make – with the caveat that nearly all the settings impacted by this proposal will already be making nearly all of these checks as part of a non-statutory arrangement with the department:</p> <ol style="list-style-type: none"> <li>1. <b>Familiarisation costs</b> - Labour costs from time spent reading the new regulation documentation</li> <li>2. <b>Compliance costs</b> – <ol style="list-style-type: none"> <li>a. Labour costs from time spent performing checks to ensure prospective staff have not been prohibited</li> <li>b. Labour costs from time spent deciding if a teacher being investigated for misconduct should be referred to the teaching regulation agency (TRA)</li> </ol> </li> </ol> <p><b>1. Labour costs from time spent reading the new regulation documentation</b></p> <p>We estimate the labour costs from reading the regulation guidance, a total of 31 pages, to be c.£185 per education setting. This assumes a headteacher, safeguarding lead and a member of administrative (support) staff read the guidance. This is a one-off cost incurred once the legislation is enacted.</p> <p>We estimate that 2,000 education settings will be affected, and that 50% of these settings will be private businesses. This estimate is highly uncertain, we have explained it in detail in the risks and assumptions section at the bottom of this impact assessment.</p> <p><b>2.a. Labour costs from time spent performing checks to ensure prospective staff have not been prohibited</b></p> <p>When employing a new member of teaching staff, education settings will have to check that the prospective employee has not been prohibited from teaching. There is no explicit cost for these checks, but we approximate a cost for the time taken a maximum of 20 minutes based on anecdotal evidence from the sector. Due to uncertainty surrounding this time, we have conducted sensitivity analysis based on it.</p> <p>We therefore estimate the cost of a member of administrative (support) staff running appropriate checks to be £6 per prospective employee. This is an ongoing cost, incurred each time a member of teaching staff is employed.</p>	<p><b>Negative</b></p> <p><b>Based on likely £NPSV</b></p>
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It's likely that most impacted settings will already conduct sufficient checks on the teaching staff they hire, however, we do not have evidence to support this. As such, we have assumed that all 2,000 impacted settings will face this additional burden, and that 50% of these settings will be private businesses.

We are unable to accurately estimate the number of checks that would be undertaken per setting, per year, since this would depend on the size of education setting, number of teaching staff etc., which we do not have data on.

We have assumed, based on i) the number of new teachers entering the workforce, and ii) the average number of teachers per school in England, that each setting will hire c.6 teacher per year. Due to the inherent uncertainty surrounding this assumption, we have conducted sensitivity analysis, which is explained in more detail in the costs and benefits to business calculations section.

**2.b. Labour costs from time spent deciding if a teacher being investigated for misconduct should be referred to the Teaching Regulation Agency (TRA)**

Education settings that will be included in the new regulation will be required to decide whether a teacher facing misconduct proceedings should be referred to the TRA. There is no direct cost for this referral, but again there will be some time cost associated with this process.

We have not been able to quantify the total number of teaching staff that will be impacted, as the number of teaching staff in online education providers and IELs is unknown (but is likely to be significantly fewer than the number of teaching staff already subject to the TRA regime)

Nonetheless, we expect that the cost will be low, since the proportion of teachers referred for misconduct in the existing teaching staff population is very low. Of the 468,693 teaching staff subject to regulation in 2023, TRA only received 1684 referrals, 625 were investigated with 157 resulting in prohibition in 2023-24 This equates to 0.3% of teaching staff.

This is an ongoing cost, incurred each time a member of teaching staff is referred for misconduct. However, these costs are justified because it involves keeping children safe by prohibiting those who may put children at risk.

Our analysis has once again assumed that all 2,000 settings will be impacted, and that 50% of these settings will be private businesses. We have also assumed that this additional time cost will be faced by a head teacher and will take approximately 1 hour per case. We have estimated the number of cases based on i) the average number of teaching

## (2) Expected impacts on businesses

	staff at each provider, and ii) the 0.3% of teaching staff referred in 2023-24. Due to the uncertainty surrounding these assumptions, we have conducted sensitivity testing, which is explained in more detail in the costs and benefits to business calculations.	
<b>(iii) Non-monetised impacts</b>	Settings being in scope of the Teaching Regulation Agency may gain some non-monetised benefits from being able to promote this fact. We are aware from our Online Education Accreditation Scheme that some providers of online education welcome DfE oversight as something of a marketing tool and a way to promote their business as a legitimate source of education.	<b>Positive</b>
<b>(iv) Any significant or adverse distributional impacts?</b>	There are slight distributional impacts since we are aware that this change will bring into scope many online education providers who currently do not have to make the checks required by the TRA regime. It is therefore possible that the costs of this policy – while small are justified – are disproportionately concentrated in that sector.	<b>Negative</b>

### (3) Expected impacts on households

<p><b>(i) Description of overall household impact</b></p>	<p>Individuals captured by this regime will be those who are a) referred to, (b) investigated by, and (c) prohibited by the TRA.</p> <p>These people are potentially impacted to a high degree. Individuals in group (c) will be prohibited from their chosen career, incurring a direct and ongoing cost. However, this group will have been found guilty of serious misconduct, so we think these impacts are justified.</p> <p>People in groups (a) and (b) will incur costs which will not necessarily be justified since there may not have been a case of misconduct to investigate. These costs include the administrative and legal costs caused from the need to make a case in response to an allegation of misconduct. The exact cost will vary depending on the nature of the case, but the number of cases which reach either (i) a panel hearing or (ii) a High Court appeal (which would generate the highest costs) are low. Further, we consider the TRA to have robust processes in place before they decide to take on a case.</p> <p>We therefore expect the number of people in these groups to be very small.</p> <p>There are also benefits which will apply to more households in terms of greater assurance that the teachers found guilty of serious misconduct are removed from work that creates a risk to children's safety and education. We think these could outweigh the costs which are concentrated amongst a small number of individuals.</p>	<p><b>Neutral</b></p>
<p><b>(ii) Monetised impacts</b></p>	<p>EANDCH: £0.0m</p> <p>No impacts to households have been monetised. This policy change will not in general impact on households. The only households financially impacted by this measure will be those which, as a result of an allegation of serious misconduct are subject to referral, investigation, and prohibition hearing by the TRA.</p> <p>These cannot safely be estimated given that the costs will be dependent on circumstances particular to the case. However, given the small number of people subject to referral by the TRA we think the overall impact is low.</p>	<p><b>Neutral</b></p> <p><b>Based on likely household £NPV</b></p>

### (3) Expected impacts on households

<p><b>(iii) Non-monetised impacts</b></p>	<p>Households will benefit from having greater assurance that the teachers responsible for their children's education are subject to a regulatory regime which identifies, and removes those found guilty of, serious misconduct.</p> <p>As serious misconduct can encompass activities such as fraud, not all cases of teacher misconduct lead to direct harm to children. However, extending the TRA regime is expected to reduce the risk of serious misconduct in the affected settings. A case of non-fatal child maltreatment is estimated to have a lifetime cost to the victim of £0.07m. If 16 such cases are prevented in the regulated settings, the equivalent of 1.6 per year, it would more than offset the costs to businesses incurred over the ten-year appraisal period.</p> <p>There will also be costs imposed on the individuals who, following this change, will be potentially investigated by the TRA. These costs include the time needed to prepare a case and legal/administrative costs if the case goes to a hearing.</p> <p>We cannot estimate these cases since they will depend on the particular case, but since 2012 there have been fewer than 13000 referrals to the TRA (out of a much bigger 'pool' of people already in scope of the TRA). We can therefore safely estimate that &lt;500 people per year will be subject to referral to the TRA – and the additional costs this imposes – as a result of this change.</p>	<p><b>Positive</b></p>
<p><b>(iv) Any significant or adverse distributional impacts?</b></p>	<p>No. The characteristics of the individuals that will undergo these additional checks and potentially be prohibited from teaching are unknown but will be people of all ages, socio-economic backgrounds and all parts of England. Parents across every region will benefit from the assurance the regulation provides.</p>	<p><b>Neutral</b></p>

## Part B: Impacts on wider government priorities

Category	Description of impact	Directional rating
<b>Business environment:</b>  <b>Does the measure impact on the ease of doing business in the UK?</b>	<p>This measure introduces small new administrative burdens on a number of educational settings. These burdens will create financial and time costs which could make operating an educational setting less attractive. However, this is expected to have a negligible impact on the ease of doing business in the UK not least as many of the businesses identified as being impacted will already conduct these checks as part of pre-existing arrangements with the department.</p> <p>We think these costs are justified since they will contribute to preventing unsuitable individuals from educating children.</p>	<b>May work against</b>
<b>International Considerations:</b>  <b>Does the measure support international trade and investment?</b>	No impacts	<b>Neutral</b>
<b>Natural capital and Decarbonisation:</b>  <b>Does the measure support commitments to improve the environment and decarbonise?</b>	No impacts	<b>Neutral</b>

## 7. Monitoring and evaluation of preferred option

34. There are three groups impacted by our preferred option; (i) those who may have committed serious misconduct but have not to date been subject to the TRA's regime, (ii) settings now brought into the regulatory regime via legislation and (iii) the TRA itself. With regards to group (i), we will monitor which settings the referrals are coming from, of those how many are investigated, numbers that go on to hearings and how many are prohibited and the types of behaviours/conduct that result in prohibitions. We will also monitor the impacts of these changes on groups (ii) and (iii) and, given that the impact on group (ii) (settings brought into regulation) will, in the main be familiarisation costs and minor administrative changes, the main object of our monitoring will be impact on group (iii), the TRA itself, and specifically whether these legislative changes allow the TRA to act in line with policy intent and, specifically, whether the problem statements in Section 2 are addressed.
35. In all cases, the problem statements refer to an avoidance of risk. The aim of the policies discussed in this RIA are not to achieve a particular goal above the goal of safeguarding and protecting children but to ensure that the TRA can act when, and in ways considered, necessary. We will therefore adapt existing monitoring methods to ensure that the TRA is operating in ways intended. These include:
- a. Business-as-usual activities, including stakeholder feedback.
  - b. Qualitative reviews / deep dives of complex cases
36. As an executive agency of the department, the Teaching Regulation Agency (TRA) is required to publish an Annual Report and Accounts which are laid before Parliament. The report details a review of its work in the relevant financial year, including an analysis of its delivery and performance, and its position at the end of the reporting period. In addition, TRA is also required to publish its strategy, covering at least three years ahead. TRA has recently published the strategy for the period 2024-27, which can be found [here](#). TRA's annual report can be found [here](#) TRA Annual Report and Accounts 2023-24 - GOV.UK. We will monitor the impact of a) the TRA's operational processes, and b) settings brought into the regulatory regime by this change. This will be done on an ongoing basis via attendance at the TRA Executive Board meetings and the Strategic Performance Review meetings. At these meetings TRA present an analysis of its data sets which will in future include details of the number of referrals relating to the new measures, the timeliness of investigation and how many cases resulted in a prohibition order. Attendance at these meetings provides DfE officials the opportunity to monitor the impact of the measures, i.e. are referrals being received from the new organisations, how TRA are managing any increase in referrals, which in turn helps officials to assess whether any further guidance/support to the sector is needed. Officials can also provide constructive challenge, where appropriate, to the TRA on its processes and progress which is something they do now.

37. We will continue to seek stakeholder feedback, via our regular meetings with TRA, Trade unions and organisational representatives. These meetings are two-fold, one is to provide an opportunity to update on the progress of how the system is working, two to receive feedback on what is happening out in the sectors i.e. discuss any concerns about the processes in place and whether we need to take any action to mitigate these concerns. This could be a review of current processes, lack of understanding from the sector, in which we can review our guidance and communications.
38. Currently the TRA receive referrals about teachers in the FE sector or individuals who were not teaching at the time of the referral or the conduct in question. At the moment these cases cannot be taken forward and investigated because they are out of jurisdiction, which means these individuals can go on teaching and potentially putting children at risk. The TRA will extend its processes to include these individuals and the additional organisations in its investigations and record the information, to feedback via the TRA executive board and strategy meetings, plus its annual report which is published. This will allow DfE to monitor whether the sorts of people intended to be captured by these changes are being captured (or question why there has been no such investigations).
39. Currently DfE policy officials are asked for advice on cases about whether the person is in jurisdiction. If the measures are working and the TRA assessment process works, we should see a decrease in these cases because jurisdiction will be easier to assess because the new measures bring in the new organisations.
40. During the passage of the Bill both TRA and DfE have arranged stakeholder meetings to discuss how the changes will impact on the additional providers. Following royal assent both the TRA and DfE will ensure guidance is provided so that all providers understand their duties to refer individuals for serious misconduct. We will also continue to engage with sector representatives and Trade unions to ensure they cascade the message to their members.
41. We will do this via the existing frameworks, governance and reporting requirements as outlined above.
42. Where DfE or TRA officials have evidence from stakeholders that there is an issue with the way the process is working e.g. cases are not being considered in a timely manner, or referrals do not provide enough evidence meaning the caseworkers have to do more factfinding which can prolong a case, we can look at the barriers to why this is happening, and discuss what changes can be made either via the TRA processes or through those making incomplete referrals.

## **8. Minimising administrative and compliance costs for preferred option**

43. Our preferred option of making legislative changes does not introduce meaningful administrative and compliance costs. The costs of this proposal will fall on either (a) those who will now be subject to the TRA's regime, or (b) settings now required to act in a particular way, making referrals to the TRA. As noted above, the costs of (b) are expected to be minimal since impacted settings will be, in the main, already have necessary administrative processes in place as a result of contractual agreements with the Department for Education (which carry an obligation to "have regards to" Keeping Children Safe in Education).
44. Neither will people in category (a) incur any administrative costs. The costs to this group arise if and when a TRA investigation is launched. While this may lead to the impacted person(s) incurring costs, these are not administrative.



## Declaration

Department:

Department for Education

Contact details for enquiries:

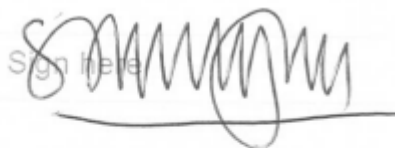
[Legislation.division@education.gov.uk](mailto:Legislation.division@education.gov.uk)

Minister responsible:

Minister Morgan

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:

Sign here 

Date:

Date 19/03/2025

## Summary: Analysis and evidence

Price base year:

2024/25

PV base year:

2024/25

	1. Business as usual (baseline)	2. Option 1: Preferred way forward	3. Option 2: Non-stat option
<b>Net present social value</b>	£0m	<p>-£0.4m (-£8.1m to -£0.2m)</p> <p>As we have not been able to quantify benefits, this figure only includes our estimate for costs to business, and to the public sector.</p>	<p>We are unable to calculate costs for this option as i) we do not know how many providers could be brought under the TRA regime and therefore in scope of this option, and ii) negotiation time is likely to vary heavily from provider to provider. Costs for this option are likely to be in the form of negotiation time and felt by both providers and DfE officials.</p>
<b>Public sector financial costs</b>	£0m	<p>£0.2m (£0.1m - £4.6m)</p> <p>We have monetised the familiarisation costs, staff check costs, and reporting costs that will be faced by publicly funded settings. However, there will be some additional administrative and resource cost to TRA associated with increased referrals and investigations with conducting additional serious misconduct hearings.</p>	<p>£0.0m</p> <p>We have not monetised any public sector costs for this option. However, there would be some additional administrative and resource cost to TRA associated with increased referrals, investigations and conducting additional serious misconduct hearings. This option would likely have lower public sector costs than the preferred option, as the guidance would be non-statutory.</p>

	<b>1. Business as usual (baseline)</b>	<b>2. Option 1: Preferred way forward</b>	<b>3. Option 2: Non-stat option</b>
<b>Significant un-quantified benefits and costs</b>	No additional costs or benefits	The key benefit to this regulatory change is enabling the reduction of safeguarding risks. We estimate that the discounted lifetime cost per victim of non-fatal child maltreatment is worth c.£0.07m (further detail in the NPSV section below). We cannot estimate the number of cases that may be avoided because of this policy but expect that the one preferred option is the most likely to enable these benefits.	This option is unlikely to offer any significant benefits as any agreements would be non-statutory. It is therefore unlikely that the cases which lead to the most salient safeguarding risks will be deterred through this arrangement, which would bring reduced benefits compared to the preferred option, in terms of. Therefore, even if the costs of this option are smaller than the preferred option, it would not meet the required objective of addressing teacher serious misconduct in the relevant settings.
<b>Key risks</b>	N/A	The main risks associated with this analysis are i) it's difficult to estimate the number of additional providers, and ii) we don't know how many checks/reports each additional provider may need to complete.	The main uncertainty is how many settings would voluntarily agree with the new guidance and act accordingly to report a teacher for serious misconduct. This limits the ability of our ability to compare the relative costs and benefits with the preferred option as we cannot meaningfully predict this behavioural change.
<b>Results of sensitivity analysis</b>	N/A	Sensitivity analysis conducted and explored in business NPV section below.	...

## **Evidence base**

### **Problem under consideration, with business as usual, and rationale for intervention**

1. The current teacher misconduct legislation gives power to the Secretary of State to consider and decide on cases of serious teacher misconduct and to determine whether prohibition from undertaking teaching work is appropriate. A prohibition order prevents individuals from carrying out teaching work in a range of specified educational establishments. The Teaching Regulation Agency (TRA) operates the teacher misconduct regime and exercises this power on behalf of the Secretary of State.
2. Legislation sets out the framework within which the regime must operate, and this includes defining those to whom the regime applies. Currently, in order to be within scope of the teacher misconduct regime, an individual must be employed or engaged to undertake teaching work (as defined in regulation 3(1) of the Teachers' Disciplinary (England) Regulations 2012) within a specified setting (specified settings are currently a school, sixth form college, 16-19 Academy, relevant youth accommodation or children's home). It also sets out that the Secretary of State may investigate a case where an allegation is referred to her.
3. Changes to legislation are proposed to extend the scope of the teacher misconduct regime, ensuring that the TRA is able to consider the serious misconduct of teachers regardless of how long ago the teacher last taught, capture any provider of education and training that enters into a funding agreement and receives funding from the Secretary of State for further education provision, online education providers and Independent Educational Institutions that are not schools, and regardless of how the serious misconduct comes to light and is referred to the TRA.
4. These changes all close identified weaknesses and gaps in our current regulatory regime which may prevent or hinder the investigation of serious misconduct by teachers and so allow teachers who may be a risk to children's wellbeing to continue to oversee children's education. Not intervening would allow these identified risks to continue.

### **Policy objective**

5. These changes support the overarching objectives of the teacher misconduct regime; to protect and safeguard pupils, maintain public confidence in the teaching profession, and uphold proper standards of conduct, whilst ensuring the regime is operated fairly and with maximum efficiency.
6. The policy objective is to ensure that more teachers who may be a risk to children's wellbeing and prohibited from (unsupervised) teaching work and introduce greater parity of treatment for children in the education system, regardless of where they learn.

## **Description of options considered**

7. We have considered not proceeding – or proceeding with only some of our proposed changes – but have rejected this since to do so would leave gaps in our regulation. These gaps undermine the overarching objectives of the Teacher Misconduct Regime which are to protect and safeguard pupils and maintain public confidence in the teaching profession.
8. We have also considered proceeding without legislation. FE colleges, SPIs and ITPs are already prevented (via a clause in their funding agreement) from employing prohibited teachers. Similarly, some online education providers (those accredited under the DfE's non-statutory Online Education Accreditation Scheme) have this obligation on a non-statutory basis. We could introduce similar agreements with the other settings that may be brought under the TRA regime via this measure. However, this would require negotiation with each individual provider (some of which are not known to us) and would therefore be particularly resource intensive for the provider and for DfE, and there would be no power for DfE to be able to challenge if the provider reneged on the agreement. Also, whilst this option would help to ensure that all of these education institutions do not employ prohibited teachers, it would not give the TRA jurisdiction to consider serious misconduct of individuals employed in these settings. Additionally, this option does nothing to enable the TRA to accept referrals from DfE officials who identify serious misconduct in the course of their normal duties. It would mean we would still need to rely on third parties being aware of the serious misconduct and making a referral to the TRA. For these reasons, proceeding without legislation is not a preferred option.
9. We acknowledge that these changes will impose costs on the education businesses impacted. These costs may be greater for small and micro-settings who may have limited pre-existing HR and hiring practices; however, to exempt these settings would undermine the objective of ensuring parity of treatment for all children in education and would permit small and micro-settings to employ as teachers those we consider unsuitable or unsafe. Further, as noted above, many of the settings impacted by this measure may already be conducting these checks and incurring these burdens on a non-statutory basis under funding or similar agreements with the department. This reduces the overall burden on impacted businesses

## **Summary and preferred option with description of implementation plan**

10. These changes are to be included in the upcoming Children's Wellbeing and Schools Bill. Once implemented they will allow changes in how the existing teacher misconduct regime – operated by the TRA.

## **NPSV: monetised and non-monetised costs and benefits of each shortlist option (including administrative burden)**

11. The key benefit to this regulatory change is enabling the reduction of safeguarding risks. Unfortunately, it's not possible for us to accurately quantify the effects of this as it's not clear how much these risks may be reduced, and crucially, it's difficult to tell exactly how many safeguarding breaches could be avoided and are attributable specifically to the regulatory change in question. Despite this, there are clearly significant benefits to reducing safeguarding risks.
12. Academic literature on this subject is sparse, and there is a lack of evidence of the impact from similar regulation, mainly because of how difficult it is to accurately quantify. The NSPCC found that the discounted lifetime costs per victim of non-fatal child maltreatment is estimated to be c.£67k<sup>3</sup>. This figure is likely to be on the conservative side as the definition of maltreatment used is broad and cases impacted by this policy would most likely be more significant. Given the magnitude of these benefits, when compared to the costs associated, it's highly likely that the benefits of this regulatory change will eclipse the costs.
13. While we can't estimate the benefits attributable to this policy, we can use the estimated benefit per case avoided above, alongside our cost estimates, to measure the 'breakeven point'. The breakeven point in this case is the required number of cases avoided over the 10 year appraisal period for benefits to equal costs. Given the low expected costs of the regulation, this equates to just 16 cases over the 10 year appraisal period for the preferred option, or 1.6 cases per year. We recognise that teacher misconduct captures a wide range of behaviour, not all of which will have a serious direct impact on pupils. However, some forms of misconduct will have a large negative impact on pupils, and extending the TRA regime will be worthwhile if just a small number of such cases are avoided.
14. As noted in the risks and assumptions section below, we have assumed that 50% of the 2,000 impacted providers will be publicly funded. As such, the i) familiarisation costs, ii) staff check costs, and iii) reporting costs that are likely to be faced by businesses, described in the section below, will also be faced by publicly funded providers. Any change to the proportion of impacted providers who are privately owned will solely impact who is liable for these costs.
15. Due to the assumption being 50%, the costs faced by publicly funded settings will be identical to the costs faced by privately funded settings set out below in the costs and benefits to business calculations section.

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<sup>3</sup> 2024/25 prices. The study was conducted based on maltreatment in the victim's home. As such, the figure we have used excludes the costs associated with social care (c.£50k in 24/25 prices), which is unlikely to be relevant in cases of maltreatment at school.

## Costs and benefits to business calculations

### 16. Business Net Present Value: -£0.2m (-£4.0m - -£0.1m)

17. We have calculated three costs to business associated with this regulation:

- A. Familiarisation costs: Present value of c.£0.2m over the 10-year appraisal period (one off cost in first year).  
Low estimate (500 private providers impacted): c.£0.1m  
High estimate (1,500 private providers impacted, all readers take double the time expected): c.£0.6m
- i. These are the costs to providers impacted by the regulation who have to read the guidance in order to comply. We assume that three staff members will have to read the guidance: the headteacher, the safeguarding lead, and one administrative support staff. Their time is valued based on the average hourly pay rates for each profession, inclusive of uplifts to account for employer NICs and pensions. We don't know that every impacted provider will have three separate staff members read the guidance, nor do we know which staff members would be liable to read it, however, we feel that these assumptions are conservative.
  - ii. We have assumed that the 31 page guidance document will take approximately 65 minutes for each person to read, based on academic research <sup>4</sup>. These costs are a one-off cost in the first year of the policy.
  - iii. The number of impacted education settings is very uncertain. For our analysis, we have chosen to use an estimate of 2,000 settings. Of these 2,000 settings, we assume that 50% will be privately funded businesses. The rationale for this number is explicitly set out in the data and assumptions section below. We have conducted sensitivity testing on this number, and the time taken to read the guidance, which are shown by the low and high estimates above.
- B. Compliance costs:  
Staff check costs: Present value of c.£0.0m<sup>5</sup> over the 10-year appraisal period.  
Low estimate: c.£0.0m  
High estimate: c.£3.4m
- i. These costs are associated with the additional checks needed for providers before hiring any member of teaching staff. We estimate that additional checks will take an administrative assistant an average of 20 minutes. We have valued their time based on the average wage of an administrative assistant in the UK, inclusive of an uplift to account for employer NICs and pensions, resulting in an hourly wage of £18.50.

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<sup>4</sup> [How many words do we read per minute? A review and meta-analysis of reading rate - ScienceDirect](#)

<sup>5</sup> Note that the annual figure rounds down to £0.0m.

- ii. Not all impacted providers will face these costs, many of them will already be conducting sufficient checks, however, we do not have a strong estimate on this.
  - iii. We have assumed that all 2,000 settings will incur additional costs related to staff check costs. Of these 2,000 settings, we assume that 50% will be privately funded businesses. This is likely to be a conservative assumption, as we believe that most providers will already be completing these checks.
  - iv. It's also difficult to estimate the number of staff impacted providers will hire, but we do know that i) Roughly 1.8 new teachers entering the workforce are hired each year per school in England<sup>6</sup>, and ii) the average school in England employs an FTE equivalent of 40 teaching staff. Using this data, we have assumed that the providers in question will hire 6 teaching staff per year, (10% of the average number of staff + the average number of new entrants). The true figure will likely vary significantly from provider to provider.
  - v. As the assumptions used to estimate these costs are highly uncertain and are likely to vary significantly from provider to provider, we have conducted sensitivity testing. We have tested a scenario where all 1,000 privately funded settings each hire 40 staff a year, which is the average number of FTE teaching staff at every school in England, meaning the equivalent of replacing the entire teaching staff each year, the results are shown in our high cost estimate. We also checked the effect of the assumption on the additional time spent on checks per teaching staff hired, but even with an additional hour spent per teaching staff hired, the costs were lower than the effect shown, with a present value of £1.3m over the 10-year appraisal period.
  - vi. Our low estimate, to highlight the fact that we believe many impacted providers already conduct adequate checks, is based on 1,000 settings each hiring 6 teaching staff per year. It's plausible that even fewer settings would require additional checks, but even with 1,000 impacted settings, the annual cost rounds down to £0.0m.
- C. Reporting costs: Present value of c.£0.0m<sup>7</sup> over the 10-year appraisal period.
- Low estimate: c.£0.0m (rounded down)
- High estimate: c.£0.0m
- i. Reporting costs represent the time costs associated with deciding whether to report a member of teaching staff to the TRA and the time taken to file the report to the TRA (which is done via an online form). There is no direct cost to reporting, meaning the costs associated are time costs only.

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<sup>6</sup> [School workforce in England, Reporting year 2023 - Explore education statistics - GOV.UK \(explore-education-statistics.service.gov.uk\)](https://explore-education-statistics.service.gov.uk)

<sup>7</sup> Note that the annual figure rounds down to £0.0m.



- ii. In 2023, there were 468,693 FTE teaching staff subject to this regulation. In the same year, 1684 were reported, representing 0.3% of regulated teaching staff.
- iii. We have assumed that the time it will take a head teacher to decide and file the report would be approximately one hour. We do not have data on this, and it will likely vary heavily from case to case. More significant breaches are likely to take less consideration time. It's also unclear how many additional providers will face the burden of these costs. We have used the estimated 2,000 providers to be brought into scope as our central estimate, and of these 2,000 settings, we assume that 50% will be privately funded businesses.
- iv. We have conducted sensitivity testing on these assumptions. Our low estimates are based on 1,000 additional providers. Our high estimates are based on 3,000 additional providers, and two hours of headteacher time per case. Each with an assumed 50% of providers being privately funded, as this assumption solely impacts who faces costs.

### **Impact on small and micro businesses**

- 18. This policy change will impose two different burdens on two different groups. A small, largely administrative burden will be imposed on a large number of educational settings (which are usually private businesses). These settings will include large providers and very small institutions.
- 19. These settings will, among other things, need to change their hiring practices (so as to check that an individual has not previously been prohibited by the TRA) and their HR practices (so that a referral to the TRA is made in cases of serious teacher misconduct). We have considered exempting the very smallest settings from these changes but have rejected this since to do so will create a two-tier system in which some children are better protected than others. This would undermine the objective of ensuring parity of treatment for all children in education and would permit small and micro-settings to employ as teachers those we consider unsuitable or unsafe. Furthermore, the changes to HR and employment practices required by statute by these changes will already have taken place under funding agreements or similar with the department. We therefore think any new burden from this change will be minimal. Lastly, precisely calculating these costs would be disproportionate to the identified impact on businesses and difficult to do even if it was proportionate to do so, due to the difficulty in estimating in which types of settings such offences will occur in the future. As outlined in Section 8, we will monitor whether our policy change has a disproportionate impact on types of settings or groups of individuals.

## **Costs and benefits to households' calculations**

20. We have not monetised any additional costs and benefits to households. This is because of the difficulty of monetising safeguarding benefits with the available resource and the small expected number of households who will experience costs as a result of the regulation.
21. Households will benefit from having greater assurance that the teachers responsible for their children's education are subject to a regulatory regime which identifies, and removes those found guilty of, serious misconduct.
22. As serious misconduct can encompass activities such as fraud, not all cases of serious teacher misconduct lead to direct harm to children. However, extending the TRA regime is expected to reduce the risk of serious misconduct in the affected settings. A case of non-fatal child maltreatment is estimated to have a lifetime cost to the victim of £0.07m. If 16 such cases are prevented in the regulated settings, the equivalent of 1.6 per year, it would more than offset the costs to businesses incurred over the ten-year appraisal period.
23. There will also be costs imposed on the individuals who, following this change, will be potentially investigated by the TRA. These costs include the time needed to prepare a case and legal/administrative costs if the case goes to a hearing. We cannot estimate the number or magnitude of these cases since they will depend on the particular case, but since 2012 there have been fewer than 13000 referrals to the TRA (out of a much bigger 'pool' of people already in scope of the TRA). We can therefore safely estimate that <500 people per year will be subject to referral to the TRA – and the additional costs this imposes – as a result of this change.

## **Business environment**

24. No identified impacts. The only identified impact on businesses from this proposal is that those businesses which do not already have a pre-existing agreement with the Department (either a funding agreement or Accreditation under a non-statutory scheme) will be required to make minor changes to their hiring and/or HR practices.

## **Trade implications**

25. No identified impacts.

## **Environment: Natural capital impact and decarbonisation**

26. No identified impacts.

## **Other wider impacts (consider the impacts of your proposals)**

27. No identified impacts.

## Risks and assumptions

28. We have made a number of assumptions within the analysis presented above. In order to combat uncertainty, we have conducted reasonable sensitivity tests on all assumptions.
29. We do not have a clear estimate on the number of providers that will be brought into scope through this regulatory change. We do know that:
- a. There were 179 FE colleges in England as of September 2024<sup>8</sup>, and that all of them will be brought into scope. This figure excludes sixth form colleges, which were already in scope.
  - b. There were 1,103 Private Sector Public Funded providers as of AY2022/23<sup>9</sup>. This number includes Independent Training Providers, Local Authority providers, and specialist colleges, and as such, it's likely that some of these providers were already within scope, but we do not have a precise estimate for how many.
  - c. There were 48 UTCs in 2021<sup>10</sup>. Some of these providers were already in scope, but we do not have a precise estimate for how many.
  - d. There were 29 16-19 Free Schools as of AY 2023/24<sup>11</sup>. Some of these providers were already in scope, but we do not have a precise estimate for how many.
  - e. We do not know how many online providers may be brought into scope but around 50-60 providers previously expressed an interest in the DfE's Online Education Accreditation Scheme (6 of these have been accredited and so already carry out the necessary checks as a condition of accreditation).
30. Consequently, while we do not know exactly how many providers will be brought into scope, we do know of 1,782 providers who may be brought in, alongside the unknown number of online providers and IELs which are not schools. Therefore, for analytical purposes, we have used a conservative assumption of 2,000 impacted providers. We have also conducted sensitivity testing on this figure.
31. In the absence of clear evidence, we have assumed that 50% of these 2,000 impacted providers will be privately funded businesses. Over 50% of the estimated number of impacted providers are publicly funded, meaning that our estimated costs to business are likely overestimates. This assumption solely impacts whether businesses, or the public sector, face the associated costs.

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<sup>8</sup> [List of colleges in the UK | Association of Colleges \(aoc.co.uk\)](https://www.aoc.co.uk/colleges)

<sup>9</sup> [Data set from Further education workforce - Explore education statistics - GOV.UK \(explore-education-statistics.service.gov.uk\)](https://explore-education-statistics.service.gov.uk/data-sets/further-education-workforce)

<sup>10</sup> [What are University Technical Colleges? - Edapt](https://www.edapt.org.uk/what-are-university-technical-colleges/)

<sup>11</sup> [Permanent data table - Explore education statistics - GOV.UK \(explore-education-statistics.service.gov.uk\)](https://explore-education-statistics.service.gov.uk/data-sets/free-schools)

32. We have used this figure to estimate familiarisation costs, as it's likely that, even in cases where providers already complete checks, they will all need to familiarise themselves with guidance.
33. The biggest uncertainty to this legislation, is how many additional providers will need to take on additional checks. We believe that most of the providers counted above already complete checks.