



Department
for Education

Introducing registration fees for Office for Students

Consultation Impact Assessment

December 2017

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|--|---|--|--|--|
| Title: Introducing registration fees for Office for Students IA No: DfE101 RPC Reference No: RPC-DfE – 4175 (1) Lead department or agency: Department for Education Other departments or agencies: HEFCE and OFFA | Impact Assessment (IA) | | | |
| | Date: 18/09/2017 | | | |
| | Stage: Consultation | | | |
| | Source of intervention: Domestic | | | |
| | Type of measure: Secondary legislation | | | |
| Contact for enquiries: Sarah Keegan | | | | |
| RPC Opinion: GREEN | | | | |

Summary: Intervention and Options

| 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 |
| £0.00m | £-182.22m | £18.3m | | |

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

The existing regulatory system for higher education has become outdated. There is a strong case for establishing a new market regulator reflecting the fact that funding comes predominantly via the student, and to capture the full diverse range of providers within the HE sector. Currently, the Higher Education Funding Council for England (HEFCE) and the Office for Fair Access (OFFA), (the main regulators in the HE sector) are fully taxpayer funded. It is proposed that part of the cost of regulation is borne by the sector rather than the taxpayer, and to move to a similar model of a central regulator as used in other sectors by replacing HEFCE and OFFA with a single new regulator, the Office for Students (OfS).

What are the policy objectives and the intended effects?

To move to a funding model for the central regulatory body, which:

- Results in savings for the taxpayer and ensures a predictable and sustainable income to meet OfS costs
- Is efficient and economical for the OfS to administer, based on data that can be verified
- Allocates costs fairly and operates on a cost recovery basis
- Does not create barriers to entry or deter high quality new entrants
- Is proportionate to the cost of regulating a provider, taking some account of provider size, the associated assurances and other benefits they receive

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

Option 0: "Do nothing" – Office for Students (OfS) fully funded by the government

Option 1 (preferred): OfS charges flat fee to Registered Basic providers and a registration fee to Approved and Approved (fee cap) providers based on a model of provider size -

Option 2: OfS charges flat fee to Registered Basic providers and a registration fee to Approved and Approved (fee cap) providers based on a model of provider size and regulatory effort

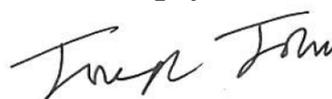
Whilst the policy objectives can be broadly achieved through Option 2, we do not yet have a clear understanding of where the OfS's costs might fall in terms of regulatory effort, which will be contingent on how the regulatory framework is designed and operationalised. Given the lack of operational data to implement Option 2, Option 1 is preferred, accompanied by the commitment to review the fee model after two years, enabling the OfS to reflect on actual operational data and bring in the sector's views.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 2021/22

| | | | | |
|--|-----------------------|---------------------|---------------------------|---------------------|
| Does implementation go beyond minimum EU requirements? | Yes | | | |
| Are any of these organisations in scope? | Micro Yes | Small Yes | Medium Yes | Large Yes |
| What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent) | Traded: N/A | | Non-traded: N/A | |

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

Signed by the responsible Minister:



Date: 18/09/2017

Summary: Analysis & Evidence Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

| Price Base Year 2017 | PV Base Year 2018 | Time Period Years 10 | Net Benefit (Present Value (PV)) (£m) | | |
|-------------------------|----------------------|-------------------------|---------------------------------------|------------|---------------------|
| | | | Low: 0.00 | High: 0.00 | Best Estimate: 0.00 |

| COSTS (£m) | Total Transition (Constant Price) Years | Average Annual (excl. Transition) (Constant Price) | Total Cost (Present Value) |
|---------------|--|---|-------------------------------|
| Low | 0.00 | 16.0 | 133.6 |
| High | 0.00 | 24.2 | 202.5 |
| Best Estimate | 0.00 | 21.8 | 182.2 |

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

HE Sector – A proportion of the ongoing annual administration costs will be transferred to the sector. Decisions on the final structure of charging will be subject to consultation – the estimates here are purely indicative.

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

There will be small familiarisation costs for the HE providers when the new system is introduced.

| BENEFITS (£m) | Total Transition (Constant Price) Years | Average Annual (excl. Transition) (Constant Price) | Total Benefit (Present Value) |
|---------------|--|---|----------------------------------|
| Low | 0.0 | 16.0 | 133.6 |
| High | 0.0 | 24.2 | 202.5 |
| Best Estimate | 0.0 | 21.8 | 182.2 |

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

The costs of regulation transferred to the sector will constitute a net benefit to taxpayers.

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

A co-funding model will help support greater efficiency in regulating the sector through greater transparency and accountability. A better regulated sector should lead to more choice and competition in the HE sector, improving student outcomes and value for money. It should also support confidence in the sector; allowing for better choices to be made, enabling a more diverse range of providers to develop and making it even more accessible to those from currently under represented backgrounds.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

The OfS operating model is being developed. All cost estimates should be seen as indicative and subject to change following more detailed work on the operation of the OfS. The OfS funding model – it is assumed that the majority of costs are covered by the sector, with continued taxpayer support (subject to overall departmental budgets and HM Treasury agreement) to ensure fairness, deliver wider public policy objectives, ensuring fees do not deter new entrants or create a disproportionate burden to any provider.

BUSINESS ASSESSMENT (Option 1)

| | | | |
|---|------------------|---------------|---|
| Direct impact on business (Equivalent Annual) £m: | | | Score for Business Impact Target (qualifying provisions only) £m: |
| Costs: 18.3 | Benefits: 0.0 | Net: -18.3 | |

Background

1. The methodological approach of the first section of this Impact Assessment, to estimate the operating costs of the Office for Students (OfS), is based on a previous Impact Assessment published in 2016, 'Introducing registration fees for Office for Students'¹ which received a green rating from the RPC. This effectively merges the operating costs of the Higher Education Funding Council for England (HEFCE) and the Office for Fair Access (OFFA), which are both to be abolished and their functions taken over by a new regulator the OfS.
2. The methodology in this Impact Assessment differs from the 2016 Impact Assessment slightly, these changes are;
 - a. **Do not include HEFCE contracts with the Higher Education Statistics Agency (HESA) and the Quality Assurance Agency (QAA)** – HEFCE currently funds HESA and QAA to carry out certain activities necessary for the sector. Under the new regulatory landscape, the OfS is expected to designate bodies, the Designated Quality Body and Designated Data Body, to carry out such functions. These bodies will have the power to charge providers fees to recoup the cost of undertaking these statutory activities. These costs were taken into account in the previous Impact Assessment² by adding the cost of HEFCEs contracts with HESA and QAA on top of the combined costs of HEFCE, OFFA and AP resource transferring to contribute to the estimated baseline OfS operating costs. These costs have not been included in the OfS's operating costs baseline in this Impact Assessment.
 - b. **10% efficiency savings** – The 2016 Impact Assessment assumed that in 2018/19 the OfS would realise a 10% efficiency saving. However, it is now assumed that this 10% efficiency saving will not be realised until 2019/20, a year after the OfS is fully functional, as it will take time for the OfS to be able to make these efficiency savings.
3. The second section of this Impact Assessment takes this estimated OfS operating cost and estimates the size of registration fee each provider could face. This analysis is additional to that in the 2016 Impact Assessment.
4. This Impact Assessment focuses on the move to a largely provider funded model for the OfS and the Government's consultation on the detailed model for calculating its annual registration fee and the operational aspects of how this will work³. In parallel, the Government (on behalf of the OfS) is consulting on how the Regulatory Framework will operate⁴. The costs and benefits of the risk-based regulatory regime it proposes are considered in a separate Impact Assessment and provide a broader context in which the effects of moving to a provider-based charging model can be considered. In summary, the new regulatory framework is expected to have the following impacts:

¹ Higher Education and Research Bill Detailed Impact Assessment – Introducing registration fee for Office for Students (June 2016) <https://www.gov.uk/government/publications/higher-education-and-research-bill-impact-assessment>

² Higher Education and Research Bill Detailed Impact Assessment – Introducing registration fee for Office for Students (June 2016) <https://www.gov.uk/government/publications/higher-education-and-research-bill-impact-assessment>

³ Office for Students: registration fees (stage 2) Government consultation <https://consult.education.gov.uk/he-landscape-reform/ofs-registration-fees-and-other-fees-stage-2/>

⁴ Office for Students: regulatory framework for higher education <https://www.gov.uk/government/consultations/office-for-students-regulatory-framework-for-higher-education>

- The creation of the OfS register, a single entry gateway to the higher education sector, will create a level playing field to allow new high quality providers to enter the sector, including through reforms to the validation system. This will reduce the barriers to entry in the sector, resulting in greater competition, better value for money and improved student outcomes through high quality provision.
 - The initial and ongoing conditions of registration will introduce baseline standards that providers must meet, which vary by registration category of the provider. These include the transparency condition, student protection plans and participation in TEF (Teaching Excellence and Student Outcomes Framework) which will protect students' interests through increased transparency, better information to make informed decisions and widening participation in HE. These are associated with familiarisation and registration costs of the new system for existing providers, provision of data by providers to the OfS and the monitoring costs to the OfS to ensure providers meet the conditions.
 - The introduction of a risk based regulatory approach will mean that regulatory activities are focused on individual providers and areas of most risk, to ensure that regulation is proportionate. For low risk providers, this will reduce unnecessary costs as reviews will be less frequent and there will be lighter touch monitoring. This will protect students by regulating risks to quality of provision, ensuring value for money and promoting access and participation.
5. Overall, the effect of changes to the charging model and the new regulatory framework will have a net benefit and improve student outcomes. The business net present value of the Regulatory Framework consultation will be published in a separate Impact Assessment.

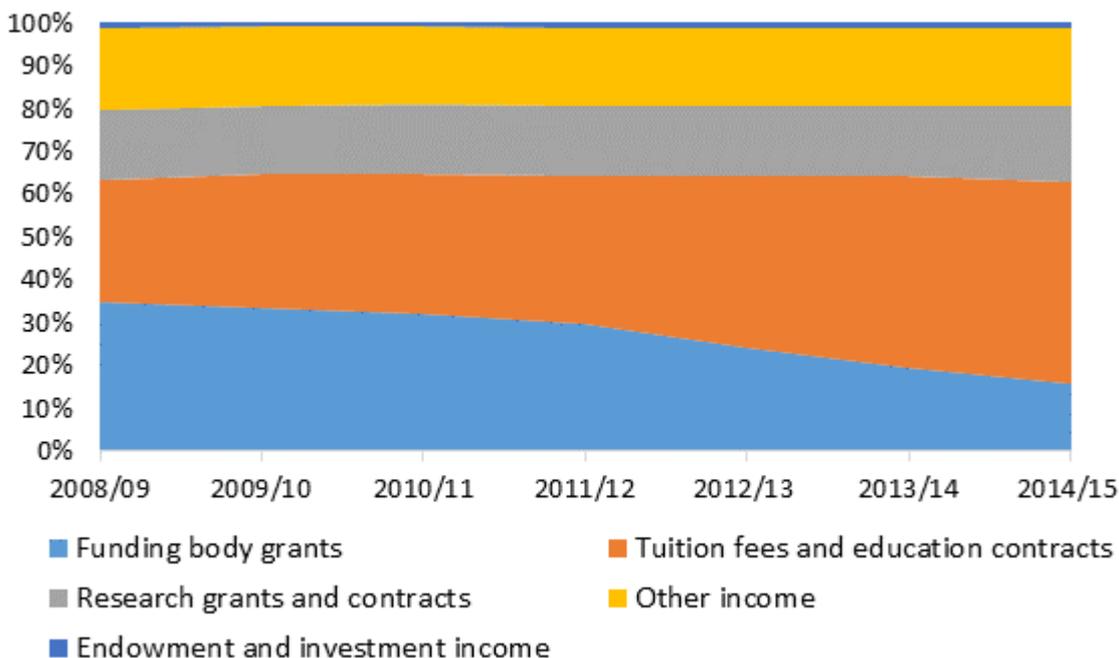
Creation of the Office for Students (OfS)

6. The higher education funding system in England has undergone many changes over the past 20 years. There has been a marked rise in the number and diversity of providers as former polytechnics and colleges of higher education (HE) have been granted university status, and caps on student numbers have been relaxed. This has led to the emergence and growth of new, smaller and more specialist higher education institutions, which are not in direct receipt of HEFCE or public funding, known as alternative providers (APs). Today, there are over 300⁵ providers who receive HEFCE funding directly, and over 700 Alternative Providers⁶ offering higher education courses.
7. At the same time, there has been a sizeable shift in the way Higher Education Institutions (HEIs) are funded. As Figure 1 below clearly shows, the proportion of funding for teaching provided by direct grant from the HEFCE has declined significantly, while the share of funding from tuition fees has increased.

⁵ HEFCE - <http://www.hefce.ac.uk/reg/register/search/Overview>

⁶ Alternative providers of higher education: the market and students in 2014 <https://www.gov.uk/government/publications/alternative-providers-of-higher-education-the-market-and-students-in-2014>

Figure 1. Sources of income for UK HEIs, percentage split.⁷



8. Given that the student, supported by taxpayers, is now the primary funder of higher education, a new regulatory body, the Office for Students (OfS), is being established in January 2018 to ensure that the interests of students and taxpayers are fully protected. Government will reduce its funding to the regulator and regulated HE providers will be required to provide the balance via registration fees.
9. Combining some of the existing regulatory functions of HEFCE and the Office for Fair Access (OFFA), and creating new statutory powers and duties, such as maintaining a register, imposing conditions and requiring cooperation with an inspection, will give the OfS clear and consistent powers to regulate the sector in a way which promotes competition, choice, equality of opportunity, quality and value for money for students and taxpayers.
10. The OfS will have a clear remit to cover all English HE providers. It will do so as a risk-based market regulator, representing a major shift away from the role currently played by HEFCE, which was designed as a funding body. This risk-based market regulator approach follows from the principle that competition in HE, as in other markets, will encourage greater quality, choice and innovation.
11. The OfS will have a range of particular functions and responsibilities, including establishing and maintaining a register of English higher education providers. To register, providers would have to demonstrate that they meet a set of initial registration conditions to ensure they meet the high bar for entry and would be subject to a risk assessment. The OfS would

⁷ HESA finance plus data

also monitor that providers are complying with the conditions of registration set out in the new regulatory framework. Based on this risk assessment the OfS would decide on any enhanced monitoring needed in relation to any risks identified.

12. In line with its general duties set out in the Act, in performing its functions, the OfS must have regard to the need to:

- Protect the institutional autonomy of English HE providers
- Promote quality, choice and opportunities for students
- Encourage competition, while having regard to the benefits of collaboration between providers
- Promote value for money
- Promote equality of opportunity in connection with access and participation
- Use its resources in an efficient, effective and economic way
- Observe the principles of best regulatory practice

Problem under Consideration

13. Currently, HEFCE and OFFA are fully funded by the government. Under the 2017 Higher Education and Research Act (HERA), the new regulatory body, the OfS, will now have the legislative power to charge registration fees. In this way, HE will be similar to other regulated sectors such as, telecommunications (Ofcom), electricity and gas (Ofgem); and health and social care (CQC) where the economic regulator is partly or fully funded by the sector it regulates.

Rationale for intervention

14. The Impact Assessment published in June 2016⁸ in support of the introduction of the Higher Education and Research Bill set out the key reasons for partly funding the OfS through registration fees⁹. These included:

- **Fairness:** Currently costs of HEFCE/OFFA are fully covered by the taxpayer. This effectively means that a taxpayer who has never been through the HE system would still contribute to the administration costs of the regulator. For those who have studied, taxes paying for the operation of the regulatory body would come on top of their student loan repayments, despite them being out of education for potentially many years.
- **Budgetary pressures:** The model where providers cover the majority of the costs of the new regulator would realise savings to the taxpayer, contribute to the stability of public finances and enable government funding to be focused towards areas of market failure where funding is required to deliver public policy outcomes in a way that represents value for money.
- **Accountability:** Asking providers to contribute to the cost of the OfS would give them an incentive to hold the regulator accountable and challenge the efficiency of the regulatory system. This will be encouraged by strong accountability mechanisms between the

⁸ 2016 impact assessment - <https://www.gov.uk/government/publications/higher-education-and-research-bill-impact-assessment>

⁹ Rationale for regulators recovering costs from the regulated is laid out in – Cabinet Office's Regulatory Futures Review 2017 - <https://www.gov.uk/government/publications/regulatory-futures-review>

sector, the government and the OfS. Sector representation will be achieved through the statutory requirement for a sector representative on the OfS Board. Providers will also be able to challenge the OfS should they feel that it is not operating according to its general duties on the face of the Act, including the requirement to have regard to the need to use its resources in an efficient, effective and economic way. In addition, the OfS will be required to lay an annual report before Parliament on the performance of its functions and its statement of accounts. Alongside the need to charge fees in accordance with regulations made by the Secretary of State, this will ensure that the OfS faces the appropriate level of government scrutiny over how it exercises its fee charging powers.

Policy objective

15. Under HERA 2017, the OfS has powers to charge providers registration fees as a condition of registration in accordance with regulations made by the Secretary of State.
16. It is envisaged that different fee charging arrangements would be in place for *Registered Basic*¹⁰ providers because the proposed regulatory framework suggests that the OfS would expend substantively less regulatory effort – both initially and on an ongoing basis - on these providers, which would also receive lesser direct benefit from being registered, compared with providers in the *Approved*¹¹ and *Approved (fee cap)*¹² categories.

Options under consideration

17. This Impact Assessment covers the options for the OfS to charge registration fees.

Option 0: Do nothing: Government (and thus the taxpayer) continues to fully fund the regulatory body for higher education.

Option 1 (preferred): OfS charges flat fee to Registered Basic providers and a registration fee to Approved and Approved (fee cap) providers based on a model of provider size. This would recognise that the OfS would have benefits both for providers, students and the economy at large, and recognise the differences in the size of providers and the level of benefits they receive by being registered. Bringing the OfS's funding approach in line with that of other regulators and the government's policy that regulators should generally be funded through charges on those they regulate.

Option 2: OfS charges flat fee to Registered Basic providers and a registration fee to Approved and Approved (fee cap) providers based on a model of provider size and regulatory effort. This would recognise that OfS would have benefits both for

¹⁰ “Registered - Basic” providers would be formally recognised by government, subject to check of their qualifications and requirements on student protection. They would not gain access to government funding or ability to recruit international students.

¹¹ “Approved”: Gain access to up to £6,000 tuition fee loans for undergraduate students, with no cap on tuition fees, and no requirement to sign up to an access agreement (but with a policy statement on widening participation in HE). Able to recruit international students as a Tier 4 visa sponsor.

¹² “Approved (fee cap)”: A £9,000 tuition fee loan cap, a cap on fees at £9,000, a requirement to sign up to an access agreement if fees charged are more than £6000, and eligibility for government grant. Able to recruit international students as a Tier 4 visa sponsor.

providers, students and the economy at large, and also recognise that some providers are more costly to regulate than others.

18. The preferred option is Option 1. The government is currently seeking views on this option in its consultation “Office for Students: registration fees (stage 2)”¹³, which launched on 19 October. Following this consultation, the Secretary of State will decide on the registration fee model to be implemented. HERA allows the Secretary of State to set the level of registration fees and to make other provision about how they are to be paid in regulations. This Impact Assessment will be updated in advance of that.

Estimating the OfS’s expected operating costs

Establishing baseline operating costs

19. There is uncertainty as to what the likely operating costs of the OfS will be. This is because they will depend on the organisational design of the OfS and the operation of the new regulatory framework. The responses to the stage 2 government consultation on OfS registration fees¹⁴ and the consultation on the wider regulatory framework will be used to inform and refine our initial analysis of operating costs.

20. The Impact Assessment published in June 2016¹⁵ provided an indicative estimate of the OfS’s potential operating cost based on the financial accounts of HEFCE and OFFA. This initial estimate has been updated to take into account the most recent published financial accounts of the two organisations¹⁶. Table 1 shows the overall expenditure of HEFCE in 2016/17 and OFFA in 2016/17. “Operating expenditure” covers the costs that form the baseline for our estimates.

21. Figures from HEFCE and OFFA accounts are given in financial years.

Table 1. HEFCE and OFFA expenditure 2016/17

| £ thousand actual | HEFCE 16-17 | OFFA 16-17 |
|--|---------------|--------------|
| Operating expenditure | | |
| Staff costs | 18,904 | 1,267 |
| Support costs | 6,190 | 257 |
| Other | | 403 |
| Depreciation, amortisation (non-cash) | 226 | |
| Gross operating expenditure | 25,320 | 1,927 |

¹³ <https://consult.education.gov.uk/he-landscape-reform/ofs-registration-fees-and-other-fees-stage-2/>

¹⁴ <https://consult.education.gov.uk/he-landscape-reform/ofs-registration-fees-and-other-fees-stage-2/>

¹⁵ 2016 impact assessment - <https://www.gov.uk/government/publications/higher-education-and-research-bill-impact-assessment>

¹⁶ HEFCE annual report and accounts 2016/17 <http://www.hefce.ac.uk/about/reportsaccounts/>
OFFA annual report and accounts 2016/17 <https://www.offa.org.uk/publications/annual-reports/>

22. Following the same approach outlined in the 2016 impact assessment, two sets of adjustments are made to this figure in order to reach a baseline cost estimate (i.e. costs before allowing for efficiencies stemming from the replacement of HEFCE and OFFA with a single new regulatory body).

23. The first set of adjustments involves two deductions to the HEFCE gross operating expenditure figure of £25,320,000:

- HEFCE currently bears part of the responsibility for managing the Research Excellence Framework and allocating research funding for providers, as well as wider responsibilities that will transfer into Research England¹⁷. It has been estimated that 28 full-time equivalent (FTE) posts in HEFCE are directly responsible for this function,¹⁸ though the final confirmation of this will be subject to the process of transferring staff into the two organisations and negotiations with Trade Unions and staff. In the new system, this will move to UK Research and Innovation (UKRI), as a part of the future consolidation of research funding under one body. As there were 325 FTE staff at HEFCE in as of March 2017, it is assumed that there would be a cost saving of around 9% (28/325). This would amount to a £2.2m (£25.3m x 9%) deduction¹⁹.
- While HEFCE only has duties to regulate English HE providers, it also performs similar functions for the Devolved Administrations (DAs) on a contractual basis. The powers allocated to the OfS will also only relate to England. The OfS may work jointly with the DAs, but we would expect this to be on a contractual basis and for the OfS to recover costs from the DAs. Therefore, to get comparable estimates, the costs of contracts with the Devolved Administrations have to be excluded from the baseline estimates. This would amount to £80,000²⁰, which relates to various services provided to the Department for the Economy in Northern Ireland, which will be deducted from HEFCE operating costs. The provision which allows the OfS to make arrangements for rating the quality and standards of providers in Wales, Scotland and NI is section 25 of HERA, which is due to come into force on 1 January 2018.

Table 2. England-only costs of HEFCE in 2016/17

| Cost category | Cost (£000s) |
|--|---------------------|
| HEFCE operating costs | 25,320 |
| - Research funding | -2,181 |
| - NI contract | -80 |
| England-only HEFCE costs²¹ | 23,059 |

¹⁷ A part of UKRI

¹⁸ Source: Internal DfE estimates

¹⁹ No further data on specific costs of this staff is available, so it is assumed that proportion of HEFCE operating costs spent on research funding is equivalent to the proportion of this staff in the organisation.

²⁰ DfE discussions with HEFCE

²¹ Numbers may not sum due to rounding

24. The second adjustment relates to the inclusion of an additional item of expenditure associated with HEFCE's responsibilities around regulation:

- DfE currently has partial responsibility for managing alternative providers (APs) of higher education, including monitoring, designation and annual re-designation²². This would be fully transferred to the OfS in the new system. As a baseline for that part of the costs, we use the figures of DfE staff costs and overheads that cover this area, totalling £598,000²³ altogether in the 16-17 financial year. Although final confirmation of this will be subject to the process of transferring staff and negotiations with Trade Unions and staff.

25. Taking all of these adjustments into account, the baseline estimate for OfS operating costs (before allowing for efficiency savings) is estimated to be £25.6m as shown in Table 3. This does not include costs of the OfS operating the Teaching Excellence and Student Outcomes Framework (TEF), which will not form a part of registration fees and have been assessed in a separate impact assessment at the primary legislation stage²⁴.

26. HEFCE currently funds HESA and QAA to carry out certain activities necessary for the sector, such as, the Higher Education Data and Information Improvement Programme (HEDIIP). In the previous Impact Assessment, the cost of HEFCEs contracts with HESA and QAA were added on top of the combined costs of HEFCE, OFFA and AP resource transferring to contribute to the estimated baseline OfS operating costs. However, in this Impact Assessment HEFCE's funding to HESA and QAA is not included in the baseline estimate of the OfS's operating costs. This is because it is the intention to designate bodies, the Designated Quality Body and Designated Data Body, to carry out such functions, which will have the power to charge their own fees²⁵. Expressions of interest to fill the roles of the designated bodies were invited in August 2017.

Table 3. Total baseline estimated OfS operating costs, (£thousands)

| Category | Cost |
|--|---------|
| A: HEFCE 16-17 total operating costs (England only) | £23,059 |
| B: OFFA 16-17 total operating costs | £1,927 |
| C: DfE AP resource transferring | £598 |

²² Checks undertaken to ensure that APs are offering higher quality provision and are financially stable, before they can offer student loans for students at their courses. APs are then subject to annual re-designation where they need to provide evidence of their continued financial sustainability, student numbers and quality of course provision.

²³ (Average grade salary*19.7% non-wage uplift)*number of people in the grade (14 FTE posts at varying grades)
A 19.7% 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 19.7% at the time of writing. The underlying data can be found at <http://ec.europa.eu/eurostat/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=tps00173&language=en>

²⁴ Higher Education and Research Bill Detailed Impact Assessment – The Teaching Excellence Framework (June 2016) <https://www.gov.uk/government/publications/higher-education-and-research-bill-impact-assessment>

²⁵ After appointment of the Designated Data Body, the OfS will agree precise functions it will undertake. It is assumed in this IA that these will resemble the current activities undertaken by HESA.

| Category | Cost |
|----------------------------|----------------|
| TOTAL ²⁶ | £25,583 |

27. All figures in table 3 are given in the financial year 2016-17, these are then translated into the academic year 2016/17, to give a baseline operating cost of the OfS of £25.5. All analysis onwards is in academic year.

Expected efficiencies

28. The figure of £25.5 million provides a baseline for the costs of OfS, based on current expenditure on related functions. Once created, the OfS is likely to generate cost savings, stemming in part from the replacement of HEFCE and OFFA with a single regulatory body, and in part from the move to a risk-based, more efficient regulatory framework.

29. It is estimated that a 10% efficiency saving would be achieved relative to baseline costs. However, differing from the previous 2016 Impact Assessment²⁷, which assumed this saving would be realised from year 1 (2018/19) we now assume that these savings will not be realised until 2019/20. As the OfS will be operating under HEFCE and the Director of Fair Access' (DFA's) powers until 19/20 and will only have its full suite of regulatory powers from then. Efficiency savings can only begin to be achieved once the OfS and the new regulatory regime is fully operational.

30. This means that the baseline for operating costs is £25.5m²⁸ for 2016/17. It is assumed that the running costs will rise in line with economy-wide inflation. Adjusting for forecast RPIX inflation²⁹, the expected operating cost for 2018/19 is then **£27.7 million**, and in 2019/20 when the 10% efficiency saving is realised the expected operating cost is **£26.2 million**. We have assumed a 10% efficiency saving from 2019/20 resulting from merging HEFCE and OFFA functions and the introduction of more efficient systems, such as the risk-based regulatory framework. The regulatory framework, on which a parallel consultation is taking place, has yet to be finalised and as such we are not able to provide a more developed estimation of possible savings at this point.

Dynamics of the operating cost

31. The reforms introduced by HERA will open the market to high quality new providers and create a level playing field between established providers and new entrants. This is expected to lead to a significant increase in the number of providers within the regulated system, improving choice for students and putting greater competitive pressure on existing providers to improve their student offer. That would mean the OfS having responsibility for regulating a greater number of providers, which may lead to an increase in the operating

²⁶ Rows A+B+C=TOTAL figures may not sum due to rounding

²⁷ Higher Education and Research Bill Detailed Impact Assessment – Introducing registration fee for Office for Students (June 2016) <https://www.gov.uk/government/publications/higher-education-and-research-bill-impact-assessment>

²⁸ Total in table 3

²⁹ data is updated OBR RPIX estimates for Jan-Mar quarter – published in March 2017.

costs. The number of providers in the Approved and Approved (fee cap)³⁰ categories is estimated to increase by just under 5% each year. Based on our initial estimates³¹, we have assumed that the operating costs would grow by 3.75% if the number of providers in the Approved and Approved (fee cap) categories rises by 5%.

32. *Registered Basic* providers are not included as the costs of regulation for them are assumed to be minimal relative to total OfS operating costs³². Based on the proposed regulatory framework, providers in the Registered Basic category would be subject to a basic form of regulation that focuses on recognising that they are providing HE. As such, the OfS would expend limited regulatory effort – both initially and on an ongoing basis - on these providers, which will also receive lesser direct benefit³³ from being registered when compared with the Approved and Approved (fee cap) categories. Further detail on how the regulatory framework is expected to operate and the regulatory impacts of this on HE providers can be found in the Regulatory Framework consultation and associated impact assessment. The numbers of Registered Basic providers is also expected to increase marginally³⁴ every year compared to the total number of providers registered with the OfS. Therefore, we assume that as this additional cost would be so minimal relative to the OfS total operating costs they would be absorbed.

33. Providers in the Approved and Approved (fee cap) categories would be subject to greater monitoring and assurance and be able to access substantively greater benefits than those providers in the Registered Basic category. For example, HE providers in the Approved and Approved (fee cap) categories are eligible to apply for a Tier 4 licence and their students have access to student finance. They would be expected to comply with conditions of registration, common baseline requirements which focus on what matters most to students and on providing value to students as well as the taxpayer. In general, it is proposed that both Approved and Approved (fee cap) categories will be subject to the same conditions, but with additional access and participation requirements associated with the fee cap. We do not envisage that these will be significant drivers of OfS cost and therefore do not propose to differentiate between fees for the approved categories.

34. Table 4 shows the projected number of providers which could be registered as Approved or Approved (Fee Cap) providers and the projected operating cost of the OfS³⁵ over time. The increase in operating costs over time is due to two factors: (i) increase in the number of regulated “Approved”/“Approved (fee cap)” providers and (ii) inflation³⁶. The same assumptions on the number of providers in the new system are used across all Impact Assessments for the related consultations³⁷.

³⁰ Excluding any SCITTs registered in either of the Approved categories

³¹ This is an initial estimate based on discussions between DfE and HEFCE.

³² It is also assumed that the mix between “Approved” and “Approved (fee cap)” remains constant throughout the period. This is a simplifying assumption and it does not have a significant impact on total cost.

³³ They will not be eligible to apply for a tier 4 licence and their students will have no access to student finance.

³⁴ See table 8

³⁵ Increase in gross operating costs is calculated with 50% of costs fixed and 50% directly proportionate to number of “Approved”/“Approved (fee cap)” providers. E.g. if the number of providers increase by 100% the OfS’s operating costs will increase by 50%.

³⁶ data is updated OBR RPIX estimates for Jan-Mar quarter – published in March 2017.

³⁷ Further details of the HE provider estimate modelling is provided in a technical note. This has been supplied separately as it underpins all of the HE provider estimates in the HERA (Higher Education and Research Act) consultation stage Impact Assessments.

35. Analysis is provided in academic years.

Table 4. Expected OfS operating cost by year

| | 2018/ 19 | 2019/ 20 | 2020/ 21 | 2021/ 22 | 2022 /23 | 2023/ 24 | 2024/ 25 | 2025/ 26 | 2026/ 27 | 2027/ 28 |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Total “Approved” /”Approved (fee cap)”³⁸ | 508 | 531 | 555 | 580 | 606 | 631 | 654 | 677 | 698 | 718 |
| Operating cost of OfS, £million³⁹ | 27.7 | 26.2 | 27.7 | 29.2 | 30.7 | 32.3 | 33.8 | 35.4 | 36.9 | 38.5 |

Analysis of policy options

36. This impact assessment covers the options for OfS registration fee models. The actual amounts charged under the funding model which is chosen following the consultation will be set out in secondary legislation.

Option 0: Do nothing

37. In the do nothing scenario, the government (i.e. taxpayers) would continue to fully fund the HE sector regulatory body. This would mean that HE providers would be able to join the OfS register in any registration category, as long as they meet the criteria for the category in question and accept the corresponding conditions, and would not be charged a fee by the OfS to regulate or register them.

Costs

38. There would be no additional costs to providers as the regulator would continue to be fully funded by government and would not charge registration fees to the higher education providers it regulates. This option would not be consistent with a key rationale for charging registration fees: fairness, as it means that the general taxpayer would still contribute a significant amount to the administration costs of the HE regulator. It also would not realise any significant savings to the taxpayer, who may have never attended a higher education

³⁸ **“Approved”**: Gain access to up to £6,000 tuition fee loans for undergraduate students, with no cap on tuition fees, and no requirement to sign up to an access agreement (but with a policy statement on widening participation in HE). Able to recruit international students as a Tier 4 visa sponsor.

“Approved (fee cap)”: A £9,000 tuition fee loan cap, a cap on fees at £9,000, a requirement to sign up to an access agreement if fees charged are more than £6000, and eligibility for government grant. Able to recruit international students as a Tier 4 visa sponsor.

³⁹ Takes into account inflation, the 10% efficiency savings from 2019/20 and the numbers of Approved and Approved (fee cap) providers registered with the OfS. As the number of Approved and Approved (fee cap) providers increases the OfS operating costs will increase by half that amount e.g. if the number of Approved and Approved (fee cap) providers increased by 100% OfS operating costs would increase by 50%. (data is updated OBR RPIX estimates for Jan-Mar quarter – published in March 2017)

provider themselves. Additionally, this option provides no financial incentive for HE providers to hold the regulator to account and challenge its efficiency.

Benefits

39. There would be no additional benefits to any HE providers under option 0.
40. The absence of registration fees may reduce a disincentive to new providers to register, creating a benefit to new providers wishing to join the register. However, this would be mitigated in option 1 by the new provider subsidy proposed in Option 1, subsidising new Approved and Approved (fee cap) providers' fees to act as incentive for them to join either of the Approved categories.

Option 1 (preferred)

41. Under the preferred option, the OfS would charge fees broadly based on provider size and registration category. 'Registered Basic' providers would pay a flat fee. The Approved and Approved (fee cap) providers would pay a varied fee based on their size, which would be measured by full-time equivalent (FTE) HE student⁴⁰ numbers. This would be accompanied by a commitment to review the fee model after two years of its operation, enabling the OfS to reflect on actual operational data and bring in the sector's views.
42. The rationale for this option is that we do not yet have a clear understanding of where the OfS's costs might fall, which will be contingent on how the regulatory framework is designed and operationalised, as well as what other activities the OfS will undertake.
43. Option 1 therefore seeks to differentiate between the regulatory effort and therefore costs that the OfS would incur in relation to 'Registered Basic' versus Approved and Approved (fee cap) category providers. It is envisaged that the OfS would expend substantively less regulatory effort – both initially and on an ongoing basis - on 'Registered Basic' providers, who would also receive less direct 'benefit' from being in this category compared to Approved and Approved (fee cap). For example, they would not gain access to government funding, tuition fee loans for their students or ability to recruit international students. Varying fees by provider size in the Approved and Approved (fee cap) categories would help to ensure affordability, as size is expected to be broadly correlated with ability to pay, and a full-time equivalent (FTE) measure would avoid penalising providers with a high number of part-time students. New providers would be partially subsidised by the government for the first three years of their registration, reducing a potential barrier to entry to new high quality providers.
44. The following principles, which the government previously consulted on,⁴¹ were considered when designing the fee model:

⁴⁰ This measure of full time equivalent students includes both undergraduates and postgraduates and also includes international students. Full-time equivalent compares an individual's workload to a standard full-time, full-year workload.

A full-time student or member of staff is 1.0 FTE. A student on a part-time course that is 60% of a full-time course would be 0.6 FTE.

⁴¹ https://consult.education.gov.uk/he-landscape-reform/office-for-students-registration-fees/supporting_documents/OfS%20registration%20fees%20consultation.pdf

- **A fee model which is proportionate to the cost of regulating a provider** - taking some account of provider size, the associated assurances and other benefits providers receive.
- **Does not deter high-quality new entrants** - entry of new providers is important as it improves choice for students and incentivises innovation from existing providers. Newer providers to the “Approved” part of the sector would cost the OfS the same, or possibly even more than incumbent providers to regulate in the initial years of their operation, as the OfS would need to assure that entrants offer high quality provision and are likely to be financially sustainable. However, the full cost of regulation could be unaffordable to new providers and thus could discourage entry.
- **Operates on a cost recovery basis** - consistent with the guidance in ‘Managing Public Money’
- **Is as simple as possible** - to enable providers to predict their likely fees
- **Is based on data that can be verified**
- **Ensures a predictable and sustainable income to meet OfS costs**
- **Is efficient and economical for the OfS to administer**

Costs

Table 5. Indicative expected split between OfS costs funded by Government and through registration fees⁴², £million

| | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 | 2027/28 |
|---|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Inflation Adjusted OfS Operating Costs⁴³ (£m) | 27.7 | 26.2 | 27.7 | 29.2 | 30.7 | 32.3 | 33.8 | 35.4 | 36.9 | 38.5 |
| Total Government support (%) | 100% | 25% | 25% | 25% | 25% | 25% | 25% | 25% | 25% | 25% |
| Total Government support (£m)^{44, 45} | 27.7 | 6.6 | 6.9 | 7.3 | 7.7 | 8.1 | 8.5 | 8.8 | 9.2 | 9.6 |
| Total Registration fees⁴⁶ (£m) | 0.0 | 19.7 | 20.7 | 21.9 | 23.0 | 24.2 | 25.4 | 26.5 | 27.7 | 28.9 |

⁴² OfS baseline estimates are provided in financial years, any analysis is provided in academic years.

⁴³ Inflation adjusted OfS operating costs are based on figures provided in HEFCE and OFFA annual accounts and so are provided in financial years.

⁴⁴ YR 1: Inflation adjusted OfS operating costs*100%

Subsequent YRS: Inflation adjusted OfS operating costs*25%

⁴⁵ Ongoing government support dependent on departmental budgets, subject to agreement with HM Treasury

⁴⁶ =(Inflation adjusted OfS operating costs - total government support)

45. The OfS will be formally established on 1 January 2018, with costs incurred up to this date and for the remainder of 2017/18 covered by the government as part of its 2017/18 budget settlement with HEFCE. We focus on 2018/19 as our start, as this is the point at which the OfS will begin to discharge a number of its functions, including maintaining and populating the new register of higher education providers. The government has committed to fund the OfS's operating costs during this transition year. We focus on 2019/20 when estimating providers' registration fees, as this is the first year in which providers will be required to pay registration fees, as this is the first year that the new regulatory framework is expected to be fully operational and that providers are expecting to derive benefit.
46. The government will fund all of the OfS's operating costs in year 1 (2018/19). The cost is estimated to be around £27.7m. We do not include *Registered Basic* providers in the analysis of the OfS's operating costs. Nor do we take into account any changes in the numbers of Registered Basic providers when calculating annual changes in the OfS's operating costs; i.e. we do not assume that any increase/decrease in the number of Registered Basic providers would necessitate any increase/decrease in the OfS's operating costs, as the cost of regulating a Registered Basic provider are likely to be very small based on current proposals⁴⁷. An *Approved* or *Approved (fee cap)* provider would, however, require a comparatively far greater level of monitoring and regulation.
47. In subsequent years, we have assumed that the government would fund 25% of the OfS's operating costs – the actual amount of government contribution will depend on the nature of the operating costs and overall departmental budgets, subject to agreement with HM Treasury. Departmental budgets will only be agreed until the end of the Spending Review period (2019/20); any subsequent government contribution assumed in this Impact Assessment would therefore be subject to negotiations with HM Treasury as part of the regular Spending Review process. There are the two key parts of the cost that might be funded by the government in the new system:
- a. **Funding for activities that have wider economic benefit.** Beyond the direct regulatory functions, it is expected that the OfS will be well placed to perform other functions, which may not directly benefit the providers, but would have large societal benefits. Examples could include the OfS undertaking work directly for the government, such as the production of analysis and research about the HE sector or specific monitoring work which they do that has external benefits to society beyond a given institution, such as tackling extremism through the Prevent framework.
 - b. **Costs of regulating new providers – as set out below** (those that entered in the past 3 years). There is a pro-competition argument for the taxpayer to partly cover a new provider's regulatory costs in its early years (assumed here to be during its first three years). It is currently very difficult to specifically ascribe the likely level of operating costs of the OfS to a particular provider or type of provider which it will be regulating. Large, well-established providers could be more costly to regulate because they offer a greater range of taught courses. On the other hand, some smaller, new providers could be less financially stable and have less well-established quality assurance practices, which might lead to more intensive monitoring depending on the final regulatory framework.

⁴⁷ "Registered Basic" providers would not be subject to monitoring, and would only undergo a light-touch check of their qualifications.

48. "Total registration fees" in Table 5 represents the added cost to business in each year, the total amount of the OfS operating costs which will be recouped through the registration fees of all registered HE providers.

49. "New" providers are defined here as those that have not been previously regulated by either HEFCE or the Department for Education (DfE), and which are moving into either the Approved or Approved (fee cap) categories from outside of the system, or from the "Registered Basic" category. Table 6 estimates the numbers of 'new' providers entering the Approved and Approved (fee cap) categories in each year.

Table 6 – New providers entering the Approved and Approved (fee cap) categories each year

| | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 | 2027/28 |
|--|---------|---------|---------|------------------|---------|---------|---------|---------|---------|
| "New" providers ⁴⁸ | 25 | 26 | 27 | 28 | 27 | 26 | 25 | 24 | 23 |
| Cumulative "new" providers ⁴⁹ | 25 | 51 | 78 | 81 ⁵⁰ | 83 | 82 | 78 | 74 | 71 |

50. It is proposed that 'new' providers could be partially subsidised for three years, subject to overall departmental budgets and agreement with HM Treasury. 'Cumulative new providers' in Table 6 sets out the number of 'new' providers estimated to be subsidised in each year i.e. those that are in their first three years of being in the Approved or Approved (fee cap) categories (excluding those previously regulated by HEFCE or DfE).

51. The government would contribute £600,000 of the 25% government subsidy to a new provider contribution in 2019/20. Table 7 outlines the amount of new provider contribution the government could contribute each year. These figures are based on an original outlay of £600,000, they are adjusted for the increase or decrease of new providers each year. For example if the numbers of new providers increased by 54% as they do in 2021/22, the amount of new provider subsidy would increase proportionately with this (54%)⁵¹. Figures are also adjusted for inflation⁵².

⁴⁸ Those HE providers entering the Approved and Approved (fee cap) categories from outside the regulated system or from the Registered – basic category.

⁴⁹ Count of "new providers" for three years - Providers are 'new' for the first three years of their registration – figures may not sum due to rounding

⁵⁰ The cumulative number of "new providers" in 2022/23 would be a count of the "new providers" in 2020/21 2021/22 and 2022/23.

⁵¹ If the numbers of new HE providers were to decrease the amount contributed would also decrease proportionately.

⁵² Data is updated OBR RPIX estimates for Jan-Mar quarter – published in March 2017.

Table 7 – Indicative new provider subsidy government will contribute each year

| | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 | 2027/28 |
|--|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| % increase of new providers ⁵³ | - | 105% | 54% | 5% | 2% | -1% | -4% | -4% | -4% |
| Govt contribution to new providers ⁵⁴ (£m) | £0.60 | £1.42 | £2.25 | £2.43 | £2.54 | £2.57 | £2.53 | £2.48 | £2.44 |
| The average ⁵⁵ new provider receives ⁵⁶ (£thousands) | £24.3 | £28.1 | £28.9 | £29.8 | £30.7 | £31.6 | £32.4 | £33.4 | £34.3 |

52. In the first year that registration fees are charged, 2019/20, 25 providers would receive a discount on their fees. They would receive a discount proportionate to the size of their registration fee. However, for the purpose of this Impact Assessment we assume that all of these new providers are an average size of 501⁵⁷ students, giving them all the same discount of £24,300 in 2019/20. The overall costs that these new providers could face are outlined in the 'Cost to Approved and Approved (fee cap) providers' section.

Costs to HE providers

53. To relieve the burden of transitioning into the new system, providers will not begin to pay registration fees until academic year 2019/20.

54. HE providers' fees would vary broadly depending on their category of registration and their size.

55. Providers in different categories are assumed to face different processes and ongoing monitoring⁵⁸.

Aggregate Costs to Registered Basic providers

56. It is anticipated that providers entering as Registered Basic would pay a minimal registration fee of around £1,000⁵⁹, reflecting the lower cost to the OfS of regulating these providers and guarding against a potential barrier to entry.

⁵³ Calculates the % increase/decrease in the cumulative new providers each year, the increase/decrease in the number of providers that will be receiving the new provider subsidy

⁵⁴ Data is updated OBR RPIX estimates for Jan-Mar quarter – published in March 2017.

⁵⁵ We assume that the majority of new providers will be Alternative Providers, we assume the average number of students at an AP is 501, based on AP finance returns to BIS.

⁵⁶ Government contribution to new providers / cumulative new providers, dependent on overall departmental budgets, subject to agreement with HM Treasury

⁵⁷ We assume that the majority of new providers will be Alternative Providers, we assume the average number of students at an AP is 501, based on AP finance returns to BIS.

⁵⁸ Registered status involves a basic check of whether qualifications are consistent with *The Framework for Higher Education Qualifications (FHEQ)*. Gaining "Approved" status involves a check of Financial Sustainability, Management and Governance, as well as a review by QAA. Gaining "Approved (fee cap)" status also involves a higher level of FSMG checks and an option to charge fees of up to £9,000 if the provider signs an access agreement with OfS.

⁵⁹ This is a top down estimate and a final fee amount would be set in view of bottom-up estimates of costs in relation to providers in the Registered Basic category.

57. In 2019/20 we estimate there would be 120⁶⁰ HE providers in the Registered Basic category, each paying a flat annual fee of £1,000 to enter and remain on the register.

58. In total, providers in the Registered Basic category could contribute £120,000⁶¹ of the OfS's operating costs in 2019/20.

⁶⁰ Further details of the HE provider estimate modelling is provided in a technical note. This has been supplied separately as it underpins all of the HE provider estimates in the HERA (Higher Education and Research Act) consultation stage Impact Assessments.

⁶¹ $120 * \text{£}1000 = \text{£}120,000$

Table 8 – Registration fees raised by Registered – basic providers (£m)

| (£m) | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 | 2027/28 |
|--------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Registered (basic) Providers | - | 120 | 134 | 146 | 157 | 165 | 171 | 176 | 180 | 182 |
| Fees Raised ⁶² (£m) | - | £0.12 | £0.13 | £0.15 | £0.16 | £0.17 | £0.17 | £0.18 | £0.18 | £0.18 |

⁶² Number of registered – basic providers * £1000

Aggregate Costs to Approved and Approved (fee cap) providers

59. Approved and Approved (fee cap) providers would cover the “Remainder of the registration fees” as shown in Table 9. They would be expected to account for the majority of the sector’s total registration fees, reflecting the more in-depth regulation that may be required on an initial and ongoing basis compared to providers in the Registered Basic category.

Implied cost to Approved and Approved (fee cap) providers

Table 9 – Registration fees raised by Approved and Approved (fee cap) providers

| (£m) | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 | 2027/28 |
|--|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Total Registration fees | £19.7 | £20.7 | £21.9 | £23.0 | £24.2 | £25.4 | £26.5 | £27.7 | £28.9 |
| Fees raised by Registered (basic) providers | £0.12 | £0.13 | £0.15 | £0.16 | £0.17 | £0.17 | £0.18 | £0.18 | £0.18 |
| Remainder of registration ⁶³ fees | £19.6 | £20.6 | £21.7 | £22.9 | £24.0 | £25.2 | £26.3 | £27.5 | £28.7 |

⁶³ The remainder of the OfS's operating costs that will be paid for by the registration fees of Approved and Approved (fee cap) category, this is after the government 25% subsidy (including the new provider subsidy), subject to agreement with HM Treasury, and the flat fees paid for by the Registered basic providers have been taken from the OfS' baseline operating costs.

Provider level costs

60. Registration fees for individual HE providers in both the Approved and Approved (fee cap) categories would be proportionate to the number of full-time equivalent (FTE) higher education (HE) students⁶⁴ at the institution, taken as a proxy for their size.
61. Smaller institutions typically have lower income and could potentially suffer disproportionately from the burden of regulation. Many responses to the initial consultation on registration fees raised concerns that smaller providers could be disproportionately affected by the requirement to pay registration fees. Making the fees proportionate to their size would thus help to ensure that smaller providers would be able to compete with larger ones and grow.
62. Providers would accordingly be charged a fee depending on which size band they fall into. We have estimated the numbers of providers in each of the below bandings, based on student numbers from HESA data for HEIs, APs and Further Education Colleges (FECs). We have used the latest estimates⁶⁵ of the number of providers that would be registered with the OfS in 2019/20 in each registration category (531⁶⁶ in total). We have comprehensive data on the number of students in HEIs. Data on APs and FECs is more limited and we expect new providers (for which we do not currently hold data) to enter the system, so a number of assumptions have been made in order to estimate the FTE HE student distribution in these providers⁶⁷.
63. These bandings were chosen based on sector responses to the initial registration fees consultation⁶⁸ from a range of HE providers, including HEIs, FECs and APs. These responses indicated a general preference for narrower bandings for the smallest providers, and wider bands for the largest providers. This reflects the fact that, in the HE sector, there are many providers at the bottom end of the distribution, and providers with 10 students may have greater differences in the size of their activities, income and infrastructure relative to a provider with 100 students, compared to two providers with 10,000 and 20,000 students respectively.

⁶⁴ This measure of full time equivalent students includes both undergraduates and postgraduates and also includes international students.

⁶⁵ Further details of the HE provider estimate modelling is provided in a technical note. This has been supplied separately as it underpins all of the HE provider estimates in the HERA (Higher Education and Research Act) consultation stage Impact Assessments.

⁶⁶ Approved and Approved (fee cap) providers

⁶⁷ More detail on assumptions provided in Annex A

⁶⁸ Office for Students: registration fees for HE providers (2016) <https://www.gov.uk/government/consultations/office-for-students-registration-fees-for-he-providers> Results of this consultation will be published alongside Office for Students consultation.

Table 10- Distribution of Approved and Approved (fee cap) Providers (HEIs, APs and FECs)

| | FTE HE student numbers band | Estimated number of providers |
|---|------------------------------------|--------------------------------------|
| A | up to 50 | 29 |
| B | 51-100 | 60 |
| C | 101-300 | 158 |
| D | 301-500 | 64 |
| E | 501-1000 | 63 |
| F | 1001-1500 | 24 |
| G | 1501-2500 | 19 |
| H | 2501-5000 | 16 |
| I | 5001-10,000 | 23 |
| J | 10,001-20,000 | 51 |
| K | 20,001+ | 22 |
| | Total | 531 |

64. Table 11 below shows how cost bands have been calculated, placing more emphasis (larger per provider fees) on the larger providers in the Approved and Approved (fee cap) categories, and less burden on the smaller providers in these categories. For example, the band B fee would be 10% higher than the band A fee, and the band K fee would be 30% higher than the band J fee.

65. This method responds directly to concerns raised in response to the initial consultation that smaller providers could be disproportionately affected by the requirement to pay registration fees. This banding distribution was chosen to minimise distortion of competition in the sector. A provider's income, and so their ability to pay their registration fee, will be relatively proportionate to their size. With a more even distribution of fees between smaller and larger providers, smaller providers would likely be contributing a larger proportion of their total income than larger providers, thereby putting them at a competitive disadvantage. Analysis of publically funded HEI income data⁶⁹ shows that in this method no HEI would be paying more than 0.31%⁷⁰ of their total income in OfS registration fees. This very small proportion of a provider's income should not distort competition in the HE market. We acknowledge that this is a low estimate as incumbent HEIs tend to have higher and more diverse total income than APs, FECs and new providers, and so the provider fee may be proportionately less of their total income than other types of providers.

⁶⁹ HESA finance plus volumes 2015/16

⁷⁰ See competition impact section for detail

Table 11 – Distribution between fee bands

| | FTE Band | % increase between bands |
|---|-----------------|-------------------------------------|
| A | up to 50 | |
| B | 51-100 | 10% |
| C | 101-300 | 10% |
| D | 301-500 | 10% |
| E | 501-1000 | 20% |
| F | 1001-1500 | 20% |
| G | 1501-2500 | 20% |
| H | 2501-5000 | 30% |
| I | 5001-10,000 | 30% |
| J | 10,001-20,000 | 30% |
| K | 20,001+ | 30% |

66. We calculated the fees for 2019/20 in each band using a formula which:

- a. Satisfies the distribution set out in Table 11
- b. Ensures that the total amount paid by providers is equal to the 'remainder of the registration fees' in Table 9.

67. Estimations took into account the amount of new provider subsidy the government could be contributing to registration fees collected from providers.

68. Table 12 shows highly indicative estimates of the registration fee that a provider in the Approved or Approved (fee cap) categories might expect to pay under Option 1.

Table 12 – Indicative registration fee for each band

| | FTE Band | Band fee |
|---|-----------------|-----------------|
| A | up to 50 | £18,200 |
| B | 51-100 | £20,100 |
| C | 101-300 | £22,100 |
| D | 301-500 | £24,300 |
| E | 501-1000 | £29,100 |
| F | 1001-1500 | £35,000 |
| G | 1501-2500 | £42,000 |
| H | 2501-5000 | £54,600 |
| I | 5001-10,000 | £70,900 |
| J | 10,001-20,000 | £92,200 |
| K | 20,001+ | £119,900 |

69. There have been minor changes to the provider estimates based on the latest intelligence therefore; there have been slight changes to the banding fees as a result.

70. It is proposed that ‘new’ providers’ fees would be partially subsidised by the government, as set out above. An average number of students at designated courses at a designated AP is 501 according to AP finance returns to DfE, meaning that the average sized AP falls into fee band E. Their registration fee is therefore estimated at £29,100. However new providers are assumed to be subsidised £24,300⁷¹ in 2019/20, meaning the average new provider would pay an estimated £4,800⁷² in registration fees in 2019/20.

71. Option 1 would be broadly consistent with the key principles established through previous consultation⁷³ with the sector. It would help to limit barriers to entry for new providers wishing to enter the regulated system, as any new provider wishing to enter the Approved or Approved (fee cap) categories (categories with the largest fees) could be eligible for a partial fee subsidy for the first three years of their regulation. This could encourage new providers to join the register, increasing competition in the HE sector and increasing student choice.

72. Option 1 is relatively simple in design, as it requires only two pieces of information about a provider that would be easily verifiable – their registration category and number of FTE students, both of which would be available to the OfS when a provider registers with them. As the OfS and the new regulatory framework are not yet in operation, a relatively simple

⁷¹ See table 7.

⁷² £29,100-£24,300=£4,800

⁷³ Office for Students: registration fees for HE providers (2016) <https://www.gov.uk/government/consultations/office-for-students-registration-fees-for-he-providers> Results of this consultation will be published alongside Office for Students consultation

model with fewer variables is preferred in order to arrive at a more robust estimate of provider fees.

73. The establishment of the OfS in itself is not going to have direct costs to business, though there is likely to be small familiarisation costs for businesses, reflecting the change in the regulatory architecture and familiarisation with what fees should be paid and how to pay them. However, these are assumed to be minimal and therefore the costs are not assessed in this Impact Assessment.

Benefits

74. The anticipated reforms will mean that the regulatory system is clearer and more efficient. The regulatory framework will be more flexible; to ensure that the burden of regulation is proportionate to the risk of a provider failing to meet the proposed baseline conditions.

75. Option 1 limits barriers to entry, encouraging new high quality providers to enter the regulated sector. Creating more competition in the HE sector, increasing choice and improving student outcomes.

76. HE providers' requirement to pay a registration fee to the OfS may incentivise them to hold the regulator to account. Increasing transparency and accountability of the OfS.

77. Option 1 is relatively simple and predictable for providers to understand how the fee is calculated and what their likely charge will be.

78. More about the broader benefits to HE providers of being on the OfS register can be found in the Regulatory Framework Impact Assessment.

79. Due to the lack of available data on these benefits, we are unable to robustly quantify them at this stage.

Impact on the taxpayer

Costs

80. There is no additional cost expected for the government from this option. By definition, it would see providers meeting a greater proportion of the costs of regulating their activities.

Benefits

81. Relative to the "do nothing" option, the cost saving for the government would be equivalent to the amount of the OfS's running costs covered by the sector – listed in Table 5 as "total registration fees".

Wider Impacts

82. The OfS will regulate registered HE providers in the interests of students as consumers of higher education, promoting greater competition, choice and standards in the higher education sector with the goal of delivering better outcomes and value for money for students and taxpayers who underwrite the system. This should have wider benefits to the economy and society by increasing the supply and skills of graduates.
83. Within our analysis we have considered the possibility that providers will pass on any increased costs to students via fee rises. We judge this risk to be low.
84. Under the new regulatory framework, it is proposed that Registered Basic providers would pay a flat fee in the region of £1,000. This cost is judged to be minimal compared with the overall income that providers generate and so it is anticipated that the individual HE provider will absorb much of this cost without the need to pass it on to students.
85. Approved (fee cap) providers operating at the fee cap will be unable to pass the cost of registration fees on to their students as they cannot raise their fees above the fee cap. Instead, we anticipate that they will look to absorb these costs by either seeking efficiencies elsewhere or by seeking to expand other activities that would generate offsetting revenues e.g. through commercial activities. For some providers, moving into this category will enable them to access for the first time government grant funding, as set out in the consultation on the regulatory framework.
86. Approved category providers will be able to set their own fee levels, with students able to access student support of tuition fee loans of up to £6,000. This suggests that there might be greater scope for them to pass on some of the costs of registration to their students through their tuition fees, though to some extent this will be reduced by the cap on tuition fee loan their students will be able to access.
87. In responses received to the Government's initial (stage 1) consultation on OfS registration fees, a very small minority (6%) of respondents raised a concern that some providers, in particular Alternative Providers, could pass on the costs of registration fees to students⁷⁴. This suggests that while a possibility, it is not held to be a particularly large concern amongst a wider reform programme that should support the best providers in being successful and improve student outcomes. And as before, providers will have other routes available to them by which they can manage such an increase in costs, for example efficiencies or generating revenue via other more commercial or fundraising activities.
88. The department holds detailed financial data on all publicly funded HEIs⁷⁵, which shows that in 2015/16, 51% of English HEI sector income came from tuition fees and educational contracts. Based on this, as an illustrative example, we assume that an Approved provider could pass on 51% of its registration fee costs to students through their tuition fees, which

⁷⁴ Under the new regulatory framework, it is assumed that the majority of these providers would be registered in the Approved category

⁷⁵ HESA Finance Volumes 2015/16 (includes the University of Buckingham a private provider of HE)

would equate to a possible impact of £5.70⁷⁶ a year per FTE HE student enrolled at an Approved provider. This is clearly a very small effect and one which in practice we would expect to be smaller because of the existence of alternative routes to offset this cost. However, this issue is one we intend to explore further once responses have been received to the second (stage 2) consultation on the registration fee model.

Option 2

89. Under Option 2, the OfS would charge a small flat registration fee to Registered Basic providers, and charge Approved and Approved (fee cap) providers a registration fee based both on their size and a proxy for regulatory effort.
90. This model would more closely align to the costs that the OfS would be likely to incur in regulating individual providers.
91. The OfS would use publically available information as a proxy for regulatory effort – e.g. specific conditions of registration – as a factor in setting the fees of an Approved/Approved (fee cap) provider. Based on this assessment of regulatory effort, providers would be placed into fee bands and pay a registration fee which would be the combination of this regulatory effort banding fee and their size banding fee.

Costs

92. For the sector as a whole, the overall cost to providers would be the same as in Option 1, the ‘total registration fees’ in Table 5 above, including the same assumed (25%) government subsidy. However, those providers that would require more regulatory effort from the OfS in line with its regulatory approach would likely pay higher fees than under Option 1, while those that would require less regulatory effort would pay comparatively less.
93. As outlined above, this model would need data collected by the OfS on the regulatory effort that the OfS expends in relation to each provider. The OfS and its new regulatory framework are not yet in operation, and so in the absence of such data we cannot currently make a robust assessment of the potential costs to individual providers under this model. We would be better able to do so after a review of the fee model, as proposed under Option 1.

Benefits

94. This option would help ensure that those that are more costly to regulate would contribute more through their registration fees than those who are less costly to the OfS. This would mean less cross-subsidisation of fees between providers. This model could also create incentives for providers to reduce their risk profile and be more compliant, thus reducing their burden on the OfS.

⁷⁶ Based on current estimates of student numbers in Approved and Approved (fee cap) providers, the amount of registration fees raised would amount to an average of £11.21 per student enrolled at an Approved category provider. We assume 51% of this could be passed on to the student. ($£11.21 \times 0.51 = £5.72$)

95. As under Option 1, this option would not create a disproportionate barrier to entry to new providers, as they would have a proportion of their fees subsidised by the government for the first three years of their regulation. This would incentivise new providers to enter the regulated system, increasing competition in the sector and choice for students.

96. As this option incorporates a fee for Approved and Approved (fee cap) providers based on their size and a proxy for regulatory effort, this could help minimise the competitive disadvantage for smaller providers, as a portion of the registration fee would be proportionate to their size, ensuring this option would minimise distortion of competition in the sector.

Wider Impacts

97. The wider impacts under Option 2 will be broadly similar to those noted under Option 1.

98. It is proposed that Registered - Basic providers will continue to pay a small flat fee, which is judged to be minimal and so it is assumed that much of this cost will be absorbed without the need to pass the cost onto the students.

99. Approved (fee cap) providers operating at the fee cap will be unable to raise their fees and so unable to pass any cost onto the students.

100. Approved category providers will be able to set their own fee levels. It is possible that these providers could choose to pass on some of the costs of registration to their students through their tuition fees. This option would need data collected by the OfS on the regulatory effort that the OfS expends in relation to each provider. The OfS and its new regulatory framework are not yet in operation, and so in the absence of such data we cannot currently make a robust assessment of any potential wider impacts of this model. We would be better able to do so after any changes to the model resulting from the review proposed under Option 1.

Small and micro-business assessment

101. A micro business is defined as having 0-9 employees and a small business 10-49 employees. In HE, the size of a provider is usually based on the size of its student population, as this is considered more relevant than employee numbers. For example, providers with a comparable number of employees may have significantly different student population sizes. However, for the purposes of the Small and Micro Business Assessment, we look at the number of employees at each provider.

102. 2015/16 HESA data shows that HEIs in England have on average 2,167 FTE employees. The smallest number of FTE employees at a single HEI was 80. Analysis of the Further Education workforce data for England report shows that the average college in England has 383 FTE staff. Therefore, we do not believe any HEI or FEC to be classified as a small business for this assessment.

103. According to a Business Innovation and Skills (2016) survey of Alternative Providers (APs), 75% of all APs employed ten or fewer FTE staff, and 95% of APs had 50 FTE employees or fewer. The AP survey included all APs, which in the new regulatory system would include many APs that may elect to remain unregistered. As we do not hold further detail on the split of small or micro businesses that will choose to enter the regulated system, we assume that 75% of all APs registered with the OfS, in any registration category, are classed as micro businesses and 20% classed as small⁷⁷. Our expectation is that this is an overestimate.
104. For small and micro-sized businesses (up to 49 FTE employees) the burden of legislation can be disproportionately greater. It needs to be ensured that the burden is proportionate, so as to not disadvantage smaller businesses.
105. Smaller institutions are likely to be newer to the regulated system and so could potentially suffer disproportionately from the burden of regulation. To mitigate this and ensure that registration fees do not act as a barrier to entry, the government proposes to subsidise the registration fees for new providers in their first 3 years of operation, subject to overall departmental budgets and agreement with HM Treasury. Based on the proposed model, fees would also be proportionate to the number of FTE HE students attending the provider. So while this measure constitutes a new burden, it ensures that the burden is proportionate for smaller providers and may be additionally reduced for new providers.
106. Other measures in the Higher Education and Research Act⁷⁸ and proposed measures in the consultation on the regulatory framework in HE, for example, improving the validation of degrees for new providers, reducing the burden of re-designation and creating a single entry gateway, will reduce the burden of existing legislation on smaller providers.
107. Full exemption of small or micro businesses from paying registration fees to the OfS could significantly reduce the effectiveness of the policy. It could undermine the policy objective of creating a level playing field for all registered HE providers and create the risk that providers fully exempted from fees have no incentive to act in the interests of students and the general taxpayer because they do not incur a direct financial cost from being registered.
108. In the HE sector, how recently a provider has been established is a more significant factor than the size of a provider for barriers to entry. Newer providers may find it difficult to enter the sector and compete with older, more established and well known HE providers. Therefore, the proposed new provider subsidy⁷⁹, subsidising providers new to the Approved and Approved (fee cap) categories for a period of three years after entry into these categories, will be a more effective tool in reducing barriers to entry than exempting small and micro providers from registration fees.

⁷⁷ Based on provider estimates we expect 238 APs to register with the OfS in the academic year 2018/19 (in all registration categories), based on this we can expect that 178 (238×0.75) of these APs are micro businesses and 48 (238×0.2) are small businesses.

⁷⁸ The Higher Education and Research Act (2017) <http://www.legislation.gov.uk/ukpga/2017/29/contents/enacted/data.htm>

⁷⁹ Subject to overall departmental budgets and agreement with HM Treasury

Specific impact tests and better regulation requirements

Competition impact

109. The structure of the registration fees for OfS could have an impact on competition, even if this is relatively minor.
110. Two aspects of the model are there to ensure it does not distort competition but instead works with the government's broader reform programme to promote competition in the sector:
- a. Size of registration fees proportionate to number of students at the provider – thus everyone will face a similar burden relative to their size
 - b. Registration fees of new providers are partially subsidised by government during their first three years of operation
111. Analysis of 132 publically funded HEIs the department holds finance data on⁸⁰ and the proposed banding structure (table 12) show that no HEI would be paying more than 0.31% of their total income in OfS registration fees. The range of proportions is very narrow, from 0.01-0.31% of a provider's total income; just 0.3 percentage points. These very small proportions of a provider's income should not distort competition in the HE market, ensuring that all providers can compete on a level playing field. This is considered a low estimate as HEIs will tend to have higher and more diverse total income than new providers and APs. Therefore, we recognise that the registration fee may be a higher proportion of total income for new providers and APs. However, we have focussed on HEIs as the department holds detailed finance data on these HE providers.
112. Thus the funding model options are designed with an explicit principle of not distorting competition.

⁸⁰ HESA finance plus volumes 2015/16

Annex A – Fee modelling assumptions

In the absence of available data on the size of the estimated providers in each of the registration categories, a number of assumption have been made in order to estimate the numbers of providers that would fall into each of the fee bands.

Table 1 - Provider estimates (2019/20)

| 2019/20 estimates | |
|---------------------------|------------|
| Registered Basic | 120 |
| APs | 87 |
| FECs | 33 |
| HEIs | 0 |
| Approved | 144 |
| APs | 144 |
| FECs | 0 |
| HEIs | 0 |
| Approved (fee cap) | 387 |
| APs | 47 |
| FECs | 208 |
| HEIs | 132 |
| Total | 651 |

Table 2 – Provider estimates (2019/20)

| Registered (basic) | Approved and Approved (fee cap) providers | | | |
|--------------------|---|------|-----|------------|
| All | HEIs | FECs | APs | All |
| 120 | 132 | 208 | 191 | 651 |

Data

Table 3 - Available data

| Provider Type | Number of providers included in data | Description of Data |
|---------------|--------------------------------------|--|
| HEIs | 132 | FTE – UG and PG registered students at English HEIs |
| FECs | 207 | FTE – UG and PG on prescribed HE courses at English FECs |
| APs | 96 | FTE – UG on course at English APs with designated HE courses |

Assumptions

Higher Education Institutions (HEIs)

There are estimated to be 132⁸¹ HEIs registered with the OfS in the academic year 2019/20, and all will be in the 'Approved (fee cap)' category. We assume that 100% of the HEIs we have data on will move into the 'Approved (fee cap)' category. Therefore, we take the distribution of the FTE⁸² student numbers and use this to contribute to our banding

Table 4 – Distribution of estimated HEIs (2019/20)

| FTE band | HEI count |
|---------------|-----------|
| up to 50 | 0 |
| 51-100 | 0 |
| 101-300 | 4 |
| 301-500 | 2 |
| 501-1000 | 10 |
| 1001-1500 | 5 |
| 1501-2500 | 8 |
| 2501-5000 | 13 |
| 5001-10,000 | 17 |
| 10,001-20,000 | 51 |
| 20,001+ | 22 |
| Total | 132 |

⁸¹ Further details of the HE provider estimate modelling is provided in a technical note. This has been supplied separately as it underpins all of the HE provider estimates in the HERA (Higher Education and Research Act) consultation stage Impact Assessments.

⁸² FTE students numbers can be found in HESA student volumes

Further Education Colleges (FECs)

There are estimated to be 241⁸³ FECs registered with the OfS in the academic year 2019/20, 208 in the 'Approved (fee cap)' category and 33 in the 'Registered (basic)' category. We have data on 207 FECs, we use the distribution of FTE students at these 207 FECs and scale it up to the estimated figure of 241.

In the absence of further information about which FECs may choose to register in each category, we have assumed that the smallest 33 of the estimated FECs would move into the 'Registered (basic)' category and the rest of the providers would move into either the 'Approved' or 'Approved (fee cap)' categories. Leaving 9⁸⁴ FECs in the 'up to 50' band, when focussing only on the Approved categories.

Table 5 – Distribution of FECs from available data⁸⁵

| FTE band | Count FECs | Numbers in band as a % of total |
|---------------|------------|---------------------------------|
| up to 50 | 36 | 17% |
| 51-100 | 28 | 14% |
| 101-300 | 76 | 37% |
| 301-500 | 33 | 16% |
| 501-1000 | 22 | 11% |
| 1001-1500 | 6 | 3% |
| 1501-2500 | 3 | 1% |
| 2501-5000 | 3 | 1% |
| 5001-10,000 | 0 | 0% |
| 10,001-20,000 | 0 | 0% |
| 20,001+ | 0 | 0% |
| Total | 207 | |

⁸³ Further details of the HE provider estimate modelling is provided in a technical note. This has been supplied separately as it underpins all of the HE provider estimates in the HERA (Higher Education and Research Act) consultation stage Impact Assessments.

⁸⁴ 42-33(registered basic)=9

⁸⁵ From the Individualised Learner Record

Table 6 – Distribution of estimated FECs (2019/20)

| FTE band | Estimated FECs in each band (all categories) | Estimated FECs in each band (Approved categories) |
|---------------|--|---|
| up to 50 | 42 | 9 |
| 51-100 | 33 | 33 |
| 101-300 | 88 | 88 |
| 301-500 | 38 | 38 |
| 501-1000 | 26 | 26 |
| 1001-1500 | 7 | 7 |
| 1501-2500 | 3 | 3 |
| 2501-5000 | 3 | 3 |
| 5001-10,000 | 0 | 0 |
| 10,001-20,000 | 0 | 0 |
| 20,001+ | 0 | 0 |
| Total | 241 | 208 |

Alternative Providers (APs)

There is no data available on the numbers of postgraduates at APs. Due to this we make a simplifying assumption that the proportion of postgraduates compared to undergraduates would be similar to the proportion at English HEIs, where on average postgraduates make up 22.8% of the total FTE students. We use this estimate to scale up the numbers of students at APs to include FTE postgraduates.

There are estimated to be 278⁸⁶ APs registered with the OfS in the academic year 2019/20, 87 will be 'Registered (basic)', 144 'Approved' and 47 'Approved (fee cap)'. We have data on 96 APs which provide designated courses through HESA. As they provide designated HE courses, we assume that they will all move into the 'Approved' and 'Approved (fee cap)' categories. Therefore, we take the distribution of the FTE, PG and UG, student numbers in the 96 APs and scale this up to the estimated figure of 191⁸⁷ APs in the approved categories.

⁸⁶ Further details of the HE provider estimate modelling is provided in a technical note. This has been supplied separately as it underpins all of the HE provider estimates in the HERA (Higher Education and Research Act) consultation stage Impact Assessments.

⁸⁷ Number of estimated Approved and Approved (fee cap) APs.

Table 7 - Distribution of APs from available data

| FTE band | AP count | Numbers in band as a % of total |
|-----------------|-----------------|--|
| up to 50 | 10 | 10% |
| 51-100 | 14 | 15% |
| 101-300 | 33 | 34% |
| 301-500 | 12 | 13% |
| 501-1000 | 14 | 15% |
| 1001-1500 | 6 | 6% |
| 1501-2500 | 4 | 4% |
| 2501-5000 | 0 | 0% |
| 5001-10,000 | 3 | 3% |
| 10,001-20,000 | 0 | 0% |
| 20,001+ | 0 | 0% |
| Total | 96 | |

Table 8 - Distribution of estimated APs (2019/20)

| FTE band | Estimated APs in each band (approved categories) |
|-----------------|---|
| up to 50 | 20 |
| 51-100 | 28 |
| 101-300 | 66 |
| 301-500 | 24 |
| 501-1000 | 28 |
| 1001-1500 | 12 |
| 1501-2500 | 8 |
| 2501-5000 | 0 |
| 5001-10,000 | 6 |
| 10,001-20,000 | 0 |
| 20,001+ | 0 |
| Total | 191 |



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