

Title: Requirement for higher education providers to subscribe to the Office of the Independent Adjudicator for Higher Education IA No: Lead department or agency: BIS Other departments or agencies:	Impact Assessment (IA)		
	Date: 10/10/2014		
	Stage: Validation		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Olivia Bolt (Olivia.bolt@bis.gsi.gov.uk)			
Summary: Intervention and Options		RPC Opinion: RPC Opinion Status	

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out? Measure qualifies as
-£m	-£m	£m	Yes IN

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

The higher education sector in England currently has a wide variety of providers (publically-funded institutions, private (alternative) providers and further education colleges (FECs)). Universities and higher education corporations are required to sign up to the Office of the Independent Adjudicator for Higher Education (OIA), providing students at these institutions with access to a complaints handling process. Alternative providers and further education colleges do not have this same requirement. This means that higher education students have different arrangements for the resolution of their complaints depending on the type of higher education provider. As such the current arrangements are inequitable, unclear to students and to some providers.

What are the policy objectives and the intended effects?

This policy aims to address the current disparity in access to the OIA. This aims to ensure that any student in receipt of higher education support funding can access the OIA's services regardless of the legal status of their provider. This will help protect students from unfair practices and improve the student experience in the wider HE sector. Although there will be a net cost to providers (shown above for ten years), the policy aims to ensure high quality provision which will lead to benefits for the student and wider economy.

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

- Option 1: Do nothing
- Option 2: Amend primary legislation to require alternative providers and further education colleges to subscribe to the Office of the Independent Adjudicator for Higher Education

At present, in the absence of legislation, alternative providers have been encouraged to join the OIA scheme on a voluntary basis. To date just 6 private providers have done so. Therefore, we do not feel that the policy aims can be achieved without regulation.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: n/a						
Does implementation go beyond minimum EU requirements?			No			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 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 Senior Analyst: _____ Andrew Ray _____ Date: _____ 20/10/2014 _____

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -11.57	High: -9.52	Best Estimate: -10.55

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	n/a	1.11	9.52
High	n/a	1.36	11.57
Best Estimate	n/a	1.23	10.55

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

The main costs to this policy result from the subscription and case fees costs paid by subscribers - alternative providers (business) and further education colleges - to the Office of the Independent Adjudicator (OIA). Further details of these costs can be found in the evidence base of this document.

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

n/a

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	n/a		
High	n/a		
Best Estimate	n/a		

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

n/a

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

It has not been possible to monetise the benefits of this policy. However, there are likely to be substantial un-quantified benefits.

Students are the main beneficiaries of the OIA's services and we expect this policy to bring them significant benefits. Extending the coverage of the OIA will enable HE students to bring any unresolved complaints to the OIA for review should provide additional protection to students by providing cost free access to dispute resolution arrangements to solve their complaints. Through recommendations made by the OIA to providers, and the work of the OIA to highlight and share best practice, it is expected that this proposal will lead to an increase in the quality of complaints handling arrangements. In addition it should more generally lead to improvements in the services provided to all students (not just those who take complaints to the OIA), and a corresponding improvement in students' experiences at HE providers. This proposal is also expected to clarify students' rights when it comes to resolving disputes and ensure that all students studying on a HE course at a designated provider will have equal access to the OIA's services.

Alternative providers and further education colleges (FECs) will also benefit from joining the OIA. We would expect this policy to lead to a reduction in the number of complaints against privately-funded providers and FECs that are taken to court, thereby reducing the costs to providers of resolving complaints. In addition, providers can benefit from the good practice disseminated and the seminars run by the OIA. Membership of the OIA may also improve the reputation of privately-funded providers to students. This could be a direct impact of OIA membership (e.g. membership could signal higher quality) or indirect (as OIA recommendations and assistance leads to improved practices).

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

Growth of between 0 and 13 alternative providers per year, no growth in further education colleges, constant proportions of APs and FECs in each size category, 27% of institutions receive complaints, each of these institutions receive an average of 21 complaints

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.47	Benefits: 0	Net:-0.47	Yes	IN

Evidence Base (for summary sheets)

Problem under consideration

1. The Higher Education sector in England currently has a wide variety of providers. The majority of universities still access some grant funding from the Higher Education Funding Council for England (HEFCE) as do some Further Education Colleges (as well as funding from the Skills Funding Agency). These levels of funding are, however, decreasing as income from tuition fees increases. Under the terms of the Further and Higher Education Act 1992, HEFCE has the power to attach conditions to the grant funding it provides. Consequently, the academic standards, financial governance and other performance and delivery aspects of these providers are highly regulated and monitored (although the amount of grant funding has fallen under the new funding system). In addition there are requirements such as those in the Higher Education Act 2004 that universities must meet.
2. Some providers do not receive grant funding from Government agencies (for policy development purposes categorised as alternative providers) but choose to apply to have a number of their courses designated as eligible for student support, meaning that course participants can, if they wish to, apply for government-funded financial support. This is a group of providers that have been growing rapidly in recent years. To enable courses to be designated for student support certain quality assurance; financial sustainability, management and governance and course eligibility must be met.
3. A third group of providers are those that do not receive grant funding and do not have their courses designated for student support purposes – this may be because their courses are not eligible for student support (e.g. postgraduate provision) or because they have chosen not to become designated (even if their courses are eligible).
4. Universities and higher education corporations are required, under the 2004 Higher Education Act, to join a complaints handling scheme. In 2005 the Government designated the Office of the Independent Adjudicator for Higher Education (OIA) to run the complaints handling scheme in England and Wales. There is no such requirement on alternative providers and further education colleges (offering higher education courses). This means that higher education students have different arrangements for the resolution of their complaints depending on the type of higher education provider. As such the current arrangements are inequitable, unclear to students and to some providers.
5. Those higher education providers not required by legislation can volunteer to join the OIA's complaints handling scheme and Ministers have encouraged them to do so. To date only a small proportion of the sector has done so - six alternative providers have voluntarily joined the Scheme so far.
6. The situation is further complicated as students studying for higher education courses at further education colleges or alternative providers that are awarded or validated by a higher education institution that is required by law to join the OIA Complaints Handling Scheme may, in some circumstances, be able to take their complaint to the OIA. This will, however, depend on factors such as what the complaint is about (OIA can only consider acts or omissions of the members of its scheme. It could not look at those areas which are the responsibility of the further education college or alternative provider).
7. Where higher courses are delivered by further education colleges and alternative providers that are not validated or awarded by a higher education institution that is part of the OIA scheme, for example many Higher National courses, students have no access to OIA.

Rationale for intervention

8. The Higher Education White Paper “Students at the Heart of the System” (June 2011) proposed a single regulatory framework for all providers of higher education whose students access student support funding. This included the requirement to give students access to external dispute resolution/complaints handling, currently provided in higher education by the OIA. The White Paper also proposed that, subject to Parliamentary time, legislation would be brought forward to create the new regulatory framework.
9. This proposal will require privately-funded (alternative) HE providers and Further Education Colleges (FECs) providing HE, that have students in receipt of student support funding, to sign up to the complaints handling scheme run by the OIA and so fulfil the original intention set out in the White Paper.
10. The OIA provides a dispute resolution service to students as an alternative to the court system and is free of charge to students. Where complaints are not resolved through the higher education provider’s own complaints procedures (as autonomous bodies higher education providers are primarily responsible for handling complaints from their students), then students can bring their complaint to the OIA. The OIA will review the provider’s final decision, look at whether they applied their regulations, followed their procedures correctly and consider whether the decision made was fair and reasonable. OIA makes recommendations on each complaint that the higher education provider is expected to comply with. These recommendations can include asking the institution/provider to do something considered fair in the circumstances (for example, to consider what adjustments it should make for a disability) or offering to pay the student compensation (for example, for inconvenience and delay).
11. The Office of the Independent Adjudicator for Higher Education is independent of Government and funded by the higher education sector. Higher Education Institutions pay a subscription fee based on numbers of students and the number of cases referred on to the Office of the Independent Adjudicator

Policy objective

12. This policy aims to address the current disparity in access to the OIA; to ensure that any student in receipt of higher education support funding can access the OIA’s services regardless of the legal status of their provider. This will help protect students from unfair practices and improve the student experience in the wider HE sector.
13. The policy aim can only be achieved through a change in primary legislation (to s11 of the Higher Education Act 2004). In the absence of legislation, privately funded providers have been encouraged to join the OIA scheme on a voluntary basis. To date just 6 private providers have done so.
14. Requiring all higher education providers to join the OIA’s complaint handling scheme should also raise the standards of complaints handling arrangements across the sector. The OIA’s was also established to spread good practice in this area. A key recent development has been the publication of the draft Good Practice Framework for Handling Complaints and Appeals following the request in the Higher Education White Paper for the OIA to consult the sector on such a framework. This framework sets out expectations for handling complaints and appeals and recommends the key stages in the process and proposes time limits for each of these stages. After consultation, in late OIA plan to use the framework (and other relevant material and guidance) when assessing complaints and will expect institutions to provide justification where institutional procedures or policies differ significantly from the good practice set out in the framework. This should improve the effectiveness and efficiency of complaints handling arrangements at provider level.

Background

Subscription to the OIA

15. The OIA currently (2014) charges a subscription to certain HE institutions who are defined as qualifying institutions by the 2004 Higher Education Act¹. In practice these are usually HEFCE -funded HEIs, although four designated alternative providers² have University Title so are already subscribed to the OIA. The subscription rate is based on student numbers and institutions may also be subject to a 'case fee element'. The OIA is also able to extend the scheme to 'Non-Qualifying Institutions' – for example, private-providers of higher education. There are currently six³ alternative providers that are signed up to the scheme as non-qualifying institutions.
16. The subscription fees for all Higher Education Institutions subscribing to the OIA vary according to the total numbers of students at an institution. The minimum fee band in 2014 is £813 and applies to those with fewer than 500 students in total (i.e. both on their designated courses and on other courses). The maximum fee band £98,864 and applies to providers with more than 100,000 students (see table 1 below). These fees are paid annually on a calendar year basis.

Table: 1 OIA subscription fees, by institution size

Student Numbers	Band	2014 Subscription fees
Less than 500	A	£813
501 to 1,500	B	£1,641
1,501 to 6000	C	£8,826
6,001 to 12,000	D	£17,512
12,001 to 20,000	E	£29,110
20,001 to 30,000	F	£44,001
30,001 to 50,000	G	£52,290
50,001 to 100,000	H	£64,347
More than 100,000	I	£98,864

17. From 2014 subscriptions may also include a smaller case-related element where the number of complaints received by the OIA from students at the university in the previous year exceeded the band threshold (see table 2 below). Each case that students bring to the OIA above that number incurs 'points' and then the number of points the university is over the threshold determines the fee.

Table 2: OIA point thresholds, by institution size

Band	2014 Point Threshold
A	3
B	5
C	10
D	22
E	39
F	59
G	81
H	n/a 2013-14
I	420

¹ <http://www.legislation.gov.uk/ukpga/2004/8/section/11>

² Regent's University London, the University of Buckingham, BPP University, the University of Law

³ Ashridge; The College of Estate Management; Holborn College, Kaplan; ifs University College; The Institute of Contemporary Music Performance; Kaplan Law School

18. There is one point for each case that is ineligible, two where the case is settled or withdrawn before it goes to full review, and three where the case goes all the way to full review. Each point over the threshold is currently worth £210.
19. In 2013, 40 of the OIA's members paid case fees, with case fees ranging from £200 to over £40,000.
20. The OIA publishes annual letters⁴ setting out the complaints record of all providers within the OIA Scheme. The aim of this is to increase public scrutiny of complaints handling records at HE providers, increase complainant confidence in university complaints handling processes and encourage universities to review their performance.

Alternative Providers: nature and scale of the sector

21. It is difficult to know for certain how many alternative providers are currently delivering HE courses as there is little robust and comprehensive data on this part of the sector. Unlike grant-funded providers, there is no requirement for these providers to supply comprehensive statistics on the number of students attending their courses. In addition, only 26 alternative providers receive applications via UCAS. For the subset of providers designated for student support purposes data is available from the SLC for those students in receipt of government-funded student support. However, BIS-commissioned research into the number of alternative providers operating in 2011/12⁵ does provide some insights into the wider population of alternative providers.
22. The project identified 673 providers delivering higher education courses. In 2011/12 there were 110⁶ alternative providers designated for student support purposes, which suggests that the designated sector is a relatively small subset of this larger group, at less than 20 per cent. The research also identified in the region of 160,000 HE students at alternative providers. The number of students receiving government-funded student support at designated alternative providers in 2011/12 was approximately 12,240, indicating that less than 8% of students on HE courses at alternative providers were in receipt of such support. Many providers will also offer non-HE provision, such as professional qualifications and training. The proportion of students receiving government support at alternative providers may therefore be small relative to the total number of students, although this is likely to vary substantially by provider.
23. In contrast to providers in receipt of HEFCE funding, alternative providers were fairly small and specialised:
 - Of the providers who were able to provide data on student numbers (468), just over half (52%) had 100 students or fewer and just under three quarters (74%) had 250 students or fewer.
 - The research suggests that the 7% of providers with more than 1000 students (34 out of the 468 providers providing data) accounted for around two thirds (65%) of the total student population at alternative providers.
 - The majority of providers have a distinct focus and only 30% could be classed as non-specialist.
 - However those that are classed as non-specialist tend to focus on a small cluster of vocational subjects including hospitality, leisure, tourism, catering, IT, and health sciences.
24. The research also shows that the mix of courses offered at alternative providers differs to that at grant-funded universities and colleges. Many of the courses on offer are for employees, with professional and

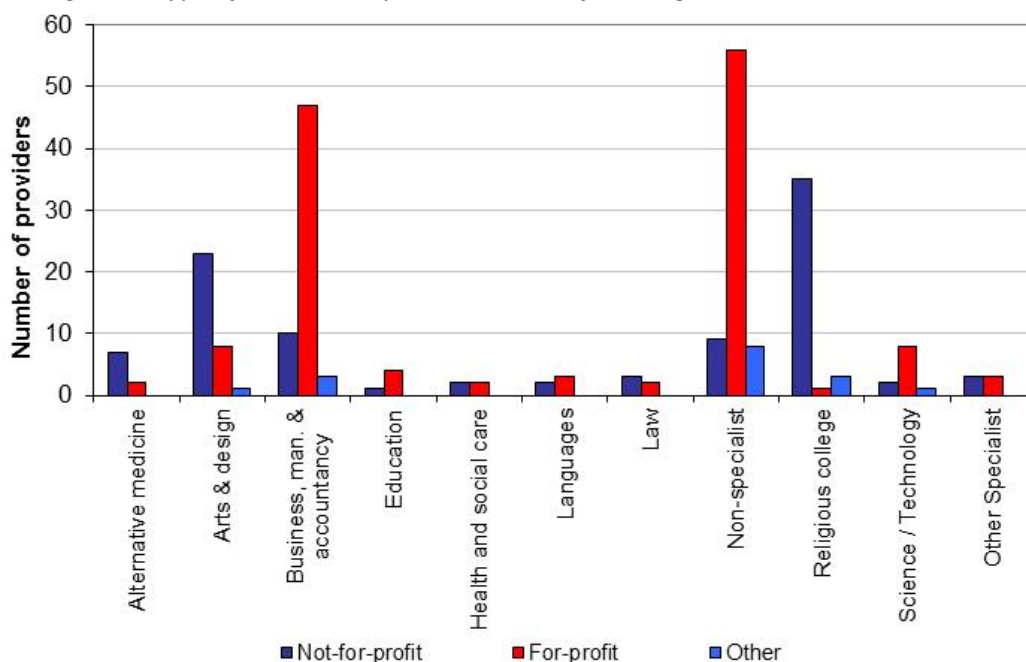
⁴ <http://www.oiahe.org.uk/decisions-and-publications/annual-letters.aspx>

⁵ *Private funded providers of Higher Education in the UK*, BIS, 2013. <https://www.gov.uk/government/publications/privately-funded-providers-of-higher-education-in-the-uk>

⁶ Figure as at 31 August 2012. Figures for 2012/13 are not included in this paragraph in order to be comparable with the findings of the research project.

vocational subjects featuring heavily whilst traditional university subjects such as engineering, geography, maths, sciences and the humanities are largely absent. The majority of students at alternative providers are studying subjects relating to business, management and law – approximately 60% of the students (for which data was available) studied one of these subjects.

Figure 1: Type of alternative provider and subject range, 2011/12



Source: BIS Research Report: Private funded providers of Higher Education in the UK (2013)

25. The provision of alternative providers spanned across multiple educational levels (see table 3 below).
- Nearly half (49%) of the providers surveyed in the research were found to offer first degrees and 55% said that they offered “other HE”.
 - However, only 8% offered first degree courses only and a further 13% offered “other HE courses” only. Only 38% focus solely on one qualification level.
 - Overall 54% offered postgraduate level study and 37% offered provision classed as ‘FE or below’.

Table 3: Configuration of course levels offered by privately funded HE providers

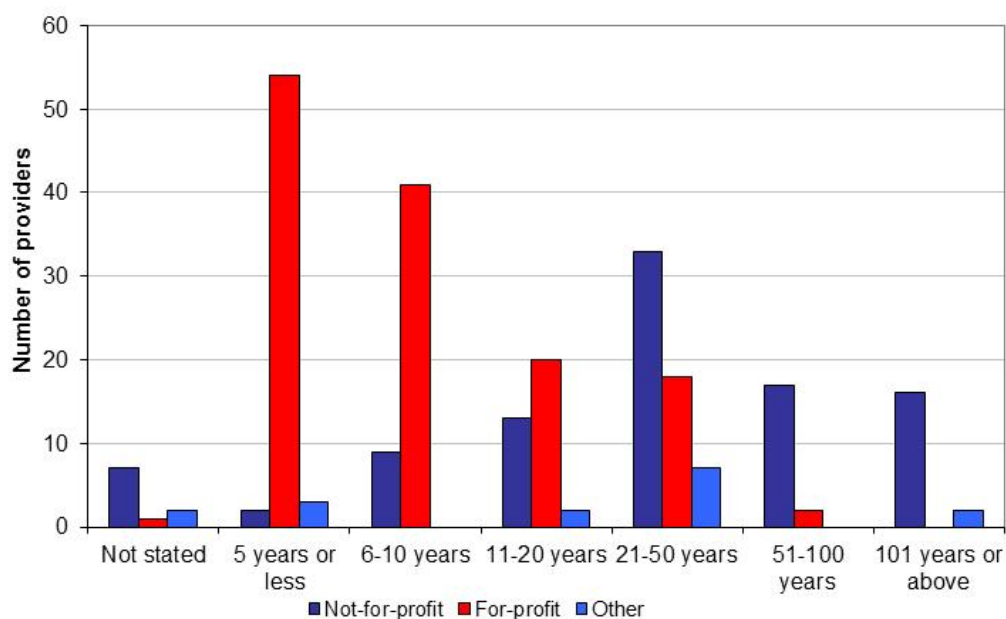
Breadth of offer	Configuration of programmes offered	Percent
Offers courses at a single level	Postgraduate courses only	10.3%
	First degree courses only	7.7%
	'Other HE' courses only	12.8%
	FE courses only	7.2%
Offers courses at two levels	Postgraduate and first degree courses	10.3%
	Postgraduate and 'other HE' courses	6.2%
	Postgraduate and FE course	2.6%
	First degree and 'other HE' courses	3.1%
	First degree and FE courses	2.1%
	'Other HE' and FE courses	10.3%
Offers courses at three levels	Postgraduate, first degree and 'other HE' courses	14.4%
	Postgraduate, first degree and FE courses	3.6%
	Postgraduate, 'other HE' and FE courses	1.0%
	First degree, 'other HE' and FE courses	2.1%
Offers courses at all levels	Postgraduate, first degree, 'other HE' and FE courses	6.7%
Total		100.0%

Source: BIS Research Report: Private funded providers of Higher Education in the UK (2013)

Note: Based on sample of 195 providers

26. The research confirmed that the majority of alternative providers in the UK are, relative to publicly-funded HE institutions, very newly established. The median length of time the alternative providers in the study had been delivering HE was 11.5 years. Around one quarter (24%) had begun operating in the last 5 years, most of which were 'for profit' providers. Only 38% of the providers had been operating for more than 20 years, almost all of which are 'not for profit'. The project also identified a large number of alternative providers that had ceased trading. This suggests that there is a potentially high degree of churn amongst alternative providers, with significant numbers entering and exiting the HE sector.

Figure 2: Length of time established by type of alternative provider



Source: BIS Research Report: Private funded providers of Higher Education in the UK (2013)

Alternative providers designated for government-funded student support

27. The main source of data on alternative providers is the Student Loan Company's student support records. This dataset limits any detailed analysis of the student population at designated alternative providers to those students that are in receipt of some form of government funded student support, i.e. tuition loans, maintenance loans and/or grants. The analysis below therefore draws solely on data from SLC on designated providers, unless indicated otherwise. It is also on an academic year basis rather than financial year.
28. Table 4 and figure 3 below shows that the number of alternative providers with designated courses with students accessing student support increased from 64 providers in 2006/07 to 146 providers in 2013/14. The number of students at alternative providers that receive some form of government funded student support increased from 3,280 in 2006/07 to 51,500 in 2013/14.

Table 4: Student support costs at alternative providers, 2006/07 to 2012/13

Academic Year*	Number of Alternative Providers**	Number of Students accessing support***	Student Support (£m) ****
2006/07	64	3,280	19.1
2007/08	60	2,820	18.5
2008/09	65	3,270	22.7
2009/10	82	4,230	29.2
2010/11	94	5,860	42.2
2011/12	110	12,240	100.3
2012/13	120	30,160	267.7
2013/14	146	51,503	601.4

Source: Student Loans Company Management Information

Notes:

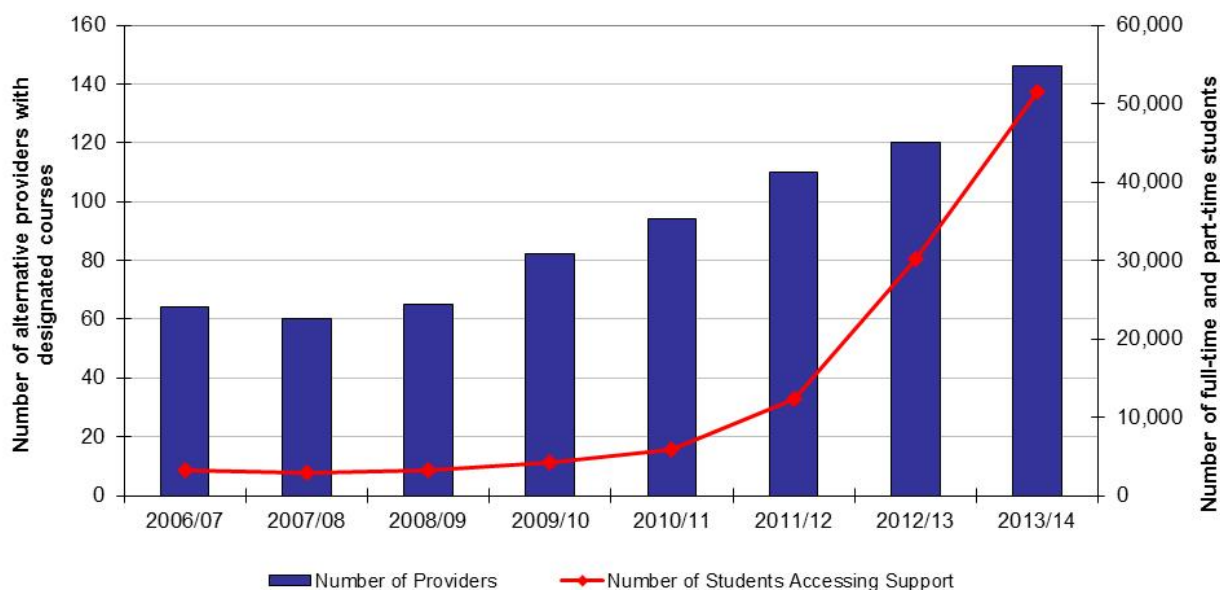
* Latest available Management Information from the Student Loans Company referring to the 31st August at the end of each academic year except 2006/07 where figures are as at 31/08/08

** Alternative provider figures show the number of alternative providers with specifically designated courses with students accessing student support in the relevant year

*** Student numbers show total number of English and EU students (rounded to nearest 10) studying on a specifically designated course and accessing any form of student support. This includes full-time, part-time and postgraduate students (eligible for Disabled Students' Allowance only).

**** Student support shows the total amount of student support paid to students on specifically designated courses and includes all types of loans and grants.

Figure 3: Number of alternative providers with designated courses and full-time and part-time students accessing student support⁷



Source: Student Loans Company

Options under consideration

29. The two options under consideration are:

- I. Do nothing. Privately-funded HE providers and further education colleges providing HE can subscribe voluntarily to the OIA.
- II. Implement legislation requiring institutions to subscribe to the OIA where they are either designated private providers of HE or further education colleges providing HE course, and where students are in receipt of student support

Analysis of the estimated costs and benefits of these options are outlined below.

Analysis of options

Option 1: Do nothing

30. Alternative providers with courses already specifically designated for student support would be able to subscribe on a voluntary basis to the OIA if they consider the private benefits to outweigh the private costs to the institution.

Benefits

31. There would be no additional benefits. The current benefits from the investment by students and government in HE would continue.

⁷ All figures are for Academic Year as at 31 August of relevant Academic Year except 2006/07 where figures are as at 31/08/08

Costs

32. There would be no additional direct costs for institutions.
33. However, students in higher education have different rights of redress depending on the type of institution where they study. For example, students in further education colleges can currently take their unresolved student complaints about higher education to the Skills Funding Agency.
34. In addition, there may be circumstances under which students at further education colleges and alternative providers may be able to take their complaint to the OIA (if their course is validated or awarded by a higher education institution that is a member of the OIA scheme and if the complaint relates to an act or omission of that institution). However, these arrangements are complex and it is often unclear to students where they can address their complaints. For example, there are instances of students contacting the OIA and them being unable to consider their complaint.
35. The vast majority of students at alternative providers currently have no clear access to an external redress scheme after they have made a complaint to their provider. They may take their complaint to the courts. However, this is a more costly option and likely to take longer than a case being considered by the OIA.

Option 2: Implement legislation

36. Marginal costs and benefits are calculated for alternative providers over 10 years starting in 2015. This is the standard timeframe for government policy impact assessments.

Impact on business

37. For this analysis, we make the assumption that the rapid growth in the number of providers seen in recent years, particularly with the tuition fee loan increase from £3,000 to £6,000 p.a., does not continue. We assume that growth will slow due to stricter designation requirements and the introduction of student number controls for alternative providers (based on 2012/13 recruitment levels).
38. In 2013/14, SLC data shows that there were 146 private providers that received government student support, 26 additional providers compared to 2012/13. In 2014/15, the number of newly designated providers⁸ is eight. However, this is likely to be a significant overestimate of the number of private providers. For the AY 2014/15, providers were required to go through a re-designation process to ensure quality within the sector. Some providers chose not to reapply for designation, while other providers did not meet the criteria. As a result, the final number of providers may actually be lower in 2014/15 than in 2013/14. We do not currently have final figures on the number of providers who have been designated through this process.
39. Given the uncertainty in future growth in the number designated alternative providers, a range of growth rates have been considered. The lower bound estimate of zero additional alternative providers per year assumes that there will be no additional growth in alternative providers. This implies that any growth comes from expansion of existing providers rather than new providers getting designated.
40. Excluding the 2013/14 data (for reasons outlined above), the average growth in the number of providers receiving student support between 2010/11 and 2012/13 was 12.7 new providers per year. Our upper estimate is therefore that the number of newly designated alternative providers will increase by 13 providers each year. Our central (and best) estimate is that there will be 7 additional providers a year.

⁸ As of end of September 2014

41. The distribution of the expansion across existing providers of different sizes is unknown. It has, therefore, been assumed that the proportion of providers in each size category remains constant over time.

Costs

Alternative providers

42. The OIA 2013 Annual report⁹ shows that the OIA received 1,972 complaints in 2013 (and 2,012 in 2012). This was the first year where there was a drop in the number of complaints and was against expectations that the rise in tuition fees would lead to a rise in the number of complaints. Given the increase in the number of alternative providers we might expect the number of complaints they receive to increase.
43. HESA data shows that in the academic year 2012/13 there were 1.9 million students studying at publically-funded higher education institutions in England. Although this figure excludes private providers with university-title, this figure would not be altered considerably. This suggests that approximately 1 in every 1000 students lodged a complaint with the OIA in 2012.
44. The subscription fees for all institutions subscribing to the OIA vary according to the total numbers of students at an institution i.e. both on their designated courses and on other courses. Data from the BIS 2013 research paper¹⁰ shows that approximately 81% of the private providers that provided number returns information have 500 or less total students, 13% have between 501 and 1500 total students, 6% have between 1501 and 6000 total students and 2% have more than 6000 total students. These distributions have been used in this analysis to calculate the fees paid by different institutions. We have assumed that these proportions remain the same across the 10 year period as some institutions increase in size and new entrants enter the market.

Table 5: Proportion of alternative providers in each size band, by student numbers

Student Numbers	2014 Subscription Fees	2014 Point Threshold	Proportion of Alternative Providers
Less than 500	£813	3	81%
501 to 1,500	£1,641	5	13%
1,501 to 6,000	£8,826	10	6%
6,001 to 12,000	£17,512	22	2%

45. The four designated alternative providers with University-title and the alternative providers that have voluntarily signed up to the OIA have been excluded from this analysis as they will not face any additional costs from this regulation. 10 alternative providers have therefore been excluded from this analysis – we therefore assume that there will be between 136 and 149 alternative providers in 2015 i.e. year 0 of this policy.
46. Between 2013 and 2014, OIA subscription fees increased by 2.5%. We have therefore assumed that subscription fees stay constant in real terms.
47. The estimated **average annual cost of the OIA subscription fees** across designated alternative providers is therefore estimated to be between £219,000 and £334,000 with a best estimate of **£276,000**.

⁹ <http://www.oiahe.org.uk/media/93455/oia-annual-report-2013.pdf>

48. From 2014 subscriptions may also include a case-related element where the number of complaints received by the OIA from students at the university in the previous year exceeded the band threshold.
49. In 2013, 40 of the OIA's 150 members paid case fees, with case fees ranging from £200 to over £40,000. This equates to 27% of institutions, only one of which was a private provider. Assuming therefore that designated alternative providers are equally as likely to receive a complaint as a publically funded provider this suggests that approximately 38 of the newly-subscribed alternative providers might expect to receive a complaint in 2015. The proportion of institutions receiving complaints is assumed to stay constant at 27%, while the number of alternative providers increases in line with previous assumptions of sector growth.
50. Data from the OIA's 2013 annual report states that they received 1972 complaints, 93% of which were against English Institutions. 55% of these were considered not justified so they have been excluded from this analysis. Therefore, 40 institutions received approximately 825 complaints (including those considered not eligible) – approximately 21 complaints per institution¹¹. This is the assumption we use in this analysis and we assume that the average number of complaints per institution will remain constant.
51. As set out above, "There is one point for each case that is ineligible, two where the case is settled or withdrawn before it goes to full review, and three where the case goes all the way to full review. Each point over the threshold is currently worth £210." According to the OIA's 2013 annual report, 16% of total complaints were ineligible, 24% of total complaints were partly justified, settled or withdrawn and 6% were considered justified.
52. We have assumed that the cost per point increases by 2.5% each year as with subscription fees and therefore stays constant in real terms.
53. Using the above proportions, and assuming that each institution continues to receive an average of 21 complaints, we have estimated that it will cost institutions approximately £302,000 in year 0. This is based on 38 institutions receiving complaints.
54. Taking into account institutions' "point threshold" as set out in the table above, using the proportion of institutions in each size band and assuming that each point is worth £210, we have estimated that this would reduce the estimated cost of the case fees by £32,000 in year 0.
55. The estimated **average annual cost of the case fee element** is therefore estimated to be between £258,000 and £394,000 per year with a best estimate of £326,000.
56. We do not expect there to be any additional costs involved in subscribing to the OIA, other than those outlined above. All institutions, regardless of size, should have internal complaints processes in place and there should not therefore be any additional costs in terms of setting up internal complaints procedures.
57. There may be some limited costs of making these processes OIA compliant if they are not already. However, given institutions generally review their procedures on an annual basis this associated costs should be minimal.

¹¹ A more representative estimate might be an average of the number of complaints over recent years. However, this has not been possible as 2013 was the first year that institutions were required to pay case fees. Therefore, we have no estimate of the number of institutions that would have been required to pay case fees prior to 2013. However, the average number of justified complaints over the past 3 years is 748, lower than the number (825) we have used in this analysis. This suggests that the average number of complaints per institution over the past 3 years would be lower than the figure used in this analysis.

58. There should be no additional resource or time implication for an institution once a complaint reaches the OIA.

Table 6: Average annual cost to alternative providers

	Low estimate	Best estimate	High estimate
Subscription fees	£219,000	£276,000	£334,000
Case fee element	£258,000	£326,000	£394,000
Average annual cost to alternative providers	£477,000	£602,000	£728,000

59. The estimated **average annual cost to alternative providers** of this regulation is between £477,000 and £728,000 with a best estimate of **£602,000**.

Sensitivity analysis

60. Given that not all courses at alternative providers need to be designated for the institution to be covered by this policy (and therefore not all courses have received some form of government ‘quality assurance’), we might expect more privately-funded than publically-funded institutions to receive complaints from students.
61. For this sensitivity analysis, we use the central estimate of the growth in the number of alternative providers. These assumption variations would only impact on the case-fee element of the cost estimates above.
62. In the absence of any direct evidence that a greater proportion of alternative providers will receive complaints from students, we have looked at a range of between 27% - 40%. At the upper end, this could potentially add an additional £160,000 to the average annual cost to alternative providers. However, despite this additional cost, we still estimate that the average annual cost to business would be less than £1m per year.

Table 7: Average annual cost of the case fee element to alternative providers using sensitivity analysis of the proportion of alternative providers receiving complaints

	Proportion of alternative providers receiving complaints			
	27%	30%	35%	40%
Case fee element	£326,000	£363,000	£423,000	£484,000

63. We have also looked at the impact on the cost to business of assuming that more students per institution make a complaint to the OIA. In this scenario we continue to assume that 27% of providers receive complaints. Given that privately-funded providers are, on average, smaller than publically-funded higher education institutions, our initial assumption already assumes that a great proportion of the student population at each institution makes a complaint. Below we consider the impact on cost estimates of assuming an average of 35 complaints per institution.

Table 8: Average annual cost of the case fee element to alternative providers using sensitivity analysis of the average number of complaints received by each institution

	Average number of complaints received by each institution			
	21	25	30	35
Case fee element	£326,000	£396,000	£483,000	£569,000

Office of the Independent Adjudicator (OIA)

64. This policy will extend the OIA’s remit to cover designated private providers of HE and HE students at FECs. This will increase the potential costs of the OIA. Using the assumptions set out above, this would imply that

in addition to the OIA's 150 current members, they would be responsible for between 136 and 149 additional alternative providers and 202 further education colleges in year 0 of the policy. They might therefore expect to receive an additional 1950 complaints per year.

65. The majority of OIA activity is funded through fees from its members. We therefore assume that they cost-recover using both subscription and case-fees.
66. Discussions with the OIA suggest that they do not expect fees to increase (in real terms) as a result of this policy. It would be 'unfair' for existing members to pay higher fees due to increased membership. Instead, the OIA expect to absorb any additional costs resulting from increased membership using the additional fees they receive. Although there may be some additional costs to the OIA of ensuring the relevant complaints procedures at newly subscribed institutions are in place, these are expected to be minimal.
67. The maximum costs we therefore expect the OIA to face are equal to the fees that they receive from increased membership from private providers and further education colleges.

Benefits

68. We believe that alternative providers will experience benefits from joining the OIA. It has not been possible to monetise these benefits, however the expected impacts have been outlined below.
69. By acting as a mediator to resolve complaints, the OIA offers a cheaper and quicker alternative to the court system. Where a provider is not a member of the OIA, legal action may often be the only route available to students to resolve complaints that cannot be resolved internally.
70. Although it is uncommon for legal action to be taken over complaints, we would expect this policy to lead to a reduction in the number of complaints against privately-funded providers that are taken to court. Since court proceedings can be costly and time consuming, this would reduce the costs to providers of resolving complaints.
71. In addition to issuing recommendations on disputes brought before it, the OIA disseminates good practice and runs a program of seminars and workshops designed to improve internal complaints procedures at providers.
72. Privately-funded providers that are required to subscribe to the OIA will benefit from this program. This should act to reduce the number of complaints that providers receive and, where they do arise, help to resolve them internally at lower cost.
73. Membership of the OIA may also improve the reputation of privately-funded providers to students. This could be a direct impact of OIA membership (e.g. membership could signal higher quality) or indirect (as OIA recommendations and assistance leads to improved practices).
74. Most privately-funded providers are relatively new and thus don't have an established reputation, especially when compared to publicly-funded providers. OIA memberships may help address this reputational gap and could lead to an increase in demand for courses at privately-funded providers.

Impact on Further Education Colleges

75. This regulation involves extending the requirement to subscribe to the OIA to further education colleges (FECs) that teach higher education courses. As set out by the ONS, Further Education Corporations in England and Wales are classified as Non-Profit Institutions Serving Households (NPISH)¹². Further education colleges receive considerable public sector funding. However, they can borrow from the private sector without requiring government consent. Although the public sector continues to retain some powers in respect of FECs, these powers are limited to situations where an institution is being mismanaged or is performing poorly.

Costs

76. The methodology for calculating the costs to FECs is as outlined above for alternative providers except that:

- We assume that the number of publically funded FECs does not vary over time as with alternative providers. This is because the number of publically-funded institutions is not expected to increase.
- The proportion of FECs in each size band will not be the same as for alternative providers. The estimated size of FECs are outlined in the table below.

77. The Higher Education in Further Education: Students Survey 2013 (HEIFES13) provides data on the number of students on recognised HE courses at Further Education Colleges. Focussing solely on HE students at these institutions, HEIFES13 suggests that there are 202 FECs institutions in scope of this regulation. We assume that the number of publically-funded FECs does not vary.

78. 80% of these FECs have less than 500 HE students, 17% of FECs have between 501 and 1,500 HE students and only 3% of FECs have between 1,501 and 6,000 HE students. The data suggests that no FEC has more than 6,000 HE students. We use these proportions to estimate the number of institutions in each size band.

Table 9: Proportion of further education colleges in each size band, by student numbers

Student Numbers	2014 Subscription Fees	2014 Point Threshold	Proportion of FECs	Number of FECs
Less than 500	£813	3	80%	162
501 to 1,500	£1,641	5	17%	34
1,501 to 6,000	£8,826	10	3%	6
6,001 to 12,000	£17,512	22	0%	0

79. The estimated **average annual cost of the OIA subscription fees** across further education colleges is therefore estimated to be **£241,000**.

80. The estimated **average annual cost of the case fee element**, taking into account institutions' points threshold, is therefore estimated to be **£388,000**

81. Therefore, the estimated **average annual cost** to further education colleges of this regulation is **£629,000**. We expect FE colleges to fund the costs of the complaints handling scheme run by the Office of the Independent Adjudicator for Higher Education from within their existing budgets.

Table 10: Average annual cost to further education colleges

	Best estimate
Subscription fees	£241,000
Case fee element	£388,000
Average annual cost to business	£629,000

¹² http://www.ons.gov.uk/ons/dcp171766_266962.pdf

Benefits

82. Further education colleges are expected to experience the same benefits from OIA membership as alternative providers. These are outlined in paragraphs 68-74.

Impact on students

Costs

83. The services of the OIA are available free of charge to students. Students who choose to take their complaint to the OIA will need to spend time explaining their case, but we anticipate any time cost will be very small.

Benefits

84. Students are the main beneficiaries of the OIA's services and we expect this proposal will bring significant benefits to students. Based on 2013/14 data, we expect 73,000 students at Further Education Colleges and at least 51,500 students at alternative providers will be affected.

85. Extending the coverage of the OIA will enable HE students at alternative providers and further education colleges to bring any unresolved complaints to the OIA for review. This will enable students to resolve complaints that would otherwise be unsatisfactorily addressed. Where the OIA makes a recommendation to the provider, the student can expect to have their issue rectified or, if this is not possible, be compensated accordingly. In the past, providers have almost always complied with OIA recommendations.

86. The benefits of this proposal will extend beyond those students who take a complaint to the OIA. Through recommendations made by the OIA to providers, and the work of the OIA to highlight and share best practice, it is expected that this proposal will lead to an increase in the quality of services provided to students, and a corresponding improvement in students' experiences at HE providers.

87. This proposal is also expected to clarify students' position when it comes to resolving disputes. For example, under the current arrangements, students studying at an alternative provider for a degree course validated by a university are able to take a complaint regarding examinations to the OIA (since the awarding body is a member), but may not be able to bring complaints regarding teaching. This proposal will ensure that all students studying on a HE course at a designated provider will have equal access to the OIA's services.

Risks and assumptions

88. The main assumption used in this analysis is that designated alternative providers and further education colleges offering HE courses will be affected in a similar way to publically-funded institutions. As a result, we have assumed that the proportion of institutions receiving complaints and the average number of complaints per institution are broadly similar. If instead, more students at these institutions are likely to complain, our costs to business and further education colleges could be underestimated. We have conducted sensitivity analysis on these assumptions.

89. The other key risk is around the state of the higher education sector. In recent years we have seen rapid growth in the alternative providers' sector combined with little or no growth in the further education sector. In this impact assessment, we have assumed that growth in the alternative providers' sector slows as result of the stricter designation process introduced ahead of academic year 2014/15. At the same time, we have assumed that there is no growth in the further education sector. If these assumptions are incorrect, the cost estimates could be significantly affected. However, given the large range of growth rates for alternative

providers considered, it is unlikely that the costs are underestimated. Instead, it is more likely that we have overestimated the costs associated with alternative providers. For the AY 2014/15, providers were required to go through a re-designation process to ensure quality within the sector. Some providers chose not to reapply for designation, while other providers did not meet the criteria. As a result, the final number of providers may actually be lower in 2014/15 than in 2013/14. We do not currently have final figures on the number of providers who have been designated through this process.

90. Finally, we have assumed that the proportion of providers in each size category remains constant. Given that we have little evidence to suggest otherwise, this is our best estimate of the likely future scenario.

Table 11: Key assumptions used in this impact assessment

Growth in alternative providers		Between 0 and 13 new providers per year
Growth in further education colleges		0 new colleges per year
Proportion of Alternative Providers by size	<ul style="list-style-type: none"> • Less than 500 students • 501 to 1,500 students • 1,501 to 6,000 students • 6,001 to 12,000 students 	<ul style="list-style-type: none"> • 81% • 13% • 6% • 2%
Proportion of Further Education Colleges by size	<ul style="list-style-type: none"> • Less than 500 students • 501 to 1,500 students • 1,501 to 6,000 students • 6,001 to 12,000 students 	<ul style="list-style-type: none"> • 80% • 17% • 3% • 0%
Proportion of institutions receiving complaints		27%
Average number of complaints per institution		21

One-in-two-out considerations

91. The policy examined in this impact assessment has been considered in relation to one-in-two-out. The conclusion is that these policies are 'in scope' as they regulate business (alternative providers). The equivalent net annual cost to business (EANCB) is estimated to be £0.47m per year in 2009 prices.

References

- *Private funded providers of Higher Education in the UK*, BIS, 2013
<https://www.gov.uk/government/publications/privately-funded-providers-of-higher-education-in-the-uk>
- *Office of the Independent Adjudicator for Higher Education Annual Report, 2013*
<http://www.oiahe.org.uk/media/93455/oia-annual-report-2013.pdf>

Specific impact tests and better regulation requirements

Equality impacts

Our assessment is that this policy will have a positive outcome for all students accessing higher education through the affected providers; the impact will not be different in terms of any specific protected group. However given the available data suggesting higher representation of males, mature students, ethnic minority students and lower income students at designated alternative providers compared to HEFCE funded providers, and more mature students at FECs, these groups will particularly benefit from the policy change.

For more detail please refer to the separate Equalities Impact Assessment.

Competition impact

There should not be a significant impact on competition. This proposal aims to create a more level playing field between alternative providers, HEFCE-funded institutions and further education colleges providing higher education. Given this policy does not apply to non-designated alternative providers, some institutions may be deterred from becoming designated if they believe that the cost of subscribing to the OIA outweigh the benefits of designation. However, given the small costs per institution of subscribing, we believe that this scenario is unlikely.

Small firms impact

The majority of HEIs in England are large, publicly-funded providers. However, Government estimates that, based on the number of students receiving student support at each institution, a large proportion of alternative providers have fewer than 50 employees and are therefore classified as small businesses. Therefore, there may be a great number of smaller alternative providers by this policy. However, there should not be an adverse impact on small providers given the fee structure of the Office of the Independent Adjudicator for Higher Education, where small providers pay less in fee terms than larger providers.

Micro firms exemption

There is no data on whether or not any alternative providers are classified as micro firms, although it is possible that the smallest alternative providers may be. Micro firms are not exempted from this regulation. The purpose of this regulation is to ensure that students at different institutions have the same rights of redress. It would therefore, not be appropriate for micro firms to be exempted.

Other Impact Tests

We do not believe that there will be any impacts in the areas of environmental, greenhouse gas, health and well-being, human rights, rural proofing and sustainable development.

Annex 1: Post implementation review plan

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p> <p>On-going evaluation of the reforms to the HE sector: the impacts will continue to be reviewed as part of the broader evaluation, in line with BIS best practice.</p> <p>OIA will continue to undertake annual monitoring: The OIA already publishes annual letters¹³ setting out the complaints record of all providers within the OIA scheme and details of their performance in handling student complaints. The OIA annual report also provides trends in the number of complaints dealt with by the OIA.</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>On-going evaluation of the reforms to the HE sector, considering how changes have affected all parties, including alternative providers, publicly-funded institutions, students and government.</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>Regular review of data in line with BIS best practice to monitoring the impact of policies and considering financial risks.</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <ul style="list-style-type: none">• SLC data on the number of designated providers and number of students accessing student in 2013/14• BIS-commissioned research project into alternative providers in operation in 2011/12.• Higher Education in Further Education: Students Survey (HEIFES) 2013
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <ul style="list-style-type: none">• Alternative providers and Further Education Colleges wishing to have courses designated for student support subscribe to the Office of the Independent Adjudicator for Higher Education and amend their internal complaints procedures in order to comply with the OIA
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <ul style="list-style-type: none">• SLC data will continue to be gathered. Final figures are reported annually, with provisional estimates provided to BIS throughout the year.• Alternative providers will provide data to HESA under the new conditions of designation.• A re-run of the Alternative Providers BIS-commissioned research will report in Autumn 2014
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]</p> <p>N/A</p>

¹³ <http://www.oiahe.org.uk/decisions-and-publications/annual-letters/annual-letters-2013/alphabetical-2013.aspx#mr>