Department for Education

Skills and Post-16 Education Bill

Impact Assessment

May 2021

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Introduction

1. In January 2021, the government set out its intention to reform the skills and further education (FE) system through the Skills for Jobs: Lifelong Learning for Opportunity and Growth White Paper.[1] The aim of the reform is to ensure that further education supports people to get the skills our economy needs throughout their lives, wherever they live in the country. Focusing on post-16 skills, the core mission is to increase productivity, support growth industries, and give individuals opportunities to progress in their careers. This forms part of the Lifetime Skills Guarantee which was outlined by the Prime Minister in September 2020,[2] which aims to help everyone to get the skills they need at each stage of their life.

2. The Skills and Post-16 Education Bill forms the legislative underpinning for the reforms set out in the Skills for Jobs White Paper. It will improve how the post-16 skills system functions and support the Prime Minister's vision to introduce a Lifetime Skills Guarantee. The measures include:

a. Supporting the lifelong loan entitlement (LLE) to make it easier for adults and young people to study flexibly - allowing them to space out their studies, transfer credits between institutions, and take up more part-time study.

b. Providing a statutory underpinning for local skills improvement plans as part of the Skills Accelerator, introducing a power for the Secretary of State to designate employer-representative bodies (ERBs) to lead the development of local skills improvement plans with associated duties on providers to co-operate and have regard to local skills improvement plans.

c. A duty for all further education corporations, sixth form college corporations and designated institutions to keep their provision under review to ensure that they are best placed to meet the needs of the local area and consider what action they might take (including action which might be taken with one or more other educational institutions).

d. Extending statutory intervention powers applicable to further education corporations, sixth form college corporations and designated institutions under the Further and Higher Education Act 1992. This measure will allow the Secretary of State to intervene in circumstances where an institution was failing to adequately meet local needs.

e. Introducing additional functions to enable the Institute for Apprenticeships and Technical Education (the Institute) to define and approve new categories of technical qualifications that relate to employer-led standards in various ways, and to have an oversight role for the technical education offer in each occupational

[1] Skills for Jobs: Lifelong Learning for Opportunity and Growth (publishing.service.gov.uk)
[2] PM's skills speech: 29 September 2020 - GOV.UK (www.gov.uk)

route, including mechanisms to manage and maintain a streamlined qualifications system. The legislation will also embed consultation and collaboration between the Institute and Ofqual for the approval and regulation of technical qualifications.

f. Making amendments to clarify and improve the operation of the FE insolvency regime for further education bodies, relating to the use of company voluntary arrangements and transfer schemes, as well as to the related process of designating institutions as within the statutory FE sector.

g. Enabling the Secretary of State to make regulations to provide for a list of certain providers of post-16 education or training, particularly Independent Training Providers (ITPs).

h. Enabling the Secretary of State to make regulations for the purpose of improving or securing the quality of FE initial teacher training.

i. Making clear that the Office for Students (OfS) can assess the quality of higher education provided, and make decisions on regulatory intervention and registration by reference to minimum expectations of student outcome

3. The measures in the Bill, alongside the wider reforms set out in the Skills for Jobs White Paper, will help to create a strengthened and unified post-16 education and skills system that will benefit individuals, the economy, and the nation. The COVID-19 pandemic has had a fundamental impact on the way the post-16 education sector operates, which is causing providers to rethink the way they deliver education. This is the right time to introduce this ambitious legislation that will support post-16 skills providers to contribute to economic recovery and growth.

Overall Bill Impact Assessment

1. **Title:** Skills and Post-16 Education Bill Impact Assessment **IA No: DfE127** **RPC Reference No: RPC-DFE-5064** **Lead department or agency:** Department for Education **Other departments or agencies: N/A**	**Impact Assessment (IA)** **Date: 24/04/21** **Stage: Development/Options** **Source of intervention: Domestic** **Type of measure: Primary Legislation** **Contact for enquiries: Skills.BillTeam@education.gov.uk**
Summary: Intervention and Options	**RPC Opinion: Green**

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value	**Business Net Present Value**	**Net cost to business per year**	**Business Impact Target Status** Qualifying provision
-£112.1m	-£106.4m	£10.1m	

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

- The skills system is vital for helping people into good jobs and giving employers the skills they need to grow. It is also key to addressing societal challenges such as COVID-19 recovery and achieving our net zero greenhouse gas emissions target.
- The skill system generates significant value but it faces several key challenges. Too many people leave full-time education with low skills – and too few have higher technical skills (i.e. level 4-5). Participation in lifelong learning is low and declining. Too much learning is done in subjects with relatively low economic value.

What are the policy objectives of the action or intervention and the intended effects?

- This Bill aims to create a strengthened and unified post-16 education and skills system that better meets skills needs. Specifically, it will do this by:
  - Giving employers a central role in setting standards, the design of qualifications and shaping local provision in collaboration with colleges and other providers.
  - Better aligning the FE and higher education (HE) funding systems, so that people can train and learn flexibly throughout their lives.
  - Improving accountability and governance to better support providers and learners
  - Championing excellent teaching in further education.

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

- Without primary legislation many of the desired reforms could not be introduced.
- Primary legislation is the most stable way of ensuring change can be enacted by shoring up powers for regulators.
- Individual alternative options against each measure are covered in the Annex.

Is this measure likely to impact on international trade and investment?		No			
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	

Will the policy be reviewed? Subject to Post-Implementation Review
If applicable, set review date:

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: 17.05.2021

Summary: Analysis & Evidence

Bill Overview

Description: Aggregated impact of Bill measures

FULL ECONOMIC ASSESSMENT

Price Base	PV Base	Time	Net Benefit (Present Value (PV)) (£m)		
2019	**2020**	**10 years**	**Low: -210**	**High: -55.2**	**Best Estimate: -112.1**

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Cost** (Present Value)
Low	9.0		5.5	**55.2**
High	38.7		20.7	**210.0**
Best Estimate	18.3		11.1	**112.1**

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

Cost of producing local skills improvement plans to employer-representative bodies (ERBs) (£25m), FE providers (£11m), and local stakeholders (£1m). Cost to FE providers of having due regard to local skills improvement plans (£0.5m). Cost to statutory FE colleges to comply with duty to review provision in line with local needs (£5m). Cost to employers of familiarising with new qualifications (£17m). Cost to Awarding Organisations of new Institute qualification approval fee (£5m) and additional qualification development to meet approval criteria (£46m). Cost to employers of familiarisation with a new student finance system and the processing of new loans under the lifelong loan entitlement (£5m). All costs are Present Value over 10 years – total may differ due to rounding.

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

(i) the cost to FE providers of changing provision or structure if they identify a need to do so when complying with the duties to have due regard to local skills improvement plans and to review local needs; (ii) cost to providers, employers, Exchequer if new reserve powers for college intervention are used; (iii) cost to learners of more stretching technical qualifications being harder to attain. Note that we do not quantify the costs or benefits of enabling powers (LLE, initial teacher education regulation, list of post-16 providers of education or training); more full assessments will be provided in future Impact Assessments. The exception is the cost to employers of familiarisation with a new student finance system and the processing of new loans due to the lifelong loan entitlement where we provide an initial estimate.

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Benefit** (Present Value)
Low	Not monetised		Not monetised	Not monetised
High	Not monetised		Not monetised	Not monetised
Best Estimate	Not monetised		Not monetised	Not monetised

Description and scale of key monetised benefits by 'main affected groups' We do not present monetised estimates of the benefits. We expect the Bill to deliver considerable benefits – as set out below - that outweigh the quantified costs, but we cannot quantify by how much learner numbers might increase or what changes in the subject mix might be observed in specific local areas. The negative net present value (NPV) reflects the fact that we have only quantified costs rather than the costs outweighing the benefits.
Other key non-monetised benefits by 'main affected groups' The overarching benefit from the Bill is to improve the extent to which the skills system meets employer and learner needs. We expect this to lead to (i) better jobs for learners whose training is valued more by employers and (ii) improved productivity for employers who have access to an improved skills supply. This will also improve value for money of public spending on skills. We estimate that learning in adult FE in 2018/19 generated £26bn of lifetime economic value. Only a very modest improvement in the quality of training or the number of people participating is required to generate benefits that comfortably outweigh the costs of the Bill.

Key assumptions/sensitivities/risks	**Discount rate (%)**	3.5%
(i) Cost of producing local skills improvement plans is uncertain, subject to outcome of initial Trailblazer period, and will vary by local area. Costs based on funding for Local Enterprise Partnerships and Skills Advisory Panels (SAPs), as well as time committed by providers to SAPs. (ii) The time FE providers already spend reviewing their provision in line with local needs – assumption based on Ofsted rating as proxy for good governance. (iii) Cost of redeveloping existing qualifications to meet new criteria – while our estimate is based on Awarding Organisation responses to an Ofqual consultation, this assumption has the biggest impact on total Bill NPV.		

BUSINESS ASSESSMENT (Bill Overview)

Direct impact on business (Equivalent			**Score for Business Impact Target (qualifying provisions only) £m:**
Costs: 10.1	**Benefits:** 0	**Net:** 10.1	• 50.5

Case for change

The importance of skills

4. The skills system is a key driver of individual life-chances and economic growth. For learners, training leads to good jobs. Two thirds of the 1.1 million learners who achieved a government-funded FE learning aim in the academic year 2017/18 went on to sustained employment.[3] A full level 3 classroom-based qualification leads to a 16% increase in earnings 3 to 5 years after completion and 4 percentage point increase in the employment rate.[4] In HE, the average net lifetime return to undergraduate degrees is around £100,000.[5] [6]

5. For the economy, the skills system generates considerable value - £26bn of lifetime benefits from adult FE in academic year 2018/19 alone[7] – as well as directly supporting productivity. Improvements in skills directly accounted for around a fifth of productivity growth before the financial crisis,[8] while also enabling other drivers of productivity; for example, we need skilled people to increase innovation and benefit from capital investment.

6. Furthermore, the skills system has a key role in addressing the varied challenges and opportunities the country faces. This includes the impact of the coronavirus pandemic which has hit our economy and disproportionately affected workers and young people, with under 25s accounting for two thirds of the total drop in employment.[9] We also need to adapt our economy and society to meet our commitment for net zero greenhouse gas emissions by 2050. Additionally, exiting the European Union and the new opportunities this brings will likely impact the structure of the economy.

7. The skills system is key to addressing all the challenges and opportunities and the government's levelling up agenda because it provides the skills to meet changing employer demand and support people into good jobs.

[3] DfE (2020) Further education: outcome-based success measures
[4] DfE (2021), Measuring the Net Present Value of Further Education in England 2018/19
[5] Net lifetime return is the sum of the increase (or decrease) in earnings associated with attending university at each age, plus the value of maintenance loans received and minus the value of any student loan repayments and taxes paid, all discounted. No impact on benefit receipt is included.
[6] IFS, The impact of undergraduate degrees on lifetime earnings, February 2020, Annex C, The impact of undergraduate degrees on lifetime earnings (publishing.service.gov.uk) The mean net lifetime return is £130k for men and £100k for women.
[7] See Table 2
[8] BIS (2015); UK Skills and Productivity in an International Context; https://www.gov.uk/government/publications/uk-skills-and-productivity-in-an-international-context; page 19
[9] ONS March 2021 Earnings and employment from Pay As You Earn Real Time Information, UK; Figure 14.

Key challenges

8. While the skills system delivers considerable value, it has three key weaknesses:

a. Too many people leave full-time education with low skills – and too few have higher technical skills (i.e. level 4-5).

b. Participation in lifelong learning is low and declining.

c. Too much learning is done in subjects with relatively low economic value.

Too many people leave full-time education with low skills – and too few have higher technical skills (i.e. level 4-5)

9. The skills system excels at equipping young people with degree-level qualifications: a third of the cohort that undertook GCSEs in 2004/05 achieved a level 6 or above by the aged of 25.[10] However, 37% achieved a level 2 as their highest qualification and only 4% achieved level 4-5 – the higher technical skills in particular shortage. Other countries deliver more higher technical skills: only 10% of all adults aged 20 to 45 hold a level 4-5 qualification as their highest qualification compared to around 20% of adults in Germany, and 34% in Canada.[11]

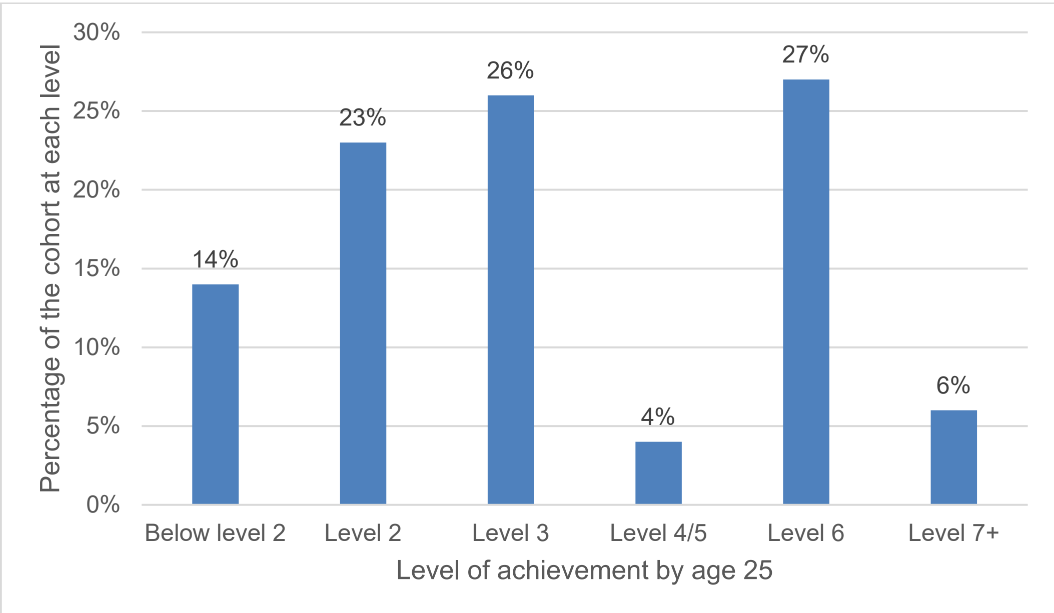


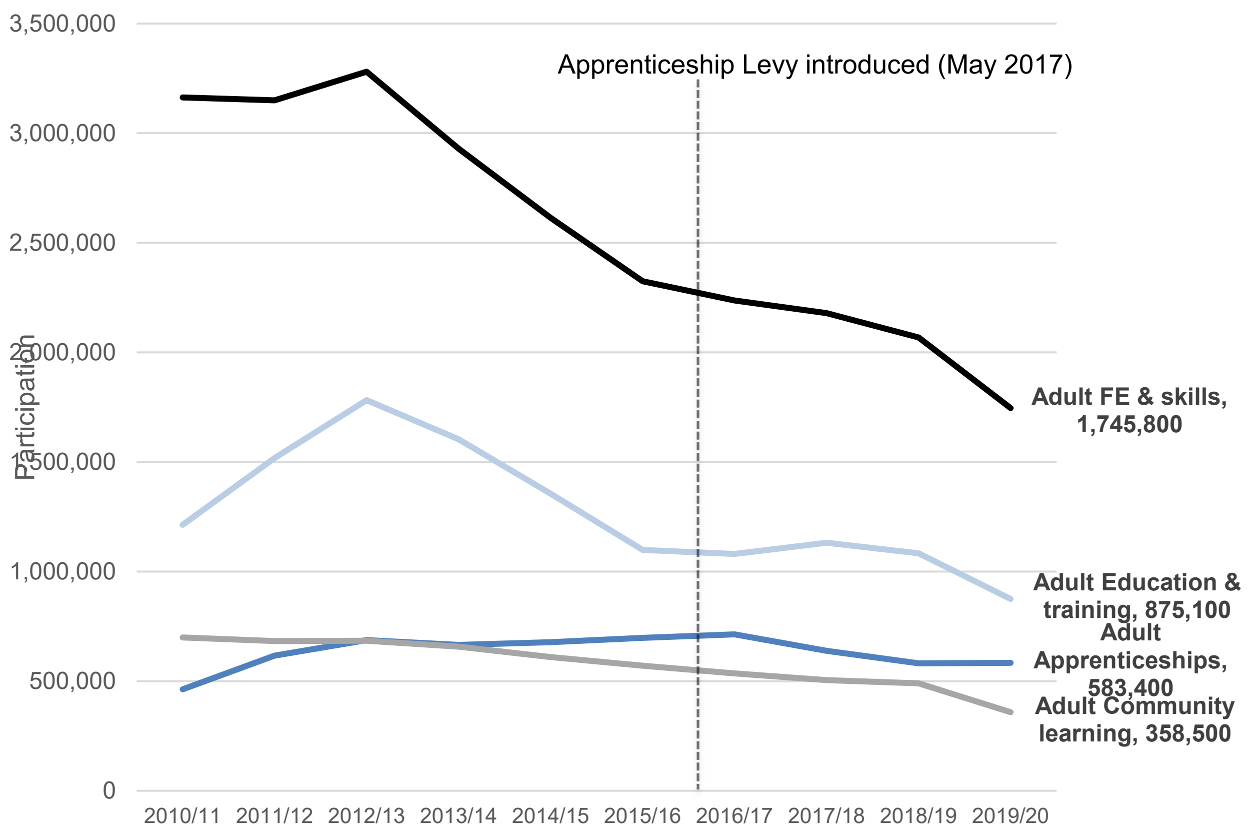
Figure 1: Highest level achieved by age 25 – England, cohort that undertook GCSEs in 2004/0512

[10] Post-16 education: highest level of achievement by age 25 - GOV.UK (www.gov.uk)
[11] OECD Reviews of Vocational Education and Training: Skills beyond School Synthesis Report (OECD, 2014).
[12] DfE (2018), Post-16 education: highest level of achievement by age 25.

10. This is despite the clear benefits to higher level technical education. Men with a higher technical (level 4) qualification earn on average £5,100 more at age 30 than those with a degree (level 6).[13] For women achieving a higher technical (level 5) qualification, the difference is £2,700. Arguably, higher technical qualification could offer a better route for some graduates, a third of whom (at working-age) are not in high-skilled employment.[14] Furthermore, a key issue within this is that the Higher Technical Qualifications landscape is crowded and confusing. In 2016/17, there were over 4,000 qualifications available at levels 4 and 5, with no national assurance of which qualifications provide the skills employers need.[15]

Participation in lifelong learning is low and declining

11. Adult participation in publicly-funded learning has declined over the past decade – but employment patterns are changing fast with shorter job cycles and longer working lives requiring many people to reskill and upskill.[16] Figure 2 shows a drop in adult participation in FE from 3.2m in 2010/11 to 1.7m in 2019/20.



[13] [Post-18 Education: Who is Taking Different Routes and How Much do they Earn?](#) (Centre for Vocational Education Research, 2020).
[14] DfE (2019) Graduate labour market statistics
[15] DfE (2019), Review of Level 4-5 qualification and provider market
[16] Independent Panel Report to the Review of Post-18 Education and Funding (May 2019))

Figure 2: Adult FE and Skills participation in England[17]

12. In particular, more flexibility is needed to support lifelong learning. The student finance system offers substantial investment at the start of a young person's career, but we need the flexibility to support training among the current workforce as well as the flow of young people entering the labour market: 80% of the workforce of 2030 are already in work today.[18]

Too much learning is done in subjects with relatively low economic value

13. Figure 3 ranks Full level 3 classroom-based FE and Skills subject areas by earnings one year after completion. The subjects with the largest take-up are often subjects with below average earnings outcomes. In HE, while the average net lifetime return[19] to undergraduate degrees is around £100,000, approximately 15% of women and 25% of men are not expected to benefit financially from attending higher education.[20]

14. One of the effects of this is the prevalence of skills shortages. In 2019 employers were unable to fill a quarter of all vacant positions (214,000 vacancies) because they could not find people with the right skills.[21] More specifically, there has been an acute shortage in Construction and Manufacturing and the Skilled Trades, where skills shortage vacancies amounted to 36% and 48% of all vacant positions respectively. There is also a broader shortage of technician-level STEM (Science, Technology, Engineering and Maths) skills because too few people have been leaving education with high-quality technical skills over the last 20 years.[22] More broadly, digital skills are required across a wide range of jobs[23] but 52% of the workforce do not have essential digital skills for work.[24]

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[17] Individualised Learner Record accessed on Explore Education Statistics portal
[18] Industrial Strategy Council (2019), UK Skills Mismatch 2030
[19] Net lifetime return is the sum of the increase (or decrease) in earnings associated with attending university at each age, plus the value of maintenance loans received and minus the value of any student loan repayments and taxes paid, all discounted. No impact on benefit receipt is included.
[20] IFS, The impact of undergraduate degrees on lifetime earnings, February 2020, Annex C, The impact of undergraduate degrees on lifetime earnings (publishing.service.gov.uk) The mean net lifetime return is £130k for men and £100k for women.
[21] DfE (2020), Employer Skills Survey 2019
[22] Delivering STEM (science, technology, engineering and mathematics) skills for the economy (National Audit Office 2018), p.21
[23] No Longer Optional: Employer Demand for Digital Skills (Burning Glass Technologies and Department for Digital, Culture, Media & Sport, 2019
[24] Lloyds Bank UK Consumer Digital Index 2020 (Lloyds Bank, 2020).

Figure 3: Median annualised earnings one year after study for Full level 3 FE & Skills aims achieved in academic year 2017/18 by SSA Tier 2[25]

The need for action

15. As a result of these issues, the government is seeking to reform further education and the skills system, as has been set out in the Skills for Jobs White Paper.[26] The reforms aim to give employers a central role in setting standards, and in the design of qualifications, as well as in identifying skills gaps and shaping local provision in collaboration with colleges and other providers. This will help employers to gain the skilled and productive workforces they need to compete at top international levels. Improving the quality of training is also a key focus, so that people can be confident they are receiving the best education and training.

16. To lay the foundation of these changes, the government needs to pass primary legislation to place these reforms on a legislative footing. This justifies government intervention in these areas, as opposed to any other type of non-

[25] DfE (2020) Further education: outcome-based success measures
[26] Skills for Jobs: Lifelong Learning for Opportunity and Growth (publishing.service.gov.uk)

government-led resolutions. The annexed impact assessments outline the rationale for primary legislation for each measure in the Bill.

Policy objectives of the Bill

17. The measures in the Bill lay the legislative foundations for the government's FE reform and align with the aims of the Skills for Jobs White Paper. The Bill measures are intended to enhance skills throughout the country by improving the flexibility and quality of FE and higher technical education, while better meeting the needs of employers and learners.

18. In particular, the measures seek to:

a. Better align the FE and HE funding systems so that people can train and learn flexibly throughout their lives. The Bill will support this through supporting the introduction of the LLE.

b. Place employers at the heart of the system by improving productivity and plugging skills gaps through education and training, and helping people into jobs that match the needs of local areas. The local skills improvement plan provisions demonstrate the government's commitment to giving employers a key role in influencing technical education and training. Additionally, providers in the statutory FE sector will be placed under a duty to review their provision against local needs and consider what actions they might take.

c. Ensure that providers and learners are supported by effective accountability, governance and intervention through the OfS quality measure and by granting powers to the Secretary of State through the list of post-16 providers of education or training measure. The measures will extend the powers for the Secretary of State to intervene in the event of failure in the statutory FE sector. They will also improve the insolvency process for the small number of providers in the statutory FE sector which enter insolvency proceedings.

d. Champion excellent teaching in FE through an enabling power in the FE teacher training measure and ensure that all available qualifications are of a high standard.

19. Several of the measures in the Bill introduce enabling powers, some of which allow the government to later introduce regulations. In these areas, there will not be a measurable impact directly from the Bill itself. We present an initial assessment of the rationale for and impact of these measures and we present quantified estimates of costs and benefits where possible. However, the precise policy is subject to being set out in these regulations, and where appropriate we will provide a fuller assessment of impacts when the regulations are laid.

20. The wider set of powers in the Bill and their relevant measure are as follows:

a. **The Lifelong Loan Entitlement:** Modifying existing regulation-making powers in primary legislation to make specific provision for student finance in respect of modules of courses.

b. **Statutory Further Education intervention:** Powers for the Secretary of State to intervene in the statutory FE sector in circumstances where there is failure to meet local needs, and for the Secretary of State to direct structural change (such as mergers) where use of statutory powers has been triggered.

c. **Technical Education qualification regulation**: The power for the Institute to charge fees to Awarding Organisations (AOs) for qualification approval is an enabling power for regulations to be made by the Secretary of State.

d. **Insolvency regime:** The power for the Secretary of State to amend legislation to expressly provide for Company Voluntary Arrangements (CVAs) to be available in education administration.

e. **Teacher training quality:** The enabling clause will allow the Secretary of State to make secondary legislation to regulate initial teacher training courses in the FE sector as deemed necessary.

f. **List of post-16 education or training providers:** The power for Secretary of State to make regulations to set up a list of providers who meet certain conditions.

21. However, there are some changes that will be directly introduced by the passing of the Bill. These include the following parts of the listed measures:

a. **Local skills improvement plans**: The duty on providers to co-operate with ERBs, and the duty placed on providers to have due regard to local skills improvement plans when making decisions about the provision of post-16 technical education and training.

b. The **duty placed on colleges and designated institutions to keep provision under review** and consider what actions they might take to align provision with local needs.

c. The measure **improving the FE insolvency regime** brings minimal direct change to the process of education administration, cementing existing policy on transfer schemes into legislation for those providers which enter education administration.

d. **The Institute and new categories of technical qualification**: The Institute will be given the power to define new qualification categories, approve qualifications in these categories, review the efficacy of approved qualifications and where appropriate withdraw their approval.

e. **The Institute and Ofqual**: This measure will require these two bodies to cooperate with one another when exercising their functions with respect to technical qualifications and will create a single approval gateway for technical qualifications.

f. **OfS quality assessments**: The clarification of the OfS's methods of assessing quality as part of its regulation of higher education providers in England.

22. The specific impacts of these measures have been measured individually in the annex.

Benefits and costs

The value of the skills system

23. Post-16 education gives learners the skills they need to secure well-paid employment and employers the talent required for growth and productivity.

24. Table 1 presents our estimates of the average causal impact of achieving an FE qualification on a learner's wages and likelihood of being in employment three to five years after completion – after accounting for a wide range of other factors like the learner's prior attainment and socio-economic background.

Provision	Increase in earnings p.a.	Increase in employment rate
Below Level 2 (incl. English and Maths)	5%	1ppt
English and Maths*	4%	0.6ppt
Full level 2	9%	3ppt
Full level 3 (loan and grant funded)	16%	4ppt
Level 2 Apprenticeship	12%	4ppt
Level 3 Apprenticeship	13%	3ppt
Level 4/5 Apprenticeship	22%	4ppt

*Note: the premia for English & Maths come from 2015 publication: Further education: comparing labour market economic benefits from qualifications gained (Bibby et. al., 2014)

Table 1: Impact of achieving an FE qualification after 3 to 5 years

25. We use this analysis as the basis for our estimates of the total economic value created by starting an FE qualification. Table 2 presents these estimates from learning started in academic year 2018/19: the wage, employment, and productivity benefits net of the public funding and opportunity cost of training. Estimates are presented of the value generated per learner and also per pound of public investment.

Provision	NPV per start	NPV per £ of government funding	NPV per £ of total cost	Total NPV (£bn)
Below Level 2 (incl. English and Maths)	£12,000	£29	£14	£6
Full level 2	£39,000	£21	£6	£1
Full level 3 (loan and grant funded)	£82,000	£31	£9	£5
Level 2 Apprenticeship	£42,000	£17	£6	£4
Level 3 Apprenticeship	£48,000	£14	£5	£6
Level 4/5 Apprenticeship	£73,000	£25	£7	£4

Table 2: Net Present Value of qualifications started in 2018/19 for learners aged 19+[27]

26. We estimate that publicly funded FE training started in the academic year 2018/19 will generate around £26 billion of economic value over the rest of the learners' working lives.

27. In HE, the Institute for Fiscal Studies (IFS) estimates that the average net lifetime return to undergraduate degrees is around £100,000.[28] [29]

[27] DfE (2021), Measuring the Net Present Value of Further Education in England 2018/19

[28] Net lifetime return is the sum of the increase (or decrease) in earnings associated with attending university at each age, plus the value of maintenance loans received and minus the value of any student loan repayments and taxes paid, all discounted. No impact on benefit receipt is included.

[29] IFS, The impact of undergraduate degrees on lifetime earnings, February 2020, Annex C, The impact of undergraduate degrees on lifetime earnings (publishing.service.gov.uk) The mean net lifetime return is £130k for men and £100k for women.

28. The skills system delivers a wide range of supplementary benefits, too, from the wellbeing impacts of learning[30] and the community contribution of local FE colleges as anchor institutions[31] to the provision of skills to help meet a wide range of challenges such as supporting levelling up in local areas across the country and caring for an aging population.

29. While FE generates strong labour market returns overall, there is significant variation by subject. A key goal of the Skills for Jobs White Paper reforms and the Bill is to increase the alignment between the subjects that learners study and the subjects that employers value. Figure 3 of the case for change shows: (i) the range in earnings outcomes *between* subjects; (ii) the range of earnings outcomes *within* a given subject; and (iii) that the subjects with the largest take-up are often subjects with below average earnings outcomes. We present raw earnings rather than earnings premia (as in Table 2) because this allows greater granularity.

30. Returns vary notably in HE as well. Approximately 15% of women and 25% of men are not expected to benefit financially from attending HE. In contrast, the top 10% of women with the highest returns are expected to gain more than £350,000 on average, and for men the top 10% are expected to gain more than £700,000 on average – far in excess of the £100,000 average lifetime return.[32]

The value of the Bill

31. The overarching aim of the Bill is to improve how far the skills system meets employer and learner needs. We expect this to deliver significant benefits:

a. Better jobs for learners whose training is valued more by employers;
b. Improved productivity for employers who have access to an improved skills supply;
c. Improved value for money for public investment in the skills system.

32. The policies enabled by the Bill form an overall package that delivers these benefits in different ways:

a. Creating a flexible student finance system that enables training across an individual's lifetime;
b. Giving employers a stronger role in determining provision to improve alignment with local needs;

[30] See e.g. DfE (2021) Decision Making of Adult Learners Below Level 2
[31] See e.g. Independent Commission on the College of the Future (2020), The English College of the Future
[32] IFS, The impact of undergraduate degrees on lifetime earnings, February 2020, Annex C, The impact of undergraduate degrees on lifetime earnings (publishing.service.gov.uk) The mean net lifetime return is £130k for men and £100k for women.

c. Safeguarding the quality of the learning experience through regulating the provider base, reinforcing the role of the OfS, and amending the insolvency regime;
d. Reforming technical qualifications to make them easier to navigate and give them clearer labour market currency;
e. Improving initial teacher education for the FE workforce.

33. We expect the Bill to increase the value of the skills system through a range of different mechanisms. We expect:

a. More people to participate in learning – driven by the LLE, greater alignment of provision to employer needs from local skills improvement plans, and the greater labour market currency of reformed technical qualifications.
b. Learners to choose more valuable training – driven by the better alignment between the courses offered by providers and the needs of employers through local skills improvement plans and the new duty on statutory FE colleges to review provision with respect to local needs.
c. Better outcomes from training – driven by reformed technical qualifications with greater labour market currency, improved regulation of initial teacher education, and strengthened college intervention and insolvency regimes.

34. Using the NPV framework set out above, these three mechanisms would, respectively, increase the number of learners, shift the composition of learning to higher NPV subjects, and increase the NPV from a given form of learning.

35. It is important to note that, in several cases, the Bill creates enabling powers that, while necessary, are not in themselves sufficient to deliver the policy outcomes. Instead, future secondary legislation or wider non-legislative changes would be required, as part of the government's broader plan to reform the post-16 skills system.

Impacts by stakeholder group

36. This section presents an overview of the key benefits and costs to different stakeholders. The annexed assessments of individual measures provide more detail.

Learners

37. The core benefit to learners is improved employment outcomes – better jobs – through training that better meets the needs of employers. This will be enabled by:

a. Courses on offer locally better matching employer needs following the articulation of needs through local skills improvement plans and the duties on providers to consider local needs when reviewing provision. As set out in the case for change, there are well-documented shortages in technical skills as well as STEM and digital skills.

b. Making the technical qualifications market easier to navigate and giving qualifications greater rigour and labour market currency. For example, there are more than 12,000 different qualifications funded in England at level 3 and below.[33]

c. Better access to learning across an individual's lifetime through a more flexible student finance system.

d. Higher quality provision due to, for example, improved initial teacher education and regulation of the provider base.

38. The sole identified cost is that the introduction of more stretching technical qualifications may make achievement harder, although this is likely outweighed by the increased benefit to the value of the technical qualifications.

Employers

39. The benefit to employers is increased output and productivity from access to an improved supply of skills. This is enabled by:

a. Better alignment of local provision to employer needs by giving employers greater say through local skills improvement plans. We expect this to help employers meet the skills shortages documented in the case for change.

b. Technical qualifications that are based on employer-led standards and sit within a framework that is easier to navigate.

c. Improvement in the rigour of technical qualifications meaning that new recruits are better equipped for skilled employment.

40. The principal cost to employers will be the time spent understanding new technical qualification categories when recruiting and, with respect to the LLE, time spent on familiarisation with changes to the student finance system and on processing new loans.

Providers

41. We expect the Bill to enable efficiency savings for providers. A coordinated process for articulating local employer needs –- i.e. local skills improvement plans – and a streamlined technical qualifications landscape will make it easier for providers to plan their provision.

[33] Consultation - Review of post-16 qualifications at level 3 in England: Second Stage Oct 2020 (education.gov.uk)

42. Providers in the statutory FE sector, ITPs, and HE institutions delivering FE will face costs relating to the need to engage in the production of local skills improvement plans, to have due regard to these plans when planning provision, and the costs of: (i) reviewing new technical qualifications; (ii) introducing delivery of new qualifications; and (iii) adapting provision if existing qualifications are removed.

43. Furthermore, specific measures applying to the statutory FE sector will create a labour cost in reviewing provision with respect to local needs – and associated costs of changing either if improvements are identified.

44. Future regulation of the provider market – e.g. a list for providers – will lead to familiarisation and administrative costs, but providers will also benefit from greater clarity on the standards they need to attain.

45. With regards to the LLE, providers may face reduced tuition fee income and costs associated with the changing nature of provision.

46. Finally, the measures regarding intervention in the statutory FE sector – the new threshold for intervention and the power for the Secretary of State to direct structural change (such as mergers) – as well as the insolvency regime applicable to the statutory FE sector would also incur benefits and costs if utilised. These are considered in the relevant impact assessment.

Awarding Organisations

47. The reforms to technical qualifications will generate costs for AOs. They will need to familiarise themselves with new regulatory requirements for technical qualifications, as well as reviewing their existing qualifications against the new requirements and revising where necessary. Finally, they will need to pay a fee for submitting new qualifications for approval should regulation be made to enable this power.

Employer Representative Bodies

48. ERBs which take on the role of leading the development of local skills improvement plans will benefit from being able to articulate and represent the needs of their members directly to providers. Producing these plans will incur a cost to ERBs.

Summary of quantified impacts of the Bill

49. The preceding section enumerates the range of costs and benefits we expect to be generated by the measures in the Skills and Post-16 Education Bill. This section summarises the impacts that we have quantified.

50. We present quantified estimates of the economic costs associated with the following measures:

a. introducing local skills improvement plans;

b. introducing a duty on providers in the statutory FE sector to review provision to best meet local needs;

c. reform to technical qualifications; and

d. introducing the LLE (direct cost to business only).

51. We have accounted for the possibility of double-counting across these estimates. The only significant overlap arises from the duty for providers to have due regard to local skills improvement plans and the duty for statutory FE colleges to review their provision in line with local needs. The time spent by statutory FE colleges reviewing the local skills improvement plans will contribute to their fulfilment of the second duty. We adjust our estimates of the time taken by statutory FE colleges to comply with these duties accordingly. See the impact assessments for each measure set out in the Annex for further details.

52. We do not present quantified estimates of the costs generated by other measures or for the benefits created by the Bill as a whole. This is for a number of reasons:

a. Where the Bill claims powers to pave the way for future secondary legislation, the detail of policy changes will be set out in later regulation, including on some occasions following consultation. This applies to the measures relating to the LLE, the regulation of initial teacher education, and regulation of FE providers. We will provide assessments of the impact at a later stage – when specific policy changes are made – or alongside future consultations. In this impact assessment, we focus on describing the likely impacts of the measures and setting out a proportionate analysis of the benefits and costs to inform debate. In the specific instance of the LLE, we present estimates of the direct cost to business – although this assessment will be further developed in the impact assessment that accompanies consultation.

b. Several measures put in place contingency arrangements for eventualities that: (i) are very hard to predict – if they occur at all; and (ii) have costs and benefits that are entirely dependent on the complex particulars of individual circumstances. This applies to the changes to the insolvency regime and the statutory FE sector intervention measures. In these areas, proportionate analysis is to describe the likely impacts rather than attempting to quantify.

c. The OfS measures are to ensure that the existing regulatory regime operates as intended. Shoring up existing powers does mean that its regulatory regime will be enforced and so there is an implication for providers in terms of work either necessary to ensure they remain above that threshold or to engage in any investigation. However, this burden is already captured in estimates of the regulatory burden when the framework was first designed[34] and this amendment ensures that it will operate as intended. Where the detail of any regulatory proposals has the potential to impact on regulatory burden the OfS will be required to undertake its own assessment.

d. The principal benefits to a range of measures relate to the better alignment between local skills supply and local skills demand. We expect this to generate significant value and – as set out above – we have considerable evidence regarding the value generated by FE, but we do not have the evidence to enable us to quantify by how much learner numbers might increase or what changes in the subject mix might be observed in specific local areas.

53. Table 3 summarises our quantified outputs. It is important to note that the negative NPVs are a product of not quantifying the benefits rather than a judgement that the costs outweigh the benefits. In particular, the estimates for the LLE cover only the direct cost to businesses of adapting to changes in the PAYE loan repayment system and consequently do not reflect the overall impact of the policy.

Provision	Best estimate	Low	High
Local skills improvement plans	-37.2	-86.5	-14.4
Duty on colleges in relation to local needs	-4.6	-8.3	-4.5
Technical qualification reform	-65.3	-105.3	-32.8
LLE (direct cost to business only)	-5.1	-10.0	-3.4

Table 3: Net Benefit (2019 prices, 2020 Present Value), £m

54. Our appraisals of each measure are set out in the Annex.

[34] Securing student success: Regulatory framework for higher education in England - impact assessment (publishing.service.gov.uk)

55. We expect the Bill to create notable costs for FE providers, AOs, ERBs, and employers – with a total of c.£112 million over a decade for the quantified measures. However, we expect this to be small relative to the overall benefit to the Bill. As set out above, the skills system currently delivers significant value with strong wage, employment and productivity returns to training. For example, we estimate that £26 billion of lifetime economic value – net of the costs incurred - was created by all the publicly-funded FE qualifications started by those aged 19 and over in academic year 2018/19 (see Table 2). The rationale behind many of the measures in this Bill is to improve the degree to which the supply of skills through the FE system better meets employer demand – to build on this significant economic contribution. Even a modest increase in learner numbers or improvement in labour market outcomes would far outweigh the costs associated with this Bill.

Direct cost to business

Approach to classification

56. The Bill creates direct costs to a range of private sector organisations: statutory FE providers, ITPs, HE Institutions, employer representative bodies, and AOs.

57. While FE colleges are classified as non-profit institutions serving households (NPISH) by the ONS[35], they are principally publicly-funded. The National Audit Office (NAO) find that 78% of the revenue of FE colleges comes from public sources.[36]

58. We split the cost to statutory FE colleges and Designated Institutions into a portion that impacts their private sector, business activities (22% using revenue source as a proxy) and a portion that impacts their public sector, publicly-funded activities (78%) – as per the NAO report.

59. The same principle could apply to ITPs and HE Institutions. However, in the absence of firm data regarding their revenue sources, we have decided to take the conservative approach of treating all their activity as “business” for the purposes of the EANDCB and BIT scoring.

60. As per the preceding section, we quantify the direct business impact of the local skills improvement plans, duty on colleges in relation to local needs, the reform to the technical qualification market, and the introduction of the lifelong loan

[35] Public sector classification guide and forward work plan - Office for National Statistics (ons.gov.uk) – under “Former CG organisation”
[36] Financial sustainability of colleges in England (nao.org.uk) (2020), paragraph 1.1

entitlement. We do not quantify costs associated with the other Bill measures. This is for the reasons set out above: i.e. that quantification would be disproportionate or that we will provide more full Impact Assessments in future alongside consultation or secondary legislation.

61. Our approach to classification is summarised in Table 4.

Organisation	Business Impact Target classification
Statutory FE colleges	22% of costs and benefits are within scope
Independent Training Providers	In scope
Higher Education Institutions	In scope
Awarding Organisations	In scope
Employer Representative Bodies	In scope
Local stakeholders (i.e. Local Authorities and LEPs)	Out of scope

Table 4: Approach to classification

Estimated costs

62. Table 5 summarises our quantified direct costs to business – following the same approach as set out in the preceding section.

	Net Present Social Value	Business net present value	Net direct cost to business per year	BIT score
Local skills improvement plans	-37.2	-35.1	4.1	20.4
Duty on colleges in relation to local needs	-4.6	-1.0	0.1	0.6
Technical qualification reform	-65.3	-65.3	5.3	26.6
LLE (direct cost to business only)	-5.1	-5.1	0.6	2.9

Table 5: Business Impact Target (£m, 2019 prices, 2020 Present Value)

Small and micro business assessment

FE providers

63. The Bill creates burdens for FE providers. Generally, FE providers are private businesses or non-profit institutions. The impact of public funding on their status with respect to the Business Impact Target is set out in the preceding section.

64. Table 6 maps the FE provider base by provider type and provider size. This is for learning delivered in academic year 2019/20.

65. The table is based on matching provider data from the Individualised Learner Record (ILR) to business data from the Office for National Statistics Inter-Departmental Business Register (IDBR) to obtain information on number of employees. Only providers that had at least one active learning aim in the ILR for 2019/20 academic year are included and the name and post code information for these providers has been cleaned and matched to equivalent company/trade name and post code information in the IDBR.

66. We can match three quarters of providers; i.e. we are able to find employer size data for three quarters of the FE provider base. This is a sufficiently high match rate to enable us to estimate the proportion of providers of different types who are small or micro businesses.

					Number of matched providers by size (number of employees)	
Provider Type	**Number of providers**	**Number matched to business data**	**Match Rate**	**Small (0-49)**	**Medium (50-249)**	**Large (250+)**
All	1,910	1,460	*76%*	530	240	700
General FE College	170	160	*95%*	0	10	150
Other Public Funded*	360	280	*78%*	10	20	260
of which: HE Organisations	100	90	*95%*	c	C	90
Private Sector Public Funded**	1,300	950	*74%*	520	180	250
Sixth Form Colleges	50	40	*83%*	c	20	20
Special Colleges***	30	30	*100%*	c	10	20

* e.g. Local Authorities and HE institutions

**i.e. Independent Training Providers

***Agriculture and Horticulture & Art Design and Performing Arts, Specialist Designated College
Notes:
1. This analysis is based on matching provider data from Individualised Learner Record (ILR) to business data from the Inter-Departmental Business Register (IDBR).
2. ILR provider name and post code were fuzzy matched to IDBR company/trade name and post code, with match rates shown in table for each provider type.
3. Only providers that had at least one active aim in ILR data for 2019/20 academic year are included.
4. Numbers have been rounded to the nearest 10 with values less than 3 suppressed with a "c". Percentages have been rounded to the nearest per cent

Table 6: Size of providers delivering FE in academic year 2019/20

67. We estimate that approximately 55% of ITPs (‘private sector public funded’ in Table 6) are small businesses – 520 of the 950 ITPs delivering training in 2019/20 for which we have matched employee data had 49 or fewer employees.

68. This is our central estimate and it assumes that the providers we are unable to match have the same size distribution as the matched providers. In fact, it is possible that those unmatched providers are more likely to be small businesses. There are three possible reasons for not being matched: (i) discrepancies in the spelling of the business name, (ii) an inaccurate address, or (iii) the provider is not

in the IDBR because they are not VAT or PAYE registered. It is probable that this third reason is related to provider size. However, we are not able to test this.

69. The introduction of local skills improvement plans is the only set of Bill measures that will create regulatory impacts for ITPs. The specific Bill measures are:

a. A duty for providers to co-operate with designated ERBs to develop local skills improvement plans (in accordance with issued statutory guidance); and

b. A duty for providers to have due regard to local skills improvement plans when considering their post-16 technical education and training offer.

70. ITPs are a key part of the FE infrastructure, delivering technical education and skills, including specialist provision to young people and adults. Local skills improvement plans will consider the totality of technical skills provision and ITPs will bring crucial, unique knowledge and experience to help address skills gaps. Inclusion of ITPs will support and encourage greater collaboration and collaborative solutions between them, FE Colleges and HE Institutions.

71. In summary, it would not be reasonable to exempt ITPs, regardless of their size, due to the unique local and technical skills perspective they will provide in the development of local skills improvement plans. The burdens as a result of the Bill measures will be minor as these providers will not be required to implement the local skills improvement plans, as they will retain autonomy over their actions. As a result, the benefits of including ITPs outweigh expected costs – see a full summary in the annexed individual impact assessment.

Higher education providers

72. The introduction of the LLE will have impacts on HE providers – in addition to the FE providers identified above. We will consult on the LLE this year and we will present an impact assessment alongside this. At this stage, we present the following Higher Education Statistics Agency (HESA) data relating to the size of HE providers. Most HE providers are large employers. Whilst it is possible that any reduction in fee income or administrative costs associated with the policy could have a disproportionate effect on small and micro providers, these represent a relatively small proportion of the HE sector as a whole.

73. In 2019/20, of the 165 English providers for which HESA data[37] was available:

a. 110 (67%) were large (250 or more employees);

b. 32 (19%) were medium (50 or more employees); and

c. 23 (14%) were small (fewer than 50 employees).

Awarding Organisations

74. The reform to the technical qualifications landscape will impact Awarding Organisations (AOs). We do not have data regarding the number of employees in different AOs. However, the market consists of a small number of very large organisations, and a long tail of much smaller organisations. The two largest organisations – out of a total of around 160 - accounted for over 60% of all certifications awarded in 2019/20.[38] Consequently, we expect the Bill to impact small AO businesses – as set out in Measure 5 of the Annex.

Equalities impacts

75. In line with the government's legal duties and its commitment to equalities, care has been taken to ensure that our proposed legislation is informed by assessments of their impacts for those from protected characteristics. This legislation takes place against the backdrop of the COVID-19 pandemic, which the evidence suggests has disproportionately impacted some in society, particularly those with certain protected characteristics[39].

76. Under section 149 of the Equality Act 2010 the three aims of the Public Sector Equality Duty to which public sector bodies, including government departments, must pay 'due regard' in their work are:

a. preventing unlawful discrimination for those sharing any of the nine 'protected characteristics';

b. promoting equality of opportunity for those sharing protected characteristics; and

c. fostering good relations between those sharing protected characteristics and those who do not.

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[37] HESA, Table 1 - HE staff by HE provider and activity standard occupational classification 2014/15 to 2019/20
[38] Annual Qualifications Market Report 2019/20 (publishing.service.gov.uk)
[39] See for example Resolution Foundation (2021), Long Covid in the Labour Market p.26 for differential employment impacts by age, gender, and ethnicity.

77. The protected characteristics are: race, sex, disability, sexual orientation, age, gender reassignment, religious/other belief, pregnancy/maternity and, for the purpose of the duty not to discriminate, marriage/civil partnership.

78. The majority of measures in the Bill will not have a direct impact on equalities. This is because most measures introduce enabling powers which will allow regulation to be laid later. This is the case for the LLE, improvements to the insolvency regime (setting out rules for CVAs), FE teacher training system reform and regulation of FE providers (including ITPs). For these measures, assessment of the equalities impact on such groups will be conducted and considered as appropriate at the time of formulation of any such secondary legislation.

79. However, aspects of the statutory underpinning for local skills improvement plans, the statutory FE sector duty to review provision in relation to local needs, and the measure concerning approval and regulation of technical qualifications measures, all introduce direct changes through the duties they place on providers. Direct changes may also be associated with the Secretary of State's last resort power to direct structural change (should it be exercised) contained in the statutory FE sector intervention powers measure. The measure improving the FE insolvency regime brings minimal change to the process of education administration, only cementing existing policy into legislation for those providers which enter into education administration, and speeding up the designation process in order to benefit those providers who use the designation process as part of their exit from insolvency. The impact of these measures on people with protected characteristics is considered in aggregate below.

Assessment against each protected characteristic

80. We anticipate that, overall, the measures in the Bill will have a positive benefit on learners, including those with protected characteristics. This is due to:

a. improved employment outcomes through technical education and training that better meets the needs of employers, as established through local skills improvement plans;

b. improved employment outcomes as a result of better matching between available courses and skills needs of local areas as a result of the duty on colleges and designated institutions to review their provision in relation to local needs;

c. reduced disruption to learners if a FE provider is failing or not meeting thresholds in existing legislation through improved intervention powers for the Secretary of State; and

d. better meeting of the needs of individuals by ensuring that qualifications are high quality, rigorous and led by employer standards through the approval and regulation of technical qualifications measures.

81. The sole identified cost is that the introduction of more stretching technical qualifications may make achievement harder.

82. The figures below, where we have them, illustrate the breakdown of those with protected characteristics participating in FE and skills in England, as well as how their outcomes from learning compare to those without protected characteristics. The below shows that people from BAME backgrounds and females are over-represented in FE and skills compared to the working adult population whereas those with learning difficulties and/or disabilities are slightly under-represented. For age, those under 50, and particularly those aged 19-24 participate at proportionately higher levels in FE and skills compared to those over 50.

83. None of the provisions in the Bill result in direct discrimination against people with any of the protected characteristics. We have considered whether the provisions will have a disproprortinate impact on people with particular protected characteristics in our analysis below.

Race

84. Figures for 2020/21 (August to January) show that 24.1% (266,500) of those participating in FE and skills in England were from BAME backgrounds.[40] According to 2011 census data, 20.2% of the population of England was from an ethnic background other than White British and 14.6% were from non-White backgrounds.[41] As proportionally more people from minority ethnic backgrounds participate in FE and skills in England, they are slightly more likely to be affected by the impacts outlined in this report.

85. Sustained positive destination figures for 2017/18 (the latest year of data) show that 72.9% of BAME completions/achievements in FE progressed to employment or further learning one year after completion. This compares to 76.1% of not BAME completions/achievements. The 2017/18 average median earnings one year after completion for BAME completions is £17,109, compared to £17,610 for not BAME completions.[42]

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[40] Further education and skills, Academic Year 2020/21 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)

[41] ONS - 2011 Census (KS201EW)

[42] Further education: outcome-based success measures, Academic Year 2017/18 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk) table ND01, data covers England.

Sex

86. Figures for 2020/21 (August to January) show that females accounted for 59.2% (691,100) of those participating in FE and skills in England.[43] Within the general population of England in mid-2019, 50.6% of people were female, indicating that a slightly higher proportion of females participate in FE and skills in England and thus we expect females to be slightly more affected by the impacts outlined in this report.[44]

87. Sustained positive destination figures for 2017/18 (the latest year of data) show that 74.4% female completions/achievements in FE progressed to employment or further learning one year after completion. This compares to 73.6% of male completions/achievements. The 2017/18 average median earnings one year after completion for female completions/achievements is £15,891, compared to £19,348 for males.[45]

Disability

88. Figures for 2020/21 (August to January) show that 16.4% (185,100) of those participating in FE and skills in England declared a learning difficulty and/or disability.[46] According to 2011 census data, 17.6% of the population of England has an activity limiting health problem or disability.[47] This indicates that the measures outlined in this report are very slightly less likely to affect people with a disability than the general population as a slightly smaller proportion of participants in FE and skills have a disability than the general population of England.

89. Sustained positive destination figures for 2017/18 (the latest year of data) show that 68.2% of completions/achievements with a learning difficulty and/or disability progressed to employment or learning one year after completion. This compares to 72.3% of completions/achievements with no learning difficulty and/or disability. The 2017/18 average median earnings one year after completion for those with a learning difficulty and/or disability is £16,804, compared to £17,338 for those with no learning difficulty and/or disability.[48]

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[43] Further education and skills, Academic Year 2020/21 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)

[44] Population estimates for the UK, England and Wales, Scotland and Northern Ireland - Office for National Statistics (ons.gov.uk)

[45] Further education: outcome-based success measures, Academic Year 2017/18 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk), table ND01, data covers England

[46] Further education and skills, Academic Year 2020/21 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)

[47] Disability in England and Wales - Office for National Statistics (ons.gov.uk)

[48] Further education: outcome-based success measures, Academic Year 2017/18 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk) table ND01, data covers England.

Sexual orientation

90. We do not currently have data on the participation of people in FE and skills broken down by sexual orientation. We have considered the measures in the Bill and we do not anticipate any specific impacts on those with this protected characteristic.

Age

91. Figures for 2020/21 (August to January) show that 31.4% (366,700) of learners participating in FE were aged 19-24, 55.2% were 25-49 (644,100) and 13.4% (157,000) were aged 50+.[49] According to ONS data, in 2018 7.4% (4,169,087) of the population of England were aged 19-24, 33.1% (18,510,830) were aged 25-49 and 37.3% (24,806,721) were aged 50+.[50] These figures indicate that those under 50, and particularly those aged 19-24 are likely to be slightly more affected by the impacts outlined in this report because they participate at proportionately higher levels in FE and skills.

92. Sustained positive destination figures for 2017/18 (the latest year of data show that 78.0% of 18 and under completions/achievements progress onto employment or further learning. This compares to 74.4% of 19–24-year-olds, 75.3% of 25-49-year-olds, and 70.3% of completions/achievements for those 50 and over. The 2017/18 average median earnings one year after completion for under 18s is £13,853, for 19-24 is £17,048, for 24-29 is £17,845, and for over 50s is £19,096.[51]

Gender reassignment

93. We do not currently have data on the participation of people in FE and skills broken down by gender reassignment status. We have considered the measures in the Bill and we do not anticipate any specific impacts on those with this protected characteristic.

Religious/ other belief

94. We do not currently have data on the participation of people in FE and skills broken down by religious or other beliefs. We have considered the measures in the Bill and we do not anticipate any specific impacts on those with this protected characteristic.

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[49] Further education and skills, Academic Year 2020/21 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)

[50] UK population pyramid interactive - Office for National Statistics (ons.gov.uk)

[51] Further education: outcome-based success measures, Academic Year 2017/18 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk) table ND01, data covers England

Pregnancy/ maternity

95. We do not currently have data on the participation of people in FE and skills broken down by pregnancy or maternity status. We have considered the measures in the Bill and we do not anticipate any specific impacts on those with this protected characteristic.

Marriage/ civil partnership

96. We do not currently have data on the participation of people in FE and skills broken down by marital status. We have considered the measures in the Bill and we do not anticipate any specific impacts on those with this protected characteristic.

97. The equalities impact assessments of individual measures are included in the Annex.

The Family Test

98. The Bill is expected to have an overall positive impact on families. Increasing access to flexible modes of study/training is likely to:

a. enable people to better balance training/education and playing a full role in family life, including any parenting and caring responsibilities;

b. benefit those going through significant life transitions including adoption, fostering, bereavement, the onset of a long-term health condition, new caring responsibilities, pregnancy and the birth of a child because modules could be spread over a person's lifetime instead of being condensed into a single time period; and

c. offer those who have been made redundant the opportunity and financing to upskill.

99. No impact is expected on family formation (including committed couple relationships), couple separation or those families most at risk of deterioration of relationship quality and breakdown, although better access to training and education might alleviate some of the stressors affecting those people in the longer-term as they should be better able to participate in skilled workforces, attain higher earnings and reach their potential.

Monitoring and evaluation

100. The Bill will introduce changes across the skills system. We have an established approach to monitoring and evaluating how well the skills system is working and the value it is generating. We will consider the impact of the Bill through these existing products.

101. Our monitoring and evaluation activity draws on a range of data sources and evidence products. These include but are not limited to:

a. Individualised Learner Record – Official statistics and in-house analysis of administrative data on starts and completions. This shows us who is doing training, in what areas and subjects, and at which providers.

b. Longitudinal Educational Outcomes (LEO) – This data source combines our administrative data on what learning is happening with data on education history, employment status and earnings, and DWP welfare data.

c. Outcome-based Success Measures - This annual publication uses the Longitudinal Educational Outcomes dataset to set out the labour market outcomes one, three, and five years after completing training.

d. Employer Skills Survey - A biennial survey of employers on a range of skills-related issues including skill needs, investment in training, and attitudes towards apprenticeships.

e. Labour market returns estimates – rigorous econometric estimates of the causal impact of training on learner employment and earnings, controlling for a wide range of factors.

f. Skills Index - This annual publication calculates the overall value of the skills supplied by the FE system and how this has changed over time. The index is affected by the number of people achieving qualifications and by changes in the average value of achievement.

102. For apprenticeships, we have several additional products:

a. Apprenticeship Service – detailed information regarding apprentice and employer user journeys.

b. Apprenticeships by Industry Characteristics – the Department for Education (DfE) links its administrative data to other government data on employers (IDBR) to shows which employers and sectors are using apprenticeships.

c. Apprenticeship Evaluation Survey - A biennial, representative survey of 5,000 apprentices (current and completed) and 4,000 employers that asks a range of questions about motivations, experiences, and impacts of doing and offering apprenticeships.

103. We will evaluate the effectiveness of the T Level programme during and after rollout through a programme evaluation strategy. This will use approaches including existing data collections via the ILR and Schools Census, and plan to add a suite of new questions to the Employer Skills Survey and British Attitudes Survey to collect awareness and perceptions data from learners, parents and employers. Work underway to set up a Technical Education Learner Survey will track the experiences and outcomes of the first T Level cohorts, and will be followed up by the Longitudinal Education Outcomes (LEO) dataset to measure T Level learners' progression into skilled employment.

104. We are working to improve the quality and quantity of data available on the FE workforce, including trainees and new entrants. This academic year we are introducing a new Education and Skills Funding Agency (ESFA)-led FE workforce data collection, which will become mandatory from AY2021/22. This does not include all Initial Teacher Education trainees within its scope but will provide us with greater insight on the number of new entrants joining the FE teaching profession each year, their qualifications and whether they are undertaking any in-service training. In the future we may wish to collect more data on trainees (and have requested that the enabling clause should give us the facility to mandate this).

105. Additionally, there are several assessments and consultations taking place contemporaneously and subsequently to the passage of the Bill. These will involve further evidence-gathering, which will be used to enhance our assessment of the impact of the Bill. We will work with stakeholders to develop the details of future regulation and monitor delivery progress. These assessments and consultations include:

a. a consultation on the LLE to launch by the summer which will provide an opportunity to develop the evidence base further and test underlying assumptions. A more thorough assessment of the impacts will be conducted following this consultation on the policy.

b. A consultation on Funding and Accountability in further education to launch by the summer. This will propose new accountability structures for Further Education providers, and will help to underpin delivery of local skills improvement plans. This consultation will be relevant when reading across into non-compliance measures and lokking at additional evidence.

c. The OfS are also conducting a review on their quality assessments alongside the passage of the Bill.

106. The government will seek to undertake a Post-Implementation Review to assess the effectiveness of the legislation, subject to Parliamentary agreement on the measures in the Bill, after it has been implemented and operational for a period of time.

Annex - Impact assessments per measure

Measure 1: Lifelong Loan Entitlement (LLE)

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

What is the problem?

107. As we Build Back Better from the coronavirus pandemic, improving the skills of people across the country will be critical to our future success. Many learners need more flexible access to courses, helping them train, upskill or retrain alongside work, family and personal commitments, and as both their circumstances and the economy change.

108. The introduction of a LLE will enable a truly flexible education system, offering people a real choice in how and when they study to acquire new life-changing skills. It will make it easier to do courses locally, to study and train part-time and critically at their own pace.

109. There are currently significant skills gaps, particularly at higher technical levels, across a range of sectors and growing employer demand for high-skilled workers. We do not have enough technicians, engineers or health and social care professionals to meet the many vital challenges we face, from building our green economy to meeting the health and care needs of our ageing population.[52]

110. A joint study conducted by Universities UK (UUK) and CBI that consisted of research with learners, as well as reviewing the flexible learning opportunities offered by HE providers concluded that there was a strong case for modular or credit based system for undergraduate provision in the longer-term.[53] Our proposed approach looks to take an incremental approach towards this.

111. The House of Lords Economics Affairs Committee report 'Treating Students Fairly: The Economics of Post-School Education' also highlighted the importance of better supporting flexible learning for reskilling and upskilling economic needs,

[52] https://graduatemarkettrends.cdn.prismic.io/graduatemarkettrends/f90f52ec-a7ed-45bc-a9b8-1873c0da2c41_skills-shortages-in-the-uk-201920.pdf
[53] Universities UK/ CBI – The economic case for flexible learning

including the need for funding of individual modules and for a better credit recognition system.[54]

112. Under the LLE we expect a significant impact across HE and FE, for both provider and learners. We further expect an increase in uptake for both technical provision, modular study and part-time study. This could lead to changes in the make-up of providers as well as their business models. Long-term we believe that increased levels of technical education and flexibility in retraining will lead to a broad lift in high-skilled employment and productivity.

Evidence of the problem

113. In 2019 around a third of working age individuals had a degree or equivalent qualifications,[55] and under current entry trends it is estimated that over half of 17-year-olds will have entered HE by the time they are 30.[56]

114. There have been significant increases in the number of graduates in the past decade or more (5.7 million more working age individuals with at least degree or equivalent qualifications in 2019 than in 2004[57]), and we are seeing increasing proportion of age 18 initial entry to full-time first degrees at higher education providers.[58] On average, degree level qualifications have significant employment and earnings benefits. Both employment rates and high skilled employment rates are higher for graduates than non-graduates, and the median salaried working age graduate earned around £9,000 more than their non-graduate counterpart in 2019. Even amongst young graduates (21-30), median salaries were over £5,000 higher for graduates than non-graduates in 2019.[59]

115. However not all graduates see these benefits. IFS research estimated that whilst the average net lifetime return[60] to undergraduate degrees is around

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[54] House of Lords Economic Affairs Committee: Treating Students Fairly: The Economics of Post-School Education https://publications.parliament.uk/pa/ld201719/ldselect/ldeconaf/139/139.pdf
[55] NOMIS, Annual Population Survey, annual population survey - Nomis - Official Labour Market Statistics (nomisweb.co.uk)
[56] Participation measures in higher education, Academic Year 2018/19 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)
[57] NOMIS, Annual Population Survey, annual population survey - Nomis - Official Labour Market Statistics (nomisweb.co.uk)
[58] Participation measures in higher education, Academic Year 2018/19 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)
[59] Graduate labour market statistics 2019, https://explore-education-statistics.service.gov.uk/find-statistics/graduate-labour-markets
[60] Net lifetime return is the sum of the increase (or decrease) in earnings associated with attending university at each age, plus the value of maintenance loans received and minus the value of any student loan repayments and taxes paid, all discounted. No impact on benefit receipt is included.

£100,000, approximately 15% of women and 25% of men are expected to not benefit financially from attending higher education.[61]

116. At the other end of the scale the top 10% of women with the highest returns are expected to gain more than £350,000 on average, and for men the top 10% are expected to gain more than £700,000 on average.

117. Similarly, on average government benefits from undergraduate degrees. Whilst financing undergraduate degrees appears expensive for the taxpayer, on average this expense is more than counterbalanced by increased tax revenues on top of the proportion of student loans repaid. However, this effect is mainly driven by the highest-earning graduates. The IFS estimated that, even after tax and National Insurance payments are considered, nearly half of students receive a net government subsidy for their degrees.[62]

118. There are options other than undergraduate degrees for post-18 study, which can provide positive earnings impacts. Research by the Centre for Vocational Education Research (CVER) estimated that at age 30, after adjusting for observable differences[63], average earnings for women with a level 5 qualification are expected to be around £2,700 higher than for women with a level 6 qualification. Similarly, men with level 4 qualifications are expected to earn around £5,100 more at age 30 than their counterparts with level 6 qualifications.[64] The average higher technical apprentice earns more than the average graduate five years after completion.[65]

119. Where graduates are not seeing the returns which might be expected from level 6 study, combining study and work, studying at levels 4 and 5 or studying modules of a degree, may offer better value for money for the taxpayer and the student, if the equivalent outcomes could be obtained at lower cost. Despite this, there are relatively few learners studying at levels 4-5, as seen in the below figure[66].

120. Where graduates are not seeing the returns which might be expected from level 6 study, combining study and work, studying at levels 4 and 5 or studying

[61] IFS, The impact of undergraduate degrees on lifetime earnings, February 2020, Annex C, The impact of undergraduate degrees on lifetime earnings. (publishing.service.gov.uk) The mean net lifetime return is £130k for men and £100k for women.
[62] IFS, The impact of undergraduate degrees on lifetime earnings, February 2020, The impact of undergraduate degrees on lifetime earnings (publishing.service.gov.uk)
[63] prior attainment, background characteristics and previous paid employment
[64] CVER, September 2020, Post-18 Education: Who is Taking Different Routes and How Much do they Earn? cverbrf013.pdf (lse.ac.uk)
[65] Apprenticeship earnings, DfE Progress Report, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/883065/Progress_report_on_the_apprenticeships_reform_programme_2020.pdf ; Graduate earnings, https://www.gov.uk/government/statistics/graduate-outcomes-leo-outcomes-in-2016-to-2017
[66] Source: DfE (2018), Post-16 education: highest level of achievement by age 25. Data refers to cohort that undertook GCSEs in England in 2004/05. Age is based on academic age, which is age at the start of the academic year (August 31).

modules of a degree, may offer better value for money for the taxpayer and the student, if the equivalent outcomes could be obtained at lower cost. Despite this, there are relatively few learners studying at levels 4-5, as seen in the below figure[67].

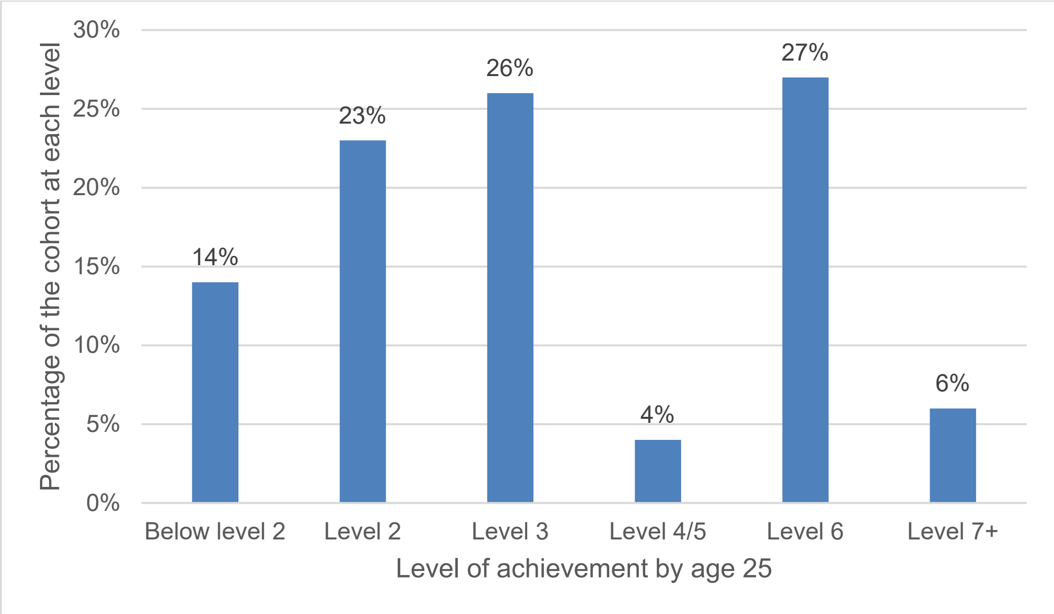

Figure 4: Highest level achieved by age 25, England, cohort who undertook GCSEs in 2004/05

121. However, under the current system, the type and level of support offered by government for level 4-6 study may differ depending on course, provider, mode of study, previous study, and age.[68] This is distorting student and provider choices of what to study and offer, and impeding a move to the type of flexible, personalised study track envisioned by a LLE

122. The current student finance system does not currently allow for individuals to study flexibly at level 4-6 – it does not fund individual modules of studies and does not allow people to easily study flexibly between levels, for example by studying at level 4 then topping up with level 5 a few years later. A survey by UUK found around 24% of the population had considered part-time HE in the last 10 years but had not enrolled.69 The main reasons for this were financial concerns (tuition fee costs were cited by 44% of respondents, living costs by 42%) and that study would not fit in with their personal life or employment situation (35%). DfE research70 similarly found that around 13% of the population has considered studying for a new

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[67] Source: DfE (2018), Post-16 education: highest level of achievement by age 25. Data refers to cohort that undertook GCSEs in England in 2004/05. Age is based on academic age, which is age at the start of the academic year (August 31)
[68] Student finance: Eligibility - GOV.UK (www.gov.uk)
[69] Lost learners (universitiesuk.ac.uk), p.7
[70] Post 18 Choice of Part-time Study, May 2019, Post 18 Choice of Part-Time Study (publishing.service.gov.uk)

qualification at level 3-6 in the last 5 years, but did not start study, and that potential learners found the student finance system complex to understand and that information, especially for mature students, was difficult to find. Of the level 3-6 group considering study in the last 5 years, 32% considered studying at level 4/5 and 35% at level 6.

123. This lack of flexibility reduces individuals' ability to train, retrain and reskill. There are a substantial number of individuals within the population who have considered part-time and/or mature study but have not been able to take this up. Financial barriers, the ability to fit study around personal commitments or employment[71], availability of information relevant to personal circumstances and the complexity of the student finance system often create barriers to study.

Why must government act?

124. The government is providing a range of other opportunities, as set out in the Skill for Jobs white paper, but given the challenges that the country faces we need to build on these.

125. Government action is imperative. The existing HE student finance system is a public service funded by HMG and run by the Student Loan Company on behalf of the DfE. It is underpinned by primary legislation. To flex this existing system requires government action.

What are the policy objectives and the intended effects?

Policy objective

126. Government wants to make it easier for adults and young people to study more flexibly - allowing them to space out their studies, transfer credits between institutions, and take up more part-time study. To do so, the government aims to create a more efficient and streamlined funding system which makes it easier for students to navigate the options available and encourage provision to meet the needs of people, employers and the economy. The government wants to encourage learners to undertake technical qualification and to broaden options beyond the default option of a full-time three-year university degree.

[71] Universities UK, 2018, Lost Learners, Lost learners (universitiesuk.ac.uk)

Intended effects

127. The LLE is intended to make it easier for people to study more flexibly - allowing them to space out their studies over their lifetime, transfer credits between institutions, and participate in more part-time study.

128. As such, a key LLE policy objective is to fund smaller periods of study such as modules within a degree programme, as well as full qualifications.

129. In order to achieve this objective a number of changes are required to primary legislation:

a. A new term must be introduced to describe smaller periods of study.

b. We need to provide the ability for the Secretary of State to set an overall limit to funding that learners can access over their lifetime, and provide funding for loans for module-sized study, either as parts of courses or stand alone, allowing more modular study.

c. We want to provide for an entitlement to the equivalent of four years' worth of funding for HE, for learning which is undertaken other than via an academic year, over a lifetime. Legislation will give powers to set a lifetime limit.

130. The government intends to bring forward further amendments ahead of Committee stage in the House of Lords, including any adjustments to the Higher Education Reform Act 2017 to reflect modular provision and any other consequential amendments.

131. The proposed changes in the Skills and Post-16 Education Bill will support but are not sufficient on their own to bring about the transformation the government would like to see in adult, tertiary learning. We therefore do not attach specific success indicators to the powers, but will at later stages of the programme's development lay out specific indicators of success. These are expected to cover:

a. Government wants to see a transformative change through the LLE to give people the opportunity to train, retrain and upskill throughout their lives to respond to changing skills needs and employment patterns.

b. The policy intent is to deliver a comprehensive funding system at level 4-6 education, providing equal access and support for learners regardless of where the learning takes place or which higher level qualification they choose. This new system should enable individuals to do level 4-6 courses in FE or HE settings, in full or on a modular basis.

c. Further specific policy objectives and corresponding measures of success can be broken down into the following categories:

Further policy objectives
- Learners   - Learners are aware of the choices available to them, the best option for them, including the benefits of flexible learning over their lifetime.   - Learners should be able to study academic or vocational HE courses, either in full qualifications or in short modules which add up to a coherent whole, at the point in life that suits them, and which gives them the skills they need for meaningful employment.   - Learners enjoy a similar experience, both in terms of access to funding and high-quality higher level provision, regardless of the provider they study at or which qualification (level 4-6) they choose.   - Individuals build up qualifications over time, and will be able to stack, top-up or transfer their previous higher-level credits in order to do this.   - Providers   - Providers collaborate more closely to facilitate credit recognition and transfer.   - More high-quality higher technical qualifications and HE modular courses available to learners at HE Providers and FE Providers.   - Funding   - A simpler, easier to navigate finance system that boosts participation in lifelong learning, and supports people to train, retrain and upskill in both higher technical and academic education.   - A system that provides good value to learners and taxpayers.   - Employers   - Reduced skills shortages/skills mismatches for local and national employers.   - Employers will understand and value modular and flexible learning provision.   - Taxpayers   - The choice of better value routes and the impact of these on productivity and in turn loan repayments and tax revenues should improve value for money.

Objectives

Measures of success
- Learners o The number of learners successfully engaging with level 4 and 5 study after leaving school/college. o Employment outcomes for those who complete qualifications using the LLE, including what occupation, sector and pay they have. o Take up of modular learning options.   - Providers o The number of institutions offering high-quality higher-level provision, HE modular courses and recognising prior higher level learning and work experience as part of a qualification. o The price of modules/courses offered by providers.   - Funding

○ The long-term cost of HE *(NB: could be through reduced student loan outlay, or higher repayment proportions of those retraining, or combination of both)*. • Employers ○ Local and national employers' views on skills shortages/mismatches as reported in the National Employer Skills Survey. ○ Whether employers recognise the value of modular study tested through employer skills survey.

What policy options have been considered, including any alternatives to regulation?

Option 0 – Do Nothing.

132. With this option the existing regulatory and funding framework is retained and access to funding for tuition and maintenance remains differential by regulatory system.

133. This would mean that:

a. The potential for more increased flexible and modular provision is limited and, as a result, part-time and higher technical education is likely stifled.

b. Learners continue to be incentivised by the current student finance system to pursue three-year level 6 degree which may not be best aligned to their needs or that of the economy.

c. Students, employers and taxpayers are unable to achieve their best possible outcomes.

134. Overall, this would not deliver the desired changes to flexibility and accessibility of higher and further education.

Overview of the current student finance system

135. Currently, prospective undergraduate HE students can access student finance where they are studying for the purpose of completing a designated HE qualification, of at least a year in length, and at least 25% intensity. This allows for funding for the following types of qualifications:

a. First degree, for example BA, BSc or BEd

b. Foundation Degree

c. Certificate of Higher Education

d. Diploma of Higher Education (DipHE)

e. Higher National Certificate (HNC)

f. Higher National Diploma (HND)

g. Initial Teacher Training course

h. Integrated master's degree

i. Pre-registration postgraduate healthcare course

136. Generally, undergraduate student finance is only available for the first HE qualification and selected postgraduate courses (such as PGCEs and pre-registration postgraduate health care courses). However, we previously removed the 'equivalent or lower qualification' (ELQ) restrictions for all STEM part-time degree courses. Students on these courses who already hold a degree can access fee support through student loans. There are also some ELQ exemptions for certain subjects for full-time students.

137. In total for full-time undergraduate study, in 2020-21, tuition fee loans of up to £9,250 and maintenance loans of up to £12,010 are available. Students who started to attend part-time level 6 courses from 1 August 2018 onwards can access full-time equivalent maintenance loans.

138. This funding system provides limited incentives for undergraduate HE provision outside of a standard full-time 3 year degree. Currently there are no government funded tuition loans for HE modular study. This means that there are limited options available for adults who want to study HE alongside working, as well as disincentivising other types of provision given that providers want to plan on the basis of three years' worth of finance for financial planning purposes.

139. Foundation degrees, HNCs, HNDs, DipHEs and Certificates of Higher Education are all qualifications at level 4 or 5. As above, learners studying these qualifications can be eligible for funding through the HE student finance system. Unlike level 6 qualifications, such as degrees, this does not extend to eligibility for maintenance loans when studying part-time. Learners studying these qualifications study in: (i) HE providers; or (ii) FE providers that are registered with the OfS or in a franchising arrangement with an HE provider that is.

140. Currently, prospective students studying other level 4 or 5 qualifications such as Access to HE diplomas and vocational qualifications can access student finance through Advanced Learner Loans (ALLs). We currently provide these loans for designated FE courses at advanced and higher levels; up to four ALLs can be taken out in total by a student with limited restrictions on what type or level of course they have taken previously; and at a minimum loan amount of £300 per course. Courses can be funded at any 'intensity' with monthly payments made up to three years. Current loans approval criteria (ESFA controls – not in regulations) include that qualifications must be Ofqual regulated (or QAA in case of Access to HE Diplomas)

and be a minimum of 150 guided learning hours with exceptions at level 4 and above where as low as 45 would be considered, provided it is occupational/ technical in nature.

Option 1 – Preferred – Introduce a LLE in primary legislation.

141. The LLE will form the primary basis for student finance at level 4-6, establishing an entitlement for people to have the equivalent of 4 years' worth of HE (level 4-6) taken flexibly at either higher or further education institutions over the course of their lifetime.

142. The current student finance system is underpinned by primary and secondary legislation. The government seeks to modify existing regulation-making powers in primary legislation to make specific provision for student finance in respect of modules of courses.

143. The proposed legislation modifies the existing regulation-making powers in the Teaching and Higher Education Act (THEA) 1998 so as to:

a. make specific provision for funding of modules of higher education and further education courses, and the setting of an overall limit to funding that learners can access over their lifetime,

b. make clear that maximum amounts for funding can be set other than in relation to an academic year.

144. It also amends the definition of "higher education course" in the Higher Education Research Act (HERA) 2017 to include a module of a course of any description mentioned in Schedule 6 to the Education Act 1988, whether or not undertaken as part of such a course. This is to make clear that the higher education regulatory regime provided for under Part 1 of HERA applies to modules of courses. The government intends to bring forward further amendments ahead of Committee stage in the House of Lords, including any amendments to the Higher Educaiton Reform Act 2017 to reflect modular provision and any other consequential amendments.

145. In order to introduce the LLE from 2025, secondary legislation will need to be laid in Parliament by summer 2024. We will consult on the detail and scope of the LLE this year. As a pathway towards the LLE, the government will test how to stimulate the provision of high-quality higher technical education (level 4 and 5) and introduce pilots to incentivise flexible and more modular types of provision.

Rationale and evidence to justify the level of analysis used in the impact assessment (proportionality approach)

146. At this stage of policy development there is limited evidence regarding how the LLE might affect the behaviour of providers and students. This impact assessment therefore provides a qualitative assessment of the potential indirect costs and benefits associated with the policy, as well as an indicative estimate of the direct cost to employers resulting from an increase in the number of employees with student loans. The costs and benefits outlined here refer to the whole LLE programme, and not just the enabling powers being introduced in the Skills and Post-16 Education Bill.

147. We will consult on the detail and scope of the Lifelong Loan Entitlement this year. It will seek views on objectives and coverage, together with aspects such as the level of modularity (i.e. the minimum number of credits a course will need to bear), how to incentivise and enable effective credit transfer, and whether Equivalent and Lower Qualifications (ELQ) restrictions should be amended to facilitate retraining and stimulate provision. This will provide an opportunity to develop the evidence base further and test underlying assumptions with providers, employers and individuals.

Key risks and assumptions

Assumptions

148. We are working to test several assumptions through the development of the LLE itself by taking an agile approach to iterative system building working with Student Loans Company (SLC). This work is under development as central policy questions are addressed and will be refined.

149. Current Core assumptions made about potential learners are:

a. **There will be the expected changes from learners to take up level 4 or level 5 courses.**

- Testing through:

  i. **LLE user-centred design, using an agile, iterative approach to the testing of assumptions about user behaviours in the context of a flexible loan offer;**

  ii. **SLC data collection** – SLC to collect relevant data on HE modular and HTQ

- Data from user-centred design work with SLC

- Draws on Post-18 review of education and funding: independent panel report - GOV.UK (www.gov.uk)

b. **In-work adults are willing to undertake further learning.**

- Testing through:

   i. **LLE user centred design;**

   ii. **Emerging Skills Project** – the Emerging Skills Project, delivered by the High Value Manufacturing Catapult in partnership with Institutes of Technology, will fund the development of flexible modular content for cutting-edge skills mostly at levels 4 and 5, teacher training and funded learner uptake. These projects will test employer, learner and provider demand for flexible and modular content in cutting-edge skills ahead of the roll out of the LLE. Not loan funded.

   iii. **HE Modular trial[72] (level 4-6) & HTQ roll out** – understand what type of in-work learning adults undertake and what motivates them to do so.

- **SLC data collection** – SLC to collect relevant data on HE modular trial and HTQ

- **Draws on existing research on adult behaviour for other levels of study (**Adult education: why adults decide to study - GOV.UK (www.gov.uk)**)**

- Draws on Post-18 review of education and funding: independent panel report - GOV.UK (www.gov.uk)

c. **In-work adults will be willing to study in their non-working time, around existing life commitments in order to boost their prospects or change their career.**

- Tested through:

   i. **LLE user centred design**

   ii. **HE Modular trial (level 4-6)** (as above)

   iii. **Staggered roll out of approved Higher Technical Qualifications (HTQs)** – ensures there are a number of high-quality learning options for individuals at level 4/5 progressively rolled out from 2022.

- **SLC data collection** – SLC to collect relevant data on HE modular and HTQ

[72] HE Modular Trial will support the delivery of LLE by enabling us to test our underpinning assumptions of how we expect learners, employers and providers to respond to key aspects of the LLE (loan funding for modular study) and support a cultural shift towards flexible lifelong learning.

- **Draws on existing research on adult behaviour for other levels of study (**[Adult education: why adults decide to study - GOV.UK (www.gov.uk)]**)**

- Draws on [Post-18 review of education and funding: independent panel report - GOV.UK (www.gov.uk)]

d. **Employers will see the value in further training/learning, and accommodate staff training/learning in working hours.**

- Tested through:

  i. **LLE stakeholder engagement**

  ii. **Emerging Skills Project** - (as above)

  iii. **HE Modular trial (level 4-6)** - how employers respond to modular courses studied.

e. **Employers will place sufficient premium on a module of a level 4-6 course/HTQ for it to deliver a higher wage return to the learner.**

- Tested through:

  i. **LLE stakeholder engagement**

  ii. **Emerging Skills Project** - (as above)

  iii. **Staggered roll out of approved HTQs/HE Modular trial** - (as above)

Risks

150. Additionally, we have identified the following as our highest level risk:

a. **Our assumptions are wrong for learners and providers**, resulting in poor take up, critical responses and wasted resource and opportunity. Additionally, we need to consider skill and knowledge depreciation and the needs for technical qualification standards that skills and knowledge are maintained at a contemporary level.

- The mitigations and evidence base used for these assumptions are set out above.

- This is a critical risk, having both significant impact and currently high probability until user testing begins.

Summary and preferred option with description of implementation plan

151. The preferred option is being pursued through primary legislation, which will enable further changes to be made through secondary legislation. As some learners will be part way through studying for their qualifications when the LLE is introduced it will initially run in parallel to the existing system.

152. As a result, the student finance system will be significantly more flexible and facilitate for more modular and part-time study.

153. The government intends to deliver the LLE from 2025. However, the government will test how to stimulate the provision of high-quality higher technical education (level 4 and 5) and introduce pilots to incentivise and test more flexible and modular types of provision.

154. The DfE will continue working closely with the SLC to ensure it is ready to deliver the LLE.

155. Using the time before roll-out in 2025, DfE intends to work closely with SLC on a joint policy framework and practical design for the system. We expect to have sufficient time to trial more flexible and modular provision.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

156. This impact assessment does not attempt to monetise all the costs and benefits associated with the introduction of the LLE. Whilst the policy will aim to provide learners with the student finance options required to pursue more flexible level 4-6 provision, there is currently very limited evidence to suggest the exact extent by which demand for this provision, or for alternative options, might be affected. There is also considerable uncertainty around how providers might respond to this significant change in the student loans system and the educational pathways that this incentivises.

157. Given these current evidence gaps, this section instead provides a qualitative summary of the potential costs and benefits associated with the LLE. A more thorough assessment of the impacts will be conducted following a consultation on the policy, expected to take place in summer 2021.

Potential behavioural responses to the introduction of LLE

158. The overall impact of this policy will depend significantly on the response that students and providers have to the increase in student finance options available to study more flexibly. Broadly, it is expected that these could include:

a. An increase in demand for further education courses or shorter higher education courses from individuals that previously would have stopped study at level 3.

b. An increase in demand for further education courses or shorter higher education courses from employed individuals looking to upskill or retrain.

c. A shift away from 3-year undergraduate degrees towards standalone modular study.

159. Each of these potential responses is likely to generate different costs and benefits to students, providers, employers and government. The net effect will ultimately depend on the interactions between these learner pathways.

Costs

160. The additional costs associated with the introduction of the LLE are likely to fall primarily on providers and government. The LLE will create new opportunities for providers to offer more flexible learning pathways for students and, associated with that, potentially develop new business models. However, the extent to which providers take advantage of these new opportunities will be voluntary rather than a regulatory condition or burden.

Costs to providers

161. A key purpose of the LLE is to increase the number of student finance options available to learners, providing students with support to undertake more flexible routes through FE and HE. Whilst this is likely to benefit learners through enhanced student choice, the potential redistribution across educational pathways may represent a significant cost to providers, particularly in the HE sector. However, this is a consequence of market competition and disruption rather than a direct consequence of legislative change.

162. Tuition fees represent a significant proportion of provider income for higher education providers – where domestic fees are capped at £9,250 per year and students traditionally undertake 3 year first degrees – at 49% (see below chart[73]).

[73] What is the income of HE providers? | HESA

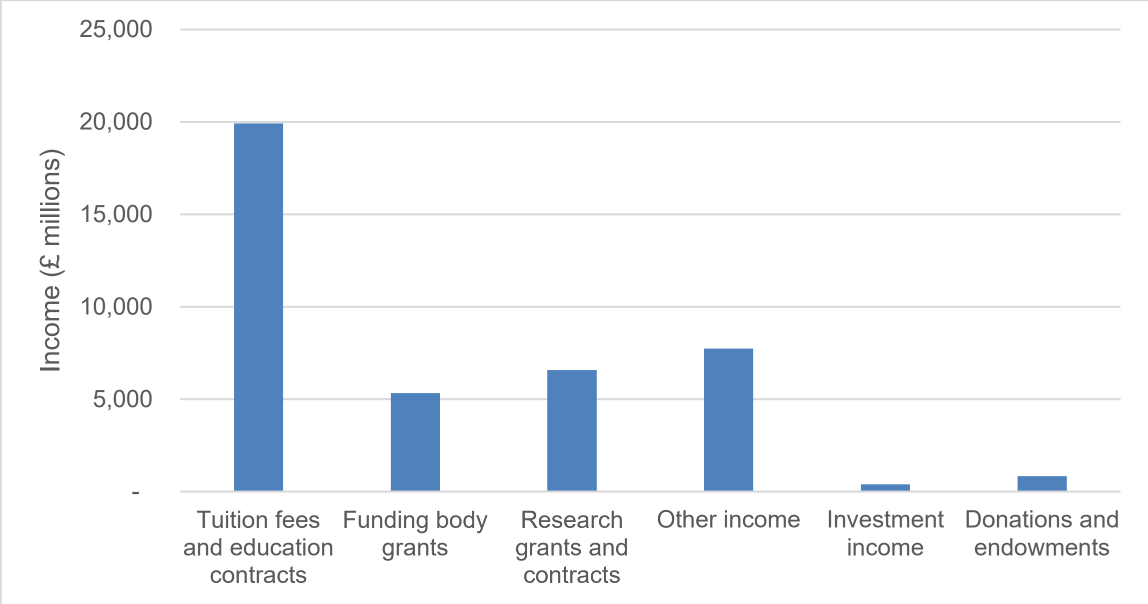

Figure 6: Sources of income for higher education providers in 2018/19

163. Whilst it is not possible at this stage of policy development to accurately estimate the number of learners that will be reached by the LLE, it is likely that one source of potential demand will be from individuals that otherwise would have studied 3-year undergraduate degrees. For providers, this ‘switching’ will represent a cost in the form of reduced tuition fee income if learners choose to undertake a smaller number of credits than they would have in the absence of the LLE.

164. The overall impact of this on providers however is highly uncertain; as well as being dependent on the number of individuals that ‘switch’ to lower credit courses, it is also driven by the average number of credits undertaken and the associated fees – which are currently unknown. However, the below table provides an illustration of the potential per-student loss in tuition fee income to HE providers by comparing a given number of credits to the counterfactual of a 3-year degree (360 credits):

1. Assumed number of credits per student	2. Per-student provider income[74]	3. Per-student provider income from 3-year degree	4. Per-student cost to providers (3-2)
30 (equivalent to one module)	£2,310	£27,750	£25,440
60	£4,630	£27,750	£23,120
90	£6,940	£27,750	£20,810
120 (equivalent to one academic year)	£9,250	£27,750	£18,500

Table 7: Potential per-student loss in tuition fee income to HE providers

165. Whilst the potential redistribution of learners across educational routes is also likely to represent a cost to further education providers – for example if standalone HE modular courses offer competition to further education – the size of any lost revenues is expected to be much smaller given that tuition fees across further education providers are generally lower and course lengths are generally shorter than in higher education.[75]

166. A further cost to providers is the potential administrative burden associated with a significant change to the student finance system and a potential shift towards standalone modular study. Where providers would need to spend time familiarising themselves with the new loans system, this would represent a regulatory burden and an opportunity cost to staff.

167. There might also exist additional costs if the LLE leads to a significant increase in the number of learners undertaking – and obtaining qualifications in – modular courses that are not currently catered for. In this case, providers would potentially need to consider factors such as how best to award qualifications and how to ensure they receive sufficient labour market recognition. The potential administrative impact on providers as a result of the policy will be tested at consultation.

[74] This assumes fees for standalone modular courses are proportionate to the number of credits studied. For example, the cost of a 30-credit course is 25% of the maximum cost of an academic year (£9,250).
[75] The mean tuition fee at a further education college with an access agreement was £7,170 in 2016/17. Across further education colleges without an access agreement it was £5,800. See: Higher Education Tuition Fee Prices (publishing.service.gov.uk)

Costs to government

168. The primary cost to government will be additional loan outlay associated with new learners entering the system at level 4-6 that previously would not have been able to obtain student finance. This is likely to comprise both individuals currently employed and wanting to retrain or upskill in their roles, as well as those that previously would not have continued in education beyond level 3. However, as with the provider costs, it is difficult to accurately estimate the cost to government at this stage given the uncertainty around the number of new learners, the average number of credits undertaken and their likelihood of repayment.

169. Additional outlay could be significant if a large number of new learners use their entire loan entitlement – the equivalent of four years of post-18 education – to study flexibly over the course of their careers. Alternatively, it could be minimal if the number of new learners is small or if each learner only uses a small proportion of their entitlement.

170. Government will also incur costs associated with the implementation and regulation of the LLE. For example, if SLC systems require redesigning or if there are ongoing running costs as a result of the programme.

Costs to employers

171. Employers will incur costs as a result of this policy if they are required to spend time familiarising themselves with the reforms and potentially need to put in place mechanisms to account for a greater number of employees having income-contingent loans. This is considered to be the only direct cost to business, with an estimate of the burden provided in the 'direct costs and benefits to business' section.

Benefits

172. There are likely to be benefits associated with the introduction of this policy to learners, providers, employers and government.

Benefits to students

173. There is strong evidence to suggest post-18 education offers considerable labour market value to students. Graduates can expect to benefit by around £100,000 on average over their lifetime compared with non-graduates, even after accounting for the costs of study.[76] Graduates are also around three times more

[76] The impact of undergraduate degrees on lifetime earnings (publishing.service.gov.uk)

likely to be in high-skilled employment than those without a degree.[77] To the extent that the LLE provides an access route into post-18 education for individuals looking to upskill or retrain, it is likely to facilitate improved earnings and employment outcomes for learners.

174. However, the per-student benefit will depend significantly on the type and amount of study pursued through the LLE as well as learners' counterfactual labour market outcomes. Whilst we currently have limited information to suggest what these might be, we intend to gather evidence as the policy develops.

175. In addition to the labour market value associated with post-18 education, learners will also benefit more generally from the increased choice facilitated by the LLE and the opportunity to utilise student finance for more flexible study, particularly at level 6.

Benefits to providers

176. Whilst the previous section highlighted to potential loss of tuition fee income for providers in the event that learners choose to study standalone modular courses instead of 3-year undergraduate degrees, it is possible that this could be at least offset by the number of new learners entering the system compared with if the LLE was not introduced. Although the tuition fee income gains from new learners would likely be more modest given the shorter duration of courses, if relative numbers are large enough it could result in a net benefit to HE and FE providers on average.

Benefits to employers

177. Employers will benefit from any increased productivity associated with a more skilled workforce. Whilst this will depend significantly on the specific courses or modules studied, there is strong evidence to suggest that educational level is a significant determinant of productivity, particularly for older workers.[78]

Benefits to government

178. Government may also benefit from the introduction of the LLE in the event that total loan outlay falls as a result of this policy. This could be the case if the number of new learners encouraged to upskill or retrain is relatively small and there is a significant number of individuals that 'switch' from 3-year degrees to standalone modular study. In this case, the gain to government will be the loan outlay (net of

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[77] Graduate labour market statistics, Reporting Year 2019 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)

[78] Does education raise productivity and wages equally? The moderating role of age and gender | IZA Journal of Labor Economics | Full Text (springeropen.com)

repayments) saved from an overall decrease in the total number of credits studied by learners.

179. Even if the number of new learners in the system is relatively large, we might expect a significant proportion of outlay to be repaid given the proportional costs of modular study and the labour market benefits associated with additional education.[79]

Direct costs and benefits to business calculations

180. It is expected that the costs and benefits to business as a result of this policy will be to providers and employers.

181. As outlined in the above section, the primary costs to providers are likely to be reduced tuition fee income from learners choosing to study fewer credits and any costs associated with changes to course delivery such as development of new modular programmes. Some providers may benefit if a significant number of new learners are encouraged to take up level 4-6 provision or if modularisation reduces teaching costs.

182. However, these potential costs and benefits are considered indirect given that they will incur as a result of incentivised provider and learner behaviour rather than because of any specific burden imposed by the changes to legislation. The only direct cost to business as a result of this policy will be the regulatory burden on employers of administrating new loans.

183. Previous HMRC analysis[80] has estimated the burden on employers of the one-off familiarisation – general and detailed – and the ongoing tasks associated with a significant change to the student finance system.

One-off costs

184. It is assumed that 5 minutes of general familiarisation will be required by all businesses operating a PAYE loans system, with detailed familiarisation (15 minutes) only required by those businesses employing individuals with a new type

[79] The RAB charge – the proportion of loan outlay that is expected to not be repaid – is 53% on plan 2 full-time Higher Education loans, 45% on plan 2 part-time Higher Education loans and 69% on Advanced Learner Loans. See: Student loan forecasts for England, Financial Year 2019-20 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)
Whilst it is not possible to estimate the equivalent figure for new learners entering the system as a result of the LLE, a smaller loan for a given level of earnings will reduce the RAB charge (increase the repayment proportion).
[80] ukia_20160194_en.pdf (legislation.gov.uk). See annex.

of loan facilitated by the introduction of the LLE (for example, a loan to undertake previously unavailable standalone modular courses).

General familiarisation

185. In 2015, HMRC estimated that general familiarisation would be required for 1.40 million businesses in the first year. This compares with 2.45 million VAT and/or PAYE businesses in the UK in the same year.[81] Assuming the same proportion[82] using 2020 data, general familiarisation would be required for 1.57 million businesses. VAT and/or PAYE businesses have grown in number at 1% on average over the previous three years – assuming this continues until 2025/26, when the LLE is expected to be introduced, 1.65 million businesses will be required to undertake general familiarisation. From 2025/26 onwards, this figure is estimated to be an additional 30k per year – equal to the number of new businesses entering the market (at 1% growth).

186. Assuming that general familiarisation will be undertaken by a manager, director or senior official[83], the cost will be £3.86m[84] in the first year of the policy and £70k[85] in each subsequent year.

Detailed familiarisation

187. It is assumed that 15 minutes of detailed familiarisation will be required by all businesses employing at least one individual paying back a new loan facilitated by the introduction of the LLE. However, unlike for general familiarisation, this will depend significantly on the number of individuals that take out new loans not currently available as part of the student finance system, which is currently unknown.

188. Assuming that detailed familiarisation will be undertaken by a manager, director or senior official, the estimated cost will be £7.00[86] per required employer. The below table illustrates the potential total cost of detailed familiarisation depending on the number of employers affected per year, where it has been

[81] UK business; activity, size and location - Office for National Statistics (ons.gov.uk)
[82] Calculation: 1.40 / 2.45 = 0.57
[83] The total labour cost of a manager, director or senior official in 2025/26 is £28.01 per hour. This uplifts the average gross hourly wage of a manager, director or senior official in (£23.00) by the ratio of non-wage to wage labour costs in the private sector (0.165) and adjusts for inflation using the GDP deflator. See:
EARN06: Gross weekly earnings by occupation - Office for National Statistics (ons.gov.uk)
Index of Labour Costs per Hour, non-seasonally adjusted - Office for National Statistics (ons.gov.uk)
[84] Equal to 1.65m businesses multiplied by 5 minutes at £28.01 per hour.
[85] Equal to 30k businesses multiplied by 5 minutes at £28.01 per hour.
[86] Equal to 15 minutes at £28.01 per hour.

assumed that the LLE will result in an increase in the number of initial entrants to higher education per year.[87]

Assumed increase in initial entrants to HE as a result of the LLE[88]	Number of businesses dealing with new loans for the first time each year	Cost per hour (£)	Required time per employer (hours)	Total cost (£)
1%	4,000	28.01	0.25	27,000
5%	19,000	28.01	0.25	134,000
10%	38,000	28.01	0.25	268,000

Table 8: Potential cost to business of detailed familiarisation

Ongoing costs

189. It is assumed that employers will be required to undertake six ongoing tasks per new employee making loan repayments as a result of this policy. These tasks are assumed to be the same as those required for the current student finance system, and include: determining whether a new employee needs to repay a loan; recording details in payroll software; deducting payments from salary; reporting deductions to HMRC; acting on a stop notice; and end of year requirements including reporting payments on P60 and making final adjustments on FPS. The assumed frequency and time associated with each task is outlined the below table:

[87] This also assumes that each new learner will obtain employment with a different employer. Where some businesses may employ multiple additional learners, this will overestimate the cost of detailed familiarisation.
[88] There were 382,740 initial entrants to HE (aged 60 and under) in 2018/19. This assumes each new entrant will take out a loan, which is likely to overestimate the cost of detailed familiarisation. See: [Participation measures in higher education, Academic Year 2018/19 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)]

Task	Frequency (per year)	Time (minutes)
Determining whether new employee needs to repay a loan	1	0.5
Recording details in payroll software	1	2
Deducting payments from salary	12	1
Reporting deduction to HMRC	1	2
Acting on a stop notice	1	2
End of year requirements: reporting payments on P60 and making final adjustments to FPS	1	3
Total		**21.5**

Table 9: Assumed tasks required per new employee

190. It is estimated that across the identified tasks an employer will need to spend 21.5 minutes per new employee required to make repayments per year. This is relatively low due to the large majority of businesses already being familiar with the current student finance and loan repayment systems and the associated tasks. It is assumed that these tasks will be undertaken by a wages clerk at cost of £15.46 per hour[89], representing an overall ongoing cost of £5.54 per required employee per year.[90] However, as with detailed familiarisation costs, ongoing costs will depend on the number of individuals that take out new loans as a result of the LLE.

[89] This uplifts the average gross hourly wage of an administrative an secretarial role in 2020/21 (£12.70) by the ratio of non-wage to wage labour costs in the private sector (0.165) and adjusts for inflation using the GDP deflator. See:
EARN06: Gross weekly earnings by occupation - Office for National Statistics (ons.gov.uk)
Index of Labour Costs per Hour, non-seasonally adjusted - Office for National Statistics (ons.gov.uk)

[90] This multiples the cost per hour by 35.8% (the proportion represented by 21.5 minutes).

191. The below table illustrates the potential ongoing cost per year depending on the take-up of new loans:

Number of new learners per year as a result of the LLE[91]	Cost per hour (£)	Required time per employer (hours)	Total cost (£)
4,000	15.46	0.36	21,000
19,000	15.46	0.36	106,000
38,000	15.46	0.36	212,000

Table 10: Potential per-year ongoing costs

Total direct cost to business

192. In the central scenario where the number of new learners increases by 19,000 (5%) per year as a result of the LLE, it is estimated that the total annual direct cost to business will be £4.10m in the first year and £0.31 in each year thereafter.

Cost type	Annual cost in first year	Annual cost in year two onwards
One-off (a+b)	£3.99m	£0.20m
a. General familiarisation	£3.86m	£0.07m
b. Detailed familiarisation	£0.13m	£0.13m
Ongoing	£0.11m	£0.11m
Total	**£4.10m**	**£0.31m**

Table 11: Total direct cost to business

[91] Consistent with the assumptions for detailed familiarisation, these figures represent a 1%, 5% and 10% increase in the number of initial entrants to HE per year as a result of the LLE.

193. However, it should be noted that this is an illustrative example and not a robust estimate given the uncertainty around how the LLE will affect the number of new learners each year. We intend to update this as the policy develops and more is known about the desired aims of the programme.

Sensitivity analysis

Sensitivity around the number of businesses affected

194. The above analysis assumes a central scenario of 19,000 new learners per year as a result of the LLE. The following table shows how the total cost to business varies by take-up:

Number of new learners per year as a result of the LLE	Annual cost in first year	Annual cost in year two onwards
4,000 (a 1% increase in initial entrants)	£3.90m	£0.12m
19,000 (a 5% increase in initial entrants)	£4.10m	£0.31m
38,000 (a 10% increase in initial entrants)	£4.34m	£0.55m

Table 12: Sensitivity analysis around the effect of the assumed number of new learners on the estimated annual cost to business

Sensitivity around the number of businesses required to undertake general familiarisation

195. The above analysis assumes a central estimate of 1.65m businesses required to undertake general familiarisation in the first year and 30k in year two onwards as a result of the LLE. The following table shows how the total cost to business varies by in the event that these figures are higher or lower than estimated:

Businesses required to undertake general familiarisation (first year)	Businesses required to undertake general familiarisation (year two onwards)	Annual cost in first year	Annual cost in year two onwards
1.49m (10% lower)	0.03m (10% lower)	£3.71m	£0.30m
1.65m (central estimate)	0.03m (central estimate)	£4.10m	£0.31m
1.82m (10% higher)	0.03m (10% higher)	£4.48m	£0.32m
1.98m (20% higher)	0.04m (20% higher)	£4.87m	£0.32m

Table 13: Sesitivity analysis around the effect of the assumed number of businesses required to undertake general familiarisation on the estimated annual cost to business

196. In the event that general familiarisation is required for 20% more businesses than has been estimated, the total cost to employers would increase by around £0.77m in the first year and around £0.02m in each thereafter.

NPV overview

Cost of Option (2019 prices, 2020 present value)			
Total Net Present Social Value -5.1	**Business Net Present Value** -5.1	**Net direct cost to business per year** 0.6	**BIT Score** 2.9
Appraisal Period (Years)	10		

197. The following NPV outputs are presented in 2019 prices and 2020 present value for consistency across the IA.

		Net Benefit (Present Value (PV)) (£m)			
Low:	-10.0	High:	-3.4	Best Estimate	-5.1

Costs	Total Transition (constant price)	years	Average Annual (excl. Transition, constant price)	Total Cost (present value)
Low	0.0		0.4	3.4
High	0.0		1.5	10.0
Best Estimate	0.0		0.5	5.1

Benefits	Total Transition (constant price)	years	Average Annual (excl. Transition, constant price)	Total Benefit (present value)
Low	0.0		0.0	0.0
High	0.0		0.0	0.0
Best Estimate	0.0		0.0	0.0

Direct impact on business (Equivalent Annual) £m:					
Costs:	0.6	Benefits:	0.0	Net:	0.6

Table 14: A summary of the estimated monetised costs associated with the introduction of the LLE

Impact on small and micro businesses

198. The introduction of the LLE will have impacts across HE and FE providers. Whilst it is possible that any reduction in fee income or administrative costs associated with the policy could have a disproportionate effect on small and micro providers, these represent a relatively small proportion of the HE sector as a whole.

199. In 2019/20, of the 165 English providers for which HESA data[92] was available:

a. 110 (67%) were large (250 or more employees);

b. 32 (19%) were medium (50 or more employees); and

c. 23 (14%) were small (fewer than 50 employees).

200. A much larger number of FE providers (530 in total[93]) have fewer than 50 employees and are therefore considered small businesses. However, less than 7% of HE enrolments in 19/20 were in FE providers[94], with these usually offering a mix of FE and HE provision. It is also not expected that the introduction of an LLE would expand the types of level 4 and 5 courses eligible for fee loan funding beyond those currently available. We therefore expect the policy to have minimal impact on small FE providers.

Equalities and wider impacts

201. This change to primary legislation will have no direct impact on students or providers, however it is expected that the wider LLE programme will primarily appeal to: individuals looking to retrain (a cohort likely to be similar to those that currently study part-time); individuals most likely to study low-returning undergraduate degrees; and individuals most likely to stop education because of poor options available beyond level 3.

Individuals looking to retrain

202. Part-time students in higher education are around three times more likely than full-time students to be aged 30 and over[95]. We expect this policy to have a positive impact on this cohort through increasing the options available for flexible study.

203. Across other protected groups, the differences between full-time and part-time students are small. We therefore expect there to be no equalities impacts.

[92] Source: https://www.hesa.ac.uk/data-and-analysis/staff/table-1
[93] See 'small and micro business assessment' section in the main body of the assessment.
[94] Who's studying in HE? | HESA
[95] 59% of part-time students are aged 30 and over compared with 20% of full-time students (UK domiciled HE student enrolments in 2019/20). Who's studying in HE? | HESA

Individuals likely to study low-returning undergraduate degrees

204. Research by the IFS on behalf of the Department for Education has explored the earnings returns to undergraduate degrees. It finds that around 20% of students do not benefit financially from higher education over their lifetimes[96]. For these individuals, the LLE – and the more modular approach to studying that it encourages – could offer an important option for improving outcomes in the labour market.

205. Returns are likely to be lower for women than men, so we would expect this policy to have a positive impact on this group. However, the impact is likely to be minimal across other protected groups, with those from lower socio-economic backgrounds and non-white students more likely to study higher-returning subjects.[97]

Individuals most likely to stop education at level 3

206. Over half (53%) of those who reached the end of 16 to 18 study in 2017/18 did not continue in education[98], with one possible reason for this being a lack of flexible post-18 study options. The LLE could positively impact these individuals if it encourages continuation in education by offering an alternative to currently available post-18 routes.

207. Across groups, the positive impact is likely to be largest for disadvantaged students who are 9 percentage points less likely than non-disadvantaged students to have a sustained education destination after 16 to 18 study.

Monitoring and Evaluation

208. The DfE is committed to evidence-based policy making and will evaluate and monitor the impact of these later regulatory reforms against their stated aims and the expectations set out within this Impact Assessment and the future impact assessment specific to those reforms.

209. DfE will work closely with the SLC, monitoring metrics about the kind and rate of uptake for new student finance product/s. DfE will also work closely with sector representatives and regulatory bodies to receive feedback on the shifts in provision. This will be through a combination of:

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[96] The impact of undergraduate degrees on lifetime earnings (publishing.service.gov.uk)
[97] The returns to undergraduate degrees by socio-economic group and ethnicity (publishing.service.gov.uk)
[98] 16-18 destination measures, Academic Year 2018/19 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)

a. Analysing data from the new OfS register and the data collected by the HESA to understand the effect of these reforms in increasing competition and diversity within the sector.

b. Using the student record and UCAS application data to evaluate the impact of the reforms, including the transparency duty placed on providers, to widen participation in HE.

c. Using survey data, in combination with administrative datasets, to understand any changes to learner outcomes and perceptions of value for money.

d. Continuing use of the TEF award to monitor continuation in delivery of quality educational provision.

e. Using of the OfS' annual performance and framework report, aiming to ensure the sector delivers on the needs of students.

f. In line with the Better Regulation Framework, undertaking a post-implementation review.

Measure 2: Statutory underpinning for local skills improvement plans

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

210. The FE sector has a central role to play in delivering the skills and enabling the innovation that England needs.

211. It is a diverse and complex sector including, but not limited to, FE Colleges, Sixth Form Colleges, and Independent Training Providers (ITPs), delivering mainly academic, technical, and vocational provision to both younger learners (16-18s), including through Apprenticeships and the new T Levels, and to adults (mainly people aged 25-49).

212. The analysis of the challenges within the FE system are informed by the findings of the Augar Report, Ney Review and 2020 Skills Commission, it points to three main challenges we seek to address – which are:

1) Mismatches between technical skills and meeting labour market and economic need;

213. In some areas, there is mismatch between the technical skills of learners and those required by the labour market,[99] with an overall offer which is below the level needed by local economies.[100]

214. Skills gaps are still a concern for many sectors of the economy and some individual employers. The 2020 Employer Skills Survey suggests that skills shortage vacancies accounted for 22% of all vacancies in the UK, and that 1.27 million staff lacked full proficiency, amounting to 4.4% of the UK workforce.[101] In addition to these skills gaps the survey also reported a steady increase since 2011 of the proportion of the workforce who have underused skills and qualifications.

215. Take-up of higher technical education is low in England, despite evidence that these skills are valued by the labour market. Only 4% of 25-year-olds hold a level 4 or level 5 qualification (HE/FE – higher technical) as their highest level,[102] contributing to skill mismatches in a range of sectors, including IT, construction,

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[99] Ney (2019) - Report of the independent review of college financial oversight
[100] No stone unturned in pursuit of growth (publishing.service.gov.uk)
[101] Skills Commission: England's Skills Puzzle: Piecing together further education, training and employment, 25 February 2020, p.22-23.
[102] DFE (2018); Post 16 Education Pathways

health, and social work.[103] These are the types of skills that need to be delivered in greater numbers.

216. The skills learners gain from FE have a critical role to play in supporting incremental innovation that drives up demand for technical skills, improves how employers make use of the technical skills of their workforce,[104] and increasing the potential for better jobs. FE's potential to support the creation of new businesses and stimulate innovation, particularly as the country emerges from the Coronavirus pandemic, remains clear and local skills improvement plans as part of Skills Accelerator intend to bring out the key changes needed in the technical skills landscape.

2) It is difficult to engage effectively with employers;

217. The 2020 Skills Commission Inquiry highlighted that although generally employers felt positive about the direction towards greater employer involvement, employers still struggle to engage with the complex landscape of FE and skills.[105] This difficulty is apparent for Small and Medium-sized Enterprises (SMEs) who, in the absence of formal channels, had little collective influence over provision.[106] A lack of local levers to tailor skills provision to local market need was described as a 'one-size-fits-all model', ill-suited to the diversity of England's regional economies and communities.

218. Discussions with the British Chambers of Commerce, Federation of Small Business, and Confederation of British Industry similarly point to the difficulty that SMEs in particular face in accessing support from colleges.[107] As local skills improvement plans will articulate the needs of local employers, the plans will provide a unique opportunity to use their experience and expertise to make strategic links between providers and employers.

3) The need for stronger collaboration between providers;

219. Skills are central to driving up productivity and social mobility, delivering benefits to individuals, employers, government and wider society. Individuals benefit through wage increases and by increasing their likelihood of remaining in

[103] Employer Skills Survey 2019 - The survey suggested there were 214,000 vacancies which employers were unable to fill because they could not find people with the right skills. There is a particularly high density of these skills-shortage vacancies in Construction and Manufacturing (where 36% of vacancies could not be filled in 2019), and Skilled Trades (48%)
[104] No stone unturned in pursuit of growth (publishing.service.gov.uk)
[105] Skills Commission: England's Skills Puzzle: Piecing together further education, training and employment, 25 February 2020, p.9
[106] *Ibid.*
[107] Interviews conducted in July 2020

employment. Employers benefit from better-skilled employees that enhance their productivity and allow them to be more profitable.[108]

220. Technical skills 'cold spots' mean that some people with the ability and desire to undertake technical learning find it difficult to do so. In the North of England, East of England and Cornwall under 20% of learners have access to an FE college within 10km.[109] There is evidence of significant variation in value-added returns by institution.[110] [111] Costs of level 4 and 5 provision also show large variation in spend per learner depending on whether the course is under or over capacity.[112]

221. This landscape partly forms recommendation 4.7 in the Augar Review of Post-18 Education and Funding.[113] It outlines the need for government to develop procedures to ensure that (as part of a collaborative network) there is an efficient distribution of level 3, 4 and 5 provision within reasonable travel-to-learn areas, to enable strategic investment and avoid counterproductive competition between providers.[114]

What are the policy objectives and the intended effects?

222. The key policy objectives of local skills improvement plans, as part of the Skills Accelerator, are to:

a. Enable employers to clearly articulate the priority strategic changes they think are required to technical skills provision in a local area to make it more responsive to the skills needs.

b. Enable a process whereby FE providers respond better collectively to the labour market skills needs in their area.

223. The government's policy objective is to give localities greater freedom to reshape skills provision so that it better meets the needs of employers to drive growth in the local economy. This will ensure that people are able to get good jobs and make progress in their careers.

224. The combination of powers and duties within the Bill measures will provide the infrastructure and act as a strong signal to the sector that employers have a stronger voice in shaping skills provision, adding weight to local skills improvement plans as part of the Skills Accelerator (intention A and B and the primary

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[108] BIS (2016); Understanding the Further Education Market in England, p. 91
[109] *Ibid.*
[110] CVER (2019); The Value Added of FE Colleges in England and Returns to Subject Areas
[111] DfE (2017); Identifying Variation in Learner Outcomes by FE Provider
[112] DfE (2017); The costs of providing levels 4 and 5 in further education
[113] Augar, Philip et al. (2019); Independent panel report to the Review of Post-18 Education and Funding
[114] *Ibid.*, p. 136

government objective), and looking to ensure providers support, take account and respond to these plans - influencing behaviour and holding parties to account. Co-development of local skills improvement plans ensures traction with local stakeholders, a more collaborative process that provides a greater understanding of and reflects an accurate picture of the local skills landscape that delivers relevant changes in provision.

225. To frame this policy intent in legislation, the Bill measure focuses on:

a. giving the Secretary of State the ability to designate employer-representative bodies (ERBs) to develop local skills improvement plans, ensuring ERBs have regard to written guidance and providing them with the necessary influence to develop local skills improvement plans; and

b. requiring providers to co-operate with the ERB in developing the local skills improvement plan and have due regard to this when considering their technical education and training offer.

What policy options have been considered, including any alternatives to regulation?

Regulation via Skills and Post-16 Education Bill (chosen option):

226. The mixture of powers (for the Secretary of State) and duties (on FE providers) will provide a comprehensive framework to statutorily underpin local skills improvement plans as part of the Skills Accelerator in legislation.

227. The Bill measures focus on giving Skill Accelerators a statutory underpinning by:

a. granting powers to the Secretary of State to designate ERBs to lead the development of local skills improvement plans in a specified local area in accordance with statutory guidance;

b. placing a duty on providers to co-operate with designated ERBs to develop local skills improvement plans; and

c. requiring providers to have regard to the local skills improvement plans when considering their training and education offer.

‘Light’ regulation via Skills and Post-16 Education Bill:

228. A lighter regulation option would be to introduce powers in primary legislation for the Secretary of State to solely designate ERBs to develop local skills improvement plans for a local area via a Notice. In practice, this would involve publishing the designation of a ERB on the .Gov website. This would be

supplemented with non-statutory guidance providing the framework for the expected focus/development of local skills improvement plans.

229. However, this option would have made it less likely to adequately address local mismatches (where they exist) between skills demand and supply as the sole legislative focus would be on ERBs rather than to encourage collaboration between ERBs and providers. This power has been included within the preferred option, but it has been supplemented by other duties to ensure that additional legislative signals are given to the Skills Accelerator to secure better overall outcomes for learners, providers and local employers.

Do nothing option:

230. This option would have meant that a national 'roll-out' of the Skills Accelerator beyond the Trailblazers would not be underpinned in the Skills and Post-16 Education Bill. This option is likely to have undermined the FE sector's confidence in the Skills Accelerator – legislating local skills improvement plans provides the infrastructure and sends a strong signal that these plans will exist after the pilot Trailblazers.

Evidence base underpinning the proposals

231. The evidence base for the proposed Bill measures is primarily built on qualitative sources stemming from a combination of:

a. clear problem diagnosis and logic chain between spend and outcomes (e.g., evidence that the sector is failing to deliver the skills local employers need); and

b. international evidence.

232. Where the evidence for regulation is less developed, findings from the 2021 Skills Accelerator Trailblazers will be utilised to bolster the rationale to specifically regulate using the Skills and Post-16 Education Bill.

233. Noting international evidence, analysis has focussed on countries with strong employer-led skills systems, such as Germany and the Netherlands. In both countries, a national network of Chambers of Commerce represents employers and works closely with further education providers to co-design and co-deliver curricula.

Case study: German Chambers of Commerce

Chambers of Commerce are central to Germany's dual system of apprenticeship training, acting as a "one-stop-shop" for employer engagement. Each of the 132 chambers has specialist advisers who verify the capacity of companies and ability of trainers to train, alongside advising apprentices. They also register training contracts between the apprentice and employer, supervise workplace training, assess trainers, and conduct intermediate and final course examination. Across the country, around 300,000 skilled workers train apprentices and 180,000 volunteer to test apprentices' practical skills.

The effectiveness of this is clear. Employers recoup 69% of their total cost of training through apprentices' practical contribution to firms (2017/18), and opinion polls consistently show 70% of companies are satisfied with the Chambers.[115]

While we are not proposing to make membership of Chambers of Commerce compulsory, as it is in the German system, this remains a good example of how employer engagement can drive training.

Case Study: Republic of Ireland's Regional Skills Fora

Improving channels and opportunities for employers to have their say and actively contribute to local skills development is a key feature of Ireland's National Skills Strategy 2025.[116] The Regional Skills fora, set up in 2016, are helping to foster stronger links between employers and to strengthen further and higher education and training provision as part of regional responses.

The Skills Fora provide a number of key benefits to local employers and act as a single point of contact with the skills system. They generate more robust labour market information and analysis of employer needs to inform training and provide a ready structure for employers to become more involved in the skills system in promoting employment roles and opportunities for career progression in their sectors.

When the West Region Skills Forum identified that there was a skills gap and lack of progression routes in cyber security in Galway and Mayo, they worked with local employers and international IT company Hewlett Packard Enterprise to address the problem. They completed a mapping exercise to spot gaps in the skills system and worked to deliver new courses by local education providers.

234. The below list demonstrates the primary qualitative sources that have provided evidence, with specific evidence about employer engagement in England's skills systems drawing from the Skills Commission Report, Ney Review and Industrial Strategy Council Report. See below:

a. Competition issues in the FE sector; BIS (2013)

b. Understanding the Further Education Market in England; BIS (2016)

[115] The 69% is the cost of the apprentice wages in training and sundry costs versus their productive contribution to the firm, the monetary value of their work https://www.bibb.de/veroeffentlichungen/de/publication/show/16551
[116] https://www.education.ie/en/Publications/Policy-Reports/pub_national_skills_strategy_2025.pdf

c. The costs of providing levels 4 and 5 in further education; DfE (2017)

d. College Staff Survey; DfE (2018)

e. Post 16 Education Pathways; DfE (2018)

f. Higher technical education: the current system and the case for change; DfE (2019)

g. Independent panel report to the Review of Post-18 Education and Funding; Augar (2019)

h. Review of the level 4-5 qualification and provider market; DfE (2019)

i. UK skills mismatch in 2030; Industrial Strategy Council (2019)

j. Skills Commission: England's Skills Puzzle: Piecing together further education, training and employment (2020).

Key risks and assumptions

Risks

235. We have considered several identifiable risks which are outlined below:

a. **COVID-19** - The socio-economic impacts of COVID-19 brings risks with the difficulty to predict what post-COVID delivery will need to look like in the England FE skills system. However, it is reasonable to assume that skills shortages will continue to exist in the same broad sector areas, even though overall volumes may be less predictable depending on factors such as the speed of economic recovery and geographical recovery. For that reason, this has been identified as an acceptable risk.

b. **Non-compliance** - As FE Providers are private institutions, the duties on providers to have due regard to local skills improvement plans when considering their technical education offer and to co-operate with ERBs will use existing powers to ensure compliance. The principal routes for dealing with non-compliance will be through funding, accountability, and intervention levers; putting local skills improvement plans in legislation will make this easier to do.

c. **Geography** - There is currently no set definition of a functional economic area in legislation. So, when ERBs are designated to develop a local skills improvement plan, the local area will be specified in the designation.

Assumptions

236. **Future Funding and Accountability Consultation** – The forthcoming consultation on FE funding and accountability, which was trailed in the Skills for

Jobs White Paper, will include proposals for new accountability structures to underpin the delivery of local skills improvement plans. This consultation will be relevant when reading across into non-compliance measures and looking at additional evidence.

Summary and preferred option with description of implementation plan

237. The below provides a breakdown of the preferred option to regulate and the benefits of doing so, followed with a broad timeline of regulation implementation.

Statutory Powers for Secretary of State for Education

238. The intention is to give the Secretary of State statutory powers within primary legislation to:

a. Designate ERBs to produce local skills improvement plans in specified local areas (specified when designation occurs);

b. Issue statutory guidance to ERBs and providers that they would need to have due regard to in developing local skills improvement plans; and

c. Add additional providers to the current core group upon whom duties will be placed through regulations.

239. These powers would:

a. Give the Secretary of State the ability to designate ERBs, based upon a set criteria (outlined in the Bill) linked to being capable of acting in an effective and impartial manner, being reasonably representative of employers operating in the specified area as well as consenting to be designated. Making clear that local skills improvement plans are to be developed in accordance with statutory guidance;[117]

b. Help the Secretary of State to consider local skills improvement plans as a factor if/as required when exercising their duties (i.e., in making funding and intervention decisions); and

c. Not second guess the findings from the Trailblazers in terms of which ERBs are best placed to lead the development of local skills improvement plans in different parts of the country.

[117] As FE colleges and other providers will be involved in supporting ERBs to develop local skills improvement plans, we will need to make sure that the statutory guidance applies to ERBs and Providers.

240. The Secretary of State will designate an ERB through a Notice - like the designation structure in the Higher Education Research Act 2017 (HERA). So, this will be a publication on the Gov.uk website, that sets out which ERBs have responsibility for developing a local skills improvement plans in a defined area, which could be updated periodically.

241. The Secretary of State will also be able to remove a designation for non-compliance or if an organisation no longer meets the criteria, meaning that the entity would no longer be responsible for developing a local skills improvement plan.

Statutory Duty on FE Providers

242. The Bill will also include a duty on providers to develop the relevant local skills improvement plan in co-operation with the designated ERB and to have due regard to local skills improvement plans when considering their technical education offer.

243. When referring to providers, there are a ‘core group’ of providers with the potential to subsequently add additional providers via regulations (secondary legislation). The core group are:

a. Statutory FE providers – FE Colleges, Sixth Form Colleges, Designated Institutions (FE institutions designated under section 28 of the Further and Higher Education Act 1992);

b. Independent Training Providers (ITPs); and

c. Higher Education Institutions (specifically level 4/5 technical FE provision).

244. The Bill makes it clear to providers that employers will have a stronger voice in shaping skills provision and that providers will be held to account for responding to the local skills improvement plans. It will also ensure that providers will work with an ERB in developing a local skills improvement plan.

245. In terms of dealing with ‘non-compliance’, the principal routes will be through existing funding, accountability, and intervention levers; putting local skills improvement plans onto a statutory footing will make this easier to do. As local skills improvement plans become more embedded, we would want to go further than this. The forthcoming funding and accountability consultation gives us the opportunity to work out how best to do this within the context of the broader reforms proposed.

Timelines for Legislation

246. The government intends for the measures to enter into force after Royal Assent. This will occur after the Skills Accelerator Trailblazers, following a period of evaluation.

Costs and benefits

Regulation via Skills and Post-16 Education Bill (chosen option):

247. We expect the preferred option to have the following impacts. Those in italics are ‘direct’ i.e. an immediate consequence of the legislation.

Stakeholder	Costs	Benefits
ERBs	• Familiarisation time (i.e. learning about their new role). • Production of local skills improvement plans: ○ Staff time. Non-labour costs e.g., commissioning new research, requiring access to existing research.	**1.** Short-term: ERBs can capably articulate skills needs of an area. Long-term: Employers (specifically their members) get the skills pipeline of learners they need to drive productivity. **2.** Short-term: ERBs are publicly designated to produce local skills improvement plans, increasing the opportunity of collating the views of local employers who are not currently engaged in skills systems. Long-term: Enhanced prestige amongst similar organisations and with employers.

Providers	• Familiarisation time (i.e., learning about their new regulatory duties).
	
	• Production of local skills improvement plans:
	  ○ Staff time.
	
	• Reviewing provision in line with local skills improvement plans
	  ○ Staff time.
	Any other costs associated with adapting provision (e.g., repurposing buildings, investing in equipment, recruiting new staff).
		1.
		Short-term: Providers continue to strengthen and expand relationships with employers through ERBs whilst developing local skills improvement plans.
		Long-term: Increased awareness of developing local skills needs within a local area.

Local stakeholders (e.g., Mayoral Combined Authorities (MCAs))	• Production of local skills improvement plans (voluntary) ○ Staff time.	**1.** Short-term: Provide local stakeholders (e.g. Local Authority/MCAs) skills perspectives during local skills improvement plan development. Long-term: More accurate picture of local skills needs in a local area; enhanced collaboration between providers, ERBs and local stakeholders.
Employers	In-direct involvement – ERBs will articulate their needs proportionally.	**1.** Short-term: Skills supply better meets employer needs. Long-term: Improved labour, productivity, and economic outcomes.
Learners	Non applicable.	**1.** Short-term: Provision better aligns with local employment opportunities; potentially providing increased technical provision choice for learners. Long-term: Potential improved employment outcomes.

Table 15: Description of expected costs and benefits associated with measure 2 by stakeholder group

'Light' regulation via Skills and Post-16 Education Bill:

248. One option is to introduce powers for Secretary of State, without any supplementary duties. However, this option does not adequately address the three main challenges we seek to overcome.

249. With regards to the above table, this option would have partially removed the benefits and costs to providers as the duties on providers would not be applied. However, in practice, ERBs that were designated to develop a local skills improvement plan would still likely engage with local providers, requiring any costs but also providing the same benefits.

Do nothing option:

250. This option would mean that, in the specific case of legislation, there are no monetised costs and benefits as a result of measures in the Skills and Post-16 Education Bill.

Approach to quantitative impact assessment

What we can and cannot quantify

251. We provide quantitative estimates for the economic costs created by the local skills improvement plan Bill measures. Specifically, we estimate:

a. The 'familiarisation' cost of time spent reviewing the regulations and accompanying guidance;

b. The cost of producing local skills improvement plans – to ERBs, providers, and local stakeholders (such as Local Authorities/MCAs);

c. The cost to providers of reviewing provision with due regard to the local skills improvement plans.

252. We are unable to quantify the benefits generated by improving the alignment between skills supply and employer demand. As set out in the overarching impact assessment, we expect these benefits to be considerable given: (i) the value generated by the FE system currently; (ii) the significant defects to the system identified by the rationale for intervention; and (iii) the logic for how the measures can address these defects – illustrating considerable scope for this value to increase further.

253. As set out in the overarching impact assessment, we have considerable evidence regarding the value to individuals, employers, and society from FE training. However, we do not yet have a basis for linking the Skills Accelerator policy to specific estimates of increased participation in training or shifts in take-up between subject areas. We expect this to occur, but we cannot estimate by how much or in what subject areas – especially given the dependence on local economic contexts.

Methodology

254. Our calculations follow the following simple formulae:

Cost	Calculation
Familiarisation cost	Cost to providers = hours spent familiarising x hourly labour cost x number of providers Cost to local stakeholders = hours spent familiarising x hourly labour cost x number of Local Authorities
Cost to produce local skills improvement plans	Cost to ERBs = number of local skills improvement plans x Unit cost Cost to providers = hours spent contributing to local skills improvement plans x hourly labour cost x number of providers Cost to local stakeholders = hours spent contributing to local skills improvement plans x hourly labour cost x number of Local Authorities
Cost of “due regard” duty	Cost to providers = hours spent reviewing x hourly labour cost x number of providers x displacement factor[118]

Table 16: Summary of methodology used for calculating estimated costs for measure 2

255. The full range of inputs and assumptions used for these calculations is presented in the following table.

256. We have reasonable data to underpin the labour cost per hour assumptions. We use a rough estimate of funding for Local Enterprise Partnerships and Skills Advisory Panels as the starting point for our estimated cost to ERBs of producing local skills improvement plans. Likewise, we use an indication of the time spent contributing to SAPs as the basis for estimating the time commitment for providers and local stakeholders in contributing to the production of local skills improvement plans. These are the most reasonable comparators available.

257. Ultimately, however, we have to make a judgement of the likely level of activity required to produce local skills improvement plans and comply with the duty.

[118] Many providers already review provision in line with local employer needs. Reviewing local skills improvement plans will displace some of this activity. Therefore, it is important to exclude this displaced activity from the cost calculations to arrive at the additional cost to providers.

This is inherently uncertain because of the substantial scope for ERBs, providers and local stakeholders to all take different approaches in different areas.

258. In many areas, the assumptions made reflect modelling assumptions rather than policy commitments.

Assumption	Values Central	Low	High	Explanation
(a) Number of local skills improvement plans	38			**Basis**: Number of Local Enterprise Partnerships in England. Geography of local skills improvement plans yet to be determined but current LEP geography is a reasonable assumption for modelling purposes only
(b) How often does an area need to produce a local skills improvement plan?	Every 3 years			As set out in the Skills for Jobs White Paper
(c) Number of providers in scope of duty to (i) be involved in production of local skills improvement plan and (ii) have due regard to the local skills improvement plan	1664			**Source:** Individualised Learner Record 2019/20 **Basis:** Number of providers delivering publicly funded FE & Skills with at least one active learner in 2019/20. FECs (171); ITPs (1295); Higher Education Institutions: (98); Schools: (21); Sixth Form Colleges (53); Special Colleges (26)
(d) Labour cost - providers - input into development of local skills improvement plans	£37,800 p.a. for 1 Full Time Equivalent			**Source:** ESFA College Accounts 2019/20. Average labour costs per 1 FTE in a statutory FE college.

(e) Labour cost - providers - Familiarisation time & Complying with review duty	£102,000 p.a. for 1 Full Time Equivalent			**Source:** ESFA College Accounts 2019/20. Average Senior Management labour costs per 1 FTE in a statutory FE college. This is appropriate for reviewing provision in line with duty given strategic decision-maker required for this exercise. Likewise reviewing legislation and determining its implications for the provider. We assume input into local skills improvement plans (assumption d) would be someone of mid-level seniority, in contrast.

(f) Labour cost - Local stakeholders	£22 per hour			**<u>Source:</u>** ONS Annual Survey of Hours and Earnings 2019 Table 14.5a Median Hourly Pay (Gross). Figure based on most relevant occupations. Benchmarks: (i) SOC 242 £21.90 (Business, Research and Administrative Professionals); (ii) SOC 2 £21.11 (Professional Occupations); (iii) SOC1 £21.11 (Managers, directors, and senior officials). Note that ASHE 2019 is used to avoid distorting effects of COVID-19.

(g) Cost of producing a local skills improvement plan - to Employer Representative Body (labour and non-labour costs e.g. commissioning research)	£200,000	£100,000	£500,000	**Benchmark**: We have two comparators we can use to base a unit cost estimate. Firstly, Local Enterprise Partnerships (LEPs), whose remit and interest includes skills, receive a £500,000p.a. grant from MHCLG to fund their operations on the condition of leveraging at least £250,000 of funding from the LEP Partners (i.e. total funding of at least £750,000). Secondly, Skills Advisory Panels (SAPs), which are sub boards within LEPs, receive a £75,000 grant to fund their activities. **Rationale:** We expect the production of local skills improvement plans to cost notably less than the operational costs incurred by LEPs given the significantly broader scope of LEP activities. Noting that local skills improvement plans do not replicate SAPs or directly replace them, SAPs are arguably a better comparator given their narrower focus (compared to a LEP as a whole).

				However, the £75,000 grant understates the 'true' cost of SAPs as SAPs draw heavily on the wider activity and support of LEPs of which they are a part of. Our central, low, and high assumptions are judgements that reflect reasonable unit costs of local skills improvement plans given these benchmarks.

(h) Time providers will spend engaging in developing local skills improvement plans	90 hours	10 hours	120 hours	**Central:** qualitative insight from Skills Advisory Panels. This is an indicative estimate of the time commitment per annum provided by the Skills Advisory Panels Programme team within the Department for Education. How local skills improvement plans are produced is to be determined and will depend on the choices of the lead ERB, but they are likely to involve sessions and workshops with providers that may be analogous to SAP meetings. **Low:** Some Business Representative Bodies might use deliberately light touch model e.g. where providers need only attend one or two workshops with minimal preparatory requirements. 10 hours of work selected to reflect this. **High**: Production of local skills improvement plans could well be more involved than SAPs; +33% to reflect this

(i) Time local stakeholders will spend engaging in developing local skills improvement plans	70 hours		90 hours	Expected to be slightly less time than by lead providers. For modelling purposes, assume roughly 3/4s the time required by providers. Local Authorities are likely to participate in the process to support local skills improvement plans but will require less external preparation time as LAs are often already involved in articulating their priorities for local skills e.g. via LEPs and SAPs. However, we do not present a low scenario similar to providers. The low scenario for providers reflects very limited involvement by providers in the production of local skills improvement plans but we expect MCAs to be more extensively involved.

(j) Time providers will spend having due regard to local skills improvement plans	7 hours	2 hours	40 hours	**Central:** requirement is to have "due regard" - i.e. the provider needs to demonstrate that they have reviewed the local skills improvement plan - plus time to consider current curriculum in light of this. The local skills improvement plan is likely to be a short strategy, so a reasonable modelling assumption is that review will take approximately one day. **High**: upward adjustment to reflect that the local skills improvement plan might be reviewed by multiple people in a provider with follow-up discussions about implication for provision (assume 1 working week + 3h meeting) Low: adjustment down to reflect that the local skills improvement plan may have limited relevance to some providers and a brief review is sufficient to confirm this

(k) Non-wage labour costs multiplication factor	100/82			**<u>Source:</u>** Eurostat Hourly Labour Costs 2019 **<u>Purpose</u>**: gross hourly pay figures from the ASHE - used above - do not include the non-wage costs incurred to employers (i.e. employer NICs and pension contributions). We use this Eurostat data to scale wage costs up to an estimate of total labour costs. This does not arise for college labour costs data as that is explicitly total labour cost, not just pay.

(I) Displacement factor: How much of "due regard" time would providers do anyway? I.e. to reflect reviewing local skills improvement plans displacing activity that would already occur	80%	50%	85%	**Central**: use the proportion of FE providers rated by Ofsted as 'Good' or 'Outstanding' as a proxy for what proportion of providers likely already undertake similar reviews - and for whom reviewing the local skills improvement plan will displace existing activity. As at 31st August 2020, 81% of FE providers rated good or outstanding[119] **High**: use Association of Colleges 2020 Innovation in FE colleges survey - this gives an estimate of the proportion of colleges engaging with local chambers, local authorities and MCAs, and/or LEPs on local business growth and innovation. **Low**: judgement to reflect uncertainty regarding displacement and that while we expect most providers to already carry out some review, this duty might require them to invest more time in carrying out the review.

Table 17: Inputs and assumptions used for calculating estimated costs for measure 2

Counterfactual

259. Setting a clear counterfactual is important for considering the net, 'additional' impacts of a policy. We define the counterfactual for the different cost drivers estimated in this assessment.

Costs of producing local skills improvement plans

260. We take the approach of assuming that no adjustments are needed to the gross costs of familiarisation with and production of local skills improvement plans in order to arrive at the additional cost. This is because local skills improvement plans are: (i) a new product, so there is no deadweight activity that already delivers a local skills improvement plan; and (ii) they are designed to complement and supplement the existing local skills analysis and planning activity – so minimal displacement or substitution of existing activity.

Costs to providers of having due regard to local skills improvement plans

261. However, we do need to adjust the gross costs of complying with the duty to have due regard to local skills improvement plans when reviewing provision. This is because we expect this duty to displace some existing activity. We expect that many providers already review how far their technical education offer reflects local employer needs. We do not have a direct measure of how many providers already carry out such reviews. Consequently, as set out above, we use the proportion of colleges with Ofsted ratings of Good or Outstanding as a proxy for general 'good governance' – where alignment with local needs is likely to be considered – as well as survey evidence from the Association of Colleges regarding what proportion of colleges engage with their Local Authorities or other local economic actors to consider how to support business growth – a proxy of how aligned a provider is with local employer needs. In our central estimate counterfactual, providers with a Good or Outstanding Ofsted rating already review provision with respect to local needs while providers who are Inadequate or Require Improvement do not.

Using trailblazers to improve our assessment

262. As set out above, we have considerable uncertainty regarding several key assumptions for our estimate costings.

263. The Skills for Jobs White Paper set out plans to launch local skills improvement plans in Trailblazer local areas. A key aim of the recently launched Skill Accelerator is to test how best local skills improvement plans can be designed and delivered to ensure the plans and the process is robust and

best serves the aims of aligning technical skills provision with local employer needs.

264. Outcomes from the Skills Accelerator will inform future policy development and the wider rollout of local skills improvement plans across England. Similarly, the Skills Accelerator is likely to provide a view of the costs incurred by ERBs, providers and other stakeholders. This will test our current assumptions and provide additional evidence.

Classification of costs for the BIT

265. We view each of the quantified costs as a direct impact of the legislation. We follow the approach set out in the overarching Impact Assessment: we use the split in revenue between public and private sources to divide the cost of FE colleges into that portion that reflects a cost to the private sector business operations of the college (22%) and that portion that reflects a cost to the public sector, public funded operations of the college (78%). The impact on over providers is classified as within scope (i.e. private business).

Cost estimates

266. We present the following outputs of the IA Calculator for the local skills improvement plan measure as a whole. Note that these are – ultimately – estimates of the total cost only and do not capture any of the benefits.

267. Our headline central estimate is that complying with the local skills improvement plan duties may cost between £15m and £85m over a 10-year period. We expect two thirds of this cost to fall on ERBs and one third on FE providers. However, the costs in any particular local area might vary considerably depending on the approach taken by the ERB and the particulars of the local context.

Economic costs

268. The following NPV outputs are presented in 2019 prices and 2020 present value for consistency across the IA.

		Net Benefit (Present Value (PV)) (£m)			
Low:	-86.5	High:	-14.4	Best Estimate	-37.2

Costs	Total Transition (constant price)	years	Average Annual (excl. Transition, constant price)	Total Cost (present value)
Low	0.2		1.7	14.4
High	3.3		9.6	86.5
Best Estimate	0.7		4.2	37.2

Benefits	Total Transition (constant price)	years	Average Annual (excl. Transition, constant price)	Total Benefit (present value)
Low	0.0		0.0	0.0
High	0.0		0.0	0.0
Best Estimate	0.0		0.0	0.0

Direct impact on business (Equivalent Annual) £m:					
Costs:	4.1	Benefits	0.0	Net:	4.1

Table 18: Sensitivity analysis of estimated monetised costs, benefits and net present value of measure

Direct cost and benefits to business

Cost of Option (2019 prices, 2020 present value)			
Total Net Present Social Value	**Business Net Present Value**	**Net direct cost to business per year**	**BIT Score**

-37.2	-35.1	4.1	20.4
Appraisal Period (Years)	10		

Table 19: Estimated monetised costs and benefits to business of measure 2

Impact on small and micro businesses

269. Please refer to the ‘small and micro business assessment’ section in the overarching Impact Assessment for an impact summary of the relevant Bill measures on small and micro businesses.

270. The introduction of local skills improvement plans will create new regulations for ITPs.

271. ITPs are a key part of the FE infrastructure, delivering technical education and skills, including specialist provision to young people and adults. Local skills improvement plans will consider the totality of technical skills provision and ITPs will bring crucial, unique knowledge and experience to help address skills gaps.

272. Inclusion of ITPs will support and encourage greater collaboration and collaborative solutions between them, FE Colleges and Higher Education Institutions. If ITPs are not included, there is potential that we would be unable to maximise the benefits of including a wider set of providers and criticism that ITPs have not been considered as per findings with the Ney Review.

273. The duty to ‘have regard’ to local skills improvement plans does not mean that a provider is required to implement the local skills improvement plan or deliver the skills needs outlined in the local skills improvement plan. Therefore, non-implementation or non-delivery of skills needs would not necessarily amount to failure to comply with the duty, mitigating the burdens on providers including ITPs.

274. Providers will continue to retain autonomy over business decisions as they consider the local skills improvement plan outcomes relevant to their business and technical education offer. Providers that deliver nationally, in more than one, and/or across Skills Accelerator areas like ITPs can consider relevant local skills improvement plans and make decisions as to how best to contribute towards the priorities and needs outlined.

Equalities and wider impacts

Equality Impact Assessment

275. Further development to better align technical FE provision to deliver the skills needed to boost local economies, ultimately allowing it to be more strategically planned and delivered to meet employers' skills needs resulting in better outcomes for learners, as per the Secretary of State's duty under Section 11 of the Education Act 1996.

276. We are legislating to put the employer leadership of local skills improvement plans on a statutory footing, strengthening the voice of employers in local skills systems across the country. We will engage employer and provider groups across the country to ensure that the model of employer representation used in each local area is the most effective in supporting local skills systems.

277. This equality impact assessment focuses on the employer leadership (and the ERBs that convene these) and providers that will be impacted as a result of the Skills and Post-16 Education Bill measures with the likelihood of completing further equality assessments once the regulations have been laid.

Background on ERBs, local skills improvement plans and the plans' interaction with providers and learners:

278. Employer engagement throughout the development of local skills improvement plans will help colleges and other providers to strengthen relationships and partnerships with employers, represented via an ERB. This will help to shape local skills provision, so it provides learners with the best chance of securing meaningful employment, as well as upskilling the existing workforce.

279. FE providers will not be bound to implement recommendations in the local skills improvement plan and therefore will have no bearing on determining how providers will behave in relation to persons with protected characteristics. As a result, it is likely that a greater element of courses/training choice will be available to learners which will allow students more independent choice to decide what will be best for them.

Equalities Summary

Impact on protected characteristics	Will there be a negative impact on people who share protected characteristics identified above?	Justification of conclusion of analysis	Conclusion	Review date of equality conclusion
No – all protected characteristics have been assessed as no direct impact.	A remodelling of skills provision in the FE system in urban areas, which currently have duplicate provision in local areas, could potentially result in more technical skills being offered to students. There could be constraints on over-subscribed courses but this is unlikely as FE providers will still keep popular courses running (as there is still a need for these) but instead increase the course offer to learners more widely.	Our initial conclusion is based upon intended outcomes. The initial pilot Skills Accelerator will enable us to identify if a local skills improvement plans, adopted by an ERB, is having a negative equality impact and seek to address these.	We conclude that there is no impact on protected characteristics as a result of the scope of a local skills improvement plan.	Once the initial Skills Accelerator pilot has concluded.

Table 20: Description of impact on protected characteristics of measure 2

Wider Impacts

Indirect Stakeholders

280. Our overall policy intent with local skills improvement plans as part of the Skills Accelerator generally is to give localities greater freedom to reshape skills provision so that it better meets the needs of employers to drive growth in the local economy. This will ensure that people are able to get good jobs and make progress in their careers.

281. **Learners** – It is intended that learners (or consumers) of technical provision in participatory FE institutions are positively impacted as a result of securing better jobs within their local area. The results of the piloted Skills Accelerator, with a view to longer-term outcomes, will be a source of evidence to test the success of this policy intention.

282. **Mayoral Combined Authorities** - MCAs are important players in local skills systems which is why the Skills for Jobs White Paper makes clear that they will be engaged in the development of local skills improvement plans. This will give MCAs the opportunity to influence the wider post-16 skills system beyond their devolved adult education functions, drawing on their expertise on the local skills system and future skills needs. We are not removing any of the devolved powers, or any other functions, that MCAs currently have, including their responsibility for delivering certain adult education functions.

283. **Employers** – ERBs will engage their membership and reach out beyond their membership to a range of private and public employers in the area, other ERBs, and sector bodies, as well as centres of innovation. Thus, it is intended that the overarching ERB will be the 'first-mover' in engaging other employers, whether they be members or non-members, to take the onus (and potential burdens) away from individual employers. Every employer in a local area will not be required to feed into discussions with the ERB and the ERB can use reasonable direction when seeking to build a transparent, fair representation of employer local skills needs.

284. Placing a duty directly on employers was discounted as this would be burdensome on employers, impractical and costly to implement and monitor compliance.

Monitoring and Evaluation

285. In light of the potential benefits of local skills improvement plans, we are keen to start realising these as soon as possible. In April 2021, we announced the Skills Accelerator where we invited ERBs to express an interest in leading a Trailblazer. Successful applicants will work closely with local providers to co-create the first local skills improvement plans.

286. We will evaluate the Trailblazers to capture learning that will inform future policy development and the wider rollout of local skills improvement plans across the country. This evaluation will aim:

a. To understand how ERBs are implementing employer-led local skills planning and what stakeholders think is working well or less well, for whom and why.

To understand what elements of the policy could be refined, adapted or improved to better achieve its aims before local skills improvement plans are rolled out more widely.

287. Examples of possible research questions, that relate to Bill regulations, include:

a. What are the key enablers for effective employer-led local skills planning? What should future statutory guidance include to ensure consistent good practice?

b. What are the experiences and perceptions of employers, providers, and other local stakeholders on engaging with their ERB, the value of the local skills improvement plans and what impacts they expect it to have locally? Why have others not engaged?

c. How are the ERBs building on existing good practice, resources and expertise available in Skill Accelerator areas? How are ERBs building support from local stakeholders and developing effective partnerships to improve the delivery and impact of local skills improvement plans?

d. How are ERBs engaging local providers to understand key skills gaps and agree and drive action on priorities for change?

Focusing on these elements will enable us to gather insight which will additionally inform the impact on forthcoming regulation.

Measure 3: Duty on colleges and designated institutions in relation to local needs

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

288. Better alignment between FE provision and local needs is a key objective underpinning the reforms set out in the Skills for Jobs White Paper – as set out in the Case for Change section to this impact assessment. The government's objective is to strengthen the way that colleges plan their provision, and to ensure that where there are structural barriers to meeting local needs these are also identified and addressed. In particular, under the current legal framework colleges do not need to consider local learner and employer needs beyond those currently served by their institution.

289. Placing this duty on those in the statutory FE sector will mean that no matter how well a college is currently performing it will from time to time review its current offer against future needs, and consider what actions it could take (including action which might be taken with one or more other educational institutions) that might enable local needs to be met more effectively. The Secretary of State will publish statutory guidance to support governing bodies in complying with the duty.

290. When considering local needs, it is important that governing bodies consider all factors, including those beyond their individual institutions such as: the offer of other providers; demographics; or local employment patterns, and review their provision accordingly. Where that is working well at present, we want it to continue. However, experience of area reviews[120] and FE Commissioner reports[121] demonstrates that for some governing bodies, the equivalent activities have been less effective, leading to an insular or short-term approach, and which have not taken account of the wider interest of learners (not all of whom will attend their institutions) and the needs of employers in an area. Some governing bodies have also been reluctant to address the structural barriers that may exist, which can limit choices for learners and responsiveness to employers.

[120] Area Review reports
[121] FE Commissioner reports

What are the policy objectives of the action or intervention and the intended effects?

291. The government's objective is to strengthen the way that colleges plan their provision, and to ensure that where there are structural barriers to meeting local needs these are also identified and considered. Structural barriers can include: over/under supply – both at subject level and institutional level; the economies of scale required to deliver a broad curriculum; under-utilised facilities; and local rivalries between institutions.

292. The new duty, and the supporting statutory guidance, will ensure that all colleges and designated institutions regularly review their provision in an objective and holistic way, having regard to wider current and future needs of a local area and those of its learners and employers. That will help drive the actions needed to make changes to local provision and structures that may be needed to provide a robust learning offer in all areas that meets current and future needs of learners and employers, including the needs set out in the local skills improvement plan.

293. Governing bodies will be able to take a flexible and proportionate approach to carrying out the reviews, integrated with their core strategic and business planning approaches. The statutory guidance will provide additional guidance on the approach they should take, including who governing bodies should work with in undertaking these reviews.

294. Success will be different in different areas and will vary dependent on the nature of current provision and how it is delivered within an area, and the barriers that may exist at present to responding effectively to local needs.

295. Whilst for some providers local employment will be the destination for a large proportion of their learners, for others the main destination may be HE. Some providers will also have specialist provision focused on regional and national need, alongside more locally-oriented provision. In those cases, local needs will be only one consideration when reviewing provision.

296. Where provision is already aligned to local needs and equipped to meet future needs, there may not be significant change following the review. In other areas the reviews should lead to actions, including addressing some of the structural barriers that may exist at present, enabling greater alignment with local needs. We would expect these reviews to lead to more collaboration between colleges and greater engagement with employers, improving the quality of local provision and resulting in more people entering skilled employment.

What policy options have been considered, including any alternatives to regulation?

297. **Do nothing**: evidence gained from the existing college oversight regime[122] and the associated intervention activities including those by the FE Commissioner demonstrate that doing nothing could result in provision that fails to effectively meet local needs in some areas, due to the absence of effective strategic planning processes, and other structural barriers that providers may face. Experience has also shown that as well as resulting in a poor offer for learners, this can lead to declining learner numbers, and can put at risk the financial sustainability of institutions - leading to an increase in intervention activity by the ESFA and the FE Commissioner. By doing nothing we would not signal to colleges the importance we place on meeting local needs.

298. We have considered **re-running an area review process**. The Area Review process was a time limited one-off programme, with 37 reviews undertaken in five waves, between September 2015 and March 2017, with different areas running them at different times. The Area Review process was voluntary and incentives on colleges to participate were limited, leading to a model that was only partially effective in generating alignment with local needs. The disadvantage with re-running a similar process would be that it would not improve or align with the strategic planning processes within colleges and would be a less proportionate and a less targeted approach.

299. We could request that **the FE Commissioner team undertake Local Provision Reviews.**[123] There would be resource constraints under this model as the FE Commissioner team is not set up to undertake reviews at every college. Resources would be diverted from those colleges with the greatest need for the expert support of the Commissioner's team. Again, the incentives for colleges to participate would be limited and levers could only be applied to those colleges already in intervention. Reviews would need to be undertaken on a rotational basis, which could potentially lead to reviews not happening at the most appropriate time. It would also fail to drive sustainable improvement in colleges own strategic planning processes.

300. Placing a **statutory duty on colleges** to keep their provision under review to best meet local needs will ensure that they are accountable for how

[122] Issued notices to improve

[123] FE Commissioner local provision reviews are a flexible intervention that can make recommendations on the best way of achieving long term sustainable provision in a local area, looking at neighbouring provision to examine structural solutions for securing long term provision.

the reviews are carried out. It also means that those in the statutory FE sector can undertake reviews as and when appropriate and not dependent on wider timetables. These reviews could identify actions leading to structural change at which point the corporation could request FE Commissioner support.

301. Therefore, we consider that placing a duty on governing bodies to undertake reviews, at times appropriate for the local area, specifying who they need to engage with through guidance, is the best way to deliver the desired outcomes.

Rationale and evidence to justify the level of analysis used in the impact assessment (proportionality approach)

302. We provide a quantitative assessment of the burden placed on providers by this duty. The key sources of uncertainty for this appraisal are:

a. How much labour time is required to carry out such a review – uncertain both because we do not have data on how long providers spend on such activities and because of the considerable flexibility available to colleges in determining how to approach the review.

b. How much of this review activity is already undertaken – i.e. ‘deadweight’ with respect to both the proportion of providers that already review how far their provision and structure align with local needs, and also the extent to which such reviews fulfil the new duty.

303. We present a range of estimates based on high, low, and central estimates for these two parameters (see methodology section below). While uncertain, these estimates give a reasonable assessment of the plausible scale of the likely cost burden on colleges.

304. In developing this policy, we have considered the evidence from intervention activity arising from the existing college oversight policy. In cases where the FE Commissioner[124] or the ESFA have intervened to support colleges facing failure (both quality and financial), there is evidence that for some colleges the lack of compulsion to consider wider learner and employer needs beyond their institutional boundaries has been detrimental. This view is broadly supported by the Independent Commission on the College of the

[124] FE Commissioner reports

Future[125], which calls for greater collaboration between colleges and other post-16 providers.

Key risks and assumptions

Risks

305. **Colleges undertake the reviews poorly** – to mitigate this we will provide statutory guidance, utilise existing support arrangements as set out in 'College Oversight: Support and Intervention' guidance, and look at how good practice can be shared across the sector. In cases where there was a serious failure in respect of how the review had been carried out, the Secretary of State would be able to consider intervention under the existing statutory powers.

306. **Colleges fail to work with others when it is appropriate** - to mitigate this we will be providing statutory guidance setting out who colleges should consider engaging with, the guidance will actively encourage joint working as part of reviews. The work that colleges will be doing together in developing local skills improvement plans will also support more collaborative behaviours.

Summary and preferred option with description of implementation plan

307. The preferred option is to place a duty for all governing bodies to keep their provision under review to ensure that they are best placed to meet the needs of the local area.

308. The duty will be given effect by primary legislation.

309. We anticipate that FE providers will require time to become familiar with the associated statutory guidance and this duty will form part of college planning from academic year 2022/23.

310. We will publish statutory guidance in advance of August 2022.

[125] The English college of the future report

Costs and benefits

311. We expect our preferred option to have the following principal impacts:

Stakeholder	Cost	Benefit
FE colleges	Time spent familiarising with the duty and guidance. Time spent reviewing provision and structure against local needs. Cost of changing provision/structure if improvements are identified.	Attractive offer for learners, helping to sustain enrolment numbers and therefore income. Mitigation of structural barriers to provision that meets local needs. Improvement in strategic planning by colleges.
Employers		Improved output and productivity from access to improved local skills supply.
Learners		Improved employment outcomes from training better matched to local employer demand.
Government	Time spent preparing guidance, monitoring and evaluation.	Reduction in intervention activity.

Table 21: Main costs and benefits by stakeholder

Dis`counted options	Cost	Benefit
Do nothing	Provision fails to meet local needs in some areas.	
Re-run Area Reviews	HMG central co-ordination (e.g. establishing areas and setting timetables).	Some improvement in output and productivity for employers able to access to improved local skills supply. Some improvement in employment outcomes for learners benefiting

	College leadership time required to support participation in reviews.	from training matching local employer demand.
FE Commissioner to undertake reviews	The expansion the FE Commissioner team.	Some improvement in output and productivity for employers able to access to improved local skills supply. Some improvement in employment outcomes for learners benefiting from training matching local employer demand.

Table 22: Overview of costs and benefits to discounted options

Approach to quantitative assessment

What we can and cannot quantify

312. We provide quantitative estimates for the direct costs to providers of complying with the duty:

a. Labour cost of time spent familiarising with the duty and guidance.

b. Labour cost of complying with the duty.

313. We do not estimate the quantitative cost of subsequent follow-up reform to a college's provision or structure. This is because the cost is entirely dependent on the nature of the actions identified, changes required, the college's particular circumstances, and the nuances of the local skills system. The cost will likely vary significantly on a case-by-case basis where reform is required.

314. We are unable to quantify the benefits generated by improving the alignment between skills supply and local needs. As set out in the overarching impact assessment, we expect these benefits to be considerable given: (i) the value generated by the FE system currently; (ii) the significant defects to the system identified by the rationale for intervention; and (iii) the logic for how the measures can address these defects – illustrating considerable scope for this value to increase further.

315. As set out in the overarching impact assessment, we have considerable evidence regarding the value to individuals, employers, and society from FE training. However, we do not have a basis for linking this duty to specific estimates of increased participation in training, shifts in take-up between subject areas, or improvements in training quality. We expect this to occur, but we cannot estimate by how much or in what subject areas – especially given the dependence on local economic contexts.

Methodology

316. Our calculations follow the following simple formulae:

Cost	Calculation
Familiarisation cost	Cost to colleges = hours spent familiarising x hourly labour cost x number of colleges
Cost of complying with duty	Cost to colleges = hours spent reviewing x hourly labour cost x number of colleges x deadweight factor[126]

Table 23: Methodology overview

317. The full range of inputs and assumptions used for these calculations is presented in the following table.

[126] Many providers already review provision in line with local needs and will therefore already comply with the duty. In this instance, the cost of complying with the duty is deadweight. Therefore, it is important to exclude this deadweight activity from the cost calculations to arrive at the additional cost to colleges.

Assumption	Scenarios Central	Low	High	Source
(a) Number of statutory colleges	234			**<u>Basis:</u>** At February 2021, there were 222 college corporations (174 FECs and 48 SFCs) and 12 designated institutions **<u>Note:</u>** duty applies to FE corporations specifically, not 'colleges'; there is a discrepancy between this and provider base numbers used in the costing of the LSIPs policy and for the Bill small and micro business assessment. In both instances this is because of the need for comparable data across the provider base, not just the statutory FE sector.
(b) How often does a college need to review?	Every 3 years			Statutory guidance will set out that colleges will undertak these reviews at least once every three years.

(c) Labour cost - providers	£102,000 p.a. for 1 FTE			**Source:** ESFA College Accounts 2019/20. **Rationale:** Average senior management labour costs per 1 FTE in a statutory FE college.
(d) Hours to familiarise with duty & guidance	7 hours	2 hours	35 hours	Guidance will be brief. **Central:** c.1 day of work to review and familiarise. **Low** scenario of 2 hours reflects proportionate review for colleges already operating extensively in this space. **High** scenario c.5 days work reflects possible time required in colleges not already complying - where more extensive review and discussions within the college may be required

(e) Hours work to comply with duty	105 hours (15 days)		210 hours (30 days)	**Benchmark**: We have data on Structure and Prospects Appraisals (SPA) and use this as an anchor. Full assessment takes 30 days of work with day rates for FEC deputy £700 and FEC advisors £600 => c.£20,000. **Central**: We expect the time spent on the duty to be significantly less than SPA because (i) the review is a precursor to commissioning a full SPA and (ii) SPA focuses on structure which is more complex than provision. Therefore, for central estimate we assume half the time (15 days); also assume labour cost of colleges rather than FEC day rates (c.£450 per day for a member of senior management, as per assumption (c) rather than £600-700). **High:** assume colleges do in fact undertake a full 30 day SPA-size review with in-house labour; **Interaction with**

				LSIPs: there will be a degree of overlap between this duty and the requirement to have due regard to LSIPs. To avoid double counting, we deduct time we expect providers to spend reviewing LSIPs from these assumptions - see the relevant annex.

(f) Deadweight factor - how much of this do colleges already do?	80%	50%	85%	**Central**: use proportion of colleges with Ofsted Good/Outstanding ratings as a proxy for the proportion of colleges already complying with the duty - as a measure of 'good governance'. As at 31st August 2020, 80% of FE colleges rated good or outstanding. **High**: use Association of Colleges 2020 Innovation in FE colleges survey. This gives the proportion of colleges engaging with local chambers, local authorities, and/or LEPs on local business growth and innovation. This is a further proxy for the extent to which colleges already carry out such reviews. **Low**: judgement to reflect uncertainty regarding deadweight and that while we expect most colleges to already carry some form of review, this duty might require them to invest

				more time in carrying out the review.
(g) Hours spent complying with LSIPs duty (to be deducted from (e) to avoid double counting)	7 hours	2 hours	40 hours	See methodology for LSIPs costings

Table 24: Detail of assumptions

318. We have reasonable data to underpin the labour cost per hour assumptions. However, our estimate for the likely time taken to review provision in line with the duty is speculative and based on policy judgement. The assumptions made are for the purposes of modelling the costs only and do not amount to guidance to colleges. Furthermore, we do not have quantitative data on how many colleges already review their provision sufficiently to comply with this duty – i.e. the level of deadweight – and we therefore rely on proxies for estimating the deadweight factor.

Counterfactual

319. As set out above, we expect that many colleges already review how far their provision meets local needs; in other words, compliance with the duty will not incur additional costs. We do not have a direct measure of how many colleges already carry out such reviews. Consequently, we use the proportion of colleges with Ofsted ratings of Good or Outstanding as a proxy for general 'good governance' – where alignment with local needs is likely to be considered – as well as survey evidence from the Association of Colleges regarding what proportion of colleges engage with their Local Authorities or other local economic actors to consider how to support business growth – a proxy of how aligned a college is with local employer needs. In our central estimate, we assume that Good/Outstanding colleges already comply with this duty and incur no additional costs, while colleges who are Inadequate/Require Improvement do not comply and therefore incur additional costs.

Classification of costs for the Business Impact Target

320. Statutory FE sector bodies are the only organisations who face direct costs from this duty. As set out in the overarching impact asessment, we attribute 78% of the cost to FE colleges to "public" organisations and 22% to private businesses. This is in proportion to the split of FE college revenue between public and private sources.

Cost estimates

321. The following tables set out our high-level costing outputs from the IA Calculator. We expect the preferred option to create an economic cost of between £5m and £8m for the statutory FE sector over a ten-year period.

322. The NPV estimates are negative because we have only quantified the costs – no benefits are quantified. As set out above, we expect the duty to deliver significant benefits from improving the extent to which statutory FE providers meet local needs.

Economic cost

323. The following NPV outputs are presented in 2019 prices and 2020 present value.

		Net Benefit (Present Value (PV)) (£m)			
Low:	-8.3	High:	-4.5	Best Estimate	-4.6

Costs	**Total Transition (constant price)**	**years**	**Average Annual (excl. Transition, constant price)**	**Total Cost (present value)**
Low	0.0		0.5	4.5
High	0.5		0.9	8.3
Best Estimate	0.1		0.5	4.6

Benefits	**Total Transition (constant price)**	**years**	**Average Annual (excl. Transition, constant price)**	**Total Benefit (present value)**
Low	0.0		0.0	0.0
High	0.0		0.0	0.0
Best Estimate	0.0		0.0	0.0

Direct impact on business (Equivalent Annual) £m:		
Costs: 0.1	Benefits: 0.0	Net: 0.1

Table 25: Impact Assessment Calculator Output

324. As set out in the earlier discussion of costs and benefits, the non-monetised benefits include:

a. An improved offer for learners, including through mitigation of structural barriers, helping to sustain enrolment numbers and therefore income for colleges;

b. Improved employment outcomes for learners from provision better matched to local employer demand;

c. Improved output and productivity for employers from access to improved local skills supply;

d. Improvement in strategic planning capability and performance within colleges, supporting more effective management and leadership; and

e. Reduction in intervention activity and associated costs for government and the taxpayer.

Direct cost to business

325. The following table presents the direct cost to business for the BIT. As set out above, this is a proportion of the costs incurred by statutory FE colleges.

Cost of Option (2019 prices, 2020 present value)			
Total Net Present Social Value	**Business Net Present Value**	**Net direct cost to business per year**	**BIT Score**
-4.6	-1.0	0.1	0.6
Appraisal Period (Years)	10		

Table 26: Impact Assessment Calculator Output – Direct Cost to Business

Impact on small and micro businesses

326. We do not believe that this duty creates any significant cost burdens for small and micro businesses. The average number of employees of those institutions in scope of this duty is 450. Two colleges have less than 50 but over 40 employees, as reported in the 2020 finance record returns.

Equalities and wider impacts

327. FE colleges, sixth form colleges and designated institutions deliver a range of 16-19 vocational and technical education, Higher Technical Education, adult skills and apprenticeships training. These providers educate individuals from groups with protected characteristics under the Equality Act 2010 and also employ a diverse workforce.

328. FE colleges, sixth form colleges and designated institutions are subject to the Public Sector Equalities Duty and will need to have regard to that when reviewing their provision under the new duty.

Learners

329. According to the FE and skills dataset[127] of the 1,168,100 adult learners participating reported to date:

a. Females account for 59.2% (691,100). Within the general population of England in mid-2019, 50.6% of people were female.

b. Learners aged 19-24, 25-49, and 50 and over accounted for 31.4% (366,700), 55.2% (644,100) and 13.4% (157,000) respectively. According to ONS data, in 2018 7.4% (4,169,087) of the population of England were aged 19-24, 33.1% (18,510,830) were aged 25-49 and 37.3% (24,806,721) were aged 50+.

c. Learners declaring themselves as black, Asian, or other minority ethnic groups (BAME) represented 24.1% (266,500). According to 2011 census data, 19.5% of the population of England and Wales was from an ethnic background other than White British and 14% were from non-White backgrounds.[128]

[127] Further education and skills, Academic Year 2020/21 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)
[128] Population of England and Wales - GOV.UK Ethnicity facts and figures (ethnicity-facts-figures.service.gov.uk)

d. Those declaring a learner learning difficulty and/or disability (LLDD) account for 16.4% (185,100). According to 2011 census data, 17.6% of the population of England has an activity limiting health problem or disability.

330. The policy objectives of this duty will lead to provision and structures aligned to local needs, which will benefit learners, including those with protected characteristics, in the area. All learners will see relevant provision, aligned to employer needs, available to them.

331. Structural change can help limit the financial deterioration of some colleges, ensuring that local provision continues to be available for those with protected characteristics.

Workforce

332. The 2018 college staff[129] survey shows:

a. There are approximately 66,970 teachers and leaders in FE colleges.

b. The age and gender profiles for teachers and leaders were skewed towards women and those aged between 45 and 59. Teachers tended to be younger, with 16% of teachers aged under 35 compared with nine per cent of leaders.

c. The majority of the teachers and leaders in colleges were white, with only small proportions of BAME staff (6% teachers, 4% of leaders, 9% principals). ONS estimates 14% of the general population were BAME.

d. Around one in seven (15%) teachers and 14% of leaders said that they had a disability.

333. We do not hold data on non-teaching workforce.

334. The policy objectives of this duty will lead to provision and structures aligned to local needs, which will help make colleges more financially resilient and maintain the provision. We therefore see no detrimental impact on the workforce including those with protected characteristics.

[129] College Staff Survey 2018 (publishing.service.gov.uk)

Monitoring and Evaluation

335. The ESFA will continue to be responsible for ongoing operational oversight of the statutory FE sector.

336. As part of the response to the Dame Mary Ney[130] report, DfE is introducing annual strategic conversations with all colleges – these reviews will form part of those conversations.

337. FE Commissioner activity (intervention assessments, diagnostic assessments) will also provide evidence for compliance with the duty (although it should be noted this will be a small number of colleges).

338. Governing bodies will publish the outcomes of their reviews on their websites. This publication will also set out any endorsement/confirmation from key stakeholders.

339. Ofsted will take into account a provider's curriculum and how effectively it has put in place its intentions as part of the inspection of the quality of education provided.

340. The accompanying statutory guidance will be reviewed towards the end of the three-year cycle anticipated for these reviews.

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[130] Dame Mary Ney report

Measure 4: Statutory Further Education intervention powers

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

341. Where there is serious failure in a FE provider, it is important that the government is able to intervene effectively and decisively to secure improvement, protecting the interests of learners, employers, and the taxpayer. This includes cases in which there is a failure to meet local needs, and cases where the best way of securing improvement is through a merger or other structural change.

342. Government needs to have a role because of the market power of local FE institutions, and information failure in terms of the potential pay-off from an investment in FE, given that education is a quasi-experience good.

343. At present, the Secretary of State has powers both to intervene under the terms of college funding agreements, and also statutory intervention powers set out in the Further and Higher Education Act 1992. The statutory powers apply to providers in the statutory FE sector (FE colleges, sixth form colleges and designated institutions), and to local authority maintained institutions that provide FE.

344. The legislation sets out the circumstances[131] in which the powers can be exercised, and the actions that the Secretary of State can take. In those circumstances, the Secretary of State can issue a direction to the governing body and remove or appoint members of the governing body.

345. At present, those powers cannot be exercised in circumstances where there has been a failure to meet local needs, and cannot be used to direct structural change including mergers. More widely, existing intervention arrangements can take too long, are costly and can leave learners in uncertain situations for lengthy periods. This is reflected in reports from Public Accounts Committee[132], National Audit Office[133] and Dame Mary Ney, all of which make a case for change and recommendations for improvements.[134]

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[131] The circumstances include: mismanagement by the governing body; failure to discharge a statutory duty; the governing body acting unreasonably; significant underperformance; and failure to provide an acceptable standard of education and training.

[132] Managing colleges' financial sustainability - Public Accounts Committee - House of Commons (parliament.uk)

[133] Financial sustainability of colleges in England (nao.org.uk)

[134] Report of the independent review of college financial oversight - GOV.UK (www.gov.uk)

346. Our proposals will extend the existing intervention powers, enabling the Secretary of State to:

- exercise their statutory intervention powers in circumstances where there has been a failure by a college to adequately meet local needs; and
- direct structural changes (such as mergers) where use of the powers has been triggered under any of the thresholds in the legislation.

347. The legislation will also exempt any structural changes directed by the Secretary of State from the statutory merger control regime provided for in the Enterprise Act 2002.

What are the policy objectives and the intended effects?

Policy objective

348. Our policy objective is to ensure that where there is serious failure in a FE provider, government is able to intervene effectively and decisively to secure improvement, protecting the interests of learners, employers, and the taxpayer. Alongside other forms of support provided to colleges, that will help ensure that all colleges are well managed, financially resilient and adaptable to change, and the sector is able to successfully meet the needs of learners and employers.

349. We are seeking to strengthen existing statutory powers for the Secretary of State to intervene in individual colleges to bring about changes within a local area where there is evidence of failure meet local needs. Most intervention activity is undertaken through the administrative processes set out in the College Oversight: Support and Intervention guidance.[135] The guidance will be updated to include a new intervention trigger of failure to deliver local needs, alongside existing triggers related to quality and finance.

350. Where agreement has not been possible through other means and there are no alternatives to secure improvement, the Secretary of State will be able to decide to intervene using the statutory powers, including through directing structural change including mergers.

[135] College oversight: support and intervention - GOV.UK (www.gov.uk)

Intended effects

351. New powers will enable the Secretary of State to intervene where a college is failing to meet local needs, and where the Secretary of State identifies that structural change is required to secure improvement.

352. Where consensual agreement has not been secured through other processes, the new power would provide a mechanism for the Secretary of State to act to secure improvement, including by directing a college governing body to make a structural change.

353. As with the existing statutory powers, it is expected that statutory intervention would only ever be used as a last resort, where it has not been possible to secure agreement to the changes required to bring about improvement. However, new statutory powers are expected to strengthen government's ability to secure the co-operation of governing bodies, reducing the time that colleges spend in intervention, securing improvement for learners, and reducing calls on taxpayer support.

354. The indicators of success will be:

a. Colleges spending less time in intervention.

b. Colleges making improvements without the need for government intervention.

c. Government's ability to call governing bodies to account where there is failure to shape provision, so it is viable, sustainable and delivers quality education and skills to meet local needs.

What policy options have been considered, including any alternatives to regulation?

Do nothing

355. It would be possible to continue with the current arrangements and rely on the existing administrative (non-statutory) intervention arrangements set out in the College Oversight guidance without making any changes to the existing statutory intervention powers in sections 56A and 56E of the Further and Higher Education Act 1992.

356. This option would have a number of significant limitations, particularly an inability to realise the benefits that we think will come out of the proposals. Even if we expanded our existing administrative intervention policy, without the existence of statutory intervention powers to act as a back-stop option, the ability to intervene effectively and secure improvement rapidly would be limited.

Non-regulatory options

357. College governing bodies are ultimately responsible for ensuring that their college is financially sustainable, delivers high quality education and is responsive to the needs of learners and employers. A non-regulatory approach would be to strengthen the support for college governing bodies to independently take action to improve, without changing our intervention approach.

358. Government already offers a range of support measures for college improvement. These include the College Collaboration Fund, National Leaders of Governance, and National Leaders of Further Education. The Skills for Jobs White Paper also announced the creation of a Strategic Development Fund to support colleges in responding to local needs. In some cases, colleges have also voluntarily proposed structural change where they have identified this will result in the area's educational and skills needs being better met.

359. However, we saw during the area review programme that some governing bodies were reluctant to take the action required to address weaknesses in their structure and provision. Some have subsequently required intervention, including for example a FE Commissioner-led Structure and Prospects Appraisal (SPA) to make a recommendation for structural change for example mergers. Relying entirely on a non-regulatory approach would not be effective in addressing cases where there has been a failure by the governing body.

Preferred option

360. The preferred option is to strengthen existing intervention powers under Further and Higher Education Act 1992. This will be through a new intervention trigger based on a failure of statutory FE providers to adequately meet local needs, and new legal powers to direct structural change, such as mergers.

361. These powers are intended only to be used as a last resort where it has not been possible to achieve the required improvement by other means. Government's aim is to support colleges without the need for intervention and we are particularly keen to see fewer colleges in intervention going forward.

362. Our reforms will strengthen the support and advice that we provide to college governors and leaders through guidance, training and information, plus the introduction of annual strategic conversations with all FE colleges, sixth form colleges and designated institutions. Employer-led local skills improvement plans will set out the key changes needed to make technical skills training more responsive to employers' skills needs, supported through the Strategic Development Fund. In addition, a new duty on colleges to keep their provision under review, supported by statutory guidance, will help all colleges to be clearer about the expected alignment with local needs. All these activities should act as a

catalyst to high quality and locally responsive provision, helping to ensure that directive action should not need to be exercised.

Rationale and evidence to justify the level of analysis used in the impact assessment (proportionality approach)

363. The approach taken to this impact assessment is to: (i) set out evidence regarding current college intervention activity; and (ii) describe the benefits and costs associated with the new powers. We do not attempt to quantify the impacts for three key reasons:

a. Firstly, we do not have a basis for estimating how frequently the powers would be used. The existing powers have not been used since their introduction in 1992.

b. Secondly, while we can reasonably describe the types of benefits and costs incurred, their precise nature and – in particular – their value would depend heavily on the precise details of a given college and local area.

c. Thirdly, we expect the existence of the powers to impact college activity even if they are not used – however we do not have sufficient evidence to identify the scale of this impact.

364. The DfE has published research examining the impact of college mergers in FE.[136] This analysis found that on average, there was no statistically significant effect of mergers on a range of outcomes – such as profits, staff costs, learner achievement rates. However, the analysis also demonstrates the high degree of variation of college performance after merger (due to a range of factors e.g., the underlying reason for the merger). This reinforces our second reason for not providing quantified impacts – the extent to which the impacts vary on a case-by-case basis.

Key risks and assumptions

365. We have identified the following key risks in a scenario where the Secretary of State exercises these new intervention powers:

a. **Availability of merger partners:** for structural change to be effective, there must be a suitable partner available willing to take on responsibility for the activities of the college that has failed. We have identified that the main risk to directing structural change is the potential lack of strong college governing bodies that are willing, are capable and

[136] The impact of college mergers in Further Education (publishing.service.gov.uk)

have capacity to take on the activities of the other college including associated assets and liabilities. The introduction of annual strategic conversations with all colleges will help the department to identify colleges with capacity to expand and also what support governing bodies need.

b. **Competition:** structural change involving colleges with overlapping catchments may reduce competition, which may have an adverse impact on the quality and/or the diversity of the education offer. Before directing a structural change, the impacts on competition will be assessed to ensure that any adverse impacts are outweighed by the other benefits. As part of this assessment the Secretary of State will be legally obliged to consult with the Competition and Markets Authority (CMA), prior to directing any merger. The Secretary of State would consider any advice from the CMA on the potential impact on competition alongside other relevant factors. In cases where the Secretary of State issues a direction, the merger control arrangements set out in the Enterprise Act 2002 would not apply. The Secretary of State would consult the CMA before making a direction, to provide the opportunity for the CMA to provide advice on any possible competition impacts as required, so that these could be taken into account by the Secretary of State before making a direction.

Summary and preferred option with description of implementation plan

366. Primary legislation will give the Secretary of State the power to take intervention action where an FE college corporation, sixth form college corporation or designated institution fails to adequately meet local needs.

367. In addition, where an institution has met one or more the statutory intervention triggers, the legislation will also allow the Secretary of State to issue a direction requiring a governing body or bodies of institutions to make structural change - including for example merger with another institution, conversion to academy status, or transfer of provision to another institution.

368. The statutory intervention powers provided for in legislation are reserve powers. We envisage powers only being used following an intervention under our administrative powers, where a structural solution has been recommended but it has not been possible to secure consensual agreement to that solution. Most intervention activity will continue to be undertaken through the administrative processes set out in the College Oversight guidance, which will be updated to reflect the policy changes set out in the White Paper.

369. The ESFA will be responsible for ongoing operation and enforcement of the new arrangements.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

370. Where intervention is needed, we would expect that in almost all cases this will continue to be implemented through the administrative processes set out in the college oversight guidance, on the basis of consensual agreement. That includes cases where structural change is required to secure improvement. We expect that the new powers would therefore only be used very rarely, if at all, in exceptional cases.

371. Structural change and specifically mergers have been a key feature of the FE college sector for many years. They have been delivered without the Secretary of State needing to use existing statutory intervention powers. For example, the area reviews which commenced in September 2015 resulted in significant restructuring of the college sector including 57 mergers, 23 academy conversions, three FE Colleges transferred to become designated institutions wholly own subsidiaries of universities, and several colleges undertook standalone restructures. Government provided £433m from the Restructuring Facility to support the delivery of area review recommendations where these could not be self-financed.

372. The most recent annual report of the FE Commissioner published in November 2020[137] reported the Commissioner's activity between 1 August 2019 and 31 July 2020. This noted that the outcomes of five structural reviews were implemented, this resulted in two college mergers, one disaggregation/merger and two sixth form colleges becoming academies. In term of additional cost to government to deliver these changes, sixth form colleges converting to academy status have access to the standard £25k support grant (where they have not already received equivalent funding) and only one of the college mergers needed restructuring financial support.

373. Having new powers in place, together with changes to the college oversight guidance, will make clear our expectation that government will take action to safeguard the interests of learners, employers, and the taxpayer where there is failure to meet local needs.

374. We are also strengthening the support available for colleges, for example through the strategic development fund and annual strategic conversations. We therefore expect the key benefit to be that where changes are required to secure improvement, this will happen more consistently without the need for intervention. Where this does not happen, and where our existing administrative intervention processes are not sufficient to bring about improvement, new powers will enable the

[137] The Annual report of the Further Education Commissioner 20 November 2020

government to act more quickly and decisively to secure improvement in an expected very small number of cases.

375. As noted above, some historic data is available on additional funding that has been provided by central government to support structural changes undertaken through a voluntary process. Funding where provided is on case-by-case basis and at the minimum cost to government needed to secure improvements, so may not cover the full cost to the colleges involved. Given these limitations and given our expectation that statutory intervention powers would only be used as a last resort, it would not be appropriate to use historic costs government support for mergers as the basis for estimating the costs of the preferred option.

376. A specific assessment has not been made on the monetised and non-monetised costs and benefits of having new powers for the use of statutory intervention in the rare circumstances that this might be used. However, where mergers are directed, the benefits and costs are likely to be as summarised in the table below.

	Cost	Benefits
FE colleges	Cost associated with delivering structural change including consultation, due diligence, working with key stakeholders, communications and quality improvements: o Staff time and specialist support i.e. legal advice o Non-labour costs e.g., ICT systems and branding, restructuring, cost associated with turnaround /improvements	Efficiencies and savings from increased economies of scale for example: leadership, back-office and recruitment costs. Mergers of good with weaker colleges enables the sharing and spread of good and effective practice improving use of resources, assets and staff, to raise the quality of provision.
Learners	Potential impact on travel costs, for example where the curriculum delivery changes as a result of structural change. Potential decrease in competition and choice of provider.	Provision that is more responsive to local learner needs, including through ability to offer a greater range of curriculum options on a sustainable basis. More rapid delivery of improvement leading to higher quality provision, and better educational and employment outcomes.
Central government	Administrative cost and resources associated with reviewing and assessing structural change proposal and ongoing monitoring of cases subject to a structural change direction.	Reduction in administrative resource required for intervention, due to faster resolution of cases. Reduction in cost of support for colleges in intervention. More colleges managed by strong and effective leaders, better use and value of central or local government funding provision will be joined up and more targeted to meet local needs.

Table 27: Use of statutory powers benefits and costs assumptions

Direct costs and benefits to business calculations

377. We do not believe that there are any direct costs to FE colleges from these reserve powers. The Bill is creating powers for the Secretary of State to intervene – if required – rather than creating a new burden on colleges.

Impact on small and micro businesses

378. Statutory intervention proposals are reserve powers/last resort powers and are therefore likely to be used very rarely. We do not believe that the introduction of new powers will have any significant cost burdens for small and micro businesses. As set out in the overarching Small and Micro Business Assessment, the vast majority of FE colleges are medium or large employers.

Equalities and wider impacts

379. FE colleges, sixth form colleges and designated institutions deliver a range of 16-19 vocational and technical education, higher technical education, adult skills and apprenticeships training. These providers educate individuals from groups with protected characteristics under the Equality Act 2010 and employ a diverse workforce.

380. As set out in the overarching impact assessment for the Bill, statistical data from related to the demographic characteristics of further education and skills learners was published in March 2021. This reported on the make-up of the 1,168,100 adults participating in government funded FE and skills (including apprenticeships). The data available indicates that some groups with protected characteristics under the Equality Act 2010 are disproportionately represented in further education. For example, FE students are more likely to be from an ethnic minority, to have a learning difficulty or disability, or to be female than the wider population.

381. As set out in the overarching impact assessment, statistical data is also available from the 2018 college staff survey. This data reported on the demographic make-up of approximately 66,970 teachers and leaders in FE colleges. No statistical data is available on the demographic make-up of the governing bodies of further education colleges, designated institutions and sixth form colleges.

382. Proposals to strengthen existing intervention powers under Further and Higher Education Act 1992 would enable the Secretary of State to intervene and direct structural change. Any change to provision will impact on learners, the college workforce, leaders and governors. However, existing directive powers have never been used and our expectation is that going forward the powers would only be used where there was no other alternative to secure necessary improvements.

383. Our main consideration is whether having the powers in place and using them to direct structural change could have a disproportionate impact on learners and members of the FE workforce with specific protected characteristics.

384. Structural change such as mergers or disaggregation of provision can help limit the financial deterioration of weaker colleges and the college sector as whole. This has helped to turnaround provision improving quality, sustainability and viability of weaker colleges and therefore provide better outcomes for learners and stability for staff reducing inequalities and advancing opportunities.

385. Where there is failure, and it has not been possible to secure improvement through the administrative processes set out in the college oversight guidance, new powers will enable the Secretary of State to direct structural change such as a merger. Where this happens, a college governing body would transfer property, rights and liabilities to another college. This will allow the continuation of provision for a range of learners, including those with protected characteristics.

386. In most instances, structural change takes place without closure or significant loss of provision for learners. The greater efficiencies and financial resilience associated with structural change can play an important role in sustaining a broad curriculum offer that meets local needs. However, where there are unavoidable changes to provision this could result in learners needing to travel further to access some courses and result in some workforce relocation which could negatively impact on persons with protected characteristics. Most structural change is expected to take place without the need for statutory intervention, therefore the impact on learners and the workforce associated specifically with strengthening existing powers is assessed as minor. In line with their legal duty, college corporations and designated institutions will need to consider impacts on groups with protected characteristics when implementing any changes.

387. Workforce changes arising from mergers or disaggregation of provision would mean that staff teams with differing experiences come together including across wider geographical area, this is likely to result in a spread of good practice in teaching and learning and enhanced career and professional development opportunities. Bringing different institutions together would likely enhance opportunities to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. However, any restructuring of provision may lead to changes that result in some staff being displaced or changes to job roles. Employment laws including the Transfer of Undertakings (Protection of Employment) Regulations (TUPE), protects employees' rights when the business of a college transfers to another entity, these protections reduce the risk of unlawful discrimination or adverse impact on staff members with a protected characteristic.

388. Demographic data available on the make-up of the college sector workforce indicates that the majority of the teachers and leaders in colleges are white, only a small proportion of leaders are BAME (4% of leaders and 9% principals) and only 14% of leaders said that they had a disability (2018 college staff survey). Expanding/changing college groups are likely to lead to improved career opportunities, support better retention of college workforce, expand opportunities for middle leaders and create a stronger pipeline of sector leaders. Over time these arising opportunities are likely to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share.

Monitoring and Evaluation

389. The ESFA will be responsible for ongoing operation and enforcement of the new proposals. The overall framework for the use of intervention powers including assessment and monitoring is set out in the published College Oversight guidance. In any exceptional case in which these powers were used, their impact would be monitored through these existing arrangements. The FE Commissioner and the ESFA would work together to ensure that there are coherent monitoring arrangements in each case. The monitoring arrangements will depend on the individual case but could involve:

390. Periodic progress meetings between the FE Commissioner, the ESFA and the college and other strategic partners to monitor progress against the action plan.

391. A formal “stocktake” assessment conducted by the FE Commissioner which could lead to advice on any further action needed to secure continued improvement.

Measure 5: Approval and Regulation of Technical Qualifications

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

392. As detailed in the Post-16 Qualifications Review[138], reform is needed to ensure that technical qualifications have a distinct purpose, are high quality and support progression to positive outcomes. Many employers struggle to find people with the skills that they need, and these gaps will be exacerbated as we look to the future – as the pace of technological change continues, our economy adjusts following the COVID-19 pandemic, and we build a green economy. To ensure that technical qualifications better meet employers' needs, we intend that they should be aligned with employer-led standards. However, the system does not currently have the mechanisms to ensure the reforms can be delivered such that they deliver high quality, rigorous qualifications that meet employers' and individuals' needs, and avoid proliferation and a 'race to the bottom' on quality, as identified by previous reviews of the skills market.

393. Both Ofqual and the Institute have key roles to play in assuring the quality of technical qualifications. But the current statutory framework for approval and regulation of technical qualifications has scope for unnecessary duplication, and inconsistency between the two bodies with potential impact on the quality of the qualifications and the burden on AOs. With the extension in the scope of the Institute's approval powers in this Bill, the risks of duplication and inconsistency are increased.

What are the policy objectives and the intended effects?

394. The proposals aim to provide the mechanisms needed to support the implementation of the future qualification landscape as discussed in the post-16 qualifications review, particularly around ensuring quality and avoiding proliferation. The proposals help to achieve this through 4 key elements;

a. By giving the Institute powers to determine new qualification categories and approve qualifications against associated criteria in the future, we will ensure the qualifications offer is consistently high quality. Putting the mechanisms in place to ensure the qualifications market delivers high quality technical qualifications based on employer-led

[138] Review of post-16 qualifications at level 3: second stage - GOV.UK (www.gov.uk)

standards and employer demand will provide clear and high-quality routes into skilled occupations as well as the best preparation for future careers.

b. By giving the Institute powers that could allow it to charge for approval and to manage proliferation, we will ensure that the future qualification landscape is clear and straightforward for users to understand and that the market does not become bloated in any part. This will avoid a return to the proliferation identified in previous assessments of the technical qualifications market.

c. By reviewing the ongoing performance and efficacy of qualifications, and by withdrawing approval as necessary, we will ensure that the qualifications that are approved by the Institute remain fit for purpose.

d. By clarifying roles and responsibilities, we will promote effective collaboration between Ofqual and the Institute and reduce the scope for duplication of processes and functions.

What policy options have been considered, including any alternatives to regulation?

395. We considered the following options in relation to new technical qualification categories and criteria:

a. We could do nothing and continue to allow the technical qualifications market to continue to operate with relatively few controls on quality or numbers. However, this would not meet the policy objective for technical qualifications to be based on employer-led standards or for a streamlined qualifications offer.

b. It would be possible to restrict AO entry to the technical qualifications market, building on Ofqual's power to restrict the market by setting a higher bar than currently exists in respect of both AOs and individual qualifications. Again, it is unlikely that this would meet the policy objective for qualifications to be based on employer-led standards.

c. We could introduce single licensing for all approved qualifications whereby only one AO is permitted to deliver each qualification against employer-set content, as per the model used for T Levels. However, we believe there is benefit to having a range of qualifications covering similar content available in some parts of the market, particularly for adults who may have a variety of learning aims and needs.

d. Alternatively, we could introduce quality requirements for technical qualifications which would see technical qualifications needing to demonstrate alignment with employer-led standards. The reforms to apprenticeships and the introduction of T Levels, delivered under the auspices of the Institute, have been well-received by employers, young people and adults. As a result, we know what works: employer-led design and development of provision, with a focus on the competence needed for specific occupations.

396. We considered the following approaches to securing effective collaborative oversight by the Institute and Ofqual of technical qualifications:

a. Do nothing – so that the two bodies exercise their existing functions independently without an overarching framework to promote effective collaboration and reduce scope for duplicated activity. With the two organisations acting independently the risk would remain high that AOs would be subject to additional, potentially confusing regulatory burdens and that the quality and reputation of technical qualifications would be undermined by overlaps, duplication and conflicting decision-making.

b. A non-statutory, administrative collaboration framework, within which the two bodies agree voluntarily to exercise their existing statutory powers and functions in ways that minimise duplication, inconsistency and burdens on AOs. Such a framework addresses the immediate need for coherent, collaborative processes. Whilst effective administrative collaboration is a requirement, it a purely voluntary approach has a residual risk of instability and re-emergence of inefficient practices in the longer term.

c. Legislation to refine the existing statutory framework to remove or reduce the longer-term scope for these negative impacts. This would set a statutory framework and expectations in relation to collaboration and remove the most significant potential sources of overlap and duplication of functions. In doing so it would reinforce the longer-term stability of the administrative arrangements by reducing scope for the quality and effectiveness of the collaboration to drift over time.

Summary and preferred option with description of implementation plan

397. The introduction of new categories of technical qualifications with associated quality criteria will enable the Institute to approve technical qualifications that meet the criteria for the category. The reforms will result in a technical education system that is stable, coherent and high quality, ensuring that the skills needs of business and industry are met. The reformed system will provide clear progression pathways and deliver the outcomes learners need to move into skilled jobs or further technical training.

398. The Institute's new powers would allow it to charge a fee as part of the qualification approval process. Additionally, the Institute will have the power to introduce a moratorium on the approval of further qualifications where there is evidence of proliferation, and a requirement to review approved qualifications, withdrawing their approval where they are no longer performing as expected.

399. Streamlined collaboration in approval and regulation of technical qualifications should be secured through an effective administrative framework to be agreed between Ofqual and the Institute, underpinned by legislation to:

a. ensure cooperation between the two bodies when they exercise their functions in relation to technical qualifications;

b. put in place a single statutory approval gateway for technical qualifications through the Institute's approval powers.

Key risks and assumptions

400. This section outlines some of the key risks to the success of the policy itself, and some of the key assumptions we have made in order to monetise the costs.

Key Policy Risks

401. Burden on AOs – given the additional costs to AOs associated with the new measures, there is a risk that the increased financial burden on AOs, could cause some financial difficulty and in extreme cases could lead to AOs leaving the qualifications market. We will continue to assess the risk to AOs of the qualification reform package more broadly, as part of the post-16 qualifications review, to help to identify and mitigate against risks to AOs.

402. Employer Buy-In – if employers do not value the qualifications, for example if the approval criteria do not successfully ensure qualifications are rigorous and deliver the skills demanded by employers, then the proposals are unlikely to deliver the intended effects outlined. However, the review of post-16 qualifications highlights the importance of aligning qualifications in the future system against occupational standards. This should help to ensure employers have confidence in the qualifications.

Key Assumptions

403. Some assumptions made in this assessment are largely unevidenced. Uncertainty has been reflected by the use of ranges. However, it is important to flag the risk in our estimates, particularly where evidence has been limited. This section details some of the assumptions that have been made:

a. Approval fee – For the purposes of this impact assessment, we have assumed a potential approval fee range of £420 to £1,140. The assumed range is based on internal costs associated with the approval of qualifications for the 16-19 Performance Tables, and estimations of some internal costs associated with the approval of a limited number of Higher Technical Qualifications (HTQs) within a single occupational route. The assumed range is indicative only and is subject to change as approvals processes are established and a robust methodology is designed for the determination and application of approval fees.

i. Assumptions around the potential impact of size of qualifications, efficiency savings and economies of scale have been applied to the HTQ costs to derive the suggested upper limit provided here. These are based on estimations and projections relating to aspects of the process. The Performance Table qualification approval costs have been taken as the lower limit.

ii. The detail of the approvals process for technical qualifications is in early stages of development. Should the Secretary of State publish regulations for the Institute to charge approval fees, the approach to determining the appropriate level for the fees will only then be formed on the basis of the approvals process and refined overtime.

iii. There are a number of other factors that may influence the design of an approval fee model, including the volume of different types of technical qualification the Institute will approve. It has not been possible to take account of such factors ahead of the final design and implementation of our reforms.

b. Familiarisation time - estimates of the familiarisation time taken for providers (1-3 hours), AOs (2-10 hours) and employers (15-60 minutes) to understand the new categories and approval criteria, are largely unevidenced. They are based on internal conversations around best estimates and vary across different groups to reflect variation in the required time commitment to understand the approval criteria and qualification groupings. A range is also used to help reflect the uncertainty around these estimates.

i. Note, familiarisation costs relate to understanding the qualification categories, and (particularly for AOs) the approval criteria. They do not relate to understanding the content of the individual qualifications available.

c. Treatment of education providers - education providers consist of both private and public sector entities. However, only those operating in the private sector contribute towards the EANDCB, and as such it is necessary to assess them separately. Based on the breakdown of provider types presented in the overarching SAMBA section, we define private and public providers as follows;

i. Private Education Providers

- Private Sector Public Funded Providers (e.g., ITPs) – c.1,300
- HE Organisations – c.100
- FE Colleges – c.35
  - Note, while FE colleges largely operate in the publicly funded space, some also operate in the private sector. As detailed previously, roughly 22% of FE college income is from private sources, so we assume 22% of FE colleges operate in the private sector to account for this.

ii. Public Education Providers

- Sixth Form Colleges – c.50
- Special Colleges – c.30

- Other Public Funded (excluding HE Organisations) – c.260
- FE College – c.135
  - As noted above, this represents the 78% of FE college income that is public funded.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

404. Below outlines the costs and benefits for the preferred option.

Businesses

405. For clarity, this section focuses on impacts on AOs, education providers operating in the private sector (as outlined in the previous section), and other private sector employers.

Costs

406. The measures will likely increase costs for some businesses in both the short and long term.

Awarding Organisation Familiarisation Costs

407. A direct cost is that AOs will have to spend time familiarising themselves with the new qualification categories and regulatory systems, and what these mean for the qualifications they produce. This will require an employee to spend time reviewing the new measures, at a cost to the individual companies. These one-off costs are estimated to occur in the first year of the appraisal period, and to be worth around c.£6,000-£30,000, with a central estimate of **c.£18,000.** This figure is calculated by multiplying the following assumptions together;

a. The number of affected AOs; assumed to be 136, based on the number of AOs delivering ESFA approved qualifications, that are not A/AS Levels, GCSEs, Project or Extension Award qualifications.

b. Time taken to familiarise; we assume this is between 2 and 10 hours, with a central estimate of 6 hours. This is largely unevidenced, based on internal conversations around best estimates, and varied across different groups to reflect variation in the required time commitment to understand the approval criteria and qualification groupings. The range used reflects the uncertainty around the precise value.

c. Hourly cost; we assume this is £17.89. This is based on the average salary for an AO account manager as per the EDU salary survey (2016), an assumption of a 40-hour working week, adjusted to 2019 prices.

d. Non-wage labour costs; We assume this is a 22% uplift, based on Eurostat estimates for 2019.This covers additional labour cost such as employers NI and pension contributions. We use this Eurostat data to scale wage costs up to an estimate of total labour costs.

Additional Qualifications Development Costs

408. A second direct cost faced by AOs, is that they will likely have to spend more time and resources on ensuring their qualifications meet the relevant criteria to meet approval by the Institute. We estimate this recurring cost will occur in each year of the appraisal period and could be between c.£2.9m-£8.8m, with a central estimate of **c.£5.9m per year.** This figure is calculated by multiplying the following assumptions together;

a. The number of qualifications subject to approval each year; we assume this is 737. This is based on the number of new qualifications introduced at level 3 and below between May 2019 and May 2020 (1,842), scaled down proportionally by the potential rationalisation of the qualification market at level 3 as part of the qualifications review (60%[139]).

b. It should be noted this only covers qualifications at level 3 and below, and so is likely an underestimate – although the majority of qualifications are covered by these levels.

c. Additional cost to develop or redevelop qualifications; we assume this is between £4,000 and £12,000, with a central estimate of £8,000. These assumptions are based on AO reported costs, through responses to Ofqual's consultation around changes in the approach to regulating Technical Award qualifications at KS4.[140]

d. A range of figures were provided amongst the responses. However, our central estimate is assumed to be a combination of reported costs on adjustment of assessment (c.£2,000 per qual), producing an assessment strategy document (£3,000 per qual), additional assessor training (£3,000 per qual).

e. It is not yet clear the precise additional work the AOs will need to undertake to ensure qualifications meet the new approval criteria, and as such these costs may not perfectly reflect the work required. However, we believe they are broadly indicative, and use a range to reflect the uncertainty.

f. As the unit cost figure represents the total costs required for additional redevelopment of a qualification, it is already net of non-wage labour costs. We do not apply them again here, to avoid double counting.

409. One limitation of the approach taken, is the assumed distribution of these costs. We assume that the costs are even over each year of the appraisal period, reflecting the number of qualifications introduced each year, revised down to

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[139] Review of post-16 qualifications at level 3 in England: Second Stage (education.gov.uk)
[140] Regulating Performance Table Qualifications (publishing.service.gov.uk)

account for rationalisation in the future landscape. However, we would expect that AOs to face more of these costs upfront, as initially AOs will have to resubmit the majority of non-defunded qualifications. Equally, we would expect the AOs would see a decrease in the number of qualifications submitted on an annual basis, as the reformed system lends itself to a greater level of stability.

410. Due to the uncertainty on the future introduction of qualifications, and varied implementation timelines for reform across different qualification types and levels, we believe this is a proportionate approach towards the estimation of these costs. We believe these estimates give a fair reflection of likely costs over the appraisal period.

Approval Fee Costs

411. Additionally, AOs also potentially face a fee for submitting their qualification to the Institute for approval. This is the cost to the Institute for the additional labour required to review qualifications against the approval criteria, which is in turn passed onto AOs as an approval fee. We estimate that this recurring cost will occur in each year of the appraisal period and could cost between c.£309,000-£839,000 annually**.** This figure is calculated by multiplying the following assumptions together:

a. The number of qualifications subject to approval each year; we assume this is 737. This is based off the number of new qualifications introduced at level 3 and below between May 2019 and May 2020 (1,842), scaled down proportionally by the rationalisation of the qualification market modelled at level 3 as part of the qualifications review (60%).

b. It should be noted this only covers qualifications at level 3 and below, and so is likely an underestimate – although the majority of qualifications are covered by these levels.

c. Approval fee – For the purposes of this impact assessment, we have assumed an approval fee range of £420 to £1,139. More detail around the figures can be found in the earlier ‘Risks and assumptions’ section. The assumed range is indicative only, and is subject to change as the approvals process is established and a robust methodology is designed for the application of approval fees.

i. As the unit cost figure represents the total costs required for additional redevelopment of a qualification, it is already net of non-wage labour costs. We do not apply them again here, to avoid double counting.

412. As with the development costs faced by AOs, while these costs are presented as consistent annual recurring costs, in reality we would expect them to be disproportionately felt at the start of the appraisal period. This is because at this point AOs will have a significant number of qualifications to resubmit existing qualifications to meet approval criteria, thus resulting in significant initial costs, which are expected to reduce over the appraisal period. However, as with development costs, we still believe the approach to be proportionate.

Private Education Provider Familiarisation Costs

413. Finally, education providers who operate in the private sector, will incur familiarisation costs, and contribute towards the EANDCB. These costs come from requiring an employee to spend time reviewing the new measures, and what they mean for the qualifications they offer, representing a labour cost to the providers. We estimate that this one-off cost will occur in the first year of the appraisal period and could be between c.£38,000-£114,000, with a central estimate of **c.£76,000.** This figure is calculated by multiplying the following assumptions together:

a. The number of affected private providers; assumed to be 1,437, based on the number of private sector providers delivering VTQs in the ILR in 2019/20.

b. Note, as familiarisation costs relate to understanding the qualification categories and their approval criteria, rather than the content of the qualification itself, we look at the number of affected providers, not qualifications.

c. Time taken to familiarise; we assume this is between 1 and 3 hours. This is based on internal conversations around best estimates, and varies across different groups to reflect variation in the required time commitment to understand the approval criteria and qualification groupings. The range used reflects the uncertainty around the precise value.

d. Hourly cost; we assume this is £22. This is based on the average salary for an FE teacher delivering advanced teaching and training levels, as per Prospects (2019), and an assumption of a 35-hour working week.

e. Non-wage labour costs; We assume this is a 22% uplift, based on Eurostat estimates for 2019.This covers additional labour cost such as employers NI and pension contributions. We use this Eurostat data to scale wage costs up to an estimate of total labour costs.

Employer Familiarisation Costs

414. Employers are likely to have to incur labour costs through having an employee familiarising themselves with the new qualification categories, to understand what will be most applicable to their needs when recruiting. We anticipate that this would typically only occur when employers were looking to recruit, rather than immediately following the implementation of the measures. As such, these costs will be one-off for each employer, however these will be quantified as recurring costs, to reflect employers incurring these costs at different times.

415. We estimate these recurring costs occur in each year of the appraisal period and could be between c.£964,000-£3.85m, with a central estimate **c.£1.93m per year.** This figure is calculated by multiplying the following assumptions together:

a. The number of affected employers per year; assumed to be 137,912, based on the number of KS5 student entering employment in 2018/19. It is assumed each student is employed by a different employer, which is likely to overestimate the number of affected employers per year. However, by only focusing on KS5 students entering employment, and not including adult students entering employment, we are underestimating the total number of VTQ learners entering employment, potentially leading to an underestimate of the number of affected employers per year.

b. Time taken to familiarise; we assume this is between 15 and 60 minutes. This is based on internal conversations around best estimates, and vary across different groups to reflect variation in the required time commitment to understand the approval criteria and qualification groupings. The range used reflects the uncertainty around the precise value.

c. Hourly cost; we assume this is £22.92. This is based on the average salary for an account manager, as per Prospects (2020), an assumption of a 37 hour working week, adjusted to 2019 prices.

d. Non-wage labour costs; We assume this is a 22% uplift, based on Eurostat estimates for 2019.This covers additional labour cost such as employers NI and pension contributions. We use this Eurostat data to scale wage costs up to an estimate of total labour costs.

Benefits

Avoidance of Double Regulation

416. The inclusion of measures within the option to ensure effective collaboration between the Institute and Ofqual, has the benefit of mitigating against risk that qualifications be subject to double regulation. This could occur if a qualification was submitted to both Ofqual's accreditation process, as well as the Institute's approval process or subject to different, uncoordinated regulatory requirements. This would potentially incur additional labour costs to AOs, in spending time understanding the relative requirements of each process, ensuring the qualification met these, and potential additional approval costs.

417. However, by clearly outlining the relationship and responsibility distribution between both organisations, and ensuring qualifications are only subject to one process, this means a reduction to the potential costs of compliance set out above for AOs, by reducing the potential for duplication, inconsistency and double regulation.

Reduced Qualification Selection Time

418. One indirect benefit that will affect private education providers is reduced time/resource spent identifying the relevant qualifications to shape their curriculum. Clearly defined qualification categories and a more streamlined selection of high quality, rigorous qualifications, should remove the confusion associated with proliferation of the qualifications market. It is not possible to monetise this benefit, due to uncertainty over the frequency with which providers would revise their qualification offering.

Employer Skills Match Time

419. An indirect benefit for private employers, is that by ensuring a clear, streamlined qualifications market, it should be less resource intensive to find the appropriate skills in the labour market. This means they can spend less time paying employees to review applications, and conduct interviews, providing a saving to businesses. Similarly, this could also reduce the number of unsuitable hires (i.e. representing a bad skills match), which present additional costs to businesses through lost investment in training.

420. Due to the significant uncertainty around future employment and recruitment rates, as well as around the precise likely reduction in recruitment time, it is not possible to monetise this benefit here.

Improved Productivity

421. A further indirect benefit for private employers, is that as a result of students entering the labour market with qualifications that have better equipped them with skills, they should see an increase in productivity. This should in turn lead to an increase in profits for private employers.

422. Due to uncertainty around the precise future Institute approval categories, and the scale of improvement delivered by the improved qualifications, it is not currently possible to monetise this benefit. However, as shown by NPV figures earlier in the overarching impact assessment, there are clear and significant returns to education, and as such we would expect this to present a significant benefit.

Students

423. The impacts of the broader ongoing qualifications reform, including the introduction of new quality criteria, is considered in detail as part of the review of post-16 qualifications.[141] These are briefly considered below.

Costs

Reduction in Attainment

424. Some students are likely to experience a cost in terms of lower earnings, as more qualifications that are more rigorous are also likely to be harder to achieve. This is likely to result in some students obtaining lower levels of attainment than previously, and potentially lower earnings.

425. However, this is partially mitigated against by the fact that qualifications across all levels are expected to become more rigorous. As such, students who

[141] Review of Post-16 Qualifications at level 3: Second stage - Department for Education - Citizen Space

achieve lower levels in the future are likely to be better off following the introduction of the measures, than they would be if they achieved those levels now.

426. It is not possible to monetise this recurring cost, due to the significant uncertainty around the scale of the increase in challenge across qualifications at all levels, its impact on overall student attainment, and on future earnings.

Reduction in Qualification Choice

427. A further potential cost for students, could emerge from a reduction in choice. By having a more streamlined qualifications system, this reduction in the range of qualifications available could lead to some students being unable to study the type of qualification, or subject area, that they would have otherwise chosen. However, this would ultimately depend on the precise detail of the future qualification categories and given the nature of this cost it is not possible to monetise this here.

Benefits

Improved Skills/Productivity

428. Students who are able to achieve at the same level of study are likely to see improvements in their skills and productivity as they enter the labour market. This in turn should lead to improved employability and earnings. It has not been possible to monetise this impact at this stage, however we would expect these benefits to be significant.

Public Sector

Costs

429. Government, or more specifically public education providers, are also likely to incur some costs.

Public Education Providers Familiarisation Costs

430. Like businesses, education providers operating in the public sector (as outlined previously) are likely to incur some direct costs as a result of having to familiarise themselves with the new qualification categories. This will be necessary to inform their qualification offering. We estimate these one-off costs will occur in the first year of the appraisal period and could be between c.£13,000-£38,000, with a central estimate of **c.£25,000.** This figure is calculated by multiplying the following assumptions together:

a. The number of affected providers; assumed to be 473, based on the number of public sector providers delivering VTQs in the ILR in 2019/20.

b. Note, as familiarisation costs relate to understanding the qualification categories and their approval criteria, rather than the content of the qualification itself, we look at the number of affected providers, not qualifications.

c. Time taken to familiarise; we assume this is between 1 and 3 hours. This is based on internal conversations around best estimates and vary across different groups to reflect variation in the required time commitment to understand the approval criteria and qualification groupings. The range used reflects the uncertainty around the precise value.

d. Hourly cost; we assume this is £22. This is based on the average salary for an FE teacher delivering advanced teaching and training levels, as per Prospects (2019), and an assumption of a 35-hour working week.

e. Non-wage labour costs; We assume this is a 22% uplift, based on Eurostat estimates for 2019.This covers additional labour cost such as employers NI and pension contributions. We use this Eurostat data to scale wage costs up to an estimate of total labour costs.

Benefits

Reduced Qualification Selection Time

431. One indirect benefit that will affect education providers is reduced time/resource spent identifying the relevant qualifications to shape their curriculum. Clearly-defined qualification categories and a more streamlined selection of high quality, rigorous qualifications, should remove the confusion associated with proliferation of the qualifications market. It is not possible to monetise this benefit, due to uncertainty over the frequency with which providers would revise their qualification offering.

Productivity Spill-overs

432. A further indirect benefit to government, will be higher tax revenue, as a spill-over result from the increased productivity experienced by individuals and employers. We have not yet been able to monetise this, however we will attempt to as we develop our estimates for individual and business productivity benefits.

Direct costs and benefits to business calculations

433. The below direct costs to business all contribute towards the EANDCB calculations. It is expected that the sum of these costs will result in a net direct cost to business per year of **c.£5.3m** over the 10-year appraisal period;

a. Awarding Organisation Familiarisation Costs

b. Additional Qualification Development Costs

c. Private Education Provider Familiarisation Costs

Cost of Option (2019 prices, 2020 present value)			
Total Net Present	**Business Net**	**Net direct cost to**	**BIT Score**

Social Value	Present Value	business per year	
-65.3	-65.3	5.3	26.6
Appraisal Period (Years)	10		

Table 28: Impact Assessment Calculator Output – BIT Score

434. The following NPV outputs are presented in 2019 prices and 2020 present value for consistency across the IA.

	Net Benefit (Present Value (PV)) (£m)				
Low:	-105.3	High:	-32.8	Best Estimate	-65.3

Costs	**Total Transition (constant price)**	**years**	**Average Annual (excl. Transition, constant price)**	**Total Cost (present value)**
Low	8.7		2.9	32.8
High	34.9		8.7	105.3
Best Estimate	17.5		5.8	65.3

Benefits	**Total Transition (constant price)**	**years**	**Average Annual (excl. Transition, constant price)**	**Total Benefit (present value)**
Low	0.0		0.0	0.0
High	0.0		0.0	0.0
Best Estimate	0.0		0.0	0.0

Direct impact on business (Equivalent Annual) £m:

Costs: 5.3	Benefits: 0.0	Net: 5.3

Table 29: IA Calculator Outputs – headline NPV

Impact on small and micro businesses

435. It is expected that the proposals will have an impact on small businesses.

436. The direct costs to AOs discussed above, are likely to impact businesses of all sizes. The market consists of around 160 AOs, and features a small number of very large organisations, and a long tail of much smaller organisations. The two largest organisations account for over 60% of all certifications awarded in 2019/20.[142]

437. Familiarisation costs are not expected to scale with business size, and as such they are likely to have a disproportionate impact on the smaller AOs. However, it is also worth highlighting that these costs are expected to be relatively small, and one-off costs, it is not expected that they will have a significant impact.

438. Costs relating both to the reform of qualifications to meet future approval criteria, and the fee charged in order to go through the approval process, are likely to scale with AO size as they relate to the number of qualifications offered.

439. However, it is still possible that small business could face disproportionate costs, as they are less likely to be able to cross-subsidise profit from larger qualifications to pay for others, and to take advantage of additional economics of scale, and the potential savings these bring.

Equalities and wider impacts

Equalities Impact Assessment

440. An equalities impact assessment, highlighting the impacts of planned changes to the qualifications landscape at level 3, has been published as part of the Post-16 Qualifications Review second-stage consultation.143 This outlines the broader impact of the reforms, including the introduction of new quality criteria.

[142] AQMR 2019_20 (publishing.service.gov.uk)
[143] Review of post-16 qualifications at level 3 in England: Second Stage (education.gov.uk), Annex A, pp. 21-29.

Monitoring and Evaluation

441. The Institute will monitor the efficacy of qualifications it has approved. AOs will be expected to provide data and evidence demonstrating how a qualification continues to meet its intended purpose. Enrolment and progression data will also be monitored as evidence of the demand for and efficiency of qualifications.

442. The new arrangements will be monitored through oversight powers that will require the Institute to ensure that the combination of technical qualifications, apprenticeships and other provision within an occupational route is coherent and appropriate. The Institute will provide advice to the Secretary of State of Education, which may influence decisions about where additional qualifications are needed and whether particular sectors should be prioritised.

443. The effectiveness and efficiency of the Institute's and Ofqual's collaborative oversight of technical education qualifications will be monitored through their internal governance structures and through the DfE's ongoing policy and delivery oversight for technical education.

Measure 6: Improvements to the FE insolvency regime

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

444. As this is a complex area, it may be helpful to have an explanation of the key terms set out up front:

a. The **FE insolvency regime** is a special insolvency regime for FE bodies, as an alternative to the normal insolvency regime open to all companies. It was introduced by the Technical and Further Education Act 2017 (TFEA).

b. Under TEFA, **FE bodies** in England are FE corporations (which conduct general FE colleges), sixth-form college corporations (which conduct sixth-form colleges) and companies conducting designated FE institutions. In Wales FE bodies are further education corporations and companies conducting designated FE institutions.

c. The **statutory FE sector** is the name we use for the three types of FE provider which can be grant funded by the government, and in which the Secretary of State has statutory intervention powers. It was introduced by the Further and Higher Education Act 1992 (FHEA). It is made up of general FE colleges, sixth-form colleges and designated institutions.

d. A **Designated Institution (DI)** is an institution that has been designated by the Secretary of State as falling within the statutory FE sector. The Secretary of State designates an institution using a statutory instrument made under section 28 of FHEA. A DI is usually conducted (run) by a company. In some circumstances, it may be desirable to transfer an institution within the statutory FE sector from an insolvent FE body to a new, solvent, company as part of the process of exiting from insolvency proceedings; to ensure this institution remained within the statutory FE sector, it may then need to be designated.

e. A **Company Voluntary Arrangement** (CVA) is a procedure which allows a company or corporation in insolvency proceedings to come to a voluntary arrangement with its creditors over the payment of debts. CVAs can be used as an exit route from normal administration, as set out in legislation. CVAs can currently be used as an exit route from education administration under the FE insolvency regime under case law.

f. A **transfer scheme** is a plan to transfer specified property, rights and liabilities (including those which could not ordinarily be transferred) from one legal entity to another. It cannot be used in normal insolvency proceedings, but can be used by an education administrator if approved by the Secretary of State in cases of education administration and if required to meet the learner protection special objective of an education administration.

g. **Education administration** is a key part of the FE insolvency regime. It is a form of insolvency proceeding that can be used by FE bodies if requested by the Secretary of State and approved by a court. It is different to normal insolvency proceedings in that the administrator appointed to run the FE body (known as an education administrator) has a special objective to protect the interests of learners, whereas a normal administrator's first objective is to protect the interests of creditors.

h. **Security** is a right that creditors may have to sell or possess assets owned by a debtor, to guarantee the repayment of debt (like a mortgage).

445. The legislation sets out to clarify certain parts of the FE insolvency regime regarding CVAs and Transfer Schemes, and the associated process to create a designated institution – as set out in separate legislation – the latter of which is slow and inflexible.

Company Voluntary Arrangements:

446. The current legislative framework (TFEA) is unclear as to whether CVA can be used as part of an education administration. TFEA does not specify that education administrators of insolvent providers in the statutory FE sector can use a CVA as a mechanism to exit education administration. Whilst there is case law to allow the use of CVAs in this scenario (in line with the legislation for normal insolvency), it is possible this could be overturned in future.

Transfer Schemes:

447. The current legislative framework (TFEA) is unclear whether security in an education administration transfer scheme is treated to the same extent as in normal insolvency. TFEA is unclear that where a transfer scheme is used in an education administration, the consent of the secured creditor or a court order would be required to use a transfer scheme to transfer secured assets free of the security (i.e. the secured asset would be treated the same as it would be in a normal insolvency). Whilst there is non-statutory guidance that we will treat secured creditors as if they had those protections, we are using this opportunity to legislate to expressly state this.

Designated Institutions:

448. The current legislative framework (FHEA) requires a Statutory Instrument to be made to designate an institution. FHEA does not set out a swift and flexible process by which institutions can be designated as falling within the statutory FE sector, a mechanism that could form part of the process of exiting insolvency and otherwise dealing with FE bodies in financial difficulty. Currently, creating a new designated institution requires the making of a Statutory Instrument, a process which takes a number of months and which needs to have the date upon which the designation would take place specified significantly in advance. This complicates and could delay the process of exiting from insolvency (where the use of a DI is

considered appropriate), imposing a longer period of disruption on learners and staff at the insolvent provider, and generating extra costs for the taxpayer (through the need to provide additional financial support to the insolvent provider to enable it to carry on offering provision and paying an education administrator's fees).

449. The government is best placed to resolve these issues - as the problems are with processes as set out in primary legislation (TFEA and FHEA), they can only be resolved through further legislation.

What are the policy objectives of the action or intervention and the intended effects?

450. We intend to clarify parts of legislation in the FE insolvency regime (or give ourselves the power to do so via secondary legislation) and improve the associated designation process. This will:

a. Explicitly allow for the use of CVAs as part of an education administration;

b. Clarify that in an education administration, a transfer scheme cannot be proposed which would transfer secured assets without either a court order or the consideration attributed to the asset being agreed by the secured creditor; and

c. Allow the Secretary of State to designate an institution as being within the statutory FE sector using an Administrative Order, rather than requiring the use of a Statutory Instrument.

What policy options have been considered, including any alternatives to regulation?

451. The option set out as **our proposal** does not introduce new regulation, it clarifies or modifies existing processes set out in legislation (or would give us the power to do so via secondary legislation). It would:

a. Give the Secretary of State the power to explicitly allow for the use of CVAs as a mechanism to exit an education administration.

b. Clarify that in an education administration, a transfer scheme cannot be proposed which would transfer secured assets without either a court order or the consideration attributed to the asset being agreed by the secured creditor; and

c. Allow the Secretary of State to designate an institution as being within the statutory FE sector using an Administrative Order, rather than requiring the use of a Statutory Instrument.

452. We have chosen this option because we believe it would:

a. Cement case law into primary legislation that Education Administrators of insolvent statutory FE providers can use a specific rescue procedure (known as a Company Voluntary Arrangement, or 'CVA', which is available in normal insolvency) as a mechanism to exit education administration.

b. Clarify any uncertainties between what happens to secured assets in a transfer scheme in an education administration as opposed to normal insolvency, thereby reassuring lenders to the sector;

c. Shorten and increase the flexibility of the process by which institutions can be designated as falling within the statutory FE sector, a mechanism that can form part of the process of exiting education administration.

453. The option of **doing nothing at all to the FE insolvency regime** (TFEA) was considered, but ruled out as there may not be another legislative opportunity for some time if our current non-legislative solutions prove ineffective (for instance, if existing case law allowing the use of CVAs as part of the FE insolvency regime were to be overturned).

Company Voluntary Arrangements

454. The option of **doing nothing in relation to CVAs** was considered. This would involve relying on case law which states that a CVA can be used to exit education administration. However, cementing this in case law mitigates the risk of the judgment being overturned (though this is very unlikely), which would result in legal costs should a challenge to case law be brought. It is worth noting that only two further education bodies have entered education administration, and we expect to use this infrequently.

Transfer Schemes

455. The option of **doing nothing in relation to transfer schemes** was considered. This would leave potential conflict on the treatment of secured creditors between the transfer provisions of TFEA and the Insolvency Act. This is because the government provided a response to the technical consultation for TFEA in June 2018 that secured creditors would not be treated any differently in the transfer scheme of TFEA as they would do under the Insolvency Act which provided the banks with assurance. However, clarifying this in legislation will leave less ambiguity around the theoretical ability for the Secretary of State to consent to an education administrator's proposal to use a transfer scheme to transfer secured assets free from security and without consideration to the secured creditor.

Designated Institutions:

456. The option of **doing nothing in relation to the creation of designated institutions** was considered. We rejected this option, as the benefits of providing a direct mechanism for Parliamentary scrutiny (through the process of making Statutory Instruments) of this rarely-used and relatively minor administrative procedure were not felt to outweigh the significant benefits to relevant insolvency cases of increasing the speed and flexibility of the designation process. The minister would remain accountable to Parliament in relation to the new administrative orders, any designations would still be public knowledge as there would be a requirement for orders to be published, and any decision felt to be unreasonable would be able to be challenged through judicial review.

457. The option of **speeding up the creation of FE corporations rather than designated institutions** was considered. This option would require amendment of the FHEA through primary legislation, to allow FE corporations to be created by administrative order rather than by statutory instrument. We rejected it for the following reasons:

a. There are additional factors (relating to charity status and governance) that must be considered when creating a new FE Corporation. These considerations mean that the process is inherently slower than the equivalent process for creating a new designated institution. Accordingly, making it easier to create FE Corporations would not deliver the desired outcome of our measure, which is to improve and speed up the FE insolvency process.

b. Unlike the creation of a designated institution (which is primarily an administrative procedure, used to enable the transfer or reclassification of existing provision), the creation of a new FE Corporation (such as a National College) can be politically significant, and we believe it is therefore important that this process retains Parliamentary scrutiny.

Rationale and evidence to justify the level of analysis used in the impact assessment (proportionality approach)

458. Insolvency is rare for providers in the statutory FE sector, and likely to remain so. Prior to the introduction of the FE insolvency regime (covering providers in the statutory FE sector – approximately 221 college corporations and 13 designated institutions) on 1 April 2019, no provider in the statutory FE sector had been placed into an insolvency process. The formal insolvency of a college corporation had theoretically been possible since colleges were incorporated by the HFEA in 1992.

459. When the FE insolvency regime came into effect in 2019, it clarified that certain providers within the statutory FE sector could be placed into insolvency (this had previously been our policy position, but was not stated in the relevant legislation), and created an additional form of insolvency process, specific to the

statutory FE sector – education administration. An insolvent college corporation or company conducting a designated institution could now enter into either the normal insolvency process (which prioritises the interests of creditors) or education administration (an insolvency regime specific to FE which has a special objective to prioritise the interests of learners).

460. Since 1 April 2019, only two college corporations (run by one management team as part of a single “group”) have been placed into insolvency; both entered education administration. These insolvencies did not involve a transfer scheme, a CVA or the creation of a new designated institution. If the insolvency of a provider in the statutory FE sector were to involve an education administration using either the transfer scheme or CVA in the future, these would take place under the same terms as we are proposing to embed in legislation, only based on non-statutory guidance and case law respectively instead.

461. Accordingly, the evidence available to support any proposed legislative changes to improve the FE insolvency process is only theoretical, and this Impact Assessment instead focuses on trying to illustrate the likely impacts in an insolvency scenario where these measures become relevant.

462. There are other, non-insolvency, uses for the legislative process of creating a Designated Institution. These would also be affected by our proposal to change this process from requiring a Statutory Instrument to requiring an Administrative Order. Since 1992, relevant non-insolvency uses of this process have taken place seven times:

a. Twice in 1993 to enable education providers that existed before the HFEA to enter the new statutory FE sector, and thereby enabling them to receive government funding;

b. Once in 2006 to enable the (re)designation of the one provider which had been designated as an unincorporated organisation in 1993, but had since decided to incorporate; and

c. Thrice in 2018 and once in 2021 to enable the creation of FE institutions that are wholly-owned subsidiaries of universities (“HE/FE designation”).

463. Whilst the legislative process used for these three purposes would be affected by our proposed change, any impact would be incidental. We envisage no significant benefit as either timescales are unable to be compressed due to other considerations (as with HE/FE designations), or we do not envisage a repeat of the relevant scenario (the transfer of education providers into the statutory FE sector, or (re)designation to allow for the incorporation of formerly unincorporated designated institutions). As such, this impact assessment focuses on the process in relation to its use in insolvency.

Key risks and assumptions

Risks:

464. We have not identified any significant risks associated with our proposals, which are as follows:

a. We are taking the power to embed existing case law in relation to CVAs.

b. We are embedding assurances into legislation in relation to transfer schemes.

c. We are making minor administrative simplification changes in relation to designated institutions.

Assumptions:

465. We have assumed that the insolvency regime for the statutory FE sector will continue to operate in the event that the sector were to be reclassified as being part of the public sector. Were this not to be the case, our proposals may no longer provide any significant benefit if there were to be no users of the insolvency process to benefit from our changes.

466. We have assumed that insolvency will remain a possibility for providers in the statutory FE sector in serious financial difficulty, in line with current government policy. Were this not to be the case, our proposals would no longer provide any significant benefit as there would be no users of the insolvency process to benefit from our changes.

467. We have assumed that there will be no desire to bring a significant number of new or existing education providers (such as ITPs) into the statutory FE sector as Designated Institutions, in line with current Government policy. Were this to change, our proposals would provide additional benefit by reducing the administrative burden associated with enacting this process through Statutory Instruments.

Summary and preferred option with description of implementation plan

468. Our preferred option would:

a. Give the Secretary of State the power to explicitly allow by regulations for the use of CVAs as a mechanism to exit an education administration;

b. Clarify that in an education administration, a transfer scheme cannot be proposed which would transfer secured assets free of the security without either a court order or the consideration attributed to the asset being agreed by and paid to the secured creditor;

c. Allow the Secretary of State to designate an institution as being within the statutory FE sector using an Administrative Order, rather than requiring the use of a Statutory Instrument.

469. Our preferred option would be given effect through amendments to primary legislation (and subsequent secondary legislation in relation to CVAs). This would change the TFEA in relation to CVAs and Transfer Schemes, and the FHEA in relation to the creation of designated institutions. We are proposing to bring these changes into effect through the Skills and Post-16 Education Bill (and subsequent secondary legislation in relation to CVAs).

Company Voluntary Arrangements:

470. To clarify the rules of education administration with regards to the use of CVAs, we will be amending primary legislation to extend an existing power under section 33 in the TFEA to give the Secretary of State the power to amend Schedules 3 and 4 of the TFEA relating to CVAs by statutory instrument. We have taken this approach, given these are technical amendments to clarify the legislative position. This change to legislation is in line with case law and therefore would not require further arrangements to be made with regards to operation or enforcement, apart from amendment of the Education Administration Rules in relation to operation of CVAs in education administration. The power to make regulations under section 33 will come into force 2 months after Royal Assent.

Transfer Schemes:

471. The clarification of the rules around transfer schemes will come into effect 2 months after Royal Assent. There would not be transitional arrangements. Changes to legislation on transfer schemes are in line with a statement of assurance from the Secretary of State and therefore would not require further arrangements to be made with regards to operation or enforcement.

Designated Institutions:

472. The change to the process of designating institutions will come into effect 2 months after Royal Assent. There would not be transitional arrangements and this change would not require further arrangements to be made with regards to operation or enforcement.

473. As the legislative proposals in relation to CVAs and transfer schemes would only cement existing policy, the legislative proposal in relation to designated institutions is relatively minor, and the insolvency process for providers in the

statutory FE sector is very rarely used, we do not feel it would be practical or beneficial to have a pilot or trial implementation period.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

474. We expect these mechanisms to be utilised very rarely (as they have not been used before in the two previous cases of education administration).

475. In an insolvency scenario where these measures are relevant, they would lead to the following benefits:

a. As these measures set out to simplify, clarify and cement into legislation processes that we can already use, the amendments could enable a shorter insolvency process (DI item) and save time resulting in lower administration costs.

b. Providing confidence to education administrators that a CVA can be used as a mechanism to exit education administration. However, as CVAs can already be used under case law, we would be mitigating the risk of this being overturned and associated legal challenges that would result in cost and disruption, though this is unlikely.

c. More broadly, the transfer scheme measure will be clarifying the protections of commercial lenders' secured assets. We expect this benefit to be negligible given the existing guidance. As at 18/19 commercial lenders lend c. £1bn to the FE sector and are a key stakeholder.

d. A shortened process to create designated institutions should enable a shorter insolvency process for some of those providers who enter insolvency where a transfer to a DI is appropriate, resulting in lower administration costs.

e. More broadly, TFEA itself has benefits which include minimising the costs of disorderly closure and ensuring, where possible, that there are arrangements for learners to complete their courses, so the value of learning is not lost. These amendments seek to provide further clarity as to how this regime works, and to allow it to function with minimal disruption.

476. We do not attempt to quantify these impacts because:

a. It is impossible to predict how frequently these measures will be used.

b. It is difficult to monetise the benefits from a scenario where these measures are used because it is so dependent on the individual circumstances of a particular insolvency.

c. Further analysis would be disproportionate given the small scale of the impacts.

Direct costs and benefits to business calculations

477. Insolvency processes are very rarely used in the statutory FE sector (and designated institutions would only be used in a subset of these cases – and have not been used in either education administrations which have taken place so far), and our changes are a combination of a minor administrative simplification and embedding existing case law/assurances into legislation.

Impact on small and micro businesses

478. We do not believe this measure will have a quantifiable or significant impact on small or micro businesses. It will mainly apply to the administrative procedures used in relation to insolvent FE College Corporations, Sixth Form College Corporations and companies conducting DIs, the vast majority of which would fall under the categories of “medium” or “large” businesses (see the Bill-level "Small and micro business assessment”, above). As it is important from a policy perspective that there is only one consistent insolvency procedure (and associated designation procedure) for all providers in the statutory FE sector, there is no scope to exempt/provide mitigations for businesses of a certain size.

Equalities and wider impacts

479. We do not believe our proposals will have quantifiable/significant wider impacts as these are procedural legislative changes to the insolvency regime and related legislation to provide clarity for providers in the statutory FE sector. We have assessed the measure and do not anticipate any specific impacts on those who share any particular protected characteristic.

Monitoring and Evaluation

480. It would not be proportionate to individually monitor and evaluate the minor administrative changes we are proposing.

481. The DfE and ESFA will continue to carry out ongoing evaluation of the wider FE intervention and oversight regime, including the FE insolvency regime.

Measure 7: List of post-16 education or training providers

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

482. The government wants to ensure learners are protected in cases of training providers who cease to deliver education and training, and that there are a consistent set of requirements placed on providers to protect learners and public funds. The provision of post-16 education or training is commissioned by various funding bodies and is often subcontracted. As a result, there is a wide variation in the range of obligations and requirements currently imposed on providers. The measure is intended to ensure that there is a consistent set of requirements placed on providers to protect learners and public funds, even where the education or training is funded by local commissioning bodies or through subcontracts from directly funded providers. This policy focuses on independent training providers (ITPs) and institutions such as Schools, FE Colleges, Academies and Local Authorities are out of scope. There were 64[144] unplanned provider exits in the academic year 2019/20, of which 60 were ITPs. There are delays in the current system finding a new provider and the affected learner experience varies from provider to provider. Legislation will address gaps in these requirements and make the legal position clear to the sector. Legislation will also provide powers for the government to prevent such issues arising.

What are the policy objectives and the intended effects?

483. Legislation will give the Secretary of State the power to make regulations to set up a scheme to list certain providers of post-16 education or training. There were 3737 providers in 2019/20, with approximately 73% being ITPs. This total differs from the headline presented in the overarching Bill Small and Micro Business Assessment. It includes providers across all funding streams directly delivering ESFA funded provision, subcontractors declared by providers directly delivering as well as providers that have registered an intention of delivering apprenticeships but did not deliver training. The scheme could make being on the list compulsory for providers in scope and being on the list would require those providers to meet certain conditions which would mitigate against unplanned and chaotic exit from provision. In secondary legislation we would expect to see a requirement for a

[144] Unplanned provider exits have been determined as providers directly delivering ESFA funded provision that has ended and resulted in the ESFA overseeing the transfer of learners to alternative providers.

learner protection plan or provider exit plan, insurance arrangements made and maintained by provider to cover associated exit costs, fit and proper person requirements and the provision of and access to information by the Secretary of State including learner records and financial information, in addition to the payment of a fee for registration to cover the administrative cost of maintaining the register. The OfS also place requirements for exit plans for HE provision.

484. **To mitigate financial risk in relation to a provider exiting:** ITP failures incur costs to government, for example administrative costs in resourcing learner transfers or writing off Advanced Learner Loans. In the current system there are instances where providers would take a learner and receive no additional funding. This makes it difficult to place some affected learners with alternative providers and this brings with it the risk that the learner may disengage and then fail to complete their learning.

485. **Ensure greater oversight at a national level:** This would include post-16 ESFA funded training, provision transferred to combined authorities and any relevant provision funded by local authorities. Given that those commissioners of education and training may or may not have similar protections in place for the provision that they fund, we also believe that the risk of short notice and chaotic exits from the provision of education and training could be mitigated by ensuring that the providers are financially stable and run by appropriate personnel. The measure is intended to ensure that there is a consistent set of requirements placed on providers to protect learners and public funds, even where the education or training is funded by local commissioning bodies or through subcontracts from directly funded providers.

486. **Putting some clauses of ESFA funding agreements/contracts on a statutory footing:** Current protection arrangements are included in funding agreements. Adding this to legislation will make the legal position clear to the sector and place it on a statutory footing, providing more powers to prevent such issues arising again.

487. Indicators of success would be a reduction in providers unexpectedly exiting the market, a reduction in administrative costs to government on managing unexpected exits (such as the number of personnel and time spent managing provider exits and finding alternative providers) and reduction in impact on the learner when a provider unexpectedly exits (time to find a suitable new provider). We will quantify this as part of the impact assessment for secondary legislative measures.

What policy options have been considered, including any alternatives to regulation?

488. Our policy objectives are long-term and sector-wide. Interventions proposed through secondary legislation by way of conditions for being on the relevant list (which will be a prerequisite to funding) such as, provider exit plans, insurance and ‘fit and proper persons’ requirements will improve transparency and fairness within the sector. Government’s approach will be targeted and based on the level of risk to learners helping ensure actions are proportionate. When considering alternatives to regulation we identified much of this provision would be achievable through contractual or grant conditions, but there is a particular wish to achieve the policy through legislation of this nature. The varying terms across agreements make requirements complex to understand for providers. For example, we have a range of agreements including ESFA Education and Skills agreements, Apprenticeship Agreements, Contract for Services Adult Education Budget (Procured), Contract for Services Procured Non-Levy, Contract for Services European Social Fund.

489. Another reason for considering legislation rather than strengthening agreements is that it would not enable oversight of all relevant provision as devolved funding is out of scope of contractual or grant conditions with providers directly (as ESFA is not the contracting authority). Legislation will ensure there is consistency and oversight of the relevant providers. For example, in the academic year 2019/20 there were 282 providers that had an allocation with an MCA. 40 out of 282 had relationships with more than one MCA.

Alternatives to regulation have been considered including self-regulation and do nothing:

490. Whilst the sector is generally adaptive, for example with Apprenticeship Reform, legislation in these circumstances would establish a baseline for all relevant providers and enable government to apply mechanisms across all provision to prevent providers which do not comply with relevant conditions receiving public funding. There is an overarching aim to protect the interests of learners.

491. There are provisions in ESFA agreements and contracting arrangements that reduce risk. However, these are complex and vary by agreement leading to inconsistencies. The extent to which clauses have been adhered to is unclear. Legislation would make the legal position clear to the sector and give more powers/oversight to prevent such issues arising.

492. A regulatory approach would give consistency in the approach taken by ESFA and devolved areas, as devolved areas currently set their own conditions.

493. If registration was voluntary, providers may not take up registration and devolved areas may choose not to rely on this. This would lead to further uncertainty on what conditions are applicable to providers depending on whether

the provider is registered/not registered and whether the devolved area is using this – adding further complexity to the current setup.

Rationale and evidence to justify the level of analysis used in the impact assessment (proportionality approach)

494. We are introducing primary legislation which will not have a direct impact on providers or learners. It is the scheme introduced in secondary legislation, and the conditions for being on the list that will be contained within those regulations that will impact. An assessment has therefore been taken on the current landscape with consideration of some of the secondary measures likely to be introduced.

Key risks

495. A perception that this could have been changed by tightening existing funding agreements and funding rules. Whilst this is true for ESFA funded provision albeit being complex - without regulation, central government would not have direct oversight of provision funded through the functions which are transferred to the combined authorities and that which is funded by local authorities.

496. Whilst this is not a risk as a result of introducing measures, the longer-term impact of COVID-19 on financial sustainability could lead to more providers ceasing their provision of education or training unexpectedly in the future. It may also make it more difficult / attractive to take on learners that have been displaced. Also, COVID-19 will bring about its own socio-economic impacts which are less predictable. This may impact on measuring success of the policy in terms of reducing the number of unplanned provider exits in the short to medium term.

497. There is a risk that central government and devolved government are not joined-up in sharing information that affects effective measures. It will be important to build relationships and introduce secondary legislation or guidance setting out roles and responsibilities with respect to reporting and sharing of information.

Summary and preferred option with description of implementation plan

498. The preferred option is to include a power in the Bill, allowing the Secretary of State to make regulations to set up a list of providers of certain post 16 education and training (primary legislation). The power should enable the Secretary of State to include by way of conditions for being on the list (secondary legislation), any provision that he sees fit for the purpose of regulating relevant providers, in order to mitigate risks associated with the disorderly exit of a provider from the provision of education and training to protect learners and public money. Imposing conditions through secondary legislation will leave sufficient flexibility and scope to test with the provider base to ensure a balance between regulatory burden and protection for

learners and public funds. The government proposes to consult on the specific requirements of the scheme prior to making regulations.

499. ESFA would be responsible for ongoing operation and enforcement of the new arrangements on behalf of the Secretary of State.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

500. There will be administrative costs associated with maintaining a registration scheme. For example, the cost of refreshing the Register of Apprenticeship Training Providers (RoATP) was £1,218,000 and involved 19 staff across a range of grades from G6 to EO in just under two years, and the assessment of over 3500 providers. There was also a finance team reviewing financial statements. We do not anticipate that the list will require a similar level of resource. The level of resource required will be determined by the conditions introduced through secondary legislation. The costs for assessing applications may be approximately less than 50% in comparison to RoATP but ongoing maintenance costs are likely to be higher which will include engagement and information sharing with MCAs/LAs who will be dependent on information sharing.

501. Length of time to complete an application to the RoATP varied between 4 days to 2 weeks depending on the experience of the training provider. Again, the proposed registration scheme is likely to require less documentation.

502. We will wait until the secondary legislation stage to provide an estimation of administration costs for government and the administrative cost to providers. The cost of insurance and sharing information are likely to be areas incurring most cost for providers. In terms of insurance, we anticipate this to be professional indemnity insurance, which is typically set up to cover: breach of duty, civil liability, breach of contractual liability that is not caused by negligence, contractual liability, and legal costs.

503. At this stage, we use this impact assessment to describe the likely key costs and present available evidence from similar schemes – e.g., the RoATP. We do not present quantified estimates of the impacts at this stage as the policy detail will be set out in future regulation – at which stage we will have a better understanding of the likely impacts and present an updated impact assessment.

Direct costs and benefits to business calculations

504. Introducing a power in the Bill that will allow the Secretary of State to make regulations to set up a list of certain providers of post-16 education and training will not incur direct costs to business. Providers will not be required to apply to be on the list until secondary legislation setting out conditions is introduced. This will influence the scope and costs.

505. The introduction of secondary legislation will increase costs for businesses in the short term, although this would be expected to reduce over time when providers build systems and processes to reflect requirements. There would continue to be ongoing costs with respect to a registration fee and payment of insurance. Currently, the intervention measures taken and engagement varies by ESFA funding stream and can vary by combined authority. A consistent and clear set of expectations will avoid duplication for providers and enable them to plan their delivery accordingly, in turn this should lead to an efficiency in costs in the longer term. For example, not having to vary exit plans for each funding authority they contract with and the provisions in place to access and share information being similar across central and devolved government. We will impact assess alongside the introduction of secondary legislation in the future. The additional costs as a result of secondary legislation are likely to be:

a. **Payment of a fee** for being on the list – completing one process may result in less administrative costs depending on what provision the provider delivers.

b. **Insurance costs** – most providers will have cover, the cost will be dependent on the liabilities government expect to be covered.

c. **Provisions of student exit plans** - diligent providers will have robust plans in place. Other providers may incur costs to meet the required standard whilst smaller providers may not have these plans in place.

d. **Provision of and access to information by the Secretary of State** – this is expected to include learner records and financial information. Depending on requirements this is an area that will incur most costs depending on the provider's infrastructure.

506. As set out above, we will consider these impacts more fully in a future impact assessment.

Impact on small and micro businesses

507. Future measures are likely to have a significant impact on small or micro businesses from a resource and cost perspective. About half of ITPs are small businesses and these will be most affected, please refer to cost benefit table below. These measures will ensure alignment with other education sectors and ensure there is a clear and consistent approach. Consistency and clarity will avoid duplication for providers and allow them to plan their delivery accordingly, which in turn should lead to an efficiency in costs in the longer term. We will assess impact in more detail when developing specific regulatory measures introduced through secondary legislation. One consideration will be whether we exempt small businesses from a fee. Small businesses would not be exempt from registration as we want to ensure coverage across all ITPs to ensure learner interests are protected.

Equalities and wider impacts

Background information

508. In the 2019/20 academic year there were 3737 providers in total, of which:

a. 1109 directly delivered training;

b. 881 directly delivered training and delivered training as a subcontractor;

c. 1447 delivered training as a subcontractor only; and

d. 300 were seeking to deliver apprenticeship training directly and did not deliver any training.

Note:

- This estimate includes providers who did not deliver any training in 2019/20.
- The total provider estimate differs from the Bill Small and Micro Business Assessment because the scope here is much broader: including subcontractors and providers not delivering any training.
- The Register of Training Organisations has been decommissioned so only the RoATP was used to determine those in category D.
- In the 2019/20 academic year there were 64 unplanned exits.[145] This included 60 ITPs.

[145] Unplanned provider exits have been determined as providers directly delivering ESFA funded provision that has ended and resulted in the ESFA overseeing the transfer of learners to alternative providers.

Costs and benefits

Stakeholder	Costs	Benefits
Providers	• Direct costs as articulated above as a result of secondary legislation. • Time to familiarise new regulatory requirements – will vary by provider including size and experience. • Administration costs – staff time. • Infrastructure costs to allow access. For example provisions to store non electronic records or setting up secure servers to hold information.	• Clearer understanding of what is expected. • Increase efficiencies in longer term, as consistent set of requirements. • Some providers may improve reputation with employers and learners by having to comply with new regulatory requirements.
Employers	• An increase in administrative costs for providers (due to secondary legislation) may be passed on to employers in the context of apprenticeships – meaning greater proportion spent per apprentice for levy paying employers. • Potential increase in administrative costs for employer providers in the short term– *registration, staff time etc.*	• Less disruption to employees where they are apprentices. • Clearer understanding of what to expect when a provider unexpectedly exits. • Less disruption to business when a provider unexpectedly exits.
Local government (local authorities, LEPs, MCAs etc)	• Potential increase in administrative costs – checking registration, aware of compliance issues or sharing information on issues they are experiencing etc.	• Secondary legislation may provide clarity on provider expectations. • Reduce level of risk depending on their assurance / vetting arrangements. • Less disruption from provider exits due to policy. • Less opportunity for inconsistency between authorities.
Learners	• None.	• Less likely to disengage or fail to complete learning. • Clearer understanding of what to expect when a provider unexpectedly exits.

Table 30: Costs and Benefits by Stakeholder

Equalities Impact Assessment

509. We have reviewed protected characteristics identified through ILR which include age, ethnicity, disability, race and sex. This is not an equalities impact assessment of the policy we are introducing as this will be determined by the measures introduced in secondary legislation however it reflects the current system. The table below covers protected characteristics and compares averages from providers that unexpectedly exited in the 2019/20 academic year, against averages for all providers and ITPs. The percentages highlighted in orange indicate where the percentage of learners is higher for providers that exited in comparison to all providers and all ITPs, the percentages highlighted in purple indicate where the percentage of learners is lower.

Information sources:

510. Learner information is pulled from the ILR 2019/20 R14 (full year of learner participations).

511. This includes all types of providers such as ITPs, FE Colleges, Higher Education Institutions, Academies, Local Authorities.

512. Rurality is matched in at a postcode level to learner home postcode and delivery postcode.

513. Deprivation is matched in at the learner/delivery Lower Layer Super Output Area.

Methodology:

514. Data is aggregated at provider level for all providers.

515. Each provider is summarised by the proportion of learners meeting certain requirements i.e. proportion of learners that are male, proportion of learners declaring at least one learning difficulty/disability.

516. In the case of deprivation, the percentage is the proportion of learners living in a lower super output area with a deprivation decile of 1 or 2.

517. Averages are calculated across ITPs only and across all providers for all metrics i.e. average proportion of male learners in ITPs.

Group average indicator	Percentage of students	Percentage of students	Percentage of delivery in a	Percentage of students with	Percentage of BME students	Percentage of students aged	Percentage of students aged	Percentage of students aged	Percentage of female	Percentage of male students
All providers in 2019/20	28%	14%	7%	19%	32%	30%	18%	52%	55%	45%
ITPs in 2019/20	30%	13%	10%	15%	28%	16%	26%	57%	52%	48%
Providers that exited in 2019/20	**36%**	**9%**	**9%**	**11%**	**33%**	**7%**	**20%**	**73%**	**63%**	**37%**

Table 31: Equalities impact of 64 providers with an unplanned exit in 2019/20

Apprenticeships	16-19	Adult	ESF	Advanced Learner Loan	Other, including non-ESFA funded	Total
7891	423	3334	0	1169	89	12906

Table 32: Learners affected by unplanned exit in 2019/20 by funding source

519. Out of the 12,906 learner entries reported, there are 74 learners that have more than one Funding Model so are double counted.

520. The analysis highlighted:

a. Students aged 25+ were the only age group where the percentage of unplanned provider exits was higher than the percentage of the cohort.

b. The proportion of female students affected by unplanned provider exits was higher than the percentage of the cohort.

c. The proportion of students identified as BME or in the top 20% most deprived areas was higher when reviewing unplanned provider exits.

d. Providers that unexpectedly exited in 2019/20 delivered less to residents in rural areas.

Monitoring and Evaluation

521. Unable to determine at this time. We will undertake a full impact assessment when forming secondary legislation which will look at the impact of each condition and totality.

Measure 8: FE teacher training system reform

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

522. The quality of initial teacher training is an essential ingredient in ensuring the quality of teaching in the FE sector. This, in turn, is a key determinant of outcomes for learners. It is therefore vital that the teacher training system for FE is of consistently high quality, based on clear standards, and provides training that prepares new teachers to be proficient in their roles. In our engagement with a range of initial teacher education (ITE) providers and FE providers we have been told that practice across the system is not uniformly good, and that the ITE offer is too fragmented, difficult to navigate and not always based on sufficiently clear quality standards. It is therefore right that government should take action to drive improvement in the system.

523. The existing qualifications for FE teacher training are out of date (having been created in 2013) and are due for revision.

524. DfE does not routinely collect data specifically on FE ITE providers or those who are undertaking and completing ITE courses. There are a range of datasets which provide information about FE ITE, which tend to focus on sectors or routes through ITE but there are gaps and fragmentation in the data. We have determined that now is the time for government to take a more active role in challenging the status quo and providing better oversight of the initial teacher education system, ensuring that public funding goes only to high-quality provision based on clear employer-led standards. It is vital that FE providers, and those individuals undertaking training, are confident in the quality of ITE.

525. We want the sector itself to take ownership of and responsibility for the quality of teacher training for FE. We will therefore work closely with the sector to bring about the improvements to quality that are so important to improving teaching in FE settings, and continue to gather evidence on the case for intervention. However, we are clear that substantial change is needed, which is why we are taking measures in legislation to introduce new powers which would allow the Secretary of State to take a more active role in regulating the provision of initial teacher education for the FE sector, if the improvement we need to see is not achieved through other means.

What are the policy objectives of the action or intervention and the intended effects?

526. Without excellent teachers, our ambitions for the transformation of FE cannot be fully realised. The FE sector is a powerful driver for the government's "levelling

up” agenda, and will play a critical role in supporting the recovery of the economy after COVID-19, not least by ensuring a flow of high-quality trained individuals into the workforce. FE ITE is critical to supplying teachers to the workforce with 5000+ trainee teachers completing level 5 (or higher) qualifications each year. This provision is delivered by both higher and further education providers and much is publicly funded (mainly via student finance).

527. We are taking action to address a basic lack of clarity about expectations for teaching proficiency in FE, taking an approach that roots teacher training firmly in an employer-defined occupational standard that will equip trainees to become highly proficient teachers, and that will enjoy the same currency and recognition across the FE sector that the Teachers’ Standards have in schools.

528. We are working with the Institute for Apprenticeships and Technical Education and a newly re-convened Trailblazer Group tasked with redeveloping the standard for FE teaching. We have steered this group to take account of the changing policy landscape, in particular key developments such as the proposed Higher Technical Education (HTE) reforms. We anticipate that an apprenticeship, based on the new occupational standard for FE teaching, will be ready for delivery in AY2021/22. The next step will be to redevelop the core ITE qualification for FE (currently the Level 5 Diploma in Education and Training), so that it too is based on the new occupational standard. This work will be largely led by the sector but we will provide support and stewardship to ensure that new qualifications meet HTE approval standards and are available to all AOs and HE providers as they are currently.

529. By AY 2023/24, we anticipate having a standards-based approach to FE teacher training in which applicants will be able to choose from an apprenticeship or a qualifications-based route, both of which will lead to the same high-quality outcome based on a universal standard. In future, only high-quality ITE provision based on clear employer-led standards should be eligible for public funding. This measure gives us powers need to bring greater coherence and quality assurance to the system, underpinning the non-legislative steps we are taking with a regulation-based approach, should this be deemed necessary in the future.

530. These reforms will have benefits for the wider FE sector. Students (many of whom are disadvantaged) will experience more high-quality teaching, which is one of the factors determining achievement rates, leading to better employment outcomes and levelling up of opportunity. Trainee FE teachers will be more likely to receive a high-quality training experience that in turn supports them to be effective teachers and be retained by the sector. Employers will see students emerging from FE who are better equipped to do their jobs, leading to a better skilled industry workforce. Employers will also develop further mutually supportive relationships with FE providers to share human capital and ensure that teaching is industry-standard.

Providers will be able to recruit high-quality teachers who are better equipped to deliver technical education reforms.

What policy options have been considered, including any alternatives to regulation?

531. When proposing the inclusion of this enabling clause, we identified four options for varying degrees of intervention, as set out below.

Option 1

532. We leave the sector to drive these reforms independently. However, there is no one individual or organisation with responsibility for the FE ITE sector and we have concerns that simply allowing qualification re-development to happen by consensus within the sector will not address the issues we have identified.

Option 2

533. Work collaboratively with stakeholders to revise the qualifications, but in this scenario we will underpin this with strengthened common qualification requirements and increased oversight. This will allow us to be more directive in terms of the content covered, assessment approach and delivery requirements for the qualifications and take action where standards are not met. Although this approach provides controls on the qualification, it does not facilitate restrictions on which providers can offer them. However, we anticipate that the increased requirements on the qualification, combined expanded inspection scope for FE ITE providers announced in the White Paper, will drive an organic improvement in the overall provider market.

Option 3 (Preferred option)

534. This option takes the same approach as option 2; we will work collaboratively with stakeholders to revise the qualifications, but in addition introduce a reserve power to regulate the sector if needed in the future. This means that if the approach outlined in option 2 does not work, this power can be activated in the future. This is a clear signal to the sector that ministers are willing to intervene further, with legislative levers, if we do not see the sector itself driving improvements to the quality and coherence of ITE.

Option 4

535. Use an enabling clause in the Skills and Post-16 Education Bill to give the Secretary of State powers to make secondary legislation to regulate the FE ITE sector immediately from Royal Assent. The primary power would allow us to make provisions in secondary legislation to, for example:

- Prescribe FE teacher training content through statutory guidance.
- Require providers of FE ITE to be regulated and approved by the Secretary of State.
- Put in place an infrastructure to monitor whether standards are being met, and intervene where they are not.

Rationale and evidence to justify the level of analysis used in the impact assessment (proportionality approach)

536. This impact assessment is focused on the rationale for securing the power to regulate FE ITE through the Skills and Post-16 Education Bill. This is because the clause is being included as a reserve power that would be activated at a later date through a commencement order should it be deemed necessary to do so. This means there will be no direct impacts on the sector from the introduction of this primary legislation. Any potential impact will come from the introduction of future secondary legislation, to be made at a point when there is clear evidence of need and likely impact. We have provided for a range of options for regulation within the clause and at present we are unable to say which, if any, of these measures will need to be adopted and when. Separate impact assessments for these measures would be provided at the time of their introduction via secondary legislation.

537. As noted in the section above, the complexity of the data means it is difficult to establish the exact size and profile of the sector. We have undertaken internal analysis to improve understanding of the numbers of providers and trainees, but we have found no reliable way of doing so.

538. We are working to improve the quality and quantity of data available on the FE workforce, including trainees and new entrants. This academic year we are introducing a new ESFA-led FE workforce data collection, which will become mandatory from AY2021/22. This does not include all ITE trainees within its scope but will provide us with greater insight on the number of new entrants joining the FE teaching profession each year, their qualifications and whether they are undertaking any in-service training. In the future we may wish to collect more data on trainees (and have requested that the enabling clause should give us the facility to mandate this).

539. These incremental improvements to the evidence base will mean that we should be in a much better position to assess the impact of any future secondary legislation relating to this clause at the point which it is introduced.

Key risks and assumptions

540. There is a risk that the sector may perceive this clause as an attempt to regulate the FE teaching profession (e.g., specify minimum qualifications FE

teachers must hold). This is not the case: this measure gives reserve powers to safeguard the quality of ITE for FE teachers, so that employers and trainees can be assured that it provides the best possible outcomes for those who undertake it.

Summary and preferred option with description of implementation plan

541. We currently wish to proceed on the basis of option 3, it allows us to drive as much reform as possible through non-legislative means, using an enabling clause in a Bill as a marker of future intent. If this approach does not work, the clause, once passed, will allow us to put option 4 into operation at a later date as a contingency measure.

542. Option 1 risks failing to eliminate some of the poor practice we currently see in the sector. The sector recognises the need for change, but it has failed to take any steps to secure this to date. Those areas that most need to reform and improve their practice may be the least likely to comply with this sector-led approach. We feel that stronger intervention is needed on our part.

543. We have worked hard to build strong relationships with stakeholders to facilitate working collaboratively with them to achieve this as outline in option 2, but we are concerned that there is still a possibility that this approach could fail. The ability to increase oversight is limited to ITE qualification content and delivery. We may need wider powers in order to compel providers of FE ITE to revise and improve their practice.

544. We assess that option 4 goes beyond what is required at present. As noted above, we have a good working relationship with the sector and feel it is better to work through non-legislative means as far as is possible and use a regulatory approach as a last resort.

545. Under option 3 we will proceed according to the following estimated timetable:

a. Summer 2021: agree occupational standard for teaching in FE.

b. AY2021/22: Launch the revised FE teaching apprenticeship (Learning and Skills Teacher).

c. AY2021/22: Redevelop the core ITE qualification for FE and work with Ofqual to introduce associated qualification level regulatory conditions.

d. AY2022/23: Redevelopment and accreditation of qualifications by AOs and HE providers. Approval of revised qualifications through HTQ process.

e. AY2023/24: Launch revised qualifications.

546. We will review progress against this plan on a regular basis and following the launch of the qualification to assess whether further controls are required. Should these be deemed necessary then the enabling clause will be activated through a commencement order.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

547. This measure is being included as a reserve power that would be activated at a later date through a commencement order should it be deemed necessary to do so. This means there will be no direct impacts on the sector from the introduction of this primary legislation. As such there are no costs or benefits to monetise. These will be considered and assessed if and when we bring forward secondary legislation in future.

Direct costs and benefits to business calculations

548. As previous section, this clause is being included as a reserve power that would be activated at a later date through a commencement order should it be deemed necessary to do so. This means there will be no direct impacts on the sector from the introduction of this primary legislation. There will be no new burdens on business. These will be considered and assessed if and when we bring forward secondary legislation in future.

Impact on small and micro businesses

549. Unable to determine at this time. We will undertake relevant procedures to ensure full impact is assessed at the point any secondary legislation is implemented.

550. There is currently no analysis available on the size of ITE providers in terms of the numbers of people they employ.

Equalities and wider impacts

551. There is currently no single, reliable data source that covers the characteristics of staff working on ITE provision and trainees. The information we do have falls across a number of different sources, which we have used to inform our assessment.

Staff delivering ITE in Colleges

552. There is no data available on staff involved in the delivery of ITE in colleges as a discrete group. In its absence, a reasonable fallback position is to assume that the composition of this group is reflective of wider staffing. The most reliable

sources on this are the College Staff Survey[146] (CSS) and the Education and Training Professionals (ETP) survey[147], which cover teachers and leaders of General FE and Specialist FE Colleges, ITPs, SFCs and Adult & Community Learning (ACL) respectively.

Staff delivering ITE in HEPs (Higher Education Providers)

553. As with colleges, there is no data available on staff involved in the delivery of ITE in HEPs as a discrete group. In its absence, a reasonable fallback position is to assume that the composition of this group is reflective of wider staffing. The most reliable source on this is the HESA Staff Record. This is collected for all HEPs on annual basis. The most recent data available at the time of drafting covers the 2019-20 staff record covering the 2018/19 academic year.

Trainees undertaking ITE in all settings

554. There is limited data available on ITE trainees and the data that is available is not very recent, though DfE is looking to identify new sources and refresh data where possible. The best source currently available is the ITE in FE data report prepared and published by the Education and Training Foundation in April 2018.[148]

555. These datasets provide the following information about teachers and trainees with protected characteristics in the FE Workforce:

Age & Gender

FE staff

a. In FE colleges there are more female than male teachers. The largest grouping of teachers was women aged between 45 and 59 (20%). Teachers/tutors working in Sixth Form Colleges (SFCs) tend to be at the younger end of the age spectrum with a higher proportion of staff aged up to 34 (30%) compared with teaching staff in ITPs (20%). In contrast, ITPs have more teaching staff aged 55 and over (26%), however less for teachers/tutors in SFCs (18%). Both provider types employ more women than men: SFCs (64%) and ITPs (63%).

HEP staff

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[146] College staff survey: 2018 - GOV.UK (www.gov.uk) - 199 FE were colleges invited to take part – 92% of those had at least one member of staff engage with at least one of the three constituent surveys. This is a high institutional cooperation rate when measured against online surveys of a census nature which generally receive 10% response rate.

[147] The education and training professionals survey - GOV.UK (www.gov.uk) - 582 providers took part in the organisation-level survey, giving an overview of their staff numbers and contractual composition, deployment across programme and subject areas, and recruitment issues. This represents 50% of the population of ESFA-funded providers in the relevant sub-sectors, comprising of 473 ITPs, 78 ACL providers and 31 SFCs. For the online survey, 1,303 individual members of teaching staff and/or leaders took part.

[148] Initial-Teacher-Education-in-Further-Education-15.16-Published-April-2018.pdf (et-foundation.co.uk)

b. As in FE colleges, there are more female (54%) than male (46%) academic staff. In terms of age, the highest proportion of staff are employed in the 31-35 and 36-40 age brackets (15% in both groups).

ITE Trainees

c. Around 60% of ITE learners in 2015/16 were women, which is broadly in line with the FE/HE workforce gender profile. The average age of ITE learners is 37.

Ethnicity & Nationality

FE staff

d. The majority of the teachers in colleges were white, only a small proportion (6%) were BAME. The vast majority of teachers (95%) described themselves as British.

e. The ETP tells us a similar story with more than nine in ten staff working in independent training providers (ITPs) and sixth form colleges (SFCs) who described themselves as white/white British (93% and 92% respectively).

HEP staff

f. The majority of academic staff in HEPs were white (76%); 15% came from other ethnicities. No data is collected on nationality.

ITE Trainees

g. The profile is more similar to HEP staff as 84% of trainees were white, with the remaining 18% coming from other ethnicities.

Disability

FE staff

h. The CSS and the ETP asked teachers whether they had any physical or mental health conditions or illnesses lasting or expected to last for 12 months or more. Around one in seven (15%) teachers in FE colleges said that they had a disability. Around one in six staff working for ITPs and a similar proportion working for SFCs said that they had a disability (17% and 18% respectively), and around one in seven for staff working in SFCs (15%).

HEP Staff

i. 4% of academic staff are known to be disabled.

ITE Trainees

j. 12% of ITE trainees in 2015/16 declared they had a disability.

k. Across all data sets there is no further evidence related to other protected characteristics.

l. This clause is being included as a reserve power that would be activated at a later date through a commencement order should it be deemed necessary to do so. This means that there is no measure against which an impact can currently be assessed.

m. The plans for the wider ITE reform (outside of the bill) should not adversely impact any protected characteristic, and the design of the programme should support equality of opportunity. The above data suggests that FE teacher trainees and trainers are a relatively diverse group. On the whole the purpose of our work is to bolster ITE and improve the content so that all those who access it are best able to deliver high quality training. We will seek to continue to make teacher training as accessible as possible (for example, by putting apprenticeship and qualification-based routes on a par in terms of accessibility and outcomes). Ultimately it is for ITE providers to ensure that their staff and trainees can access training in a manner which is compliant with equality law.

Monitoring and Evaluation

556. Unable to determine at this time. We will undertake relevant procedures to ensure full impact is assessed at the point any secondary legislation is implemented. As noted above we are implementing measures to improve the quality and quantity of data available on the FE workforce. This means that there will be an improving evidence base which can be used to assess and monitor the impact of measures introduced in the future through this clause.

Measure 9: Office for Students (OfS) quality assessments

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

Summary

557. Regulating quality in HE is a key function of the OfS. This measure is a technical amendment which will put beyond doubt the ability for the OfS to make assessments of quality against minimum floor standards which will inform decisions about where, when, and how to make regulatory interventions to OfS registered providers, and inform decisions on new OfS registration applications. This measure also makes clear that the minimum expectations of quality can be set by reference to absolute performance data on outcomes which apply across **all** English HE providers. In setting these minimum expectations, absolute data will be just one factor that the OfS considers when making assessments on quality, alongside other qualitative and situational factors.

558. Intervention is necessary to ensure all students are entitled to the same minimum level of quality. It puts beyond doubt the OfS's ability to express minimum requirements for quality without reference to "benchmarked" indicators and without assessment of an individual provider by reference to the outcomes it would expect from providers in a similar position (e.g. courses, socioeconomic intake) which could risk entrenching disadvantage into the regulatory system.

Overview

559. The aim behind the Higher Education Research Act 2017 (HERA) was to create a single market-based regulator, the OfS, that would focus on delivering more choice and competition in the HE sector, and protecting the interests of students and taxpayers by ensuring students are able to achieve the best possible outcomes and value for money on their investment in higher education.

560. Regulating quality in HE is a key function of the OfS. The technical amendment (which serves to ensure minimum expectations of quality in the sector) will support the OfS in its ability to take action and reduce the potential risk to students of choosing a course which offers low quality/ poorer student outcomes. In doing so, the amendment serves to protect the interests and outcomes of students, including those from disadvantaged backgrounds.

561. In order to be registered, and continue to be registered, as a higher education provider in England with the OfS, providers must meet certain prescribed measures of quality. Quality includes the quality of course design and delivery, the

quality of students' academic experience and the support provided to them, and the **outcomes** students achieve. In relation to student outcomes, the OfS applies a set of minimum requirements for quality for all providers by reference to absolute performance data. If a provider falls below these minimum expectations, then this triggers further consideration by the OfS. If, after examining the case further (by applying judgement and context), the OfS concludes that a provider applying to register does not meet the necessary quality requirements, it may decide not to register a provider or to take regulatory action where it is an existing registered provider.

562. This amendment makes it expressly clear in primary legislation that the OfS may continue to use this approach and apply minimum expectations to all providers which can be set by reference to absolute student outcomes and, will put beyond doubt that the OfS is able to regulate in line with these minimum expectations when making assessments on quality as one factor alongside applying judgement and context.

563. In practice the amendment will not affect the OfS's current approach but put beyond doubt existing powers to ensure the OfS can achieve its regulatory objectives, enabling the OfS to improve quality across the HE sector and ensure all students are entitled to the same minimum level of quality.

What are the policy objectives and the intended effects?

564. A priority for this government and an important manifesto commitment is to drive up quality and standards in HE, which is a fundamental part of its levelling-up agenda.

565. The government fully supports the OfS aim to ensure that decisions on regulatory intervention and registration can be made in relation to minimum expectations of quality which apply across the whole of English HE provision and the OfS should be able to use the full range of its powers and sanctions where quality of provision is not high enough. Every student, regardless of their background, has a right to expect a minimum standard of education that is likely to improve their prospects in life.[149]

566. This measure aims to put beyond doubt the OfS's existing powers and allow it to meet government ambitions in tackling low quality.

[149] Student outcomes vary by student characteristics: [Differences in student outcomes (Office for Students)](https://www.officeforstudents.org.uk).

What policy options have been considered, including any alternatives to regulation?

Option 0 – Do nothing.

567. Retain the existing legislation and rely on the current OfS consultation on its overall regulatory approach to quality and the way in which it uses metrics and context when making quality assessments. This approach will not put beyond doubt the OfS's ability to regulate at a time when we need the OfS to be taking robust regulatory action on quality.

Option 1 - introduce primary legislation (preferred).

568. This technical amendment will put beyond doubt that the OfS can apply minimum expectations to all providers by reference to particular student outcomes measured in absolute terms. In setting these minimum expectations, absolute data will be just one factor that the OfS considers when making assessments on quality, alongside other qualitative and situational factors.

569. This amendment aims to make expressly clear the ability of the OfS to assess and regulate English HE provision by enabling the OfS to improve quality across the HE sector.

Rationale and evidence to justify the level of analysis used in the impact assessment rating (proportionality approach)

570. This measure protects the existing approach by the OfS in assessing quality by reference to student outcomes. Thus, there is no impact from this amendment expected on HE providers.

571. The OfS is currently consulting on its overall approach to quality, including consideration of whether to raise the minimum expectations of quality. The OfS will be responsible for implementing the changes, and therefore will consider the impacts if and when any changes to the framework are introduced. Where the detail of any regulatory proposals has the potential to impact on regulatory burden the OfS will consider this in its decisions.

Expected level of business impact

572. This policy will apply to all those applying to register as HE providers with the OfS and all HE providers registered with the OfS. As of March 2021, there were 420 higher education providers on the OfS register. There is no impact on HE providers for this measure as it is technical in nature. The OfS is already regulating based on absolute outcomes, so in practice the amendment will not affect the OfS's current approach and we assume providers are familiar with this. The intention is to put

beyond doubt the OfS's powers, so the OfS can take action to improve outcomes for students at the weakest providers in future.

573. Putting beyond doubt existing powers does mean that the OfS's regulatory regime will be enforced and so there is an implication for providers in terms of work either necessary to ensure they meet requirements for quality or to engage in any intervention. However, this burden is already captured in estimates of the regulatory burden when the framework was first designed and this amendment ensures that it will operate as intended. Where the detail of any regulatory proposals has the potential to impact on regulatory burden the OfS will consider this in its policy decisions.

Key risks and assumptions

574. No risk and assumptions as no change to the current approach is being introduced.

Summary and preferred option with description of implementation plan

575. We wish to proceed with option 1 and put forward a technical amendment which makes it expressly clear that the OfS can apply minimum expectations to all providers which can be set by reference to absolute student outcomes and put beyond doubt that the OfS is able to regulate in line with these minimum expectations when making assessments on quality as one factor alongside applying judgement and context.

576. In practice the amendment will not affect the OfS's current approach but put beyond doubt existing powers, enabling the OfS to improve quality across the HE sector and ensure all students are entitled to the same minimum level of quality. It will also support the OfS's regulatory objective to ensure all students from all backgrounds, are able to progress into employment, further study and fulfilling lives, and their qualifications hold value over time.

577. This amendment aims to put beyond doubt the ability of the OfS to assess and regulate English HE provision by enabling the OfS to improve quality across the HE sector.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

578. This measure puts beyond doubt the OfS's existing approach and does not introduce any change. This means there will be no direct impacts on the sector from the introduction of this primary legislation. As such there are no costs or benefits to monetise.

Direct costs and benefits to business calculations

579. This measure does not have any direct costs and benefits to business as it is technical in nature. The OfS is already regulating based on absolute outcomes, so in practice the amendment will not affect the OfS's current approach. The OfS is currently consulting on its overall approach to quality, including consideration of whether to raise the minimum expectations of quality. The OfS will be responsible for implementing the changes, and therefore will need to consider the impact of any changes as part of its policy decision-making.

Impact on small and micro businesses

580. This measure does not have any impact on people with small and micro businesses as it is technical in nature. The OfS is already regulating based on absolute outcomes, so in practice the amendment will not affect the OfS's current approach. The OfS is currently consulting on its overall approach to quality, including consideration of whether to raise the minimum expectations of quality. The OfS will be responsible for implementing the changes, and therefore will need to consider the impact of any changes as part of its policy decision-making.

Equalities and wider impacts

581. As part of the introduction of the regulatory framework, the OfS, carried out an equality impact assessment and assessed the impact of conditions B1, B2, B3, B4 and B5 as positive.[150] This measure protects the existing approach by the OfS in assessing quality by reference to student outcomes (condition B3). The approach was examined as part of the impact assessment of the regulatory framework for higher education.[151]

582. The OfS is currently consulting on its overall approach to quality, including consideration of whether to raise the minimum expectations of quality. The OfS will be responsible for implementing the changes, and therefore will need to consider the impact of any changes as part of its policy decision-making.

Monitoring and Evaluation

583. The OfS is already regulating based on absolute outcomes, and in practice the amendment will not affect the OfS's current approach but put beyond doubt existing powers. The current approach relates to the OfS's objective of ensuring that all students from all backgrounds receive a high-quality academic experience, and

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[150] OfS 2018.09 Equality impact assessment: Regulatory framework for higher education (officeforstudents.org.uk)
[151] - Securing student success: Regulatory framework for higher education in England - impact assessment (publishing.service.gov.uk), paras 136 to 141

their qualifications hold their value over time in line with sector-recognised standards.

584. The OfS is responsible for the implementation of its regulatory framework and its day-to-day operation. The OfS has a duty to prepare an annual report on its performance and the operation of the framework.

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