EXPLANATORY MEMORANDUM TO

THE EDUCATION (DESIGNATED INSTITUTIONS) (ENGLAND) (NO. 2) ORDER 2016

2016 No. 442

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order designates University Campus Suffolk as an institution eligible to receive funding administered by the Higher Education Funding Council for England.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Section 129 of the Education Reform Act 1988, as amended by the Further and Higher Education Act 1992 and the Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, makes provision for the Secretary of State to designate institutions that are not universities or institutions conducted by higher education corporations to be eligible for funding from a higher education funding council.

4.2 The Higher Education Funding Council for England (HEFCE) was established by the Further and Higher Education Act 1992 to provide, in part, funding to higher education institutions. For this purpose 'higher education institutions' means universities, institutions conducted by higher education corporations and institutions designated under section 129(1) of the Education Reform Act 1988.

5. Extent and Territorial Application

5.1 This extent of this instrument is across England and Wales.

5.2 The territorial application of this instrument is across England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The purpose of section 129(1) of the Education Reform Act 1988 is to enable certain additional providers of higher education that meet the legislative criterion to receive public funding from a higher education funding council. These are providers of higher education that are not either universities or institutions conducted by higher education corporations which are, by virtue of their status, eligible for funding by the higher education funding councils.

7.2 In considering an application for designation the Secretary of State has regard to all relevant advice, including detailed advice from HEFCE on the legislative criterion and the non-statutory criteria in the published guidance 'Guidance for Higher Education Providers: Criteria and process for applying for designation as an institution eligible to receive funding from the Higher Education Funding Council for England (HEFCE)'.

7.3 The Secretary must, therefore, have regard to whether the institution appears to him to satisfy the legislative requirement that its full-time equivalent enrolment number for courses of higher education exceeds 55% of its total full-time equivalent enrolment number; and the non-statutory criteria that focusses on quality, financial sustainability, management and governance.

7.4 University Campus Suffolk (UCS) applied for designation as an institution eligible to receive funds administered by HEFCE in December 2015.

7.5 UCS was launched after Suffolk was identified as a "cold spot" by HEFCE in 2007 (at that time being only one of four counties without a university).

7.6 UCS was set up as a private company by the University of East Anglia (UEA) and the University of Essex and offers a range of degree courses covering the arts, business, health, science and applied social science (through a validation agreement with its partners). UCS is currently recognised by HEFCE as a 'connected institution' and, as such, receives HEFCE funding via a grant from its parent universities.

7.7 UCS was awarded taught degree awarding powers (DAPs) in November 2015 and has applied for university title and designation to allow it to be independent of its parent universities.

7.8 The Secretary of State has considered UCS's application and the detailed advice received from HEFCE and is satisfied that it meets the legislative and administrative criteria for designation. In so doing he is satisfied that:

- UCS meets the legislative criterion in respect of its student numbers;
- UCS's offer makes an important contribution to the sector by addressing a higher education cold spot in Suffolk and enhances the sector overall;
- UCS can demonstrate sufficiently strong demand from students and a strong graduate employment record; and
- UCS has demonstrated that it is in a satisfactory position with regard to the administrative criteria in respect of its quality assurance and academic standards and performance, financial sustainability, management and corporate governance.

8. Consultation outcome

8.1 It has not been necessary to consult formally on the making of this Order. However, in considering this application, detailed advice was sought from HEFCE.

9. Guidance

9.1 This Order is specific to UCS and does not therefore require any guidance to be published.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument because no impact on businesses in general is foreseen. The effect of the instrument is to give eligibility to UCS to apply for public funding. This will benefit UCS and students studying there by giving a firmer basis for UCS's educational provision. Any funding supplied will be determined by HEFCE and dependant on any application for funding that UCS may make.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The outcome of this Order will be that UCS can receive funding directly from HEFCE.

12.2 HEFCE has a regulatory duty to ensure that institutions in receipt of public funds provide value for money and are responsible in their use of these funds. HEFCE is also responsible for ensuring that the quality of learning and teaching is assessed in each institution and for assessing the quality of research and to fund research selectively by supporting excellence. Consequently, as a designated institution, UCS will be required to agree a Memorandum of Assurance and Accountability with HEFCE which will set out the terms and conditions for the payment of HEFCE grants as well as conditions specific to the institution, the funds available to the institution and the educational provision the institution has agreed in return for those funds.

13. Contact

13.1 Martin Courbet at the Department for Business, Innovation and Skills Telephone: 020 7215 3435 or email: Martin.Courbet@bis.gsi.gov.uk can answer any queries regarding the instrument.