EXPLANATORY MEMORANDUM TO

THE EDUCATION (DESIGNATED INSTITUTIONS) (ENGLAND) ORDER 2016

2016 No. 179

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 the Anglo-European College of Chiropractic as 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, 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 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.

7.3 The Secretary of State also requests advice from HEFCE who scrutinise the application against principles and tests agreed with the Department for Business, Innovation and Skills. The Secretary of State also takes such other advice as might be appropriate for the particular application.

7.4 The Anglo-European College of Chiropractic ("the College") applied to the Secretary of State for designation as an institution eligible to receive funds administered by HEFCE in April 2015.

7.5 The College is a private provider of education and training in its specialist area of muscoskeletal health. It was established in 1960, and, since 2005, has had a franchise agreement with Bournemouth University for the award of Bournemouth University degrees for the College's postgraduate programmes. Once it starts to receive HEFCE funding it will be the only publicly funded specialist chiropractic provider in England.

7.6 The Secretary of State has considered the College's application and the detailed advice received on it and is satisfied that it meets the legislative criterion and the principles and tests for designation as set out in the guidance in place at the time of application (revised guidance was published in September 2015). In so doing he is satisfied that the College:

- has a standing and repute that would enhance the sector overall;
- can demonstrate strong demand from students and a strong graduate employment record;
- can demonstrate that its reputation is deserved and can be sustained in the sense that its provision meets appropriate quality standards expected of higher education institutions; and
- has demonstrated that it is in a satisfactory position with regard to the tests for designation which include financial viability, governance and accountability, quality and quality assurance, corporate planning, estates issues, data issues and management issues.

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 the Anglo-European College of Chiropractic 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 the College to apply for public funding. This will benefit the College and students studying there by improving the College's educational provision. Any funding supplied will be determined by HEFCE and dependant on any application for funding that the College 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 the Anglo-European College of Chiropractic 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, the College will be required to agree a Financial Memorandum 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.