EXPLANATORY MEMORANDUM TO

THE EDUCATION (PRESCRIBED COURSES OF HIGHER EDUCATION) (INFORMATION REQUIREMENTS) (ENGLAND) REGULATIONS 2014

2014 No. 2179

1. 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 These regulations make courses which have been specifically designated for student support under the Education (Student Support) Regulations 2011 prescribed courses under section 79(c) of the Further and Higher Education Act 1992. Section 79(c) imposes a duty on the governing body of an institution offering a prescribed course to give a Higher Education Funding Council such information as required by the Council.

2.2 This will mean that the Higher Education Funding Council for England (HEFCE) would then be able to directly request information from providers of courses specifically designated for student support. These providers are known as alternative providers (AP). Once the regulations come into force the Department intends to write to HEFCE under section 69 of the same Act to require HEFCE to collect information from AP. HEFCE will then be able to directly require AP to provide information as part of its role in monitoring designations for student support.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 No previous regulations have been made under section 79 of the Further and Higher Education Act 1992.

4.2 As indicated above the regulations link to the Education (Student Support) Regulations 2011 (as amended) made under the Teaching and Higher Education Act 1998.

5. Territorial Extent and Application

5.1 This instrument only applies to 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 HEFCE's current role in providing assessments of designation applications for student support and supporting the AP student number control system are undertaken as delegated tasks from the Secretary of State. The Secretary of State has asked HEFCE to monitor designated AP from 2014/15 onwards to ensure AP continue to comply with designation conditions. Legally HEFCE currently have no power to require AP to provide them with information. These regulations will help HEFCE undertake the tasks described above by enabling HEFCE to require AP to provide relevant information.

8. Consultation outcome

8.1 No formal consultation was undertaken on these regulations as AP are already required to comply with monitoring requirements as a condition of designation. Officials did however hold a meeting with a range of AP to hear their views on introducing the regulations.

9. Guidance

9.1 Where AP are required to provide information to HEFCE they will be informed of this by HEFCE.

10. Impact

10.1 The impact on HEFCE of this change if agreed is positive. HEFCE have already agreed to monitor AP to ensure they continue to meet the conditions of designation. This change enables HEFCE to do this more effectively as they will have a clear legal right to require the governing bodies of AP to provide information.

10.2 For AP there is no impact from making this change. As conditions of designation AP are already required to comply with monitoring requirements, administered by HEFCE, and to provide information to HESA. If anything this change will make it administratively simpler for AP as it will be legally clear that they need to provide information to HEFCE.

10.3 Officials have also considered the Public Sector Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.

There is no negative impact on people with protected characteristics from this regulatory change. This change will enable HEFCE to more effectively carry out its monitoring role. This will enable any problems in AP to be identified. As many AP are in disadvantaged areas and take students with protected characteristics this would be of benefit to these students in ensuring that their education providers are held to the standards to be expected of designated providers.

11. Regulating small business

11.1 There is no particular impact on small businesses. The Government has created exceptions from various conditions of designation for small AP with fewer than 50 students in total where appropriate.

12. Monitoring & review

12.1 The impact of the designation requirements and the monitoring arrangements will be kept under review by officials.

13. Contact

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