

Sector impact assessment

Name of policy/initiative/project	Regulation of HEIs as charities
1. What are the aims of this policy/initiative/project?	<p>It is now government policy that all exempt charities should be regulated. HEFCE has agreed to be the 'principal regulator' of English higher education institutions (HEIs) that fall into this category (this currently covers all but 19 HEFCE-funded HEIs).</p> <p>As principal regulator, HEFCE's duty – as set out in the Charities Act 2006 – is 'to promote compliance by charity trustees (who are usually the same people as HEI governors) with their legal obligations in exercising control and management of the administration of the charity'.</p> <p>HEFCE will become principal regulator because it is in the best position to ensure the new requirements are fulfilled with minimal burden. In carrying out this role, HEFCE aims, therefore, to ensure it does this, and that as far as possible it builds any extra information and monitoring requirements into existing processes.</p> <p>The Charity Commission's powers will be extended to cover exempt charities, but the Commission will be required to consult principal regulators before using them. HEFCE will therefore agree a Memorandum of Understanding with the Commission to govern the working relationship.</p>
2. At what stage of the development process is this SIA being undertaken?	<p>This assessment has been prepared before HEFCE's role as principal regulator comes into effect. Detailed processes for carrying out the new regulatory role have yet to be developed.</p> <p>We have until late 2010 to put in place the cyclical processes for regulating HEIs as charities. We have already talked with sector representatives about ways of using existing processes, and will consult formally with the sector in Autumn 2009</p>
3. Do existing data sources enable us to provide evidence of impact? If not, how should we best gather evidence?	<p>No. There has been no prior experience of regulating exempt charity HEIs as charities.</p> <p>We will log issues arising, whether from cyclical monitoring (which is likely to be either annual or five-yearly) or from complaints and queries.</p>
Regulatory impact assessment	
4. Will this policy/initiative/project require HEIs to pay for or carry out additional work in the context of what a well-managed HEI would already be expected to have in place, both now and when the policy has been implemented?	<p>HEIs will need to ensure governance processes and reporting practices demonstrate their compliance with charity law, including recent and future changes to the law. This impact assessment is about the regulatory regime and not about compliance with the law.</p> <p>Because we expect to build new regulatory requirements into existing processes, HEIs should not, incur any significant additional costs.</p>

<p>5. If so, do the benefits of doing this to the delivery of HEFCE strategy, the HE sector, the HEI itself and others outweigh what we have asked HEIs to do? If yes please describe the benefits</p>	<p>As far as we can tell at this early stage, there will be some benefits to HEFCE strategies for improving governance in the higher education sector.</p> <p>Improved transparency of reporting by HEIs as charities will enhance public understanding of, and confidence in, an already well-regarded sector.</p>
<p>6. How have you arrived at this judgement? Please refer to the results of consultation and other supporting evidence.</p>	<p>As noted at 2 above, there has been some liaison with sector representatives most of whom accept that the new regulatory regime will have little operational effect, and may bring modest benefits.</p> <p>The sector also accepts that it is more appropriate for HEFCE to be the regulator, rather than the Charity Commission.</p>
Equality and diversity	
<p>7. Which individuals or groups are likely to be affected by this policy/initiative/project?</p>	<p>The new regulatory regime will only impact on HEIs, not on individuals or groups.</p>
<p>8. What is the likely impact on these groups (is it positive, negative or neutral)? How have you arrived at this judgement?</p>	<p>The impact of the regulatory regime will be positive. HEFCE will have to monitor whether and how HEIs deliver their charitable purposes for the public benefit. At the very least this will require HEIs to continue to think about their student access and support policies, and to report on their delivery of public benefit.</p>
<p>9. If negative, what actions have been taken to mitigate the effect?</p>	<p>Not applicable.</p>
<p>10. Can this policy/initiative/project be used to ensure and promote both equality and diversity? If so, how?</p>	<p>Although promoting equality and diversity is not usually a separate charitable purpose of HEIs, as principal regulator HEFCE will have an opportunity to encourage HEIs to include such activity in their reports on public benefit.</p>
Sustainable development	
<p>11. What is the likely impact of this policy/ initiative/project on sustainable development? Is it positive, negative or neutral? How have you arrived at this judgement?</p>	<p>The impact will be neutral to positive.</p> <p>HEIs' charitable purposes seldom include sustainable development. Regulating HEIs as charities is unlikely to give HEFCE an opportunity to do more than we already do in this area.</p> <p>We will seek to build our regulatory work into the annual accountability process, and HEFCE assurance reviews, using electronic rather than paper-based processes wherever possible.</p> <p>Greater recognition of HEIs as charities might lead to positive benefits in terms of: social cohesion and justice, economic development and community engagement, governance and management, reputation, charitable activity and donations.</p>
<p>12. If negative, what actions have been taken to mitigate the impact?</p>	<p>Not applicable.</p>

13. How can this policy/initiative/project be used to create opportunities to support sustainable development? Please indicate how you have exploited these opportunities or why you have been unable to do so.

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Certification by Director

This is a fair assessment of the impact of this policy/initiative/project on the HE sector, taking into account the regulatory burden imposed. The policy/initiative/project has been appropriately designed to meet our equality obligations and promote equality and diversity and sustainable development. This assessment is ready for publication.



Signed

Date 9 September 2009

Summary

Our analysis of the impact of the new regulatory regime on the sector is that there are broadly positive, but not material, impacts on equality and diversity, and on sustainable development. The initiative is expressly about increased regulation of an aspect of HEIs' activity, so there will be benefit to HEFCE's strategic interest in improved governance processes in HEIs. Similarly, because of the higher profile of their status as charities, HEIs will receive some modest benefit (from enhanced public confidence) to offset, in part, the additional burden.