

University and College Union (UCU) briefing

Higher Education and Research Bill and private providers

July 2016

- UCU has consistently warned against the **expansion of private providers in the higher education sector** and has urged the government not to seek to allow more into the system
- A number of private colleges in receipt of public money have been involved in scandals around phantom students, fraud and low quality of education provided
- For profit institutions are **likely to be far less stable** than public universities and more likely to close with little notice, thus impacting on the students studying there
- Expansion will inevitably **undermine the academic reputation of UK higher education** at a time when, especially since the EU referendum result, the sector is under increased pressure and uncertainty
- One of the best ways the government could maintain academic quality and standards is to **restrict, rather than increase, the role of for-profit, private providers**
- The proposed removal of the student number limit for university title could lead to a proliferation of small institutions and **fundamentally challenge the concept of what a university is**
- In the interests of ensuring academic quality and protecting the public purse, **UCU is therefore opposed to plans to speed up the entry of private, for-profit providers into the higher education system**. This includes plans to make it easier for such providers to obtain Degree Awarding Powers (DAPs) and University Title

Higher Education and Research Bill proposals with respect to private providers

As part of the **Higher Education and Research Bill**, the government intends to increase competition within the higher education sector, via a simplified regulatory system and easier access to funding for new providers.

Following previous announcements in the green paper and white paper, new challenger providers will be able to offer their own degrees from *day one*, albeit on a probationary basis. The government is also proposing to reduce the numbers threshold (currently 1,000 students) required for applications for university title, so as to make it easier for smaller providers to apply.

The bill proposes three categories of provider – “registered basic” that are officially recognised, but whose students are unable to access student loans; “approved” that can set fees of up to £6,000 a year; and “approved (fee cap)” provider with higher fee cap of £9,000 in line with inflation dependent on how well the institution does in the proposed Teaching Excellence Framework. For the first time, new (approved fee cap) providers will also be able to access block grant funding for teaching and research in the same way as the present Hefce-funded universities.

Universities minister Jo Johnson MP has made it clear that one of his key aims is to expand the number of alternative providers in the higher education sector. Speaking to a Universities UK conference in September 2015, he said, “We must continue to open up the higher education market and put in place a regulatory framework that reflects today’s challenges”.

Past and current problems with private provision in HE

According to **BIS**, since 2010, the number of alternative providers designated for student support has risen from 94 in 2010 to 138 in 2014/15, with student support funding rising from £43.2 million to £609.8 million in the same time. BIS expects the number of institutions to rise to 145 by 2018/19 and to 311 by 2027/28, as money available to these institutions also rises exponentially.

In the interests of ensuring academic quality and protecting the public purse, UCU has consistently and vocally opposed plans to speed up the entry of private, for-profit providers into the higher education system.

The quicker and easier it is to become a university and award degrees, the more vulnerable the sector is to the threat from for-profit organisations looking to move into the market for financial gain rather than motivated by a desire to provide a high quality education and teaching experience.

UCU believes that to defend the integrity of our HE sector and ensure that public money is spent efficiently, we need to take firm action and any regulator must be tasked with combating the significant *extra risks* posed by for-profit providers. The current proposals, particularly the plans for speeded up entry into the sector, fail to address these risks.

Allowing for-profit corporations and private equity funds into the sector with poor regulation has exposed our system to the problems experienced with for-profit higher education in America. For-profit institutions in the US face continued pressure to water down standards in order to turn a profit, whilst fighting against regulation, transparency and lawsuits. In one of the most well documented scandals, Presidential hopeful Donald Trump’s own private university was accused of **defrauding students** out of millions of dollars.

The government’s own advisor, Dame Alison Wolf, has also warned of an impending **‘American-style catastrophe’** should the current proposals take effect, stating her concerns that the number of poor quality colleges would increase. She emphasised the danger that the legislation could seriously damage the reputation of higher education in this country and leave students at risk of using student loans to obtain worthless degrees.

Echoing the concerns UCU she said, “All the evidence is that when you take off the cap and you write a blank cheque from the government you get dramatic expansion, and if you also make it easy for for-profit institutions to pile into that space the expansion will be even greater. We’ve already got a situation where the cost of student loans that are not going to be repaid is spiralling.”

Author **Andrew McGettigan** also described the previous expansion of private providers as a disaster, outlining the inherent problems of accelerating the process with little regard for the student experience, “You have to worry about what’s happening there: investors and hedge funds are lobbying the government to open the sector up to something that’s more in tune with their investor cycle.”

McGettigan points to the private No.10 memo that was photographed by a journalist in April where the problem was laid out just as starkly, "BIS are trying to resolve real problems of quality and regulation. But it is not clear they have figured out how and there is a risk that the bodies and rules they will establish in regulation will not solve teaching quality, while creating poor quality provision for marginal students."

This follows on from the inquiry carried by the Public Accounts Committee into private providers, which concluded that the government failed to heed **repeated warnings** from UCU about the dangers of rapid expansion and the sums of money being given to for-profit colleges.

Margaret Hodge MP, who was chair of the committee at the time, said BIS had been "explicitly warned by the Higher Education Funding Council for England and the Universities and College Union about these risks, but chose to disregard them both before and after implementation.

"As a result of its lax approach, the department allowed £3.84m of public money to be given to ineligible EU students in the form of student loans and grants, where EU students had either chosen not to or had been unable to prove that they met eligibility criteria on residency."

The No.10 memo shows that these issues have still yet to be properly addressed.

So great was the growth under the coalition government that, in November 2013, BIS was forced to take drastic steps to **stop private providers recruiting any more students**. Because it opened up the market to these companies without a proper regulatory system in place, it had to suspend the 'designation' of 23 private companies, stopping them recruiting any more students, due to proper checks having not been carried out. In August 2015 the Student Loans Company said that only £280,000 of £2.45m in loans and grants incorrectly issued to students at alternative providers had so far been repaid.

UCU key concerns and case studies

Given the strong concerns expressed by many including UCU and the **Public Accounts Committee** about the performance of private providers, as well as a number of highly critical QAA reports, we believe that opening up the sector even further carries considerable risks to academic quality and standards. Quality and reputation are critical for maintaining our position in the global HE 'marketplace' and is one of the reasons why UCU is very wary of increased for-profit involvement in the sector.

We do not agree with the proposed actions to speed up entry into the sector. A robust gateway into the sector is essential to protect the reputation of the sector and maintain quality. Despite protestations from alternative providers, the recent rate and scale of expansion is evidence that the current regulatory system is not a significant barrier to market entry. We should therefore be looking to reform the system from the perspective of protecting students and quality; this requires a process of 'levelling up' not 'levelling down' as is currently proposed.

We are concerned about the proposal to bring in a light-touch regulatory regime for *all* providers and continue to call for a stronger, more robust regulatory and audit regime for the for-profit higher education sector. This is to reflect the extra risks associated with these types of providers.

When the US higher education sector was deregulated to allow for-profit companies to expand, the result was the rapid growth of companies fuelled by private equity and geared toward low cost provision and fast recruitment, in order to maximise the revenue from public subsidies. The result of this was scandals involving the industrial scale mis-selling of courses and allegations of companies sweeping homeless shelters and recruiting brain-damaged military veterans.

UCU has consistently warned that the government is opening the floodgates to a repetition of history and appears determined to learn nothing from the US example.

UCU does not find the assumption that market forces are the best way to drive up teaching quality and ensure adequate academic standards a credible one. For markets to function as a proxy for quality, a number of conditions must be met, including oversupply, consumer choice, and the ability for concurrent evaluation. Education should not be treated as a market in the same way and just because some efficiency measures or innovations correspond to improvements in quality it is not a cause and effect relationship.

We would recommend that the current government takes note of the situation in **Wales** where the decision has been made to stop putting public money into private colleges and only provide funding for students at institutions with charitable status.

Making it easier for new private providers to obtain degree awarding powers is at odds with the primacy of quality. New institutions will not have to prove their quality and robustness through building up a track record. Having a probationary period gives scope for institutions to fail to meet the required standard after already having taught and awarded degrees, thus leaving it too late to protect these students from poor quality providers.

Moreover, a proliferation of new providers without regard to the devolution of skills strategies and funding to cities in England will impede their ability to ensure a joined-up approach to provision for learners in their areas.

We acknowledge that private colleges and universities have been a feature of our HE system for a long time. However, we are strongly of the opinion that higher education providers should be not-for-profit bodies because these pose a far lower risk to the sector. Making it easier for for-profit organisations to award degrees or become universities exposes the sector to greater risk from those motivated to move into the market predominantly for financial gain.

The government has consistently ignored these warnings but it is time to listen to those that have repeatedly said that for-profit companies are too dangerous to operate freely in the UK.

UCU would welcome amendments to reverse deregulation and introduce more stringent requirements on new providers - especially for-profit providers - before they are able to access the full level of tuition-fee funding, grant funding or degree-awarding powers (clauses 5 – 9 & 37 – 41).

Case studies of recent criticism of private providers

Sussex Coast College, Hastings

*In May 2015 the Quality Assurance Agency for Higher Education (QAA) published a **report** into the higher national certificate course in business management at Sussex Coast College Hastings via distance learning in partnership with private company Acquire Learning. Acquire had approached the college in April 2014, and by July 2014 students were being enrolled onto the course. Acquire Learning acted as a recruitment agency, providing guidance at the application stage, and making offers to students. Part time student numbers grew from 144 to 648 in six months. QAA found there was a poor retention rate of between 31 and 48 per cent and that the recruitment, selection and admissions processes had significant weaknesses.*

London School of Business and Finance

*In October 2015 another QAA **report** into London School of Business and Finance was published and found that for Higher National students they did not meet UK expectations of quality. The college admitted students “who could not complete their programmes, either because they could not meet the academic requirements of the programme or lacked effective English language skills.” The Home Office confirmed in February 2016 that LSBF’s tier 4 license had been revoked, affecting some 350 non-EU international students currently studying at the college.*

St Patrick International College

*St Patrick’s, one of England’s biggest private colleges (where students received £259 million worth of loans in three years), was criticised earlier this year by QAA for falling short expectation on quality and enhancement of student learning opportunities. This follows on from another highly **critical report** in 2015.*

These are just three examples of the dangers posed by private providers and UCU have consistently warned against the continued **rapid expansion** and believe one of the best ways the government could improve academic quality and standards is to restrict, rather than increase, the role of for-profit, private providers.

More information on UCU’s view on the marketisation of the higher education sector and the current planned reforms, is available on the UCU website www.ucu.org.uk/policyhub

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