**Private Providers in UK Higher Education: Some Policy Options**

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1. This report describes the present role of private providers in UK higher education, compares the position with that in the United States and discusses some policy questions and options relating to their regulation and funding.

**The background to the present UK position**

1. The growth of a private higher education sector in the UK is part of a global trend. Throughout the world, the number of students in private institutions is growing faster than in publicly-owned ones. The reason is simple: governments cannot afford to pay for the higher education that is required so the private sector has expanded to become “demand absorbing”.
2. The private ‘sector’ of higher education defies simple classification. It can hardly be described as ‘a sector’ as there are few common features among the varied providers within or across countries and they have few, if any, shared interests. Most is not-for-profit and below degree level, but in some countries there is a growing for-profit sector. However, there are differences between countries. In the USA, non-profit private providers predominate, while in Africa there are many institutions with a religious mission. In some countries such as Indonesia or Japan, the private sector has provided the bulk of higher education for many years.
3. The range of providers is already very heterogeneous; and this landscape continues to be dynamic with new entrants emerging and existing providers changing their shape or their owners. Furthermore, the boundary between a ‘public’ or ‘private’ provider has become increasingly blurred as funding streams for both come from public and private sources. Different countries include providers offering different levels of qualification in their categorisation of ‘the private (HE or tertiary) sector’, making direct comparisons with other countries problematic. In the UK, the post-secondary sector is subdivided into HE and FE (and many private providers are offering FE-level provision). The present report focuses on degree-level HE providers and provision.
4. Another key feature of most private providers is their focus on disciplines such as business, law, computing, hospitality, tourism and management. In the UK, courses are almost entirely in these subjects.
5. There is a small but growing private sector predominantly located in London. The exact number of students from home or overseas studying for degrees in the sector is unknown, as no statistics have yet been collected. Defining private providers as those organisations offering degree level programmes and receiving no public funds, we can identify the following categories of provider:

* UK campuses or branches of foreign universities. There are estimated to be between 50 and 90 branch campuses of American universities, but they do not enrol UK or EU students. However, there are exceptions, since the American InterContinental University and Richmond, the American University in London subscribe to the Quality Assurance Agency (QAA) and UCAS and do seek to enrol UK/EU students. In addition, campuses have been established by universities from Iran, Malaysia, Poland and India.
* The five organisations granted degree awarding powers (DAPs) mainly under the Higher Education Act 2004. With one exception they are not-for-profit:
  + The University of Buckingham, a not-for-profit company (a chartered university from 1973)
  + BPP Ltd, a for-profit company that began in 1976, now a subsidiary of the Apollo Group in the USA
  + The College of Law, a charity created by the Law Society in 1967
  + Ashridge Business School, a charitable educational trust
  + IFS School of Finance, a charity established over 130 years ago.
* The largest group of private providers are colleges validated by UK HEIs to award their degrees (or offering the university’s franchised programmes). Almost all are based in London and until recently have been targeting international students. Specifying exact numbers is difficult since many offer only qualifications provided by professional bodies and in accountancy, computing, tourism and hospitality. However, the British Accreditation Council (BAC) said in March 2010 that 177 colleges had received BAC accreditation to offer higher education qualifications to some 25,880 students. The Accreditation Service for International Colleges (ASIC), the second body authorised to accredit private colleges, currently lists 427 organisations, some offering higher education. HESA has identified a possible 670 private higher education providers.

1. One key concern about the colleges’ sub-sector of private providers is their pricing policy. In the majority of cases, they recruit only international students and set their fees at levels well below those charged to international students by their validating institutions. With the proposed increases in tuition fees in the publicly-funded sector some colleges are now actively targeting UK/EU students and offering them programmes at fees lower than they charge international students.
2. Although almost all the private colleges are small with none exceeding 5,000 students, they have been expanding rapidly in the UK and overseas. The two colleges offering postgraduate law qualifications are also expanding and spreading their networks of campuses into cities outside London.
3. The regulations concerning private providers are complex and scattered in various Acts and instruments. The net effect is that for an educational entrepreneur the regulatory framework is confusing. For example, the QAA reviews whether a provider (public or private) is competent to award degrees and makes a recommendation on the grant of DAPs to the Privy Council. The criteria and issues examined in these reviews are different from those used to review publicly-funded universities. This and other anomalies mean that the UK’s regulatory framework for private providers is overdue for clarification and codification.
4. Many policy-makers look closely at developments in the USA, where the number of university-level institutions is as follows:

* Public institutions 594
* Private not-for-profit institutions [[1]](#footnote-1) 1,127
* Private for-profit institutions
  1. Enterprise (family owned) 41
  2. Venture (private company owned) 31
  3. Shareholder (public company owned) 112

Total 1,905

*The US comparison*

1. Attention in the USA has focussed recently on the relatively small for-profit sector and the fact that many receive over 80% of their income from public funds. Critics argue that:

* Providers are making excessive profits from the delivery of higher education.
* Their survival relies on almost all of their students being entitled to either Pell grants or Title IV loans from the federal government.
* Cohort Default Rate for the for-profits as a whole is 21% compared with the equivalent of 9.7% in the public sector and 6.5% for the whole private sector, suggesting that poorer students are being encouraged to take loans.
* Dropout rates are unacceptably high
* They “cherry pick” profitable programmes, thus denying publicly funded colleges the benefit of cross subsidy of less popular programmes.
* The state sector could offer a better quality of education, if funded to do so.

1. The main differences between the US and UK private sectors are those of scale and funding since the key features of the sectors are broadly similar. The UK has some small not-for-profit colleges, there are some for-profit providers and there are representatives of the venture, enterprise and shareholder categories. Since no-one knows the details of the ownership and constitutions of the UK’s small private colleges, we cannot compare them more exactly. As yet, the shareholder, for-profit part of the sector is only represented by two entities – BPP University College Plc (part of the Apollo group) and Holborn College, (part of Kaplan); Kaplan is also represented in public-private partnerships with UK universities.
2. A key difference from the US is that at present few public funds flow to most of the colleges, although some UK/EU students in the College of Law, BPP and a few private colleges are entitled to apply for student loans and grants. Since the UK state provides little funding, there has been no financial motive to drive the introduction of regulation or monitoring of the private sector. A lesson from the USA is that the scope and design of the regulatory framework is crucial as the private sector (and privatisation of the publicly-funded sector) increases.
3. Another difference is that the privates in the USA claim that their flexible delivery appeals to a mostly low income female clientele. This is not currently so here, where the market is largely young professionals and international students.

*Academic issues*

1. The curricula of private providers in the UK tend to be narrower and more vocationally focused than at traditional universities. However, this generalisation needs some nuancing given the diversity of both sectors. Business-related studies are most common; health and social care also feature along with computing and IT. Tourism, travel and hospitality management are quite widespread and a number of colleges offer digital media and design, creative and film studies. Social sciences are barely represented (psychology is most common) and humanities subjects are rare. However, the one (not-for-profit) private university in the UK, the University of Buckingham, does offer a wider subject range.
2. There are no public data available on student enrolments in private institutions. Many focus on international students. Some, such as the London School of Business and Finance (LSBF), aim to develop a network of city campuses in different countries. Others, such as BPP University College and the College of Law, recruit predominantly domestic students and compete directly with publicly-funded and private sector institutions.
3. Information about students’ experiences in private institutions is generally absent in both the US and the UK, although similar claims are made about the kind of teaching and learning environment: small classes, self-directed and active learning, acquisition of practical knowledge and employment-related skills. In the UK, private providers make claims to successful employment outcomes as well as progression to further study, pointing to closeness to their industry.
4. There are significant differences in the policies of private and public providers towards lecturers. In private institutions, the role of lecturers is more limited, with teaching, exam preparation and student guidance and support predominating. Providers vary in their balance of full-time to part-time staff, with some employing a core of full-time staff as programme designers and teachers as well as a number of part-time professionals. Qualifications required include professional qualifications, lecturing, course facilitation or training skills and business experience. Private providers generally require a heavier teaching load, and typically do not require staff to do research. However, some with degree-awarding powers or aspiring to this status do encourage research in applied and niche areas.
5. Public information about private providers’ quality and standards is difficult to obtain in the UK. At present, none that have taught degree awarding powers (DAPs) have been subject to the six year QAA review and they are not obliged to make their DAPs reports public, although the College of Law has done so[[2]](#footnote-2). Beyond those with DAPs, QAA has no formal role but is undertaking external reviews for some of the seven private providers who subscribe to the QAA (and for one – St Patrick’s College – that does not). Many have said they would be willing to undergo QAA scrutiny and to be as open as public institutions about their students’ views and graduate outcomes. [[3]](#footnote-3)
6. Where private and traditional providers are in partnership, private providers will come under scrutiny as part of collaborative audits. In their internal quality assurance and enhancement arrangements, those providers with DAPs or aspiring to DAPs, typically seek to mirror the arrangements of traditional universities. Many that offer professional qualifications and recruit international students are subject to multiple accreditations and reviews, from professional bodies, different partner universities, the QAA, as well as accreditation agencies approved by the UK Border Agency. One private provider is involved with 39 different accrediting bodies, with accreditation visits every week.

**Key policy questions for the UK HE system**

*Is current provision demand absorbing or widening choice?*

1. To what extent does the private sector provide additional and alternative access paths to HE? In most countries, the private sector expands access by creating niche offerings, by entering new geographic locations, by offering alternative delivery models and by serving specific student populations, both where publicly-funded provision is not available and where it is.
2. The pattern of private sector provision in the UK differs significantly from that in the US, since a large proportion of the providers focus on the international rather than the domestic student market and many have forms of partnership with traditional institutions. However this picture may change as a consequence of new policy directions in England and likely constraints on access for domestic students to traditional HE institutions. Some of those private providers that only recruited international students are now actively marketing to UK/EU students, not least because of pressures arising on the international side from UKBA restrictions. In the absence of demographic data on students attending private providers, we cannot assess their ability to widen rather than increase access.
3. So because of likely policy changes in England, private and for-profit providers in the UK may become ‘demand absorbing’ over the next five years. This alone is unlikely significantly to widen choice because wide choice already exists in access routes, accessibility of provision and range of programmes. The likely area for widening choice is in flexibility of study times and approaches. Private providers typically offer multiple entry points in a year, quicker routes to qualification and choices of study mode; they may also offer smaller class sizes and focused attention on student needs and employability. Students will therefore have choices to fit their motivations and personal circumstances. Further regulatory changes may enhance this picture with the implication that some UK/EU undergraduate students who would otherwise choose publicly funded institutions will now go to private ones. The impact, however, is unlikely to be as great as in postgraduate legal education where the two private providers (BPP and the College of Law) have made major inroads into the student numbers of publicly funded institutions.

*Is the playing field level with regard to the State’s relationship with private and publicly funded providers?*

1. In the UK, many private sector partners of traditional universities are able to access public resources such as the national IT and library infrastructure. However, some university partners block such access, complaining about their partner’s reliance on the university’s facilities and resources, arguing that they have paid nothing towards these services and are ‘free-wheeling’. In contrast, private providers argue for access to shared services and student loans on the same basis as others, arguing that the interests of students should be paramount.
2. On the other hand,, in many areas, the playing field is not level at present, with different restrictions and opportunities applying. Private providers do not have access to Funding Council grants and their students do not generally have access to public loans and grants. This contrasts with some other countries where students in recognised and accredited institutions receive state support. Private providers are not subject to the oversight and accountability requirements associated with receipt of public funds, including providing public data and information including performance data. Traditional institutions receiving public funds have been able to build wide-ranging provision and opportunities for students, but they are also subject to policy direction on, for example, widening access and participation as part of their contract with the State.
3. A more relevant question for future policy is whether the playing field should be made level – or more level – and in what ways? Given the significant differences, there is no reason for the two sectors to be treated the same – and neither side argues this. But equally, it seems self-evident that their treatment should not be inequitable and unfair, or that differences in their treatment should exist, for no reason.
4. The playing field is considered not to be level in the UK regarding:

* Access to public funding and resources.
* Different treatment with regard to Degree Awarding Powers.
* Some differences in the processes used to approve private providers from those used for public applications.[[4]](#footnote-4)
* Treatment with regard to University title.
* Requirements associated with widening participation.
* Requirements concerning data collection, public information and public reporting (finance and quality).
* UKBA ‘mindset’ regarding automatic award of Highly Trusted Sponsor Status to publicly funded institutions, while private providers have to follow a lengthy application process.

1. Although there is a strong argument for levelling the playing field with *equitable* treatment, the private sector, as we have shown, is very diverse and there is every reason for a cautious approach. A key concern, as in the USA, is the existence of some private institutions of questionable legitimacy or very poor quality. While the purges that the UKBA and others have carried out in 2009 and 2010 have helped to protect the UK’s reputation with foreign students, they have not necessarily done anything to help UK/EU students, since they were focussed on processes for handling immigrants and ensuring their attendance. Thus, an essential preliminary to a levelling of the playing field is a clear definition of a reputable private provider and an agreed designation of acceptability. Only those institutions with this recognition should be entitled to benefit. Even then, there will be need for regulatory and financial expectations to be placed on private providers to balance the benefits they receive – for example with regard to the tariffs they are charged for publicly-provided services and the information they publish.
2. How is legitimacy to be established? Current accreditation and approval routes do confirm legitimacy and these could be strengthened. The requirement for a review within a defined period (currently six years for DAPs, for example, or ten years for institutional accreditation in the US) is also useful given the potential for changes of institutional ownership, of scale and scope of provision and financial position to occur - with unforeseen consequences. This raises the question of whether all providers should be subject to such reviews. Our answer here would not be to impose an additional review system on traditional universities, but to adapt the nature of the existing institutional review process so that there is closer alignment between this external review process and the Degree Awarding Powers’ system. This is important because of the inclusion of governance and financial management within the DAPs process (something which is currently absent in quality audit reviews). Given the changing balance between private and public funding, there is a strong case for these elements to be included in the auditing processes for all providers, including public.
3. Policy makers are in the dark at present about the size and shape of the private sector. Distinctions between types of providers in terms of their offer and status must be clearer and more accurate. Although categorisation is difficult, it is needed both to improve public information and to facilitate policy-making; for this purpose and to assist the assessment of quality and wider comparative evaluations data returns should be required for those accessing public resources in any form, whether through partnerships, direct funding or access to student loans.

*Is the for-profit and not-for-profit distinction significant?*

1. In the UK there is a small, but visible for-profit sector with BPP University College Ltd as the representative of that category with DAPs. Other colleges operate for profit including the London School of Business and Finance, the London School of Commerce and the EThames Graduate School; however, their accounts are very limited in the information they disclose. Some of these will probably acquire DAPs, but we cannot predict the future size of the for-profit sector. Nonetheless, it is unlikely that the Apollo Group will remain the only major for-profit provider in the UK.
2. So is ‘for-profit’ status relevant? One argument suggests not: the public interest lies in education of high quality being provided and consumer interests being protected. The DAP and QA processes should ensure this. Beyond that, whether a profit arises from providing higher education is not of public concern. The main counter-argument is that, where public funds are used to fuel profits for shareholders, there are legitimate grounds for public concern and scrutiny[[5]](#footnote-5).

*Does the absence of research matter for the credibility of the private sector?*

1. In some countries, undertaking research and linking research to teaching for degree- level study is a pre-requisite for the title of ‘university’ and a hallmark of a ‘higher education.’ In England, the legal and regulatory framework has gradually uncoupled the linkages between teaching and research, first in the differentiation of degree-awarding powers into teaching and research degrees (and more recently adding foundation degrees as another distinction) and second, in the granting of university title. Despite these changes, in many traditional universities, the links between teaching and research remain in culture and practice, reinforced by quality assurance arrangements and academic status as well as external market, funding and reputational pressures.
2. The disciplines offered by private providers are relevant here, including the depth of reliance for professional programmes on practitioners as teachers and case study leaders. Since many of the colleges focus heavily on professional and business subjects, the value of academic research may be less important as far as the student market is concerned, although the staff should obviously have a high level of professional experience.
3. The absence of research clearly matters as an issue of public information, but not obviously beyond that. Potential consumers should be given the information about the extent of research that is undertaken to enable them to form their own conclusions about how relevant this is to their decisions and choices.

*Are changes to the regulatory environment (including quality) required and what other models are relevant?*

1. The present mix of regulations has developed over time as a result of ad hoc responses to particular political or educational drivers. There is no comprehensive framework. Other countries have enacted legislation specifically relating to private higher education (or to all providers) with the aim of protecting students from poor quality private providers whether domestic or international. This legislation usually focuses on registration and licensing systems as well as QA processes. Other topics covered can include, regulations on finance and reporting, powers for provincial governments (or agencies) to subsidise or give grants or land to private entities, and tax incentives and procedures in the event of a change of ownership.
2. These provisions could be included in any comprehensive legal framework whose main aim would be to outline the obligations and benefits that the private sector can expect as part of its contribution to a national HE strategy. Whether the UK is yet ready to consider the private sector in this light is a moot point. As it grows, some more formalised and comprehensive regulatory framework will be needed to protect both the interests of students and the reputation of the better-established private providers.

**Some policy options**

1. Looking into the near future, and in the context of the changes that are taking place in England any or all the following elements seem likely:

* Different regulatory models applied to different categories of university.
* A higher education system driven principally by a competitive market ethos.
* Private funding flowing into expanding the private sector.
* Public funding used to incentivise private providers or to contract with them to plug gaps or remedy failures in publicly funded provision.
* International providers playing a bigger role by establishing campuses through a “UK higher education hub”.

1. In considering the range of future options, we suggest somegeneral principles to bear in mind:

* Any new policies ought to cover all private providers –UK-based as well as international universities or corporations choosing to operate in the UK.
* There should be no distinctions in the treatment of for-profit and not-for-profit providers, unless clearly justified.
* The approach to regulation and funding must stand up over time to avoid alterations arising from new political agendas, changing attitudes to the private sector or the limitations of funding pots available.
* The approach to regulating public and private institutions should be ‘equitable’, and wherever possible the playing field should be level – for example the accreditation and quality assurance regimes and evaluation criteria should be the same.[[6]](#footnote-6)
* Any regulatory approach should balance controls and responsibilities with benefits or incentives; ie. access to public funding in return for certain outcomes and accountabilities from the private providers.
* The compulsory reporting of information by providers is a *sine qua non.* No regulation can be effective without it.
* Another *sine qua non* before a new policy regime is in place is to agree suitable definitions of higher education (as opposed to further and professional education), a “university”, “a private provider”, “a diploma” and “a certificate” compatible with the European qualifications framework. The boundaries with further education provision will need to be clear.

1. Among the policy options that might be considered, related to the regulation and control of a private sector in the UK, are the following:

* A starting point could be a Private Higher Education Act bringing together all the elements of a regulatory framework for non-publicly funded HE.
* For corporate providers, company legislation could be combined with education legislation , and a licence (or interim licence) required to operate as an educational business. A second step is to require approval to operate as an education provider.
* There is no formal process of educational accreditation for publicly-funded *institutions.* A system of accreditation could be introduced to cover both sub-degree and degree-level provision (thus, replacing the DAPs review in the latter case) possibly taking on board the interests of the UKBA. The agency undertaking this could also continue to operate external quality reviews. All educational accreditations for both public and private institutions could be time-limited and subject to review.
* Existing campuses of foreign universities and any foreign institution wishing to establish itself should be required to register and obtain a license to operate. Thereafter, they should be subject to the same accreditation and review processes as domestic providers if they plan to enrol UK/EU citizens.
* A system of ‘candidature’ (similar to that formerly applied by the CNAA to polytechnics moving from validated to degree-awarding status) could be applied to private providers wishing to acquire DAPs or full accreditation.
* A formal requirement could be introduced on private providers to set aside a proportion of their income to contribute to scholarships.
* Information on all private providers could be collected and published centrally, covering status (licensed, registered, candidate, with DAPs etc), statistics on staff and student numbers, web links to prospectuses, financial accounts, ownership, governance and any published accreditation or quality reports.
* BIS could set out what support or incentives it offered clarifying the state support available for students and the terms on which private institutions could access the academic resource infrastructure. Not all of the 670 private organisations identified by HESA will be of an appropriate standing, and some basis for classifying those worthy of support will be needed.

1. The Government has stated that students studying degree-level programmes at private colleges will be eligible for loans and grants. Consequently, the number of UK/EU students in the private sector is likely to increase. This means that England could see a repetition of the US experience where much the income of for-profit education companies consists of public funds in the shape of grants and loans to students. However, in this respect they will be in exactly the same position as publicly-funded institutions, and drop-out rates may be an issue. There is a debate to be had about whether there should be some extra regulatory check on private providers to deter these institutions from emulating the alleged practices of their counterparts in the USA, or whether such checks should apply to all institutions.
2. Among the policy options that might be considered relating to the funding and organisation of the private sector are the following:

* A basic question is whether private providers should receive any direct financial help or incentive from government. One option would be to make private providers eligible to apply for special funding on the same terms as public HEIs. The Browne Review recommended that English private providers could be funded for those subjects that HEFCE will be funding through its strategically important and vulnerable subjects fund. Since the size of the funding pot for this will be fixed, any allocations to private providers will be at the expense of the publicly-funded institutions. However, there will by definition be a national need for these subjects and there seems every reason to support any institution that contributes to meeting this need.
* Public funding might be available to a private provider willing to merge with, or take over, a failing publicly-funded institution. Financial help could be provided by applying favourable terms for the repayment of the “Exchequer Interest” which represents the written-down value of the HEI's publicly funded assets, or, finance could be provided towards the cost of the merger.
* In Australia and several African countries, public universities can teach parallel streams of private fee-paying and publicly-funded students . One option would be to explore whether private providers could work with public institutions to make such provision on their behalf.
* Private providers see themselves as principally teaching institutions. The public interest in funding research is to obtain the best possible research outcomes with public funding, and there may be a case for opening up public research funding to applications from staff working for private providers.
* The option of opening up the “academic resource infrastructure” to private providers has been mentioned as part of a regulatory package. If the public interest is that all students – whether in public or private institutions – should receive the best education possible, these facilities should be made available to private providers, albeit with appropriate payment.
* All publicly-funded HEIs are, regardless of their basic legal status, also exempt charities. As such they are freed from charging VAT on their fees. The same will apply to those private not-for-profit providers that are charities. To the extent that private for-profit providers are providing a public good, there is a case for exempting these as well or applying a reduced rate, reflecting the public good..

1. Some of the regulatory and funding options outlined above could be embodied in framework legislation. If such a regulatory package is unveiled, the interface with Further (non-HE degree level) and Professional education must be clarified. This report has focussed on degree-level provision, but many private sector providers straddle HE and FE and are proud of the pathways and access routes to higher education that they offer. Most private providers offer only further and professional programmes rather than degree-level education. Thus, an essential prerequisite of any policy development is agreement on a clear definition of where “higher education” stops and starts and what this means for the classification of providers.

1. includes the Ivy League universities, some religious-based universities and a large number of small, elite institutions [↑](#footnote-ref-1)
2. The College is also starting on the six year review process. [↑](#footnote-ref-2)
3. However this is changing since a recent announcement by the Home Secretary has decreed that all colleges wishing to achieve HighlyTrusted Status must achieve a successful review by QAA by April 2012. [↑](#footnote-ref-3)
4. The criteria used to assess applications for DAPs are the same for public and private providers. Those private providers wishing to achieve Highly Trusted Status (HTS) will now be subject to review by the QAA, but some colleges which recruit only UK students do not need to seek HTS and will not have their quality reviewed in this way unless they seek it voluntarily. [↑](#footnote-ref-4)
5. A different point is sometimes made that if the UK higher education business is a small part of a multi-national or multi-mode for-profit education business it will be hard for a national QA system to disentangle or assess the relevant profits that arise.. Therefore careful scrutiny of the evidence and associated care in drafting regulations is needed. [↑](#footnote-ref-5)
6. As footnote 3 shows this is now beginning to happen. [↑](#footnote-ref-6)