The growth of private and for-profit higher education providers in the UK

Universities UK

Research reports

This series of Research reports published by Universities UK will present the results of research we have commissioned or undertaken in support of our policy development function. The series aims to disseminate project results in an accessible form and there will normally be a discussion of policy options arising from the work.

This report was produced for Universities UK by John Fielden of CHEMS Consulting with the help of Professor Robin Middlehurst and Steve Woodfield from Kingston University and Don Olcott and his colleagues from the Observatory on Borderless Higher Education.

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Foreword

This report was commissioned by Universities UK's Longer Term Strategy Group to examine private and for-profit providers' role in the delivery of higher education in the UK, and to inform further discussions on this issue.

The private higher education sector is emerging as a growing force in many parts of the world and presents a range of potential opportunities and challenges. This report examines where we are now and provides a series of likely scenarios for the future in terms of how the private sector may develop, and how we might respond. These scenarios include private providers awarding degrees, funding systems that give students a choice of public or private provision, and changes to the marketplace to neutralise any competitive advantage.

The report addresses key policy questions in regard to quality assurance, regulation, collaboration and partnership. The regulation of the private higher education sector is a critical issue – the UK does not currently have an overall legislative framework or formal statement of policy within which the private sector can operate, and this is an obvious threat.

However there are positive reasons why publicly-funded institutions make links with private sector providers, and benefits to be gained. Private colleges are considered by many universities to offer a particular responsiveness to students and an excellence in marketing, as well as bringing in a useful flow of income from accreditation services. The case studies included in this report illustrate a range of collaborations and partnerships and the associated benefits and pitfalls.

The report makes 22 recommendations aimed at publicly-funded universities, government and private providers as well as key stakeholders such as quality assurance bodies.

Our thanks go to John Fielden of CHEMS Consulting, Professor Robin Middlehurst and Steve Woodfield from Kingston University and Don Olcott and his colleagues from the Observatory on Borderless Higher Education for their rigorous work on the study and the resulting report.

I believe that this report makes an invaluable contribution to Universities UK's strategic thinking on this issue by providing a detailed picture of the private and for-profit higher education sector as it looks today in the UK, and examining how it might develop in the future.

Professor Geoffrey Crossick

Warden, Goldsmiths, University of London and Chair, Universities UK Longer Term Strategy Group

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Summary

Background

1 This report was commissioned by Universities UK's Longer Term Strategy Group as part of its studies of the future of the UK higher education sector. It was carried out by John Fielden of CHEMS Consulting with the help of Professor Robin Middlehurst and Steve Woodfield from Kingston University and Don Olcott and his colleagues from the Observatory on Borderless Higher Education. A steering group chaired by Professor Brenda Gourley, former Vice-Chancellor of the Open University, has overseen the work.

2 The recommendations set out in the report are based on the views of the consultants commissioned to undertake the study by Universities UK. The report is an important and valuable contribution to the debate on this issue, but it does not necessarily represent the views of Universities UK.

3 The methodology involved the analysis of 71 responses to a questionnaire sent to all members of Universities UK, GuildHE and the Mixed Economy Group of colleges, plus interviews with over 30 policymakers and private providers. A workshop was held to discuss the draft findings in May 2009. Advice was also sought from J.P. Morgan and two leading experts on private higher education in the United States.

4 The context for the study is that the private higher education sector is growing in many parts of the world, but with important regional differences. Although the private sector provides approximately 30 per cent of the total global enrolment, it is less prominent in Europe (apart from countries such as Poland and others in central and eastern Europe).

5 In the UK the private sector is changing rapidly and the report represents the position in late 2009.

Charting the territory

6 The study examines the private sector's role in the delivery of higher education in the UK and does not cover private sector provision of infrastructure, financing, contracted-out accommodation or support services of all kinds. Even so, there is a very wide range of private sector functions and, as a consequence, a need to develop some form of classification.

7 Accordingly, we have structured the analysis of what is happening under the following headings:

- providers which deliver academic content and awards:
  - with their own UK degree awarding powers
  - with their own overseas accredited awards
  - with an award validated by a UK university
  - with an award of their own in partnership with a university
  - with their own technical/professional qualification
  - any of the above through online delivery
- those which teach international students in the UK in partnership with universities
- providers which develop and, sometimes, deliver content for a university's programmes
- other forms of academic support such as educational testing, joint continuing professional development projects with a higher education institution for third parties, and tutorial support.

8 The distinction between for-profit and not-for-profit operation is becoming less relevant in the UK since most not-for-profit higher education institutions now operate in a businesslike manner and seek to generate surpluses from many of their activities. A key distinction is how these surpluses are distributed – for private or public good.

9 There are four private providers with degree awarding powers at the time of writing in late 2009; one of them – BPP Ltd – is now owned by the Apollo Group, owners of the University of Phoenix, which is based in the United States. Several other organisations are applying for degree awarding powers and others plan to do so. Many overseas universities (variously estimated at between 60 and 100) have established campuses in the UK; these are principally American universities offering their own programmes to their American students, but the number also includes European universities.

10 The largest and most interesting category of provider is that of the small private colleges targeting international students and accredited by UK universities to offer their awards. They are growing rapidly and many offer the qualifications at a fee well below that of the awarding institution. Some of the more dubious institutions have been culled as a result of the efforts of the UK Border Agency (UKBA), the British Accreditation Council (BAC) and the Accreditation Service for International Colleges (ASIC). The number of non-EU international students at these institutions is unknown, but it is growing; in addition, some of the colleges market themselves to UK-domiciled students. They focus wholly on teaching and many claim to be offering a high quality learning experience, although it is very different from that of a traditional university. However, they may pose a competitive threat to some categories of university, since they could be taking some of their market share of international students. From the overall UK perspective, however, the colleges are broadening the UK offer by providing qualifications to a greater number of students, drawn largely from a different segment of the international market.

11 The second area where private providers have expanded rapidly in recent years is in delivering foundation, language and study skills courses to international students on campus under a contract or partnership arrangement with a host university. There are now five such companies (Cambridge Education Group, INTO, Kaplan, Navitas and Study Group) which have 33 institutional clients between them. Four are for-profit organisations and some offer profit-sharing relationships with their university partners. Two of the companies are Australian owned, one is American and two are British. The offer made by these companies includes the recruitment of non-EU international students using their large networks of agents in target countries, and all but one of the agreements have been successful in recruiting increased numbers of students. The quality of what the companies deliver to students is usually well monitored by the host university, and the report identifies some of the key risks that need to be covered in negotiations, but there is as yet no comparative information on the educational value added by the companies.

12 Other categories of activity offered by the private sector discussed in this report include:

- technical or professional qualifications offered by companies such as Microsoft or Cisco alongside higher education awards
- content provided by companies such as Pearson that includes tutorial material and teachers' notes, as well as interactive links to assessment systems
- partnerships between higher education institutions and private organisations in the development of teaching material for students on degree programmes or continuing professional development programmes for paying clients.

Regulation and relations with the state

13 The report uses a broad definition of regulation which includes the authorisation, licensing and accreditation processes, oversight by a regular quality assurance regime and reporting obligations, plus clear policies on what incentives, grants or concessions are available and on collaboration and consultation with the private sector on policy issues. The UK does not have all these elements of regulation in place and, unlike in some countries, there is no overall legislative framework or even a formal statement of policy within which the private sector can operate. Such frameworks as exist have evolved over time and are still changing (as for example with the new powers of the UK Border Agency to nominate institutional sponsors under tier 4). Any overseas provider wishing to enter the UK market has a great deal to research and study.

14 The current regulatory environment relating to the establishment of a new higher education institution and assurance of its quality is described in the report. Unlike publicly-funded institutions, the grant of degree awarding powers to private providers is restricted to a period of six years, after which time it must be reviewed and can be revoked. There has been no requirement for private providers to supply government or any agency with information on staff and student numbers, turnover etc, but some of this data may emerge from the UK Border Agency when its information systems are fully operational. The Quality Assurance Agency's reports on publicly-funded institutions are published but the reports on private colleges from British Accreditation Council inspectors are not.

15 In some countries private providers flourish because their students are able to receive grants and loans from the government on the same basis as those attending publicly-funded institutions. American private colleges rely on this for a very large proportion of their income. Australia follows the same principle, but in the UK this only applies to those attending private institutions with degree awarding powers (who are eligible for maintenance grants and loans).

16 The regulatory scene is very complex, due partly to the blurring of boundaries between public and private and the UK's flexible approach. For example, the American InterContinental University volunteered to be audited by the Quality Assurance Agency, and Richmond American International University has obtained validation and accreditation from Open University Validation Services and the British Accreditation Council. In addition, the style and content of scrutiny varies between the different agencies. Some scrutinise the financial health of the provider, while others do not. Finally, the Quality Assurance Agency would like to see its code on collaborative provision more rigorously implemented when universities accredit private providers to offer their awards.

17 Any consultation between policymakers and representatives of the private sector is ad hoc and is centred on issues as they arise. Private sector providers have said that they would like to be more involved in regular discussions.

18 We consulted representatives of 17 universities about their relationship with private sector providers and explored the reasons why such links were made. Private providers were seen as being in many cases closer to professional practice and the working environment. Private colleges were often thought to be better in their responsiveness to students and in their marketing skills, as well as bringing in a useful flow of income from accreditation services. However, there were often difficulties in selecting partners, in carrying out the due diligence process and then in monitoring the relationship effectively. Some institutions found that their pace of decision-making was too slow for the private partner, but counselled against building up a private/public partnership too quickly.

Some policy questions

Is the growth of private sector providers a threat or an opportunity?

19 To answer this question we need to remind ourselves of the classification of providers set out in paragraph 7 above, the wide range of activities that they undertake and the markets in which they operate. In most cases universities are in control of the relationship with the providers. For example, they set the terms of the contract with the foundation course providers and it is assumed that they will have mechanisms for concluding any such contracts. Private providers pose a threat where they openly compete with publicly-funded universities. Examples of this are those colleges which recruit international students at the cheaper end of the market, providers with UK degree awarding powers and international institutions offering their own degrees in the UK.

20 For some, the private sector is thought to be quicker to capitalise on fast changing and converging communications technologies and must be considered a threat as higher education is ripe for transformation in this way. For others the private sector is only a threat in limited markets, although government policy could well affect this in future.

21 Some policymakers see benefit in having an active private sector. Private providers can be closely aligned with government priorities such as widening participation or skills development and offer the potential to 'raise the game' in publicly-funded institutions through being shown to provide better support to students. In addition they could offer the potential to achieve national policy objectives at lower cost, as many countries which have entered into higher education public/private partnerships have found.

22 Our general conclusion is that the private sector is here to stay and will grow, but that it offers both opportunities and threats which will depend on where individual universities stand in the marketplace and how government policy responds.

Is the quality of private sector provision adequately assured?

23 Most accept that quality and standards are not uniform across the private sector. There are examples of fraudulent practice as well as excellent teaching and quality provision which some people consider superior to that in parts of the publicly-funded sector. However, the experience offered to students by private providers is rarely the same as that in publicly-funded institutions.

24 The role of the Quality Assurance Agency's code on collaborative provision could be strengthened. In addition, the practices of the quality agencies themselves vary in their rigour and style and some do not review the financial capacity of the provider. In our view there needs to be a dialogue between public and private sector providers to discuss the balance of emphasis in quality assurance between inputs, outputs and processes.

25 Using our wide definition of regulation, we suggest that the UK could improve its position in various ways – by increasing the information that is publicly available about private provision, by bringing the private sector providers more into debates about policy issues and by exploring whether there is a level playing field for private providers and their students in their access to publicly-provided networks. Data on providers' staff, students and finances is needed for policy purposes.

How should the public and private sectors work together more effectively?

26 Both sides of a public/private partnership can gain from working together and our report illustrates the benefits that both parties see in such collaborations. This can be improved by greater cross-sector dialogue and information sharing. It would help if the private sector could agree on the creation of a single representative body, rather than the two which exist now.

27 Our conclusion is that the role of the private sector in UK higher education is unclear in policy terms. Is it accepted as part of the solution or is it seen as a problem? If the fees cap were raised, would government wish to see a greater role for it as a provider of quality teaching? How would an influx of overseas providers be regarded? Such questions could be the focus for a policy debate leading to a policy statement.

What special factors affect the devolved administrations?

28 Our study involved assessing whether there were any particular issues in relation to private sector providers in Scotland, Wales and Northern Ireland. We found that there was less knowledge about the growing sector among policymakers in these countries and possibly less of a private sector presence. In Scotland the prevailing culture is much more protective of the publicly-funded sector and there are some important regulatory differences affecting degree awarding powers and university title.

Some future scenarios affecting the private sector

29 In appendix 1 we identify six possible scenarios which will depend on contextual factors such as a change of government:

■ The UK sector becomes more diverse with publicly-funded and private providers from home and overseas collaborating, particularly with more public/private partnerships bringing mutual benefit.

■ For-profit providers seek to acquire ownership of, or stakes in, publicly-funded higher education institutions.

■ Funding agencies are allowed to contract with, and fund, the private sector to provide higher education teaching, probably in public/private partnerships.

■ Funding systems are adopted which allow students to choose between publicly-funded and private institutions. Funding could flow either to students or to institutions.

■ Publicly-funded institutions are able to recruit fee-paying streams of students in parallel with state-funded students, or alternatively acquire private sector providers. They may do this through commercial subsidiaries which covenant profits to the charitable parent.

■ International pressure mounts on government through the General Agreement on Trade in Services (GATS) to remove competitive advantages favouring publicly-funded institutions so that private providers can operate more freely.

30 Chapter 8 offers 22 recommendations aimed at agencies, publicly-funded universities, quality assurance bodies, government and the private sector.

Origins and terms of reference

1.1 In 2008 Universities UK's Longer Term Strategy Group commissioned a series of studies of the future size and shape of the higher education sector. One of these studies identified three scenarios, the second of which, entitled 'market-driven and competitive', saw a significant role for private providers of higher education.[1] The authors of the study described a diverse higher education scene in 2026 with:

> a much larger number of private providers than now, encouraged by a more liberal quality assurance regime and the opportunity to demonstrate the feasibility of reducing delivery costs without sacrificing quality for certain aspects of teaching delivery. Most of these will be small to medium niche providers, but some may be offshore operations of overseas universities or large borderless e-learning providers such as major publishing companies.[2]

1.2 This possibility encouraged the Longer Term Strategy Group to support further work on private provision. The first study in this programme was an analysis of models and business plans of private providers, principally in the for-profit sector and in the United States.[3] It concluded that private provision was expanding, both where it already existed and in countries where it had not existed before. The study also showed that the private sector would seek to compete on price where tuition fees in the publicly-funded sector had risen to levels that made economic private provision possible.

1.3 Early in 2009, Universities UK commissioned this study with the following terms of reference:

> The project should identify the main providers and analyse the market context in which they have emerged. It should further examine the nature of their operations and relationships and the implications for policy and practice at university and sector level. This will include identification of the key challenges this may pose for publicly-funded universities in the UK including the impact on their main student markets. The analysis should consider both policy-related factors as well as market-based variables. The project should also take into account the wider comparative (European and global) context of private providers of higher education.

1.4 CHEMS Consulting was awarded the contract and carried out the work during 2009 in association with the Centre for Policy and Change in Tertiary Education at Kingston University and with help and advice from:

- Dr Don Olcott and colleagues at the Observatory on Borderless Higher Education (OBHE)

- Professor Dan Levy, Director of the Program for Research on Private Higher Education at the University of Albany, USA

- Svava Bjarnason, Senior Education Specialist, International Finance Corporation

- Kieran Levis, independent marketing consultant.

Study methodology

1.5 Since one key element of the study was to undertake a mapping exercise of private provision in the UK, the first task was to explore ways of classifying private providers that would assist later analysis. This was followed by a short survey questionnaire sent to all 181 members of Universities UK, GuildHE and the Mixed Economy Group of colleges (MEG).

1.6 The questionnaire aimed to identify the scale of involvement that publicly-funded providers had with the private sector under various categories of activity. It did not ask for details of the collaboration or partnership; this was sought in follow-up interviews with a selection of higher education institutions. A copy of the survey is shown in appendix 4 and the results are reported in section 2 below. The response rate for the survey was reasonable – albeit not exciting – as table 1 shows.

1.7 Replies were received from 71 institutions, giving a response rate of 39 per cent, although response rates were generally higher from the university sector than the college sector (perhaps because universities are more engaged in public/private partnership activity). Apart from the 1994 Group, there was a reasonably even spread of responses from different mission groups:

Table 1
Survey response by mission group

Group	Total responses	Total members	Response rate
1994 Group	11	18	61%
University Alliance	12	24	50%
GuildHE	7	24	29%
Mixed Economy Group	6	29	21%
Million+	11	28	39%
None	15	38	29%
Russell Group	9	20	45%
Total	**71**	**181**	**39%**

1.8 The total includes replies from 24 institutions (34 per cent) which reported that they were not involved in any partnerships with private providers, nor did they have any plans to pursue such partnerships (10 of these null responses came from GuildHE and Mixed Economy Group members). In addition, two institutions declined to participate in the survey for reasons of confidentiality, meaning that 45 institutions (63 per cent) in all provided information about their links with private sector organisations.

1.9 The relatively low return from the survey is (we believe) largely a result of some universities being reluctant to divulge information about their private sector collaborations. It may also, perhaps, result from the absence of any central information point within institutions for gathering data on this issue. The very wide range of people replying to the survey may illustrate this 'data deficit' – respondents ranged from the vice-chancellor to individual academic staff as well as central administrators. There are several instances where an involvement with the private sector is publicly known, but the university has not told us about it in its return.

1.10 We commissioned the Observatory on Borderless Higher Education to survey published information on the activities of private providers in five European countries: Finland, Germany, Netherlands, Poland and Sweden. For the wider context we also drew on information from our two external experts in the United States: Professor Dan Levy and Svava Bjarnason. At our request, interviews were held with senior staff of Laureate International Universities and the Apollo Group. Sadly, we are unable to quote any of the information obtained for reasons of commercial confidentiality; this is a perennial feature of research in this fast-moving and sensitive area.

1.11 The core of the study involved interviews with four groups:

- private providers of all kinds
- quality assurance or validating agencies
- national policymakers and agencies
- publicly-funded universities and colleges with private partners.

1.12 The names and organisations of all those we interviewed are given in appendix 5. In all, we met 34 key players, as well as holding telephone conversations with many staff in publicly-funded universities.

1.13 In May 2009, we arranged a small workshop consisting of about 20 people drawn from our steering group, Universities UK members and all the stakeholder organisations involved to date. This was used to test some emerging propositions and to debate policy questions about the growth of the private sector. Reference is made to comments offered at the workshop in appropriate places in the report.

1.14 The final reporting stage of the study involved the discussion of a draft report with our steering group and a wider debate at Universities UK's annual conference in September 2009. This report incorporates comments from those discussions.

1.15 The issue of confidentiality has permeated our interviews and discussions with both sides of the public-private divide; both sides have expressed concerns about divulging details of some sensitive developments or collaborations and market initiatives. Several universities cited confidentiality as their reason for declining to complete our survey. This means that our mapping exercise will be incomplete. However, our informal contacts and conversations, as well as some triangulation of the sources of evidence, gives us confidence that the map presents a realistic picture of the present position. Any facts about institutions named in this report have either been drawn from their publicly available website or have been cleared with them for publication here.

1.16 A further challenge facing us throughout this project has been determining the scale of private provision and the number of providers operating in the UK. Given the lack of any data collected nationally, we have not been able to give an accurate picture of the size and scale of providers or their provision.

1.17 The information in this report was accurate at the time of writing in late 2009; however, the territory is dynamic and subject to constant change.

The global context

1.18 The growth of the private higher education sector is a global phenomenon. Levy (2009)[4] estimates that private sector provision has grown to approximately 30 per cent of total global enrolments and that most of this is through non-profit private provision. By contrast, in the United States (which already has a large non-profit private sector), the fastest growing segment of higher education is the for-profit sector which has now reached almost 10 per cent of all enrolments in higher education. Public/private partnerships are also increasing, as are other forms of privatisation. These include privatisation of services at public institutions, 'corporatisation' of universities (ie the development of foundations and businesses within public universities) and publicly financed privatisation that provides voucher schemes for students' financial aid in public institutions or supports research, student loans and grants at private institutions. In a recent cross-country analysis the authors concluded that 'privatisation is one of the main global trends in higher education. It is generally understood as the intensive development and expansion of private institutions, increased reliance of public institutions on private funding, and operation of institutions in a businesslike manner'.[5]

1.19 The wider literature on private providers in higher education offers a reference point for how the situation is likely to develop in the UK. The key message from the work of Levy (2009)[6], Hahn (2007)[7] and Larocque (2007)[8] is that the private sector is growing in many regions of the world, but with important regional differences: it is strong in East Asia and Latin America and less prominent as yet in Europe and the Middle East. Organisation for Economic Cooperation and Development (OECD) data (2008)[9] point in similar directions, revealing growth particularly in 'tertiary B' private institutions, ie those institutions which offer more practical, technical and occupationally specific programmes. Within the UK, a recent publication for the Council of Validating Universities (2008)[10] points to the growth of partnerships between universities and private colleges from 2000 onwards, driven by the demand for UK degrees from private colleges.

1.20 There are at least four different types of private provider in higher education and all are represented in the UK:

- identity institutions (religious, cultural and specialist providers including single-sex institutions; typically non-profit)

- elite and semi-elite (the United States is unique in having 'world-class' private universities, although some in Latin America may be classed as elite). The private sector presence is much stronger in the semi-elite category where these institutions compete with good, but not top tier, universities and where they are entrepreneurial and have serious academic aspirations. In several countries (for example, Pakistan, Poland, Thailand and Turkey) there has been a surge in this group

- demand-absorbing (non-elite and representing the largest increase in the private sector globally). This group falls into two sub-categories: dubious and serious – the former denounced because of low quality and lack of transparency in a number of areas, the latter well-managed and job-oriented

- for-profit sector – this is the fastest growing sector in all developing countries and in the United States, although still small relative to the non-profit private sector. This sector is also international and operates across national borders.

In addition to the above, Levy includes public/private partnerships as a fifth, cross-cutting category, while Altbach and his co-authors also refer to the increasing 'privatisation' aspects of publicly-funded higher education institutions[11].

1.21 There are many reasons why private provision is growing. Although these reasons are mostly country-specific, they are to be found in both developed and developing countries. When they come together, they offer a rich seedbed in which private providers can flourish. The reasons include:

- unmet demand for higher education from large numbers of suitably qualified young people; it is not unknown for the state-funded institutions to be unable to provide higher education for more than a small proportion of those wanting to enrol

- the existence of a large enough number of people able and willing to pay private sector tuition fees

- a frequent shortage of public funds to meet this massive demand; this leads governments to develop regulatory regimes and policies that favour the private sector as a way of helping to achieve national policies for knowledge-based economies

- the emergence of entrepreneurs in both the for-profit and not-for-profit sectors (particularly those driven by religious motives) who are willing to build private institutions from scratch

- the fact that government policies do not rule out profit-making potential and thus allow the incursion of international and domestic providers

- a favourable regulatory environment towards the private sector or the existence of financial incentives, such as exemption from tax

- a government's desire to challenge its public sector to enhance its quality through the introduction of competition.

1.22 Against this background in which international and national factors are combining to make private provision more visible (and viable), we have attempted to map the present position in the UK.

Charting the territory

2.1 An immediate task for the project team was to develop a way of classifying the activities of private providers in order to aid further analysis. Professor Dan Levy, adviser to this study, has suggested a distinction between private providers based on *mission* or *motive*.[12] Thus he would separate the religious-based institutions from other not-for-profit entities, and these from the commercial, for-profit organisations. This approach has been followed by Roger King (2008)[13] in his paper on private sector business models. Other approaches have been suggested by Dima (2004)[14] and Knight (2005)[15]. Dima describes the various typologies including one by Reisz that distinguishes private organisations by funding, by control, by mission, by size and by disciplinary structure. Jane Knight of the Ontario Institute for Studies in Education, University of Toronto, has looked at cross-border providers (which are usually considered to be private entities in the country they move into). She separates them into recognised higher education institutions, non-recognised higher education institutions, commercial company higher education institutions, corporate higher education institutions, cross-border collaborative networks and affiliations, and virtual higher education institutions.[16]

2.2 It is clear from these examples that there are many ways to dissect the field. However, it is becoming increasingly difficult to draw some distinctions (such as public/private or for-profit and not-for-profit) as the picture is changing so rapidly. Throughout the world the old boundaries are becoming increasingly blurred and confused. For example:

- 'Public' universities are treated as 'private' institutions by national regulators once they step outside their home country.

- Organisations such as UNESCO take legal ownership as the factor defining what is public and what is private. Thus all the UK's universities are described as private, since they are legally independent entities with their own governing bodies.

- A further complication in the UK is that publicly-funded universities represent different kinds of legal entity and in each case have different legal powers. These powers give them either more or less freedom to engage with private providers and commercial activities.

- Public/private partnerships between governments, corporations and 'public' universities are multiplying.[17]

- Universities often encourage their students to acquire certificates or diplomas issued by private corporations in technical disciplines such as IT, alongside their university degree.

- Laureate, one of the largest American for-profit higher education companies, has acquired several private non-profit institutions in Chile and Mexico where it is illegal to operate for profit.

- There is widespread use of the dual track system with publicly-funded and private streams of students within the same public institution; this is occurring in countries as diverse as China, Australia, Uganda and Kenya.

- UK universities, in common with those in other countries, are seeking to increase their commercial operations as part of the effort to diversify funding from state sources. They are becoming increasingly businesslike and entrepreneurial, particularly in their overseas operations.

2.3 In addition, as we will discuss later, private providers are very varied in their motives, cultures and styles of operation. The for-profit/not-for-profit distinction is important, but even within the not-for-profit sector there is a wide range of provider.

2.4 Rather than using any of these distinctions, our preference is to analyse the UK picture by *activity* or *function*, that is by unbundling the higher education process to identify the different ways that the private sector plays a part. Thus the listing of private providers' functions or activities suggested in table 2 takes four broad headings and shows some subsidiary classifications within each. However, even this has problems since some providers straddle many categories. For example, as we describe later, Kaplan is an educational conglomerate with activities in several of the subsets below.

Table 2

Classification of UK private providers by function

Function	Sub function
1. Delivery of academic content	Offering own degree (using UK degree awarding powers)
	Offering own non-UK degree (with accreditation overseas)
	Offering own award in partnership with a UK institution
	Offering an award from a UK partner institution
	Offering own certificated module within (or alongside) a partner university's degree programme
	Offering own (overseas) online awards (with no UK face-to-face support)
	Partnership in online course delivery
2. Academic support for international students in the UK	English language and study skills training
	Foundation year programmes
	First year programmes
	Pre-Master's programmes
3. Partnerships in providing content	Production of course materials under subcontract
	Provision of online learning modules to fit within an institution's virtual learning environment
4. Other types of relationship	Partnership with the private sector in continuing professional development design and delivery for third party clients
	Contracted tutorial support in the UK and overseas.
	Educational testing and assessment services in specialist fields
	Granting of accreditation or quality assurance services in professional or technical fields
	Agreed articulation into a university's degree programmes from qualifications awarded by a private provider

2.5 We use this classification in the next three chapters to summarise our views on the state of private sector involvement in the UK and will highlight what we believe to be the true market position of private providers, as opposed to their aspirations or plans. The sources for this opinion are the survey already referred to, the research undertaken for us by the Observatory on Borderless Higher Education and our interviews and discussions with private providers. In addition, we culled such material as was available on various websites and records of relevant agencies and organisations.[18]

2.6 In this chapter we consider some cross-cutting themes relating to the activities of private providers, while in the two chapters that follow we look in some detail at the operational activities of those offering awards at degree level and those providing academic support to institutions.

For-profit and not-for-profit

2.7 A classic way of looking at providers has been to distinguish between providers with a profit motive and ones operating on a not-for-profit basis. This no longer seems to be a relevant distinction, since almost all UK not-for-profit universities now work on a businesslike basis and are expected by their funding bodies to accumulate surpluses in order to finance expansion and capital investment. Within many publicly-funded institutions there are academic units such as business schools which operate very commercially and are more like for-profit entities with entrepreneurial cultures. Internationally, UK universities are expected to trade profitably and not to draw on the funds allocated to them for UK students or research. In addition, all universities have trading activities which generate income that is fed back into academic activities. Universities are becoming large consumers of investment funds and some universities undergo financial scrutiny by credit rating agencies such as Standard and Poors or Moody's in order to assist their capital-raising activity. These agencies are also used by the British Council to review the financial strength of all those public and private organisations applying for membership of Education UK. Also, private for-profit providers can generate surpluses or management fees within partnership contracts with the public sector.

2.8 Publicly-funded institutions therefore have to operate in a businesslike manner and make 'profits', but their key motive is to promote public good. This is a key distinction between them and the private for-profit providers which, although they may be working in the same arena and providing a public good, do so in the expectation that they can earn surpluses which flow into the private hands of shareholders. An essential distinction therefore relates to the distribution and uses to which surpluses are put.

2.9 The most well-known domestic for-profit provider in the UK is BPP Ltd, which was quoted on the London Stock Exchange until its recent acquisition by the Apollo Group. However, there are many other for-profit colleges in the college sector (offering awards validated by publicly-funded higher education institutions) and in all the categories in table 2 above.

International higher education conglomerates

2.10 In the United States there is a significant for-profit sector dominated by large education corporations that have in some cases embarked on overseas expansion programmes. In the United States itself, for-profits are the fastest growing segment of higher education and are very soon set to have captured a tenth of total enrolment in higher education, ie about a third of the country's private higher education enrolment overall.[19]

2.11 The last survey by the Observatory on Borderless Higher Education on the large American for-profit corporations was published in 2004.[20] Since then there have been significant changes including the move of Laureate International to private equity status and the absorption of Kaplan into the *Washington Post*. This means that, in both cases, little detailed information on their activities is publicly available. However, we have been able to obtain current information from J. P. Morgan which has a team monitoring private post-secondary for-profit providers. Table 3 summarises some key statistics on six of the largest companies.

2.12 Points of interest in the table are the fact that all the companies receive a very large proportion of their income from students who are entitled to federal loans. Also, all but one have a majority of mature students. The profitability of the companies is impressive since most generate earnings of at least 20 per cent of their turnover. Apollo Group, the largest company, operates through multiple brands including the University of Phoenix and Axia College and provides education at all levels from K-12 (primary and secondary education) to doctorates in subjects as wide-ranging as business, IT, health and criminal justice.

Table 3
Quoted United States for-profit education companies

	Student numbers	Title IV income as a percentage of total revenue FY 2008	Total revenue FY 2008 ($m)	Earnings before interest, taxes, depreciation and amortisation ($m)	Percentage Bachelor's and Master's	Percentage students aged over 30
Apollo Group	Over 400,000	82	3,141	829	57	52
Capella Education	29,000	75	272	52	99	78
Devry	About 90,000	70 (in 2007)	1,091	206	89	67
Grand Canyon Education	About 25,000	79	161	13	100	92
ITT Educational Services	65,000	72	1,015	350	7	22
Strayer Education	42,000	72 (in 2007)	396	137	83	61

Source: J. P. Morgan Education Services Data Charts and Thesis, July 2009 and annual report of Grand Canyon Education

Note: Title IV of the Higher Education Act of 1965 covers the administration of the federal student financial aid programmes. Universities are classified as being entitled to manage funding under title IV or not.

2.13 Despite the recession, the shares of the American education providers have weathered the storms better than those of many other sectors and, even though there is some doubt as to the regulatory intentions of the current federal administration, the stocks are favoured by many financial advisers. Student numbers and profitability are growing.

2.14 Desk research undertaken by the Observatory on Borderless Higher Education has revealed the following European activities of the main American players described above:

Kaplan	Five campuses in Europe
Laureate International	13 campuses in Europe
Apollo Group	University of Phoenix in the Netherlands (and now BPP in the UK)
Career Education Corporation	One campus in London, seven higher education institution providers in France, three in Italy.

2.15 The Kaplan Education Division of the *Washington Post*, for example, now generates more than half of the group's turnover. Its activities and (published) UK partners cover a wide spectrum, as table 4 shows.

2.16 As chart 1 below illustrates, Kaplan has recently restructured its activities and created a Kaplan Europe Division to hold all its UK businesses. It has also joined GuildHE in order to become well-informed about sector-wide developments and to participate in lobbying the Government on the new visa and immigration arrangements.

Table 4
Kaplan subsidiaries with UK activities

UK businesses	Activity	UK university partners
Kaplan Aspect	English language teaching in 38 English schools.	
Kaplan Test Prep and Admissions	Tests of all kinds for school and university admissions	
Kaplan International Colleges	Foundation programmes English courses Pre-Master's programmes	Glasgow, Liverpool, Nottingham Trent, Sheffield and Southampton
Holborn College	Law and business courses	Liverpool John Moores, University of Wales, Huddersfield and University of London external
Kaplan Professional	Financial and professional training	Nottingham Trent
Kaplan Open Learning	Delivery of open learning foundation courses	Essex

Chart 1
Kaplan's structure

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                          ┌─────────────────┐
                          │  Kaplan Europe  │
                          └─────────────────┘
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Kaplan Professional	**Kaplan International Colleges** **Kaplan Open Learning**
Holborn College Dublin Business School Kaplan Financial	Kaplan Aspect Kaplan International Colleges
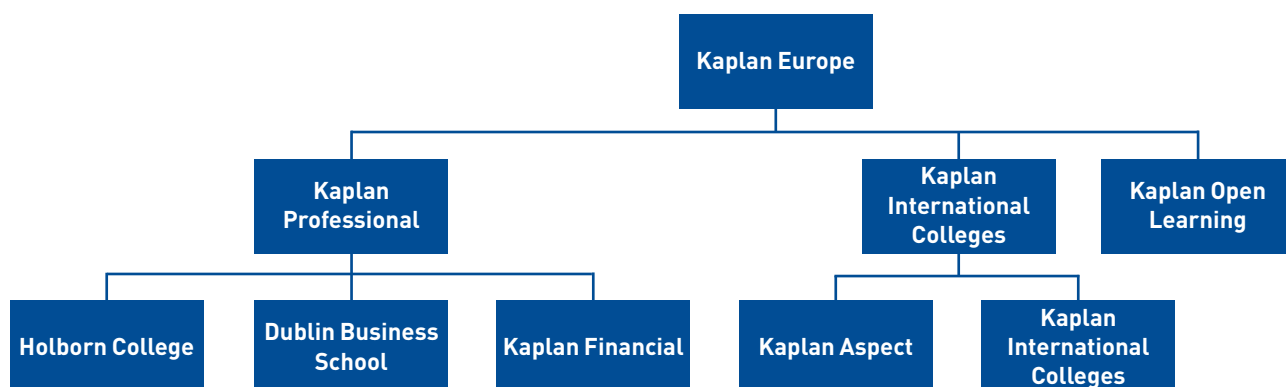
2.17 Kaplan owns Holborn College in London which has 1,500 full-time-equivalent students studying MBAs and undergraduate subjects such as law and business studies. Some 98 per cent of its students are international from 80 different countries and its staff team is also very international. The college offers small class sizes and personal attention from tutors. Most students also seek part-time work, since Kaplan has no financial aid programme and current fees are £7,000 a year for a degree-level programme. Degrees are currently validated by the University of Wales, although attaining degree awarding powers is a medium-term ambition.

2.18 We held interviews with some senior managers of Apollo Group and Laureate International to ask about their international strategies, but for reasons of commercial confidentiality we cannot report on the discussions. It is a reasonable assumption that, were the fees cap to be lifted after 2010, more of the large American educational corporations would be interested in the UK as a market, although it is relatively small by comparison with the United States, China or India, for example. We could also see an influx of providers from countries such as Malaysia, China and India seeking to offer their degree to their nationals and others in the UK.

2.19 Australian international corporations are seeking global markets and their attention has focused on offering pathways and support for international students. The main Australian player in the UK market is Navitas Ltd, a company which also offers services to students in Africa and Canada. It reported a half-year turnover of A$217 million and a surplus of A$19 million for the half year to December 2008. Study Group Ltd, another company in the same market as Navitas, is also Australian-owned and its last reported turnover in 2008 was A$360 million.

2.20 The private sector is growing in Australia, and in 2007 it had a full-time student cohort of just under 35,000 looked after by 105 providers approved to receive federal support for student fees. However these student figures do not include people studying with providers such as Kaplan and Cengage which are registered at state level.[21]

The viewpoints of Scotland and Wales

2.21 We considered the perspectives of the different jurisdictions of the UK on the activities of private providers. This is covered in detail in chapter 7, but a brief summary is given below.

2.22 There is no private entity in Scotland with degree awarding powers, but the level of activity by Scottish universities involving the private sector is very similar to that in England. In addition, four institutions have signed partnerships with providers of foundation programmes for international students and all these have adapted their delivery level and content to suit the Scottish scene.

2.23 The Scottish Government is not keen on granting degree awarding powers to private providers and, if this were to happen in England, they would have to be recognised separately in Scotland. However, Scottish Government policy at present is strongly centred on public provision, since it has what has been called a 'communitarian' focus.

2.24 In Wales the private sector provides foundation programmes at Swansea University and the University of Wales, Newport. The Welsh respondents to our survey reported an average level of involvement with regard to partnerships and accreditation links. The University of Wales is one of the leading UK providers of programme accreditation, as we show later.

2.25 In terms of national policy, there are no distinctive concerns but there has been a drive to clear out unsatisfactory private providers through improved accreditation and immigration procedures. This is because the Welsh Assembly Government has set the sector targets for increasing international student numbers at a faster rate than in England. It therefore does not wish to jeopardise the country's current reputation for high quality higher education.

2.26 There is almost no private sector activity within higher education in Northern Ireland and consequently the Northern Ireland Executive takes little interest in it in relation to education policy.

Experience in selected European countries

2.27 As part of this study we asked the Observatory on Borderless Higher Education to review the current private sector higher education scene in five European countries. Appendix 3 presents a summary of its findings, but some of the key points that emerge are as follows.

2.28 In some European countries not covered by our survey, the private sector provides a very significant share of higher education enrolment. In Cyprus, Belgium, Poland, Romania, Latvia, Armenia and Portugal, over 25 per cent of the country's students study in private institutions. In eight countries the number of private institutions exceeds the number of public institutions but, as these statistics imply, the average number of students in private institutions is less than that in public universities.[22] In global terms, however, the private sector in Europe has a relatively small market share, since throughout the world some 30 per cent of higher education is provided by the private sector.

2.29 In the Netherlands, private institutions with legal status can receive state funding, as can their students. In 2004 there were 62 privately funded and approved institutions that enrolled about 13 per cent of all students, but they offered mainly business and professional subjects.

2.30 The private sector in Germany is much smaller with a mere 3 - 5 per cent of all students in 2008; these students are spread among 69 state-recognised institutions but some of these, unusually, are private research universities. The subjects offered by the private sector include engineering and languages as well as business and finance.

2.31 Poland has seen a dramatic increase in its private sector since 1992 when there were 500,000 students enrolled. The figure is now 2 million, representing 34 per cent of all students in the country. As in other countries there are many very small institutions – an estimated 300 – offering mainly economics, management and computer science at Bachelor's level.

2.32 Provision in Sweden is less extensive as there are nine small specialist private university colleges offering health care, nursing, theology and forestry. Technically three of the major universities have been classified as private, since they were given 'foundation' status. However they continue to receive most of their funding from the state so their position is similar to that of most universities in the UK.

3.1 In this chapter we look a little closer at the activities of those private providers offering degrees in the UK. They fall into four categories:

■ those offering a UK degree with their own degree awarding powers

■ those which offer their own non-UK awards

■ those which offer degrees of publicly-funded universities

■ awards involving various public/private partnerships in content design and delivery.

Private providers offering a UK degree using degree awarding powers

3.2 At the time of writing in late 2009, four private institutions have degree awarding powers: BPP Ltd, the College of Law, the University of Buckingham and Ashridge Business School. Several other domestic and international providers have applications in the pipeline and others we interviewed, such as Kaplan and Regent's College, indicate that it is their intention to apply.

3.3 The University of Buckingham is the only private entity with a university title. It was incorporated as a non-profit making company in 1973 and in 2008 had a student population of fewer than 1,000. It has a very distinctive offering with an honours degree course lasting only two years and entry points three times a year. For three years running its students have judged it to be the best in the UK for its student support, largely because of the small class sizes, an 8.4:1 student:staff ratio and a compact community. The total tuition cost to complete a two-year degree is £17,130 for a UK undergraduate and £28,050 for an international student from outside the EU. The university receives no direct public funding for its teaching, although its UK students are eligible for student support. A very large proportion of the students comes from overseas and some 80 countries are represented.

3.4 BPP Ltd was a publicly quoted company until its recent acquisition by the Apollo Group in the United States. It has four divisions: the BPP College, which has acquired degree awarding powers; a professional education division; Mander Portman Woodward; and Learning Media. BPP College is divided into a law school and a recently formed business school. The college's 5,500 students are nearly all from the UK and they or their employers pay fees for them to study on one of the four UK campuses. There is no difference between the fees charged to UK and international students; these vary by location and qualification and range between £6,800 and £14,700 per programme. Most of the teaching staff are drawn from the professions and are full-time. BPP intends to expand its offerings in the UK, but until its acquisition had no immediate plans to grow in Europe beyond its present campus in the Netherlands. The degree awarding powers given to BPP in September 2007 stay with it for the remainder of the six-year term as long as there is no structural or substantive change; Apollo Group does not gain any degree awarding powers in its own name as a result of its acquisition.

3.5 The College of Law is very similar to BPP in its offerings except that it is a charity. It was the first to obtain degree awarding powers under the provisions of the Higher Education Act 2004.

The College of Law

The college is a registered charity that was once an arm of the Law Society. It is now governed by 12 trustees who meet six times a year. It provides a full range of law programmes from its seven locations in the UK. These include undergraduate and postgraduate level qualifications, specialist short courses, the Bar Vocational Certificate and continuing professional development for practitioners. The college charter limits its operations to legal education.

The college currently has 7,400 full-time-equivalent students, and it estimates that this represents about 40 per cent of the postgraduate law market in the UK. It currently makes a surplus of some 12 to 15 per cent on a turnover of £70 million. Some of its surpluses are used to provide pro bono legal services through the Legal Services Policy Institute and to support a scholarship scheme ('pathways to law') that is run with the Sutton Trust. The college sees itself as serving the large law firms, as two thirds of its fees are paid by employers which are also offered a range of targeted continuing professional development programmes. Recent developments include an online Master of Laws (LLM) developed with the International Bar Association for the global market; this currently has 200 students from over 40 countries. The college also has a long established collaboration with the Open University, providing an undergraduate law degree online.

All new courses are developed by the college's national design centre and, once these are operational, they are subjected to academic audit. The audit reports pass to an academic quality council that includes external members from the profession.

Although the bulk of students is from the UK, there is a small but growing number from Europe and the rest of the world, as the UK's legal education offers a quicker route to a qualification than that of many countries. Another advantage is that a UK qualification is readily acceptable and transferable throughout the world. Because of this the college is planning overseas expansion.

3.6 Ashridge Business School was established in 1959 and offers its own MBAs, MScs and other awards, tailored executive education programmes, blended learning, consulting and coaching. It has triple accreditation from the Association of MBAs (AMBA), the European Quality Improvement System (EQUIS) and the Association to Advance Collegiate Schools of Business (AACSB). The school draws its clients from the public and private sectors. It has over 100 academic staff, of whom one third are international, and it believes that management is intrinsically international and multicultural in nature. It is a charitable educational trust established by an act of parliament and is wholly self-financing.

Private providers offering their own non-UK awards

3.7 The most common group of providers in this category are the American universities based in London: for example, American InterContinental University, Richmond American International University, Schiller University and Hult International Business School (formerly Huron University). Most of these recruit international students to their programmes and take very few from the UK. In addition, there are many American universities which take students from their home campus to a London base for a semester or term for 'study abroad'. The Chicago Booth School of Business, for example, runs a European MBA from its campus in the City of London. It is estimated that there are between 50 and 70 overseas universities with bases in the UK – all offering only their own degrees.

3.8 An interesting model is Regent's College, a single, charitable, higher education institution created by amalgamating the strengths of a number of existing schools while at the same time retaining their individual cultures and reputations:

■ The European Business School London (validated by Open University Validation Services)

■ Regent's Business School (validated by Open University Validation Services)

■ Regent's American College London (awards from Webster University, USA)

■ Webster Graduate School (postgraduate awards from Webster University)

■ School of Psychotherapy and Counselling Psychology (awards from the University of Wales)

■ Internexus School of English Language.

In addition, a new school – The London School of Film, Media and Performance – has been founded.

3.9 All but 7 per cent of the 2,800 full-time-equivalent students at Regent's College are from Europe (which accounts for 40 per cent) or the rest of the world (53 per cent). The college has aspirations not only to achieve degree awarding powers shortly, but also to acquire a university title in due course. Part of the strategy to achieve this involves encouraging academic staff to undertake research and widening student access with a programme of full-fee scholarships.

3.10 A simpler example of an institution offering foreign degrees is Richmond American International University, which is one of the few foreign providers to have acquired the '.ac.uk' domain registration. It has also obtained accreditation from Open University Validation Services and the British Accreditation Council.

Richmond American International University

Richmond American International University bought its first UK campus in Richmond in 1973. A campus in Kensington was added in 1980 and there are also campuses in Florence and Rome. Richmond currently has 1,100 students, and has ambitions to grow. These students come from 100 different countries; 25 per cent are from the United States. The staff is also very international. Richmond's income is dependent on student fees (as there are no endowments) and these stand at £23,000 for 2009/10. Where eligible, students can access loans through their own country and there are some scholarships available which are awarded on merit. Discount rates on fees are available to American students at 20 per cent and 5 per cent for students from other parts of the world.

Richmond offers a liberal arts curriculum through a range of subjects at undergraduate level including science, humanities, politics, international relations, art, design and media, marketing, finance, business, psychology, sociology and anthropology. There is also an MA in art history. Many students enter with the International Baccalaureate and gain a very international student experience. A few UK students study at Richmond and can enter with A-levels. Richmond's undergraduate degrees take four years, but students with International Baccalaureate or A-levels are given a year's credit, so for (some) international students this is a cheaper route to an American degree. Richmond graduates reportedly do well in employment and further study.

Richmond offers its own degrees which are validated by the Open University in the UK. The university has accreditation from the Middle States Commission on Higher Education in the United States. As a result of the new accreditation arrangements in the UK, Richmond is now also accredited by the British Accreditation Council. Richmond's corporate headquarters is in the state of Delaware in the United States, but governance in the UK is through a board of trustees that includes alumni from the United States, the UK and elsewhere. Richmond's chancellor is from the UK, the president is a Canadian with both Canadian and American university presidential experience, and the chairman of the board of trustees is a former vice-chancellor of a UK university. Richmond has several links with other institutions through its external marking system. At present Richmond is not eligible to seek membership of Universities UK, but this could change in the future.

3.11 The main conclusion about this category of private provider is that they attract mainly international students. Some will come from the United States because the cost of studying in London may be lower. Other international students like the combination of an American qualification and the London location.

3.12 A variant on this model is where foreign private providers are offering their (overseas) online awards with no face-to-face support in the UK. We do not know how many UK citizens study with online providers based overseas. It is reasonable to suppose that there are some students based in the UK who have enrolled with virtual providers such as University of Maryland University College or Walden University, but the numbers are not thought to be significant. Unfortunately none of these organisations publishes detailed analyses of their international students. Walden's website implies that most of its international students are based in South America rather than Europe, while University of Maryland University College targets American military personnel stationed overseas, rather than a general international student market.

Private providers offering an award from a UK or foreign partner institution

3.13 The most common category of private higher education provider in the UK has its award validated by a UK higher education institution: 60 per cent of respondents who reported private sector links to us had arrangements of this kind. The number of private higher education providers being validated in this way is not known at present, but this may become clear in due course from data collected by the UK Border Agency (UKBA). In response to our survey, 25 institutions gave us the names of the 98 organisations they accredited. These organisations included private companies, public sector organisations, professional bodies, specialist colleges and larger multi-disciplinary colleges. One university, for example, validated courses offered by British Airways, Capita, KLM and the National School of Government. Two others responding to the survey accredited the awards of 16 and 14 organisations respectively. Those with the largest share of this market are the University of Wales (32 UK names, 10 online providers and many overseas clients[23]) and Open University Validation Services with 29 clients in the UK and eight abroad listed on its website.

3.14 In all, based on our survey sample, we can account for 160 organisations that receive accreditation from publicly-funded higher education institutions in the UK, but the number is likely to be far greater than this. In addition, some UK providers have sought validation abroad. The London School of Business and Finance, for example, offers an MBA awarded by the Grenoble Graduate School of Business. An example of a comprehensive range of links is that between the University of Wales Institute, Cardiff (UWIC) and its associate college, the London School of Commerce, since courses are offered at diploma, Bachelor's and Master's levels in business, hospitality and tourism management. However, the London School of Commerce also has validation links with two other universities through its partner institutions, the School of Technology and Management, London and the School of Business and Law, London.[24]

Validation and franchise links: University of Wales Institute, Cardiff and the London School of Commerce

University of Wales Institute, Cardiff's (UWIC's) relationship with the London School of Commerce was established in 2002 and covers a range of educational activities including undergraduate and postgraduate programmes in business studies (franchise or top-up), management consultancy (jointly validated and delivered in Cardiff and London), computing (validation), hospitality and tourism management, and computing. It also franchises doctoral programmes (PhDs and professional doctorates) in the same subjects to the London School of Commerce.

In the 2008/09 session there were 1,800 students enrolled through this partnership on London School of Commerce programmes. All teaching and support is by London School of Commerce staff, although the moderator appointed for each programme is an academic member of staff from UWIC who is compensated for his/her time (as is his/her school). Learning resources are primarily supplied by the London School of Commerce, but all its staff and students have access to Blackboard and UWIC's electronic resources. There are plans to offer additional programmes through this partnership (for example, the LLM). The relationship fits with UWIC's strategies related to collaborative provision and internationalisation, which set out the institute's objective to broaden its UK and international links with a small number of high quality partners with capacity to deliver medium to high student numbers. The relationship also generates additional revenue for UWIC.

3.15 Several of the organisations offering UK institutions' awards do so with a tuition fee for international students which is lower than that levied by the awarding university. As an example, an international student at the EThames Graduate School will pay £6,945 for an MBA awarded by a UK university, compared with £10,750 which would be payable if the student enrolled at that university.

3.16 Some private institutions provide different qualifications for each year of study. For example, St Patrick's College, London, offers students with only GCSEs a pathway from an HNC to an HND and then to a BSc honours degree for modest fees compared with the standard international tuition fees (see the detailed description on the next page). It argues that these qualifications make the graduate more employable.

St Patrick's College programmes

Year	Hospitality and tourism management		Computing and information systems/technology	
	Qualification	Awarding body	Qualification	Awarding body
1	HNC	Edexcel	HNC	Edexcel
2	HND	Edexcel	HND	Edexcel
3	BSc	A university	BSc	A university
Total cost	£12,665 over three years		£12,665 over three years	

Source: St Patrick's College website

3.17 An indication of the number of private providers of vocational, technical and higher education can be obtained from the registers being developed by the two bodies recognised by the UK Border Agency as accrediting agencies – the British Accreditation Council (BAC) and the Accreditation Service for International Colleges (ASIC). By June 2009 the British Accreditation Council had accredited 293 organisations, of which 121 were higher education or business providers. The British Accreditation Council estimates that the students enrolled with all the organisations it has approved total over 142,000. However, this figure is not broken down between further education and higher education or between domestic and international students.

UK Border Agency

In April 2009 the UK Border Agency introduced a new system to control the visas awarded to international students coming to study in the United Kingdom. Visas would be given only to those who, having satisfied more rigorous checks in their home country, also had an offer letter from an education provider registered as a licensed sponsor under tier 4 of the points-based system. By August 2009, 1,868 organisations had been licensed as sponsors under tier 4.[25] This is a significant reduction from a reported figure of 4,000 private colleges and institutes that were operating in previous years. The sponsors cover the whole range of education from independent schools, secondary schools, sixth form colleges, specialist and technical training bodies, further education colleges and private higher education providers to publicly-funded universities.

3.18 Two foreign private providers based in the UK have some of their programmes accredited by UK universities. They are Azad University, a very large private university in Iran with over a million students, with its campus near Oxford and Limkokwing University of Technology, a Malaysian institution with a campus in London.

Partnership with an overseas provider operating in the UK: Kingston University and Azad University in Oxford

Kingston University has institutional agreements with Azad University in Oxford involving four faculties and covering a range of activities. Azad University in Oxford is a branch of Azad University in Iran, the third largest university in the world with more than 1.3 million students and 300+ branches in Iran. The campus in Oxford was set up a few years ago as a European branch to facilitate collaboration with British universities. Kingston was the first university to sign such an agreement and has now been followed by four others.

The agreement with Kingston includes two recently validated franchise arrangements – a 1+2 franchise of a BSc (Hons) in computer science and an international foundation certificate (with pathways to appropriate degree courses in engineering, computing, science and art and design). In addition there are more than 20 PhD students from Azad University in Oxford studying in four facultes through split site arrangements and it also recruits undergraduate and taught postgraduate students for Kingston courses (currently eight students). Under the agreement, there is a fee discount for students who join Kingston from Azad University, subject to a minimum volume set annually.

Two Kingston faculties are currently evaluating a collaborative arrangement to provide progression routes for Bachelor's graduates from Azad branches in Iran to MSc courses at Kingston after a period of English studies at Azad University in Oxford. Kingston has also collaborated with Azad University in Oxford on a recent short course on leadership in higher education for 30 presidents of Azad University campuses in Iran.

3.19 There is a wide variety of higher education providers within the 121 accredited by the British Accreditation Council, ranging from the many London colleges focusing on business or finance to small specialist institutions scattered throughout the UK. In the first category, there is evidence of considerable growth. For example, one of the largest for-profit private colleges which opened in 2000 now has almost 5,000 students.

EThames Graduate School

EThames is a small private higher education institution based in two office blocks in Ilford. It was founded in 2004, but has grown steadily and now has over 1,000 enrolled students, with numbers still rising. The college has four intakes per year, and attracts mainly MBA or postgraduate students. EThames is a limited company but has always reinvested its surpluses in order to finance its expansion and student facilities. Almost all its students are international and study at HND or HNC, undergraduate and Master's levels; subjects offered are business, finance, computing, health and social care, tourism and English. The programmes are accredited by universities such as De Montfort, Sunderland and Gloucestershire as well as other awarding bodies including Edexcel, NCC Education and the Confederation of Tourism and Hospitality. The English department is currently preparing for British Council accreditation. The college is seeking to establish one strong collaborative partnership with a UK university, with which it aspires to be able to offer its own validated programmes.

EThames charges fees ranging from £4,250 to £8,000 a year, thus targeting a different market to that of its university partners and offering wider participation and greater access with regard to international students. Most of the teaching staff come from the publicly-funded sector and are expected to focus on teaching only; before appointment they are required to teach a trial lesson under observation.

To supplement classroom-based teaching and tutorials, there is a Moodle-based learning environment giving students access to all their learning materials, tests and assessments with regular tutor interaction. Students are also able to access the learning resources of the university accrediting their course. The students' campus experience is very different from that in a traditional university.

3.20 The likely implications of this growth are that an increasing, but unrecorded, proportion of the international students coming to the UK is going to private sector institutions. In addition a small but growing number of UK-domiciled students is attending the private institutions where they are close to their home, possibly drawn by the low fees. For example, the London School of Commerce advertises some of its BA and BSc awards with fees ranging from £3,450 to £3,950 a year, little more than the publicly-funded tuition fee levels. Cavendish College also charges UK and EU students a fee of £3,900 per course.[26] The reasons that such fees can be charged are simple:

- Most such institutions undertake no research and staff are expected devote all their time to teaching.

- Teaching methods are traditional and formal with class sizes ranging from 20 to 50.

- There are multiple entry points throughout the year and premises are fully utilised.

- While students enjoy some amenities, these are limited and sports grounds, for example, are usually hired from third parties.

- The colleges do not have to provide a large library or access to e-resources if their students can access their validating partner institution's library systems.

3.21 Some of the private providers claim very high success rates due to the care and attention they give to students. One provider we interviewed said that its MBA had a 95 per cent pass rate, higher than that of its validating university. It insisted on regular student attendance, and an electronic system for recording which could show attendance records within 48 hours which was useful for reporting to funders and parents.

Public/private partnerships in content design and delivery

3.22 There are many other ways in which private providers collaborate with publicly-funded institutions in the delivery of degree awards. Three categories of collaboration were identified from our survey, but there are others such as the bespoke degrees developed by universities for major private sector clients which have not been recorded by us. The three types of private/public collaboration are:

3.23 *Private providers offering their own certificated module within a UK partner university's degree programme.* Almost half of all respondents to our survey had links of this kind. The organisations from which higher education institutions take modules fall into three categories:

- IT companies such as Cisco, Apple, Microsoft, Oracle, Sun and SAP

- professional bodies offering part certification towards their qualification; these include all the accountancy bodies and organisations such as the Chartered Institute of Personnel and Development (CIPD), the Chartered Management Institute (CMI) and the Institute of Logistics and Transport

- awarding bodies such as City and Guilds, Edexcel and Trinity College (Teaching English to Speakers of Other Languages qualification).

3.24 The majority of such programmes are vocationally oriented and the host university has decided that the external qualification or certificate adds to the student's employment potential or contributes academically to an internal programme. The most well known models are the Cisco and Microsoft awards, which are industry-recognised vendor qualifications that have currency in the employment market.

3.25 *Private providers offering awards in partnership with a UK higher education institution.* Our survey found 10 institutions which gave joint awards with private or professional organisations such as NSPCC, Pitman, Informa, Chartered Institute of Public Relations and Informatics Education of Singapore. There will be more examples among the institutions that did not respond to the survey. The University of Surrey's link with *ifs* is a good example.

Integrated award from a private provider: University of Surrey and the *ifs* School of Finance

The *ifs* School of Finance and the School of Management at the University of Surrey have combined to offer an academic and professional qualification in financial services. The new dual award combines a BSc (Hons) in financial services management awarded by the University of Surrey together with the professional associateship (A*ifs*) of the *ifs* School of Finance. The four-year qualification includes a third year of professional training combining theory with practice, which students spend with an employer in the financial services industry. Students attend the University of Surrey full-time and are taught by academic faculty with contributions from the *ifs* School of Finance faculty for specialist modules.

The *ifs* School of Finance has been granted taught degree awarding powers with effect from 2 January 2010.

3.26 *Private providers partnering with higher education institutions to deliver courses online.* Eight institutions in our survey reported that they were working with private providers to deliver some of their courses online. The private sector partners included Kaplan Open Learning, ICS Glasgow, Informa, the Association of Chartered Certified Accountants (ACCA), Resource Development International (RDI) and the Interactive Design Institute. Informa's Professional Academy, for example, has collaborative links with three universities and, in the case of the University of St Andrews, it involves joint awards with tutorial support from the university. The initiative for collaborations of this kind may have come from either direction with, on the one hand, the University of Essex using Kaplan to support its online degree and, on the other, the College of Law wishing to work with the Open University in offering an online law degree.

3.27 Staffordshire University's collaboration with an online training provider (the Working Manager) is an example of effective close working.

Online delivery: Staffordshire University and the Working Manager

Staffordshire University has a link with the Working Manager, a private training provider related to a foundation degree in leadership and management, validated by the business school. The university was in the process of developing the new degree when it was approached by the Working Manager to develop a distance learning version. The award is delivered by distance learning with tutor support by email and phone. The students are initially recruited by the Working Manager from its client base and are then enrolled as Staffordshire University students. There are currently 20 students enrolled on the programme – a rolling programme in which students study modules in pairs, within a minimum of eight weeks and a maximum of 20 weeks study period per pair. It is expected that typical students will take three years to complete the award. The only university staffing involved is the allocation of module tutors who provide email and phone support.

3.28 Our conclusion from this part of the mapping study is that the scale of private degree provision is growing and private providers' interactions with the publicly-funded sector are changing rapidly with new forms of collaboration and partnership. Where joint degrees are concerned, there are policy drivers such as the pressures to help students be more employable and to have increasingly close links with employers and the community. Most universities want to extend their working relationship with, and services to, employers. Thus cooperation on work-based learning or on the development of degrees that will give students the life skills and knowledge they need fits well with universities' strategic aims.

3.29 As we shall see later, in most cases there is either willing collaboration between partners or a formal relationship in which the publicly-funded institution calls the tune. In only a few cases could the advent of the private sector be considered a threat. However, some private providers firmly believe that they offer international students a much higher quality of teaching than their publicly-funded counterparts. These providers are growing rapidly and, from a student perspective, the fact that UK higher education now offers a greater choice of institutions within which to study (at different levels of cost) must be a positive point.

Support for international students

4.1 Table 2 listed four areas in which private sector companies can help an institution to recruit international students and then ensure that they enter the university's programmes well prepared in English, study skills and foundation knowledge of the discipline. This is a very active and growing market and there are five main organisations involved: one from the United States, two from Australia and two from the UK. All are for-profit organisations with shareholders. We understand the present position to be that 33 UK universities have made contracts with the five main providers shown in table 5 and that most of these relationships have been developed in the past five years.

Table 5
Providers with university contracts

Provider	UK university clients
Cambridge Education Group	Central Lancashire, Coventry, London South Bank
INTO Ltd	City, East Anglia, Exeter, Glasgow Caledonian, Manchester, Newcastle, Queens Belfast
Kaplan International Colleges	Glasgow, Liverpool, Nottingham Trent, Sheffield, Southampton
Navitas	Anglia Ruskin, Brunel, Hertfordshire, Plymouth, Portsmouth, Swansea
Study Group Pty Ltd	Brighton, Heriot Watt, Huddersfield, Keele, Kingston, Lancaster, Leicester, Liverpool John Moores, Stirling, Surrey, Sussex, Wales (Newport)

4.2 Many universities have been providing foundation programmes, study skills and English language training to their international students from their own staff resources. What has happened is that the five providers have persuaded their university clients that they can deliver these services better and more effectively, in conjunction with a tailored international recruitment service. This has attracted considerable opposition from the University and College Union (UCU), as it fears the loss of jobs and worse conditions of service for those staff absorbed by the private sector where the university already provides English language or foundation programmes.[27]

4.3 There is no common package that a provider delivers and the legal arrangements appear to vary between institutions with most providers being appointed under a time-limited contract, while INTO has 50:50 joint venture partnerships. Some providers will offer English language upgrades at their campus centre, while others will pass on students to the university's in-house English language service. The most common product is a combined foundation programme with English language and study skills delivering students to year one while, in Scotland, Study Group's programmes feed into the second year of a four-year degree programme. At Keele and Huddersfield universities, Study Group students can also pass into the second year of their undergraduate degrees. INTO offers a science programme for A-level students at one university and just English language training for international students ('study abroad with English') at several of its locations.

INTO University Partnerships Ltd

INTO University Partnerships Ltd was established in 2003 and now has seven joint ventures with universities in the UK. It aims to have 25 such partnerships in the next five years in the UK, the United States and mainland Europe. The company is growing fast and currently has a turnover of £33 million.

The INTO model is to establish a new college of the university, often as part of the deal erecting a purpose-built centre on the campus which is leased to the joint venture. After a management charge is levied by INTO, all surpluses are shared equally with the university. The model was developed by Professor David Eastwood when he was Vice-Chancellor of the University of East Anglia. It builds a physical, operational and marketing infrastructure but maintains key constitutional controls for the university and, as such, mitigates many of the risks associated with outsourcing models.

INTO's services vary in each institution, but the basic model is the same as that of its competitors – the recruitment of international students, provision of such English language training as is required and the delivery of foundation programmes, first year programmes and pre-Master's courses. However, the business model is designed to integrate joint venture and university recruitment, producing a very significant impact on the university's direct recruitment. A recent analysis showed that 50 per cent of one university's entire international intake could be attributed to INTO marketing activity.

The business model is flexible in many key regards including the employment arrangements for staff, which are always determined by the university. The company has been particularly targeted by the University and College Union because existing partners have so far elected to absorb the teaching staff of the existing language centre into a new and fully integrated single university centre with new terms and conditions. However, the company claims to have created 234 additional jobs in its four longest-established partnerships.

The company now has 50 marketing staff operating out of 23 countries, recruiting just under 3,000 international students in its centres last year, including some just for English language study. These are recruited from over 100 countries by INTO's own agent networks working closely with the university's marketing staff. From the individual university's perspective, the joint venture brings a large increase in international students, half of its surpluses and a well prepared intake which is trained to standards and curricula agreed by the relevant faculties. The INTO centres accommodate both teaching and residential facilities for students and range from 16,000 to 28,000 square metres in size.

4.4 The most long-established of the players in this field is Study Group Pty Ltd, now owned by an Australian private equity firm. Its services are somewhat similar to those of INTO, although it does not describe its relationships as being joint ventures.

Study Group Pty Ltd

Study Group Pty Ltd was created in 1998. The company's roots are in the UK, with Bellerbys College in Brighton having been in business for 50 years. Study Group's first international study centre with a UK university opened at Sussex in 2006 and there will shortly be 11 centres in the UK. These partnerships offer pathways to undergraduate and, in some cases, postgraduate Master's degrees. A new venture is the 'diploma' which gives access to the second year of an undergraduate degree for certain well-qualified students. The company's strategy is to partner with enough UK universities to provide a cross-section of universities to suit different students' needs. Each international study centre recruits only to the partner university. Bellerbys College, on the other hand, acts as a hub for recruiting international students to over 50 different universities in the UK and other universities in the United States, Australia and Europe.

In 2006, the company was sold by the UK-based Daily Mail and General Trust to an Australian private equity firm, CHAMP and Petersen Investments, for around £80 million. CHAMP is a majority shareholder and managers also have a stake in the business. Study Group employs over 1,800 people in more than 20 countries. The group has 28 regional offices through which 3,000 agents worldwide are trained and supported. There is a centralised admissions unit that looks at all international student applications (following in-country scrutiny) and some 50,000 international students from 120 countries are recruited to Study Group's educational centres in different parts of the world, with 20,000 recruited in the UK each year. The company currently has a turnover of £200 million (A$450 million).

The group's services in the UK include:

- university preparation and placement – foundation years, diploma programmes, pre-Master's preparation programmes and English as a second language transition programmes for international students wishing to enter UK higher education (some of these are offered off-shore)

- A-levels for entry to UK universities

- English language training

- degree programmes – Bellerbys offers the University of Sunderland business management degree and Master's qualifying programme for international students whose first degree is not appropriate to their proposed Master's

- student supervision – academic and welfare support services for international students at UK universities.

  Study Group chooses universities with which it wishes to partner on the basis of criteria including:

- universities with a long-term commitment to international development

- universities that are attractive to international markets

- universities that have a tradition of international student care

- universities which want to work in close collaboration and partnership with Study Group on a global scale.

  The business model is based on partnership for mutual benefit; the international study centres are based around the partner university's own brand and validation criteria. Study Group has increased the numbers of international students at each of its partner universities in the UK, for example growing the number for the University of Sussex to nearly 400 additional international students each year.

4.5 Some providers such as Navitas and Study Group have global networks and large numbers of recruiting agents in the UK's target countries. They use these to recruit students directly for their client universities and offer an attractive service for institutions with ambitions to expand their international student numbers. Two of the companies have acquired clients in the United States and Canada which have had little tradition of this kind of private sector involvement to date.

4.6 Universities we have spoken to see several advantages in employing this kind of private sector support:

- The companies have a larger and more professional marketing reach and can recruit more cost effectively in a wider range of countries.

- The companies' focus on foundation and English programmes is very specialised and means that international students can usually receive a better standard of pastoral and tutorial care than in the past.

- University English language centres have not always been a core activity in their host institution and many, therefore, have not attracted funds and central support.

- When faculties engage with the private provider in specifying the content and the assessment methods, a high standard of outcomes can be achieved.

- In one case the provider constructs the buildings for the joint venture, incorporating high quality student accommodation.

- Depending on how the contract is structured, a university can earn an annual dividend or profit share from the partnership.

4.7 Inevitably, there are questions in universities about the academic standards of the private provider and whether the outcomes are an improvement on the position before or compare well with the international cohorts who do not go through the foundation programmes. It is too early to give any definitive answer on this in the UK. However, one of the Australian providers told us that 'Navitas' international students perform on average as well as, if not better than, direct entry students'.[28] Some academic staff however will welcome the arrival of a provider which removes a teaching burden that is not central to their interests. If the provider can achieve what is promised, it will make the international students better prepared and more ready to benefit from their university experience. This new market has not generated any public policy discussion, largely since it concerns international rather than domestic students and also because it represents internal management decisions on how support should be provided.

4.8 There are some who oppose this development. The University and College Union claims success for its 'anti-privatisation' campaign by persuading at least two universities to stop their discussions with providers.

4.9 Despite the union's opposition, we believe that private activity in this area will grow and some of the providers have set themselves targets for the number of extra clients they aim to acquire. From their perspective they need a reasonable number of clients in order to justify investment in their marketing infrastructure, yet having too large a client base will make selection and recruitment too complex.

4.10 This private service may be seen either as contracting out or as developing a joint venture partnership in which each party shares some risk. Some of the private providers prefer the second approach. Whichever model is adopted, the key point is that the university needs to be clear about accountabilities and risks. Thus, the key issues in the contractual negotiations are:

- ensuring the quality of the education that is delivered towards agreed standards of assessment

- the design, maintenance and updating of the curriculum so that it is always in line with that of other students in the faculty

- ensuring that the whole student experience is at least as good as that of other students

- integration of the international marketing effort with the university's own activities overseas

- the terms and conditions of any university staff who transfer to the provider

- a management structure that gives the university adequate control and input to key decisions

- a financial return that justifies the risks involved

- the ability to terminate the contract in the event of failure to achieve previously agreed targets.

Partnerships in providing content

4.11 The private sector has always provided academic content and learning resources to universities in the form of textbooks and equipment. The recent addition of databases and electronic content does not therefore represent any change in the core position of the university as a customer of private sector organisations and purchaser of what they offer.

4.12 What may have changed is the scale of interaction and reliance on the private sector for content. Respondents to our survey named several organisations that were contracted to produce academic content for university courses. One Dutch banking and assurance company (Process KBC Technology Ltd) delivers 80 per cent of the modules for the University of Surrey's MSc in petroleum downstream technology and delivery takes place on the Surrey campus by KBC staff. Edexcel, Cisco and Central Law Training were among the other organisations named as suppliers of learning materials and, in some cases, as deliverers of their materials to students.

4.13 Another aspect of the same trend is the private sector's provision of online learning modules to fit within an institution's virtual learning environment. We have included this category since it is central to how students learn. However, it could be argued that the supply of modules, 'chunks of learning' or course packages (like MyCompLab and MyAccountingLab from Pearson) is no different from supplying a database or textbook. The question may be one of scale. If a large proportion of the credits is earned entirely from the use of privately provided learning material in which tutor input is limited, the educational contribution of the university may be limited to the initial commissioning and quality assurance of the content, tutorial support and assessment of student performance. This is merely a form of unbundling the contributions to a student's experience and the strategic question is whether it matters who contributes, as long as the ultimate control over content and assessment rests with the university. An even more substantial input to experience is provided by student placements in industry and these have given little cause for concern.

Pearson

Pearson, the international media company, has businesses in education, business information and consumer publishing. The company's history can be traced back to 1724 when Longman publishing was founded, but in recent years it has focused on education in the broadest sense of the word, embracing technology to change the way that people learn. From its position as the world's largest publisher, Pearson Education now offers a range of related educational services including testing and learning software for students of all ages, data for financial institutions and public information systems for government departments. Pearson has 34,000 employees in more than 60 countries. The company is listed on the London and New York stock exchanges and in 2008 Pearson overall had sales of £4,811 million and an operating profit of £726 million; Pearson Education contributed £474 million of this profit.

Pearson owns English language schools (with 40 in China) and has recently set up a new group to train teachers in markets such as the Middle East where demand is enormous. It is also promoting a Pearson test of English to all those recruiting international students. The fastest growing part of Pearson's business is currently interactive web-based materials such as MathsLab and its companion, Mastering Maths. These offer academics tutorials and assessments linked to Pearson textbooks. There is a growing market for these products in American higher education, but as yet limited penetration in the UK.

Other types of partnership

4.14 There are numerous ways in which the private sector works with universities in supporting students:

■ *By providing support for students studying online courses:* A well known example of this is the University of Liverpool's partnership with a Dutch subsidiary of Laureate to help in recruiting and supporting students for Liverpool's online courses such as its MBA. Our survey revealed eight other examples of private sector organisations supporting students on online programmes and we believe this is understating the real picture. The providers were from a wide range of industries and sectors.

■ *Partnerships in the delivery of continuing professional development (CPD) to third party clients:* Our survey identified seven examples of universities collaborating with specialist organisations in delivering continuing professional development to other clients. Universities have not had a strong showing in the national CPD market as a whole for various reasons and such partnerships clearly strengthen the service that they are able to offer.

4.15 As with the international and academic content collaborations, a key issue is how the university manages the relationship. If it decides to sub-contract with the provider, commission or acquire private sector assistance, it needs to have carried out thorough due diligence on its partner and to have assessed all the possible risks. Just how this collaboration works and how it should be implemented and managed by the university is discussed in chapter 6.

Impact on home and international students

4.16 Since a key issue for policymakers is what impact private providers are having on UK/EU and international students respectively, we have made some very approximate estimates of who might be the beneficiaries of the different activities offered by private providers. These are summarised in table 6.

Table 6
Take-up of private providers' degrees

Type of provision	Take-up by UK/EU students	Take-up by international students
Private higher education institutions offering their own degrees (with UK degree awarding powers)	c 90%	c10%
Private higher education institutions offering a degree of a UK university	c 5%(?)	95%
Employers, professional bodies etc offering an award from a UK university	Note 1	Note 1
Companies offering certificates within a UK university's degree	c 85%	c15%
Companies providing foundation and English programmes	Nil (Note 2)	100%

Note 1 Many universities validate programmes or courses offered by employers or professional bodies and no analysis is possible, although a fair assumption is that the bulk of the students live within the UK.

Note 2 This may change if other providers follow the lead of INTO and deliver programmes aimed at UK and international students wishing to study A-level sciences.

4.17 Table 6 will assist us later in reviewing where the activities of private providers present the UK publicly-funded sector with a competitive threat.

The elements of regulation: an overview

5.1 Governments seek to regulate and monitor private and public sector providers of higher education in most (but not all) countries and, increasingly, regulatory environments are seeking to deal with the growth of private, for-profit higher education as well as private non-profit higher education. In some countries, separate legislation and monitoring arrangements apply; in others, there has been a move to create similar arrangements and 'a level playing field' across all kinds of providers in higher education. The term 'regulation' is used here to cover all aspects of the state's relationship with the private sector, from a decision to allow a private provider to plan and develop a campus, through the approval of programmes, awards, the grant of operating incentives or the collection of taxes and then regular monitoring and collection of data and information on financial and academic performance.[29] National systems of accreditation and quality review are part of the regulatory framework, as are systems for licensing and registering providers.

5.2 Governments seek to regulate private providers for a range of positive reasons including:

■ ensuring quality and equity

■ preventing fraud and consumer protection

■ protecting national and institutional reputations

■ collecting and disseminating reliable information to assist decision-making (consumers can choose provision with confidence, governments can monitor scale and scope of provision and providers can inform the public of what is on offer)

■ ensuring that public policy is based on accurate information (types of programmes offered, prices of provision, student numbers and types of students served)

■ monitoring the financial results of private providers in order to adjust any associated incentive or taxation systems.

More self-serving reasons may include protecting the government's reputation, gaining popularity with voters or responding to pressures from powerful lobby groups with protectionist interests among the state's own 'public sector' providers.

5.3 The details of the regulatory system in any one country or region are shaped to a greater or lesser extent by history, culture and politics, thus the balance of regulation may 'favour' the publicly-funded sector over private sector providers or may aim for similar treatment. Where private provision is encouraged, governments will seek to reconcile the sometimes conflicting objectives of protecting the public and encouraging private providers to invest in the higher education sector and the country, state or region (although there has often been little cooperation between regulatory agencies and boards of inward investment). In addition, market conditions and the conditions affecting public finances are factors that cause governments to change the regulatory framework. It is also, of course, important to note that governments' policy intentions, for a variety of reasons, do not always match reality on the ground.

5.4 In their recent UNESCO publication, Fielden and Varghese (2009)[30] suggest that a comprehensive regulatory framework for private sector provision would have seven elements. Table 7 illustrates the UK position in relation to these elements. The UK is not unique in not having all of the elements of this framework in place since most governments tackle their relationship with the private sector on an ad hoc basis. They introduce new regulations, arrangements and policies as problems and issues emerge (such as the new accreditation arrangements initiated by the UK Border Agency with respect to the employment of international staff and recruitment of international students to the UK), and in response to individual cases of malpractice.

Elements of regulation	UK position
1. Legislation on private higher education that gives its providers a statutory basis for operation and clarifies their obligations, minimum requirements and rights	Companies Act 2006 – definition of terms 'academy', 'institute' – use of titles must be justified under trading standards; non-profits may come under Charities Act 2006 Education Reform Act 1988 – protects the term 'degree' Further and Higher Education Act 1992 – regulates granting of degree awarding powers and university title Higher Education Act 2004 – degree awarding powers criteria changed, distinguishes between public and private providers While parts of these acts are relevant to private providers and provision, there is no umbrella act relating to private higher education as there is in many countries; with respect to the General Agreement on Trade in Services, the UK is part of EU commitments
2. Statements of policy on the role of the private sector and its contribution to national higher education goals	There is no formal statement of government policy in the UK; legislation and attitudes to private providers differ between Scotland and other parts of the UK
3. Clearly defined procedures for establishing new higher education institutions, conferring 'degree granting' status or enabling the introduction of new types of award (such as foundation degrees)	Companies Act 2006; Further Education and Higher Education Acts 1988, 1992 and 2004; Further Education and Training Act 2007 Relevant regulations are contained in more than one act; however, none of these specifically discusses the establishment of private higher education institutions The 'public benefit' test in the Charities Act 2006 is potentially significant for both public and private higher education providers
4. A regular and effective quality assurance framework that has the confidence of private providers and public sector partners and that can assure the public about the quality and standards of provision	Further Education and Higher Education Acts 1992 and 2004 Home Office 'managed migration policy' effective from 2008/09, establishing the powers of the UK Border Agency; the agency has three divisions – licensing, policy and intelligence – and it maintains a 'sponsors' register' of accredited and approved providers; the new processes for accreditation for providers seeking international students are not yet fully embedded
5. A consistent and clear policy on support from either central or provincial/regional arms of government; this can relate to initial investment (coordinated with national policies for inward investment) and cover ongoing support through incentives or concessions	There are no formal statements on what initial and continuing support private higher education providers can expect in the UK
6. Policies on private sector participation in student grants and loan schemes and the ability of staff to apply for research funding (for example on equal terms with state-funded academic staff); related to this are policies on access to national academic infrastructure (ICT, inter-library loans, discounted subscription schemes etc)	Where a private higher education provider has degree awarding powers, its students are eligible for student support along with those studying at publicly-funded institutions The United Kingdom Education and Research Networking Association has refused access to private higher education providers, although some had obtained the '.ac.uk' domain name before this was stopped Private higher education providers cannot join the Society of College, National and University Libraries access scheme in their own right Students enrolled with private providers, whether or not they have degree awarding powers, cannot appeal to the Office of the Independent Adjudicator Private providers in partnership with eligible publicly-funded institutions would be able to access some research funding through their partners
7. A clear statement of private providers' obligations in relation to provision of information and reporting and any non-academic monitoring required (for example, provision of financial information)	Accreditation procedures of accreditation agencies and Quality Assurance Agency procedures for degree awarding powers, institutional and collaborative audit set out requirements Private provider data is not collected by the Higher Education Statistics Agency or included in Unistats at present; indeed, there is no publicly available source of information on the financial status of private providers, nor any statistics on their staff and student numbers[32]

The UK's regulatory regime as it affects private providers

5.5 The first (licensing) stage for a new private provider wishing to operate in the UK is to be registered as a company and/or a charity (under the Companies Act or Charities Act) and then to seek accreditation[33] or validation to offer programmes and awards. Some organisations, notably Open University Validation Services and the British Accreditation Council, offer accreditation at institutional as well as programme level. For recruiting and offering programmes to international students, validation through a chartered or recognised body that provides a validation service would need to be supplemented by accreditation through an approved accrediting body (that is, an agency approved by the UK Border Agency). The website of the Department for Business, Innovation and Skills lists:

- 'recognised bodies' (institutions and organisations with their own UK degree awarding powers)

- 'listed bodies' (those institutions or organisations which currently deliver courses leading to degrees awarded by recognised bodies)

- 'recognised awards' (all those institutions and bodies that can award degrees which are unique to them, but do not have the powers to award any degree – unlike the recognised bodies).

There is a review of the statutory instrument underpinning the designation 'listed bodies' every six months, and the names of institutions proposed for inclusion as listed bodies are regularly updated on the department's website.

5.6 Programmes are also accredited in the UK through validation provided by publicly-funded institutions and by professional and statutory bodies in relation to particular subjects and disciplines including engineering, subjects allied to medicine, teacher training, psychology, law, accountancy and specific awards such as MBAs. Industry certification also applies in some areas such as ICT programmes and awards. Those private providers wishing to recruit UK and EU students need to be registered as companies (if for-profit) or as charities (if non-profit). They then need either to seek validation from a recognised body or, if eligible and interested, to apply for their own degree awarding powers (under the 2004 legislation). Private providers will also need to be aware of terms such as 'degree' and 'university title' that are protected through legislation and the regulatory framework.

5.7 The main aim of regulatory requirements at the first stage is to check for competence as a higher education provider and for financial viability including adequate capitalisation. Some countries require applicants to lodge a financial bond or deposit at this stage, but that is not the case in the UK. The due diligence process can be complex and may require professional legal and other guidance; it is of course crucial, whether undertaken with respect to independent providers or those seeking to operate in partnership with UK publicly-funded providers. The following stages – of designing programmes, recruiting students, delivering programmes and making awards – are subject to validation and accreditation criteria, codes of practice, monitoring of quality within quality assurance frameworks (typically annually) and regular reviews including site visits at four to six year intervals. Some agencies have different stages of accreditation, for example candidate or associate status and fully accredited status (the Accreditation Service for International Colleges (ASIC) uses the term 'premier college' status). These different stages may be made public or not. It may be the case that higher education institutions approach their validation arrangements with respect to partnerships and programmes in a similar way (for example by following guidance issued by the Council for Validating Universities) but we have not explored this in detail.

5.8 The regulatory framework that enables the approval and oversight of higher education institutions and academic programmes and provision in the UK also encompasses the agencies that have delegated powers (either directly or through other bodies such as the funding councils) to undertake the tasks of accrediting, auditing and quality assuring providers and provision. In the main, the private sector providers and provision that relates to international students come under the purview of the British Accreditation Council, ASIC and Accreditation UK (the British Council accreditor for English language training). All these agencies are approved accrediting bodies and are themselves scrutinised by Ofsted, which has equivalent status to the Quality Assurance Agency. English UK also accredits some English language training providers. The accrediting agencies have been approved for an initial period of two years after which time the criteria for accreditors and for accreditation by them will be subject to review. A separate organisation, the National Academic Recognition Information Centre (NARIC), provides official information on the comparability of international and UK qualifications. This body, which works under contract to the Department for Business, Innovation and Skills, is now owned by Hobsons, a private provider of educational services and products.[34]

5.9 The Quality Assurance Agency advises the Privy Council on the granting of degree awarding powers and university title. It is also responsible for the development of the academic infrastructure that provides a series of public reference points for ensuring the quality and standards of publicly-funded higher education provision. Its codes of practice and, particularly, the code of practice on collaborative provision and flexible and distributed learning (including e-learning) are the main points of reference for institutions' internal quality assurance arrangements and for the external monitoring and review it undertakes through the audit process. The accrediting agencies also have detailed criteria and procedures that underpin their accreditation frameworks. The Quality Assurance Agency undertakes its auditing work under contracts with each of the higher education funding bodies or as a direct service to some private providers. The agency itself has been reviewed – in 2008 – against the standards and guidelines for quality assurance in the European Higher Education Area; it was found to be fully compliant in 14 of the 16 standards and substantially compliant in the other two. The Quality Assurance Agency's success results in continued membership of the European Association of Quality Assurance Agencies for the next five years.

5.10 In addition to these two main types of agency, there are others which operate within the framework or in parallel. These include Open University Validation Services which validate private providers and their programmes, operating within the Open University's own charter and statutes, and a more recent entrant to the market – the Open and Distance Learning Quality Council, a private organisation which offers accreditation to domestic and international providers of open and distance learning. The University of Wales also offers validation services to public and private providers nationally and internationally. These arrangements were subject to the Quality Assurance Agency's institutional review in 2004 and will be reviewed again in 2010. The University of London has offered an extensive external programme of examinations leading to the award of its degrees for the last 150 years. More recently, a new regulatory framework has come into operation in the UK with respect to the Mixed Economy Group of colleges. They have been granted powers to apply to award foundation degrees (under the Further Education and Training Act 2007). These powers do not allow these degrees to be franchised for the first six years, but this will be reviewed after four years. In addition, colleges can only receive public funding for full qualifications, not modules.

5.11 Once the private provider is operational, the role of the regulator will usually include three main aspects:

- oversight of the quality of delivery and provision of services

- review of financial and operational performance (requiring receipt of annual reports and professionally audited financial statements); in some countries, regulators may also be concerned with monitoring the management and directors' fees and the surpluses declared by for-profit entities (ie issues of governance)

- collection of statistical information on staff and student numbers, perhaps including staff:student ratios, numbers of domestic and international students as well as total enrolments, staff numbers and grades and qualifications. (It is worth noting that this is completely absent in the UK at present.)

Information about private providers

5.12 A key question is what information should be published about private providers and provision. In the UK, private providers that are accredited are listed by the accrediting agencies on their websites; recognised bodies, listed bodies and recognised awards are highlighted on the website of the Department for Business, Innovation and Skills. 'Rogue institutions' that are not approved are not listed in the UK (although they are in some other countries). The new accreditation arrangements described above (see paragraph 5.7) have meant that several hundred private higher education providers have not been accredited (either through their own choice not to seek accreditation or through the decisions of the accrediting bodies following inspections). Annual monitoring and other reviews of private providers are typically not published by accrediting or validating bodies, unlike audits of publicly-funded provision which are published. Private sector providers with degree awarding powers, on the other hand (or those which voluntarily seek the Quality Assurance Agency's services), are subject to the same review arrangements as publicly-funded higher education institutions.

5.13 There are other areas where different rules or procedures apply to different parts of the UK regulatory framework, for example in relation to the information that is or is not publicly available. All Quality Assurance Agency reports are public, except for those relating to degree awarding powers which go only to the Department for Business, Innovation and Skills and the Privy Council. The Quality Assurance Agency does not collect any information, formally, on private sector providers (outside its degree awarding powers and its review processes), but both the agency and the British Accreditation Council have an information sharing protocol with each other that may include information about private providers or provision. 'Intelligence' is also shared with the Department for Business, Innovation and Skills and the UK Border Agency. The British Accreditation Council's inspectors' reports on private sector colleges are not made publicly available by the council. The colleges receive the reports and can only publish them in their entirety; the council suggests that partner universities request these reports from their private sector partners. It also provides an 'accreditation profile' of each accredited college to Ofsted and the UK Border Agency.

Incentives and barriers for private providers

5.14 Governments can provide incentives for private providers to operate including provision of land; grants towards the establishment or expansion of institutions; matching grants to allow private institutions to access bandwidth for the internet and digital library access on equal terms with the state-funded sector; 'tax holidays' on profits for an initial period; and grants to support the hiring of foreign faculty and research staff. For example, in several of the individual German states, once a private institution has received state approval it has access to some public funds including university construction funding from the German Science Council and research project funding from the German Science Foundation. Incentives may also be targeted at students or staff. In the United States, both private non-profit and for-profit providers can receive state and federal grants for student aid, and the large conglomerates such as Kaplan and Apollo Group have benefited significantly from this incentive. This does not apply in the UK. In other cases, indirect assistance may be given where private and publicly-funded institutions are treated equally, for example in respect to loans to students or visa and residence concessions for incoming staff or students.

5.15 In many countries, barriers also operate against private providers and provision, either intentionally (for cultural or political reasons) or unintentionally. The following are frequently encountered:

- processes and procedures are not transparent and explicit (for example, knowing what regulations apply and what documentation is needed)

- multiple decision-making levels and agencies for licensing and recognition, including at institutional and programme levels

- the criteria and quantitative indicators used to approve providers or provision are very traditional (often drawn from existing public sector norms) and either do not apply or limit new or more flexible approaches by private sector providers

- cumbersome approval processes by regulatory committees can be slow and therefore costly for private providers.

5.16 In assessing the state of the UK's regulatory framework in relation to private sector provision or to public/private partnerships, it is important to note the variety of overlaps and blurring of boundaries that exist between so-called 'private' providers and 'publicly-funded' providers. Providers may be private in terms of ownership and governance, as in the case of the College of Law – this provider has degree awarding powers, so it is audited by the Quality Assurance Agency. A provider may be private by virtue of its major sources of funding, as in the case of the University of Buckingham, Ashridge Business School and BPP. All three of these providers have degree awarding powers (BPP's powers have been granted initially for six years) and all are subject to Quality Assurance Agency audit. As referenced earlier, different publicly-funded institutions have different legal powers, based on their origins and constitutions.[35] Within publicly-funded institutions, business schools have many features that are similar to for-profit providers and they compete with both publicly-funded and private providers. Where they are part of a university, they are subject to Quality Assurance Agency reviews but often seek accreditation from other organisations (such as the Association of MBAs and the European Quality Improvement System). American private providers have also been audited by the Quality Assurance Agency. For example, the American InterContinental University, a branch campus of the large American private provider Career Education Corporation, was a voluntary subscriber. Richmond American International University (which awards accredited American degrees from its base in the UK) is validated by Open University Validation Services and is now accredited by the British Accreditation Council. The university is also a Quality Assurance Agency subscriber. Several of the private providers (such as Regent's College and Schiller University) are validated by more than one university with respect to their different faculties or divisions. For the sake of completeness, we should also mention the extensive range of foreign private provision in the UK that is allowed to offer non-UK degrees (for example from France, Italy, the United States and India); these providers operate without UK accreditation unless recruiting international students to the UK.

5.17 Some operational areas are subject to different levels of scrutiny (or none) between agencies. For example the Quality Assurance Agency, in its audits of collaborative provision, does not necessarily examine all public/private partnership arrangements and, unlike the approach to degree awarding powers (which follows government-approved criteria and procedures), the current audit process does not look at the financial or governance arrangements of these partnerships within the review framework. The British Accreditation Council's accreditation framework requires detailed information from Companies House including financial accounts and other information such as details of premises, equipment and facilities, legal information, criminal record information and checks, health and safety information and details of students, staff, welfare arrangements, publicity information etc. The British Council's criteria for acceptance into the Education UK Partnership (which has about 30 private providers in membership) includes approval by the UK Border Agency, a more than 50 per cent rating in a due diligence check by Dun and Bradstreet and the provision of accounts which have been checked at Companies House. The initial due diligence procedures of Open University Validation Services look closely at financial information, governance arrangements and academic infrastructure, particularly the robustness of systems for keeping student records, entering student marks and grades as well as levels of authority to change marks and grades. One of Open University Validation Services' principles for accreditation which is regarded as particularly important is that academic and business decision-making must be separated in terms of governance; an academic board's decisions over academic matters should not be compromised in any way. What is not clear is whether any of these agencies require automatic re-inspection if a private provider changes ownership, an issue that could have an impact on both financial and academic matters.

The changing scene

5.18 The UK has been subject to a number of regulatory changes in the past five years[36], all of which have implications for the growth of private providers in the UK, their relationships with publicly-funded providers, and the attractiveness of the UK as a destination for inward investment by private sector companies and a destination of choice for international students who choose either publicly-funded or private sector provision or a mix. These changes have added to the diversity and flexibility of the sector as a whole, but have also added complexity and cost to the management of quality and standards at national level within agencies and within institutions. The extent or impact of this has not been calculated as yet.

5.19 The relevant changes include the widening of the criteria for granting degree awarding powers (2004 legislation), criteria for the granting of foundation degrees (2008 legislation) and the implementation of the Home Office's 'managed migration policy' through the powers awarded to the UK Border Agency. The last of these has caused the most concern from both publicly and privately funded providers because of the potential impact on international student recruitment and the cost of internal administration needed to comply with the new requirements. The international market also appears puzzled, judging from in-country feedback about what exactly the UK Border Agency is – is it immigration or quality control and what does a UK Border Agency rating mean? In Sri Lanka, for example, it is being regarded as a quality rating. The system is not yet fully embedded, so time will tell as to whether the widely expressed concerns and alarm about the extent of damage to the international market will prove accurate. If the consequences of the new arrangements are negative, there will be severe financial penalties at institutional and national levels as well as reputational damage to the UK. (It is worth noting that, at the time of writing, there was no evidence to suggest that international student *applications* were being harmed; indeed, applications were up in 2009. However, the critical test will be whether applications are translated into students actually studying in the UK.) On the benefit side, the new streamlined systems for recording and monitoring international students in the UK and their distribution across types of providers and provision will supply public information and trend data that is currently unavailable and which is needed to undertake proper market analysis and benchmarking of the quality of provision and services.

5.20 In other countries there may be separate regulation for the private and public sectors, combined legislation, no specific legislation or (as in the case of Denmark) a total ban on the operation of private providers. In countries where the private sector has grown relatively recently, or where governments have wished to encourage growth, new or revised regulations have been implemented (as in Australia). However, Levy's research[37] suggests that in many countries the unanticipated growth and expansion of private provision has not been planned, so there is more often an absence of legislation and 'delayed regulation'. Regulation can bring opportunities, such as applying for degree awarding powers or access to public funding, but it usually also brings increased monitoring, from initial accreditation to periodic reviews or audits. There are also, of course, costs involved for the different forms of accreditation, validation and review. Private providers will clearly make commercial judgements as to costs versus benefits in relation to accreditation and other regulatory procedures, and government attitudes to costs are likely to be determined by their overall approach to regulating both publicly-funded and private provision. A broader consideration is whether, in return for regulation, private providers should become more involved in policy debates and play their part in contributing to the policy formulation process. These are issues for consideration by all parties in the UK.

5.21 This chapter has concentrated on the main elements of the regulatory framework in the UK as they apply to private providers, rather than on the finer details of the UK's quality assurance mechanisms that are subsumed within the regulatory framework (although these are referenced in chapter 7). It is nonetheless worth noting two general points here. First, both accreditation criteria and other quality assurance arrangements tend to be derived from practice in the publicly-funded sector.[38] For example, accreditation criteria may focus on physical resources such as the volume of hard copies in libraries and equipment in laboratories or the percentage of full-time academic staff or staff with doctoral degrees. Reviewers may come from publicly-funded institutions and use this frame of reference when reviewing new provision. While some private providers may follow a similar model, in many cases they are quite different in their missions, objectives, strategies and resources, particularly where they are distance and e-learning providers. It is debatable whether similar criteria should apply to very different types of provision because there can be at least two consequences: differences are not clear to consumers and new forms of higher education may be undervalued and perceived as 'second best' or 'not real higher education'. In the UK, quality assurance and accreditation agencies as well as the Government (at least in England, through the 2004 legislation) have progressively sought to accommodate new forms of provision and types of provider by widening criteria, codes and guidelines.

5.22 Secondly, the UK's quality audit process is applied to different types of provider, particularly in the context of degree awarding powers status. At first glance, the audit's focus on the existence and operation of internal mechanisms used by an institution to assure quality and standards with reference to the declared purposes of different providers would seem to offer a sound way to approach an increasingly diversified sector. However, the consequence of a dependence on audit is likely, again, to obscure differences. In addition, the focus of audit is not on 'outcomes and outputs'. Several private sector providers in this study were keen to emphasise outcomes as an important aspect of judgements of quality. Indeed, both within higher education[39] and in other sectors, there is a growing emphasis on the evaluation of outcomes as well as processes (or inputs) in relation to quality assurance. Although there has been movement in the UK towards providing more information about higher education provision, including outcomes, this does not include private sector provision and there remains, as Lemaitre suggests[40], 'strong asymmetries of information that prevent students from making informed choices'. However, some of the proposals in the framework for higher education published by the Department for Business, Innovation and Skills in November 2009 would go some way to remedying this.[41] The growth of league tables and rankings is expanding to provide more comparative information which is designed to differentiate between providers.

5.23 In the sections above we have concentrated for the most part on the UK's regulatory framework for providers operating in the UK, also noting variations within the UK. However, such a picture is inevitably partial and incomplete since it ignores the increasingly international and global dimensions associated with 'new providers and provision'. The growth of transnational education, e-learning, blended learning and virtual and corporate universities is happening in parallel – and in association – with the growth of private higher education providers. The large private for-profit conglomerates (such as Laureate, Kaplan and the Apollo Group) are global players and, as we describe in chapter 4, many of the newer companies providing academic support are also extending their markets internationally. Bilateral agreements between quality agencies are designed to help in monitoring provision in other jurisdictions, and international associations such as the European Network of Quality Agencies or the International Network of Quality Assurance Agencies in Higher Education aim to share information across countries and regions, benchmark procedures and outcomes and provide new guidance. UNESCO and the OECD produced *Guidelines for quality provision in cross-border higher education* in 2005; this followed an earlier *Code of good practice for the provision of transnational education* published by UNESCO and others in 2001. In 2009, seeking to address the growing problems of fraud and malpractice in cross-border education, UNESCO joined with the American Council for Higher Education Accreditation to produce some short guidelines entitled *Towards effective practice: discouraging degree mills in higher education*. These guidelines, codes of practice, information sharing and benchmarking activities could be described as 'soft regulation'. However, they rely on the actions of national agencies or bilateral arrangements between countries for implementing procedures and monitoring provision and educational outcomes.

5.24 Harder-edged agreements between nations apply to the mutual recognition of professional qualifications, including those in accountancy, engineering and architecture. These are slowly developing through bilateral agreements across countries in different professional fields. Behind these agreements lie regional conventions which commit the national signatories to adhere to common policies and practices that assist in the recognition of qualifications and the mobility of students and programmes across borders. The UK is a signatory to the Lisbon recognition convention (1997) which, inter alia, emphasises a student's right to receive fair recognition for their educational qualifications within the European region. The UK National Academic Recognition Information Centre is the body that evaluates qualifications under licence from the Department for Business, Innovation and Skills so that students (and others) can achieve recognition of qualifications for use in the UK.

5.25 A separate international framework, the General Agreement on Trade in Services (GATS) administered by the World Trade Organisation, has introduced a new set of rules and principles to govern the import and export of any service, including education, with the aim of further liberalising trade in services. This framework is relevant to all aspects of provision – and providers – which operate commercially and could in the longer term have far-reaching consequences for other forms of regulation that have traditionally been applied to higher education. In the medium term, GATS negotiations are likely to affect the portability of professional qualifications. Within the framework of GATS negotiations and commitments, the UK operates as part of the EU, rather than independently.

5.26 The boundaries between publicly-funded providers and private providers (both for-profit and not-for-profit) are blurring in the UK and partnerships across providers are increasing. In addition, higher education provision (from within and outside the UK) is extending beyond geographical and spatial boundaries. Universities, agencies, funding councils and governments cannot afford to ignore either the transnational or cyberspace marketplaces when assessing the UK's regulatory frameworks and quality assurance mechanisms. One question is whether convergence across the boundaries of types of provider and provision should lead to similar regulatory arrangements in the interests of *equality* of treatment for all providers, or to different (but *equitable*) treatment[42] in order to signal diversity. A further question is how UK arrangements should fit within, respond or contribute to wider regional and supranational frameworks.

Institutional perspectives

6.1 Between March and May 2009, survey respondents from 17 institutions were contacted by telephone and email to follow up some of their questionnaire responses in more detail. Fourteen of these institutions provided additional information, some of which is highlighted in chapters 3 and 4 above. Particularly interesting examples of public/private partnerships were selected for further investigation, although in most cases the wider institutional management and organisation of public/private partnerships was also covered. The themes discussed covered a range of areas including the rationale for developing private sector partnerships, management and organisational issues, quality assurance, relationship management, the perceived benefits and challenges of such partnerships and advice for other institutions seeking to engage in similar partnerships. This chapter summarises our findings under these headings.[43]

6.2 Academic managers in faculties are regularly approached by private providers which are in many cases seeking the recruitment (and financial) benefits from access to degree awarding powers, university facilities and brand value. It is impossible for higher education institutions to investigate the costs and benefits of each option and the suitability of each partner, so public/private partnerships related to collaborative provision are usually proactively initiated by the public partner.

6.3 Universities prefer partnerships to address particular strategic objectives directly, and prospective partnerships are usually selected for reasons based on their potential academic and financial benefits and their fit with institutional strategies and faculty plans. For example, a university's widening participation or employer engagement strategies might emphasise expanding access through work-based learning or progression routes such as foundation degrees in partnerships with employers. Partnerships with institutions that are not in receipt of public funding can be very attractive to higher education institutions if they are successful in terms of income generation (from fees charged to private partners), improving education provision, contribution to achieving student number targets (and avoiding clawback) or if they help the institution to pursue a target of expansion into a new area of provision.

6.4 In most collaborative provision, the partnership arrangements are developed using a 'bottom up' approach led by faculties, sometimes with support from central departments (for example, a partnerships office). However, many higher education institutions are now seeking to develop a more strategic approach to partnership activities (of all types) and there is a noticeable trend towards coordination of partnership activity at the centre and vetting and rationalising partnerships so that they are adequately risk-assessed, manageable and fit academic and other objectives. In some cases, funding council money for teaching is used to help develop the partnership if potential students are eligible for teaching funding and the partnership requires pump-priming funding. This funding stream often ceases once the partnership is up and running.

6.5 Where private sector partnerships are likely to impact upon an institution's quality assurance procedures and to be included in a Quality Assurance Agency collaborative provision audit, publicly-funded higher education institutions reportedly take quality and management issues very seriously. In many cases, institutions have established partnership offices with a role that encompasses monitoring and evaluation of external partnerships of all kinds. In other universities, the quality office or faculty managers take responsibility for such partnerships. Where a partnership does not impact on quality assurance procedures, the management issues are less rigorous – for example progression arrangements or the delivery of small amounts of academic content (such as lectures or single modules). However, in all cases the publicly-funded partners retain responsibility for assessment of the programme.

6.6 Institutions typically follow the Quality Assurance Agency's code of practice when a partnership relates to the award of their qualification, whether it is via a validation or franchise link or by joint delivery. The code sets out a rigorous approach to the processes of developing, monitoring and evaluating such partnerships, although it is less concerned with outputs. In all cases, collaborative provision requires higher education institutions to develop memoranda of agreement or memoranda of contract with their partner.

6.7 However, we observed some subtle differences between institutions on issues such as partner selection, monitoring and evaluation. All institutions undertake risk assessment and due diligence when selecting both public and private partners, although some respondents suggested that they have developed more rigorous procedures for private providers. In addition, some institutions take a more systematic approach to monitoring and evaluating their links than others. For example, one institution has identified a member of staff with day-to-day responsibility for overseeing each partnership, and for producing monthly monitoring reports and annual evaluation reports. It has also developed a rigorous accountability system through the academic committee structure. In other universities, there are fewer dedicated staff members, less regular reviews and, in some cases, five-yearly revalidation exercises.

6.8 The management of complex partnership agreements can be a challenge. As we have described, one model is to have one person at central level with overall operational responsibility for managing each relationship (an 'account manager'), whilst an academic member of staff from a relevant faculty or school has responsibility for monitoring the academic side. In some cases this person is described as the 'link tutor' acting as a representative of the partner in the university and whose role includes monitoring, annual and interim reviews, evaluation and liaison with relevant central departments. There is also usually a member of the senior management team (a deputy vice-chancellor or pro-vice-chancellor) with overall senior level management responsibility for all links and partnership arrangements who oversees the work of the partnership office.

Challenges of working together

6.9 Institutions have many positive reasons for developing private sector links, including:

■ Academically, partnerships with private organisations can allow a university to expand its provision into newer, niche areas in which private organisations may have specialist expertise. Small-scale programmes with private providers can allow such experimentation with minimum financial and academic risk.

■ Private providers can offer institutions valuable links to professional practice in the form of placements with key employers, which has the added benefit of supporting the employer engagement agenda.

■ Professional accreditation can help student employability, and the ability to tap into professional staff expertise and partner resources. This can help to build a university's reputation in particular professional fields.

■ Partnerships also have the potential to expand to include further collaboration in areas such as curriculum development, consultancy and contract research.

■ There may also be something to learn from the private sector's good practice in student support, responsive services and marketing skills.

■ There is potential for income from accreditation services.

6.10 However there are also barriers. Some academic staff may have a negative perception of private providers which often influences the successful development of the partnership, especially when the arrangement requires considerable academic input and support.

6.11 Another operational challenge is that the different organisational structures and ways of operating in the public and private sectors can be difficult to navigate, particularly in relation to quality assurance. Private partners often have complex business models with a range of income streams, and it is important for the publicly-funded institution to understand these in order to ascertain the level of risk in the partnership and the pressures that their partner is under. Contingency plans also need to be in place for situations where the viability or status of the private partner alters, for example where there is a change of ownership (which could require a revalidation of the programme by the publicly-funded partner) or where a private partner has problems reaching recruitment targets which are essential to the financial success of the partnership. Some respondents suggested that partnerships require close collaboration in the early stages to help overcome any difficulties in meeting the planned objectives. An example of possible good practice in this area involved the private sector partner's staff spending time at the publicly-funded institution in order to understand its working practices and culture.

6.12 In some private providers, there can also be significant staff turnover, which can create problems for sustaining effective communication about the progress of a partnership, and the publicly-funded provider can spend significant amounts of time building relationships and trust when new contacts are involved on the private side. Staff turnover in private partners can also create problems with comparability and equity of teaching.

6.13 Another issue relates to student achievement or performance, particularly where progression or articulation arrangements are in place. For example, a number of respondents suggested that some students who progressed to their institution from a private partner organisation required additional targeted support (in terms of both language skills and academic knowledge). However, it was also suggested that dealing with such issues has had a positive impact on institutional policies and procedures, and has helped to improve the robustness of admissions requirements and procedures for the recognition of prior learning.

6.14 Where students from private organisations are enrolled at the public institution, some respondents highlighted concerns about the comparability of the student experience and the 'ownership' of the students although, if students are only registered or enrolled at the private provider, this is generally the responsibility of the partner organisation. In some cases, the student is enrolled at one institution and registered at another to ensure that both partners take responsibility for him or her. Therefore student status can be difficult to compare and track if records are not fully integrated.

6.15 Dataflows are not always straightforward and this is compounded by the fact that there are often multiple entry points into private sector programmes (such as those with a work-based learning approach) and there is often no requirement to collect data for monitoring purposes, only for the assessments required for progression or awards.

6.16 In work-based learning arrangements with significant input from employers, an important challenge is to familiarise subject-expert trainers with the style of learning and assessment expected in higher education. Good practice would suggest a careful mapping of staff expertise in both partners at the preliminary stage. In some cases the university helps by providing postgraduate certificate in education training for its private sector partners, if required.

6.17 Respondents were asked what advice they would give to another publicly-funded institution seeking to engage in a partnership with a private provider, in relation to the development and monitoring of partnerships.

6.18 Firstly, most respondents sounded a note of caution about partner selection and the need to ensure that both partners share the same vision for the development of the partnership, even if they have different motives for engaging in the partnership in the first place. One respondent suggested that publicly-funded institutions should treat all potential partners as equals, as they can all potentially 'bring something to the table', depending on the particular context in which the partnership is developed. However, this could simply reflect the 'public' position of the institution and, in reality, the different legal status of potential partners can bring different benefits and challenges. Potential links with private organisations without public funding attached are likely to require a more systematic cost-benefit analysis before they are allowed to proceed.

6.19 Respondents also highlighted the importance of investing sufficient time to evaluate the relative benefits of the relationship to the institution before committing significant funds and staff time to the development process. Since many private partners are eager to move very quickly to an agreement – presumably for financial reasons – the publicly-funded university has to balance the need for speed with a rigorous assessment of risk. This cautious approach to building a partnership can seem bureaucratic and irksome to the private sector partner. One university has recently started charging potential partners for their approval visits in an attempt to minimise the risk from partnerships which may not be able to deliver student numbers. The money charged is then returned when target student numbers are achieved.

6.20 The roles and responsibilities of each partner should be set out in a clear and comprehensive written agreement. In some partnerships, respondents reported difficulties when the agreement was not sufficiently detailed to enable them to cope with unexpected issues that emerged as the partnership progressed. During the negotiation phase, both sides need clarity on the needs, demands and restrictions (for example, university procedures, regulations and financial requirements) related to the partnership. Both sides' agendas should be clearly communicated, respected and understood. Many of these points have been covered in Eversheds' report providing guidance on the legal aspects of partnerships with organisations outside the UK which has been published by the UK Higher Education International Unit (2009).[44]

6.21 It is important for the publicly-funded university to keep tight control over academic issues (particularly those related to course content, staffing and assessment) once the partnership is up and running, given its quality assurance responsibilities as outlined by the Quality Assurance Agency code. This includes monitoring marketing activities and materials, including the use of the university's logo in all publicity material and on the website. There should also be careful monitoring of the students' experience, particularly in relation to teaching quality, student performance and access to resources such as the library and the virtual learning environment. Both partners need to develop a flexible 'can do' attitude towards working together and dealing with problems and issues as they arise. This requires universities to develop good relationships with the private provider based on mutual trust coupled with frequent and effective communication of progress, challenges, difficulties and successes, plus regular meetings early on to support partnership building.

7.1 This chapter addresses the five key policy issues that either formed part of the initial terms of reference for the study or have arisen as the project has progressed.

Is the growth of private and for-profit providers in the UK a threat, an opportunity or of neutral consequence for the UK publicly-funded higher education sector?

7.2 We have encountered a variety of perspectives on this question, ranging from the strong stance taken by the University and College Union against the privatisation of publicly-funded higher education in the UK to the positive views from both private providers and higher education institutions about the new opportunities that have been created through public/private partnerships. Other responses have been pragmatic, such as:

■ Growth in private sector provision is an inevitable consequence of the expansion in demand for higher education provision and services domestically and still more internationally.

■ Growth is a response to meeting the wide range of student (and employer) needs and expectations.

■ The private sector is quick to respond to market demands and gaps in provision, and it is therefore meeting a need that the publicly-funded sector has not filled or cannot fill.[45]

7.3 Responses to the question are inevitably shaped by the level of knowledge and experience of private sector providers among respondents. International officers, pro-vice-chancellors with enterprise portfolios and deans of business schools, for example, will typically have close-up experience, but externally some policy agencies have little or no direct knowledge and experience of private sector activity in UK higher education. Some agencies may also be wary or antipathetic to private sector involvement in the delivery of higher education. Among those who claim to have limited knowledge, one representative view is that the growth of the private sector is beneficial by virtue of increasing choice and competition in higher education and thus driving efficiency and value for money (for students as customers and for the taxpayer). An alternative perspective is that the private sector providers are a threat to public sector market share, particularly in relation to professional and vocational programmes, as we shall discuss.[46]

7.4 Where there is direct experience of working with the private sector, there is often an acknowledgement that the relationship can bring access to new and essential resources (marketing skills, new income sources, additional staff) as well as opening up new markets for UK higher education institutions. However, tight and cost-efficient business models in private/public partnerships may be partly dependent on the ability to leverage publicly-funded assets such as libraries, tutorial and other resources supplied by the higher education institution. Without good partnership oversight there could be some financial or reputational consequences for the institution.

7.5 Some seriously ask whether the question about threats or opportunities is useful and relevant. This is partly because 'the private sector' in higher education is not a cohesive or uniform sector and providers have many varying motives.[47] As our own survey has shown, providers are involved in different businesses with a range of products and services, they operate different business models (with higher education institutions and independently), they are of vastly different scale and scope (for example, Kaplan in comparison with EThames Graduate School) and they vary as to whether they are focusing on the international or domestic market (thus BPP is wholly domestic while Richmond American International University is international). In each case, the answer to the question of threat or opportunity is likely to be different.[48]

7.6 The question also takes on a different light if one examines it from the private sector end of the telescope and asks whether the 'public sector' presents a threat or an opportunity for the private sector. In some areas direct competition clearly exists (in professional and vocational fields and for international students), but in many cases the publicly-funded institutions have clear market advantages, particularly as there is not a 'level playing field' in the UK in relation to publicly-funded and private sector provision. For example, most private providers cannot access public funds for infrastructure development and UK student support, nor can they use other publicly-funded services such as the higher education JANET infrastructure.[49] There are, on the other hand, those who point out that the playing field is not level in the other direction. Private providers do not have the public good responsibilities that publicly-funded institutions are given or that they assume. Examples might be teaching unprofitable subjects, widening participation and community engagement.

7.7 If one believes that converging communications technologies could transform higher education in the next five to 10 years, private providers could have an advantage. They may be quicker to capitalise on the opportunities that fast-changing technologies offer to develop new products and services, to create or enter new markets – perhaps through the opportunities that 'unbundling' of educational processes brings – and to shift into new kinds of businesses. All universities are likely to be challenged by the access to global e-networks and resources that is beyond their capacity but is available to the large private sector conglomerates, both independently and through strategic alliances and joint ventures. The higher education marketplace is very open to changes driven by technology and is also particularly dynamic at present, with a range of new entrants and 'shifting' businesses.[50] Some publicly-funded institutions which are leading the pack (such as the Open University) may not feel as threatened, but others may risk losing market share.

7.8 The market and policy contexts are significant factors. For example, in terms of the private sector taking international students at fee levels below those charged by the publicly-funded sector, one view is that this is widening the UK's share of the international student market as well as offering the students a different UK experience to that in a conventional campus-based institution. On the other hand, those institutions which are unable to match the quality of students' experience of teaching offered by some of these private sector providers (usually at lower price levels) may well feel threatened.

7.9 Our interviews and visits have identified the following examples of opportunities and benefits for institutions that can arise from the growth of private sector provision:

■ relevant curriculum content (closer to industrial or commercial reality) and different academic delivery models focused on teaching only

■ flexible entry routes and times for students and shorter degree programmes

■ skills development for academic staff involved with these new models

■ new business models, allowing less costly delivery

■ marketing expertise, nationally and globally

■ ability to offer more international students a different student experience

■ enriched support for international students (through the foundation providers, which may also create extra jobs)

■ extra sources of income from validation and growth in international students.

7.10 As an example of these benefits, one private college we visited claimed that it maintained a constant student:staff ratio of 15:1 for all its business subjects and that it had a pay structure which was slightly better than that of the publicly-funded sector. In addition it required its staff to do consultancy and currently offered scholarships totalling £350,000 a year. It was now planning a further 50 scholarships each year. While this college received nothing at all from public funds, it calculated that its activities brought some £100 million a year into the UK economy.

7.11 There are also other benefits for government and the nation. The flexible entry and relevant curricula offered by many private providers match government priorities for widening participation, greater access and skills development. Employers will welcome curricula that are closely aligned to their needs and which foster employability skills. In some subjects, the competition from private providers may act as a driver on publicly-funded institutions; there could be things to learn.

7.12 There are those who argue that, from the viewpoint of the UK, any growth in properly regulated, high quality private provision has to be beneficial. In the domestic market such providers can only survive by offering programmes of a quality which will justify their extra cost to the student over state-funded provision. For international students, the providers will be offering a different experience from that of publicly-funded providers and again, if they are successful in the marketplace and effectively regulated, they will increase the UK's share of the international student market, bringing economic benefits to the UK.

7.13 The threats and risks from private sector providers vary in nature and proportion. They include:

■ loss of domestic market share and full-scale loss of particular domestic professional markets (such as in postgraduate law)

■ loss of international students due to providers offering degree programmes at lower cost

■ loss of some offshore markets due to price competition from the private providers and their ability to enter such markets more rapidly

- more subtle shifts, such as an increasing acceptance in the sector of more outsourcing of services

- ability of the private sector to present itself as more technologically relevant and closer to the marketplace where future employment is concerned

- reputational risk to the UK where private providers are not effectively regulated or quality-assured

- change of ownership (and motive of the owner) may affect quality of delivery

- action by successful providers to widen their higher education activities into other sections of the marketplace in the UK and overseas.

7.14 One potential policy threat which we discuss later is that governments might see teaching contracts with private sector providers as a way of reducing the cost to the Treasury. A recent report from the CBI's Higher Education Task Force hints at this when it recommends that 'greater involvement by for-profit providers of higher education should be welcomed, provided that they meet the same demanding standards for quality and value for money'.[51]

7.15 At a midway point in this study, we held a workshop for all stakeholder groups (private sector providers, publicly-funded universities, policy and accrediting agencies) to discuss and gain feedback on the emerging findings. The question of whether private sector providers represented a threat or an opportunity for publicly-funded providers was discussed, and a key issue was the extent of 'control' over private sector providers. Such control could be exercised through contracts, validation agreements and financial arrangements in public/private partnerships and through regulatory controls at sector level (such as rules applying to the granting of degree awarding powers or access to public funds and services). The distinctions made in the following table drew broad agreement as representing cases where an institution or the sector could control the terms of trade and where they could not.

Table 8
Control over private providers

Universities are in control where...	Universities cannot exercise control and a competitive market exists where...
- National or international private providers ask and pay for UK university accreditation - Private providers offer an award in partnership with a UK or foreign university - Private providers are encouraged to offer their certificates and diplomas within a university's programme - Private providers support a university with an online award, providing administrative or tutorial support - Private providers supply content within a university's online or face-to-face programme - Private providers help to recruit and prepare international students for entry to a university at either first or second-year level (or to a Master's programme); some also prepare UK students through agreed articulation arrangements with partner universities - Private providers work with higher education institutions in joint ventures to deliver continuing professional development to clients - Private providers supply testing, assessment or other services under contract to universities	- Private providers with degree awarding powers offer their own awards in the UK and international markets - International providers offer their own awards in the UK - Private providers offer their own online awards in the UK, with virtual support - Private providers accredited by publicly-funded institutions (UK or international) offer their awards in the UK to national and international students

7.16 An important point to note is that relationships between publicly-funded institutions and private sector providers are dynamic rather than static (and also that neither side is a homogeneous sector). Private sector providers clearly operate in volatile market conditions and may lose market share, be acquired by other businesses and venture capitalists or go out of business. They are also affected by changes in regulation; indeed, one of our respondents from the private sector commented that this was the single most important variable affecting their business internationally.[52] In addition, private providers may grow and change their market position through their partnerships with UK publicly-funded providers. For example, they can increase their capacity to offer programmes and attract students through validation arrangements to the point at which they are eligible to seek degree awarding powers. Since private sector providers (like universities) may also be in several types of educational business, or in different businesses in different countries, the UK business will be subject to the vulnerabilities or successes of other parts of their business. These developments will be beyond the direct control of a publicly-funded institution which may have a relationship with one part of the business. Also many UK providers have an avowed intention of achieving sufficient numbers of students to meet some of the degree awarding powers criteria. If their application for degree awarding powers is successful, then the provider can shift from being a partner to a competitor.

7.17 We conclude that expansion of the private sector in UK higher education is happening and is likely to continue, and that this offers both opportunities and threats to the UK publicly-funded sector. As we have shown, the picture is multi-layered, complex and dynamic, and all parties need to be alert to the converging elements in order to debate the consequences and the longer term impact. The biggest danger is 'sleepwalking' into the future. For these reasons, we recommend below that there is closer monitoring of partnerships and of private provider activities at policy and institutional level.

Is quality adequately assured by private sector providers themselves and by the mechanisms in place around them?

7.18 Once again, when we posed this question it produced a range of responses. Respondents from both the publicly-funded and private sectors (as well as quality and accreditation agencies) said that quality and standards were not uniform across either sector. Some respondents, not unreasonably, also questioned the assumptions behind the question because if private providers did not adequately assure the quality of their provision and services, they would be out of business and – arguably – rather more rapidly than if the same were true in publicly-funded higher education institutions. Others, particularly the quality and accreditation agencies, were well-informed about the range of fraudulent practices (as well as quality issues) that exist in parts of the market (for example bogus degrees and diploma mills).[53] They treat this issue with necessary seriousness in view of the potential damage to the whole sector (public and private) and to students, parents, employers and tax payers. Regulatory and quality assurance arrangements seek to address this problem with varying levels of success, not least because new challenges continue to emerge.[54]

7.19 The quality and accreditation agencies interviewed reported that they found high quality provision, educational services and levels of service to students among reputable and accredited private providers that could match, or surpass, what was available in the publicly-funded sector. In other cases, provision was reportedly of high quality but very different in terms of the range of support services (for example, extracurricular activities) available to students. As one vice-chancellor put it, there is a difference between 'gaining a degree' and 'gaining a university experience' and students can choose between these options.

7.20 Clearly, the quality assurance situation and the student experience are different where the private provider is:

■ an organisation with degree awarding powers (such as BPP or the College of Law)

■ an independent college offering a variety of programmes validated by several universities (such as EThames Graduate School or the London School of Commerce)

■ validated by a single validating agency (Open University Validation Services, for example, or the University of Wales)

- in partnership with a UK university and the qualifications are validated awards of the university

- accredited by one of the independent accrediting agencies approved by the UK Border Agency.

7.21 The majority of respondents from accrediting and policy agencies argued that the regulatory and policy environment was adequate to assure the quality and standards of awards and provision of education. In particular, the criteria and careful scrutiny of degree awarding powers by the Quality Assurance Agency were regarded as critical and the six-year review period for private providers with such powers was considered sensible. The recent strengthening of the accreditation processes and powers of agencies such as the British Accreditation Council was also seen as important for protecting quality and the needs of consumers. However, several respondents suggested that the way that codes of practice, accreditation and review arrangements was implemented needed to be monitored and compared at all levels in order to ensure that all were conducted effectively.

7.22 There were five other areas where we have observations on the current quality assurance regime in respect of private providers:

- Universities' management of quality in their private sector partnerships (operating under the Quality Assurance Agency's code of practice for collaborative provision) was not always as well-informed about the activities of partners as it needed to be. Due diligence and management capacity could be strengthened in some cases.

- While the written policies and procedures of agencies were generally sound, implementation of accreditation and quality assurance procedures needed to be just as strong at agency and institutional levels (and this depended on dedicated and adequate resources as well as common interpretations and scrutiny of practice).

- The lack of investigation of sound governance and financial management and sustainability of partnerships within the Quality Assurance Agency's audit process (in contrast to degree awarding powers scrutiny) is a potential area of risk. In addition, institutions may not always undertake adequate financial and governance checks on partners and their operations (not all of which might be in the UK). Furthermore, the collaborative audit process did not always involve a more detailed investigation of partnership arrangements and could be strengthened in this area. Recent guidance on legal topics published by the UK Higher Education International Unit has sought to address some of these issues.[55]

- Sharing of information between agencies is essential. Equally important is sharing of information between institutions and agencies, and between universities where multiple validations apply. This happens adequately in some cases through cross-membership of agency boards or committees, but is otherwise ad hoc. It should be more consistent and more transparent.

- The private sector providers were usually more interested in the quality of outcomes than the quality of inputs. Outcomes were as important as the nature and range of quality assurance processes in place.[56] The balance between outputs and outcomes, inputs and processes in assuring quality may need attention by relevant agencies, particularly in relation to new types of provision and new approaches to teaching and learning. As experience in both Europe and the United States shows, there is increasing public demand for evaluation and comparisons of 'outcomes' in higher education and this debate has been given voice in the conclusions of the recent Parliamentary Select Committee.[57]

7.23 In chapter 6 we discussed the importance of adequate 'partnership management capacity' at institutional and faculty levels. This is directly linked to the way that universities carry out quality assurance checks on their private partners. Given the range and diversity of partners and providers, the complexity of the education marketplace, the numbers of students involved and the importance of the education business in financial and reputational terms, institutions will wish to ensure that those who develop and manage collaborative arrangements have the skills, knowledge, resources and authority to run these expanding operations and the ability to provide strategic information, reports and guidance on these activities.

7.24 Beyond these examples, both public and private sector providers could gain a great deal from a joint dialogue about quality assurance, including the balance of emphasis on inputs, outputs and processes. Such a dialogue could lead to an increasing call for publicly available comparative information across types of provider and provision, including student data. Open exchanges about the different experiences of each kind of provider (including the experiences of students and the private providers which have multiple validating and accrediting arrangements with universities) would be valuable in sharpening codes of practice and validation and accreditation criteria. While the Quality Assurance Agency and British Accreditation Council respectively provide information, training and other support for their members, bodies such as the Council for Validating Universities offer a useful resource and opportunity for different institutions and agencies to learn from each other across sectors.

Should regulation and information be enhanced?

7.25 Our definition of 'regulation' embraces all aspects of the state's relationship with the private (or indeed publicly-funded) sector (as outlined in chapter 5). The aims of regulation include preventing fraudulent practices, collecting and disseminating information to ensure that student choices are well-informed, ensuring that there is adequate knowledge underpinning the establishment and maintenance of sound partnerships between providers and seeing that governments and agencies have sufficient and appropriate knowledge to inform decisions about funding and quality.

7.26 Chapter 5 identified areas where regulation could be enhanced, for example in relation to the criteria, practices and procedures of different agencies and in the provision and sharing of information. Details of private sector ownership, governance arrangements and financial records are important aspects of information that needs to be collected by agencies and institutions which seek to partner with these providers for delivery or to validate their provision. Data on numbers of students and the nature of the student and staff experience are also necessary and useful public information for students, their parents, agencies and government. No agency collects this at present. Comparative data and information on providers and provision across publicly-funded and private sector providers would also be useful to puncture myths and prejudices and to highlight innovative practice.

7.27 A key question of interest to private sector and publicly-funded institutions alike is whether there should be a 'level playing field'[58] in terms of regulation (and access to public funding) in the UK. If the answer is Yes, then what needs to be done? Taking the wide definition of a regulatory framework as applied in chapter 5, this could include 'incentives' and, particularly, access to public funding (for student support, institutional operations and infrastructure, national educational services and research), dismantling the barriers that currently apply (such as the potential to remove degree awarding powers from private providers after six years) or the common application of regulations across all institutions, whatever their ownership, governance and financial status, if they are offering provision or educational services in the UK.[59]

7.28 There was no consensus among those we consulted on this question, although publicly-funded providers were clearly anxious about the state granting incentives to private providers such as access to public funding for research and access to national educational services. Funding agencies were concerned that public funds should not be used inappropriately in public/private partnerships, since they were not legally allowed to fund the private sector directly at present. Some publicly-funded institutions were also concerned about creating conditions where competition would increase, particularly where the publicly-funded sector remained subject to a range of accountability requirements and government-directed targets and policies and the private sector did not. In this case, levelling the playing field might favour private providers with narrower and less costly remits. Some private sector providers argued for equal treatment with publicly-funded providers (for example, in relation to levels of accuracy of attendance records for students). They also favoured placing more emphasis in quality assurance criteria on outcomes such as employability and the employment record of graduates. However some 'good practice' on the part of private providers might be regarded in a different light within public quality assurance regimes (notably the Bologna process). For example, efficiency in delivering degrees (or in the speed at which students could obtain qualifications) was not always comparable. Two-year undergraduate business degrees with a third year to achieve an MBA were attractive offers to international (non-EU) students by private sector providers, but would not necessarily be considered positively in some continental European countries.

7.29 In interviews with policymakers, the general view was that UK regulations (rather than funding) were broadly the same – in principle – for the publicly-funded and private sector providers. Some regulations were, however, applied slightly differently (as in the case of the six-year review of degree awarding powers). On the basis of our own analysis, we believe that there is merit in shaping the regulatory framework in ways which ensure consistent outcomes for students. We consider that there is a case for examining whether there are any barriers facing students in the private sector which limit their experience in ways that do not happen in publicly-funded institutions. However, it is important that regulatory arrangements do not mask significant or useful differences between providers and provision or undermine the value of different types of provision.

How should the sectors work together more effectively?

7.30 If – as we believe – the private sector is likely to grow, it is important that its plans and activities are understood by the publicly-funded sector (in so far as commercial confidentiality allows). A useful prelude to this is to recognise the different and complementary skills, knowledge and expertise that each brings. We have already identified some of the strengths of good private sector partners; for example, some are perceived to have:

- effective and efficient management and commercial skills and processes
- marketing skills, resources and global reach (in many cases)
- student pastoral and tutorial support arrangements
- strong vocational orientation of programmes and close links to employers
- multi-national classes and an internationalised curriculum
- specific resources and skills in content design, testing and assessment and e-learning.

7.31 Clearly, many of these attributes are also shared by good publicly-funded higher education institutions. In addition, public institutions are recognised for attributes that the private sector can rarely offer, ie:

- the quality and standards of degrees and associated quality assurance processes
- the quality and range of students' educational and wider opportunities and experiences – particularly in large comprehensive universities, but also in specialist institutions – at undergraduate and postgraduate levels
- the opportunity to gain research skills and experience
- the diversity and range of study choices available to students
- access to public funds for student financial support.

7.32 In terms of regular contact between the two parts of the sector, the current situation is that the private sector is involved in an ad hoc way in some national forums (such as discussions on the new tier 4 regime), but there is no formal mechanism for it to be consulted or involved in broader policy discussions. In addition Universities UK's membership includes only the University of Buckingham as the sole private provider (while GuildHE does include a few such providers as members). We believe that regular cross-sector dialogue and information sharing is desirable.

7.33 One key mechanism for improving communications would be the development of a strong association of private providers which could speak for the private sector. At present there are two organisations that make some claim to represent private colleges – Study UK, which is the official membership organisation for higher and further education colleges that have British Accreditation Council accreditation, and the Association of Independent Higher Education Providers (AIHEP). The former has nearly 50 members, all of which work with universities and awarding bodies to offer fully validated higher education courses. AIHEP has seven members, one of which is also a member of Study UK. A desirable outcome would be for both bodies to agree to work together in offering policymakers a joint mechanism for communication and discussion of common issues.

7.34 The growth of the private sector, as we have shown, is a global phenomenon. In parallel there is a common hesitancy by governments as to how it should be treated. Some countries such as China (and probably India soon) enact legislation on private higher education.[60] Other countries, for example Bangladesh and Sri Lanka, simply ignore the phenomenon, even though the private sector is growing at a faster rate than the publicly-funded sector. In the UK there is no umbrella legislation relating to the private sector. Nor is it clear how UK government regards the sector. Is it accepted as part of the solution or is it seen as a problem? Does government wish to encourage more private sector providers, particularly if the fees cap is lifted? To what extent is the Australian experience (see appendix 2) applicable in the UK? How far would the state wish to go in encouraging more public/private partnerships and what kind of incentives might be appropriate? Since these questions are at present unanswered, we believe it would be timely for a policy debate to emerge involving the three parties: government, the publicly-funded sector and the private sector. Once that debate has been concluded, one possible outcome could be a policy statement on the role of the private sector along with a clarification and/or simplification of the various legislative and regulatory provisions.

What are the special factors and issues in the devolved administrations of the UK?

7.35 At policy level, there was less knowledge and awareness about private sector activity in the jurisdictions of the UK outside England, and also less activity by private sector providers either independently or through partnerships. Arguably, an exception to the latter point is the University of Wales, which validates more than 100 institutions from different sectors in the UK and more than 30 countries. An interesting point is that the Higher Education Funding Council for Wales does not fund the University of Wales and thus has limited control over it. The Welsh Assembly Government, reportedly, does not have the private sector or public/private partnerships high on its list of higher education policy concerns at present.

7.36 In Scotland, policymakers are aware of the numbers of private language schools and of universities' public/private partnerships with INTO and Kaplan. The University of Glasgow's partnership with Kaplan was initially an issue in Scotland, largely because there is a great deal of articulation between further education colleges and universities in Scotland and it was the choice of a private sector rather than a further education partner that was the topic of discussion. The whole of the UK comes under the visa policy and regulations of the UK Border Agency.

7.37 There is no formal national policy in Scotland concerning private providers or provision. Scottish policy favours a strong public sector and there is not the same potential as there might be in England for government to use competition to 'invigorate' the public sector. Where financial or quality problems emerge, the Scottish Funding Council will help small colleges to merge and it aims to build the capacity of the publicly-funded higher and further education system to deliver what Scotland needs. The prevailing political ethos in Scotland was described by one respondent as 'communitarian' with a positive view of the public sector. There is no discussion of substituting private sector for publicly-funded provision (in health, education or local government) and the relevant unions (the University and College Union and the Scottish TUC) would be formally against such a position.

7.38 Formally, there are some important regulatory differences in Scotland. Scotland has held on to the 'old' legislation of 1988 and 1992 (it did not follow England and Northern Ireland in loosening 'university title' in the 2004 legislation; nor did Wales). Scotland is jealous of university title and university status; teaching-only universities are not favoured and research is regarded as a very important part of a university's mission. This position is supported by Universities Scotland and the Scottish Funding Council. The Scottish Government is not keen on giving degree awarding powers to private providers. If a private provider gained degree awarding powers in England, technically these would need to be recognised in Scotland (and the Government, as regulator, could say No). Another specific difference in relation to degree awarding powers in Scotland is that they can be withdrawn from publicly-funded higher education institutions. To receive public funding in Scotland, an organisation has to be 'a fundable body in good standing' under the Further and Higher Education Act (Scotland) 2005. A Quality Assurance Agency audit is needed to establish 'good standing' and there is a list of all such bodies in further and higher education linked to the Act.

7.39 The Scottish Qualifications and Credit Framework (SQCF) includes some private providers which are recognised as credit-rating bodies (for example, the Police College and the Institute of Bankers). The awards are those of the awarding body and credits can count towards a degree. There is also a major partnership with the NHS through SQCF. Both the Scottish Funding Council and the Quality Assurance Agency wish to challenge 'rigidities' in the publicly-funded system through such arrangements in order to provide more flexibility for students and employers because of big skills shortages in Scotland. Industry qualifications can be included in degrees (as they can elsewhere in the UK). The SQCF is also 'a big seller of awards' internationally, notably in India, because of the variety of levels and the flexibility of the framework of awards. Skills utilisation, workforce development and internationalisation are key agendas in Scotland. Internationalisation is important because of the number of international businesses either in the country or with headquarters in the country, while the Government is also keen to see international engagement from universities, including joint degrees and partnerships, as part of the drive for some of them to be recognised as world-class.

Conclusions

7.40 In appendix 1 we set out some possible future scenarios in respect of private sector provision in the UK. Common to all our options is a belief that the number of such providers will grow and that their operations will increase in scale. For some publicly-funded universities this will present a competitive challenge, although it can be argued that in relation to international students the ability of private providers to deliver degree provision at low cost will make the UK a more favourable destination for some.

7.41 The main challenge will come when more of these providers acquire degree awarding powers, as some are sure to do. The acquisition of the only private for-profit provider with degree awarding powers by the Apollo Group has sent a signal to its large American counterparts that the UK market is worth watching. Given this scenario, it is all the more important that UK policymakers and regulators are alert to events and recognise the need to review their regulatory policies and quality assurance mechanisms.

Our recommendations are grouped by the audience to which they are addressed. They relate principally to the institutions described in chapter 3 of this report which award degrees (of their own or from validating bodies). This is the area where the greatest expansion is likely and also where competition (and indeed collaboration) between the publicly-funded sector and the private sector is likely to grow. The areas covered in chapter 4 are not considered to be ones where a competitive threat exists, as we have suggested in table 8.

For representative bodies and policy agencies

Recommendation 1 Review your strategies and policies in relation to the various categories of private sector provider (see table 2 for details) and test these against the different competitive scenarios or outcomes listed in appendix 1. Ensure that there is the capacity to establish a strategic overview of developments and to monitor trends over time. Do your members fully appreciate the opportunities and threats? Consider what you can do to help them.

Recommendation 2 For Universities UK: Since the University of Buckingham is already a member of Universities UK, consider whether you should extend membership to other organisations with degree awarding powers as it will enable both sides to understand each other's perspectives and concerns. This could be an advantage after the takeover of BPP Plc by Apollo Group. GuildHE already allows private sector organisations into membership (in a special category) and has Kaplan as a member.

For publicly-funded universities and colleges

Recommendation 3 Confirm that your validation processes in respect of all kinds of private provider are effective and continue to give you solid assurance about the quality of what is being delivered in your name. Benchmark your standards and processes with others wherever possible.

Recommendation 4 Review the total portfolio of those institutions and programmes you validate and the fees that your partners are charging to ensure that your own markets are not being threatened.

Recommendation 5 Publish a list of all the external institutions and programmes you validate, so that other institutions, organisations, students and other interested parties are aware of these arrangements and can network with you.

Recommendation 6 Monitor each private sector partner's long-term aspirations concerning the partnership, particularly if these might involve acquiring degree awarding powers in due course. Your relationship may well change over time and this will have academic and financial implications.

Recommendation 7 When doing initial and continuing due diligence with respect to your choice of private sector partners, make sure you know about their other strategic alliances and links in the UK and overseas in order to mitigate or avoid any potential for reputational damage that could arise for your institution from their collaboration with other providers.

Recommendation 8 Ensure that you have sound policies on the quality of support you provide to students who are studying your awards with a private sector partner. Are they entitled to as many of the support services enjoyed by on-campus students as can feasibly be offered to them (given the problems of distance and content licences)? Can you benchmark your support with that of others?

Recommendation 9 Review the management arrangements for private sector partnerships to confirm that there is at least a pro-vice-chancellor with overall responsibility and the capacity for a strategic overview of all such arrangements. Establish a partnerships office (or similar) to undertake the detailed management and monitoring of all such relationships. Such an office will require project management, legal, financial and governance skills in the vetting and development stages of new collaborations. Partnership relationships will need to be managed, and quality and standards regularly monitored and enhanced.

For accreditation and quality assurance bodies

Recommendation 10 For the Quality Assurance Agency: Review the code and guidelines on collaborative provision to ensure that they cover all aspects of checks on private providers, including ownership, legal status and financial viability.

Recommendation 11 Encourage a vigorous implementation of the code by higher education institutions and a more forensic investigation of collaborative provision in the collaborative audit process. It is important that all such audits are carrying out sufficiently detailed or in-depth checks on the way that collaborative provision is managed and monitored.

Recommendation 12 For Ofsted: Ensure that the agencies given accreditation roles for UK Border Agency purposes apply equal and consistent standards in the processes they follow to award accredited status so that the standing and reputation of each body and the UK's higher education sector are protected.

For government

Recommendation 13 Consider bringing together all the legislation and regulation relating to private higher education provision in a comprehensive document that can be accessed by potential providers, central agencies, other policymakers and institutions. This would help to clarify public understanding of the present very complex position.

Recommendation 14 Consult your own policy branches and the sector on what information about private sector providers should be made publicly available in order to give better protection to consumers and to support policymaking. Subsequently, identify one agency with responsibility for collecting and disseminating this information, for example the Higher Education Statistics Agency.

Recommendation 15 Establish mechanisms for regular consultation with the private sector, once it has created a suitable representative body. Encourage the creation of such a body.

Recommendation 16 Review the ways other governments provide incentives or benefits for accredited private providers and then consider whether there are areas where these providers might have access to public funds and public infrastructure facilities on equal terms with publicly-funded institutions.

Recommendation 17 Encourage collaboration and information sharing between all the agencies involved in the regulation and monitoring of private higher education providers so that guidance to the sector can be updated and sharpened.

Recommendation 18 Ensure that there is the capacity to establish a strategic overview of developments in this area nationally and internationally and to monitor trends over time.

Recommendation 19 Benchmark your policies in relation to the regulation of private providers (in the widest definition suggested in table 7) with those being adopted in Australia and the United States, and research new policy options.

For private providers

Recommendation 20 Either merge the two bodies currently claiming to represent the sector (Study UK and the Association of Independent Higher Education Providers) or build one up into an organisation which collects and disseminates information (on topics such as graduate outcomes) and which is in a position to speak for its members and lobby where relevant.

Recommendation 21 Encourage heads of private colleges to consult with each other on issues of public policy and the role of the private sector in order to develop a common policy stance for conversations with government.

Recommendation 22 Use the strengthened representative body to benchmark aspects of your operations such as student support, validation experiences, the quality of students' experiences and graduate outcomes in order to encourage the spread of good practice and provide information to aid student and employer choices. Be willing to feed back any suggestions on where the validation processes and support received from the publicly-funded sector could be improved.

This appendix considers some future scenarios concerning private providers awarding degrees, as this is where we have suggested that the competitive threat principally exists. A number of contextual factors could affect the growth of the private sector in this area, including:

■ a change in UK government policy on regulation or funding (in England particularly)

■ a change in market conditions in the UK (for example, increase in student demand; a reduction of supply in the publicly-funded sector; removal of, or a rise in, the tuition fee cap; differential public funding for different subjects, programmes or awards in different higher education institutions)

■ a change in market conditions or regulatory environments in other countries (such as changes mooted in the United States and Australia)

■ changes in European or international policy and legislation (for example, competition law, General Agreement on Trade in Services (GATS))

■ a new Whitehall government with a different political agenda to the present one

■ severe pressures on public funds, leading to less public funding for universities

■ technological changes that create new market opportunities or make some kinds of provision or practices obsolete

■ student or employer demands for provision or forms of educational service that are not provided adequately or not provided at all by the publicly-funded sector

■ internal, 'organic' changes continuing within the publicly-funded sector (such as some institutions becoming fully 'private' in terms of their funding sources)

■ a change in public attitudes towards taxpayer support for publicly-funded universities which are deemed at risk in quality or financial terms.

All of these contextual changes are possible in the next five years and, if they occur together, they could have a significant impact on publicly-funded institutions. In this context the following scenarios are feasible.

Scenario 1: The UK sector becomes more diverse in terms of the mix of institutions in operation, with competition and collaboration between all kinds of higher education institutions (this process may be organic or accelerated through funding incentives, new commercial opportunities, changes in legislation in the UK or changed market conditions in other countries). New overseas universities operating in the UK as well as private higher education providers may increase levels of competition. In addition, 'mutual benefit partnerships' are widely regarded as the route to increasing access to higher education and responding to the requirements of employers and students alike. This scenario represents an evolution of current trends.

Scenario 2: One or more UK publicly-funded institutions are acquired, in whole or in part, by for-profit private sector education businesses or venture capitalists, subject to their statutes and governance restrictions. There are examples in other sectors (for example, schools or prisons) where the private sector has been brought in by government to turn around failing public institutions.

Scenario 3: Funding councils are allowed to make public funding available to private providers for teaching on a similar or equal basis to the publicly-funded institutions (perhaps also in different forms). This could lead to the funding bodies entering into public/private partnerships with private providers under which they were contracted to deliver teaching to UK students. The state could also allow the private sector to access publicly-funded resources (such as JISC's content) and to apply for public research funding. Germany is an example where some of these incentives apply.

Scenario 4: Student funding is changed in ways which give UK/EU students more choice over where and how they study, through mechanisms such as vouchers that can be used at private sector institutions. Students would be able to choose where they used their vouchers and whether they wished to pay more for a full university experience. One variation on this theme might be that publicly-funded providers are able to take students (domestic and international) at a variety of fee levels. As an example, Kenya has allowed public universities to take in 'private' paying students. Another approach would be to follow the American example in allowing private providers, non-profit and for-profit, to access federal funding for their students.

Scenario 5: As in Australia and China, publicly-funded higher education institutions develop or acquire private colleges and deliver their programmes to full fee-paying domestic students in parallel with publicly-funded students[62]. The publicly-funded institution acquires or creates a number of different subsidiary ventures, some with charitable and some with commercial goals. Any surpluses generated by the latter are covenanted up to the charitable parent.

Scenario 6: Negotiations between countries within GATS regain momentum. Real pressure is brought to bear (for example through private sector lobbying in the United States and the UK) to challenge perceived regulatory restrictions on 'educational trade' or unfair competitive advantages accruing to publicly-funded higher education institutions in the UK and elsewhere from access to public resources and potential cross-subsidies of their commercial activities from publicly-funded resources.

Whether any of these scenarios come to pass depends on the responses of politicians, policymakers, institutional leaders and governing bodies to the contextual factors described.

An important influence is what happens in the United States and Australia as policies from these countries are often transported into the UK higher education system in principle, if not in exactly the same form. In addition, most of the large private for-profit providers originate or have their headquarters in these countries. For this reason we include appendix 2 describing recent Australian developments, some of which are echoed in the scenarios described above.

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Recent governmental moves in Australia are relevant to this report, not least as the UK often follows the Australian lead (as in adopting a students' contribution and loans repayment scheme for the cost of tuition). For some time Australia has allowed private students to access governmental loan schemes such as FEE-HELP for study. Until recently, it has also permitted the publicly-funded Australian universities to charge domestic students for a 'full fee' place along the lines available to overseas students (this is being rescinded, however).

Recent governmental policy changes in Australia following the Bradley Review seem likely to boost private provision even further. Dismantling the system of full fee domestic undergraduates for the publicly-funded providers for a start leaves a less competitive field for such provision to the private providers.

Even more striking is the governmental decision to scrap controls over the allocation of student places. Student choice (including opting for private provision rather than public if they so wish) will determine where funded student places will be found. Thus private providers will have access to full fee students as well as to governmentally-funded students (unlike the public universities which, domestically, are restricted to the latter). More particularly, although domestic undergraduate tuition fees remain controlled by government in the public sector, the number of international universities offering full fee undergraduate places in Australia is almost certain to grow. If tuition fee deregulation in the public sector were to occur (to match that of student places deregulation), then private and especially private international providers would have an even stronger financial incentive for involvement in Australia.[63]

Finally, the Australian government has committed itself to extending strongly student access to higher education. It is doubtful if the government's ambitious targets will be achieved unless further education (TAFE) is allowed to expand by offering undergraduate degrees. There are many private further education providers in Australia and thus widening participation policies are also bound to increase private provision. And, although all higher education institutions will be subject to a stronger quality regulator than before, regulation can also increase the legitimacy of the best private providers.

The top-ranking research-based Australian universities are limited on positional goods and status grounds from enhancing their student numbers too much, including students from overseas, as this will diminish their offerings and mission (their 'brand'). It will be the other universities and public providers that will seek to expand volume – and here they will come up against a strongly growing private sector.

Conclusion

Both public and private higher education generate private and public benefits. In terms of actual behaviour, following the new public management reforms of recent times, public entities are much more market-focused than before (and operate quite aggressively in the international fees market as private entities). However, outside the United States especially, publicly-funded institutions carry out the important research function and cover a much wider spectrum of subjects. Governments increasingly recognise the need to be economically competitive in the global knowledge economy and that means generating research and innovation. Thus they will continue to fund the top universities from the public purse for basic science for some time. It will be the predominantly less research-based public universities that will feel most competitive threat from the private sector, in Australia, but perhaps also in the UK.

Yet student choice, and increasing diversity in higher education systems, may suggest policies that give more funding expression to student choice when it comes to teaching and learning, especially at undergraduate level. Moreover, many governments around the world cannot afford the fiscal cost or the electoral impact if their taxpayers alone are asked to fund provision to meet rising demand for higher education. Rather, quality assurance and other forms of regulation of the private sector are regarded as effectively guaranteeing a public interest rather than reliance on state funding and ownership of the institutions.

Questions and lessons for the UK

In policy terms, then, Australian experience suggests that the private sector – when regulated effectively – is able to make a valuable contribution to the reputation and market share of UK higher education (not least in the recruitment of international students). Increasingly private providers collaborate with the public institutions and do not simply compete with them. However, they do threaten the market share of some existing, predominantly non-research-based institutions. Has the time come to recognise them more fully as equal partners with government and the public sector – such as by involving them more in policy discussions and dialogues? Should policies place the gaining of degree awarding powers on a more equal basis than operates currently (private providers in the UK receive only periodic degree awarding powers (six years) while the public sector enjoys them 'in perpetuity')? In Australia there is a proposal to subject all institutions – public and private – to equal periodic accreditation. Should student financial aid and even student places operate on a more deregulated basis in which student choice rather than the nature of the provider counts (providing all such institutions meet quality and similar tests)? That is, should private students and private institutions be entitled to similar grants and funds as those in the public sector – provided they sign up to national quality assurance arrangements?

Introduction

A small-scale desk-based survey of private providers in continental Europe was commissioned for this study from the Observatory on Borderless Higher Education. Appendix 3 summarises the findings of this survey supplemented by other relevant material; it is referenced against the findings and analysis for the UK presented in the main body of the report.

Types of private provider: distinctions and ambiguities

There is no single definition that encompasses all 'private providers and provision'. A private provider of higher education may be private in terms of ownership (including a family business, and ownership through an individual entrepreneur or through a philanthropic foundation, a corporation or faith-based affiliation). Governance arrangements may be independent of the state and therefore classed as private, with similar connotations in relation to funding sources. Private providers typically have greater decision-making freedom, particularly over the running of their business and the appointment and management of staff. A key distinction between non-profit and for-profit provision lies in the use of any surplus, with the latter accruing to shareholders and the former having to be re-invested in the business. A further complication is that publicly-funded higher education providers are classed as private when operating in overseas jurisdictions, and UK publicly-funded institutions are 'private legal entities' with a variety of different legal powers depending on their exact legal status. The boundaries between 'public' and 'private' higher education providers are increasingly blurred.

For much of continental Europe, a distinction can for the most part be made between 'public universities' with governance, ownership and funding regulated by the state, and private universities which are not owned and governed by the state but which may have access to state funding. Within this broad distinction, there is considerable movement and ambiguity. For example, Sweden has three private foundation universities (Chalmers University of Technology, University College of Jonkoping and the Stockholm School of Economics) created through agreements with the state, but with full access to state funding. Several continental countries are introducing reforms that will make the governance of universities more independent, with encouragement to diversify funding away from state sources. The OECD (2007) describes the UK's universities and higher education colleges as 'government-dependent private tertiary institutions' but, technically, the University of Buckingham is in a different category of 'private university'.[64]

A private or public tertiary education sector?

Some European countries such as Estonia, Poland, Portugal and the Russian Federation have well-established independent private tertiary sectors and some, such as Switzerland, only have private providers in a part of the tertiary sector, ie providers which offer more technical and vocationally-oriented provision. Countries such as Denmark, Greece and the Slovak Republic have a very small private sector. Several countries have a large proportion of students enrolled in government-dependent private tertiary institutions (receiving 50 per cent or more of core funding from the government); these include Austria, Belgium, Hungary, Iceland, Norway and Sweden. In the Czech Republic, Germany and Switzerland, this applies mainly in institutions providing professional and vocational education.

Changes and direction of travel in continental Europe

Between 2000 and 2005, according to the OECD data, there was a slight expansion of the independent private sector in OECD countries. The data show similar trends to those noted by Levy (2009) who reports that private sector enrolments have risen to 30 per cent of total global enrolment, mostly in the non-profit sector.[65] The data reveal that sharp expansions occurred in the provision of technical, professional and vocational education in Poland, Portugal and Switzerland (2000/05) while, in Portugal, the importance of the private tertiary sector decreased relative to the public sector in terms of student enrolment. Germany has experienced the growth of private universities, mainly in applied science since 2000, and these non-profit institutions enrolled 89 per cent of students in private higher education in 2005. There has also been some growth in the number of private research universities in Germany (enrolling 11 per cent of students in private higher education in 2005). However, while student numbers in the private sector are growing, this still represented only 5 per cent of all student enrolments in higher education in 2008. Growth of the private sector in terms of numbers of institutions and share of enrolments has occurred most noticeably in transition countries in central and eastern Europe with Estonia, Georgia, Poland and Latvia passing 20 per cent private enrolment. Most of these private universities and colleges do not undertake research, although in Poland some private universities are allowed to offer PhDs in selected areas.

The survey revealed that most of the private for-profit providers that are part of our UK study have a presence in continental Europe. Kaplan has bases in France, Germany, Ireland, the Netherlands, Switzerland and the UK. Apollo Global has an overseas military campus in Germany and Apollo's University of Phoenix has a campus in the Netherlands. Laureate Education's two businesses (campus-based universities and online provision) operate in several parts of Europe; there are 13 campuses in Cyprus, France, Germany, Spain, Switzerland and Turkey and online provision in the Netherlands. The American-based Career Education Corporation has seven providers in France and three in Italy as well as the American InterContinental University in the UK. Richmond American International University has campuses in Rome and Florence as well as two in London. BPP operates in the Netherlands as well as in the UK. Several of the foundation providers operating in the UK also have plans to expand into continental Europe. An additional phenomenon in some countries, including Germany, has been the growth of corporate universities offering national and international degrees.

Regulatory environments and access to state funding

The regulatory environment differs across countries. For example, in the Netherlands there are different categories of private higher education institutions, including those which are recognised by the state and accredited so that they can offer Bachelor's and Master's programmes and students can receive public funding, and those private higher education institutions which are not recognised and can only offer postgraduate courses. The latter include 27 universities of applied science. Nyenrode University (of applied sciences) is the only private university currently recognised in the Netherlands; it has 300 students, 80 per cent of whom are from overseas. The 62 privately-funded and approved higher education providers in the Dutch sector, while comprising 50 per cent of all institutions, have a very small share of student enrolment (approximately 10 per cent). This pattern of student enrolments is similar to that in France (14 per cent) and Spain (10 per cent).[66] State recognition in Germany (which applies to 69 private higher education institutions, excluding church-maintained higher education institutions) allows students to access public grants and loans, and institutions to access infrastructure and research funding. In Germany there has also been a recent development of public/private partnerships to outsource faculties and institutes.

Poland provides the biggest contrast to these two countries. Before 1989 there was only one private university, in 1992/03 half a million students were enrolled in the private sector, and by 2005/06 there were two million students. By 2009, 300 of the 430 higher education institutions were 'non-public' and enrolled 34 per cent of all students in the sector.[67] All full- and part-time students have been eligible for state-subsidised loans since 2001.

In most countries, private providers are subject to specific regulations, except in Switzerland where there are no restrictions and Denmark where there is prohibition of such providers. In the main, recognition also gives students access to public finance, except in Spain where there is no access. In Switzerland, no restrictions apply.[68]

Subjects studied

The spread of subjects offered by private providers in continental Europe is similar to that in the UK, but perhaps rather wider to include social sciences, business and law, arts and humanities, engineering, manufacturing and construction, and computer sciences.[69]

'Private providers' are defined as: private sector companies and not-for-profit organisations offering higher education and higher educational services to students and institutions in the UK. This includes foreign providers and professional bodies (which may also be online providers). 'Educational services' include recruiting students, delivery of language and study skills training, delivery of foundation courses, provision of certificated modules, course development, educational testing and assessment and accreditation.

Since the purpose of the study is to examine the impact of the private sector within the UK, we are not interested in any collaboration relating to delivery of higher education overseas.

Confidentiality note: We appreciate that some of your relationships with the private sector may be confidential. We do hope that you will agree to tell us about them with our GUARANTEE that we will honour your confidentiality and not reveal them to our client or to any other person/organisation. We may however ask you if we could report them anonymously.

	YES	Name of private provider and their country of origin	Name of contact person in the university with whom we can talk
1 Do you validate the courses of any private providers?			
2. Do you have joint courses or awards with any private provider?			
3. Do you offer your award to the final year degree students of any overseas provider **operating in this country**? (For example: Does not include overseas franchises)			
4. Does any private sector organisation offer its certificates/diplomas to students enrolled on courses at your institution (for example Cisco)?			
6. Do you have any partnerships with, or collaborate with, any private online provider?			
7. Do any private providers deliver foundation courses for your international students, in a partnership or contract with you?			

	YES	Name of private provider and their country of origin	Name of contact person in the university with whom we can talk
8. Do any private organisations help you to recruit or enrol UK or international students on your courses (excluding your foreign recruiting agencies)?			
9. Have you contracted with any private provider (including professional bodies) to deliver tutorial support to your students, either face to face or online?			
10. Do you use any private providers for testing and assessment?			
11. Have you subcontracted any course production or development to any private providers?			
12. Do you use any private providers to give you accreditation or quality assurance services?			
13. Does any private provider (such as Pearson) provide you with academic modules or significant content of any kind?			
14. Are there any other ways in which a private provider contributes to your academic delivery?		*Give brief details on a separate sheet*	
15. Do you collaborate with any private provider of continuing professional development in offering joint services to clients?			
16. Are there any **planned** joint projects with private providers that you can tell us about?		*Give brief details on a separate sheet*	

Private providers

Tim Andradi	Managing Director, London School of Commerce
Sir David Bell	Executive Director, Pearson Plc
Professor Chris Brady	Dean, BPP Business School
Andrew Colin	Chairman, INTO University Partnerships Ltd
Professor Aldwyn Cooper	Principal, Regent's College
Peter Crisp	Chief Executive, BPP Law School
Professor David Gillingham	Director of Higher Education, Kaplan and Dean, Holborn College
Sue Hindley	Principal, EThames Graduate School
Kerry Hutchinson	General Manager UK, Navitas
Professor Martyn Jones	Chair, Academic Council, BPP and Pro-Vice-Chancellor, Kingston University
Neil Lucas	Director, International College Wales Swansea
Dr Ian Newbould	President, Richmond University
Tim O'Brien	Managing Director, UK Operations, INTO
Nick Rhodes	Group Strategic Development Director, Study Group
Nigel Savage	Chief Executive, College of Law
Dr David Taylor	CEO, Schiller University
Lord Tomlinson	Chair, Association of Independent Higher Education Providers

Agencies and policymakers

Andrew Batterbee	Department for Business, Innovation and Skills
David Blaney	Higher Education Funding Council for Wales
Dr Tony Bruce	Universities UK
David Caldwell	Universities Scotland
Carolyn Campbell	Quality Assurance Agency
Rob Copeland	University and College Union
Pat Killingley	British Council
Bill Harvey	Scottish Funding Council
Gina Hobson	British Accreditation Council
Alice Hynes	GuildHE
Kate Clark	Open University Validation Services
Dr John Law	British Council
David Morley	Open and Distance Learning Quality Council
Dominic Scott	UK Council for International Student Affairs
Phil Vine	Department for Business, Innovation and Skills
Jonathan White	University and College Union
John Widdowson	Chair, Mixed Economy Group of Colleges

Notes

1 Universities UK (2008) *The future size and shape of the higher education sector in the UK: threats and opportunities* By Nigel Brown Associates London: Universities UK

2 Ibid

3 Universities UK (2008) *Private universities and public funding: models and business plans* By Professor Roger King London: Universities UK

4 Levy D (2009) in Bjarnason S et al *A new dynamic: private higher education* Paris: UNESCO p 8

5 Institute for Higher Education Policy (2009) *Privatization in higher education: cross-country analysis of trends, policies, problems and solutions* Washington DC: Institute for Higher Education Policy

6 Levy D (2009) 'For-profit versus non-profit private higher education' *International Higher Education* 54 Winter 2009 pp12-13

7 Hahn R (2007) 'The private financing of higher education' *International Higher Education* 50 Winter 2007 pp 18-20

8 Larocque N (2007) 'The private sector financing of public higher education infrastructure' *International Higher Education* 48 Summer 2007 pp 11-12

9 OECD (2008) *Tertiary education for the knowledge society* Paris: OECD pp 44-47

10 Vickers S (2008) 'Contribution of private providers to the UK higher education sector' in Clarke K (ed) *Quality in partnership: 25 years of the Council for Validating Universities* Milton Keynes: Open University pp 71-82

11 Levy D (2009) op cit

12 Levy D (1986) *Higher education and the state in Latin America: private challenges to public dominance* Chicago, IL: University of Chicago Press

13 Universities UK (2008) Roger King op cit

14 Dima A-M (2004) *Organisational typologies in private higher education* p9 CHER 17th annual conference *Public-private dynamics in higher education* University of Twente 17-19 September 2004

15 Knight J (2005) *Offshore, transnational and cross-border education* Observatory on Borderless Higher Education

16 Knight J (2005) 'New typologies for cross-border higher education' *International Higher Education* 38 Winter 2005

17 The most substantial examples are those in the Gulf, Egypt, Kazakhstan and Singapore where universities are invited by governments to establish campuses and are funded to do so. Another example is that of the State of Victoria in Australia where the state government funds Carnegie Mellon and University College London (UCL) to provide postgraduate programmes within an education city programme in Adelaide. In UCL's case the programme is also supported by a major energy corporation

18 The British Council's EducationUK membership; British Accreditation Council's list of accredited providers; Accreditation Service for International Colleges list of premier colleges; UK Border Agency list of registered sponsors under tier 4; Department for Business, Innovation and Skills' registers of recognised bodies and listed bodies; membership of Study UK and the Association of Independent Higher Education Providers; membership of the Open and Distance Learning Quality Council; the Open University Validation Service; and the J. P. Morgan North American equity research team

19 Levy D (2009) 'For-profit versus non-profit private higher education' *International Higher Education* 54 pp 12-13

20 J. P. Morgan (2009) *Education services data charts*

21 *The Australian* 8 August 2008 with federal student numbers from the Department of Education, Employment and Workplace Relations

22 Levy D (2009) *Europe from outside Europe; a view of quality assurance for private higher education* Conference paper from *Private higher education in Europe – fact finding, experiences, pathways* Vienna May 2009 See Österreichischer Akkreditierungsrat.htm

23 The proceeds of validation are a large proportion of the university's income; its published accounts for the year to 31 July 2008 show that 'validation services' provided £5.4 million or just over half the university's total income

24 All three organisations are divisions of St Piran's School (GB) Ltd, a private company based in Cornwall

25 For the current register, see www.ukba.homeoffice.gov.uk/sitecontent/documents/employers andsponsors/pointsbasedsystem/registerofsponsorseducation

26 See www.cavendish.ac.uk/fees/fees/FT_Fees.pdf

27 The University and College Union's campaign material on this issue is at www.ucu.org.uk/index.cfm?articleid=2296

28 Correspondence with John Wood, Executive General Manager University Programs, Navitas

29 Following the definition used by Fielden J and Varghese N V (2009) 'Regulatory issues', in Bjarnason S et al (2009) op cit p 71

30 Fielden J and Varghese N V (2009) op cit pp 73-75

31 This table relates to 'private providers and provision'. It is important to note that publicly-funded universities in the UK represent a range of different legal entities and therefore have different legal powers. As higher education interacts more with the private sector, this issue may come into sharper focus

32 This is unlike the position in many countries, such as Tanzania, where the regulating agency publishes common statistics annually on both public and private institutions

33 'Accreditation' is an assessment – through documentary analysis and usually a site visit – of programmes and institutions against predetermined criteria or standards, ending in a formal decision as to whether these criteria or standards have been met. Typically, the standards and criteria are derived from the 'traditional', publicly-funded sector

34 Higher education institutions subscribe to NARIC and both further education colleges and employers use NARIC to verify and compare qualifications

35 For example Royal Charter, companies limited by shares, companies limited by guarantee, higher education corporations (or other statutory corporations) and trusts. Those universities with Royal Charters have the greatest freedoms. Government policy may allow a change of status between some of these categories in future in order to increase levels of freedom

36 It is important to note that some recent legislation differs in Scotland from other parts of the UK; the Scottish Government does not demonstrate the same approach or attitude to private higher education providers as is evident in Whitehall policy

37 Levy D (2006) 'The unanticipated explosion: private higher education's global surge' *Comparative Education Review* 50 No 2 pp 218-40

38 See discussion in Lemaitre M-J (2009) 'Quality assurance for private higher education' in Bjarnason S et al (2009) op cit pp 99-109

39 See, for example, the ambitious OECD initiative launched in 2006 to try to assess learning outcomes on an international scale, the Assessment of Higher Education Learning Outcomes (AHELO) project www.oecd.org/document/51/0,3343,en_2649_35961291_4011947 5_1_1_1_1,000.html (accessed 3.8.09)

40 Lemaitre M-J (2009) op cit p 103

41 Department for Business, Innovation and Skills (2009) *Higher ambitions – the future of universities in a knowledge economy*

42 Thanks are due to Dan Levy for his comments on these issues

43 In 2008 the Higher Education Funding Council for England (HEFCE) commissioned a report on the size and shape of publicly-funded partnerships (ie those in receipt of HEFCE teaching funding) between universities and private providers; many of the findings from this study are similar to those reported in this chapter

44 Eversheds LLP (2009) *International partnerships: a legal guide for UK universities* London: UK International Unit Available at www.international.ac.uk/our_research_and_publications/index.cfm (login required)

45 This perspective perhaps ignores the increasingly entrepreneurial and 'businesslike' behaviour of many UK universities, notably in their international operations

46 See, for example, the article by Lucy Hodges in *The Independent*, on the topic of Apollo Global's purchase of BPP www.independent.co.uk/news/education/higher/american-owner-of -mcdonalds (accessed 4.9.09)

47 Levy D (2009) 'Growth and typology' in Bjarnason S et al (2009) op cit pp 1-27; Altbach P et al (2009) *Trends in global higher education: tracking an academic revolution* Boston: Boston College pp 75-83

48 Garrett R (2005) *The global education index 2005 part 2: public companies - relationships with non-profit higher education* 1 November 2005 www.obhe.ac.uk/documents/view _ details?id=46 (accessed 13.02.09)

49 However, the UK students of the University of Buckingham may access public funds for support

50 See 'Edges of technology' *International Focus* 1 July 2009 Issue 41 UK Higher Education International Unit

51 CBI (2009) *Stronger together; business and universities in turbulent times* London: CBI p 37

52 As an example, for-profit providers in the United States have been waiting for regulatory proposals from the new administration. Immediately after these were published in September 2009 and thought to be better than expected, the shares of the companies concerned rose by 8 per cent

53 The Council for Higher Education Accreditation and UNESCO have published new guidelines: *Towards effective practice: discouraging degree mills in higher education* (2009) available at www.chea.org/pdf/degree_mills_effective_practice.pdf

54 However thorough the regulations, unscrupulous providers will still be able to ensnare naïve international purchasers. For a current example of an institution claiming to be one of the world's top 25 institutions, see www.marriscollege.co.uk (accessed 26.9.09)

55 UK Higher Education International Unit (2009) *International partnerships: a legal guide for universities* Research Series 5 July 2009 London: UK Higher Education International Unit

56 For example, one private provider was told that it must have a body analogous to senate, even though it had two independent committees reviewing quality

57 UK Parliament, Innovation, Universities, Science and Skills Committee (2009) *Students and universities* www.parliament.uk/parliamentary_committees/ius.cfm (accessed 03.08.09)

58 'A level playing field' can take different forms; for example, equal treatment meaning the same treatment for all parties, or equity of treatment, meaning different but fair treatment (as discussed in chapter 5)

59 As noted in chapter 5, common regulations across all types of provider would not be straightforward as publicly-funded institutions are themselves different legal entities with different powers

60 See the database of such laws on the PROPHE website www.albany.edu/dept/eaps/prophe/data/countrylaw.html

61 Newcastle College acquired the bulk of the business of Carter and Carter, a quoted company, in March 2008 after the company went into financial difficulties following the death of its founder Philip Carter

62 Australia's private education market already includes two private Australian universities, several international universities, around 70 'pathway colleges' – including private arms of public universities – and some 4000 private vocational education and training providers

63 OECD (2007) *Tertiary education for the knowledge society* Volume 1 Paris: OECD pp 44-47

64 Levy D (2009) 'For-profit versus non-profit private higher education' *International Higher Education* 54 Winter 2009 pp12-13

65 Fiorioli E (2009) 'Fact finding I – the QA framework' Presentation given to a conference by Osterreichische Kreditierungsrat in Vienna on 7 May 2009 (Presentation of initial findings from a survey of QA agencies and NARICs in nine continental European countries) http://www.akkreditierungsrat.at/files/Seminar2009/Presentations _Vienna_7_8May2009/02_FIORIOLI_Vienna_2009_FactFindingI.pdf (Accessed 29.11.09)

66 Levy (2009) op cit

67 Ibid

68 Ibid

Universities UK