



## Private higher education provision

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The purpose of this note is to outline the provisions governing private higher education in England and to discuss current issues around this subject. The note is written in the context of the government's higher education reform agenda and discusses the future role of private higher education providers.

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## 1 Summary

There are many private higher education providers in the UK; they offer degree level courses and they receive no money from public funds. Most of these private institutions are colleges that offer programmes of study which are validated by other public higher education institutions. However there are currently five private higher education institutions with degree awarding powers in England: the University of Buckingham, BPP University College of Professional Studies, the College of Law, Ashridge Business School and IFS School of Finance. Of these institutions only the University of Buckingham offers a similar range of courses to public universities, the others generally provide a more limited range of courses and they tend to specialise in business, law, computing, management and hospitality courses.

The debate about private universities in the higher education sector has increased since BPP was granted university college status on 26 July 2010. David Willetts, the Minister of State for Universities and Science, made his views on private providers clear when commenting on BPP's new status:

"It is healthy to have a vibrant private sector working alongside our more traditional universities," said Mr Willetts, who has conferred university college status with immediate effect.

"I am delighted that, less than four months after coming into office, we are creating the first new private university college in more than 30 years.<sup>1</sup>

The government's proposals to open up the HE sector to a wider range of providers have been set out in the higher education White Paper [Students at the Heart of the System](#). These proposals have been welcomed by private providers, however public HE sector bodies are generally wary of the proposals and the University College Union have warned against expanding for-profit institutions. The public sector's main concerns are regulation and quality control of the private sector and the impact of increased competition on public sector provision.

## 2 Recent developments in HE

On 12 October 2010 the Browne Review of higher education published its report [Securing a Sustainable Future for Higher Education](#). The report proposed far reaching changes to the structure of higher education and student support. One of the report's most significant recommendations was the proposal to remove the cap on tuition fees and allow universities to increase fees to at least £6,000 a year.

Following the Browne Report on 3 November 2010 David Willetts made a statement in the House, [Higher Education Funding and Student Finance](#), in which he set out the government's thinking on the future of higher education. The statement outlined proposals on tuition fees and student support and set out wide ranging plans for the future structure of higher education including an increased role for new providers:

We also propose to open up higher education provision to new providers, including Further Education Colleges.

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<sup>1</sup> ["First private university in decades to be created"](#) BBC News 26 July 2010

Subsequently on 8 December 2010 Parliament passed two regulations the [Higher Education \(Basic Amount\) \(England\) Regulations 2010](#)<sup>2</sup> and the [Higher Education \(Higher Amount\) \(England\) Regulations 2010](#)<sup>3</sup> regulations which would allow universities to charge annual fees of between £6,000 and £9,000.

## 2.1 The Higher Education White Paper

The higher education White Paper [Students at the Heart of the System](#) was published in June 2011.<sup>4</sup> The Executive Summary of the Paper outlined the government's aim to open up the higher education sector;

We will remove the regulatory barriers that are preventing a level playing field for higher education providers of all types, including further education colleges and other alternative providers. This will further improve student choice by supporting a more diverse sector, with more opportunities for part-time or accelerated courses, sandwich courses, distance learning and higher-level vocational study. It will also lead to higher education institutions concentrating on high-quality teaching, and staff earning promotion for teaching ability rather than research alone.

We will make it easier for new providers to enter the sector. We will simplify the regime for obtaining and renewing degree-awarding powers so that it is proportionate in all cases. We will review the use of the title 'university' so there are no artificial barriers against smaller institutions. It used to be possible to set up a new teaching institution teaching to an external degree. Similarly, it was possible to set exams for a degree without teaching for it as well. We will once more decouple degree-awarding powers from teaching in order to facilitate externally-assessed degrees by trusted awarding bodies.<sup>5</sup>

Mr Willetts presented the White Paper to the House in a statement on 28 July 2011 [Higher Education White Paper](#), in this statement he said he would remove barriers to wider higher education provision:

Student choice will be more real if we liberalise quotas and transform information, and if there is a greater diversity of institutions to choose from. We will therefore remove the barriers to more provision from the Open university, further education colleges and private providers. We will simplify the regime for obtaining degree-awarding powers. We will also review the artificial barriers to smaller higher education institutions taking the title, "university".<sup>6</sup>

## 3 Private UK HE providers

There are currently many private providers of HE in the UK, a small number of these such as BPP University are for-profit institutions. Others such as the College of Law are not-for – profit institutions and have charitable status. A report by the Higher Education Policy Institute (HEPI) in May 2011 [Private Providers in UK Higher Education: Some Policy Options](#) discussed the relevance of the for – profit/ not – for – profit distinction:

So, is the for-profit/not-for-profit distinction relevant? One argument suggests not: the public interest lies in education of high quality being provided and consumer interests being protected – whatever the status of provider. The DAP (Degree Awarding

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<sup>2</sup> SI 2010/3021

<sup>3</sup> SI 2010/3020

<sup>4</sup> Department for Business, Innovation and Skills [Students at the Heart of the System](#) June 2011 Cm 8122

<sup>5</sup> Ibid p 5-6

<sup>6</sup> HC Deb 28 July 2011 c769

Powers) and quality assurance processes should ensure these outcomes. Beyond that, whether a profit arises from providing higher education is not of public concern. The main counter-argument is that, where public funds are used to generate profits for shareholders, there are legitimate grounds for public concern and scrutiny. A second and more complex point that is sometimes made is that whereas in the case of public institutions surpluses income is re-invested fully in the educational business this is not the case with for-profit institutions; but national QA (Quality Assurance) systems will find it hard to disentangle evidence on the use of profits in multi-national or multi-mode for-profit education businesses and then to exercise any influence on how they are used. If this is a concern careful scrutiny of the evidence concerning the deployment of profits and any potential impact on students and their education would be needed. Care will also be needed in shaping a new and comprehensive regulatory framework. If an equitable and broadly comparable regulatory framework is developed for all institutions in the sector, it may need some mechanisms for monitoring surpluses and alerting a regulator where the amount given to shareholders might be considered excessive.<sup>7</sup>

A press release by the Higher Education Statistics Agency (HESA) [UK Survey of private and for-profit providers of Higher Education in the UK 2009/10 - Provisional figures](#) gives data on private HE providers the UK. The statistics showed that in 2010 nearly 38,000 students were attending private HE institutions.

Private providers tend to offer a smaller range of subjects than public institutions and they often cater more to the overseas market. HESA data published in the [Survey of private and for-profit providers of Higher Education in the UK 2009/10 - Provisional figures](#), shows the number of students registered at individual private providers and the type of courses studied.

#### **4 Expansion of private provision**

The UCU report *Privatising our Universities* points out that the UK private HE sector is currently small:

The private sector in UK higher education is still relatively small. Besides a number of private education companies offering pathway courses for international students like INTO, Navitas, Study Group International it consists of the University of Buckingham, Kaplan's Holborn College and two companies with degree awarding powers, the College of Law and BPP College.<sup>8</sup>

The HEPI report *Private Providers in UK Higher Education: Some Policy Options* states that the private HE sector is expanding in the UK and abroad:

The growth of a private higher education sector in the UK is part of a global trend. Throughout the world, the number of students in private institutions is growing faster than in publicly-owned and funded ones. The reasons are simple; governments simply cannot afford to pay for the higher education that is required; thus, the private sector is expanding to meet the demand. It is what Dan Levy has called "demand absorbing". Private provision is highest in those regions where the expansion of higher education is the greatest and governments are overwhelmed by the financial implications.<sup>9</sup>

Private providers have suggested that the current HE regulatory system presents barriers to institutions trying to increase their role in the UK HE sector. An article in the *Times Higher*

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<sup>7</sup> HEPI p36

<sup>8</sup> UCU *Privatising our Universities* p 11

<sup>9</sup> HEPI Report 53 [Private Providers in UK Higher Education: Some Policy Options](#)

*Education* (THE) in September 2010<sup>10</sup> suggested that even the definition of private and public in the UK HE context is confusing and unhelpful:

What academics and other experts appear to agree on is that current regulations on private provision contain messy inconsistencies - due in no small part to the murky definitions of what constitutes the public and the private.

According to definitions used in statistics for the Organisation for Economic Cooperation and Development, a university is public or private depending on whether the government or another public authority controls and manages the institution either directly, through an agency, or by appointing most members of its governing body.

However, it also cites sources of funding as an important distinction, with institutions receiving more than 50 per cent of their core income from public sources defined as "government dependent".

Most UK higher education institutions come under this category despite being classed as "private" because of their autonomy. Conversely, according to an OECD report in 2009, more than 70 per cent of enrolments in the US in 2006 were at "public" institutions, despite such institutions receiving a large proportion of their income from private sources.

An article in the *THE* on 24 June 2010 said that private providers wanted a 'level playing field' and said that there were various ways in which this could be achieved:

Suggestions include allowing the private sector better access to the student loans system, making it easier for them to call themselves universities, and wider distribution of degree-awarding powers.<sup>11</sup>

#### **4.1 New College of the Humanities**

In June 2011 a group of well-known academics including Professors A C Grayling and Richard Dawkins announced that they were establishing a private college to teach humanities subjects;<sup>12</sup> this is the first private college of its kind and its creation generated very mixed reactions.<sup>13</sup> The [New College of the Humanities](#) will offer eight undergraduate courses validated by the University of London degrees; the college aims to rival Oxbridge by employing prominent academics to teach courses and attracting 'gifted' pupils. The college intends to open in September 2012 and charge fees of £18,000 a year.

## **5 Issues**

### **5.1 Degree awarding powers (DAPs)**

Private providers can be granted their own degree awarding powers (DAPs) under current legislation, however nearly all private providers offer degrees which are validated by a different public UK HEI and only the University of Buckingham, BPP the College of Law, Ashridge Business School and IFS School of Finance have their own degree awarding powers.

The current criteria for DAPs are available on the Department for Business, Innovation and Skills (BIS) website in a document [Applications for the grant of taught degree awarding](#)

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<sup>10</sup> "[Private practice](#)" *Times Higher Education* 9 September 2010

<sup>11</sup> "[Willetts signals boost for external providers](#)" *THE* 24 June 2010

<sup>12</sup> "Academics launch £18,000 college in London" BBC News 4 June 2011

<sup>13</sup> "Minister encouraged launch of elite college" *Sunday Times* 12 June 2011

*powers, research degree awarding powers and university title* (2004). Under the current criteria universities applying for DAPs should meet the following requirements:

- have had no fewer than four consecutive years' experience, immediately preceding the year of application, of delivering higher education programmes at a level at least equivalent to Level H of the Framework for Higher Education Qualifications for England, Wales and Northern Ireland (FHEQ) published by QAA;
- normally have the majority of their higher education students enrolled on study programmes which are recognised as being at Level H or above of the FHEQ

A Technical Consultation document published by the Department for Business, Innovation and Skills (BIS) in August 2011 *A new, fit-for-purpose regulatory framework for the higher education sector* outlines the current application process for DAPs:

### **Application for degree awarding powers**

3.3.1 Any organisation providing higher education, whether publicly funded or not, is entitled to apply for degree awarding powers.

3.3.2 Applications must be made to the Privy Council. On receipt of an application the Privy Council Office forwards the submission to the Secretary of State for advice as the relevant Privy Councillor. He then seeks advice from the Skills Funding Agency (SFA) in the case of applications for foundation degree awarding powers and, where relevant, from HEFCE regarding the financial status of the applicant organisation. Applications are then sent to the Quality Assurance Agency (QAA) for advice. In offering its advice the QAA observes criteria set by the Government governing the granting of powers (see Annex). The QAA Board makes a recommendation to the Secretary of State as the relevant Privy Councillor. The Privy Council then reviews the evidence and decides whether to award degree awarding powers.<sup>14</sup>

Unlike publicly-funded institutions, degree awarding powers are granted to private providers for a period of up to six years, after which time they must be reviewed and can be revoked. Publicly funded providers are given their degree awarding powers in perpetuity. This difference was discussed in an article in the *Times Higher Education (THE)*<sup>15</sup>:

For example, a major inconsistency cited by UK private providers is that their degree-awarding powers are reviewed by the Quality Assurance Agency every six years, whereas publicly funded universities keep their powers indefinitely.

Geoffrey Alderman, professor of politics and contemporary history at the private University of Buckingham, says the present situation is "completely ludicrous".

"My view is no university in this country - no British degree-granting institutions - should have those powers given to them in perpetuity. I have never seen a compelling defence of this system."

Not surprisingly, leaders of private institutions agree. Gavin Shreeve, principal at ifs School of Finance, says it is an "unfair and utterly arbitrary" rule. "There is no justification for it whatsoever."

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<sup>14</sup> BIS *A new, fit-for-purpose regulatory framework for the higher education sector* August 2011 p22

<sup>15</sup> "Private Practice" *THE* 9 September 2010



A report by the Policy Exchange [Higher education in the age of austerity: the role of private providers](#) discussed the issue of time limited DAPs, but voiced caution about granting degree awarding powers to private providers indefinitely:

Many senior personnel at private HEIs expressed the view that the six year period before renewal is required is far too short, and indeed that the renewal requirement should be removed altogether. Whilst we agree that six years is an inappropriately short period of time, we feel that to scrap renewal requirements entirely may lead to complacency and could risk undermining public confidence in the private HE sector as a whole. Instead, we suggest that DAPs should be granted for a minimum ten year period before renewal is required. Furthermore, we recommend that this process of assessment and renewal should be extended to public institutions.<sup>16</sup>

## 5.2 White Paper proposals on DAPs

The HE White Paper makes the following proposals on DAPs:

### Market entry – taught degree-awarding powers

4.26 As part of establishing a new regulatory framework, we will consult on changes to the criteria and process for the granting and renewal of degree-awarding powers at undergraduate level, with a view to making this more flexible. We are confident we can accelerate the process while maintaining standards. For example, a different approach could be taken to an organisation's track record.

4.27 Given degree-awarding powers are now subject to regular review, the argument for a four-year track record is weaker than when this requirement was first introduced, when such powers were awarded in perpetuity. There could also be more flexibility in considering applications from organisations whose track record relates to teaching overseas. At present, overseas track record can be taken into account but the Quality Assurance Agency (QAA) require assurance that there is an understanding of the norms and expectations that underpin the UK degree. Where things are done differently overseas, the track record and reputation of the provider may count for little.

4.28 We will also propose legislation to allow institutions that do not themselves teach to award degrees. Current practice restricts choice for both student (e.g. the possibility of progressing directly to a degree with a national awarding body brand) and providers (whose ability to provide higher education is dependent on a university being willing to validate their degrees).

4.29 The aim of any changes would be to create a simpler and more transparent system that allows for greater diversity of provision. This could result in more bodies with taught degree-awarding powers or an extension of the external degree model such as those awarded by the Open University, University of London and the proposed new degree from the Business and Technology Education Council (BTEC).

4.30 It is vital that quality and academic standards are maintained. In line with our proposals to introduce a more risk-based approach to quality assurance, we will expect providers that lack a well-established track record – for example those that have recently acquired degree-awarding powers – to be subject to more frequent and/or in-depth QAA institutional review. We will also put in place appropriate sanctions, introducing the powers to suspend or remove degree awarding powers where quality or academic standards fail. This change will apply to both taught and research degree-awarding powers.

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<sup>16</sup> Policy Exchange [Higher education in the age of austerity: the role of private providers](#) p7



### 5.3 Monetary value of achieving degree awarding powers

In 2009 the US private HE provider Apollo paid \$607 million for BPP:

Apollo Group's subsidiary Apollo Global has acquired BPP Holdings, a London-based provider of education and training, for \$607 million, The Phoenix Business Journal reported.<sup>17</sup>

A 2007 article on BPP in [Investors Chronicle](#) suggested that achieving degree awarding power could increase a provider's market value:

#### **BPP (BPP)**

A final decision is also expected later this year on whether BPP will be granted degree-awarding powers. That would bring access to a post-graduate market roughly twice the size of the professional education market BPP currently serves.

[...]

If BPP wins degree-awarding powers then this could provide further share price upside but, on 23 times forward earnings, the share price rating is already factoring in significant growth ahead.

In a more recent case US for profit provider Capella Education Company has acquired a UK independent provider – Resource Development International (RIA) and under the terms of the deal Capella will pay an extra £4million if RIA is granted DAPs by July 2016.<sup>18</sup>

### 5.4 Simplification of the processes for granting DAPs and university title

Representatives from the private sector have argued for changes to the processes for granting DAPs and university title. The Dean of BPP has stated that the changes which he considers necessary for the private HE sector would be hampered unless the process for gaining university status was simplified.<sup>19</sup>

The BIS *Technical Consultation* document proposed changing the processes for granting DAPs and university title; it suggested that HEFCE could be given responsibility for administering these processes:

3.3.9 As far as possible we want to simplify the processes for granting degree awarding powers and university title while maintaining the standards, value and integrity of what these represent.

3.3.10 We have considered the role of the Privy Council in the regulation of higher education providers and whether it represents an unnecessary level of bureaucracy in the process. We believe that it is important to retain this element of independence in the processes for both degree awarding powers and university title. It separates the decision making process from the assessment and helps to ensure that standards are met before degrees can be awarded or an institution can become a university. The Privy Council has played a very significant role throughout the history of our universities. Its role in approving degree awarding powers and university title contributes to the reputation of UK higher education.

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<sup>17</sup> ["Apollo Pays \\$607 Million for BPP of London"](#) *Deal Book* 31 July 2009

<sup>18</sup> ["Takeover of online provider reignites debate over degree – awarding powers"](#) *THE* 11 August 2011

<sup>19</sup> ["Private revolution on the way"](#) *Policy Review Magazine* 19 January 2010

## Consultation question:

**Question 9:** Do you agree that it is important to retain the Privy Council as an independent element in the process for awarding, renewing and removing degree awarding powers and university title?

3.3.11 In future, responsibility for administering the process for both granting, renewing and, where appropriate, removing degree awarding powers (and for granting university title (taking into account reviews of the organisation's quality assurance arrangements), as well as responsibility for advising the Secretary of State and the applicant on such applications, will rest with HEFCE. As the regulator for the HE sector HEFCE will be the body best placed under the new regulatory system to undertake this role.

3.3.12 In future, HEFCE will become the specified body for the sensitive words 'university' and 'polytechnic'. As the regulator for the HE sector and with responsibility for the process for granting university title, it will be the body best placed to protect these sensitive words, thus helping to safeguard the reputation of England's higher education sector, and to provide a view to Companies House on its use in a business or company name.

## 5.5 Breaking the link between degree awarding powers and teaching

The *Further and Higher Education Act 1992* section 76 says that the power to award degrees can only be granted to an 'institution which provides higher education', this has been interpreted to mean organisations which teach courses. At the [Universities UK Spring Conference 2011](#) David Willetts said that he wanted to break the link between degree awarding powers and teaching:

Another barrier to open access and contestability is the automatic link between degree awarding powers and teaching. Over the past 50 years, we have created a regulatory system which says that teaching students and awarding degrees must be done by the same institution. And that is certainly one way of doing it, as represented by the institutions in this room. But it is not the only way. Quality standards have to focus on quality alone. They must not protect one way of delivering higher education at the expense of others.

Indeed the growth of higher education in England between 1850 and 1950 was based on a very different model. Degrees were awarded by the University of London for the South, and the original proposal was for Manchester to do the same for the North. New entities were able to set up as colleges teaching students for the external degrees of these institutions. That system had great merits. It meant that students at new institutions could obtain degrees or other qualifications from prestigious and well understood institutions. They did not have to set up a new degree to get public respect. It also provided a benchmark against which the quality of education could be measured.

We have reached the position where the regulatory system makes such a model pretty much impossible today. The external degrees of the University of London are now largely for foreign students. They should, once again, be widely available across Britain. I already have colleges coming to my office keen to educate their students locally to that standard and trying to navigate today's elaborate financial and regulatory system to make that possible. It should be possible and we are engaged in the tricky and challenging work of making it easier for them without compromising our spending controls. So we will permit organisations to offer external degrees without necessarily teaching themselves – BTEC degrees are on their way, for example.

## The Pearson Case

Pearson is the publishing house which owns the examination board Edexcel, it wants to be granted DAPs so that it can provide FE colleges with degree validation. As Pearson is not a teaching institution a change in the law would be required to allow bodies such as Pearson and other similar organisations to be granted Pearson DAPs:

One of the world's largest publishers, Pearson, looks set to be given degree-awarding powers, as the government seeks to open up the university sector to more private providers.

Pearson, which owns exam board Edexcel, plans to start by offering four vocational degrees with a further education college.

But it wants to award degrees itself, which would require a law change.

The government says it is considering this.

Universities Minister David Willetts has made no secret of his plans to open up the university sector to private providers.<sup>20</sup>

David Willetts has indicated his willingness to extend DAPs to non- teaching bodies such as Pearson:

We will allow non-teaching bodies to apply to offer external degrees – so opening up the market.

Pearson, for example, has already expressed an interest in developing BTEC degrees in conjunction with colleges. I regard this is important to both the skills and the social mobility agendas – with colleges, universities and other training providers offering this tried-and-tested qualification at a higher level for the first time.<sup>21</sup>

## 6 University title

Any organisation in the higher education sector which has taught degree awarding powers under the 2004 criteria may apply to the Privy Council for university title or university college title. In 2010 BPP was granted university college status by the Department for Business, Innovation and Skills (BIS), it is now known as BPP University College of Professional Studies Limited.

The criteria for the award of university title are set out in the BIS document [Applications for the grant of taught degree awarding powers, research degree awarding powers and university title](#) (2004) on page 24:

An organisation wishing to apply for approval to use the title 'University' must:-

- have been granted powers to award taught degrees;
- normally have at least 4,000 full time equivalent higher education students, of whom at least 3,000 are registered on degree level courses (including foundation degree programmes); and,
- be able to demonstrate that it has regard to the principles of good governance as are relevant to its sector.

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<sup>20</sup> [“Publishing giant Pearson looks set to offer degrees” BBC News](#) 14 December 2010

<sup>21</sup> BIS Speeches by David Willetts [HE in FE Conference](#) 31 March 2011

The BIS *Technical Consultation* document states on page 24 that organisations which do not meet the 2004 criteria can also apply for university title:

Organisations not eligible to apply for university title via this process can apply to Companies House to use the sensitive word 'university' in their title. They will first need to seek the approval of BIS, as the specified body for the sensitive word 'university', which applies the same criteria as above in assessing the application. The documents sent to Companies House for the name proposed must include a statement that such a request has been made and provide a copy of any response from BIS. The decision to approve is taken by the Registrar of Companies on behalf of the Secretary of State, not by BIS as the specified body.

The HE White Paper proposes allowing smaller institutions (those with less than 4,000 full time equivalent students), to acquire the title, "university".

The Policy Exchange report [\*Higher education in the age of austerity: the role of private providers\*](#) discussed the issue of university title:

University title confers a degree of prestige on an institution which can make it significantly more attractive to prospective students. One private institution told us that due to the impact of university title on their brand reputation and marketing opportunities, they would expect to see a 30-35% increase in the number of student applications.

Many private providers target international students and a UK degree has a high reputation and value abroad. Achieving degree awarding powers and university title could increase the number of students enrolling at an institution – this is particularly important as the overseas student market is highly lucrative.

## **7 Student support**

Current student support regulations allow some students on 'designated' HE courses at private universities to access student support. However, most students at private institutions are not eligible for student support. The Policy Exchange report [\*Higher education in the age of austerity: the role of private providers\*](#) highlighted the confusion around this issue:

the Department for Business, Innovation and Skills takes a piecemeal approach to support for students at PHEIs, granting designated status on a course-by-course basis. The result is a total lack of clarity around this issue.

In theory, students enrolled on designated courses run by PHEIs are eligible for the full non-means-tested tuition fee loan of up to £3,290 in 2009/10. However, this is so poorly publicised that even Student Finance England appeared entirely unaware of it when we called for advice.<sup>22</sup>

A UUK report [\*The growth of private and for-profit higher education providers in the UK\*](#) commented that private HE had flourished in other countries because of the availability of public funding for students:

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

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<sup>22</sup> *Ibid* p10

those attending private institutions with degree awarding powers (who are eligible for maintenance grants and loans).<sup>23</sup>

## 7.1 Number of students at private institutions currently receiving public support

Information given in answer to a PQ on 16 September 2010 confirmed that many private providers already have access to the student support system:

### Higher Education: Private Sector

**Jon Trickett:** To ask the Secretary of State for Business, Innovation and Skills how many students at each private higher education institution are eligible for student support. [15356]

**Mr Willetts:** For the purpose of student support, a private higher education institution is any provider of higher education which is not publicly funded. Higher education courses provided by private institutions in the UK may be specifically designated to attract student support on an individual basis. They must all be accredited by a recognised UK awarding body such as a university, with the exception of the University of Buckingham which has its own degree-awarding powers. English-domiciled students attending these courses can apply for student support. The table which shows the number of approved student finance applications by English-domiciled applicants planning to study at private higher education institutions in academic year 2009/10 will be placed in the Library of the House. The figures include applications for all types of full and part time undergraduate student support and postgraduate disabled student allowance<sup>24</sup>

A House of Commons deposited paper (Dep 2010-1756), showed that 4440 students at private HEIs received student support in 2009/10.

An article in the *THE* on 28 April 2011<sup>25</sup> discussed the issue of students at private colleges receiving student support:

Private colleges providing degrees in subjects ranging from law and finance to bible studies and acupuncture have received more than £25 million via taxpayer-subsidised student loans since top-up fees were introduced, Times Higher Education has learned.

The data from the Student Loans Company show the extent to which students at independent colleges, which are not subject to a recruitment cap, have already accessed fee loans ahead of steps by the coalition government to further open up the system.

As reported in *THE* last month, about 60 private providers have access to the public loans system, including alternative therapy specialists, religious-based institutions, a training school for nannies and for-profit providers such as BPP University College.

A Freedom of Information request has now revealed that in total, undergraduates at the institutions - classed as those without public funding council grants - borrowed £9 million in state loans to help pay tuition fees in 2009-10.

Although this constituted less than 0.5 per cent of total fee loans, it represented an increase of £2 million on 2008-09 and was almost three times as much as was

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<sup>23</sup> UUK *The growth of private and for-profit higher education providers in the UK* p6

<sup>24</sup> HC Deb 16 September 2010 c1261

<sup>25</sup> "Taking credit: the rise and rise of private SLC income" *THE* 28 April 2011

borrowed in 2006-07, the year top-up fees were introduced - although only one cohort of students borrowed money in that first year.

The institutions that received the most from the SLC last year were: the Guildford-based Academy of Contemporary Music (£2 million); the Brighton Institute of Modern Music (£1.6 million); and the Greenwich School of Management (£823,000).

Others in receipt of substantial sums included Moorlands College, a Christchurch-based Christian institution (£337,000); Mattersey Hall Assemblies of God Bible College (£306,000); and better-known institutions such as the University of Buckingham (£376,000).

Students at the College of Traditional Acupuncture in Hatton, Warwickshire borrowed £166,000 for fees, while those at Bath-based Norland College - described as "the world's most upper-crust nursery training school" - received £90,000 in tuition fee loans.

Another article in the *THE* on 2 December 2010 expressed concern about the cost of extending student support to students at private institutions:

"Indeed, one doomsday scenario put to me is that if the government pushes ahead with expanding access for the student-support arrangements to private providers, it cannot afford to do this without reducing the numbers of students accessing student support at the traditional universities."

For-profit providers such as BPP, a subsidiary of the US-based Apollo Group, are keen to sign up to arrangements allowing more students access to loans. Growth is even more vital after Apollo recently wrote off \$170 million (£109 million) from BPP's value in the wake of the economic downturn.<sup>26</sup>

## **7.2 White Paper proposals on access to student support**

The White Paper proposed allowing students at private HEIs to access fee loans of up to £6,000 per year and instigating a more consistent regulatory framework across all providers:

Currently both publicly funded institutions such as universities and further education colleges and privately funded providers can have certain higher education courses designated for student support. Courses at publicly funded institutions are automatically designated whereas private providers have to apply to the Government to have courses specifically designated on a course by-course basis. However, unlike institutions in receipt of Higher Education Funding Council for England (HEFCE) funding, private providers are not currently subject to the same regulation around access, price and information which are applied as a condition of HEFCE grant.

From 2013/14 we plan to introduce a new regulatory framework (see Chapter 6) which will ensure all providers wishing to access student support are treated on a more consistent basis. But we are keen to encourage diversity and competition in the sector so, as a first step, the maximum tuition loan available to first-time undergraduate students studying at designated private institutions will be increased to £6,000 for new students starting courses on or after 1 September 2012. This is in line with the amount that institutions in receipt of HEFCE grant can charge their students without putting in place an Access Agreement

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<sup>26</sup> "Doomsday scenario: private access to student support may cost academy" *THE* 10 December 2010



## 8 Regulation of private providers

Details of the regulatory system as it affects private HE providers is set out in a table in UUK [The growth of private and for-profit higher education providers in the UK](#) on p32. The report says that the regulatory system can be considered in two stages, the first stage relates to the establishment of the institution and the second stage covers the operation of the institution. 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. Once the provider is operational the regulatory framework seeks to oversee the quality of provision, review of finance and the collection of statistical data. The UUK report comments on the complexity of the regulatory framework:

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.<sup>27</sup>

The *THE* article "[Private Practice](#)" suggested that softer regulation would encourage more private providers:

lighter regulation would enable the UK government to successfully encourage greater engagement with for-profits - especially to the extent of allowing them to provide their own degrees.

The HEPI report, [Private Providers in UK Higher Education: Some Policy Options](#), discussed some policy questions and options relating to their regulation of private providers:

The question of whether 'the playing field' - in regulatory and funding terms is level - has been addressed in different reports. We have also asked this question in interviews with private providers and traditional institutions. The answer is clearly that the 'playing field' is not level at present, with different restrictions and opportunities applying. Private sector providers do not have access to Funding Council grants, but they are not subject to oversight and accountability requirements that are associated with receipt of such funds, notably with regard to publicly available data and information about performance. Traditional institutions in receipt of public funds have been able to build wide-ranging provision and opportunities for students, but they are also subject to policy direction on, for example, widening access and participation as part of their contract with the State. A more relevant question for future policy is whether the playing field should be made level – or more level – and in what ways? A preliminary issue to resolve is whether treatment of all types of provider should be equal (the same) or whether it should be equitable (fair) so that differences are recognised, but unfair restrictions or penalties are avoided.

The report argued that a new Private Higher Education Act was needed and concluded that private providers should be treated in the same way as public providers and that differences in their treatment should exist only where fully and explicitly justified.

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<sup>27</sup> UUK [The growth of private and for-profit higher education providers in the UK](#) p6



On 5 May 2011 the University and College Union (UCU) published their response to the HEPI report and backed their call for tighter regulation of for-profit education providers:

Responding to a new report by the Higher Education Policy Institute (HEPI), which warns that the current regulatory system is not 'coherent', UCU called on the government to heed the lessons from America.

The US Senate is currently investigating for-profit education providers after a string of scandals in the States, and today's HEPI report calls for a 'comprehensive' Private Higher Education Act to maintain quality and standards, and protect students.

UCU has continually warned that the for-profit model is fraught with danger, and pointed to the report's study of America, which details how for-profits are failing to retain students and are cherry-picking the most profitable courses, when 'the state sector could offer a better quality of education, if funded to do so'.

UCU general secretary, Sally Hunt, said: 'We urgently need tougher regulation of for-profit companies if we are to protect quality and standards in our higher education system. As events in America have shown the for-profit model is fraught with danger for students and taxpayers alike and it is essential that our government rethinks its decision to embrace it.

'As today's report shows, in its study of for-profits in America, publicly-funded education delivered by established providers offers a better quality of education.'<sup>28</sup>

The HE White Paper proposed making private providers wishing to access the student support system subject to the same regulations as public HEIs on access, price and provision of information as public institutions. However Carl Lygo, the principal BPP University College, has expressed his concern about HEFCE acting as lead regulator, after comments were published in a HEFCE report which said that the goals of the private sector might not match the national interest.<sup>29</sup>

## 9 Standards at private providers

It has been suggested standards could fall if current procedures are changed to increase the number of new private providers in the sector:

Carl Lygo, principal of the private BPP University College, said the proposals on degree-awarding powers were "completely revolutionary" and at odds with the current regime.

BPP had to go through a three-year process to gain its degree-awarding powers.

Mr Lygo sounded a warning: "You can't just open the door to anybody - you've got to have the high standards that are expected in the UK sector. We will all lose out if the door is opened to such an extent that any player regardless of quality can enter."<sup>30</sup>

## 10 The American Experience

The US private for-profit higher education sector has grown dramatically in the last decade. An overview of the current position was given in a report by the US Government Accountability Office (GAO):

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<sup>28</sup> UCU news, [Regulation of for-profit education is not 'coherent', warns new report](#), 5 May 2011

<sup>29</sup> "Private concerns" *THE* 7 July 2011

<sup>30</sup> "Willets set to widen pool of degree-awarding bodies" *THE* 3 March 2011

Enrollment in for-profit colleges has grown from about 365,000 students to almost 1.8 million in the last several years. These colleges offer degrees and certifications in programs ranging from business administration to cosmetology. In 2009, students at for-profit colleges received more than \$4 billion in Pell Grants and more than \$20 billion in federal loans provided by the Department of Education (Education)<sup>31</sup>

In 2010 the US Senate Committee on Health, Education, Labor and Pensions (HELP) conducted an inquiry into private HE amid growing concerns about the conduct of for-profit providers. The committee chaired by Tom Harkin issued a report in June 2010 *Emerging Risk?: An Overview of Growth, Spending, Student Debt and Unanswered Questions in For – Profit Higher Education*, the report reached the following conclusions:

The Federal government and taxpayers are making a large and rapidly growing investment in financial aid to for-profit schools, with few tools in place to gauge how well that money is being spent. Available data show that very few students enroll in for-profit schools without taking on debt, while a staggering number of students are leaving the schools, presumably many without completing a degree or certificate. To boost enrollment, some for-profit schools recruit large numbers of new students each year. In some cases, schools enroll more students over the course of the year than were enrolled at the beginning of the year. To ensure these enrollment increases, it is necessary for the schools to devote very large shares of Title IV dollars and other Federal financial aid to marketing activities, not education.

These schools are increasingly relying on Federal financial aid dollars for revenue. When all Title IV, Department of Defense and Veteran's Administration funds are included, many of these schools are receiving nearly all of their funds from Federal sources. While increasing their reliance on Federal dollars as a source of revenue, for-profit schools are at best spending only slightly more than half of revenues actually educating students, and in several cases are shrinking the amount spent on instruction. Yet these same schools are reporting profit margins of 20 percent and higher to investors.

Students at for-profit schools are also taking on higher amounts of debt than their peers at public and nonprofit schools. Nearly half of student loan borrowers who entered repayment in 2007 and defaulted by 2009 attended for-profit schools (44 percent), even though less than 10 percent of students attend these schools.<sup>31</sup>

The publicly available data, in tandem with mounting reports of questionable practices and poor student outcome, yields a mixed portrait of the for-profit higher education sector that calls into question the taxpayers return on their multi-billion-dollar investment, and leaves many unanswered questions with regard to whether a sufficient number of students receive an education that provides them with the knowledge and skills they need to obtain jobs to repay their student debt

In August 2010 the US Government Accountability Office (GAO) published a report on for-profit colleges. The report, *For-profit colleges, Undercover testing finds colleges encouraged fraud and engaged in deceptive and questionable marketing practices*,<sup>32</sup> was based on the results of an undercover investigation in which GOA staff has posed as prospective students at for-profit colleges. The GAO investigators found that applicants at the colleges surveyed had been encouraged to make fraudulent claims for federal aid and that college representatives had made exaggerated claims about their courses. The Coalition for Educational Success subsequently commissioned a review of the GAO undercover testing

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<sup>31</sup> US Government Accountability Office, [Summary](#), 4 August 2010

<sup>32</sup> The original report was revised in November 2010

on for-profit colleges, which was published in January 2011.<sup>33</sup> A lawsuit has now been filed by the Coalition for Educational Success alleging negligence and malpractice on the part of the GAO.

The University and College Union's report *Subprime Education* voiced the union's serious concerns about increasing private HE provision and used the problems that have arisen in the US for-profit sector as justification for their anxiety.

A Parliamentary Question was asked on US for-profit providers on 12 October 2011:

### Higher Education: USA

**Paul Blomfield:** To ask the Secretary of State for Business, Innovation and Skills (1) whether (a) Ministers and (b) officials in his Department have had discussions with the US Justice Department on its lawsuit concerning for-profit higher education providers; [73548]

(2) what (a) discussions and (b) meetings (i) he, (ii) ministers and (iii) officials in his Department have had with (A) providers of for-profit higher education who have businesses based in the US, (B) the US Government Accountability Office, (C) the US Department of Education, (D) the US Senate Committee for Health, Education, Labor and Pensions, (E) US elected representatives and (F) higher education lecturers and practitioners from the for-profit higher education sector in the US. [73563]

**Mr Willetts:** It is not the normal practice of the Government to disclose details of their discussions with foreign governments. I am aware of developments in the US for-profit higher education system and the particular concerns raised in the Justice Department's lawsuit. But the comparison is an imperfect one. Funding incentives are different and the UK has a highly regarded system of quality assurance, with the Quality Assurance Agency for Higher Education responsible for upholding standards in UK universities and colleges.

I meet regularly with a wide range of providers of higher education in the UK and internationally. The Department does not hold comprehensive information on whether higher education providers Ministers have met are classed as for-profit or not-for-profit institutions. Quarterly-updated list of all BIS ministerial meetings with external organisations is available at:

<http://data.gov.uk/dataset/disclosure-ministerial-hospitality-received-department-for-business>

BIS officials will also have had conversations with a range of higher education providers. A comprehensive record of such meetings is not maintained<sup>34</sup>

## 11 Areas of Concern

### 11.1 Potential consequences of expanding private provision

The University and Colleges Union (UCU) published a report on private HE in February 2010 *Privatising our universities*. The report uses the American system to draw conclusions about the affect of increased private provision in the UK. The summary of the reports stated:

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<sup>33</sup> Norton Norris Inc, *A Review of GAO Undercover Testing on For-Profit Colleges, GAO Bias Evident in Report to HELP Committee*, Commissioned by the Coalition for Educational Success, 13 January 2011

<sup>34</sup> HC Deb 12 October 2011 c445

In summary, the experience of the US's for-profit private sector shows what could happen in the UK if the policies being pursued by the major parties are enacted.

- We could see private companies receiving state funding—in effect, subsidies.
- We could see rapid expansion of the private sector, backed by Wall Street and City of London finance.
- We could see non-traditional students channelled toward online provision in vocational education.
- We could see over-recruitment and mis-selling scandals as a poorer product is aggressively marketed to lower income students.
- Coupled with an increasingly inaccessible and financially unstable public sector, ever more dependent on private funding and desperately pursuing student approval even if it means rampant grade inflation, UCU believes that the visions of the future contained in the policies of the two main parties offer a bleak prospect for both the university sector and the people of our communities

The UUK report *The growth of private and for-profit higher education providers in the UK* gives a list of what they consider to be the threats and risks associated with private providers:

- 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<sup>35</sup>

A particular concern voiced by commentators is the issue of quality of provision and the affect of variable provision on students and on the reputation of UK HE:

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

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<sup>35</sup> *ibid* p46-47

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.

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.<sup>36</sup>

### 11.2 Increased competition with the public sector

On 6 September 2011 BPP announced<sup>37</sup> that it would be charging £5,000 for its degree courses. Chief executive Carl Lygo said that the private university college wanted to "challenge the educational status quo":

Universities have been forced, many for the first time, to make some tough decisions in order to compete in a changing and challenging environment," said Mr Lygo.

At the heart of this is the student, who deserves value for money and the chance to improve their employability prospects and, as a sector, we mustn't lose sight of this.<sup>38</sup>

### 11.3 Private takeover of public institutions

Articles have suggested that a private equity firm, or a private HE provider could buy a UK university in the near future:

A private equity firm or private higher education provider will buy a UK university in whole or part "within the next six months", according to a sector legal expert.

The prediction by Glynne Stanfield, a partner in the education group at Eversheds, comes as government documents reveal that a US private equity firm, Warburg Pincus, has twice met with David Willetts, the universities and science minister.

[...]

Mr Stanfield said private equity firms or "trade buyers" (established private higher education providers) could buy out a university in its entirety and thus gain its degree-awarding powers.<sup>39</sup>

It has also been suggested that BPP is in talks with ten publicly funded institutions about managing the business side of their university campuses:

A private, run-for-profit university has launched an aggressive expansion plan to jointly run at least 10 of its publicly funded counterparts, the Guardian can reveal.

BPP, which offers undergraduate and postgraduate business and law degrees at 14 UK study centres, said it was in talks about managing the business side of the

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<sup>36</sup> *Ibid* p7

<sup>37</sup> "Private university's £5,000 tuition fees" *BBC News* 6 September 2011

<sup>38</sup> *ibid*

<sup>39</sup> "For sale: universities could e in private hands in six months" *THE* 13-19 October 2011

universities' campuses. Talks with three are at a "serious stage", but commercial negotiations are yet to begin.

Under the model, universities would control all academic decisions, while BPP would be responsible for managing the campus estate, IT support, the buying of goods and services and other "back office" roles. BPP would not hold equity in the universities.

Chief executive Carl Lygo said his firm stood to make tens to hundreds of thousands of pounds from working with each institution, but that it would be "too radical at the moment" to bid to take over a university. "The partnership model is more palatable in the UK ... we have a long tradition of higher education being publicly funded, rather than run for profit."<sup>40</sup>

On 7 December 2011 a letter signed by nearly 500 academics was published in the *Telegraph*<sup>41</sup> voicing concerns that struggling universities could be bought by private equity firms.

## **12 Debate**

### **12.1 Government view**

David Willetts has frequently spoken of his desire to open up the HE sector to a more diverse range of providers:

Currently, one of the main barriers to alternative providers is the teaching grant we pay to publicly-funded HEIs. This enables HEIs to charge fees at a level that private providers could not match, and so gives publicly-funded HEIs a significant advantage. Our funding reforms will remove this barrier, because all HEIs will – in future – receive most of their income from students via fees. This reform, of itself, opens up the system.

We will also allow alternative providers to access the generous system of student loans and grants, so their students will also be able to benefit from not having to pay upfront fees.

I look forward to new liberal arts colleges or specialist institutions. And the global higher education providers that operate in many countries from India to Spain to the USA need to know that we will be removing the barriers that stop them operating as universities here as part of our system – provided, of course, that they meet high standards which are a key feature of our higher education system.

Another barrier to open access and contestability is the automatic link between degree awarding powers and teaching. Over the past 50 years, we have created a regulatory system which says that teaching students and awarding degrees must be done by the same institution. And that is certainly one way of doing it, as represented by the institutions in this room. But it is not the only way. Quality standards have to focus on quality alone. They must not protect one way of delivering higher education at the expense of others.<sup>42</sup>

### **12.2 Labour policy**

The Labour Shadow Minister for Higher Education Shabana Mahmood MP discussed private provision of HE in a speech at the Social Market Foundation on 24 November 2011:

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<sup>40</sup> ["Private university BPP launches bid to run 10 publicly funded counterparts"](#) the *Guardian* 22 June 2011

<sup>41</sup> ["Professors warn over expansion of private universities"](#) *Telegraph* 7 December 2011

<sup>42</sup> BIS Speeches by David Willetts [Universities UK Spring Conference 2011](#) 25 February 2011



We are supportive of choice – after all, our higher education sector is currently diverse and wide ranging in terms of providers and courses, so there is a wide range of choice already available.

We are deeply concerned, however, that the expansion of for-profit providers into the sector will damage the quality of the education that students who attend these institutions will receive, threaten overall standards in the sector and thereby threaten our global reputation.

The US experience is frightening - the for-profit providers from the US, such as the Apollo Group, Kaplan and the Education Management Corporation that have met with David Willetts are the same ones that have pursued aggressive recruitment practices in the United States, that have low course completion rates and are having lawsuits pursued against them by the United States government. Changes in the university title regime could create new universities or university colleges, which if they undertake the kinds of practices we have seen in the US, most definitely will not be responsible universities. We must make sure that the same experience is not repeated here.

### 12.3 Unions and mission groups

The University and Colleges Union are concerned about the expansion of private HE provision, their views can be read in a *BBC News* article on 16 September 2010 "[Lecturers warn over private universities](#)". Sally Hunt the chair of UCU issued a stern warning against the expansions of for-profit providers in an article in the *Guardian* on 31 October 2011.

However not all university groups seem worried about the expanding role of private providers and the 1994 Group of universities said in a *BBC News* article<sup>43</sup> that private providers would benefit higher education by adding competition and driving up quality.

On March 2010 Universities UK (UUK) published a research paper called [The growth of private and for-profit providers in the UK](#). The report was based on consultations with HEIs on issues such as addressed key policy questions in regard to quality assurance, regulation, collaboration and partnership. set out the current position with regard to private HE providers and outlined some possible future scenarios in respect of private sector provision in the UK. The report reached the following conclusion:

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.<sup>44</sup>

## 13 Bibliography

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- University and Colleges Union [Subprime Education](#) (September 2010) and [Privatising our Universities](#) (February 2010)

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<sup>43</sup> "Private universities 'to expand' to fill places gap" *BBC News* 23 June 2010

<sup>44</sup> P48 para 7.17



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