



RESEARCH PAPER 04/08
21 JANUARY 2004

The Higher Education Bill

Bill 35 of 2003-04

The Bill will establish an Arts and Humanities Research Council and a body for dealing with student complaints.

It also makes provision to allow the deferred payment of student tuition fees and the charging of variable tuition fees by higher education institutions. A Director of Fair Access to Higher Education will be appointed to oversee the access plans of those institutions wishing to charge tuition fees above the basic level. Student support arrangements will also be changed in line with the new arrangements on deferred payment of fees. The Bill also contains provisions on bankruptcy and disclosure of information.

The Bill makes provisions to devolve student finance to Wales.

The Bill contains provisions which were proposed in the White Paper *The Future of Higher Education*, published on 22 January 2003.

This paper gives background to the Bill's provisions and highlights areas of debate. The Second Reading debate on the Bill will take place on 27 January 2004.

The Bill extends to England, Wales and Northern Ireland.

Sue Hubble

SOCIAL POLICY SECTION

David Knott

SOCIAL AND GENERAL STATISTICS SECTION

HOUSE OF COMMONS LIBRARY

Recent Library Research Papers include:

03/87	Employment Tribunals	09.12.03
03/88	Asylum and Immigration: the 2003 Bill	11.12.03
03/89	Asylum and Immigration: proposed changes to publicly funded legal advice and representation	12.12.03
03/90	<i>Child Trust Funds Bill</i> [Bill 1 of 2003-04]	12.12.03
03/91	Unemployment by Constituency, November 2003	17.12.03
03/92	<i>Traffic Management Bill</i> [Bill 13 of 2003-04]	23.12.03
03/93	<i>The National Insurance Contributions and Statutory Payments Bill</i> [Bill 2 of 2003-04]	23.12.03
03/94	<i>The Horseracing Betting and Olympic Lottery Bill</i> [Bill 2 of 2003-04]	23.12.03
04/01	2001 Census of Population: statistics for parliamentary constituencies	05.01.04
04/02	<i>The Housing Bill</i> [Bill 11 of 2003-04]	05.01.04
04/03	<i>Employment Relations Bill</i> [Bill 7 of 2003-04]	07.01.04
04/04	<i>The Human Tissue Bill</i> [Bill 9 of 2003-04]	08.01.04
04/05	<i>Armed Forces (Pensions and Compensation) Bill</i> [Bill 10 of 2003-04]	08.01.04
04/06	Unemployment by Constituency, December 2003	14.01.03
04/07	<i>The Civil Contingencies Bill</i> [Bill 14 of 2003-04]	15.01.04

Research Papers are available as PDF files:

- *to members of the general public on the Parliamentary web site,
URL: <http://www.parliament.uk>*
- *within Parliament to users of the Parliamentary Intranet,
URL: <http://hcl1.hclibrary.parliament.uk>*

Library Research Papers are compiled for the benefit of Members of Parliament and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public. Any comments on Research Papers should be sent to the Research Publications Officer, Room 407, 1 Derby Gate, London, SW1A 2DG or e-mailed to PAPERS@parliament.uk

Summary of main points

In January 2003 the Government published a White Paper, *The Future of Higher Education*¹. This paper set out the Government's proposals for reforming the higher education sector. The White Paper included, among other things, proposals on the financing of higher education, university admission procedures and student support. These proposals form the basis of the main part of the Higher Education Bill. Other proposals included in the White Paper such as the creation of an Arts and Humanities Research Council and a student complaints body have also been incorporated in the bill.

The Bill is divided into five Parts. Part 1 establishes the Arts and Humanities Research Council. The council will be set up by Royal Charter and is intended to give research in the arts the same standing as research in the sciences.

Part 2 (including Schedules 1 to 4) creates a statutory mechanism for dealing with student complaints. The visitor system will lose its jurisdiction in this area.

Part 3 (including Schedule 5) enables institutions to charge variable fees. It designates the Director of the Office of Fair Access (OFFA) as responsible for approving the plans of those institutions wishing to charge higher fees.

Part 4 enables tuition fee payments to be deferred. It also contains provisions to prevent student loans being written off by bankruptcy and provisions on disclosure of information.

Part 5 (including Schedules 6 and 7) contains miscellaneous and general provisions.

Specific details of the provisions are not given on the face of the Bill and will be implemented by further regulations. The statement by the Secretary of State for Education, Charles Clarke announcing the Bill on 8 January 2004, gave further information on grants and other student support arrangements.

This paper gives background to the Bills provisions. It does not give a guide to each clause, this is provided by the Higher Education Bill Explanatory Notes [Bill 35-EN] prepared by the Department of Education and Skills².

A regulatory impact assessment has been produced to accompany the Bill (see paragraph 76 of the Higher Education Bill Explanatory Notes.)

¹ *The Future of Higher Education* January 2003, Cm 5735 available online at <http://www.dfes.gov.uk/highereducation/hestrategy/pdfs/DfES-HigherEducation.pdf>.

² Higher Education Bill Explanatory Notes [Bill 35-EN] available at <http://www.dfes.gov.uk/hegateway/uploads/Higher%20Education%20Bill%20Explanatory%20Notes.pdf>.

CONTENTS

I	Background to the Bill	7
	A. The higher education system and funding mechanism	7
	B. Funding problems	8
	C. The White Paper	9
	1. Reactions to the White Paper	11
	D. Education and Skills Select Committee report	12
	E. Queen’s Speech, 26 November 2003	14
	F. Charles Clarke’s statement, 8 January 2004	15
II	The Bill	16
	A. Part 1- Research in Arts and Humanities	16
	B. Part 2- Review of Student Complaints	17
	1. Background	17
	2. The White Paper proposals	18
	3. Office of the Independent Adjudicator (OIA)	18
	4. The Bill (Clauses 11- 20)	19
	5. Comment	20
	C. Part 3 –Student Fees in Higher Education (Tuition Fees)	20
	1. Current position	20
	2. The Bill (Clauses 21 to 26)	22
	3. Issues	24
	D. Part 3 –Student Fees in Higher Education (Access)	29
	1. Current position	29
	2. The Office of Fair Access	30
	3. The Bill (Clauses 28- 36)	31
	4. Issues	32

E.	Part 4 - Student Support	34
	1. Current position	34
	2. The Bill (Clause 40)	35
	3. Issues	35
	4. Bankruptcy	39
	5. Disclosure of information	40
III	Further areas of concern	40
	A. Cross Border Issues	40
	B. European Students	43
	C. Public Sector Workers	43
	D. Demand for university places in 2005/06	44
IV	Reactions to the Bill	44
	A. Outside Parliament	44
	B. Parliamentary Debate	47
	Appendix 1 Public funding costs of higher education	50
	Appendix 2 Participation rates in higher education	51
	Appendix 3 Alternatives to the White Paper proposals	52
	Appendix 4 Eligibility requirements for tuition fee waiver	56
	Appendix 5 Tuition fee arrangements in other countries	57
	Appendix 6 Salary comparisons between graduates and non-graduates	58
	Appendix 7 University acceptance by social class	59
	Appendix 8 Student loan outlay and repayment	60
	Appendix 9 Student loan uptake	61

I Background to the Bill

A. The higher education system and funding mechanism

The present structure of the higher education system was created by the *Further and Higher Education Act 1992*. This Act abolished the binary divide between universities and polytechnics and established a single unitary system of universities and higher education colleges. There are currently 131 publicly funded higher education institutions in England³.

The *Further and Higher Education Act 1992* also created funding bodies: the Higher Education Funding Council for England (HEFCE), Scottish Funding Council for Further and Higher Education (SHEFCE), and Higher Education Funding Council for Wales (HEFCW). It is the duty of these funding councils to distribute Government money to higher education institutions (HEIs) across the UK. These bodies allocate core funding to individual higher education institutions in the form of a grant, which is calculated in part on the number of students attending an institution and the type of courses offered. Additional sums may be allocated to HEIs for specific purposes such as capital expenditure and staff development⁴. Universities also receive income for research from HEFCE research grants and Research Councils grants. This arrangement is known as the ‘dual support’ system.

Since 1998 HEIs have had their teaching grant supplemented by funding from tuition fees. Universities also have other private sources of income such as endowments. The HEFCE annual review 2002-03 gives a breakdown of sources of finance for universities and colleges in 2001-02⁵:

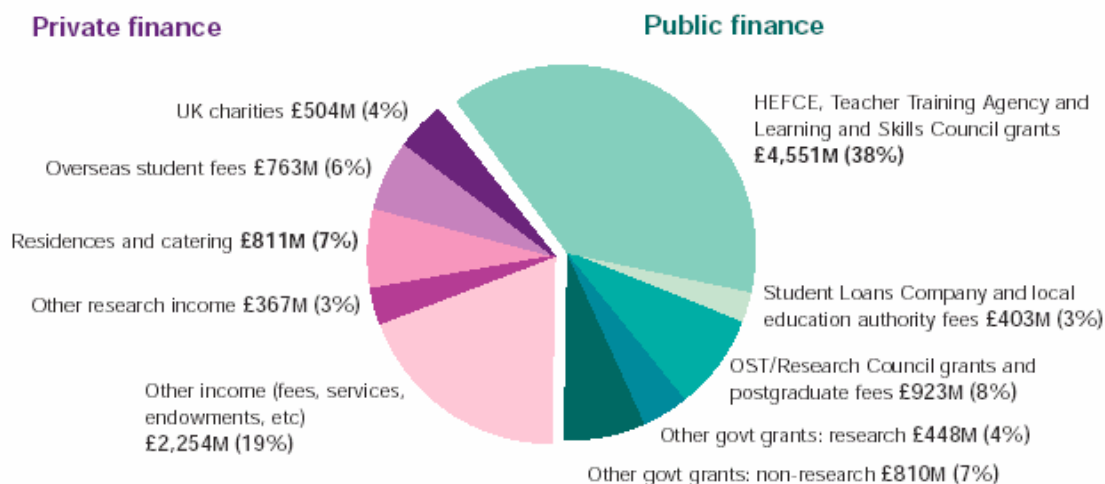
³ Figure from HEFCE 2003-03 *Annual review, Realising a vision for higher education*, page 32, available online at <http://www.hefce.ac.uk/Pubs/hefce/2003/annrev/report.pdf>.

⁴ Details of the calculation of university funding can be found in a HEFCE publication, *Funding higher education: How the HEFCE allocates its funds*, which is available online at http://www.hefce.ac.uk/Pubs/hefce/2002/02_18.htm.

⁵ op cit HEFCE 2003-03 *Annual review* page 31,

Sources of finance for universities and colleges 2001-02

Total income £11,834 million



B. Funding problems

The higher education sector has suffered from a prolonged period of under investment (see Appendix 1). Between 1989 and 1997 universities experienced a drop in funding per student of 36 per cent⁶. This downwards trend was reversed in 2001. During the same period the proportion of young people in higher education rose from 17 per cent to 34 per cent (see Appendix 2). This period of rapid expansion at a time of under investment has had serious effects on the higher education system⁷. Class sizes in universities have risen⁸, academic pay has gone down in real terms and university infrastructure has degenerated⁹.

To address the growing crisis in higher education the Government appointed a National Committee of Inquiry into Higher Education (the Dearing Committee) in 1996¹⁰. The Committee was appointed with bipartisan support and charged with making recommendations on the 'purposes, shape, structure, size and funding of higher

⁶ Figure from *The Future of higher education* page 4.

⁷ "Amid all the furore, one thing is agreed: university funding is in a severe crisis" *The Independent* 28 November 2003

⁸ "Cambridge seminars are 'more like Grange Hill'" *The Times* 12 January 2004

⁹ The investment backlog in teaching and research facilities is currently estimated at £8 billion. This figure is mentioned in *The Future of higher education* page 4

¹⁰ For a detailed account of the Dearing inquiry see library research paper, *Student grants, loans and tuition fees*, 97/119 page 25

education'¹¹. The committee published its report in July 1997. Among its recommendations it suggested that:

students enter into an obligation to make contributions to the cost of their higher education once they are in work¹².

The report went on to recommend that students should contribute 25 per cent towards the cost of their tuition fees and that student support should come from 50 per cent means tested grants and 50 per cent student loans.

The Government response to the report accepted the committee's recommendations and in the following year the *Teaching and Higher Education Act 1998* introduced an annual upfront tuition fee of £1,000 and income - contingent loans.

The Government has committed itself to address the problem of funding in universities by increasing spending:

The Government has committed substantial investment to education. Between 1997 and 2006, the proportion of GDP spent on education will rise from 4.5 per cent to 5.6 per cent. Spending on higher education will rise from a total of around £7.5 billion in 2002–03 to almost £10 billion in 2005–06 – a real terms increase of over 6 per cent each year¹³.

C. The White Paper

On 22 January 2003 the Government published the White Paper *The Future of higher education*. This paper set out the Government's proposals for reforming the higher education sector. The White Paper included proposals on research, knowledge transfer and teaching in universities. Other proposals included the creation of an Arts and Humanities Research Council and a student complaints body. However, most debate has focused on the White Paper's proposals on student support, variable fees and the creation of a university access regulator.

On student support the paper proposed:

GRADUATE CONTRIBUTION SCHEME

We have decided to abolish up-front tuition fees, and allow universities to set their own rates for graduate contributions, between £0 and £3,000 a year. These

¹¹ The National Committee of Inquiry into Higher Education, *Higher Education in the learning society*. July 1997, Summary Report, page 3. paragraph 1. The report is available online at <http://www.leeds.ac.uk/educol/ncihe/>

¹² The National Committee of Inquiry into Higher Education, *Higher Education in the learning society*. July 1997, Summary Report, page 3. paragraph 6

¹³ *The Future of higher education* para 1.32

contributions can be paid back once a graduate is earning, through a new Graduate Contribution Scheme, which will link monthly repayments to earnings through the tax system. Robust safeguards will protect access for all students¹⁴.

GRANTS

We have listened to those who say that those from the poorest backgrounds need additional incentives and financial help to continue in full-time education. So, those students with parents on the lowest incomes starting full-time higher education courses will be eligible for a new Higher Education Grant of up to £1,000 a year. We will start this grant as soon as we can – from Autumn 2004. Students from households with incomes of £10,000 or less will receive the full award and some grant will be available to those whose families earn up to £20,000 a year¹⁵.

HIGHER REPAYMENT THRESHOLD

To make payments less burdensome for every graduate, we shall raise the repayment threshold at which payments start being made, from £10,000 to £15,000 a year. This increased threshold will apply to student loans for living costs too, and will apply from 2005.

On variable fees the paper proposed:

DIFFERENT FEES FOR DIFFERENT COURSES

We have carefully considered the question of whether an additional contribution should be paid at a flat rate – so that it is the same wherever and whatever a student studies – or whether it should vary according to institution and course.

It is absolutely clear that students get different returns from different courses.

We believe that a revised contribution system should recognise these differences properly and not ask students who can't expect such good prospects in the labour market to subsidise those that can, through a flat fee.

On the Access Regulator the paper proposed:

ACCESS REGULATOR

Those institutions that wish to charge variable fees will be required to have Access Agreements in place which set out the action they will take in order to safeguard and promote access, and the targets they will set for themselves. These will be determined by an independent Access Regulator, working with HEFCE and making use of their information and systems. The Regulator will ensure that the Agreements are robust and challenging. They will be monitored, and the Regulator will have the power to withdraw approval for variable fees, or impose financial penalties, if the Agreements are not fulfilled.

¹⁴ *ibid* page 85 para 7.30

¹⁵ *ibid* page 86 para 86

The Regulator would seek to extend current good practice through:

- More rigorous admissions regimes, based on the new admissions framework discussed above.
- Bursary schemes, and other financial measures.
- Proactive engagement with schools and colleges.

Institutions that do not wish to charge variable fees will be encouraged to use the services of the Regulator in establishing Access Agreements of their own, in order to quality assure their processes and give a guarantee to their students that they are fair and reliable.

1. Reactions to the White Paper

Reactions to the White Paper were mixed¹⁶. Universities UK, the representative body of UK Universities, gave the paper a cautious welcome:

Universities UK is pleased that today's White Paper recognises the success and contribution of universities to the health of the UK. In addition to its outline plans for funding the sector, it contains a number of proposals to ensure that the sector remains competitive and responsive. Universities UK will be considering these carefully and talking to Government over the coming months¹⁷.

The National Union of Students (NUS) and teaching unions such as the Association of University Teachers (AUT) and the National Association of Teachers in Higher and Further Education (NATFHE) focused their concern on variable fees and their effect on access:

white paper proposals will have a devastating impact on the government's own widening participation agenda and further exacerbate the gulf between the haves and have-nots in higher education¹⁸.

Initial Parliamentary reaction raised concerns about top up fees, access, and support for the poorest students¹⁹. In November 2002 Paul Farrelly MP, tabled EDM 2 *Top up fees in universities*; by the end of that session this EDM had 171 signatures. Over the course of 2003 almost a dozen Early Day Motions were tabled on various aspects of the White Paper.

¹⁶ Initial reactions to the White Paper can be read in the library Standard Note *The Future of Higher Education White Paper*, SN/SP/2064 page 27. This is available online at <http://hcl1.hclibrary.parliament.uk/notes/sps/snsp-02064.pdf>.

¹⁷ Universities UK Media Release, *Universities UK response to Higher Education White Paper*, 22 January 2003, available online at <http://www.universitiesuk.ac.uk/mediareleases/show.asp?MR=336>.

¹⁸ NUS Press Release, *NUS response to government HE White Paper*, 30 April 2003, available online at http://www.nusonline.co.uk/content/news.php?site=&itm_sect=/nus/news/pressreleases/&articleid=267594.

¹⁹ SN/SP/2064, page 29

D. Education and Skills Select Committee report

The White Paper has been scrutinised by the Education and Skills Select Committee. Its report *The Future of Higher Education*²⁰ was published on 10 July 2003. The Committee was critical of many of the White Paper's proposals²¹ but welcomed the introduction of deferred fees²².

On access the report concluded:

The basis for any discussion about widening participation and ensuring fair access must be that access should depend on academic ability.

The priority for widening participation must be action in schools. At least from age 14, and preferably earlier, considerable effort is required to raise the aspiration and achievement of pupils from poorer backgrounds. It is only by doing this that the proportion of those from the lower socio-economic groups entering higher education is likely to increase.

We recommend that the Government does not proceed with the introduction of the Office for Fair Access, and leaves responsibility for monitoring universities' policies on access with HEFCE.

It is not whether there is a need for monitoring of access arrangements that we question, but whether it requires a body separate from HEFCE to do it²³.

On student support:

We welcome the deferral of payment of fees until after completion of a student's course; this removes one very significant disincentive to participation in higher education.

With the shift to payment of fees after the completion of a course, the money currently used to pay up to £1,100 in fees for poorer students could instead be used to provide more substantial maintenance grants.

We recommend that if the Government continues to pay fees for poorer students, it should fund the full cost of fees for eligible students, not just the first £1,100.

We are clear that what the Government needs to do is to target expenditure more effectively on those who need it, rather than continue with the undifferentiated interest subsidy. The removal of the interest rate subsidy would allow the Government to spend more on initiatives to improve access to higher education.

The increase in the income threshold at which loans begin to be repaid from £10,000 to £15,000 announced in the White Paper is welcome, but still falls far short of the Committee's previous recommendation that the level should be average earnings (currently around £24,500), and should keep pace with changes

²⁰ Education and Skills Committee, Fifth Report of Session 2002-03, *The Future of Higher Education*, HC 425 1-11

²¹ "MPs savage white paper proposals" Times Higher Education Supplement (THES) 11 July 2003

²² Education and Skills Committee, Fifth Report of Session 2002-03, *The Future of Higher Education*, HC 425 1, page 68 paragraph 199

²³ *ibid* page 76 paragraphs 22,23 27 and 28

in the level of average earnings.

If it is the Government's intention to increase the level of maintenance grant in the next comprehensive spending review then we recommend that an announcement to that effect is made as soon as possible, so that those who may be considering entering higher education in 2006 have more clarity about the support arrangements that will be available.

We also recommend that the Government should make public without delay the income limits for eligibility for the grant.

If the money currently spent on the interest rate subsidy was used instead to enhance maintenance grants, it would be possible to pay full-cost maintenance grants to students from poorer backgrounds (for example at the level of £5,000 a year suggested as a reasonable amount for living expenses by the Secretary of State)

Charging the Government interest rate on loans would also allow larger loans to be offered, as the cost of the subsidy would no longer be prohibitive, and so make it less likely that students would have to borrow, or incur credit card debts, at commercial rates.

It would be possible to alleviate some debt problems arising from credit cards and commercial loans by making further maintenance loans above the current limit available at the Government rate of interest.

We hope that the review of funding of individual adult learners will soon be concluded, and we continue to believe that the introduction of an educational maintenance allowance for those in higher education would be an effective way of encouraging participation in higher education.

The differing thresholds for assistance at different points in the student support system help to foster confusion and mistrust, and so create barriers to access. The system should be simpler, more logical and easier to understand²⁴.

On variable fees:

It is worthwhile looking back to the Dearing Report and what it had to say on the funding of higher education. Its conclusion was that "the costs of higher education should be shared among those who benefit from it", with the individual, the state and employers all as key beneficiaries. We believe that principle is correct and should be supported.

The evidence we have heard suggests that the differentials in fees charged by universities and colleges will be small at best and possibly non-existent.

We hope that the Government does not intend to seek to impose a market and believe it would be a very grave error of judgement if it did so. It would be quite wrong for the Government to act in this way. If a market does not arise it will be because of the restrictions which the Government has itself imposed, and it must live with the consequences²⁵.

²⁴ *ibid* page 78 paragraphs 37- 48

²⁵ *ibid* page 77 paragraphs 29,32 and 33.

A Government response to the Select Committee report²⁶ was issued in July 2003. The report rebutted the Select Committee's recommendations and reaffirmed the Government's commitment to the White Paper proposals.

E. Queen's Speech, 26 November 2003

The Higher Education Bill was announced in the Queen's Speech on 26 November 2003. It was expected that the Bill would be published soon after the Queen's Speech and that the Second Reading would be before Christmas²⁷. However the Higher Education Bill, which was proposed in the Queen's speech, was greeted with disapproval by many Members and within hours of the speech an Early Day Motion had been tabled requesting the Government to consider alternatives to variable fees²⁸. By the next day the EDM had been signed by over 100 Members including five former cabinet members²⁹ who had not signed any of the previous EDMs related to the proposed Bill. Over the weekend following the announcement of the Bill various concessions were mooted³⁰ and the Government promised a rethink on the Bill³¹. In an effort to gain support for the Bill the Government decided to delay its presentation³² and began a series of seminars and meetings to explain its provisions and reassure Members.

The Prime Minister's monthly press conference on 2 December³³ was dominated by questions on the Bill. The Prime Minister announced during the press conference that the Second Reading of the Bill should be by the end of January and conceded that it would be 'tough' to persuade people about the reforms, but said that they were a 'route to social justice'.

The Department of Education and Skills (DfES) published a series of briefing papers on concerns arising out of the Bill. These papers were written to explain why the Government had chosen their particular scheme, rather than a flat fee or graduate tax³⁴.

²⁶ *The future of higher education*. Response to the report from the Education and Skills Committee, Fifth Report of Session 2002-03, July 2003, Cm 5932 available online at [http://www.dfes.gov.uk/hegateway/uploads/\(H\)%20Responses%20to%20the%20Select%20Committee%20100703.pdf](http://www.dfes.gov.uk/hegateway/uploads/(H)%20Responses%20to%20the%20Select%20Committee%20100703.pdf).

²⁷ Progress of the Bill in "Rebel MPs unmoved as fee juggernaut rolls on" *Times Higher Education Supplement*, 28 November 2003

²⁸ EDM 7 *Alternatives to variable fees* sponsored by Ian Gibson MP.

²⁹ Nicholas Brown, Chris Smith, Robin Cook, Clare Short and Frank Dobson

³⁰ "Blair to climb down on student top up fees" *Sunday Telegraph*, 30 November 2003

³¹ "Blair promises student fees rethink" *The Times*, 28 November 2003

³² "Top up fees Bill delayed in race to sway Labour rebels" *The Times* 1 December 2003

³³ Prime Minister's press conference – 2 December 2003 available online at <http://www.number-10.gov.uk/output/Page4925.asp>.

³⁴ DfES publications "Charles Clarke response to Early Day Motion on variable fees" 27 November 2003, "Charles Clarke responds to £33,000 debt figure" 3 December 2003, "Charles Clarke publishes a paper on why the Government does not favour a graduate tax" 9 December 2003, "Alan Johnson publishes paper on international comparisons" 12 December 2003, "Charles Clarke publishes a paper on 'why not a fixed fee?'" 16 December 2003, all available online at <http://www.dfes.gov.uk/hegateway/>.

(A brief review of alternative methods suggested for university funding is given in Appendix 3.) In the weeks following the announcement of the Bill protests seemed to coalesce around the issue of variable fees.

F. Charles Clarke's statement, 8 January 2004

The Higher Education Bill was presented in the House of Commons on 8 January 2004. The stated the aims of the Bill were outlined as:

The measures that I am announcing today mean that disadvantaged students will get financial support to study what they want, where they want. Secondly, universities need more investment. Vice-chancellors will say that these proposals will generate hundreds of millions of pounds of new money for them to spend on improving the quality of teaching and to compete with the best universities in the world. Thirdly, we need to move towards treating students as financially independent from the age of 18³⁵.

Mr Clarke also stated that:

there is a broad consensus about the fact that universities need more resources and that it is reasonable for students to make some contribution, after they have graduated, to those resources. Where there has not been consensus is about the fairest way to raise this new funding³⁶.

Mr Clarke then announced various commitments which were intended to 'meet the concerns expressed by some colleagues':

First, I accept that some colleagues have genuine concerns about the impact of variable fees on our university system. The Government will therefore establish an independent review, working with OFFA, to report to this House, based on the first three years of the fees' operation. Moreover, our legislation will require that any proposal to raise the fee cap above £3,000 in real terms is subject to affirmative resolution. There will be an opportunity for a debate on the Floor of both Houses so that every Member of Parliament can vote on such a proposal, dependent on discussions through the usual channels.

Secondly, I want to emphasise the Government's strong commitment to promoting access to higher education for part-time and mature students. From September 2004, we will provide improved fee support and a grant for part-time students.

Thirdly, for full-time undergraduates entering higher education from 2006, we will write off any student loan repayment that is still outstanding after 25 years.

³⁵ HC Deb 8 January 2004 col 418

³⁶ *ibid*

Fourthly, from September 2006, maintenance loans will be raised to the median level of students' basic living costs, as reported by the student income and expenditure survey. That increase will be modest for most students, but it will be significant for those studying away from home in London. The principle of the decision will ensure that students have enough money to meet their basic living costs while studying.

My fifth and final intention is to ensure that every student from a poor economic background has enough resources to meet even the highest course fee without incurring additional debt. The £3,000 package is achieved by maintaining fee remission at about £1,200; raising the new higher education grant from the £1,000 that I originally proposed to £1,500 a year for new students from 2006; and, through OFFA, requiring universities to offer bursaries to students from the poorest backgrounds, so that the full fee cost of the course will be covered. For example, there will be a minimum bursary of £300 for a course whose fee is £3,000³⁷.

Finally Mr Clarke stated that:

this is a coherent package to be taken as a whole or not at all. If it is not supported by the House, none of those benefits will arise. It is not a pick and mix menu³⁸.

Reactions to the Bill as presented are given in Section IV on page 44.

II The Bill

A. Part 1- Research in Arts and Humanities

There are six UK Research Councils each established under Royal Charter:

- Biotechnology & Biological Sciences Research Council
- Engineering & Physical Sciences Research Council
- Economic & Social Research Council
- Medical Research Council
- Natural Environment Research Council
- Particle Physics & Astronomy Research Council

These Councils were established under the Science and Technology Act 1965. In 1998 the Government established an Arts and Humanities Research Board (AHRB) in response to recommendations in the Dearing report. The Higher Education Bill, Clauses 1 to 10, will replace the AHRB with a research council. This new council will provide support for

³⁷ *ibid* col 418-419

³⁸ *ibid* col 420

research and postgraduate training in the arts and humanities, alongside the other well-established research councils for the sciences and social sciences. Funding will be provided through the Office of Science and Technology and is estimated at £78 million for 2005-06³⁹.

These provisions give research in the arts the same standing as research in sciences, they have received unanimous approval⁴⁰.

B. Part 2- Review of Student Complaints

1. Background

Currently there is no university ombudsman or independent adjudicator. Each higher education institution is an autonomous body with its own procedures for dealing with complaints. Such procedures are used to resolve disputes on a wide range of matters such as assessment appeals, breaches of rules of conduct, grievance procedures and allegations of discrimination.

The procedures adopted vary depending on the type of institution concerned. The 'new' post - 1992 universities are statutory corporations and under sections 3 and 4 of the *Education Reform Act 1988*, have the power to establish procedures for the admission, suspension and expulsion of students and to make rules in relation to the conduct of students and staff. Decisions of these institutions, if not resolved internally, may be challenged through the courts using the laws of contract or tort, or by judicial review.

The 'old', pre 1992 universities, have different systems for settling disputes which have not been resolved internally, although most of them have adopted similar processes which involve the use of an external adjudicator, sometimes called a 'visitor'. The role of the visitor has been in place since medieval times. The visitor's powers are chiefly those of determining whether a university's internal procedures have been carried out properly. He will not interfere in an academic judgement, if that judgement has been carried out fairly and according to the university's own rules. The visitor also has power to review any penalty that may have been imposed as the outcome of disciplinary procedures.

There has been a steep rise in the number of students taking legal action against their universities⁴¹. The growth in complaints has placed the present adjudication system under severe strain. It is possible that the advent of variable fees could increase complaints even further.

³⁹ "The wider scope of the proposals" *Times Higher Education Supplement* 16 January 2004

⁴⁰ Arts and Humanities Research Board News and Press Release, *HE Bill creates new research council for arts and humanities*, 09/01/2004

⁴¹ "Job pressure leads graduates to sue over degree marks" *The Times* 31 December 2002

2. The White Paper proposals

The White Paper *The Future of higher education* proposed the establishment of an independent adjudicator to hear student complaints:

Reforms to give students a greater voice must include providing them with a fair, open, and transparent means of redress when things go wrong, a safeguard that will be especially important in a freer system. Last Autumn, the sector was consulted on the establishment of an independent review of student complaints. The consultation revealed that there was substantial support from HEIs for an independent adjudicator to hear student complaints, and recognition that ultimately legislation would be needed to underpin whatever arrangements were put in place.

We will, therefore, legislate for the establishment of an independent adjudicator in the forthcoming higher education bill, but have asked the sector to press ahead with establishing a voluntary independent adjudicator in the meantime. The aim is for the office of the independent adjudicator to be in place by June 2003 and ready to receive representations and adjudicate from September 2003⁴².

3. Office of the Independent Adjudicator (OIA)

The Office of the Independent Adjudicator was incorporated as a company on 7 July 2003. The OIA will consider cases which students have been unable to resolve within their higher education institutions. Information on the OIA was given in an answer to parliamentary question on 29 October 2003:

Mr. Boswell: To ask the Secretary of State for Education and Skills if he will make a statement on the appointment of an independent Student Complaints Adjudicator and the establishment of an office to service this function.

Alan Johnson: The higher education sector has established the Office of the Independent Adjudicator for Higher Education (OIA) to consider cases which students have been unable to resolve within their higher education institutions. The OIA was incorporated as a company on 7 July 2003. The Board of Directors have appointed Dame Ruth Deech as the Independent Adjudicator and Michael Reddy as Deputy Adjudicator and are currently in the process of recruiting other staff, establishing the office and setting up systems. The OIA expects to be able to receive cases early in 2004. The Government fully supports the higher education sector in providing students with a fair, open and transparent means of redress when things go wrong⁴³.

Dame Ruth Deech is at present principal of St Anne's College, Oxford and pro-vice-chancellor of the University of Oxford. She was formerly the chairman of the Human

⁴² *Future of higher education*, January 2003, Cm5735, page 49 paragraph 4.11-4.12.

⁴³ HC Deb 29 October 2003 col 289

Fertilisation and Embryology Authority. Professor Norman Gower is to be chairman of the board of the OIA.

Alan Johnson, the Higher Education Minister, explained how the OIA would work in a letter in the *Times Higher Education Supplement*:

The higher education bill will not make decisions of the Office of the Independent Adjudicator legally binding.

The higher education sector and the National Union of Students have established the OIA to consider unresolved student complaints on a voluntary basis from March. The bill simply proposes to underpin these arrangements legally by requiring institutions to participate.

Decisions will not be binding, although we would naturally hope institutions would agree to any recommendations made⁴⁴.

Establishing the OIA will cost £500,000 and a further £500,000 a year will be needed for running costs. Initially these costs will be met by the Government; after the Bill has been passed, each HEI will pay subscription fees ranging from £2,000 to £10,000⁴⁵.

4. The Bill (Clauses 11- 20)

Clauses 11 to 20 create a statutory student complaints body. The Office of the Independent Adjudicator, which has been in operation since July on a voluntary basis, will now have legal status.

Clauses 11 and 12 stipulate which bodies and which type of complaints may be brought before the adjudicator. Complaints may be brought against qualifying institutions, by students, former students, or students on courses at affiliated institutions. Complaints may relate to acts or omissions by institutions, but may not relate to any matter involving academic judgement.

Clauses 13 and 14 relate to the designation of a body to administer student complaints and the duties of this body. This body will be the Office of the Independent Adjudicator.

Clause 15 specifies the duties of qualifying institutions towards the OIA. Section (1) states that institutions must comply with any obligations imposed on them by the OIA including any obligations to pay fees⁴⁶.

Clauses 16 and 18 provide for the termination of the body. Clause 19 terminates the jurisdiction of the visitor over student complaints.

⁴⁴ “Bound only to join in” *Times Higher Education Supplement*, 16 January 2004

⁴⁵ “The wider scope of the proposals” *Times Higher Education Supplement* 16 January 2004

⁴⁶ Section 15(3)

5. Comment

The establishment of a student complaints body has long been campaigned for by Universities UK⁴⁷ and the NUS. In July 2003 a media release by Universities UK welcomed the creation of the OIA and said:

We are keen for the OIA to be given a statutory framework as soon as possible - for which legislation is necessary - so we look forward to seeing these proposals in the HE Bill this autumn⁴⁸.

C. Part 3 –Student Fees in Higher Education (Tuition Fees)

In 1997 the influential Dearing report stated that:

On a balance of considerations, we recommend to the Government that it introduces arrangements for graduates in work to make a flat rate contribution of around 25 per cent of the average cost of higher education tuition, through an income contingent mechanism, and that it ensures that the proportion of tuition costs to be met by the contribution cannot be increased without an independent review and an affirmative resolution of both Houses of Parliament. The contributions made by graduates in work in this way should be reserved for meeting the needs of higher education⁴⁹.

This recommendation was accepted by the Government and in response the *Teaching and Higher Education Act 1998* was passed which introduced an upfront tuition fee of £1,000⁵⁰ per year.

1. Current position

Tuition fee contributions are set under the powers contained in section 22 of the *Teaching and Higher Education Act 1998*. Annual inflation-linked increases are made by the Secretary of State by regulation subject to the negative resolution procedure. Any larger increase could also be made by regulation but is subject to the affirmative resolution procedure⁵¹.

⁴⁷ Universities UK Media Release, *HE Bill is a 'major milestone'*, 8 January 2004 at available <http://www.universitiesuk.ac.uk/mediareleases/show.asp?MR=373>.

⁴⁸ Universities UK Media Release, *Office of the Independent Adjudicator moves ahead*, 10 July 2003

⁴⁹ *ibid* page 35, recommendation 79

⁵⁰ The background to these developments can be read in a library Standard Note *University top-up fees* (SN/SP/2040).

⁵¹ Section 22(7)

The original flat-rate £1,000 tuition fee contribution has risen with inflation and for 2003/04 the fee is £1,125. This amount is estimated to be about one quarter of the cost of a course; the remaining amount is paid for students out of public funds. The tuition fee contribution is means-tested and students from low-income families are eligible for help with fees. Tuition fee payments are paid at the start of a course.

Guidance on payment of tuition fees is contained in a DfES booklet called *Financial support for higher education students, guide for 2003/2004*⁵². The booklet gives details on eligibility thresholds for fee remission, this is included in this paper in Appendix 3.

Students from low income families are eligible for fee remission (also referred to as a fee waiver). Details of the number of students eligible for full fee remission, partial fee payment and full fees payment, have been given in answers to questions in the House:

University Tuition Fees

Mr. Wray: To ask the Secretary of State for Education and Skills what levels of support are available to students in serious financial difficulty; and what proportion of students did not pay tuition fees in each year since its introduction.

Margaret Hodge: In England and Wales students on full-time undergraduate courses and their families are expected to make a contribution towards the cost of their tuition only if they can afford to do so. The percentage of students in England and Wales in academic years 1998/99, 1999/2000 and 2000/01 (latest year for which data are available) who have been assessed to make a nil contribution towards the cost of their tuition is 45 per cent., 45 per cent. and 42 per cent. respectively. The percentage of students making a partial contribution towards the cost of their tuition in academic years 1998/99, 1999/2000 and 2000/01 is 20 per cent., 20 per cent. and 19 per cent. respectively⁵³.

Tuition Fees

Mr. Wiggin: To ask the Secretary of State for Education and Skills what percentage of university students from England paid the full amount of tuition fees for the academic year 2002/03.

Alan Johnson: Student support data on the percentage of students making a contribution towards the cost of their tuition are collected from local education authorities (LEAs) in England and Wales through a voluntary retrospective survey.

Provisional data for academic year 2001/02, the latest available, show that 41 per cent. of higher education students eligible to be assessed for student support in

⁵² available online at <http://www.dfes.gov.uk/studentssupport/uploads/FSS03-04.pdf>.

⁵³ HC Deb 30 April 2003 col 423

England and Wales were liable to pay the full contribution towards the cost of their tuition⁵⁴.

The main problems with the current system are considered to be the up-front nature of the fee payment and the fact that the amount paid by students is not related to the real cost of courses. Some courses are more expensive to run than others, because of equipment costs or other factors. HEFCE allocates similar levels of funding for similar subjects and to achieve this they band courses into four groups: A the most expensive courses such as medicine, B laboratory based subjects, C subjects with a practical element and D classroom based subjects⁵⁵. In 2003-04 HEFCE allocated £12,639 per annum for A group courses, £5,616 for B, £4,212 for C and £2,808 for D⁵⁶.

2. The Bill (Clauses 21 to 26)

Clauses 21 to 26 of the Bill make it possible for HEIs to charge variable fees. Clauses 21 to 25 of the Bill set out the provisions relating to the charging of fees and set out the conditions to be met by those institutions wishing to charge variable fees. Clauses 22 and 23 replace Section 26 of the *Teaching and Higher Education Act 1998* in relation to England⁵⁷.

Clause 21 introduces the “plan”. This document was referred to in the White Paper as an ‘Access Agreement’⁵⁸. Currently HEIs, as part of the Government’s Widening Participation Agenda, are expected to provide the funding councils with widening participation strategies⁵⁹. These policies should contain details about matters such as admissions procedures, recruitment practices and strategies for increasing participation by under-represented groups. HEFCE provides guidance on best practice in compiling these documents⁶⁰. The Bill places a condition on HEIs that before they can charge variable fees they must have approved plans in place. It is possible that these plans may develop from HEIs existing access policies. Details of the contents of the plans are contained in Clause 31.

Clause 22 adopts the same form of words as the *Teaching and Higher Education Act 1998* Section 26, referring to the ‘imposing of conditions’ on grants. Clause 22 gives the

⁵⁴ HC Deb 3 July 2003 col 443W

⁵⁵ HEFCE 2002-03 Annual Review page 9.

⁵⁶ HEFCE *Funding higher education in England, How HEFCE allocates its funds*. May 2003/29

⁵⁷ Details in Higher Education Bill Explanatory Notes, [Bill 35- EN] page 7

⁵⁸ *The future of higher education*, page 75 paragraph 6.29

⁵⁹ HEFCE March 2003/14 “Funding for widening participation in higher education” page 4, paragraph 12.f available at http://www.hefce.ac.uk/pubs/hefce/2003/03_14/03_14.doc.

⁶⁰ HEFCE November 2002/48 “Good Practice, Successful Student Diversity” available at http://www.hefce.ac.uk/pubs/hefce/2002/02_48.htm.

Secretary of State power to require, as a condition of giving a grant to a funding body⁶¹, that they should in turn impose a condition on the grant, loan or other payment that they give to relevant institutions.

Clause 23 sets out the conditions which may be imposed by the Secretary of State. Clause 23 (1)(a) imposes the condition that institutions with an approved plan must not charge fees in excess of the amount specified on the plan. 23 (1)(b) imposes the condition that institutions without an approved plan must not charge fees in excess of the 'basic amount', (the present flat fee). Section 23 (1)(c) states that these conditions apply for the period that the approved plans are in place.

Section 23(3) states that financial penalties may be imposed by the funding body on any institution which breaches these conditions. The type of sanction which may be imposed is given in section 23(4), as repayment of the grant⁶², withdrawal of the grant⁶³, or refusal to award any other grant⁶⁴.

Clause 23(6) provides that the basic amount will be prescribed in regulations made by the Secretary of State. Clause 24 requires that the first regulations made under subsection (6) must be approved by resolutions of both Houses of Parliament⁶⁵. Any subsequent regulations that aim to increase fees by more than inflation would also have to be approved by resolutions of both Houses⁶⁶.

Arrangements for the repayment of fees are dealt with in Clause 40. This is discussed on page 35.

Clauses 25 and 26 provide for an equivalent system in Wales, where the National Assembly for Wales may impose an equivalent condition in the Higher Education Funding Council for Wales.

Clause 27 re-enacts provisions in section 26 of the *Teaching and Higher Education Act 1998* which excludes overseas students from the provisions limiting fees.

⁶¹ Defined in Section 22 (2) as the Higher Education Funding Council for England (HEFCE), or the Teacher Training Agency (TTA).

⁶² Section 23(4)(a)

⁶³ Section 23(4)(b)

⁶⁴ Section 23(4)(c)

⁶⁵ Section 24(1)

⁶⁶ Section 24(2)

3. Issues

a. *Increased fees*

The Government intends to allow universities to increase the amount that they may charge for tuition from 2006/07. Universities will be able to charge between £0 and £3,000 per year in total for tuition. These fees need not be paid up-front⁶⁷ but may be deferred, (for further information on deferred fees see page 37). Fees could be varied by subject, or department, or across entire institutions. Variable fees will apply to all higher education qualifications including foundation degrees⁶⁸. Students from low-income families will continue to receive full fee exemption, but the money to cover the full £3,000 fee will come from a package of support. The proposed new system was explained by the Secretary of State for Education in his speech announcing the Bill on 8 January 2004:

My fifth and final intention is to ensure that every student from a poor economic background has enough resources to meet even the highest course fee without incurring additional debt. The £3,000 package is achieved by maintaining fee remission at about £1,200; raising the new higher education grant from the £1,000 that I originally proposed to £1,500 a year for new students from 2006; and, through OFFA, requiring universities to offer bursaries to students from the poorest backgrounds, so that the full fee cost of the course will be covered. For example, there will be a minimum bursary of £300 for a course whose fee is £3,000.

The effect of our commitments is that no student from a poor background will be worse off as a result of our proposals, whichever university they attend and whatever fee is charged for the course⁶⁹.

Increased fees have been justified on the basis that over a lifetime graduates earn more than non-graduates. This is referred to as the graduate premium (see Appendix 4 for figures). It has been argued that higher education should therefore be seen as a good investment:

Graduate Income

Mr. Alan Williams: To ask the Secretary of State for Education and Skills (1) what the (a) upper and (b) lower parameters are of Government estimates of extra life-time earnings of graduates;
(2) whether Government estimates of extra lifetime earnings of graduates differentiate between (a) different subjects and (b) different professions;

⁶⁷ The White Paper *The Future of higher education* states on page 86 paragraph 7.39, that students will still be able to pay their fees upfront if they wish.

⁶⁸ Foundation Degrees are vocational degrees, they were introduced in 2001. More information about these degrees can be found on the DfES website at <http://www.foundationdegree.org.uk/>.

⁶⁹ HC Deb 8 January 2003 col 418

(3) whether Government estimates of graduates extra life-time earnings differentiate between male and female graduates.

Alan Johnson: Higher education is undoubtedly a good investment for the average graduate. Individuals with higher education qualifications earn on average around 50 per cent. more than those without. Separate analysis of the benefits of higher education estimates that first degree graduates earn on average around £120,000 more—in present value terms—over their working lives than those with two or more A-levels¹. This estimate is technically different from the 50 per cent. graduate premium because it controls for background factors that affect earnings, independently of the qualification itself.

No specific estimates have been made of the extra lifetime earnings of graduates by degree subject, profession or gender. However, other studies suggest that there will inevitably be some variation in the lifetime differential because graduate earnings are influenced by a number of factors, including subject studied and occupational choices, which in turn may differ by gender⁷⁰.

¹ The 50 per cent. graduate earnings premium is derived by dividing the raw average earnings of those with first or sub-degrees by the average earnings of non-graduates. The £120,000 differential is derived by constructing a lifetime earnings stream for first degree graduates and comparing it against the lifetime earnings of A-level holders. Both earnings streams are discounted, adjusted for real earnings growth and other factors affecting earnings, other than the qualification itself. The difference between the two earnings streams sums to £120,000.

UK graduates earn a large personal rate of return compared to graduates in other European countries. An OECD study (*Education at a Glance 2003*), found that British graduates can expect to earn a 17.3 per cent rate of return on their degrees⁷¹. The OECD's 'private rate of return' measure is calculated by taking the costs of tuition fees and foregone earnings and offsetting these against the benefits of much greater earnings, less repayment costs⁷². However whether such returns will continue when there are more graduates in the work place is debatable⁷³.

Questions have been asked in the House about the length of time that it will take graduates to repay the higher fees:

Top-up Fees

Mr. Cousins: To ask the Secretary of State for Education and Skills if he will estimate the period required for full recovery of his proposed top-up fees, given a

⁷⁰ HC Deb 8 December 2003 col 285W

⁷¹ *OECD Education at a Glance 2003* page 167, Table A14.3

⁷² "Ministers seize on survey findings to back fees policy" *Financial Times* 17 September 2003

⁷³ "Competition will pay off for tomorrow's graduates" *The Scotsman* 8 December 2003

starting salary threshold for repayment of (a) £15,000, (b) £18,000 and (c) £20,000 per year.

Alan Johnson: The level of loan a student accrues as an undergraduate will depend on the level of fee charged by the university they choose to attend, how much loan they take out to cover that fee, and how much maintenance loan they take out. The time taken to repay that loan will depend not only on the threshold above which repayment commences, but also on the graduate's salary in the years following graduation, and whether they experience any periods during which their earnings drop below the threshold, for example because of career breaks⁷⁴.

It has been estimated that the average repayment period will be 13 years⁷⁵.

Raising the tuition fee to £3,000 will increase the amount of money available to universities. It is estimated that institutions in England will receive £847 million in tuition fees for home and EU students in 2003/04⁷⁶. This amount will rise to £1-1.2 billion if 75 per cent of courses charge £3,000⁷⁷.

b. Variable fees

The most controversial area of the Bill is the issue of variable fees⁷⁸. The Secretary of State acknowledged in his speech that “some colleagues have genuine concerns about the impact of variable fees on our university system”⁷⁹. The Government has used various arguments to justify the introduction of variable fees. The rationale used in the white paper is that graduates from different universities earn different amounts⁸⁰. This statement is based on research carried out by the Council for Industry and Higher Education (CIHE) which stated that:

For the 1985 and 1990 cohorts, Oxbridge graduates achieved a 7.9 percent earnings premium over graduates from ‘old’ universities, while those attending polytechnics suffered a 3.8 percent wage penalty compared to those attending ‘old’ universities⁸¹.

The Department of Education and Skills has published a paper called “*Why not a fixed fee*” to explain why a variable scheme was chosen. The paper states that:

⁷⁴ HC Deb 8 December 2003 col 298W

⁷⁵ “Clarke pushes variable scheme” *Times Higher Education Supplement* 12 December 2003

⁷⁶ HC Deb 9 December 2003 359 W

⁷⁷ HC Deb 8 January 2004 429

⁷⁸ discussed in library Standard Note *University tuition fees and student support* SN/SP/2610 page 3

⁷⁹ Charles Clarke speech

⁸⁰ *The future of higher education* page 84

⁸¹ taken from the Non-Technical Executive Summary to “Financial Returns to undergraduates and tuition fees”, Dr Gavan Conlon and Arnaud Chevalier, November 2002 available online at http://www.cihe-uk.com/publications_returns.htm.

a 'one size fits all' model is unfair to students and is too rigid for universities⁸²

The paper concludes that variable fees offer the best way forward because they:

1. Reflect the real world, letting the sector develop in ways that give more choice to students when they select their course and university.
2. Give universities the freedom to set their own prices and manage their own business, in the way they already do for part time and overseas students and in a way that is tried and tested overseas.
3. Raise additional money for universities where the benefits can be justified by the offer and the expected return to students. Forcing all students to pay a higher fixed fee in all circumstances would be wrong.
4. Protect access for the most vulnerable members of society through OFFA and the generous Graduate Contribution Scheme, without imposing a higher fee 'one size fits all' model raising a different set of access concerns⁸³.

The majority of university vice-chancellors are in favour of variable fees. In December 2003 Universities UK published a paper called "*What's it worth? The case for variable fees*"⁸⁴. This paper addresses the issues surrounding variable fees and discusses why alternative methods are unsuitable. Academics including Anthony Giddens⁸⁵ and Nicholas Barr⁸⁶ have also written articles in favour of variable fees.

Variable fees will also allow institutions to charge less for certain courses. The White Paper envisaged that some institutions and courses would cost less than they do now. Peter Knight vice chancellor of the University of Central Lancashire has explained that fixed flat fees prevent universities charging less⁸⁷. Alan Johnson made a similar point to the Education and Skills Select Committee in December 2003. He stated that he expected certain types of course would charge reduced fees:

I think it is absolutely on the cards, a near racing certainty, that chemistry and physics, where they have high infrastructure costs but they need the volume, will charge nothing, or next to nothing, to attract students⁸⁸.

⁸² DfES "*Why not a fixed fee?*" page 4, available at <http://www.dfes.gov.uk/hegateway/uploads/Why%20not%20a%20Fixed%20Fee.pdf>.

⁸³ *ibid* page 9

⁸⁴ available online at <http://www.universitiesuk.ac.uk/variablefees/>.

⁸⁵ "Variable fees will save universities" *The Financial Times* 17 December 2003

⁸⁶ "Flat fee would be unfair, insists Barr" *The Guardian Education* 7 January 2004, available at <http://politics.guardian.co.uk/publicservices/story/0,11032,1117856,00.html>.

⁸⁷ "Variable top-up fees are a political masterstroke" *The Guardian Education*, 13 January 2004

⁸⁸ Uncorrected transcript of oral evidence, House of Commons, Minutes of evidence taken before, Education and Skills Committee, Ministerial Annual Review, Wednesday 3 December 2003, page 55 Q81 available online at <http://pubs1.tso.parliament.uk/pa/cm200304/cmselect/cmeduski/uc75-i/uc7502.htm>.

However MPs remain sceptical⁸⁹. Many of the arguments against variable fees centre on the creation of a market in higher education and the effect that this might have on access and the university system. Commentators are concerned that poorer students will be forced to choose HEIs on cost rather than academic suitability⁹⁰. There are also concerns that a market in fees will create a two tier higher education system. The modern universities attract a greater number of low income students than the old universities. These universities feel that they will therefore have to charge low tuition fees to keep their courses full. These universities also tend to receive less Government funding as they are less research-intensive than the older universities. Variable fees could therefore exacerbate the difference between old and new universities, resulting in the rich universities getting richer and the poor poorer⁹¹.

However a survey conducted by *The Guardian* has suggested that most universities will charge the full £3,000 fee⁹². The survey suggests that universities will charge the full fees for all courses, with the possible exception of certain hard-to-fill courses such as physics or engineering. If this were to occur, the marketisation argument would not be relevant.

Many universities however have made it clear that they consider £3,000 to be too low a fee. Several Russell Group universities including Oxford and Imperial College London have said that they would like to see the amount rise to £5,000 or even £15,000. Some universities feel that the extra funding available will still not be enough to make up for years of under investment⁹³. Provisions in the Bill make it possible for the cap to be raised with the approval of both Houses and some universities are likely to campaign for this in the future⁹⁴.

Despite the various arguments the main sticking point for many Labour Members remains the 2001 Labour Manifesto commitment not to introduce top up fees:

“we will not introduce ‘top-up’ fees and we have legislated to prevent them”

Many Labour MPs remain wedded to that commitment⁹⁵ and are unmoved by Mr Clarke’s argument that the commitment was ‘for a Parliament’⁹⁶.

⁸⁹ “Rebel MPs furious over v-cs’ support for government line” *Times Higher Education Supplement* 12 December 2003.

⁹⁰ Speech by Mr Nicholas Brown MP, HC Deb 8 January 2004 col 427

⁹¹ “Mind the gap” *The Guardian Education*, 25 June 2003 available online at <http://education.guardian.co.uk/egweekly/story/0,5500,742894,00.html>.

⁹² “Colleges to charge full top-up fees” *The Guardian* 13 January 2004

⁹³ “Top up fees not enough say vice chancellors” *The Guardian Education* 13 January available online at <http://education.guardian.co.uk/students/tuitionfees/story/0,12757,1121540,00.html>.

⁹⁴ “Top up fees won’t mean more cash say dons” *The Times* 16 January 2004

⁹⁵ HC Deb 8 January 2004 422

⁹⁶ HC Deb 8 January 2004 438

Two opinion polls have given a confusing picture of public opinion on variable fees. The Populus poll published in *The Times*⁹⁷ stated that ‘two thirds of the public believe that variable top up fees repayable after graduation are fair’. Yet a poll published in *The Guardian*⁹⁸ stated that 59 % of voters oppose top up fees’.

A table showing tuition fee arrangements in other countries is given in Appendix 5.

D. Part 3 –Student Fees in Higher Education (Access)

The Government is committed to a programme of widening participation and Charles Clarke said in his statement announcing the Higher Education Bill that ‘barriers to access to university need to be lowered’⁹⁹.

1. Current position

Universities are independent bodies and as such, each university determines its own procedures for admissions. However university admissions procedures are coming under increasing strain. The number of students applying to university increased by 2.7 per cent in 2003 (Appendix 2 shows the upwards trend in participation) and A-level grades have been steadily rising¹⁰⁰; in 2003 21.6 per cent of A level papers were given an A grade. This was the highest number ever and twice the level of a decade ago. Distinguishing between extremely able students has become one of the biggest difficulties for university admissions officers.

It is felt that the most significant failing of the current university admissions process is that it has done little to reduce the discrepancy in university entry levels between different social classes:

Around half of the UK population describe themselves as working in occupations which are classified as skilled (manual), partly skilled or unskilled. Yet, in 2001, just 19% of young people from these backgrounds were benefiting from higher education¹⁰¹.

The number of students from working-class backgrounds entering higher education has risen by 8 per cent since 1991. However the increase in participation by people from

⁹⁷ “Voters swing behind Blair on top-up fees” *The Times* 9 December 2003

⁹⁸ “59% of voters oppose top-up fees” *The Guardian* 16 December 2003

⁹⁹ HC Deb 8 January 2004

¹⁰⁰ DfES Press Notice 2003/0163, “Miliband’s praise for A level teachers and students’, 14 August 2003

¹⁰¹ *Admission to Higher Education Review*. Consultation on key issues relation to fair admissions to higher education. DfES September 2003, page 42

families with professional and non-manual occupations has risen by 15 percentage points (from 35 per cent to 50 per cent) over the same period¹⁰²(See Appendix 7).

The Prime Minister has stated that university entry should be based on ‘merit’¹⁰³. The difficulty for universities is defining merit. Professor Steven Schwartz, Vice Chancellor of Brunel University, was asked by the Secretary of State for Education, to lead an independent review into university admissions practices. The Schwartz review has tackled controversial topics such as lower offers for disadvantaged students and new admissions tests for students. It is hoped that consultations on the Schwartz recommendations and on the admissions process in general, could lead to a more open and accessible system, possibly with students being given reasons for their refusal by universities¹⁰⁴.

A discussion of these issues is contained in the library Standard Note *University Admissions* SN/SP/2686 which is available online at <http://hcl1.hclibrary.parliament.uk/notes/sps/snsp-02686.pdf>.

2. The Office of Fair Access

Since the publication of the White Paper in January 2003 the DfES has announced the establishment of a new body, the Office of Fair Access (OFFA). The DfES press notice stated that:

The OFFA will be an independent body, separate from but supported by the Higher Education Funding Council (HEFCE). Universities that wish to increase their fees above the current £1,100 level will need to draw up an access agreement that will be considered and approved by the Head of OFFA. An agreement, which will last for 5 years, will need to set out¹⁰⁵.

Details of the role of OFFA have been published in a document called *Widening participation in higher education*¹⁰⁶:

The main role of OFFA is to exercise judgements in ensuring that universities are taking the actions they see as necessary to achieve their widening participation ambitions if they introduce variable tuition fees.

OFFA will operate within a legal and policy framework established by the Government, but will exercise its independent judgement in applying this framework. OFFA will have no role in university admissions.

¹⁰² *ibid*

¹⁰³ HC Deb 400, 5 March 2003 col 1027

¹⁰⁴ “Universities should explain rejection” *The Guardian* 23 September 2003

¹⁰⁵ DfES PN 2003/0062 *Clarke announces plans for widening participation in higher education*, 8 April 2003

¹⁰⁶ *Widening participation in higher education* DfES 2003

The budget for running OFFA will be £500,000 a year which will be met by the DfES¹⁰⁷. OFFA will be a non-departmental public body supported by existing staff at HEFCE.

3. The Bill (Clauses 28- 36)

This part of the Bill creates a new office-holder, the Director of Fair Access to Higher Education, who will oversee the work of the Office of Fair Access (OFFA). Before higher fees can be charged by HEIs they will have to submit a plan¹⁰⁸ for approval by the Director of Fair Access to Higher Education (in England) or a body specified by the National Assembly for Wales. These bodies are referred to in Clause 28 of the Bill as ‘relevant authorities’.

Clause 29 of the Bill establishes the Director of Fair Access to Higher Education and Clause 30 specifies the duties of this office holder:

.....to promote and safeguard fair access to higher education and in the performance of these duties to have regard to any guidance given to him by the Secretary of State¹⁰⁹.

Clause 31 outlines the contents of plans. These plans will apply to each course wishing to charge higher fees¹¹⁰. The plans must include provisions on promotion of higher education¹¹¹ and details of how the institutions will promote equality of opportunity in access¹¹². Details of specific information to be included in the plans are given in Section 4, which covers work done by universities in terms of outreach programmes such as summer schools and mentoring programmes. Under Section 4 the plans must include measures taken to attract unde-represented groups¹¹³, financial assistance available to students¹¹⁴ and information for students about financial assistance¹¹⁵.

Clause 32 contains provisions on the approval of plans. The Clause states that the relevant authority is authorised to approve a plan or issue guidance to an institution. These functions will be carried out under regulations, which will specify when plans may, or may not be approved and what matters the relevant authority must, or must not have regard to when considering plans. Regulations under this clause may also require institutions to publish their plans.

¹⁰⁷ “The wider scope of the proposals” *Times Higher Education Supplement* 16 January 2004

¹⁰⁸ These plans are discussed on page 23

¹⁰⁹ Section 30 (1)

¹¹⁰ Section 31 (1)

¹¹¹ Section 31 (2)(a)

¹¹² Section 31 (2)(b)

¹¹³ Section 31 (4) (a)

¹¹⁴ Section 31 (4) (b)

¹¹⁵ Section 31 (4) (c)

Clause 33 states that plans must specify the period during which they will be in force. The maximum period that a plan may be in force will be prescribed in regulations. Clause 34 enables plans to be varied with the approval of the relevant authority.

Clause 35 details how plans are to be enforced. If the Director is satisfied that an institution has failed to comply with requirements, he can direct the funding body to impose financial penalties¹¹⁶, or notify the institution that he will refuse to approve a new plan¹¹⁷.

Clause 36 restates the provisions in Clause 35 for Wales.

4. Issues

a. Increased participation

The Government aims to increase the number of students entering higher education so that by 2010, 50 per cent of 21–30 year olds will have experienced higher education. Participation is currently 43 per cent¹¹⁸. *The future of higher education* states that this expansion is necessary to meet the job market's demand for a more skilled workforce. A forecast by the Institute for Employment Research has suggested that 80 per cent of new jobs created between 1999 and 2010 will need graduate level skills¹¹⁹.

b. Widening Participation

The Government also wants to increase the number of students from disadvantaged backgrounds entering university. This is called the widening participation agenda. The rationale behind this scheme is stated on the HEFCE Widening Participation website¹²⁰:

Participation in higher education will equip people to operate productively within the global knowledge economy. It also offers social benefits, including better health, lower crime and a more tolerant and inclusive society.

We aim to ensure that all those with the potential to benefit from higher education have the opportunity to do so, whatever their background and whenever they need it. This means providing for the needs of a growing number of students with a broad variety of previous life and educational experiences. These students may return on more than one occasion across their lifetime in order to refresh their knowledge, upgrade their skills and sustain their employability.

¹¹⁶ Section 35 (1)(a)

¹¹⁷ Section 35 (1)(b)

¹¹⁸ *The future of higher education* page 57

¹¹⁹ Wilson, R.A., and Green, A.E., (2001) Projections of Occupations and Qualifications 2000/01: Research in Support of the National Skills Task Force. Sheffield: Department for Education and Employment.

¹²⁰ <http://www.hefce.ac.uk/widen/>.

The Government has initiated a number of schemes and allocated funding to support its widening participation agenda. The amount available for widening participation is £265 million for 2003-04¹²¹. Details of schemes and funding can be found on the HEFCE Widening Participation website at <http://www.hefce.ac.uk/widen/>.

As part of the Government's widening participation agenda universities can be allocated extra money to help them support students from under-represented groups. Some of this extra money is known as 'postcode funding'. Postcode funding is allocated to universities to enable them to meet the additional costs of supporting students from disadvantaged backgrounds. The Government has allocated £38 million to cover postcode funding in 2003/4¹²².

Many commentators are concerned about Government interference in university admissions procedures. However the Laura Spence case¹²³ and the controversy surrounding admissions to Bristol University¹²⁴ have highlighted areas of concern in the system. Despite these problems, attempts to change the system almost inevitably meet with accusations of 'social engineering'¹²⁵.

Universities UK have published several studies on access and participation¹²⁶. Universities are highly committed to widening participation but are uncertain about the role of OFFA. In evidence to the Education and Skills Select Committee enquiry on the White Paper their spokesperson Professor Floud¹²⁷ said:

we all agree that there is a great deal more to be done and we are very happy to work further with anybody, the schools, the colleges, the foundations and, if necessary, with the access regulator to spread best practice. However, I think we would be hostile to a bureaucratic system on the grounds that we cannot really see what its added value might be. If we can be convinced that it does have added value, then of course we will work happily with it¹²⁸.

¹²¹ figures from HEFCE publication *Funding for widening participation in higher education*, March 2003/14 available online at http://www.hefce.ac.uk/pubs/hefce/2003/03_14.htm.

¹²² Figures available at <http://www.hefce.ac.uk/widen/fund/>.

¹²³ Laura Spence was a state school pupil who failed to get into Oxford University to study medicine despite having 10 A*s at GCSE and being predicted straight A's at A level. Story available at <http://news.bbc.co.uk/1/hi/education/764141.stm>.

¹²⁴ Independent school heads alleged that Bristol University was discrimination against private school pupils and staged a boycott of the university. Story available at <http://news.bbc.co.uk/1/hi/education/2818263.stm>.

¹²⁵ HC Deb 398, 22 January 2003 col 307

¹²⁶ *Fair Enough?* Universities UK, January 2003, *Attitudes to Debt*, Universities UK February 2003

¹²⁷ President, Universities UK and Vice-chancellor of London Metropolitan UniversityD

¹²⁸ Education and Skills Committee, Fifth Report of Session 2002-03, *The Future of Higher Education*, HC 425-1 page 46, paragraph 127

E. Part 4 - Student Support

The *Education Act* 1962 introduced mandatory grants for students. These provisions remained basically unchanged until 1990 when the *Education (Student Loans) Act 1990* brought in student loans. In this year student maintenance grants and parental contributions were frozen at their 1990/91 level and the loan amount was gradually increased. In 1999 grants were abolished altogether and replaced by student loans. A history of these changes is available in a library Research Paper *Student grants, loans and tuition fees* 97/119 available online at <http://hcl1.hclibrary.parliament.uk/rp97/rp97-119.pdf>.

1. Current position

Student support currently comes from several different sources. Students from low income families receive assistance with tuition fee payments via their Local Education Authority (see page 16, tuition fees and Appendix 4).

Students may also apply for a student loan to cover maintenance costs. Student loan rates vary depending on where a student is living; in 2003/04 students living in London can receive up to £4,930, students living elsewhere in the UK receive up to £4,000 and students living at home receive up to £3,165. Seventy five per cent of the loan amount is available to all students and the remainder is means tested¹²⁹. Details of the terms and conditions for receiving a student loan are contained in the *Education (Student Support) Regulations 2002*¹³⁰. Guidance on these provisions can be found in a DfES publication *Student loans: a guide to terms and conditions* which is available online at <http://www.dfes.gov.uk/studentssupport/uploads/Termsandcond-03-04.pdf>.

Student loans are administered by the Student Loans Company (SLC). Details of loan payment schedules and repayment schemes are available on the SLC website at <http://www.slc.co.uk/index.html>. Loans are repaid after graduation when the graduate is earning over £10,000 per year. Repayments are taken directly from the graduate's salary through the PAYE system. Payments are made at a rate of 9 per cent above the threshold of £10,000. No real interest is charged on these loans¹³¹. The statutory provisions governing the repayment of student loans are the *Education (Student Loans) (Repayment) Regulations 2000* as amended. Student loan uptake up has risen annually. For figures on student loan outlay and uptake see Appendix 8 and 9.

The Government also provides a package of assistance for students with specific needs. Students with children or dependents can apply for a range of help including Child Grants, Parents' Learning Allowances, Lone Parents' Grants and Adult Dependents'

¹²⁹ Information on student loans is available in the DfES publication *Financial support for higher education students, Guide 2003/2004*, page 10

¹³⁰ SI No 2002/195

¹³¹ Interest is charged at the rate of inflation, students are currently paying 3.1 per cent.

Grants. Disabled Students may apply for Disabled Students' Allowances and care leavers may apply for a Care Leavers Grant. Students suffering financial hardship may apply for Access or Hardship Funds. Details of all of these schemes are in the DfES booklet¹³².

Individual universities currently offer a range of financial assistance for their own students. Oxford University for instance provides bursaries of £4,000 for poor students.

2. The Bill (Clause 40)

This Clause creates a mechanism for the deferred payment of tuition fees until after they graduate. It envisaged that this system will operate in a similar way to the current student loan repayment scheme. Clause 40 (2) amends Section 22 subsection (2)(i) of the *Teaching and Higher Education Act 1998* and enables money loaned to students to cover tuition fees, to be paid directly to universities to cover their costs.

Clause 40 (3) removes Section 22 (7) of the *Teaching and Higher Education Act 1998* , so that it is no longer necessary to use the affirmative resolution procedure for any above inflation increases in fee amount.

Clause 41 transfers power to make student support provisions to the National Assembly for Wales.

3. Issues

a. *Deferred fees*

Section 40 of the Bill abolishes the upfront payment of tuition fees. However the White Paper states that student will still be able to pay their fees up front if they wish:

No student will have to pay their contribution up-front or while they are studying, although they will, of course, be able to do so if they wish¹³³.

These provisions have been universally welcomed as they remove what has been considered as a deterrent to students from poorer families entering higher education.

However it has been suggested that as fees are to be deferred until graduates are in work, there is a certain lack of logic in waiving fees for poor students. The long term effect will be that graduates earning the same salary will take home different amounts of money based on their original family circumstances.

Students will not have to pay back any fees until they reach an income level of £15,000 per year¹³⁴. The income level for repayments to start is currently £10,000. It had been

¹³² DfES *Financial support for higher education students, Guide 2003/2004*

¹³³ The White Paper *The Future of higher education* page 86, paragraph 7.39

suggested that this might rise to £18,000 or £20,000¹³⁵. The Education Select Committee recommended, in their report on the White Paper, that the threshold should be in line with average earnings, £24,500¹³⁶.

b. Support for students from low income families

One of the biggest student support concerns is the level of help available for low income students. In his statement on 8 January Charles Clarke stated that low income students would be eligible for a £3,000 package of support that would cover the cost of tuition:

My fifth and final intention is to ensure that every student from a poor economic background has enough resources to meet even the highest course fee without incurring additional debt. The £3,000 package is achieved by maintaining fee remission at about £1,200; raising the new higher education grant from the £1,000 that I originally proposed to £1,500 a year for new students from 2006; and, through OFFA, requiring universities to offer bursaries to students from the poorest backgrounds, so that the full fee cost of the course will be covered. For example, there will be a minimum bursary of £300 for a course whose fee is £3,000.

The effect of our commitments is that no student from a poor background will be worse off as a result of our proposals, whichever university they attend and whatever fee is charged for the course¹³⁷.

The Prime Minister has said that this scheme is “probably the most progressive university reform ever presented to Parliament” and “a prime example of the modern path to social justice”¹³⁸. It has been suggested that these provisions should narrow the gap in access to university between social classes¹³⁹.

It is anticipated that some universities will provide generous packages of support for low income students. Cambridge has drawn up a scheme which will give low income student an annual grant of £4,000¹⁴⁰.

c. Grants and bursaries

The Government has announced a new Higher Education Grant starting in 2004/05. It was originally stated that this grant would be worth £1,000 per year¹⁴¹. This has now been

¹³⁴ HC Deb 8 January 2004 col 420

¹³⁵ “Tuition fee concession costed” *The Times* 5 December 2003

¹³⁶ Education and Skills Committee, Fifth Report of Session 2002-03, *The Future of Higher Education*, HC 425 1-11, page 69 paragraph 204.

¹³⁷ HC Deb 8 January 2004 col 419

¹³⁸ Prime Ministers speech to the Institute of Public Policy Research think tank, 14 January 2004 available online at <http://education.guardian.co.uk/students/tuitionfees/story/0,12757,1123197,00.html>.

¹³⁹ “The Government is beginning to win the argument with its MPs on top-up fees” *The Independent* 15 January 2004

¹⁴⁰ “Top-up fees won’t mean more cash, say dons” *The Times* 16 January 2004

raised to £1,500, which puts it at the same level as Educational Maintenance Allowances¹⁴². Students from families with an income of less than £15,200 per year will receive the full grant, those from families with an income between £15,200 and £21,185 will get a partial grant.

Mr Clarke has suggested that there is a strong case for converting the fee waiver into a lump sum which could be added to the maintenance grant¹⁴³. Russell Group vice – chancellors¹⁴⁴ and The Coalition of Modern Universities (CMU) supports this idea. Michael Driscoll chairman of the CMU has said that:

All the work we do reveals that decisions about dropping out are made around pressure to get a job. The more upfront cash available to students, the better¹⁴⁵.

The DfES has published a consultation paper on this proposal called *Moving towards a single combined grant for higher education* which is available at <http://www.dfes.gov.uk/hegateway/uploads/combined%20grant%20paper%20final%202pm%2019%20Jan.pdf>.

Universities will also be expected to contribute a minimum of £300 in the form of bursaries for low income students. It was originally anticipated that universities would have to pay bursaries of up to £800 to make up the difference between the amount of Government help available to low income students and the full cost of the higher fees. University vice chancellors were unhappy about these proposals¹⁴⁶. It had been suggested that a third of the income from top-up fees could be used to create a national bursary scheme¹⁴⁷. This proved an unpopular idea as HEIs have very different numbers of low income students and it would have lessened the amount of money gained by universities from increased fees¹⁴⁸. The new scheme means that universities should be able to keep up to 90 per cent¹⁴⁹ of their top-up income and still be able to provide for poor students.

d. Student Debt

Student debt has been shown to be increasing. Levels of student debt are becoming a cause for concern and could possibly have an effect on the numbers of applicant's entering higher education in the future.

¹⁴¹ DfES Press Notice PN/203/0149, *Government announces details of higher education grant and package of support for part-time students-Johnson* 16 July 2003

¹⁴² HC Deb 8 January 2004 col 419

¹⁴³ HC Deb 8 January 2004 col 420

¹⁴⁴ "Grants may be key to success" *Times Higher Education Supplement* 5 December 2003

¹⁴⁵ "Grants key to dropout rate, v-cs warn" *Times Higher Education Supplement* 12 December 2003

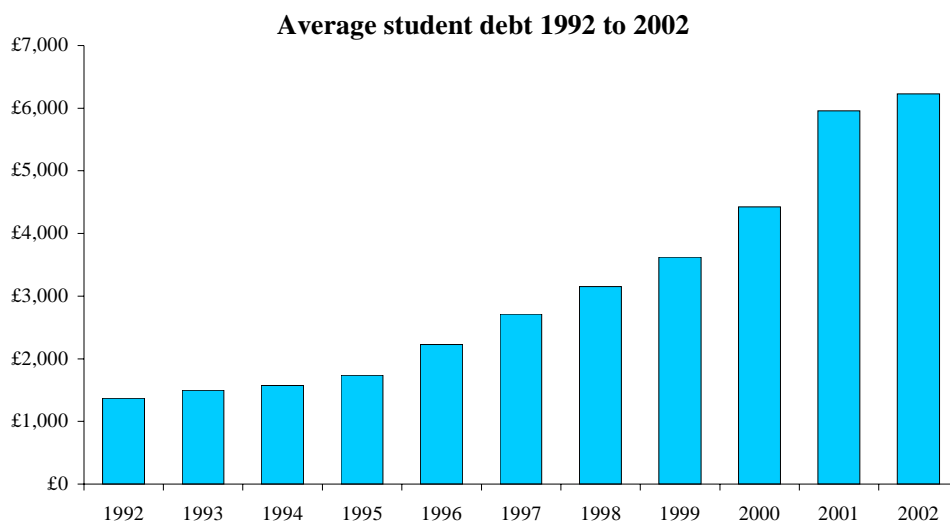
¹⁴⁶ "£200m to end fee deadlock" *Times Higher Education Supplement* 14 November 2003.

¹⁴⁷ *ibid*

¹⁴⁸ "Universities divided over national bursary scheme" *The Guardian Education* 22 December 2003 available online at <http://education.guardian.co.uk/higher/news/story/0,9830,1111801,00.html>.

¹⁴⁹ HC Deb 8 January 2004 col 420

The 2002/03 *Student Income and Expenditure Survey* shows that students' standards of living have risen since 1998/99, but that the average expected debt per student has also risen to around £8,666¹⁵⁰. The average level of debt in 1998/99 was £3,465. The survey also showed that 58 per cent of students now work during term time, compared with 47 per cent in 1998/99.



Source: Barclays student surveys, various years

Claire Callender of South Bank University has conducted research into student debt and co-authored the *Student Income and Expenditure Survey*. Her analysis of the survey concluded that the poorest students have the highest debts¹⁵¹.

Universities UK and HEFCE have published a paper called *Attitudes to Debt*¹⁵². This research showed that debt aversion was particularly great among the students who were under-represented in higher education and that this could deter such students from entering higher education.

The DfES have published a paper called *Student loans and the question of debt*¹⁵³. The paper states that:

Government believes that debt need not be a significant deterrent. Young people overwhelmingly believe that going to university is a good thing and well worth the financial investment that they make. This is supported by the evidence that student numbers, despite similar concerns at the time, have continued to rise in every year since the introduction of income contingent student loans and tuition

¹⁵⁰ DfES PN 2003/0232 "*Income and Expenditure survey shows students' standards of living has risen*" 18 November 2003

¹⁵¹ "Poor students shoulder debt for learning" *Guardian*, 19 November 2003

¹⁵² *Attitudes to Debt*, Universities UK, February 2003.

¹⁵³ Op cit page 15

fees in 1998/99. There are 796,000 UK students in higher education in 2001/02 compared with 747,500 in 1996/97 before the changes were announced.

Some commentators have suggested that student debts could have a detrimental effect on graduates wishing to obtain mortgages when they begin work. The DfES paper states that the Council of Mortgage Lenders has said that outstanding student loans should not have a negative effect on a graduate's ability to obtain a mortgage.

e. Support for part time students

From September 2004/05 part-time students studying the equivalent of 50 per cent of a full-time course will be able to apply for a part-time grant¹⁵⁴. Eligible students will be entitled to a fee grant capped at £575 per year and a grant of up to £250 towards the cost of studying. The grants will be means tested. Students with income levels up to £14,599 will receive a full grant, students with incomes between £14,599 and £21,487 will get partial grants. This grant will help part-time students and mature students, as mature students more often tend to be part-time.

4. Bankruptcy

Clause 39 of the Bill closes a loophole in legislation which has allowed students to avoid repayment of their student debts by filing for bankruptcy. Clause 39 will not affect any student who has been declared bankrupt before the clause comes into effect.

The number of student bankruptcies surged after the Insolvency Service, a Government Agency, decided in 2002 that students could write off Government loans when going bankrupt¹⁵⁵. Nearly 1,000 students have been declared bankrupt in the last two years. Mrs Margaret Hodge, when she was the Minister for Lifelong Learning and Higher Education, stated the Government's intention to legislate in this area:

Bankruptcy and Student Loans

The Minister for Lifelong Learning and Higher Education (Margaret Hodge): It has become clear that under current legislation student loans are written off on bankruptcy. I have, therefore, instructed the Student Loans Company (SLC) to pay back student loan repayments to bankrupt student loan borrowers.

This issue came to light during the passage of the Enterprise Bill in Parliament last year. Prior to that, we believed that bankruptcy had been ruled out in legislation as grounds for write off of student loans.

¹⁵⁴ DfES Press Notice PN/203/0149, *Government announces details of higher education grant and package of support for part-time students-Johnson* 16 July 2003

¹⁵⁵ "1,000 students go bankrupt to beat debts" *The Sunday Times* 23 November 2003.

We have announced in the Higher Education White Paper that we will be amending our legislation so that graduates will have to continue repaying their student loans, even if they declare themselves bankrupt and we hope to do so as soon as possible.

One hundred and ninety eight borrowers have continued to repay their student loans after notifying the SLC that they have declared themselves bankrupt. The SLC have collected a total of around £75,000 from these borrowers and will now return this to them, together with interest compensation.

Government policy is, and always has been, that student loan debt should not be written off with bankruptcy. Graduates should not see bankruptcy as an easy route to repaying the money they have borrowed through the generously subsidised student loan system. Bankruptcy could have an adverse affect on graduates' employment prospects, future earnings, credit rating and their ability to take out loans and mortgages¹⁵⁶.

5. Disclosure of information

Clause 42 of the Bill permits the Secretary of State to make regulations allowing student support authorities to supply information collected in connection with the operation of the student support scheme, to prescribed persons, if the individual concerned gives their consent.

The Explanatory Notes to the Bill state that:

these provisions aim to simplify the interactions of citizens with other government or higher education organisations. The regulations will specify the conditions under which information may be supplied including what information may be supplied and the organisation to which it may be supplied. They may also specify further constraints such as restrictions on passing on information received and the manner in which consent must be obtained¹⁵⁷.

III Further areas of concern

A. Cross Border Issues

The possible effects of the Government's proposals on Scotland, Northern Ireland and Wales were raised in the White Paper :

The package of student funding to which students are entitled depends on which UK country they ordinarily live in. So students from Scotland will continue to be

¹⁵⁶ HC Deb 15 May 2002 13 WS

¹⁵⁷ [Bill 35-EN] page 11 paragraphs 61 and 62

entitled to the package of loans and grants made available through the Student Awards Agency for Scotland, and students from Northern Ireland will continue to be entitled to the package of loans and grants made available through the Northern Ireland Education and Library Boards. In Wales, although institutional funding for higher education is devolved, funding for student support is not.

Because repayments are made through the tax system, and at present each of the devolved nations uses the same system for repaying fees (or, in Scotland, the Graduate Endowment), the increase in the repayment threshold from £10,000 to £15,000 will apply across the UK.

We will need to consider further the impact of our proposals for student and institutional funding on flows of students between UK countries. We will discuss these issues with the devolved administrations¹⁵⁸.

The Bill devolves student support matters to the National Assembly in Wales; this means that both Scotland and Wales will now have the power to set their own regulations in this area.

Both Scotland¹⁵⁹ and Wales¹⁶⁰ have stated that they do not wish to bring in variable fees. Variable fees in England could therefore lead to significant regional differences in the cost of education in the UK. This is a concern for students and universities¹⁶¹. There is already a considerable difference between the student finance systems in England and Scotland (for details of the different systems see library Standard Note SN/SP/2227 *Student support for students studying in Scotland, Wales, Northern Ireland and the Republic of Ireland*, available at <http://hcl1.hclibrary.parliament.uk/notes/sps/snsp-02227.pdf>.)

The National Assembly of Wales has ruled out variable fees until 2007, but the Education Minister Jane Davidson has said that they fees could be introduced in Wales if they prove successful in England¹⁶².

The Scottish Executive is concerned about the impact that variable fees may have on the higher education system in Scotland. Dr Andrew Cubie¹⁶³ has stated his concern that Scottish university staff could be ‘lured away’ from Scottish universities to the better funded English universities¹⁶⁴. Other commentators are concerned that Scottish

¹⁵⁸ The future of higher education page 89 paragraph 7.50 to 7.52

¹⁵⁹ Scottish Executive News Release, SEEL096/2003 *No top up fees for Scotland*, 07/10/2003

¹⁶⁰ Learning Wales Press Release, *First step taken to devolve student support to Wales*, 09/01/2004 available at http://www.learning.wales.gov.uk/scripts/fe/news_details.asp?NewsID=1125.

¹⁶¹ “Degrees of Doubt” *Scotland on Sunday* 11 January 2004

¹⁶² “Wales may follow England on fees” *Western Mail* 10 January 2004

¹⁶³ Dr Cubie chaired an influential inquiry into higher education finance in Scotland

¹⁶⁴ “Fees warning for universities” *BBC Education*, 9 September 2003 available at <http://news.bbc.co.uk/1/hi/scotland/3091988.stm>.

universities may receive a flood of applicants from England wanting to avoid the higher fees.

In response to these concerns the Scottish Parliament's Enterprise and Culture Committee set up an inquiry into the possible effects of the Government's proposals on Scottish universities¹⁶⁵. The report of the Committee 'Scottish Solutions'¹⁶⁶ has stated that in their view the White Paper contains proposals which could lead to a competitive disadvantage for Scottish higher education in the following ways:

- differential top-up fees: whereby universities in England would be allowed to charge additional tuition fees up to a limit of £3,000 per annum;
- increased selectivity in research funding: including the creation of a 6-star Research Assessment Rating, and the concentration of research funding on five or six institutions;
- a substantial increase in research infrastructure funding: which would be worth £500 million per year by 2004-05¹⁶⁷.

The report concludes that:

The Executive must pay significantly more for higher education in Scotland if it is to maintain its competitive advantage within the UK¹⁶⁸.

The Scottish Executive believe that variable fees ought to lead to extra funding going north of the border through the Barnett formula. An article in the *Times Higher Education Supplement* explains this:

The formula ensures that if public spending rises in England it rises proportionately in Scotland. As the Treasury would have to cover the cost of variable fees from 2006 until such time as graduate repayments started to come in, this would amount to an increase in state spending and should therefore be reflected in the Barnett formula¹⁶⁹.

The Conservative Party leader Mr Michael Howard, has written a letter to the Prime Minister voicing his concerns about Scottish MPs voting on purely English matters:

¹⁶⁵ Scottish Parliament Committee News Release CENT 01/2003, *Enterprise Committee launches inquiry into the impact of England's university fees on Scottish higher education* 2 July 2003 available at <http://www.scottish.parliament.uk/news/news-03/cent03-001.htm>.

¹⁶⁶ Enterprise and Culture Committee, Third Report 2003 (Session 2) *Report on Scottish Solutions Inquiry*, SP Paper 67, available at <http://www.scottish.parliament.uk/enterprise/reports/elr03-03-02.htm>.

¹⁶⁷ The Scottish Parliament Committee News Release CENT 03/2003 *Enterprise Committee calls for more funding for higher education*, 18 December 2003 available at <http://www.scottish.parliament.uk/news/news-03/cent03-003.htm>.

¹⁶⁸ *ibid*

¹⁶⁹ "MSPs call for more cash to remain competitive" *Times Higher Education Supplement*, 9 January 2004

I raised recently the issue of MPs representing constituencies in Scotland voting in Westminster on subjects which relate only to England and Wales and which, because responsibility for them have been devolved to the Scottish Parliament, do not specifically relate to Scotland.

This issue is one of wide constitutional importance. But it is of particular concern in relation to the Second Reading of the Bill on Higher Education¹⁷⁰.

Mr Howard has suggested that Labour MPs representing seats in Scotland should abstain on the Second Reading of the Higher Education Bill.

B. European Students

Students from the EU are entitled to fee support on the same basis as home students. They will therefore be liable for top-up fees in the same way as home students¹⁷¹. They are not however eligible for student loans¹⁷². There are no specific provisions in the Bill on EU students.

Deferred fee payments will be recovered through the PAYE system. There is therefore a concern that EU students who return to their own country after graduation will avoid repaying their fees. Currently there is a system in place for home students who leave to work abroad after graduation. This system requires the student to inform the SLC of their position and to make repayments directly to them¹⁷³. It has been suggested that this system could be used to recover money from EU students.

C. Public Sector Workers

There is a concern that increased levels of debt could deter graduates from entering the public sector where salaries are low compared to their private counterparts. This issue was raised in the White Paper:

One of our main concerns in developing the new arrangements will be to make sure that they do not discourage our brightest young people from all backgrounds entering training for, or taking jobs in, the public sector. Over time, different public services have responded to changing labour market pressures in different ways. For very many public sector graduates, the gain from a university education will be more than they are asked to pay back. Some public sector employers already help meet the costs of higher education for certain key staff, through different mechanisms which fit their particular needs.

¹⁷⁰ Conservative Party Press Release “Scottish MPs should abstain in key vote on tuition fees” 14/ 01/2004 available at http://www.conservatives.com/news/pressrelease.cfm?obj_id=84957.

¹⁷¹ *The future of higher education* page 90 paragraph 7.53

¹⁷² DfES *Financial support for higher education students, guide 2003/4* page 72

¹⁷³ Information from the SLC website at <http://www.slc.co.uk/frames/faqs/fset.html>.

This means that approaches will be part of carefully costed and planned programmes to modernise and develop the public sector workforce, and to recruit and retain staff in a targeted way. Across government, we will explore the best ways of doing this effectively, taking account of the different situations in each sector. Any such measures will need to be funded from within the departmental spending plans then in force¹⁷⁴.

There are currently a variety of schemes in place for public sector workers. The repayment of teachers' loans scheme, repays the outstanding loans of teachers who work in certain subject areas for ten years¹⁷⁵. The Department of Health administers a bursary scheme for health workers including medical and nursing students¹⁷⁶. Social workers also have a bursary scheme which pays the tuition fees and provides a £3,000 grant¹⁷⁷.

D. Demand for university places in 2005/06

It is expected that there will be a large rise in demand for university places in 2005/06 ahead of the introduction of variable tuition fees in 2006¹⁷⁸. In 1997, before the introduction of fee payments in 1998, applications rose by around 10 per cent¹⁷⁹.

It has been suggested that students will not take gap years in 2005 and will go straight in to university to avoid higher payments¹⁸⁰. It has been estimated that this could mean an extra 60,000 students applying for places in 2005¹⁸¹. This would put a lot of extra pressure on university admissions staff and have a damaging consequence on gap year industries. There is also a concern about the effect that these extra students will have on public spending as the Government pays for their student support need and university costs.

IV Reactions to the Bill

A. Outside Parliament

Initial reactions to the Bill expressed concerns about variable fees and the effect that higher fees would have on access, student debt and the university system.

¹⁷⁴ The future of higher education page page 88 paragraph 7.47 and 7.48

¹⁷⁵ Details at teachernet "*repayment of student loans for teachers of shortage subjects*" <http://www.teachernet.gov.uk/management/staffinganddevelopment/recruitment/teachersloans/?section=833&CFID=1128703&CFTOKEN=71992604>.

¹⁷⁶ *Financial help for health care students*, available at <http://www.doh.gov.uk/pdfs/financialhelp6.pdf>.

¹⁷⁷ General Social Care Council at <http://www.gsc.org.uk/bursaries.htm>

¹⁷⁸ "Clarke moves to head off pre-fees rush" *Times Higher Education Supplement*, 16 January 2004

¹⁷⁹ Statistic from library Standard Note SN/SG/2629, *Applicants and entrants to higher education* available at <http://hcl1.hclibrary.parliament.uk/notes/sgss/snsg-02629.pdf>.

¹⁸⁰ "Gap years may be shunned to beat top-up fees" *The Daily Telegraph*, 10 January 2004

¹⁸¹ *ibid*

The NUS focused their comments on variable fees:

This bill is a disaster for the future of higher education. The new plans for variable top-up fees will create a market in higher education. Students from poorer backgrounds will be put off going to more expensive courses.

We know that universities want to charge more than £3,000 a year. If the principle of variable fees gets through Parliament then it is only a matter before we are fighting proposals for a fee of £10,000 a year or even unlimited fees. It crucial that we defeat these plans now before it is too late¹⁸².

The AUT said

We're desperately disappointed that the Government has ignored the nation over variable top-up fees. But, we're relieved to see that it is listening to people about grants – although it does need to be far more generous. The more it can do to improve student access the better.

The introduction of variable top-up fees will deal a catastrophic blow to the drive to persuade poor-to-middle income students to enter higher education and be hugely damaging for many less prestigious institutions¹⁸³.

NATFHE

The government has listened, but unfortunately it has listened too much to vice-chancellors of the wealthiest universities (and the Bill does not satisfy even them). There is no national pot for students to seek bursaries from, as the richer universities have vetoed that idea. All the trailed concessions about help with funding for poorer institutions have vanished into thin air.

'Some changes have been made but variable fees will still widen the resources gap between the richest universities and the poorer universities which take most students from low-income backgrounds¹⁸⁴.

Other organisations such as the British Medical Association focused their concerns on variable fees and student debt:

The BMA strongly opposes the introduction of top up fees for any students, including medical students. The BMA has always opposed the principle of students contributing towards the cost of their education and opposed the

¹⁸² NUS Press Release, *Higher Education Bill 'a disaster for the future of HE'* says NUS, available online at http://www.nusonline.co.uk/content/news.php?site=&itm_sect=/nus/news/pressreleases/&articleid=268797.

¹⁸³ AUT News release, *AUT attacks variable top- fees confirmation*, 8 January 2004 available online at <http://www.aut.org.uk/index.cfm?articleid=710>.

¹⁸⁴ NATFHE Press release '*MPs concerns are genuine' lecturers tell government*, 14 January 2004 available at <http://www.natfhe.org.uk/rels2004/2004pr006.shtml>.

introduction of tuition fees in 1997. The basis of the BMA's opposition is that top up fees would:

- Undermine the policy of attracting students from wider social backgrounds into medicine.
- Exacerbate further the differences across higher education institutions.
- Lead to further increases in medical students' levels of debt.
- Damage the future supply of the country's doctors at a time when there exists a recruitment crisis in general practice, academic medicine and many hospital specialties¹⁸⁵.

Universities UK however welcomed the Bill as a 'major milestone':

Universities UK strongly endorses the Higher Education Bill published today. It is a major milestone in ensuring a positive, well-funded future for higher education in this country.

The Bill contains a number of progressive and far-reaching measures which Universities UK has campaigned for in recent years. In particular, Universities UK welcomes

- the abolition of up-front fees
- the introduction of deferred repayments, payable according to income
- significantly improved financial support for poorer students
- the establishment of an Arts and Humanities Research Council
- the creation of the Office of the Independent Adjudicator for Higher Education
- the devolution of powers on student support to the Welsh Assembly

We support the Bill's proposal to enable all English universities to vary their tuition fees above or below the basic level of the current fee, to a maximum of £3,000, adjusted for inflation. This will bring much-needed additional income to the sector¹⁸⁶.

A review of the British economy by the Organisation for Economic Co-operation and Development (OECD) has said that:

Providing more funding for universities from a graduate contribution scheme is essential and the British scheme could be a role model for other European countries¹⁸⁷.

¹⁸⁵ BMA response to the Higher Education Bill, *Medical students –top-up fees tuition fees and debt*, January 2004 available at <http://www.bma.org.uk/ap.nsf/Content/Medicalstudentstopupfeestuitionfeesdebt>.

¹⁸⁶ Universities UK Media Releases, *Higher Education Bill is a 'major milestone'*, 8 January 2004 available at <http://www.universitiesuk.ac.uk/mediareleases/show.asp?MR=373>.

¹⁸⁷ "I will survive, says Blair as fees find surprise support" *The Times* 20 January 2004

B. Parliamentary Debate

Initial reactions to the Bill by Members focused on variable fees, support for poor students and the ‘marketisation of higher education:

Mr. Tim Yeo (South Suffolk) (Conservative Shadow Secretary of State for Education)

the Secretary of State has now produced a policy that achieves an amazing triple whammy. It is bad for students, it is bad for universities and it is bad for taxpayers. It is bad for students, because in future the vast majority will pay far more for their education, thus making university education dependent on ability to pay, not ability to learn. It is bad for universities, because for the first time ever their freedom to decide whom they admit to study will be taken away. There is no certainty that all the money paid by students in top-up fees will become extra income for the universities, which may well remember that when the Government introduced new student fees in 1998, much of the money was later clawed back by the Treasury. It is bad for taxpayers, because for every extra pound that the universities receive, the taxpayer will have to contribute at least £1.25. Even a Government as wasteful of taxpayers' money as the present one may think that that is not good value¹⁸⁸.

Mr. Phil Willis (Harrogate and Knaresborough) (Liberal Democrat spokesperson on education):

We support many of the proposals that the Secretary of State has put forward today. We support the up-front tuition fees; the increase in the repayment threshold; the raising of the threshold for maintenance loans and the 25-year limit on payments. We particularly welcome the increase in support for part-time and mature students. But for the Secretary of State to say that the Government will increase grants to £1,500 for our poorer students and then tell them to keep that in the bank for three years so that they can use it to pay off their tuition fees, is really hypocrisy of the greatest sort. That is exactly what has been said today.

The Secretary of State said that the £300 bursaries would be the minimum. What will happen in universities such as South Bank? How will our poorest universities get the funds together to support increased top-up fees? Perhaps the Secretary of State will enlighten us on how they will be supported.

The statement is a dog's breakfast. It is over two years since the Prime Minister launched a review of student funding. Two years ago he said that one of his objectives was

‘tackling the problems of debt and the perception of debt’

¹⁸⁸ HC Deb 8 January 2004 col 421

How on earth can one treble students' debt and achieve that objective?¹⁸⁹

Members asked questions on several topics:

The creation of a market in higher education :

Mr. Nicholas Brown (Newcastle upon Tyne, East and Wallsend) (Lab): Why are the Government philosophically attracted to a market-based solution to the funding problems of higher education? Once the cap is lifted, as it inevitably will be, how will youngsters from homes of ordinary means, or even just above ordinary means, ever be able to afford to take the most prestigious courses at the most prestigious universities, for which the fees will of course rapidly be raised, as the vice-chancellors have, in fairness, said is their intention?¹⁹⁰

The Labour manifesto commitment:

Mr. Martin Salter (Reading, West) (Lab): I welcome the extra help for poorer students announced by the Secretary of State, although I regret the lack of any movement on thresholds. None of the concessions would have been achieved but for the campaign run by Labour Members in the past 12 months. Does he accept that, despite the concessions and the movement made, he is asking an awful lot in asking us to play fast and loose with our own manifesto, on which he, I and every other Labour MP was elected?¹⁹¹

Variable fees:

Mrs. Anne Campbell (Cambridge) (Lab): I welcome the concessions that my right hon. Friend has made, but, for those of us who are still extremely concerned about the principle of variability, how can he reconcile his statement that this is a coherent package with some incentive for us to vote for the Bill on Second Reading?¹⁹²

The repayment threshold:

Joan Ruddock (Lewisham, Deptford) (Lab): I thank my right hon. Friend for his response to concerns raised by people like me, but may I tell him that the £15,000 threshold for repayments is still too low for graduate workers in London, especially those in the public sector? As for variability, I must tell him with great regret that he has not convinced me; but I am prepared—and I hope we shall be given time for this—to consult sixth-form students and students at Goldsmiths

¹⁸⁹ *ibid* col 424

¹⁹⁰ *ibid* col 427

¹⁹¹ *ibid* col 438

¹⁹² *ibid* col, 432

college to establish whether the package will deal with concerns about the future of poorer students¹⁹³.

Alternative proposals to the Bill by the Conservative Party and the Liberal Democrat Party are given in Appendix 3

¹⁹³ *ibid* col 435

Appendix 1 Public funding costs of higher education

Unit public funding/costs in further and higher education in England

2002-03 prices (a)

	Adult education	LEA Maintained institutions		PCFC(e)	UFC (GB)	FEFC(f)	HEFCE(g)
	centres(b)	Polytechnics(c)	Other(d)				
1979-80	..	7,730	4,730	..	9,850	..	..
1983-84	1,670	6,330	4,710	..	10,500	..	..
1987-88	2,180	5,870	4,700	..	10,390	..	..
1988-89	1,820	5,830	4,320	..	10,120	..	..
1989-90	1,960	..	4,220	6,030	9,780	..	8,100
1990-91	1,940	..	4,110	5,600	8,950	..	7,410
1991-92	2,000	..	3,900	5,130	8,410	..	6,850
1992-93	1,910	..	3,820	4,830	7,990	..	6,500
1993-94	..	..	..	..	..	4,030	6,170
1994-95	..	..	..	..	..	3,930	6,000
1995-96	..	..	..	..	..	3,670	5,740
1996-97	..	..	..	..	..	3,570	5,360
1997-98	..	..	..	..	..	3,490	5,200
1998-99	..	..	..	..	..	3,420	5,200
1999-00	..	..	..	..	..	3,550	5,190
2000-01	..	..	..	..	..	3,670	5,130
2001-02	..	..	..	..	..	3,790	5,170
2002-03	..	..	..	..	..	3,640	5,170

Note: Figures rounded to the nearest £10

(a) Adjusted using the June 2003 GDP deflators

(b) Net institutional expenditure

(c) Total UGC/UFC recurrent grant and tuition fee income.

(d) From 1989-90 excludes students and expenditure for establishments which transferred to the PCFC sector

(e) Polytechnics Central Funding Council introduced in 1989-90, includes PCFC recurrent grant and tuition fee income.

(f) FEFC participation funding. The Further Education Funding Council was established in 1993 to provide for students studying across the FE sector.

(g) The Higher education Funding Council was established in 1993, pre-1993 figures are for grant paid via the PCFC and the UFC.

Source: *DfES Statistical bulletin 6/02, Education and training expenditure since 1993-94 and earlier editions*

Appendix 2 Participation rates in higher education

Trend in the Age Participation Index (%)

1961	6	1982	13
1962	6	1983	13
1963	7	1984	14
1964	8	1985	14
1965	9	1986	14
1966	10	1987	15
1967	11	1988	15
1968	11	1989	17
1969	13	1990	19
1970	14	1991	23
1971	14	1992	28
1972	14	1993	30
1973	14	1994	32
1974	14	1995	32
1975	14	1996	33
1976	13	1997	34
1977	13	1998	31
1978	12	1999	32
1979	12	2000	33
1980	13	2001	34-36
1981	13		

API: The number of home-domiciled young (aged less than 21) initial entrants to full-time and sandwich undergraduate courses of higher education expressed as a proportion of the average 18 to 19 year old GB population.

Source: DfES

Appendix 3 Alternatives to the White Paper proposals

1. Graduate tax

Some commentators have stated their preference for a graduate tax rather than the Graduate Repayment Scheme. This alternative is considered by its supporters to be more progressive as higher earners will pay more than lower wage earners. A graduate tax could also result in lower repayments spread over a longer period, which should reduce some of the financial burden on graduates. It has also been suggested that there is an important psychological element to consider with the graduate tax, as paying a tax might not have the same deterrent effect on potential students, as the prospect of building up a 'debt' under the Graduate Contribution Scheme.

An article in the *Times Higher Educational Supplement* on 17 January 2003 looked at all the possible schemes for university funding and saw the objections to a graduate tax as:

- Funding remains closed ended since the government continues to control the volume of resources going into higher education
- Higher education remains irredeemably publicly funded
- Incentives to efficiency are weak since government continues to decide on the division of resources between institutions
- The system is unfair since repayments are unrelated to the cost of a person's education.

Research published in *The Guardian* on 16 January 2003 stated that three quarters of finance directors believed a graduate tax was flawed. One finance director said that such a tax would 'create a further tax administration burden'. This argument was endorsed by Charles Clarke, who has said that a graduate tax would cost an estimated £1 billion a year to run¹⁹⁴.

Charles Clarke explained his reasons for choosing the Graduate Contribution Scheme rather than a graduate tax in the DfES paper *Why not a Pure Graduate Tax?*¹⁹⁵ Mr Clarke's arguments centre on the practical difficulties of setting and running such a tax and the problems of recouping money from overseas and EU students. The National Union of Students is against a graduate tax as they feel that this option leaves students with ongoing payments for other students' debts.

¹⁹⁴ *The Guardian* 30th January 2003

¹⁹⁵ DfES *Why not a Pure Graduate Tax* available online at <http://www.dfes.gov.uk/hegateway/uploads/Why%20not%20a%20Pure%20Graduate%20Tax.pdf>.

2. Flat rate increase in fees

The alternative of a flat rate increase in fees has had some parliamentary support. Evidence for this can be seen in the 74 signatories to an Early Day Motion tabled by Anne Campbell MP¹⁹⁶. Mrs Campbell has stated that she feels this compromise position will prevent a damaging division in higher education whereby ‘rich kids end up at Russell Group universities and poor kids end up at the former polytechnics¹⁹⁷’. The likelihood that most universities will charge the full £3,000, seems to have increased interest in the alternative idea of a measured across the board increase in fees.

Some vice chancellors support Mrs Campbell’s idea, notably Sir David Watson of Brighton University. He reportedly raised this issue in a private meeting at the Universities UK Conference in September 2003, saying that he would welcome a £2,000 flat fee rate across the board¹⁹⁸.

On 25 November 2003 Peter Bradley MP and Alan Whitehead MP added weight to the flat fee campaign by issuing a paper called *Excellence, Equity and Access, Squaring the Circle of Higher Education Funding*¹⁹⁹. This paper argued the case for a £2,500 flat fee.

Universities UK has spoken against flat rate increases and in support of the Government’s proposals. Universities UK feel that the Government’s proposals will give universities more money and offer them best chance of reform.

3. Conservative Policy

Conservative Party policy has the intention of abolishing tuition fees altogether²⁰⁰. The income lost to universities would be replaced with the money saved by abandoning the Government’s 50 per cent participation target.

This policy has been criticised by the Institute of Fiscal Studies in a publication called *Study Now, Pay Later*²⁰¹. This study analysed the costs of Conservative policy on tuition fees and concluded that:

.....the Tory plans are uniformly more regressive than the proposals outlined in the White Paper. Deciding to provide ‘HE for free’ rather than to ‘study now, pay

¹⁹⁶ EDM 994, tabled 1.4.2003

¹⁹⁷ “Could the rebels take the House?” *THES* 18 September 2003

¹⁹⁸ *ibid*

¹⁹⁹ Excellence, Equity and Access, Squaring the Circle of Higher Education Funding is available online at <http://image.guardian.co.uk/sys-files/Guardian/documents/2003/11/26/education.pdf>.

²⁰⁰ statement available at http://www.conservatives.com/news/article.cfm?obj_id=60916. see also “Tories to scrap tuition fees” *The Times* 13 May 2003

²⁰¹ ‘Study Now, Pay Later’ or ‘HE for Free’? An Assessment Of Alternative Proposals For Higher Education Finance. Alissa Goodman and Greg Kaplan. June 2003

later' will result in a net redistribution of resources from poorer households to richer households²⁰².

An article in the *Times Higher Education Supplement* by the shadow Health and Education Secretary Tim Yeo, states that the Conservatives intend to stand by this policy:

We are against top-up fees. We don't know what the effect of this bill will be, but I don't think it will be defeated. If it does go through we will know what the landscape of higher education will be at the next general election²⁰³.

The article states that detailed proposals should be developed by the summer. However this policy appears to be under review. The most recent Conservative Party statement on tuition fees was given by Mr Howard in an interview on BBC's Breakfast with Frost programme where he said:

The universities have a funding problem estimated at a pounds 10 billion or pounds 11 billion shortfall and neither the Government nor ourselves have any proposals to deal with that problem.

I have the gravest reservation about tuition fees, but before the next election we will come forward with our proposals and we will put them before the country in a manifesto and we will stick to that manifesto²⁰⁴.

4. Liberal Democrat Policy

The Liberal Democrats²⁰⁵ are also against top-up fees and would restore grants to the poorest students. At the party's annual conference delegates backed a motion calling for a system of state funded vouchers to cover tuition fees funded by a proposed 50 per cent tax rate on incomes in excess of £100,000 per year²⁰⁶.

Mr Phil Willis, the Liberal Democrat spokesperson on education has confirmed the party's commitment to this policy:

The Liberal Democrats find themselves in agreement with the government about the need for expansion, access for under-represented groups, and for greater investment in our universities and even the responsibility of those whose degrees

²⁰² page 47

²⁰³ "Tories stand by pledge to scrap top-ups" *Times Higher Education Supplement* 16 January 2004

²⁰⁴ "Tories to scrap tuition fees policy" *The Daily Telegraph* 19 January 2004

²⁰⁵ Liberal Democrats education policy document "Extending Lifelong learning" at http://www.libdems.org.uk/documents/policies/Policy_Briefings/08_2003_FurtherandHigherEducation.pdf.

²⁰⁶ "Top-up fees would condemn students to decades of debt" *The Independent* 24 September 2003

have enabled them to become very rich to pay more towards the cost of the universities. But we are fundamentally at odds over how to finance it.

We do not shirk, as the Conservatives have, the question of funding. We remain committed to university education at undergraduate level being funded from progressive taxation by raising to 50p the rate of tax on incomes over £100,000. Of those who earn this sort of money 82% are graduates, so this way both those who gain most and who can afford most are being asked to contribute²⁰⁷.

²⁰⁷ The House Magazine “Evaluating the Government’s plans to improve standards in secondary schools and widen access to higher education and setting out the Liberal Democrat alternative” available at <http://www.philwillis.org.uk/>.

Appendix 4 Eligibility requirements for tuition fee waiver

<p>Help available</p>	<p>Help towards your tuition fees</p> <p>For 2003/04, students who depend financially on their parents and whose parents' residual income (income before deductions but minus certain allowances) is:</p> <ul style="list-style-type: none"> • less than £20,970 - don't pay any fees; • between £20,970 and £31,230 - pay part fees; and • £31,231 or more - pay the full £1,125 fee. <p>Help towards fees is based on assessing your income and that of your family. Your LEA will carry out this assessment (see section 3 on 'Filling in your financial form'). This means that they may expect your family to contribute towards the costs. You may have to contribute as well, if you expect to have any income, other than part-time earnings, while studying. For independent students (see section 3) your LEA will work out your family's residual income. They will use the same method as for the parental contribution described in this guide.</p>
<p>Who's eligible?</p>	<p>Students of any age, on a full-time course, a sandwich course or a part-time course of initial teacher training. The course must be a designated course (a course which qualifies for support - see Appendix). Your LEA will assess whether you are eligible.</p> <p>Note – If you have previously taken a higher education course at college within the UK and had help from UK public funds, or the college where you studied was publicly funded, check your eligibility with your LEA. Also see the appendix to this guide.</p>
<p>How much?</p>	<p>Up to £1,125 in 2003/04, if your course is at a publicly-funded college. The balance of the cost of the course is automatically paid for you by the Government. (The maximum contribution of £1,125 is about a quarter of the average cost of a course.)</p> <p>If you are attending a designated course at a private college, you may have to pay extra tuition fees.</p>
<p>How is it paid?</p>	<p>Direct to your college by the Student Loans Company (SLC).</p>

Taken from the DfES guide *Financial support for higher education students*, 2003/04, page 9, available at

<http://www.dfes.gov.uk/studentssupport/uploads/FSS03-04.pdf>

Appendix 5 Tuition fee arrangements in other countries

Country	Charge tuition	Differentiated by institution	Differentiated by subject	Deferred fee	Considering changes ?
Australia	Yes	Not yet-from 2005 yes	Yes	Yes	Has just made changes
Canada	Yes	Yes	Yes	No	No
Denmark	No (except open university students)	N/A	N/A	N/A	No
France	No	N/A-except private HEIs but reforms will give HEIs more autonomy	N/A	N/A	Yes planning reforms to give HEIs more autonomy
Germany	No	N/A	N/A	N/A	Subject of much discussion
Rep of Ireland	No	N/A	N/A	N/A	No, but recently debated changes
Italy	Yes	Depends on student's circumstances	Depends on student's circumstances	No	No
Japan	Yes	Yes	Yes	No	More autonomy planned
Netherlands	Yes	No	No	No	No
New Zealand	Yes	Yes	Yes	Yes	Changes to fee maxima for 2004 have already been set
Spain	Yes	Yes	Yes	No	No
Sweden	No	N/A	N/A	N/A	No
USA	Yes	Yes	Yes	No	No

Taken from the DfES briefing paper, *Higher education funding – international comparisons* page 8, available at http://www.dfes.gov.uk/hegateway/uploads/HEfunding_internationalcomparison.pdf.

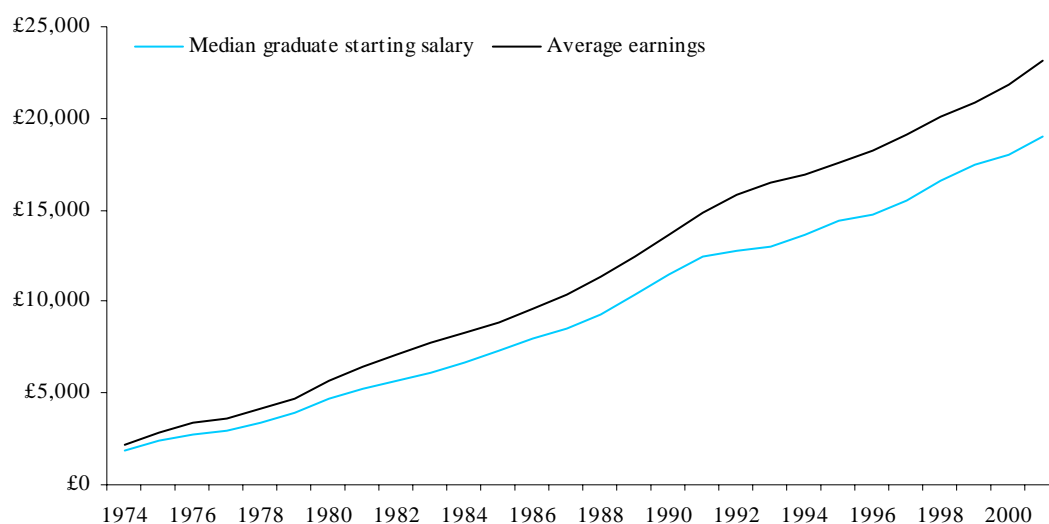
Appendix 6 Salary comparisons between graduates and non-graduates

Weekly earnings of full-time employees by highest educational qualification and age (£)

	21-25	26-30	31-35	36-40	41-45	46-50	51-55	56-60	All ages (21-60)
Degree or equivalent	357	501	634	702	718	694	696	720	605
Higher education	314	406	468	492	505	508	510	468	466
GCE A-level or equivalent	284	359	428	454	457	448	423	395	405
GCSE grades A-C or equivalent	257	331	379	369	380	386	378	416	355
Other qualifications	266	349	376	395	369	356	323	323	352
No qualification	229	277	302	307	285	292	290	292	289
All qualifications	295	399	457	477	478	465	441	416	431

Source: *Graduate Market Trends, Labour Force Survey analysis Spring 2003, Prospects*

Graduate starting salaries and average earnings 1974 to 2001



Appendix 7 University acceptance by social class

Degree acceptances for home applicants by social class, 2002

	Acceptances	% of total
Higher managerial and professional occupations	59,427	19.2
Lower managerial and professional occupations	79,662	25.7
Intermediate occupations	39,833	12.9
Small employers and own account workers	18,525	6.0
Lower supervisory and technical occupations	11,833	3.8
Semi-routine occupations	31,896	10.3
Routine occupations	14,312	4.6
Unknown	53,972	17.4
All	309,460	100.0

2002 Annual Dataset, UCAS

Appendix 8 Student loan outlay and repayment

Student loan outlay and repayment, 1995-96 to 2002-03, UK

£ million

	1995-96	1996-97	1997-98	1998-99	1999-00	2000-01	2001-02 provisional	2002-03 provisional
Total outstanding at end of previous financial year	1,178	1,859	2,691	3,574	4,582	5,917	7,838	10,011
Lending during financial year	688	855	939	1,082	1,480	2,115	2,440	2,618
<i>percentage income contingent loans</i>	..	..	..	33%	78%	89%	97%	99%
Repayments	51	86	134	196	278	357	476	552
Interest added	44	64	79	123	134	161	207	172
Amount written off/cancelled	1	1	1	1	2	2	3	4
Administration charges	..	..	..	-	1	4	5	4
Total outstanding at end of financial year	1,859	2,691	3,574	4,582	5,917	7,838	10,011	12,249
<i>percentage income contingent loans</i>	..	..	..	8%	26%	44%	59%	70%

Source: DfES statistical first release 32/2003 *Student support: statistics of student loans for higher education in the UK*

Appendix 9 Student loan uptake

Student loans: value and take-up in the UK, 1990/91 to 2002/03

	1990/ 91	1991/ 92	1992/ 93	1993/ 94	1994/ 95	1995/ 96	1996/ 97	1997/ 98	1998/ 99	1999/ 00	2000/ 01	2001/ 02	2002/ 03
Number (thousands)	180	261	345	430	517	560	590	615	659	700	760	810	837
Value (£ m)	70	139	227	317	539	701	877	941	1,233	1,795	2,204	2,490	2,621
Average value (£)	390	530	660	740	1,040	1,250	1,490	1,530	1,870	2,570	2,900	3,070	3,130
Proportion of eligible students taking loans	28%	36%	41%	47%	55%	59%	62%	64%	68%	72%	78%	81%	82%

Source: DfES statistical first release 32/2003 *Student support: statistics of student loans for higher education in the UK*