SUBPRIME EDUCATION?

A report on the growth of private providers and the crisis of UK higher education

This report examines recent developments in the rapid expansion of the UK 'for-profit' higher education sector since the General Election, in the context of the massive cuts to public funding.

The report also highlights the problems that have arisen in the US for-profit sector, including a major Senate inquiry and planned legislation by the Obama administration to tackle some of the worst abuses.

We argue that the for-profit sector is trying to create the same conditions that allowed the rapid growth of the for-profit sector in the USA and we warn that the consequences of this could be dire for the reputation of UK higher education and for hundreds of thousands of UK students.

'Haven't we heard this story before? It features a high-pressure sales force persuading consumers in search of the American dream to go deep into debt to purchase a product of often dubious value. Default rates are sky high. Taxpayer money is squandered. Top executives walk away with fortunes. This sounds like a description of the sub-prime mortgage industry, which came crashing down two years ago. But what I just described is the reality at many for-profit colleges.'
Senator Tom Harkin, (D- Iowa) chairman of the Senate Committee on Health, Education, Labor and Pensions[1]

- In our recent report *Privatising our Universities*, UCU argued that both main parties were committed to opening up the UK higher education sector to allow the growth of a 'for-profit' sector and we warned that based on the experience in the USA, this might result in companies leveraging public funding to support private profit while aggressively marketing a poor product to vulnerable non-traditional and lower income students.
- In this follow-up report, we bring this story up-to-date with the rapid developments in both the UK and the USA. We argue that if the private providers persuade the Coalition government to further de-regulate the UK higher education sector and to divert public funding toward the profit margins of private higher education companies, they will create the very same conditions that have generated an issue of national debate in the USA.
- We note that the US government and the Senate have had to step in to better regulate the for-profit sector because of a series of public scandals that have thrown into question the private sector's commitment to quality and its value for money for the US taxpayer.
- We suggest that it will be a bitter irony if US owned private providers are able to persuade our government to make the same mistakes here that are only now being rectified in the USA and we warn that the consequences for the reputation of UK higher education as a whole could be disastrous.

'Evidence suggests that for-profit schools charge higher tuition than comparable public schools, spend a large share of revenues on expenses unrelated to teaching, experience high dropout rates, and, in some cases, employ abusive recruiting and debt-management practices.

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[1] http://lat.ms/9tky9u

[2] http://bit.ly/aHHnP1

University and College Union

'What distinguishes for-profit schools from public and non-profit private institutions is that they have an obligation to maximize profits for their shareholders. Indeed, securities law sanctifies the notion that each corporation must act in the interest of its shareholders. However, this imperative could conflict with the objective of Federal student aid programs, which is to increase access to a quality higher education. This evidence, and the potential conflicts underlying it, points to the need for rigorous government oversight and prudent regulation to safeguard the investments of taxpayers and students.'[3]

'Wall Street money manager Steven Eisman told the committee that many for-profit colleges are "marketing machines masquerading as universities." Their rapid growth is driven by easy access to federal student loans, guaranteed by the government. "The government, the students and the taxpayer bear all the risk," Eisman testified, "and the for-profit industry reaps all the rewards."'[4]

Public sector cuts – Private sector growth

UK publicly funded higher education is in crisis. Public funding has already been cut and it is widely expected that the forthcoming Comprehensive Spending Review will announce a further round of 25% cuts.

200,000 students are expected to miss out on places at university this autumn.

In this context the growing 'for-profit' private sector is pushing hard to be allowed to expand to fulfil some of the excess 'demand'.

For example, the private company BPP, the only for-profit company with degree awarding powers in the UK, which recently secured for itself the right to change its name to BPP 'university college' after writing to the secretary of state, announced this week that it would offer up to 1,000 places to study for a BPP-awarded degree. It offered 82 places last year.[5]

In 2009, BPP Holdings plc was bought by Apollo Global which is a subsidiary of the US education giant Apollo inc., and which is 20% owned by the private equity firm Carlyle Group. Apollo also owns the University of Phoenix, a campus and online university which serves more than 400,000 students at 90 campuses and 150 'learning centres' worldwide.

Also this week, Kaplan announced that it would be providing 600 places for students to study full-time in London towards accountancy, business, economics and finance degrees that will be examined and awarded by the University of London.[6] Kaplan Higher Education is part of Kaplan Inc, a subsidiary of The Washington Post Company. The Washington Post Company is a global media conglomerate whose main operations are educational services, newspaper and magazine print and online publishing, television broadcasting and cable television systems.

Lobbying to remove 'barriers to expansion'

Universities Minister David Willetts has long been a 'believer in supply-side reform'. Ahead of the recent general election, and before the major funding cuts Mr Willetts said if the Conservatives came to power next year, they would look to remove barriers to new entrants to the sector.[7]

Now in the context of swingeing cuts to HE funding, Mr Willetts argues that the private providers are a 'cost-effective means of spreading educational opportunity in straitened times'.[8]

Mr Willetts is also being lobbied hard by the private providers to remove 'barriers to expansion'. According to the Times Higher Education magazine, 'Mr Willetts has faced intense lobbying by BPP, and other private providers, to bring in changes that would help them compete on a "level playing field" with publicly funded institutions. Suggestions include allowing the private sector better access to the student loans system, making it easier for them to call themselves universities, and wider distribution of degree-awarding powers.'[9]

Degree awarding powers

BPP are currently the only private for-profit company with degree awarding powers. In 2006, Kaplan Higher Education announced that it was within months of submitting a

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[3] *Emerging Risk?: An Overview of Growth, Spending, Student Debt and Unanswered Questions in For-Profit Higher Education*, United States Senate Health, Education, Labor and Pensions Committee Report, June 24, 2010, p1. http://bit.ly/9y3ZOr

[4] http://bit.ly/9tky9u

[5] http://bit.ly/bjETlv

[6] http://bit.ly/cBUfVF

[7] 'For-profit growth predicted if US giant buys UK's BPP', *THE*, 14 May 2009, by Melanie Newman

[8] http://bit.ly/clteiL

[9] http://bit.ly/9M0CEU

claim for degree-awarding powers to the Privy Council. The plan was to offer online and evening courses using its city centre classroom facilities. Essentially, it looked like Kaplan was bidding to use its footholds, established through partnerships with universities, to begin competing with them.[10]

This would have entailed a detailed report by the Quality Assurance Agency (QAA). It appears that at this point Kaplan got cold feet and decided against doing so. The private providers would like the route to degree awarding powers to be simpler.

University title

The private company BPP has been lobbying for the right to call itself a university. This would enable BPP tap into the brand recognition attached to UK higher education. The company recently wrote to David Willetts asking if he had any objection to BPP calling itself a 'university college'. The Minister confirmed that he did not have any objection. Under current regulations, BPP would have to go to the Privy Council to gain the full university title.

The current criteria for university title are already extremely loose. According to the QAA, university title can be obtained by any provider which can show that:

- It has taught degree awarding powers
- It normally has at least 4000 full-time equivalent higher education students of whom at least 3000 are registered on degree level courses
- It can demonstrate that it has regard to the principles of good governance as are relevant to the sector.

However, given its current emphasis on non-degree students, BPP would struggle to fulfil the criteria for a university. The company would like to remove some of these barriers. For example, Dean of BPP College, Chris Brady argued that the company would like to see:

"the process by which private providers such as BPP can move from approved Degree Awarding Powers (DAP) institutions to formal University status ... simplified. Unless this happens the changes necessary for the sector will be considerably hampered."[11]

[10] http://bit.ly/9cbGxN

[11] http://www.policyreview.co.uk/articles.php?article_id=65

[12] http://bit.ly/yG7xu

[13] http://www.policyreview.co.uk/articles.php?article_id=65

HEFCE funding

The private providers would like to access public funding. As Policy Exchange, the right wing think tank noted last year, "currently private providers cannot receive funding from HEFCE, and this is the most significant obstacle to their entry into the higher education marketplace."[12]

BPP College's Dean of Business School, Chris Brady predicted that under the current government, 'private institutions will begin to access HEFCE funding. There is currently no legislative imperative to this. Therefore, only a change of attitude is needed.'[13]

It's more likely that a change in the level of fees will trigger the necessary 'attitude change'. Currently, if a private provider wants to access HEFCE funding it has accept the £3000 cap on fees, together with accepting HEFCE's standards and practices of accountability. They would also be subject to Freedom of Information legislation.

With Lord Browne's report likely to produce a higher fee level – £5000 or above – it may well be that BPP and others may consider the trade-off for higher levels of public accountability more acceptable.

Student loans

Public universities automatically access loans from the government that cover students' top-up fees, enabling students to defer repayment. They also have automatic access to student loans covering maintenance. Currently, private companies can access these loans only by seeking the Secretary of State's support for individual courses to be 'designated' as eligible for publicly funded loans.

The private providers face an additional barrier in that there is less support for part time students, who have to pay fees up-front.

BPP and other companies want a 'level playing field' with regard to loans and may seek to have the regulations on 'designated status' changed.

However, as with HEFCE funding, it may be that the Browne review of fee levels and the loans system will effectively remove many of these barriers.

Our concerns

UCU has many concerns about the emergence of higher education companies like BPP, relating to their treatment of staff, the absence of academic freedom, their lack of transparency and accountability and their prioritizing of shareholder concerns. In the case of BPP, for example:

- Unlike a university, BPP makes no statement of academic freedom and has no accountability structure for defending academic freedom.
- BPP staff can be summarily dismissed for 'any conduct which in the reasonable opinion of the Board brings you or the Company or any Group Company into disrepute'.
- The BPP employment contract does not contain time or resources for scholarship, merely an expectation that staff will remain current in their fields.
- BPP lecturers have no pay progression and enjoy what we consider to be inferior terms and conditions.
- There is little real academic control of curriculum. Unlike a university, which has an academic board independent of its governing body, BPP only has an 'academic council' which contains a minority of academics and only two members of academic staff and which confuses governing and academic functions.
- There is no public accountability through Freedom of Information legislation.

We believe that the growth of companies like BPP is a dangerous development for UK higher education and could have a detrimental impact on the reputation of the university sector as a whole.

We believe that BPP and other private providers are lobbying to create in the UK the de-regulated conditions and system of public subsidies that have enabled the growth of the 'for-profit' sector in the USA.

We also believe that the experience of the US for-profit sector justifies our concerns.

The US for-profit sector – leveraging public subsidies

Apollo and Kaplan are two of the largest for-profit education companies in the USA and are key players in one of the fastest growing 'for-profit' sectors in the higher education world. The growth of the for-profit sector in the USA has been conditional on a combination of relatively light regulation and their ability to access large scale public subsidies.

For profit companies rely on student fees for 90% of their income, but they are also heavily dependent on the availability of publicly funded student support.

The US government provides loans to all students regardless of income and support for lower income students in the form of Pell grants and Stafford loans. These loans and grants go direct to providers and institutions that actively recruit more lower income students will collect more funding.

Figures collected by the US Senate show that the for-profit providers rely on these state funds for between 80 and 90% of their revenue.[14]

According to US expert Kevin Kinser, 'without the framework of federal grants and loans, the for-profit sector in its current formulation would be untenable as a business and fail as an access path.' As a Universities UK report expressed it, 'there is no doubt that for-profit providers represent an effective means of levering public funds for private reward'.[15]

The US for-profit sector has developed a business model based on offering flexible, vocational courses to lower income students, charging relatively high fees and claiming a subsidy from the state in the form of grant income. Their dependence on Wall Street finance also gives them a need to show fast expansion. This has led to serious concerns that the business model is inherently flawed.

David Hawkins, director of public policy at the National Association for College Admission Counseling has said: 'The pressure to enrol that Wall Street places on these companies is almost unbearable and that creates incentives to misbehave. Unfortunately, we're seeing plenty of evidence that the 'recruit at any cost' mentality is becoming more the rule than the exception'.[16]

As a consequence, the US for-profit sector has been dogged by a series of scandals and lawsuits that stem from its structural dependence on Wall Street finance, on student fees and public subsidies and from the light regulatory environment in the USA.

Recruit at any cost

Kaplan

On 6 July this year, it was reported that Kaplan is currently facing three law suits in the USA, filed by several whistle-blowers who have alleged that various colleges

[14] http://harkin.senate.gov/documents/pdf/4c23515814dca.pdf, p4

[15] Kevin Kinser, Access in US Higher Education: What does the For-Profit Sector Contribute?, *PROPHE Working Paper*, March 2009, pp 12-13 http://bit.ly/d5rPVB and http://bit.ly/bgStMd p5

[16] Quoted in http://bit.ly/aHHnP1, p17

owned by Kaplan Higher Education defrauded the government of hundreds of millions of dollars by paying incentives to recruiters and lying to obtain accreditation.

Kaplan, along with other private providers, have access to federal student loans in return for affirming that they will abide by the programme rules, including not paying incentives to student recruiters in order to maximise income from loans, which help the company generate a profit from student fee income.

Each of the lawsuits alleges that Kaplan fraudulently obtained millions in federal student-aid funds by violating various provisions of that agreement – allegations that the company denies.[17]

Kaplan again...

On 6 August 2010, it was reported that Kaplan had suspended enrolments at two of its campuses in Florida and California following revelations by undercover investigators. Government investigators posing as applicants encountered admissions officers who 'lied about the college's accreditation and admissions-test proctors who coached the investigators on the answers. The investigators also encountered recruiters who scolded and mocked them for being hesitant to take out government-subsidized loans to pay the tuition.'[18]

Career Education Corp

In 2006, the US Justice Department, the Securities and Exchange Commission (SEC) and officials in California, New Jersey and Pennsylvania investigated Career Education Corporation, which owns the American Intercontinental University, about allegations that the university was engaged in widespread enrolment fraud. According to a report in the Chronicle of Higher Education, allegations included:

- admitting students who had not graduated from high school or gained the necessary qualifications to qualify for federal aid, which is illegal
- sending students to unaccredited high schools to 'purchase' qualifications, in order that the university could claim the federal aid
- encouraging staff to sign up family members and friends to boost enrolment figures, even if they never attended.[19]

Apollo

In 2003, staff at the University of Phoenix blew the whistle on the institution's recruitment practices, leading to an investigation by the Department of Education. In February 2004, the Department published a report condemning the University of Phoenix for flagrant violation of the law prohibiting higher education institutions from compensating recruiters on the basis of successful recruitment. According to the report, the University of Phoenix 'systematically and intentionally operates in a duplicitous manner so as to violate the Department's prohibition against incentive compensation while evading detection'. The company agreed to pay the Department $9.8 million as a settlement. It was then successfully sued for $280 million by shareholders after it 'fraudulently misled' investors as to the seriousness of the report in order to hold its share price up.[20]

Apollo again...

In February 2009, it was reported that Phoenix were being sued by a former recruiter alleging that the company focuses on recruitment predominantly to get the federal funding, regardless of what happens to them afterwards.[21]

And only this month...

In August 2010 the US Government Accountability Office (GAO) published a major report on the recruitment practices at 15 for-profit colleges. The GAO found that 'four colleges encouraged fraudulent practices and that all 15 made deceptive or otherwise questionable statements to GAO's undercover applicants.'[22]

A poor graduate premium?

There are also concerns that students do not benefit from their courses in the same way as their colleagues at public institutions.

Non-completion is a major problem for some of the for-profits. A recent Senate report estimated that almost as many students dropped out of their for-profit colleges over the year as enrolled at the beginning of the year.

In addition, the same report found that the rate of default on student loans for graduates of 'for-profit' institutions

[17] http://chronicle.com/article/Justice-Dept-Weighs-In-for/66150/

[18] http://bit.ly/cibz3s

[19] www.chronicle.com/article/PromisesProfits/12779

[20] http://nyti.ms/9EshSP

[21] http://bit.ly/c3HtaR

[22] http://nyti.ms/a3uPam

is also almost twice as high as at public institutions. This suggests that those who come through the for-profit route are getting heavily into debt at for-profit colleges and are also benefiting substantially less in terms of employment than their colleagues at public institutions.[23]

Apollo

The official graduation rate for Apollo's University of Phoenix is astonishingly low. According to a report in 2007, the graduation rate by federal measures was only 16%, compared with an average of 55% in the sector as a whole. At some Phoenix campuses, it was even lower: a mere 4% among online students at the Southern California campus.[24]

Career Education Corp

In December 2005, the Southern Association of Colleges and Schools (SACS) placed Career Education's 'American Intercontinental University' on probation and then kept the university there for two years. The agency described probation as 'the most serious sanction, short of loss of membership' and 'an indication of the gravity of non-compliance.'

SACS found 14 standards that AIU failed to meet. The concerns raised included the integrity of its student records, accuracy of its recruitment materials, questions around its governance, information given to consumers and student complaint procedures.

One year later in 2006 SACS once again found AIU's practices unacceptable by failing to correct all of the stated problems. The college was again placed on probation for a second year. In 2008, the University got off probation, but also decided to change its accrediting agency.[25]

US government scrutiny

The scandal of the private providers has become so acute that the US Government is currently taking a healthy interest in for-profit colleges and universities, including BPP's owners Apollo and Kaplan, with a view to tackling some of the worst excesses.

In June this year the Department for Education proposed 14 new rules aimed at tackling abuses in US for-profit education. In particular, the Obama administration is seeking to protect taxpayers from loan defaults and to prevent students from taking on debt for programs that do not lead to higher incomes. The administration's proposals include new rules to strengthen the department's authority to take action against institutions engaging in deceptive advertising, marketing and sales practices.

The US Congress is also investigating for-profit colleges and universities. A high-profile inquiry undertaken by the Senate's Health, Education, Labor and Pensions Committee examined the rapid growth of this industry over the last few years, the reported aggressive recruitment of students by such institutions, and the value of the education provided by for-profit organisations

The independent Senate report found that:

Graduates of for-profit schools have higher default rates. Higher debt loads and are leaving the schools in large numbers that suggest that many may be dropping out rather than completing the programs.

Federal government and taxpayers are making a large and rapidly growing investment in financial aid to for-profit schools, with few tools in place to gauge how well that money is being spent.

To boost enrolment, some for –profit schools recruit large numbers of new students each year and devote very large shares of public financial aid to marketing activities, not education.

For-profit schools relying on federal financial aid dollars for more than 80% of revenue, while spending only around half that revenue on education and reporting profit margins of 20% and higher to their investors.

Students at for-profit schools are taking on higher debt levels than those at public colleges.

44% of all student loan defaulters are from for-profit schools, even though the for-profits cover only 10% of the student population.

In the report's view:

'The publicly available data, in tandem with mounting reports of questionable practices and poor student outcome, yields a mixed portrait of the for-profit education sector that calls into question the taxpayers return on their multi-billion dollar investment'.[26]

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[23] http://harkin.senate.gov/documents/pdf/4c23515814dca.pdf, pp6-10

[24] www.nytimes.com/2007/02/11/education/11phoenix.html

[25] www.chronicle.com/article/The-Chronicle-Index-of/6601/

[26] http://harkin.senate.gov/documents/pdf/4c23515814dca.pdf, p11

Early signs of problems in the UK?

There are some early signs that the UK for-profit sector may already be prone to the same problems that plague that in the USA.

American Intercontinental University

In 2005 reviewers for the Quality Assurance Agency found 'alarmingly low' standards of student achievement and 'misleading' marketing claims at the American Intercontinental University, London, owned by Career Education Corp. The QAA's report on AIU London concluded: 'At present, no confidence can be placed in the soundness of AIU London's management of the quality of its programmes.'[27]

BPP

More recently, the Bar Standards Board (BSB) had to investigate BPP regarding over-recruitment of students onto its full and part-time law courses. The Bar Standards Board conducted an investigation into BPP's recruitment onto its BVC courses in order to defend quality of its accredited courses. The BSB report highlighted the following problems in relation to BPP:

- Four out of the last five years have seen over-recruitment occur at BPP, resulting in Quality Assurance issues for the BSB.
- This year 620 offers were made and 434 acceptances were received by BPP (in April), for 264 validated places.
- During an accreditation meeting in May, there was no mention of the possibility of over-recruitment occurring; in fact, BPP reported that they were 'working to avoid over-recruitment.'
- Deposits and first instalment of payment were required from students in early August.
- Potential additional staff were approached in the last week of August.
- Students who had payment problems were sent emails telling them they were not on the course (an action BPP admitted they would not have taken if they had not over-recruited) on the 1/2 September.
- BSB were finally informed by email on 9 September.[28]

[27] http://bit.ly/bFtA4k

[28] http://bit.ly/aLLkxt

Conclusion

UCU is concerned that BPP, Kaplan and other private providers are attempting to create the very same conditions in the UK that have created deep problems for the for-profit sector in the United States.

We are concerned that the companies want the restrictions on university status to be relaxed and to be able to tap into public funding to subsidise their profits without having put in place any of the academic safeguards that UCU considers to be necessary to preserve the quality of higher education.

At the very time that the Democrat administration and the US Senate are examining how to better regulate the higher education sector to eradicate the worst abuses of lower income students, these companies are pressing the UK government to de-regulate our higher education system.

The fear is that this will lead us to reproduce the same errors that have created an issue of major national debate in the United States.

UCU believes that higher education is a public good and that it is best delivered by publicly funded and publicly accountable higher education institutions.

We recommend that no further steps be taken to relax regulations on private providers, to remove barriers to their further growth or to make it easier for them to tap public subsidies.

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