

WONKHE

The higher education policy landscape

JANUARY 2025

In association with



Welcome to the latest edition of our regular briefing on the higher education policy landscape, brought you by Wonkhe and KPMG.

Financial sustainability is dominating the policy landscape, with a regulatory refocus on the finances of providers in England. While the sector has seen a modest increase in undergraduate fees for 2025-26, mirrored in Wales, costs are further increasing, including to employers' National Insurance contributions following the autumn Budget.

There's also discussion of the most effective ways to secure both efficiency and impact of higher education for the future. Wonkhe and KPMG have undertaken work with experts and sector leaders exploring the idea of "radical efficiency" which you can see on [Wonkhe's website here](#).

The Labour government has signalled its priorities for higher education at a (very) high level, focusing on access, quality and economic and civic impact, with proposals for HE reform expected in the summer, most likely immediately following and aligned with the government's three-year Spending Review and finalised Industrial Strategy.

There is a new skills quango, Skills England, with reforms to apprenticeship funding expected to be confirmed shortly. English devolution is under way, there's an international education strategy refresh on the cards, and there's an updated agenda on free speech. In Scotland, the sector is preparing for the next stage of post school education and skills reform, with a bill expected in the current parliamentary session.

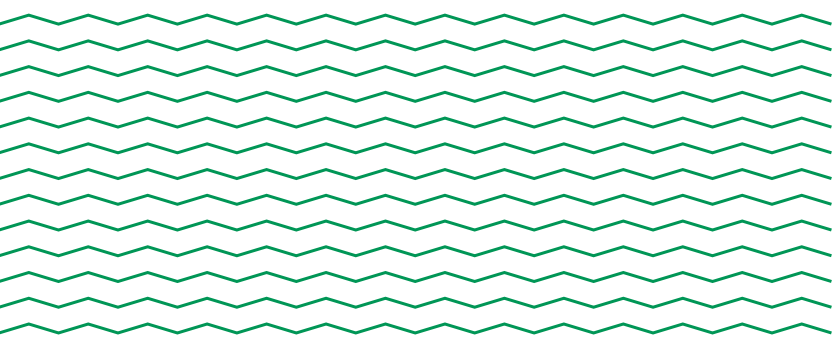
This briefing is designed to offer a digested summary of policies and their implications with particular focus on boards of governors and university stakeholders who are not working full time in higher education. If you have any feedback or comments please let us know.

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Unless otherwise stated, all opinions remain those of the Wonkhe team and not KPMG.





Key issues and considerations for boards of governors

Justine Andrew, Partner, KPMG

At any strategic session, any panel or sector round table I have been on, the issue of mergers and/or shared services inevitably arises. Usually both – alongside some general agreement it is bound to happen soon, though always just over the horizon and somewhere else.

However, we have noticed a change in the mood music.

As universities manage financial sustainability in the here and now, we have also seen an increasing focus on medium to longer term solutions alongside these more traditional efficiencies. The conversation had moved beyond “doing what has always been done more efficiently” to looking outside the walls of the individual institution. These perennial conversations on shared services, outsourcing, mergers and more structured partnerships are once again on board agendas.

By their very nature these discussions are complex, need one or more parties involved and rarely progress (with some notable exceptions) beyond warm words and an openness to exploring. In 2019 we collaborated on a piece called *Futureproofing the University* and the introduction exhorted the sector to “fix the roof while the sun is shining” – pressing for these long-term collaborative activities to be put in place while there was time and space (and potentially funding).

But maybe we got it wrong? And maybe, necessity ever being the mother of invention, now is our opportunity to face into the headwinds and use them to drive some more fundamental change across the sector.

Thinking what might have previously been unthinkable of course also engages in a visible and active way with the challenge laid out before universities who actively pushing for the funding model to be reviewed but are also then being challenged about the quid pro quo – what is the sector going to do to genuinely deliver in a different way?

This “fork in the road” was articulated clearly by Universities UK President Sally Mapstone in the recent Universities UK blueprint, *Opportunity, Growth and Partnership*:

“The most effective forms of change involve retaining what is good and having the courage to reinvent and refresh where necessary.”

As board members, there is a balance to be struck between a clear focus on the here and now and looking to sustainable medium-term options, that may include collaboration in some form. These conversations need to be selective (avoid being a magpie) to move beyond the warm words and theoretical and into the practical.

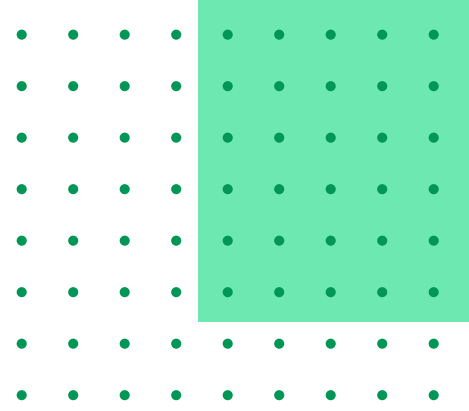
I would encourage boards to ask “what needs to be true to make this happen?” and then prioritise ruthlessly to move forward.

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If you have not done so already please register for the [KPMG Board Leadership Centre](#) for timely updates on the sector and wider board issues.

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The Westminster government’s agenda for higher education

The Labour Party’s general election manifesto promised to “improve access to universities” “raise teaching standards” and to “act to create a secure future for higher education and the opportunities it creates.”

The government inherited a sector facing significant financial challenges. Nearly a decade of inflationary pressure on the unit of resource, rising costs, including pensions liabilities, and fluctuations in student recruitment led to widespread institutional cost reduction programmes and general speculation that one or more higher education institutions in England would become insolvent and require intervention from government either in the form of a bailout, a restructure or a managed market exit.

“Following on from October’s Budget the government announced an inflationary uplift to the undergraduate full-time fee threshold for 2025–26.”

Early in its tenure the government took modest steps to address the issue of higher education financial sustainability through directing the Office for Students (OfS) to sharpen its focus on the sector’s finances, and through a public statement of support for international recruitment from Secretary of State for Education Bridget Phillipson.

Following on from October’s Budget the government announced an inflationary uplift to the undergraduate full-time fee threshold for 2025–26, increasing the annual fee limit to £9,535 for those providers in the Approved (fee cap) category with a Teaching Excellence Framework award and an Access and Participation Plan.

Confirming the fee increase in a letter to heads of provider, Bridget Phillipson indicated that the government would adopt five key priorities for higher education in England:

1. Play a stronger role in expanding access and improving outcomes for disadvantaged students, including doing “more to create a culture of lifelong learning and provide more flexible models to help everyone access higher education.”
2. Make a stronger contribution to economic growth – Phillipson acknowledges the existing contribution, but argues that there needs to be closer alignment to skills needs for education, and economic growth plans for research.
3. Play a greater civic role in their communities, locally and regionally, with universities’ civic and regional roles forming “a core part of a renewed vision for the sector” and contributing directly to local and regional development.
4. Raise the bar further on teaching standards – because the government believes there are “pockets of provision where standards are unacceptably low, which means that some students are being held back by poor outcomes.”
5. A sustained efficiency and reform programme, with “a fundamental re-examination of business models and much less wasteful spending” and “far greater collaboration across the sector to drive efficiency.”

These priorities and associated policies are expected to be fleshed out in a white paper on higher education reform to be published in the summer of 2025, and aligned to the three-year Spending Review, which is expected in the late spring. Reports suggest that the government could be prepared to implement an annual inflationary uplift in the fee cap throughout the period of the Spending Review until the end of the current Parliament – the working assumption is that the Department for Education (DfE) will most likely include this in its submission to the Spending Review and Treasury will have the final say.



The continued uncertainty and lack of detail of the government’s overall plans for the sector and the scale of the reform it could be planning to seek is a source of some frustration, as it hampers universities’ ability to plan and make decisions in an already volatile and uncertain environment. There is, however, an opportunity for those so inclined to advance ideas about what the government’s higher education reform agenda could look like, and how it can best be implemented.

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We can surmise from various ministerial announcements, policy documentation, and commentary from the Secretary of State and from Minister for Skills Jacqui Smith that the government intends to do its best to safeguard higher education as a national asset, probably with an even greater focus on widening participation and increasing the impact of the sector in the service of economic growth and national prosperity, and that higher education policy will begin to take on a more distinctly regional flavour. But there is also a clear intent that this will require the sector to think with some agility and creativity about what that “fundamental re-examination of business models” might look like and indeed what is needed. And while as the Spending Review takes shape the sector will continue to make a robust case for investment, no institution should rely on the possibility of a financial windfall for its future sustainability.

Industrial strategy green paper

A new industrial strategy is expected to emerge alongside the Spending Review, following the publication in October of Invest 2035, a green paper consultation from the Department for Business and Trade. The green paper identified eight “growth-driving sectors” – advanced manufacturing, clean energy industries, creative industries, defence,

digital technologies, financial services, life sciences, and professional and business services – and sought insight about where the opportunities and barriers are to growth in these, or particular sub-sectors that could be open to the government to influence. Where higher education particularly comes into play is in the sections on underpinning conditions for growth – which include people and skills – and research, development, and innovation. There is also consideration given to geography and the government’s ambition for more equitable growth across England’s regions. As the industrial strategy evolves higher education institutions will seek to elaborate further and strengthen their role as regional anchor institutions.

Budgets and their implications for HE

The Budget itself contained little specifically for higher education, but several of the measures announced will have a direct impact on higher education providers in England. In particular, an increase in employer National Insurance contribution from 13.8 per cent to 15 per cent from April 2025 will add an estimated annual £372 million to universities’ pay bills, according to the University and College Employers Association (Ucea).

Also confirmed in the Budget was the scheduled reduction in the fee cap for classroom-based foundation years from £9,250 to £5,670 from 2025–26, and the delay in the rollout of the Lifelong Learning Entitlement until 2026 for courses starting in 2027. The Budget also confirmed that the costs of Horizon Europe affiliation would be funded as an addition to the current research budget.

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National insurance is a non-devolved matter, so the increase to employer contributions will have a material impact on institutions in Wales and Scotland. Wales responded by allowing undergraduate tuition fees to once again rise up to the level in England – minister Vikki Howells estimated that this would “just about cover” the estimated £21m in increased national insurance payments. More significantly, the Welsh government was forced to sever the connection between student maintenance and the real living wage, acknowledging that further large increases to undergraduate support would fall foul of Westminster Treasury rules. The loan on offer remains the most generous of the UK nations.

In Scotland, putting fees up to offset increased costs remains a political non-starter, so the sector was forced to rely on an ambitious bid for greater funding in the 2025–26 Scottish government budget. This didn’t really materialise – once inflation is taken into account, the Scottish Funding Council’s higher education resource allocation was once again down on the previous year. There are still kinks to be worked out around per-student funding, but the injection of cash to cover what Universities Scotland estimates to be £45m in additional NI obligations has plainly not materialised.

English devolution and R&D

The government published its plans for universal regional devolution in England in a white paper in December, with the ambition that every part of the country would have a strategic authority led, for preference, by an elected mayor, with the goal that more regionally focused planning could help create a more dynamic regional economy and unlock growth and regional development.

There is a close alignment to the R&D ecosystem, with an ambition for every strategic authority to draw on UK Research and Innovation (UKRI) data on the location of R&D investments, to better understand publicly-supported innovation activity in their region.

Those that are mayoral authorities will work with Innovate UK to produce joint plans, to shape long-term innovation strategies and investments in places. And those that are established mayoral authorities

– Greater Manchester, Liverpool City Region, the North East, South Yorkshire, West Midlands, and West Yorkshire, and possibly London – will get actual devolved research funding, in the form of a future regional innovation funding programme allowing local leaders to develop “bespoke innovation support offers for their regions.”

In parallel, the House of Lords Science and Technology Committee has announced an inquiry into innovation, growth, and the regions, which will help to shape the evidence base for further development of thinking on how regional R&D work should come together.

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The white paper also proposes that strategic authorities should control adult skills budgets, take oversight of local skills improvement plans, and work with employers to promote 16-19 education and employment pathways. While none of this is directly imagined as affecting higher education provision or higher education institutions per se, there is clearly enormous scope for strategic engagement in devolved governments to shape and support growth agendas. In some areas of the country providers are actively developing closer regional collaborative ties, with a new university network of institutions in the north east announced in the autumn. Boards should, however, be prepared for a wait for devolution arrangements to become more established and to mature to the point where there is significant value to be realised.



Skills & apprenticeships reform

Labour’s new quango Skills England – which was created in September and is intended to unify a disparate skills landscape and produce timely analysis of the nation’s skills needs – is getting a surprising amount of pushback. It’s being set up as an executive agency, meaning that it will have less independence from government. The chief executive role, for which recruitment is ongoing, looks set to report into a DfE official rather than to the Skills England board. And the legislation that’s paving the way for the new body – the Institute for Apprenticeships and Technical Education (Transfer of Functions etc) Bill – doesn’t actually mention Skills England once. The whole process is proving a little unnerving for employers, training bodies, and commentators.

One of the first big questions that will shape Skills England’s work is also an important one for universities – the removal of level 7 apprenticeships from Apprenticeship Levy funding eligibility. It’s not yet clear how extensive this will be, with a decision due in the new year – but comments from ministers suggest it could be pretty substantive. Labour wants to fund shorter, lower-level apprenticeships and rebalance the system towards younger learners at entry level rather than professionals taking Master’s level qualifications via levy funding.

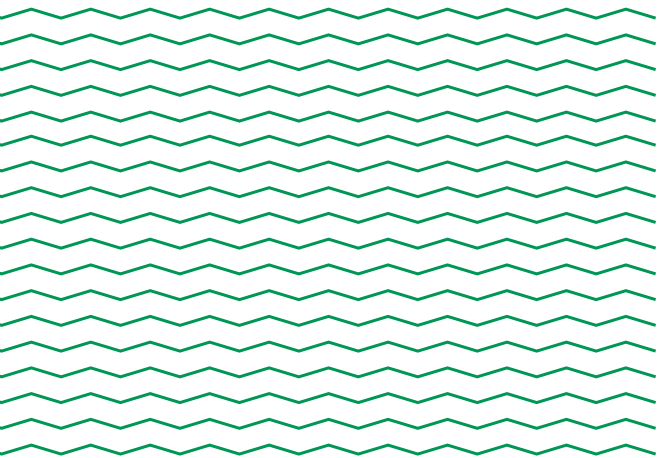
“The UUK blueprint does a useful job in giving context for key questions the government is likely to be addressing in its upcoming HE white paper, including FE-HE coordination, the regional economic development picture, and universities’ role in equitable growth.”

Businesses have raised concerns about the planned changes to apprenticeship funding, and it is likely that there will be implications for individual institutions, particularly in subject areas where institutions have developed level 7 provision to meet a specific need in the regional labour market. Labour has also signalled that it intends to convert the Apprenticeship Levy into a broader Growth and Skills Levy. Skills England is currently consulting with employers, particularly those in the growth-driving sectors identified in the draft industrial strategy, and those in construction and health and social care, on the training provision that should be prioritised for eligibility through the rebadged levy funding.

Universities UK blueprint for change

In the autumn Universities UK published Opportunity, growth, and partnership: a blueprint for change, setting out proposals for a higher education policy agenda for the incoming government. The blueprint offers five “big shifts” in broad alignment with government priorities:

- Increasing participation in tertiary education at least level 4 to 70 per cent of the population by 2040
- Improving collaboration and coordination between schools, further education and higher education
- A greater focus from universities on driving local growth
- A stronger research and innovation system
- A new global strategy for higher education, incorporating a “compact” for stable and sustainable international recruitment



To accomplish these big shifts, the blueprint makes the case for upfront government investment plus a transformation fund to put the sector on a stable financial footing for the longer term, regulatory reform to reduce bureaucracy, and improvements to the measurement of universities' economic and social impact.

The role and priorities of the Office for Students

Back in July 2024 the public bodies review of the Office for Students conducted by Sir David Behan and titled Fit for the Future, concluded that the regulator should focus more closely on four core priorities:

- The quality of higher education
- The financial sustainability of higher education providers
- Acting in the student interest
- Protecting how public money is spent

Secretary of State Bridget Phillipson accepted the findings of the review in full and appointed Behan as interim chair of the regulator, pending the appointment of a replacement for James Wharton.

In December OfS published a draft strategy for 2025–30, announcing its intention to focus on quality, the wider student experience, and sector resilience. The regulator plans to develop a new “integrated” approach to quality assessment and enhancement, including retaining the Teaching Excellence Framework.

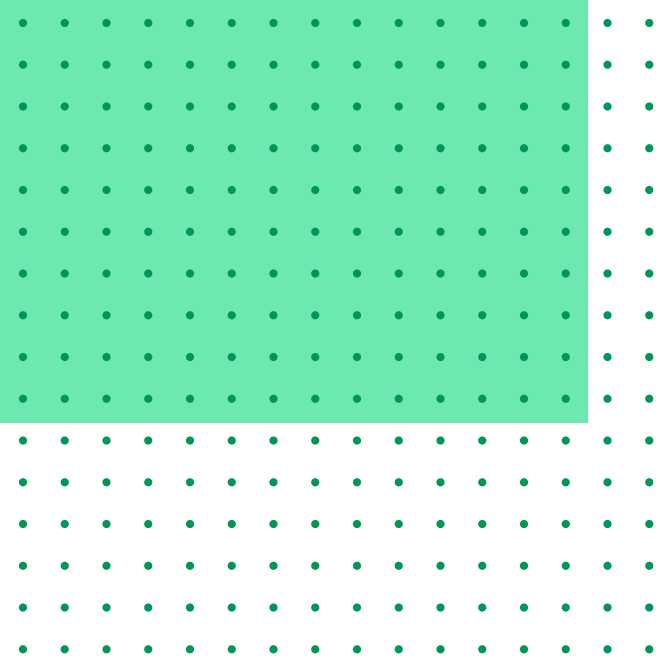
Activity on the “wider student experience” is likely to focus on the publication of insight about student experience, and further work on the consumer/contractual relationship between students and providers – the Behan review proposed that OfS should be given consumer enforcement powers, but this would require legislation, something that is unlikely to happen before the government publishes its wider plans on higher education reform.

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DfE is expected to conclude the appointment of a new OfS chair imminently – whoever is appointed will be responsible for stewarding the organisation through the phase of its new proposed strategic plan. In her introduction to the draft strategy OfS chief executive Susan Lapworth signalled the ongoing intention to improve relationships and engagement between the regulator and HE providers.

In December OfS announced a temporary closure of the register of providers to applications to join the register, for provider name changes and applications for university title, and for degree awarding powers until August 2025. The intent is to prioritise work on financial sustainability – though Independent HE, the representative body for independent providers, including a number that are intending to or in the process of seeking degree awarding powers, said that OfS’ decision would place the sustainability of some providers at risk.

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Financial sustainability and market exit

During the autumn the regulator undertook further work on the financial sustainability priority, mostly in the form of working directly and privately with providers that are at greater risk. OfS has appointed financial sustainability consultants on short-term contracts to work with affected providers, and has brought in external expertise to carry out financial assessments, with additional funding from DfE.

One conclusion of this activity was that the regulator would like to see greater consideration given to governance. At Wonkhe's Festival of Higher Education in November OfS Director of Regulation Philippa Pickford said that she would like to "start a conversation with the sector" about whether in all cases institutional governance arrangements are fit for purpose in the context of making difficult decisions about institutional finances.

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OfS' draft strategy for 2025–30 commits to develop sector-level insight and understanding about financial sustainability, and to "support a stronger understanding of our management and governance requirements, equipping institutions to assess and improve their own capabilities to the benefit both of students and taxpayers." The strong signal is that the regulator intends to be more activist in describing effective governance and potentially intervening where it has concerns.

An updated financial assessment published in November, updating the annual May analysis, warned that the latest recruitment figures for autumn 2024 entry were ten per cent lower than where the sector in aggregate thought it would be; and 23 per cent lower for non-UK international students. Published ahead of the annual submission of financial data the updated analysis did not take account of cost-reduction efforts undertaken since the last financial data return or of revisions to forecasts. The early indicators seem to be that most providers have taken significant mitigating actions to avoid running a deficit in 2025–26, and so OfS' worst case scenario of up to 72 per cent of providers in England operating a deficit seems unlikely to materialise. This does not mean that the sector as a whole is on a firmer financial footing: the inflationary fee increase for 2025–26 will in most cases disappear in increased costs, including higher employers' National Insurance contributions.

There is continued concern about the possibility of provider insolvency and the legal and regulatory framework for managing market exit. The lack of clarity over the various responsibilities of the Department for Education, OfS, and private lenders to the sector in supporting a provider at imminent risk of insolvency, and the lack of a workable student protection regime creates a level of risk and complexity that makes an already challenging situation even harder to navigate. In December, Wonkhe and Mills & Reeve published analysis of the challenge of orderly market exit in the report *Connect more: creating the conditions for a more resilient and sustainable HE sector in England*.

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Various solutions have been proposed including the appointment of an HE commissioner in DfE, a further reframing of the role of the regulator, the creation of a transformation fund for higher education to support providers in crisis to move to a firmer financial footing, and the development of a special administration regime to manage provider insolvency. Despite this, ministers have been largely silent on the government’s view of provider closure, presumably in the devout hope that it will not be a circumstance the government is obliged to deal with.

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(Radical) efficiency and the Universities UK taskforce

Even if the prospect of serious or widespread provider insolvency remains a less immediate concern, there is ongoing discussion about whether the sector could be more sustainable if it were more coordinated and collaborative. Discussion around the prospect of mergers, shared services and other opportunities for efficiency is gaining traction, though there remain significant barriers to realising these opportunities in practice.

In December Universities UK announced a new taskforce, chaired by former vice chancellor Sir Nigel Carrington, to explore the options for university collaboration, and “consider detailed and radical options for cross-sector working and to produce comprehensive business cases for these.”

Senior and expert thinking convened by Wonkhe and KPMG on this theme under the rubric of “radical efficiency” has sought to reimagine the idea of “efficiency” as being, rather than another way of saying “cuts,” to start with mission and strategy – from an institution perspective, what is the intended outcome, and could it be done more impactfully through operating at greater scale, coordinating or even combining with other institutions, or forging new partnerships.

One way of answering this is to look at the system as a whole and where there are similarities in practice that could (with a bit of persuasion) be replicated or outsourced to a third party to save endless reinvention of wheels. Another is to look at the system from the “outside” – see the sector through the eyes of the prospective student, the business or employer, or local or regional policymaker, and ask how they can most easily and seamlessly get what they need from the system to achieve the wider goals of education access, economic growth, regeneration, public sector productivity, decarbonisation, and so on.



The discussion convened by Wonkhe and KPMG coalesced around three core ideas:

- 1. **Student passport and credit transfer:** how to actually deliver on the promise of flexible learning pathways for everyone across levels and institutions. Credit transfer is a nut that needs to be cracked collectively to unlock the wider potential of flexible learning, meeting industry requirements and lifelong learning.
- 2. **Back office, systems and digital alignment** across a range of areas. Jisc and KPMG published Collaboration for a sustainable future in November, a report that identifies five potential areas where collaboration can bring significant benefits, including common models and standard definitions; skills development around digital, data, and technology; shared procurement and system management; shared services; and co-building sector-specific technology.
- 3. **Regulatory change to accommodate a more collaborative approach,** with the suggestion that an HE Commissioner should be appointed to act as a convenor for new forms of collaborative activity – acknowledging that for change to happen there needs to be an outside force that makes it happen, and that brings a level of independence and also potentially policymaker attention and funding.

Boards and executive teams are most likely already conducting strategic reviews and scenario planning with an eye to opportunities for more collaborative and partnership activity either with other HE providers or other organisations in their locality – if no such activity is in train or planned, it should probably be considered.

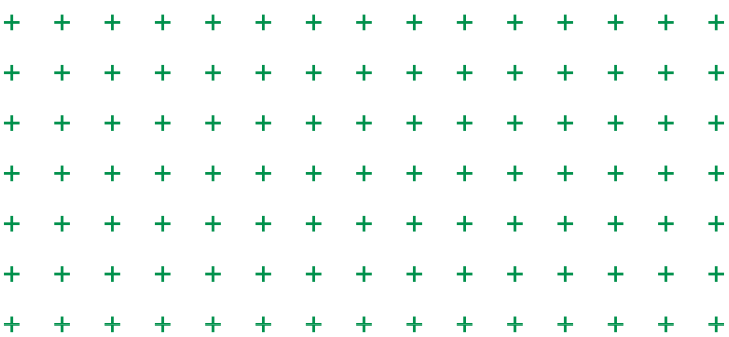
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Recruitment and student demand

UCAS sector-level data on the 2024 admissions cycle showed that year on year application numbers (via UCAS at least) have remained entirely flat, arresting the (albeit modest) decline in applications between the 2022 and 2023 cycles. Acceptances increased by a (similarly modest) 1.8 per cent, with an overall acceptance rate of 75.1 per cent. The big story from this year’s recruitment data is the expansion of “high tariff” providers, most likely in the context of a shortfall in projected international numbers – with inevitable knock-on impacts elsewhere in the sector.

“The latest data confirms that demographic growth in 18 year olds in the general population should not be presumed to lead to a sustainable increase in demand for HE.”

The latest data confirms that demographic growth in 18 year olds in the general population should not be presumed to lead to a sustainable increase in demand for HE, whether the issue is about preparedness for HE study or general appetite for progression to HE. From 2030, the demographic trend will shift back to a decline in 18 year olds in the general population, with a trough in 2043 albeit equivalent to 2022 numbers. The general presumption of steady growth in demand in line



with demographics has been proven to be ill-founded, with confounding factors like a global pandemic or cost of living crisis having apparently more influence on entry rates than simple demographics. So just as any current ambitious growth projections may need to be tempered, concerns about future decline may also be overly pessimistic. However, the vulnerability of the sector to shifting demographics does speak to the value of a more strategic diversification of models of higher education provision, more suited to a breadth of prospective learners.

International recruitment and education strategy

International recruitment has been a particular challenge in the past year, with policy instability and currency fluctuations contributing to a reduction in applications – a BUILA survey of 70 institutions reported a 20 per cent decline in international postgraduate entry in the autumn of 2024. The latest application data from December shows a 15 per cent uptick from the equivalent point in December 2023, giving an encouraging indication of a possible continued recovery in international applications. The continued policy of restricting international numbers in Canada and Australia will benefit the UK, and for some markets, the re-election of Donald Trump in the US could have a similar effect.

The Westminster government is developing a refreshed International Education Strategy which, it is to be hoped, will signal a commitment to creating a stable policy environment to enable sustainable and managed international growth. However, the sector should be prepared to demonstrate its own commitment to good practice in international recruitment, particularly on transparency and good practice on the use of agents, and to supporting international student experience and outcomes.

“The Westminster government is developing a refreshed International Education Strategy which, it is to be hoped, will signal a commitment to creating a stable policy environment to enable sustainable and managed international growth.”

Student finance, cost of living and work

Alongside the announcement of the increase in the undergraduate fee cap in England, Bridget Philipson confirmed that the maximum maintenance loan for 2025–26 in England will be allowed to rise by forecast inflation (OBR, RPIX, Q1 2026) of 3.1 per cent. There has, however, been no increase to the household income threshold for maximum maintenance loan eligibility, which has been fixed at £25,000 since 2007 and is now acting as a considerable drag on the amount a student can borrow. Cost of living pressures on students also remain acute.

Against this backdrop it is not surprising that many universities are reporting an increase in students remaining in the family home, and working alongside study. In December Wonkhe published insight from the latest tranche of our student insight panel, *Belong*, in partnership with Cybil at Group GTI, focused on students’ experience of work. 1,461 students in work were polled, with results weighted for gender and level of study. We found that the majority (two thirds) of students who are working are doing so to cover their bills, including rent.





Sexual misconduct and condition E6

As part of the regulator’s commitments on implementing the new condition of registration E6 on sexual misconduct and harassment from 2025 OfS is going to ask all final year undergraduate students via a supplementary survey to the National Student Survey (NSS) to complete a pilot survey on their experience of sexual misconduct in higher education. Although the regulator is keen to reassure providers that the two surveys are entirely separate, it would be worth bearing in mind this exercise within any cyclical NSS planning.

In September 2024 a ban on the use of non-disclosure agreements in relation to sexual harassment and misconduct came into force, and from 1 August 2025 providers will be subject to the new condition of registration. The aim of the condition is to secure greater consistency of approach in the way harassment and misconduct allegations are handled and support is provided. It provides a universal, sector-wide definition of harassment and sexual misconduct to help deter would-be perpetrators and manage student expectations. The definitions are pulled from the Equality Act 2010 and the Protection from Harassment Act 1997.

OfS will also require each provider to publish a single document explaining arrangements for handling incidents of harassment or sexual misconduct, support available to those involved in incidents, training provided to all students and staff about what constitutes harassment and sexual misconduct, and in the case of staff, how to handle disclosures, formal reports and investigations. Providers will also need to clarify how often materials will be updated and explain rationale for where the materials are published, i.e. in an easily accessible and prominent location.

About half are working more than 15 hours a week – the threshold over which there is a greater likelihood of impact on learning experience and outcomes. 46 per cent are on zero hours contracts, and as such may be directly affected by the government’s proposed ban on zero hours contracts as part of the current employment legislation. Around a third of students reported that their work is “very” physically or emotionally draining, and a similar proportion disagree that their timetable, academic demands and the wider demands of student life allow them to balance work and study.

When asked what would help, respondents asked for more jobs on campus, reduction of on-campus costs, greater flexibility in timetabling, and help and guidance on managing the balance. Boards may wish to reflect on these findings in the context of their own student populations and ask executive teams to consider whether the learning environment is currently conducive to enabling student work where there is a financial necessity to do so.





The Higher Education (Freedom of Speech) Act implementation

The government has now announced its intentions for making amendments to the Higher Education (Freedom of Speech) Act 2023, which it had paused pending consultation on how (or whether) to implement the Act.

The key provisions of the Act will remain, which give universities a duty to promote, and maintain a code of practice on, freedom of speech and academic freedom, make provisions for there to be an OfS Director for Free Speech and Academic Freedom – current incumbent Arif Ahmed remains in post – and for OfS to issue guidance to providers. OfS will now operate a complaints scheme only for university staff and visiting speakers, with student complaints referred to the Office of the Independent Adjudicator and students’ unions will no longer be subject to direct regulation from OfS.

The statutory tort, which would have allowed civil proceedings to be brought against higher education providers will be removed, and the government will also give further consideration to the provision of the Act that requires higher education providers to maintain a register of foreign interests.

“Boards should assume that the implementation of the new regulations at provider level will be subject to very close scrutiny by those who see the changes as a watering down of the Act’s provisions.”

The revised free speech policy, arguably, is a pragmatic and proportionate response to the controversy surrounding the original Act, which created some very challenging tensions between free speech and protections from harm for marginalised groups, as well as creating a high level of regulatory burden and legal risk for providers. But Boards should assume that the implementation of the new regulations at provider level will be subject to very close scrutiny by those who see the changes as a watering down of the Act’s provisions.

Franchising and subcontracting

Following both a National Audit Office (NAO) and Public Accounts Committee (PAC) probe into higher education subcontracting/franchising early in 2024, the Westminster government buried its plan of action in Treasury minutes in October.

“The government has been consulting on proposals to strengthen oversight of partnership delivery in higher education, with news coming by January 2025.”

One of the PAC’s headline recommendations was that DfE should set out requirements for providers to publish summaries of their franchise agreements, including the proportion of funding they retain and for what purpose, so students know what this means for them. The government agrees that there is a “strong case” for greater transparency – and will ask OfS to consider requiring providers to publish proportion and purposes when it next makes changes to ongoing conditions of registration.



PAC also suggested that OfS set out the proportion of fees lead providers could be seen as reasonably retaining in relation to the student services they remain responsible for, and consider these financial arrangements in the scope of any investigations it carries out into the quality of franchised provision. OfS is saying a yes on the latter, but that complexity and diversity prevents the former.

DfE was invited to set out what it will do to strengthen direct and indirect oversight of franchised providers to ensure they meet the standards expected for an organisation receiving taxpayers’ money – which it said could include requiring all providers to register with OfS in some form. The government agrees in principle and has been consulting on proposals to strengthen oversight of partnership delivery in higher education, with news coming by January 2025.

The committee also raised concerns about the lack of an agreed definition for student attendance and engagement, which underpins the student loan system given different entitlements for full and part-time students. That’s a particular issue, because our monitoring of the way in which many franchised courses are sold by domestic agents suggests a part-time mode of attendance for what are funded as full-time courses.

Guidance has been provided on the Student Loans Company website, although it does not define attendance or engagement - instead it suggests providers should have their own robust policies. With UK Visas and Immigration (UKVI) also stepping up immigration work – partly over attendance – providers will need to look afresh at their attendance policies and monitoring in a way that takes account of the increased pressures on students to earn while learning.

Post school education and skills reform (Scotland)

The Scottish government has announced that it intends to give the Scottish Funding Council (SFC) responsibility for funding all post-compulsory education and skills provision, including higher education, further education, and apprenticeships and vocational training. Student Awards Agency Scotland will remain responsible for disbursement of student support, now incorporating further education. Student Development Scotland will no longer disburse funds, focusing on provision of career information and guidance. A Bill to effect these changes is now expected to be brought to the Scottish parliament in the current legislative session.

One key element of the forthcoming legislation will be further debate over whether the SFC has sufficient regulatory oversight and intervention powers, especially in light of the financial challenges facing the Scottish sector. Scottish further and higher education minister Graeme Dey recently told the Scottish parliament’s education committee:

“I’m keen to take the opportunity through this legislation, which the committee will be involved in, looking to ensure that we have the most robust set of powers available to our regulators to try and ensure that all of us as parliamentarians can be satisfied that appropriate use of public money is taking place.”



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