The challengers (and challenges) in higher education market reform

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Image: Roy Scott/IKON

Competition between providers in any market incentivises them to raise their game, offering consumers a greater choice of more innovative and better quality products and services at lower cost. Higher education is no exception.

(Executive Summary, §7 *Success as a Knowledge Economy*)

This is the ministerial credo we have lived with for the last six years, and it has driven a variety of efforts at market reform in English higher education. In theory, the replacement of the old system (with its direct grant payments to institutions and fixed undergraduate recruitment caps) by a loan-fee regime was designed to improve student choice by having money follow the applicant. Good institutions could expand to meet demand, and those that struggled to recruit would have to up their game or exit the market.

For established universities the final piece of that reform only appeared last year when student numbers controls were lifted entirely. It would, therefore, seem too early to see how the theory has played out in practice. But the new Conservative government is keen to launch on paths of further transformation, impatient at having been held in check for five-years by the Liberal Democrats. Thus we have *Success as a Knowledge Economy: Teaching*

Excellence, Social Mobility and Student Choice an impatient but confusing document which bristles with resentment towards an established university sector apparently not biddable enough to develop the kind of flexible, diverse provision it wants to see (and here we mean accelerated two-year degrees and degree apprenticeships, not part-time options, of course).

In truth, you can see that the large unmet demand for undergraduate places means that universities are less inclined to adjust provision in the way envisaged by the last White Paper, 2011's *Students at the Heart of the System*. One pillar of the new White Paper is an information and transparency revolution that will transform the kind of information available to potential applicants so as to include earnings data by course and judgments about teaching excellence. This is seen as necessary but in itself insufficient to effect the type of change desired by the government. That is, real disruption to the 'incumbent providers' too protected from competition that is needed to improve teaching quality.

It is important to remember that this is the solution the reforms are designed to engender – better teaching, better student experience, improved contact hours and more graduates going into graduate-level jobs. It is all sketched out in the Executive Summary, but *Success as a Knowledge Economy* makes no attempt to back up the claims in its three main chapters.

The charge sheet reads: 'many students are dissatisfied with the provision they receive'; 'almost all students obtain degrees, the vast majority receiving a first or upper second, despite the likely difference in outcomes generated by widely differing levels of input and effort.'

In sum, standards have slipped – grade inflation is the evidence – and 'many' students are dissatisfied', (though the data indicates that only 'some' are, and it's hard to disentangle that from higher fees). 'Lacklustre' teaching is mentioned, but no footnote even points the reader to the supporting evidence.

So here's where the additional competition with 'innovative and better quality' products comes in. And the new branding of this competition is announced: they are to be 'challenger institutions.'

In this regard, it's important to understand how the most recent round of market reform failed in that aim. Changes to funding in 2012 that allowed more students at alternative providers to access tuition fee loans and maintenance support largely led to an explosion in the recruitment of 'non-traditional' students and did not see students who had offers from established universities choosing to take up places at new, alternative providers in any significant numbers. They did not disrupt in the desired fashion.

The government has been slow to acknowledge the extent of this policy misfire, but a photographer in April captured a Downing Street policy advisor holding a discussion paper outlining the final hurdles to be ironed out in today's White Paper. That indicated that the previous phase of expansion had been coloured by 'fraudulent claims' (involving students and institutions) and "very high drop-out rates (one of the few proxies we have of bad provision)".

This echoes the conclusions reached by Margaret Hodge, then Chair of the Public Accounts Committee:

> *Today's NAO investigation has exposed the potential misuse of millions of pounds of public money, with EU students at some private colleges accessing public funds to which they were not entitled. … This extraordinary rate of expansion, high drop-out rates, and warnings from within the sector ought to have set alarm bells ringing.*

The government refuses to publish the numbers of funded full-time students who completed undergraduate qualifications between 2011 and 2015 at alternative providers. This would be the first step in assessing the value for money of that misstep, but it is tempting to read this episode as a clue to the moment of anger that erupts in the

White Paper's second chapter:

> *For too long we have been overly tolerant of the fact that some providers have significantly and materially higher drop-out rates than others with very similar intakes in terms of demographics and prior attainment. This applies equally at both the high tariff and low tariff ends of the sector. Such variability is not simply a statistic, nor even simply a squandering of taxpayers' money. It is worse: it represents thousands of life opportunities wasted, of young dreams unfulfilled, all because of teaching that was not as good as it should have been, or because students were recruited who were not capable of benefitting from higher education. (my emphasis)*
> *(Chapter 2: Choice, §15)*

Listen to the end of this Radio 4 documentary for one particular example of 'young dreams unfulfilled'.

And it is perhaps the key to the changes we see in the White Paper regarding what are now called 'challenger institutions.' These are to be high-quality providers who can genuinely disrupt the established provision rather than alternative providers whose main innovation was to recruit from communities with little familiarity with HE.

Regarding funding, 'challengers' would 'enter the sector' and have the ability to apply for grants as well as loans for their students immediately. (We would thus have a single "gateway" rather than the two current 'designation procedures': Specific Course Designation – loans – and HEFCE Designation – grants).

This framework was outlined in November's Green Paper. Models 1, 2a, 2b, have now been given names indicating the level and kind of funding sought.

Model 1 becomes 'Registered' – effectively licensed to operate as part of the English HE sector and eligible for Tier 4 visa status.

Model 2a, by and large, the current alternative provider scheme, becomes "Approved" and allows students to access a maximum tuition fee loan of £6000 pa and maintenance support. For Approved, that cap is a *loan* cap and providers can set whatever tuition fees they want.

"Approved (fee cap)" is the third and final model, 2b as was. Challengers electing for this arrangement can, subject to approval, access grants – teaching, capital and research – as well as loans, but must agree to a maximum tuition fee cap of £9000 pa and enter into Access Agreements if they charge over £6000 pa.

Probationary access to public funds is one thing (and there will be concerns about more providers accessing shrinking teaching and capital grant pots), but the White Paper's coup is to announce that new providers will be able to apply for probationary Degree Awarding Powers from the get-go, thus sidestepping a set of complaints about the anti-competitive nature of current validation arrangements.

Whereas the Green Paper proposed accelerating existing processes, so that a startup could receive Degree Awarding Powers within four years and the university title within six, the White Paper suggests giving degree awarding powers to a startup immediately at inception. This provisional measure would be confirmed after three years (thus giving the institution degree awarding powers in perpetuity dependent on good behaviour).

I find this development hard to assess. The Green Paper seemed to promise an acceleration of existing processes, but the White Paper appears to jettison basic principles underlying quality assessment, and the text itself offers nothing well-defined regarding the 'high-quality bar' that might apply to institutions when they have no track records of undergraduate teaching. The details on how Degree Awarding Powers and the University Title are to be awarded will be subject to consultation with the sector, but both processes will be moved from Privy Council control to the new, Office for Students.

So, given this bold move, how is the new Office for Students going to assess that applying institutions are high quality? Not against any set of criteria published in the White Paper and not on track record, as that would be unfair to new challengers.

The Green Paper had suggested that the track record of a provider or a key individual would be central to any successful application. And HEFCE's recent Revised Operating Guidance, covering the transitional period before OfS arrives in 2018, aimed to ensure that it could make 'reliable judgments about a provider's readiness to enter the higher education sector *even when the provider does not have a substantial track record of delivering higher education'* (Revised Operating Guidance §65).

So 'no track record' represents a departure from both. Indeed, the White Paper indicates that those entering the system and applying for degree awarding powers, would *not* have to *meet specific and separate Degree Awarding Powers criteria* (p.21) and entry on the basis of their 'potential' would be enough 'as soon as the OfS is satisfied that the conditions of being an Approved provider have been *provisionally* met' [Box 2.1].

Moreover, it's not clear how the timings for DAP review are meant to work. When do we start the clock on the three years? When the institution receives DAPs or when the first student arrives?

This isn't just a pedantic question as the review considering whether to award DAPs on a permanent basis is to take place after three years, but the 'key indicators' for the risk-based quality system that is introduced alongside these reforms specifies some measures the can only be measured after at least one cohort completes (degree outcomes, NSS results, completion levels) and some which need longer (graduate employment, progression to professional jobs and post-graduate study).

In the Executive Summary (§11), BIS insists that "making it easier for these providers will help drive up teaching standards overall; enhance the life chances of students; drive economic growth, and be a catalyst for social mobility." But it is not possible to tell which providers they mean by "these."

Briefings to the press have indicated that large US institutions and corporations, such as Google and Facebook, may be enticed into the English sector by opportunities that are not available in the States, or Middle and Far East branch campuses. (The press release though concentrated on the much less disruptive University Campus Suffolk and a new HEI in Hereford).

Current HEFCE Designation, which controls access to grant funding, sets no restrictions on corporate status (for-profit or otherwise) or even tax status, meaning organisations registered in other fiscal jurisdictions could be accessing public funding through subsidised loans and grants. Of course, the White Paper never mentions this issue at all.

I have previously complained about democratic deficits in HE reform, but the repercussions of these vague, uneven proposals are very risky and difficult to undo. There's even a hint that the HE Bill might proceed before a consultation on these regulations were completed. The criteria for Degree Awarding Powers and University are 'owned by BIS' and are to be 'put out to consultation', but not necessarily before a Bill appears. Regulations are matters of administration, so Ministers may not need legislative measures to make alterations outside legislative scrutiny.

This brings me to 'market exit'. The government insists that institutional failure is not its business so long as there is another provider to pick up any students adversely affected. Indeed, a failure of some kind would be evidence we are moving towards a 'healthy, competitive, well-functioning market' (Executive Summary, §17).

'The primary goal is to raise quality' and the idea is that this is best achieved by having weaker institutions end provision, and stronger institutions replace them (this also applies to individual academics. Hence there is no mention of methods to help individuals improve).

The only issue apparently is to ensure that current students are protected: previously solutions to this conundrum included ideas about ABTA-style bonds, and the Green Paper cycled through a series of options: “an insurance policy, a bond, reserve funds, or Escrow accounts.”

The White Paper drops the attempt at specifics and just asks that all providers seeking Approved or Approved (fee cap) status would have to ‘set out and publish plans to protect their students in the event of exit or course closure’ (Ch1§33). These would have to be ‘satisfactory and credible’ to the OfS mind, but again no further specifics are outlined.

This may work for an orderly market exit, but it seems that any plan, based say on building up financial reserves, is likely to melt in the face of any significant liquidity stress (let’s say, a new financial crisis centred on China). It’s a myth to think that disorderly exits are not going to require sector intervention.

In the analogous article I wrote back in November about the Green Paper, I complained that ministers and civil servants seemed blind to a basic feature of our evolving system: we only discover which providers are high quality on the back of individual students who have studed at particular institutions.

Students who get a bad deal have limited ability to revisit their choices and even seem to have their own initiative penalised by the current system. Frankly, the last government did nothing for these students and on occasion treated them contemptibly. Caveat Emptor is not a responsible HE position for the government to take.

Perhaps someone, somewhere in Whitehall was touched by complaints of this kind, and so we have a new (albeit jejune) commitment to hold a ‘call for evidence’ into student transfers and credit accrual. My constructive suggestion to the government would be to hold fire on your market reforms and, if you must, put in place a system of teaching excellence and credit transfer first. If you are right about the merits of the TEF, then insights generated should inform more radical regulatory and sector reform. Trying to do everything outlined in *Success as a Knowledge Economy* all at once, without any evidence of ‘learning gain’ from the alternative providers fiasco, is ill-advised.

In all seriousness, it’s hard to give any credence to these market reform measures if they are meant to advance quality: there is no explanation as to what they will be and what evidence supports them. We seem to be asked to ‘feel the radical commitment’, but it all seems rather to express an astonishing level of resentment against the history and autonomy of the established sector. BIS and the Treasury seem to have lost any perspective on what problems there might be in the sector and how they might be solved constructively.

April’s long lens snap also caught this opening paragraph:

> *“BIS are trying to resolve real problems of quality and regulation. But it is not clear they have figured out how and there is a risk that the bodies and rules they will establish in regulation will not solve teaching quality, while creating poor quality provision for marginal students.”*

That seems an apt summary of these proposals on market reform.