

The Politicisation of the Regulation of Higher Education

Rt Hon Charles Clarke

Centre for Global Higher Education

July 25th 2022

The University Challenge

- Understanding and interpreting the process of change
- Offering approaches that would harness the process of change for general benefit
- Educating and training to high quality the specialist workers whose skills are necessary to address change properly
- Creating a general intellectually engaging climate and culture across societies that promotes the virtues of understanding and science

Why Regulate?

- **Public Interest**
 - Resource Allocation
 - Efficient Resource Utilization
- **Public Accountability**
- **National / Local Economic and Social Impact**
- **Balance of Society**
 - Access and Participation (eg class, gender, ethnicity)
 - Free debate / University Culture
 - Issues of 'extremism'

Regulate What?

Higher Education Overall Structure

- **University Title**
 - Quality
 - Multi-Faculty
 - Size
 - Location
 - Public / Private
- **Number of Universities**
- **“Increase competition and student choice” (HERA 2017)**
- **Labour Market?**
- **Finance**
 - Fees
 - Caps on student numbers
 - Can a University Go Bust?

Regulate What?

University practice

- **Research Quality and Impact (REF)**
- **Teaching Quality**
 - Technical / Vocational / Apprenticeships
- **“Grade Inflation” / Time comparisons**
- **Quality of Governance / Leadership Pay**
- **International relations, eg China, Gulf**
- **University Culture**
 - ‘Freedom of Speech’ / ‘No-platforming’
 - ‘Woke’ / Cancel culture
 - ‘Respect’ / ‘tolerate’

Requirements of Good Regulation

- **Independence**
- **Efficiency**
- **Expertise**
- **Proportionality**
- **Public Interest**
- **Impact and Transparency**
- **Accountability to both public and to university sector**

Defining the Public Interest - Drawing the Line

- **Universities themselves**
- **Government**
- **Office for Students**
- **Political parties**
- **Partisan groupings/lobbies /media**

Politicisation Worries

Worries and tensions there since formation of UGC 1918.

But:-

2015 Counter-Terrorism and Security Act

2017 Higher Education and Research Act

Feb 2021 OfS appointment of Lord James Wharton vs Ivor Crewe

May 2021 Higher Education (Freedom of Speech) Bill

Politicisation Concerns?

- What is researched
- What is taught, and how
- How assessment happens
- ‘University Culture’
- University Independence
 - Financial / Can a University Go Bust?
 - VCs’ pay

Conclusion

- Strengthen university leadership vis-a-vis government
- Strengthen university partnerships
- Disentangle ‘public interest’ and ‘politicization’
- Establish basis of ‘proportional’ regulation
- Slim bureaucracy

The Politicisation of the Regulation of Higher Education in England: The Case of the Office for Students

Paul Ashwin

p.ashwin@lancaster.ac.uk

Twitter: @paulashwin

CGHE Seminar, UCL Institute of Education, 25th July 2022

Three recent phases of regulation

1. HEFCE up to 2018 - Regulation of HE system for long term health of the sector
2. OfS 2018-2021 - Regulation of HE market in the interests of students
3. OfS 2022 onwards-Regulation of HE providers to meet short term government priorities?

Hasn't the OfS always be this way?

Politicisation of regulation through:

- Political appointments to its board;
- Vagueness of terms such as 'value for money';
- Direct funding of 'for-profit' institutions
- Responsiveness to the immediate agenda of ministers expressed through increasingly frequent letters of instruction

(See Shattock & Horvath 2020, Scott 2021, Jones 2022)

“The imposition of an over-mighty regulator ... with a highly politicised agenda”

(Scott 2021, p.18)

OfS (2018) Regulatory Framework

The OfS's approach to regulation puts informed student choice and institutional autonomy at its heart. It sees the dynamic of providers responding to informed student choice as the best mechanism for driving quality and improvement, and will regulate at the sector level to enable this. The OfS will regulate at provider level to ensure a baseline of protection for all students and the taxpayer. Beyond that threshold the OfS will encourage and enable autonomy, diversity and innovation

Comparison of OfS strategies

- In the 2018-2021, there was no use of derivations of the word 'enforce', there are 12 in 2022-2025 strategy
- In the 2022-25, there is an increase range of activities that the OfS consider it should intervene in and an increase in the specificity of what counts as 'good'.

Grounds for intervention

OfS Strategy 2018-2021	OfS Strategy 2022-25
When students' ability to continue to study on a course, at a campus, or with a provider is threatened	When courses and providers do not satisfy OfS regulatory requirements for quality and student outcomes
	When increases in degree classifications overtime cannot be explained
	To address harassment and sexual misconduct
	To ensure good mental health and wellbeing
	When providers do not protect academic freedom and freedom of speech
	To increase diversity of provision by stimulating demand and supply.

Statements of Chief Executives

In some aspects, independence [of the regulation] is better protected than ever... The structure is different because we are very serious about not being a regulator that imposes unnecessary regulation,. When an institution is above regulatory thresholds, we are not going to need to establish a relationship with them – they can go off and achieve their own thing (Nicola Dandridge quoted in Grove 2018)

Firstly, ministers appoint the members of the OfS board...These are all subject to the normal processes for public appointments. It is, though, hardly a surprise that ministers would wish to appoint people broadly aligned with the policy preferences of the government of the day. And a democratically elected government gets to make those decisions. But once appointed, we all ensure that OfS decisions are taken independently. Secondly, ministers routinely issue statutory guidance to the OfS about the performance of its functions... we consider it alongside other relevant factors... and reach our own independent view about the appropriate way forward... [M]inisters are not ‘politicising’ the work of the OfS when they make use of these lawful mechanisms to express their priorities and expectations. Rather, they are making proper use of the powers Parliament gave to them and that feels entirely democratic to me. (Susan Lapworth HEPI Blog, 2022)

Press releases and the student interest

From OfS press releases, origins of concerns around student interest come from:

- Media coverage – eg spelling and grammar.
- Ministerial concerns – eg conditional offers.
- Data on students' experiences – eg responses to NSS.
- Nothing from its student panel or other student groups.

Issues and consequences

- As the OfS broadens its remit, it is not clear it has the expertise to undertake its role.
- It has a very partial view of students' interests largely directed by the minister and the media.
- It seems to take little interest in the overall health of the HE market.

Ways forward for HE?

- To some extent the changes outlined reflect changes to other market regulators (see Koop & Lodge 2020);
- Need to collectively focus on students' interests rather than focusing on interests of particular institutional types;
- Need to work with student bodies to develop a coherent sense of the diversity of students' interests.

References

- Grove, J. (2018) Can Office for Students shake off rows and win over universities? *Times Higher Education*, 3rd April.
- Jones, S. (2022). *Universities under fire*. Palgrave
- Koop, C., & Lodge, M. (2020). British economic regulators in an age of politicisation: from the responsible to the responsive regulatory state? *Journal of European Public Policy*, 27: 1612-1635
- Lapworth, S. (2022) Ministers should not politicise the work of the OfS: discuss. Higher Education Policy Institute Blog, 13th June 2022.
<https://www.hepi.ac.uk/2022/06/13/ministers-should-not-politicise-the-work-of-the-ofs-discuss/>
- Office for Students (2018) *Securing student success: Regulatory framework for higher education in England*. February 2018. Office for Students.
- Scott, P. (2021). *Retreat or resolution?: Tackling the crisis of mass higher education*. Policy Press.
- Shattock, M. and Horvath, A. (2020) *The governance of British higher education: The impact of governmental, financial and market pressures*. Bloomsbury.