

Question 1: Respondent details:

Institute of Contemporary Music Performance

Paul Kirkham, Managing Director

Alternative Provider (though we should not be using this term; I would prefer 'independent provider'!)

Question 2: Do you have a preference for Method 1 (control based on eligible students) or Method 2 (control based on students accessing funding)? If so, why is this?

In principle, I would prefer Method 1 as it is closer in methodology to that system already existing in the taxpayer funded sector. This would therefore be a step towards levelling the playing field. The requirement for AP's to produce additional data I would see as a positive step, as it would represent a further reinforcement of quality provision and ensure students are provided with a full set of information. Method 2, being simpler and requiring less data collection, could lead to more abuse of the system.

However, I believe both methods are flawed in that they do not provide any mechanism for growth of the AP sector. Without any commitment to growth by the Government, investment will be restricted, innovation will be reduced and student choice will be the poorer. The AP sector is extremely small and fledgling; it needs to be given a little time and space to develop its 'core' properly, new entrants must be encouraged to develop and existing, quality controlled players must be allowed to grow. This is where sector innovation and, ultimately, creative financial solutions that minimise exposure to the taxpayer, will come from.

BIS could justify some short term support of the AP sector on the basis of the following rational arguments:

1. Overall applications are down; encouraging additional students into the AP sector therefore makes sense, low fees mean taxpayer exposure is minimised and at the same time works with the widening access agenda
2. In the absence of new legislation, AP's are still disadvantaged in many other areas, for example: access to research funding, access to capital grants, direct HEFCE support, working rights for international students, access to the NSS, etc. This would therefore simply be a short/medium-term step to begin to redress that balance
3. The AP sector, individually and collectively, is already considering strategies that will minimise taxpayer exposure in the medium to long term so this positive support would clearly encourage moves in that direction
4. The absolute student numbers in the AP are still relatively small (which would be the case even if the AP sector doubled in size in the next 3 years!); the AP sector would however now come under overall control and by applying a limit the Treasury would gain certainty of maximum exposure

As a result, it is essential that BIS engage as a matter of urgency with AP sector representatives to develop and commit to a growth strategy to work in parallel with the introduction of new control methodology. This could be achieved in several ways, for example:

1. Allocating a certain % of total student numbers to the AP sector. A suitable number would perhaps be 3% of the total available in year 1, rising to 5% by year 3. While still representing a small proportion of the total loan exposure (current estimates are that the AP sector accounts for around 1.6% of the total), this allocation would incentivise the existing AP's, encourage new entrants and stimulate further investment. (3% of total available numbers would represent around 30,000 students in total)

I recognise however that numbers must 'come from somewhere' and this is therefore not a desirable long-term solution. It may, however, be workable in the very short term while more sustainable and acceptable growth strategies are developed. I also recognise that not more than one year of allocation is likely to be given in the first instance, which could also be manageable given the understanding of further strategy development.

2. Allocating a 'pot' of students, say 20,000 in the first instance, for providers charging under £6k per annum. This would be equal to the pot allocated in 2012/13 to publicly funded HEI's who charge below £7,500 and would have the same purpose – to provide incentive for those who charge lower fees, which benefits both student and taxpayer. Given the low application rates this year, plus the 3% flexibility given to other HEI's, finding these numbers should not be that difficult for 2014/15.
3. Enhancing the existing pot of 5,000 students available to publicly funded HEI's who charge below £7,500 and allowing AP's to access this in the same way; the arguments in point 2 above apply here also.
4. Working with the AP sector to develop models of alternative financing that would minimise or eliminate the absolute financial exposure of the taxpayer. I believe some senior AP's have submitted some ideas in this regard and we would be interested to work with the parties to develop these ideas further. With the gradual coalescing of the AP sector – which should be encouraged – new ideas and strategies are most definitely on the horizon.
5. Allowing AP's unrestricted access to ABB+ students
6. Developing an appropriate mechanism to allow uncapped growth of fee-paying students, i.e. those who do not draw down loans. (This needs to be carefully considered however; I do not believe that dual-designation is the appropriate way, with students on designated and non-designated courses in the same classroom. There will be issues of fairness and access based on ability to pay once the designated course is 'full'. And of course students can change their minds about funding during their course.)

Whatever route is chosen to ensure a growth strategy is built into the plans, we recommend that full representation of the alternative sector (for example Study UK plus the new grouping of 'senior' AP's which includes the ICMP) should be brought in to the BIS working party to develop the ideas and proposals.

It should be noted that in no circumstances should Government consider implementing any system with effect from the 2013/14 academic year. The reasons for this are: first, we are already well into the recruitment and investment cycle for that period and any restrictions would impact negatively on commitments made; second, there would be insufficient time to produce and analyse the prerequisite data; and third there would be no time to develop and agree an effective growth strategy. Introducing some form of 'cap' from the 2014/15 year would be most appropriate therefore.

I note that it is the intention of Government ultimately to remove student number controls entirely and ensure a level and competitive playing field. We fully support this move and therefore any adoption of the above or similar ideas would be inherently a short term measure. If the 'core and margin' model is continued with publicly funded HEI's I would ultimately see the AP's participating in the same process, as equals.

Presumably the scenario that all are leading towards is a system with no controls, where inflow from student loan repayments balances with the outflow in annual loans and grants, minus a politically and publicly acceptable default rate (currently assumed to be around 30%). With the HEFCE grant reductions having reduced the annual P&L 'cost' to the Government, and the student loans effectively sitting as an asset on the balance sheet enhancing that position, the principal issues are cash flow and default rate. Cash can always be managed assuming low costs of borrowing, and the loan mechanism allows for some adjustment in interest charges should costs of borrowing increase. However the RAB charge, or % of money that will not be repaid (the default rate), is the big unknown. Logical solutions to this problem include the development of some form of insurance policies (perhaps by the providers themselves, perhaps supported by government in some way, perhaps developed jointly) to cover defaults above a politically accepted level, transferring risk by selling off the loan book (which would minimise cash flow issues also) and/or securitising the debt, or transferring this risk to student also in the form of a small insurance charge.

In many ways, the education sector is becoming like the housing sector – acquiring a beneficial qualification is akin to acquiring a place to live, providing improved earnings security and other long-term benefits, and the financing models could be similar. A mortgage is in essence no different to a student loan (Note: supporting the development of the creative sector and strategically important subjects are different matters not covered by this submission; however they must not be ignored.)

In this context, short to medium term support of the AP sector, allowing and indeed encouraging its 'core' to grow, makes sense as this is where ideas and solutions are going to come from plus lower fees will reduce absolute cash costs to the Treasury.

Question 3: What is your view on the submission of data to HESA? Do you think designated courses at alternative providers should participate in the Key Information Set and therefore complete the National Student Survey and Designation of Leavers in Higher Education survey (if student numbers are large enough to permit this)?

Yes. As stated above this further levels the playing field and differentiates quality providers, and enhances student choice.

However, costs to AP's should be the same as those of publicly-funded HEI's for all regulatory and information requirements. This is not currently the case. Also a 'light touch' methodology should be developed for smaller providers with an associated lower fee to encourage new entrants and smaller providers.

Note: The shift to producing this data would be a significant administrative burden for AP's so support and time would be required to enable this.

Question 4: Are there any other methods for controlling student numbers on designated courses at alternative providers that you would recommend instead of Method 1 or Method 2?

I have mentioned several ideas throughout this submission for amending the proposed methodology. I do not believe Method 1 or 2 can work simply as currently articulated; both would require significant modification primarily in the area of a growth strategy. However Method 1 is probably the best 'starting point' given its similarity to the system deployed for publicly-funded HEI's. I also emphasise that ideas are being developed by senior members of the AP sector and BIS should consider exploring these further.

I believe it is important to understand that it is the student - not the institution - that is subsidised/funded into HE under the loans and grants system. The idea of the provider market in HE is to provide students with a wide range of choice, properly regulated and providing trustworthy 'sales' information, with access not restricted by financial circumstances. They are then free to choose where to spend their 'subsidy' – and indeed can change their decisions halfway through a course. And ultimately they have to pay it back. Therefore any method of controlling Treasury exposure must consider minimising risks to the taxpayer of student repayment default, balancing politically acceptable additional costs to the public purse (interest rates, opportunity costs of capital etc.) and optimising cash flows. This is (in principle) no different to the business of a mortgage lender; the big difference being that the last resort of a mortgage lender is the house itself, which naturally has a value; education cannot be repossessed!

Given that there is a politically acceptable cost of HE to the taxpayer, which has already been calculated, the answer to the problem must be in a) Minimising any exposure over and above that politically acceptable level of cost and b) Having a system that can change things should the political cost been deemed too high/too low in the future. Which naturally brings us into the world of insurance.

If an institution insures the risk of its students defaulting it incurs a cost – which will inevitably be passed to the student, the customer. In a proper market, these costs to the 'customer' would be managed and controlled as competition drives efficiency. If the current 'closed' market of the publicly-funded HEI's introduced insurance, you can be sure no efficiency would be created elsewhere and the cost would be passed straight to the student – and therefore the taxpayer – in its entirety. However, with an active, properly regulated and healthy AP sector, competing on cost as well as other

factors, then there would be greater efficiency and insurance costs would probably only be passed to the student partially.

And if, in addition to the competitive element, there was some support for such an insurance scheme through a state entity or mechanism (perhaps the new bank proposed in the past by Vince Cable...) insurance costs could be kept to a minimum since the profit margins demanded by private insurance companies would not be required.

Though these ideas are not fully developed, it seems to me that the approach to the AP sector and, indeed, the wider HE sector, should be threefold:

1. Introduce suitable controls short-term that allow the development of true competition and innovation, and in particular allow the 'core' of the AP sector to grow, while offering some certainty to the Treasury
2. Work with the AP sector – and indeed other HEI's – to explore innovative ways to minimise risk and exposure to the Treasury and taxpayer, perhaps involving such things as default insurance, and
3. Long-term seek to remove all forms of control, allowing a truly free and competitive market where politically acceptable costs to the taxpayer are balanced against the benefits that the HE sector – in all its forms – can provide.

Question 5: Do you agree that there should be an exemption from student number controls for alternative providers with small numbers of students accessing student support? If so, do you have suggestions as to how the Department should define 'very small'?

Yes. The threshold should probably be pitched somewhere between 100 and 200 students (in total across all course years), my preference being towards the higher end to encourage new entrants and reduce administrative burden for smaller, niche providers. We should be aware that the AP sector is, by definition, non-uniform; this is precisely how it should be. As a result one size fits all solutions will be dangerous and new and smaller entrants should be supported and given opportunity. Dominance of the AP sector by a small number of large providers would not be a desirable outcome.

Question 6: Equality considerations: Do you think that the proposals for applying student number controls will have any equality implications (e.g. positive, negative, or neutral) for people with protected characteristics (as set out in the Equality Act 2010), or people from low income groups? What impacts might there be and do you have any evidence of possible impacts?

The biggest issue here is widening access amongst low income groups. In this regard, a growth strategy for the (lower cost) AP sector is logical and desirable. And any method that produced dual-designation of the same course, with 'paying' and 'funded' students in the same classroom, is in my view a potential minefield of contention. At some point providers would have to say one course is full, but

continue to recruit 'paying' students onto essentially the same course. Even if legally tenable this would be a PR disaster for the AP sector. Finally, the Quality Code for HE may be troubled by the idea of two 'competing' courses delivered by the same provider.

Question 7: Do you have any other comments on the proposals within this consultation document?

I have mentioned most additional suggestions in the above questions. However, to summarise:

- Timetable for implementation should be no earlier than 2014/15
- A sensible and workable growth strategy (not just for 'paying' students; this would be counter-productive to access policies) MUST be included for the reasons identified above
- The first part of the consultation paper, i.e. new designation controls, will further enhance the development of quality providers and reduce the risk of abuse of funding
- Any sanctions applied for over recruitment must be reasonable and proportionate to actual taxpayer exposure
- A mechanism must be found to exclude self-funding students from any cap – however the idea of 'dual designation' needs to be carefully considered
- AP's should be allowed to recruit ABB+ students the same as other HEI's
- The AP sector is already considering ideas and strategies for the future and should be engaged with the further development of these proposals as a matter of urgency
- The AP sector requires further nurturing and support – and this can be justified with rational argument – as this is where much future innovation and change will be created to the benefit of both student and taxpayer. Also AP's are generally teaching-focused institutions which is positive for the sector.
- If there is a specific problem with one part of the sector, i.e. HND's, then specific measures (limits on franchising across different geographical centres, enhanced designation process, specific student number limits) should be considered for that rather than blanket restrictions on all providers
- Time – and support - is required for AP's to develop their information and data provision in line with HESA and other regulatory requirements, so some allowance must be made for this
- Costs of membership of regulatory bodies should proportionate and the same for AP's and publicly funded HEI's. This is not currently the case.
- Finally, although this consultation is not directly concerned with these matters, the disadvantages suffered by the AP sector and the absence of new legislation to ensure HEFCE can work fully and equally with all providers fully justify the provision of a transitional period of support for the AP sector; when the playing field is truly level then the AP sector should compete on equal terms with all other HEI's.

Regarding the methodology for eligible students, it seems to me that various options are available. The eligibility % could be calculated on a national level; on an AP-sector level; or at the level of an individual provider. There are benefits and disadvantages of each of these approaches; however applying the calculation to the

level of the provider would perhaps allow for a more controlled and fit for purpose number allocation. It should also be considered whether the number is based on a future prediction or a historical actual – or perhaps a combination of both. This would allow growth to be properly planned and managed and thoroughly justified.

Presumably, since the cap applied to the publicly-funded HEI's does not differentiate between funded and non-funded students, there are historical averages that apply, probably at the level of institution but possibly nationally, that allow Treasury exposure to be calculated with some degree of confidence.

If we assume we do not want to control the numbers of non-publicly funded students in the AP sector, then the mechanism for controlling publicly-funded students must take this key difference into account. Working on an eligibility number at the level of institution therefore makes sense, rather than applying national averages. And these factors must be worked into any sensible growth strategy at both institutional and sector level.

One additional point – I would request that the planning horizon must also be reasonable – most private companies have 3-5 year plans in place and do not make decisions on provision with less than 6 months remaining to courses starting. While I understand that Treasury cannot commit to more than one year in advance, this will discourage private investment which is looking at least 3-5 years into the future and often beyond. An organised approach to planning should be encouraged to the benefit of all stakeholders.

Finally, I would like to add a comment relevant to another AP but whose position we support. This provider had been advised to prepare students for ULIP degrees (ULIP was submitting its course for approval by BIS). It turned out last June that BIS approved the courses, but only designated FE Colleges - not the four AP's who teach the ULIP courses. This is an excellent example of how completely un-level the playing field is and in our view should be – and could easily be – addressed.