

From higher education funding to higher education regulation

The transformation of the relationship between universities and the state

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Higher education is not a significant area of analysis for regulation scholars, and indeed is usually excluded from discussions by government on regulation. If thought of at all, it fits in the category of ‘regulation inside government’, whereby government regulates a function or service (such as prisons or hospitals) that the state has taken responsibility for providing either itself or through others. If we think about the relationship of government and higher education at all, it has for much of the post-war period been that higher education is a predominantly state-funded sector, in which the state imposes conditions on the receipt and distribution of funding based on the quality of teaching, research and governance of each university. However, as direct state funding to universities recedes and is replaced in part by a fee-based system funded through state-supported loans to individual students, the requirements which used to be a condition of receiving state subsidy now take on the character of regulatory requirements that stand alone from funding. We have moved in practice from higher education funding to higher education regulation.

In analysing the rapidly developing nature of the university sector, its relationship to the state and thus its regulation, it is interesting to compare it to two other key professional sectors: healthcare and legal services. In terms of their funding, their changes in their sectors, and their role in the state’s social and economic agenda, university academics sit somewhere between doctors and lawyers. All were key foundation stones of the post-war welfare state through, respectively, the creation of the NHS, the subsidisation of education and the funding of legal services to those in need through legal aid. All are facing considerable challenges as their funding models undergo rapid change, their markets globalise, and the state’s use of them to deliver socially beneficial services constantly fluctuates in both manner and purpose. However, each has a quite different regulatory system.

Although the scale of state funding for each sector varies, being greatest in healthcare and least in legal services, in each area state funding has been either reduced or restructured, or both. In the healthcare sector, whilst medical services (other than dentistry) remain free at the point of use, in the social care sector state funding is increasingly limited. Marketisation of services has been introduced, with GPs acting as the key purchasers of services from different hospital providers. In the legal services sector, legal aid has been radically reduced in the last few years, with the former coalition government seeking to cut £2–3bn from the civil and criminal legal aid bills. Consumer choice is here being channelled to those firms which are authorised to receive legal aid contracts in a radical overhaul of the system. With respect to universities, whilst students have always been able to choose where to ‘spend’ their state funding to study, the switch in the last two or three years from direct block grant funding of

institutions to the funding of loans to students has meant that universities have had to undergo rapid marketisation. The HEFCE teaching grant has declined by 40 per cent over the last three years, and is now only 25 per cent of income universities earn from teaching. Furthermore, overall state funding as a proportion of universities' income has declined dramatically in the last 15 years (Universities UK, 2013).

The health care, higher education and legal services sectors are also characterised by concentration of resources or income into a few, large institutions: the large teaching hospitals, the Russell Group universities, and the top law firms. Each sector has also been undergoing increasing globalisation over the last decade, either by exporting their products and services or by attracting consumers of those services to the UK: international students contributed 12.5 per cent to university income in 2014. Each sector is also facing the challenges of dealing with disruptive technologies which are changing how services are delivered, notably the internet.

What of the regulation of each of these three professional sectors? Their regulatory systems vary considerably in their complexity. Regulation of healthcare is conducted through a myriad of organisations, some focusing on professional standards of individuals and their title, others on the organisations in which they work. Regulation of legal services is far more systematised and is conducted through non-state regulatory bodies who are authorised and overseen by a statutory regulator (the Legal Services Board) and exercise statutory powers. The authorised regulators include the professional representative bodies who regulate both the professional standards of individuals, their title, and the organisations in which they work. Whilst in all sectors there is a regulatory focus on the quality of services provided, in the university sector each individual university regulates its own professional standards and titles. In contrast to the medical and legal professions, there is no professional body setting the standards someone has to meet in order to have the title 'professor'. However, universities have to be recognised under a statutory system order to award the qualification of a 'degree'. The regulatory system is not as complex as that for healthcare, but it is far less structured than that for legal services. Like healthcare, the objectives that the state seeks to achieve through the regulation of the higher education sector are diffuse, with multiple bodies pursuing different objectives. In the higher education sector these include research quality, teaching quality, widening participation, and the assurance of governance and financial management.

Moreover, the state's engagement with universities is still framed as one in which various state bodies are imposing conditions on universities for the receipt of state funding. As state funding recedes, we are left with conditions without (much) associated funding, which in any other sector would simply be described as regulation. The question is whether, in the light of the rapid transformations in the funding landscape, we need to re-frame the state's relationship with universities and ask not, 'What are the conditions on which we should give state funding?', but instead, 'What are the objectives that we seek to achieve in regulating higher education institutions, and is government regulation the best way to achieve them?' These are bread and butter issues

for any regulatory scholar. It's time that we engaged more seriously in debates on the future regulation of the sector in which we work.

Reference

Universities UK (2013) 'The funding environment for universities: an assessment',
London: Universities UK.
<<http://www.universitiesuk.ac.uk/highereducation/Documents/2013/FundingEnvironmentForUniversities.pdf>>

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