

Unfair terms and practice in Higher Education in England

**A submission of evidence to the
Office of Fair Trading**

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Introduction

The National Union of Students is committed to ensuring that higher education in the United Kingdom operates at the highest standard, providing students with a valuable experience that ensures the wellbeing and development of persons both during and after study.

We believe that an excellent higher education sector is one which works primarily in the students' interest, not merely because students are paying handsomely for their study, but also fundamentally because the education system exists for individuals to secure their right to knowledge and to enrich and empower their lives.

A concept central to this is fairness. Whatever framework that higher education operates in, institutions must deliver education to students on fair terms, and they must also deliver, to the best of their ability, the experience and the outputs that were promised to students.

It is important, then, for NUS to support the Office of Fair Trading in examining the provision of undergraduate study in England. We believe that OFT are well positioned to investigate whether higher education institutions are providing education on fair terms in the current model of provision.

And the picture is clear to us: the market is not working in favour of students. Advocates of the current model of HE provision have argued that the market encourages HE providers to raise their standards in order to remain competitive. In contrast, what we have witnessed are institutions cutting corners and finding loopholes to make efficiency savings and gain comparative advantages, all at the expense of students.

We argue from a robust evidence base. Research conducted by NUS, students' unions and the wider sector is brought together with substantial information, evidence and case studies collected from our membership, to

provide a detailed picture of where institutions are failing to meet the needs of students.

We have identified a number of key areas which we believe that the OFT have the expertise and authority to investigate further. These key areas are:

- Course costs
- Course closures
- Switching course or institution
- Marketing, course information, and mis-selling
- Complaints and appeals procedures

Within each of these key themes we identify a number of issues relating to the quality and fairness of practice at universities, highlighting breaches of conduct expected of a higher education provider. In many cases, the harm done to a student is severe and often left without redress. Where possible, we have provided evidence of both the problem itself and the effect it has on students.

In addition to the evidence documented in this report, NUS will be providing the Office of Fair Trading with copies of reports and raw data to further support our arguments and ensure that the scope and depth of the issues are fully highlighted. We hope that this will guarantee the proper action is taken to uphold and protect the rights and interests of students in English universities.

Course Costs

We define “course costs” as any additional financial cost that a student incurs to pay for goods or services which are necessary for completing their course.

In many cases, these costs are obligatory; for instance, where a course requires the undertaking of professional exams, membership fees to professional associations, or criminal records disclosures.

In other cases, costs are considered to be optional in the sense that formal course progression is not affected. However, for most students, without incurring these costs their learning and, indeed, their attainment would be adversely affected. Such costs would include purchasing textbooks, specialist computer software, field trips, and conference fees.

With course costs, we have identified two main areas of concern. The first is the overall financial burden on students created by course costs. The second is the communication of these costs to students and the problems associated with costs which are “hidden” from students when they first apply to a course. We’ll address these concerns in turn.

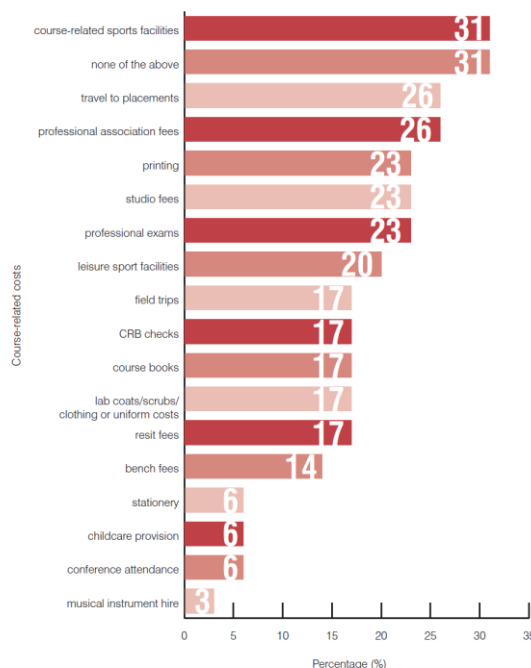
Course costs and student finance

NUS has been working with students’ unions to identify the extent to which students are burdened with additional course costs. We have collected data on the types of additional course cost incurred by students at HE institutions, the monetary value of these costs, and the differences in these costs across disciplines and across modes and levels of study. In addition, we have collected numerous case studies of students who have experienced these costs, many of which we will share in this document.

In October 2011, NUS began collecting data on course costs for their Hidden Costs campaign. A total of 71 students’ unions took part in a survey of course costs, of which 22 gave detailed figures of which costs were included in

an institution’s tuition fee and which costs were additional to fees.

1 | Which of the following costs are (or will be) included in your institution’s tuition fee?



Source: NUS Course Costs survey, October 2011

8

The survey results showed a very mixed picture as to which course costs were included in tuition fees by institutions. The University of York, for instance, included almost all of the most common course costs as part of its tuition fee, whereas the University of Huddersfield did not include any whatsoever. However, the differences between institutions were not clearly related to their size, research-intensity, financial endowment, or any other normal classification measures.

The course costs most likely to be included in an institution’s tuition fees were course-related sports facilities, although still only around a third of institutions provided these facilities without additional cost. For students undertaking sport-related courses, access to such facilities is as important as access to a laboratory for a chemistry student, or a studio of an art student. Yet two thirds of institutions

were not providing these essential facilities as part of a student's tuition fees.

The least likely course cost to be included as part of tuition fees was musical instrument hire. Instrument hire can be essential for music students, particularly those from poorer background who have never had the money to buy their own equipment. Music is already a subject particularly dominated by students from well-off families, because these are the privileged few who could afford private tuition, instruments and equipment. The fact that so few institutions offer support for the cost of hiring instruments is therefore very concerning.

2 | Table showing items included in institutional fees

		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1994 Group	Bath																	
	Reading																	
	Royal Holloway																	
	Exeter																	
Guild HE	York																	
	Worcester																	
Million Plus	Bath Spa																	
	Bucks																	
	Leeds Met																	
	UCLAN																	
Russell Group	Imperial																	
	Manchester																	
	Nottingham																	
Unaffiliated	Brighton																	
	Swansea																	
	LJMU																	
University Alliance	Northumbria																	
	Hertfordshire																	
	Huddersfield																	
	Salford																	
	UWE																	
	Glasgow Cal																	

Key:

1 – printing	7 – childcare	13 – leisure sports facilities
2 – stationery	8 – professional association fees	14 – course books
3 – bench fees	9 – conference attendance	15 – lab coats, scrubs, clothing or uniform
4 – field trips	10 – studio fees	16 – professional exams
5 – travel to placements	11 – musical instrument hire	17 – resit fees
6 – CRB checks	12 – course-related sports facilities	

Source: NUS Course Costs survey, October 2011

Some of the most surprising costs to be left out of tuition fees by institutions were those which were compulsory for progression in the course. Bench fees, essential for law students, and CRB checks, essential for students in health, teaching, social care, and some social science courses, were covered by only 17 per cent of institutions.

Pound in Your Pocket

In 2012, NUS revisited the issue of course costs in its Pound in Your Pocket (PIYP) research. PIYP included a survey of over 14000 students, which delved into the details of student finance.

The PIYP survey found that 'the majority of students had paid for materials, activities or other costs associated with completing their programme of study (69% of undergraduate respondents, 67% of FE respondents, and 54% of postgraduate respondents)' (NUS 2012: 51).

Books, stationary and printing made up over half of the course costs paid for by the average student. Whilst it seems reasonable that students should contribute at least some of the cost to these items, there are situations where institutions are placing unreasonable expectations on students. For instance, by insisting that a student hand in both a hard copy and an electronic copy of their coursework, universities are forcing a student to incur large printing costs when the technology is already in place for coursework to be submitted and assessed electronically.

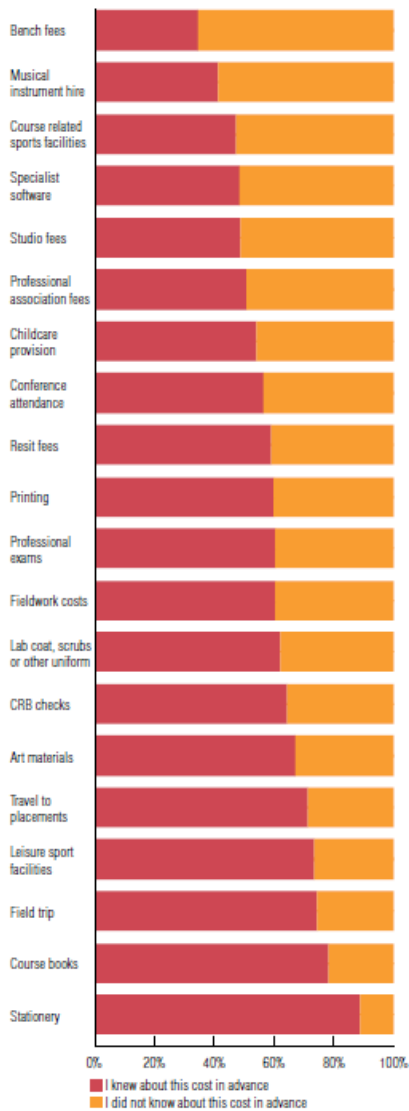
The same is true with books. Academics and administrators often do not take into consideration the cost of academic books. Often, students are expected to buy obscure textbooks that are expensive and hard to get hold of second hand. If institutions were a little more flexible and creative, these costs could be significantly reduced by providing access to compulsory reading online with e-books and journals.

Some universities are waking up to this problem. Full-time undergraduate students at the University of East London now receive a free textbook for each module they study as part of their tuition fee. Coventry University includes the cost of all core textbooks and printing credit as part of the tuition fee.

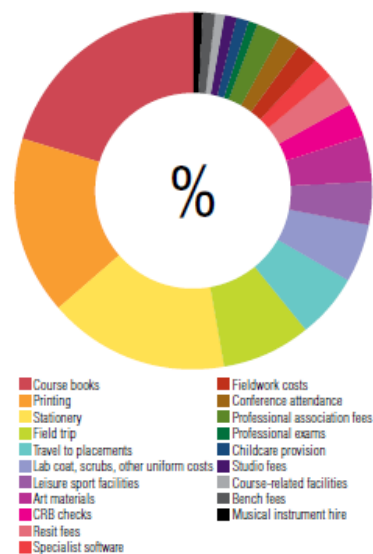
However, in most institutions, students receive no support for the cost of books. Manchester Metropolitan Union found in their research into course costs that students at their institution were spending on average £180 per year on books and a further £100 a year on printing

(MMUnion 2012: 13). Keele Students' Union found that students were paying £140 on books (Keele SU 2012: 3). The level of cost varies considerably depending on the course.

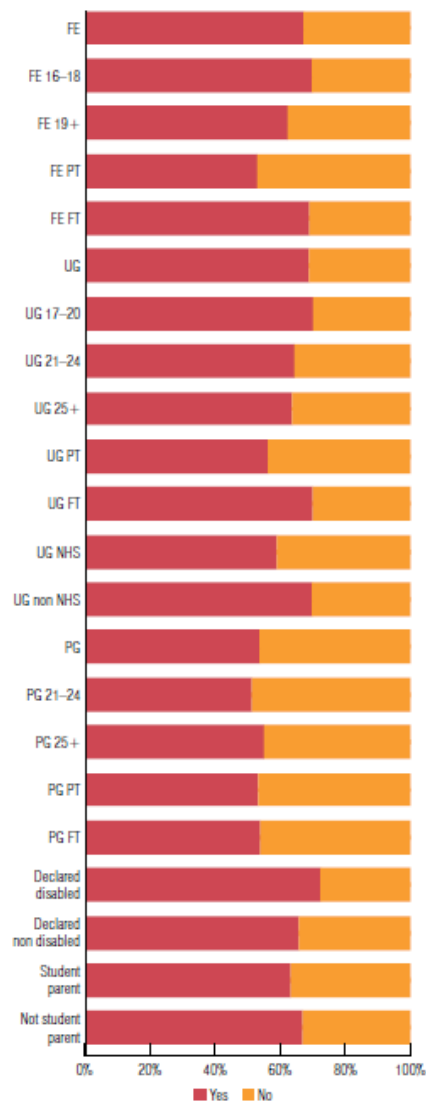
Transparency of course costs



Relative prevalence of different course costs



Have you been required to pay for materials, activities or other costs associated with completing your programme of study?

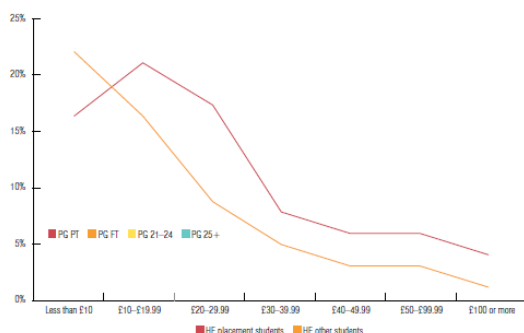


Variation in course costs

Pound in Your Pocket revealed that there are significant differences in course costs by discipline, mode of study and level of study.

Both PIYP and the Hidden Costs Survey found that students with placements had the highest course costs. In particular, HE placement students incurred considerable transportation costs travelling to and from their placements. Although the majority of students knew about these costs in advance, it was often difficult to determine the level of cost as the location of placements would not have been known.

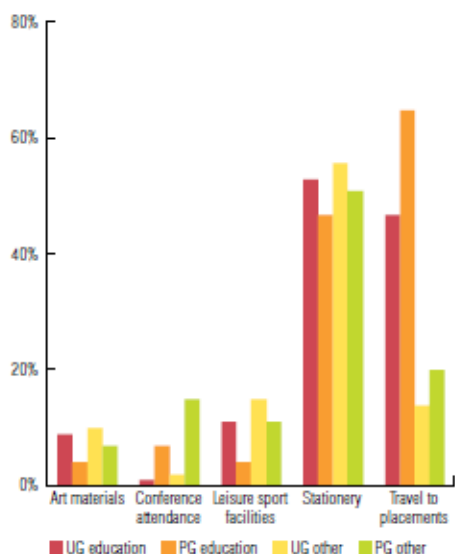
Placement vs non-placement students and transport costs



NUS ran several case studies as part of the PIYP research. One was specifically on placement students. It concluded:

'Some students felt they were not made aware of placement costs before they started, and many did not know they were able to claim some expenses back.' (Negotiating the System p.9)

Education students and type of course costs



Another set of students with high course costs are those in creative subjects. Students' unions receive a string of complaints about the expectations of lecturers and tutors for students to spend on materials and tools.

Bucks Students' Union (2013) found that some of the highest additional costs were within the Design and Craft department, and the Furniture department. The average a student spent annually on course costs in Design and Craft was £589; in the Furniture department it was £719. The vast majority of these costs were down to tools and materials, which were not provided as part of the student's tuition fee.

Bucks SU ran focus groups on course costs with students at their institution. The dismay over costs was clear from students in creative subjects. We have provided some of these cases below:

'Being in the creative subjects you have to spend a lot more than those students doing lecture based courses and I think maybe it needs to be made a bit more clear that, because a lot of people that have come from foundation to do our course get a lot of materials provided, whereas for our course we get absolutely nothing.'

'For us what would happen was the tutor would give us the demonstration in the morning and then say, "at lunch go out and buy this tool and be back in the afternoon." You were just expected to have the money up front.'

'Over the summer they kept promising to, with the big deal, to purchase tools, but obviously they can't afford to anymore. They kept giving us new tool lists. By the end it ended up being a lot more expensive than anyone anticipated.'

'That happens a lot with us with materials, because if you want to use really good timber you have to pay a lot of money. The amount of times I've had to compromise a design because I can't afford it, then the tutors say 'you should have done this with a different material, you're going to lose marks for that', but if you can't afford it, there's not a lot you can do.'

In many of these examples, there is a clear feeling amongst students that they must spend more, buying the most expensive materials and tools, in order to get a higher grade. Not only does this practice make a mockery of the idea of meritocracy – that it is the student’s effort and ability that is the measure of attainment, not the materials and tools – but it also discriminates against students who lack the funds to pay for the most expensive tools.

Manchester Metropolitan Union had the same conclusion in their report on hidden course costs. They argued that although difficult to determine a correlation between the cost of materials and the grade a student received, ‘the perception still exists amongst some students and that belief, unfounded or not, needs addressing’ (MMUnion 2012: 14).

“As a textiles student coming to the end of my second year I have had to pay out hundreds and hundreds of pounds in materials, equipment, computer software, all of which I have had to pay for myself. I feel that students should see the money they are paying for their course going into their course and department and helping them at that time. Not being all thrown into renovations which you won’t even see until you graduate.” 2nd year, Textile Design for Fashion, FT UG student, MMU

Another expensive area of study is in mathematical and computer science courses. In the 2010 NUS/HSBC Student Experience Report, these courses came top in a survey of weekly costs, due mainly to the cost of textbooks and expensive computer software.

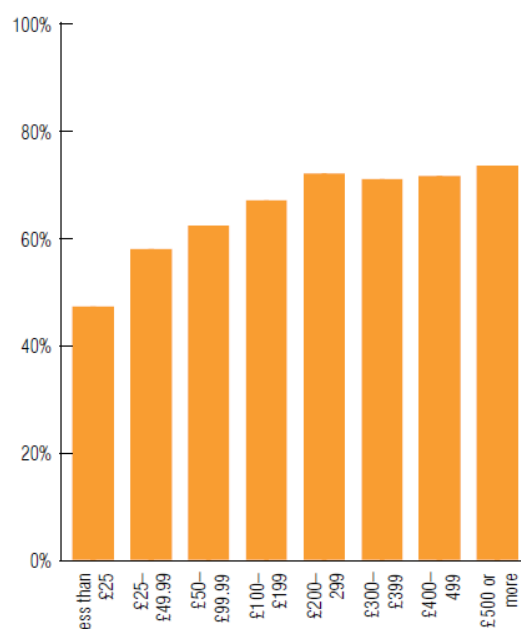
Course costs and wellbeing

Through Pound in Your Pocket, NUS was able to measure the effect of course costs on a student’s experience and their general wellbeing while at university.

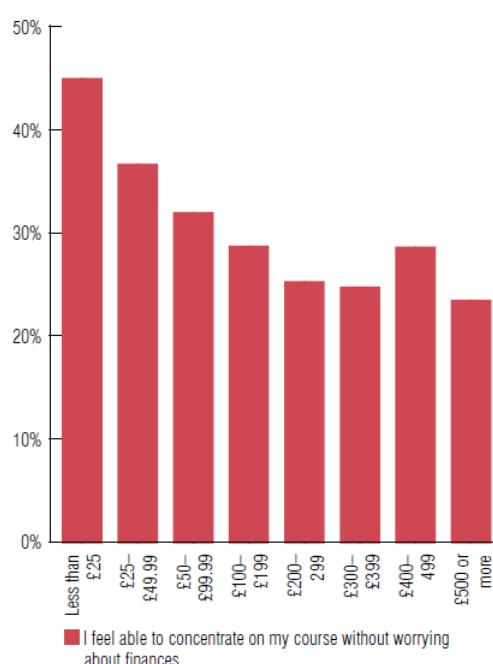
We found that as a student’s course costs increased, their financial concerns also increased. While 45 per cent of students who paid less than £25 per term on additional course costs had financial worries about basic living expenses, this jumps to almost 60 per

cent for students paying £25-50 per term, and levels out at around 70 per cent of students with course costs of £200 per term or more.

Financial worries about basic living expenses, by costs associated with course last academic term



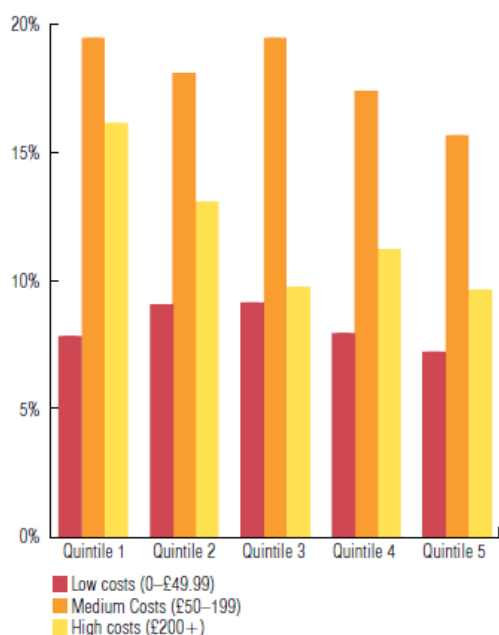
Ability to concentrate on course without worrying about finances, by costs associated with course last academic term



Similarly, when looking at the relationship between course costs and the ability of a student to concentrate on their course without worrying about finances, there is steady fall from about 45 per cent able to concentrate to around 25 per cent when course costs increase from <£25 to >£200.

What is perhaps even more alarming is the added effect of socio-economic background on this relationship. Using POLAR data, we found that those from low-participation neighbourhoods with course costs over £200 per term were more likely to have seriously considered leaving their course than those from high-participation neighbourhoods.

Considered dropping out, course costs and POLAR 2 participation



Hidden Costs

While the existence of expensive additional course costs to students is a problem in itself, if we leave aside the debate over what should and should not be included as part of tuitions, we are still left with the issue of how these costs are communicated to students.

It is fair to assume that when entering into a contract that involves the exchange of goods or services, there is a need for transparency over charges which are inclusive and those which are not.

We define hidden course costs as additional costs related to academic study that a) were not included in the tuition fee, and subsequently b) students were not made fully aware of by their institution prior to starting their course. Hidden costs also include costs that students were partially aware of in advance, but found that they were severely misinformed of their size or their importance to course progression.

Pound in Your Pocket collected data on students' knowledge of a range of course costs. The transparency of course costs was measured by whether the student knew in advance about a cost they have actually incurred.

Whilst we found that students were aware of the most common and obvious costs, such as stationary and course books, students were not informed about other more specific costs relating to their course.

It was made clear from PIYP that several expensive mandatory costs were not being properly communicated to students. Perhaps the most important of these are what are known collectively as 'additional fee elements' (AFE), which include additional mandatory fees to cover the cost of consumable materials and use of equipment and studio space. AFEs are often referred to by institutions as 'studio fees' or 'bench fees'. Although AFEs tend to be more common and costly in postgraduate research degrees, many undergraduates in creative courses often are charged studio or bench fees. Where this is the case, less than one third of undergraduates knew before starting their course that they would pay bench fees, and less than one half knew about their studio fees.

Northumbria Students' Union (2011) conducted research into hidden costs at their institution. They found that students in their School of Design were paying up to £100 a year in studio fees. It was assumed by students that the fees would cover the bulk of cost of materials, tools and software, when in fact the fee covered only the privilege of using workshop space and equipment. Students were slapped with huge extra bills for materials and despite many

complaints, the School failed to improve its communication.

*"Nothing is really provided on this course. You're forever paying for things if you need it, studio fees takes p*ss because all I feel like I am paying for that is their heating bill."*

1st Year Graphic Design Student

"The spending of Studio fees was brought up at the official student meeting and lecturers tried to change the subject."

2nd Year Design for Industry Student

"People have always said that a degree in fashion would be expensive, but the majority of hidden fees are completely unnecessary and could be avoided."

1st Year Fashion Marketing Student

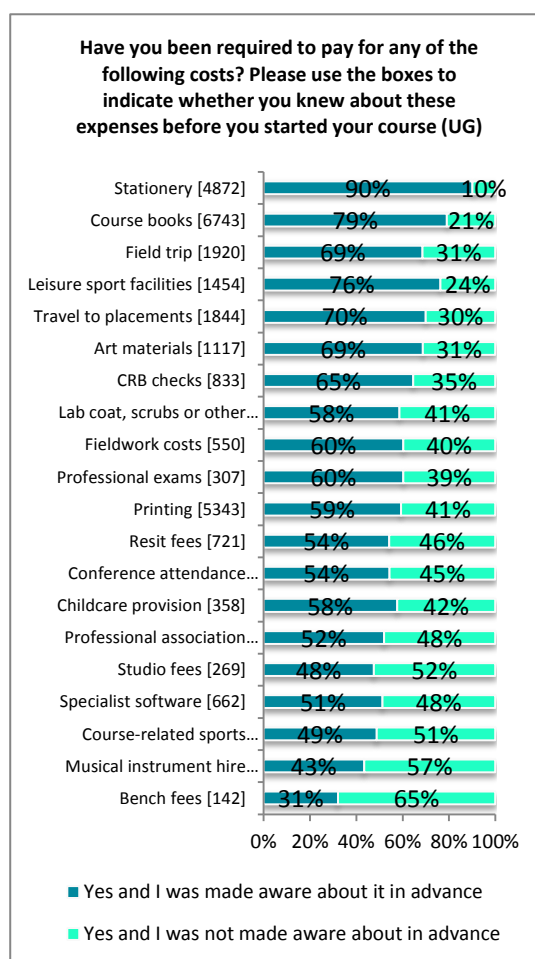
There are other clear failures to communicate mandatory fees. In courses like education, nursing, or social care, which require a criminal record check (CRB check; now known as a DBS check), over a third of undergraduates knew they would be expected to pay for this out of their own pocket. Equally on courses requiring professional exam fees or membership fees to professional associations (e.g. Law) only 60 per cent of undergraduates knew about the former and just 52 per cent knew about the latter.

Northumbria SU (2011: 6) raised serious concerns at their institution about the transparency of professional fees in their School of Law. Some students were unaware at the start of their degree that they would be expected to pay Legal Practice Course fees of up to £900. On top of this, students have to pay an £80 registration fee to the Solicitors Regulation Authority and additional membership fees to Inns of Court.

"You are not told on the law degree before accepting a place at the University about the increase of the extra money you pay a year in year 3 for the BPTC or LPC."

2nd Year M-Law Student

In addition, Northumbria SU found that 71 per cent of students who required a CRB check did not know that they would have to pay for it themselves. In some cases, students were forced to pay for CRB checks when students never actually came into contact with vulnerable persons during their course (Northumbria SU 2011: 7). Similarly, at Keele, the students' union found that no students of nursing or education were told about the cost of a CRB check before starting their course (Keele SU 2012: 4)



We mentioned in the previous section about the high cost of computer software in some subjects. Unfortunately only around half of students are made aware that they will have to pay these costs in advance. Similarly, the cost of musical instrument hire, which rarely seems to be paid for or subsidised by an institution, is only known to 43 per cent of undergraduate students.

In addition to the problem of knowing about costs in advance, where students are made aware that they will incur some additional costs, the size of these costs is not always made clear. Manchester Metropolitan Union (2012: 12) found that the actual spend of students on additional course costs was more than double what they had expected.

Hidden Costs and Wellbeing

Knowing about a cost, and having some indication of its size, are important factors which help an individual successfully manage their finances. Undergraduate students tend to have problems with cash flow even if they are able to budget for all significant term time costs. With the cost of living increasing, along with huge, above inflation increases in university accommodation costs, most students will struggle to take on extra costs, particularly if they come at a time when they have consumed the bulk of their previous maintenance instalment and are waiting for the next instalment.

It is for this reason that students are finding themselves in serious debt. Course costs add a significant financial pressure, which is made even worse if the costs were not known in advance. PIYP found that half of undergraduate students go into their overdraft during their study; 15 per cent resort to credit cards to pay their bills; a quarter borrow off of family and friends; and 5 per cent will end up taking on "high-risk" debt such as a payday loan or a doorstep loan. Students who end up in debt, particularly high-risk debt, tend to be from lower socio-economic backgrounds or students with children or other caring responsibilities. There is no doubt that the poorest and most vulnerable students are disproportionately affected by course costs, but particularly when they are hidden.

When we re-examined the data on course costs and wellbeing from our Pound in Your Pocket survey, we found that for many of the large course costs incurred by students the fact that the cost was hidden increased the level of financial insecurity of the student compared to having known about the cost in advance.

For instance, there was a statistically significant association between not being aware of having to pay for field trips and increased worry about living expenses such as rent and utilities. Similarly, there was a significant association between not being aware of field trip costs and an increased feeling that students have little control over their financial situation.

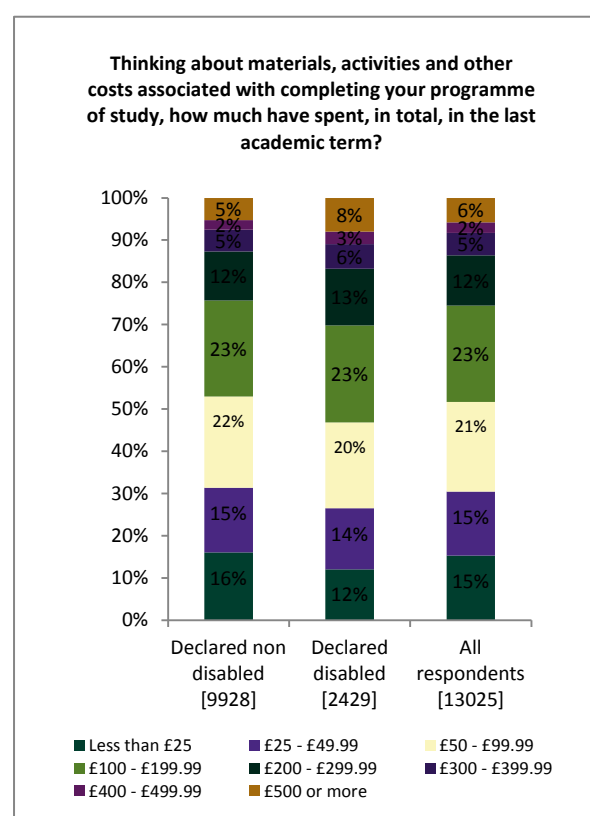
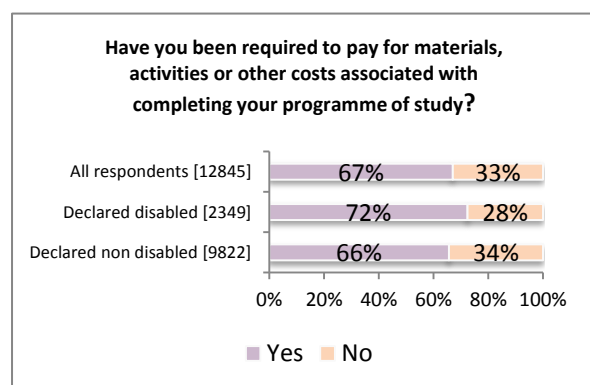
There were also similar added statistical relationships between the hidden cost of professional exams and an increased lack of financial control and worry over living expenses. There was a significant increase in worry over living expenses and worry about financial situation when the cost of art materials was not relayed to students in advance.

Course Costs and Disabled Students

It is worth noting that disabled students often face specific additional course costs and are, as such, discriminated against by universities because of their disabilities. In particular, it has been drawn to our attention that a number of universities will charge students who require testing for dyslexia. Students at [redacted] are charged £50 to take a dyslexia test, and are refunded the money only if they are found to have dyslexia. [redacted] also charges £50 to be tested. Students at [redacted] have claimed to pay £100 for a dyslexia test. At [redacted], students are charged £200 to be tested unless they are eligible for the student hardship fund or are renewing a test taken in the past two years.

Students are feeling rightfully aggrieved at having to pay out fees to an institution to assess an important learning disability. These tests are essential to ensure a student receives the correct support on their course. Some students have stated that they feel discriminated against for a condition that is no fault of their own. Others who have been told to pay for the test only to find that they were not diagnosed with dyslexia feel that the institution has made them pay out simply to confirm that they are not as intelligent as other students, which has been a huge blow to their self-esteem, and may affect their attainment.

In Pound in Your Pocket we found that in general, students with declared disabilities were statistically more likely to have to pay additional course costs compared to students without declared disabilities. Furthermore, disabled students tend to have to pay out higher course costs: 30 per cent of disabled students have course costs over £200 a term compared with only 24 per cent of non-disabled students.



Existing Guidance

We believe that many of the hidden costs identified in our research can be viewed as part of a 'partitioned' package of fees and charges for a course. The Office of Fair Trading have, in

their market study of the 'advertising of prices', identified three types of partitioned charges: Fixed compulsory charges, additional charges for optional products or services, and compulsory charges where there is a range of possible charges.

Compulsory hidden costs such as AFEs, professional fees, and criminal records checks fall into the first category of 'fixed compulsory charges', because students cannot avoid paying them, and the prices are fixed. Other large hidden costs, such as travel to placements, creative materials and tools, and

The guidance to institutions is already very clear. The Office for Fair Access state that:

"It is important that people understand the full costs, and what is available to cover them, when considering to applying for higher education. Universities and colleges must also consider whether the financial support they provide, such as bursaries, takes into account any additional cost, to ensure that these do not deter prospective students from lower income backgrounds." OFFA, March 2012

The QAA code of practice on admission to higher education states that institutions should provide 'full and accurate information about all fees and associated costs of studying a particular programme' (QAA 2006: 10). The QAA also revealed that the issue of hidden costs was raised in the majority of their Student Written Submissions, and many of these included recommendations to ensure transparency of additional course costs (QAA 2012).

In Wales, the Higher Education Funding Council for Wales (HEFCW) and NUS Wales co-produced guidance to institutions about course costs. The guidance called on institutions to provide 'timely transparent information on the cost of study to students and prospective students of higher education, including those studying HE in FE' (HEFCW 2010: 1). Since the guidance was published, HEFCW, unlike HEFCE, has made the inclusion of course cost information a mandatory part of Key Information Sets (KISs).

Despite all the guidance, and indeed the evidence revealing the hardship students face as a result of course costs, many English institutions are failing to ensure that costs are transparent and reasonable. We hope that the Office of Fair Trading will concern itself with investigating this matter further, with the aim of improving fairness for students.

Variation in Tuition Fees

We feel it worth highlighting, as part of the course costs section, an issue relating to international student fees. Tuition fees for international students are uncapped and can vary from year to year. While the fact that international fees are increasing year on year above inflation poses a significant financial issue for students from outside the European Union wishing to study in the UK, the issue we believe will most interest the Office of Fair Trading is the lack of protection and information offered to international students with regard to fees increasing during their course.

Universities UK (2013) highlighted in their annual survey of international student fees that 58 per cent of international students, and 62 per cent of institutions do not have fixed fees guaranteed for courses longer than a year. Therefore, the majority of international undergraduate students are liable to pay any increases in fees during their course.

Academic advisors in student advice centres receive many complaints from international students who find their fees have increased during the course of study. An advisor at [REDACTED] reported to us two cases in which international students complained about substantial increases in their tuition fees. In one case, a girl was given permission to intermit her study, but on her return was forced to pay a £2000 increase in tuition fees in order to continue her study.

In a second case, a student signed up to what was advertised as a four year programme, consisting of one foundation year followed by a three year undergraduate programme. When he finished his foundation year, he had found that the undergraduate fees had risen by £4500

from what had been advertised the previous year when he applied.

Both cases are the subject of ongoing official complaints. Since the complaints were made, the institution has introduced fixed fees (adjusted for inflation), however this doesn't apply retrospectively, which is why students from previous years are still incurring large fee increases.

A different academic advisor, this time from [REDACTED], spoke to us about a case in which an international student was forced into severe financial hardship as a result of unexpected fee increases. The student was told that they would be moving on to a "top-up degree" which was HE accredited but administered in an FE college. The student had been given conflicting information on whether they would incur full international fees. When it turned out that they would be charged full international fees, they had a very difficult time finding the money to continue their study.

We believe that where institutions do not offer fixed fees to international students for their standard period of study, they are acting against guidance on price variation clauses, as expressed in the OFT's guidance for the *Unfair Terms in Consumer Contracts Regulations 1999*. The OFT (2008: 57) state that '[a] clause allowing the supplier to increase the price – varying the most important of all the consumer's contractual obligations – has clear potential for unfairness'. Moreover, tuition fee rises are unlikely to relate directly to an increase in net costs to an institution; such variations should therefore be considered discretionary. In such cases the OFT (2008: 57) state '[a]ny purely discretionary right to set or vary a price after the consumer has become bound to pay is obviously objectionable'. In fact, even in non-discretionary cases, such variation clauses are 'open to abuse, because consumers can have no reasonable certainty that the increases imposed on them actually match net cost increases'.

Course Closures

Overview

Courses and modules cease at HEIs for various reasons, and often the justifications for closing courses are sound. Academics can leave an institution and take with them a specific set of knowledge that cannot easily be replaced. Often, in such cases, a course or module cannot continue in its present form. Financial pressures and lack of demand are other typical reasons for the continuation of a course to come into question.

We shall not dwell upon the validity or ethics of decisions made by institutions to close courses; however it is worth noting as an aside that we have seen considerable numbers of courses disappear as a result of competitive pressures on institutions to specialise in courses they feel they can easily market and/or make a large return in investment on. One of the merits cited of market competition is an increase in consumer choice. It is apparent to anyone who isn't a dogmatic supporter of marketisation that choice is not always improved by the forces of market competition. It is important that the Office of Fair Trading bear in mind the dangers of allowing educational institutions to make judgements based on financial returns as opposed to what is best for students and wider society.

Leaving aside the reasons for course closures, we feel it imperative that the Office of Fair Trading are made aware of the effect that course closures have on current and prospective students, particularly when they are managed badly.

We understand that it is often very difficult for universities to manage the closure of courses, particularly as it is usually staged process. After a course no longer takes new enrolments, it is important that the quality of education for those remaining on the course is not adversely affected. However, it is hard to prevent a haemorrhaging of staff, or a drop in morale, during these stages as a result of redundancy fears or role changes.

Students' unions have contacted us with stories about how course closures were managed at their institution and the effects this had on students. It should be noted that these cases do not represent the total of cases where course closures have or are currently affecting students. Some universities are almost habitually cutting courses, even whole departments and schools. A much deeper investigation is required to get the full picture.

University of Salford

At Salford, students were accepted on courses even though they were weeks away from closing them down. In May 2013, some 1586 students had been given offers on courses that faced closure. Of these students, 245 had accepted their offers by the time a final decision had been made to close the courses. While Salford ensured that the 1000 existing students on the courses would be able to complete their degrees, those who had accepted a place only to find the course didn't exist would have been left in a very difficult situation, and may well have missed out on going to university that year because of it.

University of Manchester

In the 2012-13 academic year, the University of Manchester closed down their Community Studies course as part of a restructuring of the Department of Education. The university had negotiated with the students' union that Community Studies would be the only course to close and that all other courses in the department would continue to recruit students. The students' union was involved to an extent in helping to manage the closure of Community Studies.

Yet, at the start of the 2013-14 academic year, the students' union found out that the university had suddenly decided to break their agreement and close a second course, Learning Disabilities. The union was told that the decision had been made because the course had not met its recruitment target of 25; it had recruited 18 students.

The students on the course, as well as the union, were angered by the decision. The students and the union felt that they had been deceived by the institution and were not given any chance to voice their concerns. There was also a distinct feeling that the course had been treated unfairly by the university. Many of the students applying for Learning Disabilities are mature students who often apply later than other students. But the course was not allowed, like other courses, to recruit up to September. If it had been able to do so, it would have likely exceeded its recruitment target. The course was also not allowed to lower its entry tariff, even though other courses in the department had been given permission to do so. Learning Disabilities received a 100% satisfaction rating in the National Student Survey (NSS) the previous year and was given a glowing report from those studying on the course.

Students are currently campaigning to save the course. They feel that the course was not valued by the university because it didn't fit in with their marketing strategy. At no stage did the university attempt to save the course; in fact, the evidence suggests that they set strict targets in order to justify its closure. The university's reasoning behind shutting Community Studies was not because it was severely under-recruiting, but because it attracted the 'wrong sort of students' according to discussions between the students' union and a senior administrator in the university. The vice-chancellor had justified closing Learning Disabilities by saying that it wouldn't be 'socially responsible' to recruit students on courses that weren't up to the university's standards. This justification was made in spite of the impeccable NSS scores and feedback from students. Students were outraged by the way in which both course closures were justified by the university, but particularly the fact that it was deemed socially irresponsible to run two courses that, at their core, were about social responsibility.

According to the students' union, the university has now 'acknowledged, to an extent, that the process could have been handled better; however, the Dean of Humanities is still

refusing to meet with the students from the course [Learning Disabilities] and will not respond to emails from the students or the union.'

University of East Anglia

In 2011, UEA made the decision to close down their School of Music. It closed admission after the 2011-12 intake, with the last cohort graduating in 2013-14. The closure of the School of Music was, from start to finish, a clandestine process, with decisions made in closed meetings of the university Council, with Senate acting mainly as a rubber stamp on the process.

As the decision was not made formally until very late, courses in the School of Music were continuing to recruit and accept students' applications, much like at Salford, again leaving applicants in limbo when they found out they could not take up their place.

Despite formal decisions not being made until late, word had spread around the School that it would likely close, which led to a number of staff leaving. This had a major effect on the quality of teaching and support for students remaining on courses in the School. Most of the teaching was covered by drafting PhD students as a stopgap until the School closed. But many of the PhD students found it difficult to provide the quality of teaching expected because of the heavy workloads and also because they were, in many cases, struggling with their own research due to their supervisors leaving the university.

The university used the School's inability to perform highly in the Research Excellence Framework as a justification for its closure. As in many cases we've been shown, the School had performed highly in the NSS for student satisfaction.

After the decision had been formalised, affected students were invited to open meetings and a working group was set up to discuss students' experience. There was broad consensus that the quality of the student experience had been considerably damaged. Students were angry and those in the final intake felt they were

recruited under false pretences, as the reasoning behind their decisions was based on the high levels of student satisfaction and the expectation of being taught by specific academics, who had subsequently left the university. Students were also concerned about whether their qualification had been devalued as employers or other universities may perceive the course closure as a sign of poor reputation and quality of teaching. There were constant calls to explain how the university could say they were providing affected students with value for money, particularly when there were no reductions in fees or course costs.

University of Westminster

The University of Westminster closed nearly all of its courses in complementary medicine in 2012, mainly as a result of political pressure from those who do not recognise complementary medicine as a serious medical profession and from negative coverage in the media. It is not our intention to debate the value or validity of teaching complementary medicine. Rather, this particular case shows a clear example of the problems an institution has if it continues to recruit students on courses marked for closure.

In this case, the students' union received complaints from students who had been accepted on one of the several complementary medicine courses that were closed, because they were told to move over to a completely different course. Individual meetings were held with affected students to try to find them another course, but most were deeply unhappy as they had only applied to Westminster because it offered the course that had been closed. Moreover, Westminster, up to 2012, had been the leading provider of complementary medicine courses in the UK, and with the closure of most courses in other universities prior to 2012, students could not find a similar course anywhere else in the country.

Switching course or institution

Switching your supplier of higher education is hardly the same as switching your supplier of electricity or gas, and it can never be as simple either. But students should be entitled to switch course when they feel that it is in their interest to do so. This may be because they feel they made the wrong decision about the institution/course, or because their experience does not match what was originally offered to them by the institution upon application. Personal circumstances may also change, and there are often genuine reasons relating to family or work which dictate a student's need to switch course or institution.

Changing institution

Currently, the HE system is not geared to allow students to easily change their institution. It is often made so difficult for students to change, and the advice offered so biased, that when students feel that they've made the wrong choice of institution or course, they feel they have no option but to continue, or they will make the unfortunate choice of dropping out altogether.

There are a number of reasons why the system doesn't make switching easy. Firstly, there is no universal transfer system. UCAS will only deal with applications to a university, and will not help students who are already on a course to change. It is entirely up to the student to contact a prospective university department directly to try and arrange a transfer.

Most universities in the UK have adopted the Credit Accumulation and Transfer Scheme (CATS), which allows a student move course credits accumulated at one institution to another. It is a way for institutions to recognise coursework completed at a different institution, potentially allowing a transfer during a course. But the problem tends not to be the ability to transfer credits between institutions. Rather, the problem is that the credits are not taken at face value and institutions will each have their own expectations of what modules and their content is deemed equivalent.

For instance, a student who decides after their first year of a politics degree that the course isn't for them may decide to try and switch to a politics course at another institution. However, the institution may well tell the student that they must repeat their first year, because they expect all politics students to have studied a first year course in British politics, or political theory, or whatever. In fact, in many cases, even if you have studied a comparative module deemed compulsory, the institution may reject you simply on the grounds that the module didn't cover the same content as the compulsory module at their institution.

Another important issue in switching institution is student finance. Students technically are offered an extra year of student finance through the Student Loans Company to cover a transfer to a new course. This system works most effectively if you scrap your first year of study in one course and start all over again in a new course. This, of course, is expensive and not time efficient, as it means paying for an additional year of study without receiving any transfer of credit.

Difficulties can occur when a student attempts to transfer in the middle of a year. There is currently no regulation preventing an institution from demanding the full year's fee, even if a student leaves in the first term. Moreover, there are many cases in which students are liable to pay tuition fees for the full term, even if they leave the institution in the first week of that term.

HEIs are paid tuition fees by Student finance England in three asymmetric instalments: 25 per cent by the third week in October, 25 per cent by the first week of February, and the final 50 per cent by the first week in May. This means that a student transferring in their second term could potentially be charged more in tuition fees than what their institution has received in tuition fee loans. They may even be liable to pay fees for their second term at both institutions. It is currently up to the two institutions involved in the transfer to agree

between them how to apportion the fees for that term. But again, there is currently nothing protecting the student if they decide to both charge for that term. This could potentially lead to the tuition fee levied for the year exceeding the maximum £9000 available as a fee loan. Any fee liable about £9000 would have to be met by the student as they would not receive any extra loan for it.

Hitherto, in cases where an institution has threatened to charge a student for the full year, or where institutions have not agreed to share the fees for a particular term, BIS and UUK have compelled institutions to back down through informal agreement. The basic guidance from BIS has been that institutions should ensure a student never has to pay out cash for tuition fees, but has avoided legislating on these particular issues by threatening to intervene when they arise.

However, we have heard of cases at a number of institutions where a full year's fees are charged when a student drops out and does not take up a course at another institution.

Changing course within an institution

Institutions tend not to like students changing courses, because it leaves them with an administrative burden for which they will receive no extra financial gain from the student.

After talking with academic advisors from a selection of institutions, there was a broad consensus of thought that a university will, in the majority of cases, attempt to prevent students from changing course. This is done in several ways.

First, students are not offered unbiased advice and guidance about changing course. Departments will often make it clear when students start a course of the difficulties they have in changing their course, particularly when it involves moving departments. Moreover, when students raise concerns over their course and think about changing, departments will often give reasons as to why it will be unwise to change course.

Second, courses are often structured in ways that make it difficult to transfer. In particular, departments will stipulate that students will have had to do particular compulsory modules in order to switch to a particular degree. The most often cited reason why a student cannot switch course is eligibility, and this often comes down to whether a student has taken the right modules.

Third, students are given unreasonable timeframes to make their decisions. In some institutions, students are given as little as a week to confirm whether they wish to change course. The likelihood of someone making an informed decision in such a short period of time is ridiculous.

Marketing, course information and mis-selling

By turning education into a commodity to be sold on a competitive market, institutions have become obsessed with marketing. Conceiving education as a commodity is problematic for many reasons, but in particular there are certain ethical principles that come into question when institutions are exposed to competitive market pressures.

For example, an institution may find it acceptable to advertise an experience that is not entirely based on reality, either by overemphasising certain positive aspects, or by concealing certain less positive aspect.

The chief executive of the Office of the Independent Adjudicator (OIA) has been quoted as saying 'Universities need to be extremely careful that... they describe the reality of what's going to happen to students... because competition is going to get greater for attracting students, there is a danger that universities will go the extra mile' (*The Guardian*, 12 Dec 2011)

Ultimately, if an institution is advertising an experience that it cannot hope to provide, or that it is misleading students on what they expect, then this is clearly objectionable. The intentionality of deception in these cases is secondary to the scope and depth of the deception. If students are getting incorrect information when applying to universities, something must be done, both to help the students affected and to prevent students from being misled in the future.

In November 2013, NUS asked a sample of around 300 undergraduate students a series of questions about whether their experience on their course has matched their expectations. We found that around one in five students had an experience that was worse than what they had expected from the information they had upon application.

The survey broke experience down into different areas to analyse how well the

information available to students prior to starting their course matched the reality of experience on the course. Around 19 per cent of undergraduates found the content of their course worse than what they had expected prior to starting.

Around 22 per cent found that the choice of modules was worse than they had expected. Although in some cases it is difficult for institutions to ensure that the list of modules remain the same, particularly when academic staff leave, there are many cases in which information is not accurately presented to students in marketing. In particular, module lists provided by departments may be out of date, or students may not be fully aware of the inflexibility of their course, in that their ability to take certain modules may be limited by the number of compulsory and core modules on their course.

Over 25 per cent found the amount of taught hours worse than what they had expected. It is concerning that one in four students found that the number of teaching hours was not what they had originally expected. This information is really crucial to relay to applicants as it represents the level of formal teaching and learning provided by the university.

The areas where experience most closely met or exceeded expectations were in the learning resources available and in the staff to student ratio. Around 13 per cent found the staff to student ratio worse than they had expected, and 14 per cent for learning resources. Students will get a hands-on feel for what facilities and resources are available at open days and events, and it is often an area of focus for universities. Being able to experience this area at open days may have allowed students to get a reasonable idea of what to expect. With the staff-student ratio, universities can usually provide fairly accurate estimates of lecture and class sizes, and sharp changes in staff-student ratios are often limited to

situations where courses or departments are marked for closure.

The worst result was found in the experience of the level of financial support available. Around one third of students found the level of financial support worse than they had expected, including 15 per cent of students who found the support *a lot worse* than they had expected. In a number of cases, institutions are simply not providing up-to-date information on the bursaries and financial support they have available. Changes to access agreements and the scrapping of the National Scholarship Programme have added to the changes of the institutional support available. In many cases, these changes need to be made explicit to applicants on institution websites, at open days, and in prospectuses and other marketing materials.

As with course costs, when it comes to marketing and course information provided by institutions, there are already clear guidelines from sector bodies involved in the regulation of higher education. The QAA (2013), for instance, recommended in a recent report on student expectations and perceptions of higher education that:

"Institutions should be cautious of using these as marketing opportunities and setting unrealistic expectations or 'selling' an undeliverable experience."

"Institutions need to provide more realistic information about their course, including what they should expect and what was expected of them."

Complaints and Appeals Procedures

Underlying everything we have presented so far is the reliability of the internal, and indeed the external, procedures through which students can complain. When students feel that they have been treated unfairly by their institution, whether it is related to the areas we've highlighted in this report or in another area, there must be clear, transparent, timely and unbiased procedure through which they can complain.

It is concerning to us that in our November survey of students, less than half of undergraduate students agreed that they understood the process of making a complaint to their institution should the situation arise.

We investigated further into the lack of knowledge and understanding about complaints procedures and uncovered a number of inadequacies at many institutions.

There is an interesting relationship between the number of complaints and institution deals with and the quality of the complaints procedures. We analysed OIA figures for the number of institutional complaints logged by an institution and the number of complaints which were then taken to OIA. The figures were triangulated with qualitative data from conversations with academic advisors in advice centres situated at different institutions. What we found was that often where OIA reported a high number of complaints logged at an institution, academic advisors tended to find that the institution had fairly reliable complaints procedures. These institutions also tended to have fewer complaints taken to OIA, and where they were, they were resolved at an early stage.

The logic behind this relationship is simple: high numbers of complaint do not necessarily reflect a higher level of dissatisfaction, but are more likely to reflect an institution in which students understand the complaints process and feel confident that they will receive a positive outcome by using it. It also reflects, in some cases, the fact that institutions are

following a formal process through which complaints are centrally logged, rather than being dealt with informally.

One of the central failures of many university complaints procedures is the informality of processes in the early stages of a student raising a complaint. Academic advisors from various institutions claimed that procedures tended to be fairly clear and transparent in the latter stages, but that many students got caught up in vague and unclear informal processes within their own department.

We heard of cases where students were prevented from taking their complaints further because the informal advice given to them at a departmental level is incorrect or confusing, leading students to take too long or follow the wrong procedures, giving the university the chance to reject their complaint on technical grounds.

Where students are expected to raise complaints informally in departments first, staff have been known to make claims about actions that they will take to redress the problem, never to actually take action. We were told that in some departments at [REDACTED], complaints were submitted formally to a department, only for them to be pigeonholed or lost.

To help highlight the widespread inefficiency of complaints procedures, we analysed data from AdvicePro, a data management system used by academic advisors to log cases. We isolated around 250 individual cases in the past two years involving an academic issue raised by a student which led to a complaint against the university. Of these cases, we found that the average length of time a case was open for was around three months, but that around 12 per cent of cases lasted 6 months or more, and 5 per cent of cases ran on for more than a year. The results showed that many students could be waiting months for an outcome to a complaint. Some students would end up

finishing their course before a complaint was settled by their institution.

When we spoke to academic advisors about the timeliness of complaints procedures at their institution, many argued that the time frames for complaints were significantly biased in favour of the institution. Advisors at several institutions claimed that students often waited for six months or more for an outcome, but that the institution expected students to respond or provide evidence within 5 working days and would often dismiss a claim if this deadline was not met by the student. Not having online information and forms also discriminates against students who are distance learners and who may not be able to visit the campus to submit forms and evidence. Some institutions also do not make the complaints process accessible to dyslexic students and the language used in the guidance is often confusing to students with English as a second language.

Following on from this, we heard from institutions where unfair deadlines were coupled with extremely poor standards of administration particularly in the build-up to a complaints hearing and in feedback. Some institutions do not make complaints forms available online and a student must collect a form from an administrator. This puts off a number of students who are embarrassed or feel intimidated by having to ask to make a complaint.

Further bias and inefficiency is found in the expectations on students to submit evidence. In most circumstances, the costs accrued in producing evidence for a complaint, or to challenge or appeal a decision made by the university, are solely the responsibility of the student.

We were told of a case at a selective London college where international students who submit evidence for complaints and appeals must pay to have documents independently translated into English if they are in a foreign language. In one particular case, an international student was told he would need to pay for someone to independently translate

evidence to prove they were suffering from bereavement. With his family in mourning, the student was unable to produce a death certificate, and was then forced to have an obituary in a newspaper translated into English at their own expense. The student was grief-stricken and struggled to understand the process. They were made extremely anxious by the strict deadlines placed upon submitting evidence, as not only were they struggling to find an independent translator, they also were struggling to find the money to pay the translator. In such a difficult time for a student, the pressures put on them to fulfil the institution's procedures for complaints and appeals were completely unacceptable.

Another well-cited problem with providing evidence is in cases where a student must produce evidence of sickness. At the [REDACTED], academic advisors were receiving complaints from students who had been told that the university would not accept statutory sick notes as evidence for genuine reasons of absence. Instead, they expected students to present a doctor's note with explicit details of the student's illness. Not only is this highly invasive, but students also found that many doctors would refuse to disclose such detailed medical information. Students also have to pay for this evidence in many cases. It seems completely unfair for universities to reject statutory sick notes when in most cases they would have accepted as evidence of absence from work for one of their own employees.

Conclusions and recommendations

NUS remains deeply concerned over the widespread failures of higher education institutions to uphold the basic rights of students. We have documented evidence in this report which raises serious issues about the way institutions are operating in the current higher education market. These are issues which students and their unions have continuously raised, but many universities have yet to feel compelled to change their ways.

It is our hope that this evidence will help the Office of Fair Trading to investigate further the practices of higher education institutions and their effects on the students and communities which they serve. While our evidence offers great insight into the nature and scope of failures in universities, only a full market study of the higher education sector can uncover the real extent of the problems.

We hope that the involvement of the OFT in higher education will compel our higher education institutions to improve their provision and, most importantly, put the rights and needs of students above their institutional self-interest. If universities do not make satisfactory changes on their own accord, then it is important that bodies with the authority to regulate the higher education sector work to protect and enforce the interests of students.

In particular, NUS recommends that the OFT investigate the fairness and legality of additional course costs, particularly where students are not given adequate information prior to starting their course. Universities should ensure that they cover the cost of materials and fees that are essential to a student's progress on their course, particularly in the wake of tuition fee rises, by including compulsory costs as part of their tuition fees, and where this isn't possible, to properly inform students of the additional costs that they will incur on their course.

We also recommend an investigation into the practice of raising tuition fees for international students during their course. It is our belief that this practice breaks guidance on the fair

terms and conditions of contracts, and needs to be redressed.

With the increase in competition and marketisation in higher education, it is important that the OFT ensure that students are receiving accurate information about their course and ensure that universities do not mis-sell the provision they can offer through inadequate or misleading marketing. Additionally, it is important to investigate where students have found their experience on a course unsatisfactory, and where the quality of provision has been affected by course closures.

It is important that students are given the choice to leave an institution without prejudice when they feel that the course has not matched their expectations. However, the current system makes changing courses difficult and the system is biased against the student. The OFT should look into ways in which the current transfer system limits choice, and gives institutions little incentive to improve their quality of provision.

Finally, we wish for the OFT to investigate the inadequacies and unfair practice in the complaints procedures of institutions when they fail to provide students with the quality of provision expected of them. The serious failure in complaints and appeals due to the informality, complexity, and bias of procedures needs a major investigation.

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