Autonomous and diverse institutions

Universities and other directly funded higher education institutions (HEIs) are autonomous, independent organisations, with their own legal identities and powers, both academic and managerial. Although they are dependent on government funding, they are not owned or managed by the state. They are government-dependent private institutions.

Higher education is also provided by government-independent private institutions, termed ‘alternative providers’. The growth in alternative providers began as a result of government policy aspirations to meet the increased and differentiated demand for higher education, as first expressed in the June 2011 White Paper, Higher Education: Students at the Heart of the System. Subsequent policy statements, such as Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice (2016), also aimed at enabling new high quality institutions to enter the sector more easily and gain the right to make recognised higher education awards.

Higher education institutions (HEIs) vary in size, history, mission and subject mix. This diversity reflects the long development of the sector since the medieval period.

Historically, the higher education sector in the UK was divided between universities, which offered more traditional academic courses, and polytechnics, which originally focused on providing vocational and professional higher education. The number of universities expanded in the 1960s following the Robbins Report of 1963, which introduced the principle that courses of higher education should be available for all those who are qualified by ability and attainment to pursue them and who wish to do so.

The ‘binary divide’ between universities and polytechnics remained until the Further and Higher Education Act 1992 brought all directly funded higher education institutions into a single sector, with the same funding and quality assurance arrangements. However, some distinctions remain between universities established before and after the 1992 Act. Pre-1992 universities are typically more research-intensive and continue to focus their teaching on academic courses, while post-1992 universities, often former polytechnics or teacher training colleges, may be less research-intensive, and typically offer a wider range of vocational courses. This distinction is becoming less clear in the 21st century, with the arrival of substantial numbers of new universities, following the award of university title to some existing colleges and institutes. For a longer historical summary, see Cultures of Quality: an International Perspective, published by the Quality Assurance Agency for Higher Education (QAA) in November 2015.

The legal basis for individual HEIs varies, reflecting the different ways in which they were established. Most pre-1992 universities were established by Royal Charter. A university’s charter sets out its overall constitution and its statutes give more detail as to how it operates. A very small number of pre-1992 universities were established by specific Acts of Parliament. The universities of Oxford and...
Cambridge have neither an Act of Parliament nor a charter, but do have a body of statutes. Post-1992 universities and certain other HEIs were established as higher education corporations under the Education Reform Act 1988 [8], and usually operate under an Instrument of Government and Articles of Government, most of which follow a model Instrument of Government contained in Schedule 7A of the Education Reform Act 1988 [8]. For information on institutional governance, see The Higher Education Code of Governance (revised 2018), published by the Committee of University Chairs (CUC) [9] and available from the ‘Publications’ section of its website.

The Office for Students (OfS) [10], the regulator of the higher education sector in England, maintains a register [11] of HE providers which receive public funding; have access to the student support system; are able to recruit international students with a Tier 4 sponsorship licence [12]; and/or have degree awarding powers and ‘university’ title.

**Degree awarding powers (DAPs)**

Degrees and other higher education qualifications are legally owned by the awarding institution, not by the state. However, the power to award UK degrees is regulated by law and it is an offence for an institution to award a UK degree if it is not authorised to do so. (Other types of higher education award, such as certificates and diplomas, are not protected by law and may be granted by any institution.)

The procedure for gaining degree awarding powers (DAPs) [13] changed in April 2018 as a consequence of the Higher Education and Research Act 2017 [14]. Since then, institutions wishing to obtain new DAPs have had to be registered with the Office for Students (OfS) [10], satisfy all of its ongoing conditions of registration, and apply to it for authorisation. Once the OfS is satisfied that eligibility criteria are met, it seeks advice from the Quality Assurance Agency for Higher Education (QAA) [15], which acts in the role of designated quality body, before deciding whether to authorise the award of DAPs. The criteria against which the QAA assesses applications for DAPs are set out in Degree Awarding Powers in England: Guidance for Providers on Assessment by QAA [16] (October 2018). Regulatory advice [17] from the OfS outlines the process in detail.

From April 2018, four types of DAPs have been awarded:

- foundation degrees [18] only (Level 5 [19] of the Frameworks for Higher Education Qualifications of UK Degree-Awarding Bodies (FHEQ) [20])
- awards up to, and including, bachelor’s degrees [21] (up to and including Level 6 [22])
- all taught awards (up to and including taught master’s degrees [23] at Level 7 [24])
- research awards (Level 8 [25] and research master’s degrees at Level 7).

Institutions that are successful in their applications will initially be awarded New DAPs, which they will hold for a probationary period of three years, during which they must complete annual self-assessments and the QAA will monitor how they implement the new powers. After this time they may apply for Full DAPs, which will also be awarded on a time-limited basis for the first three years. Following this three-year period, HEIs may seek an authorisation without a time limit. To remain registered, an institution must demonstrate that it satisfies the ongoing general conditions of registration applicable to its registration category, and also any specific ongoing conditions that have been applied (see the article ‘Quality Assurance in Higher Education’ [26] for further information).

Degree awarding powers for research awards (which typically involve more independent study) cannot be granted unless the applicant already has DAPs for taught awards, or applies for them at the same time. Only a registered provider that is an English further education corporation can obtain authorisation to award foundation degrees only.
Authorisations granted by the OfS since April 2018 will commence from 1 August 2019.

Institutions which already held DAPs prior to April 2018 do not need to reapply to retain their authorisation, but are still required to register with the OfS. Over 160 institutions in the UK already held DAPs, which they may have acquired by a Royal Charter, a private Act of Parliament, or from the Privy Council, under the Further and Higher Education Act 1992.

The GOV.UK website provides further information on DAPs. This includes a list of ‘recognised bodies’ – those institutions with their own DAPs, and information on ‘listed bodies’, which are institutions that deliver courses leading to degrees awarded by recognised bodies.

**Universities and university colleges**

Not all higher education institutions (HEIs) have the right to use the title ‘university’ or ‘university college’, which are protected terms in law. Since April 2019, higher education providers applying for the right to use ‘university college’ must be registered with the OfS, continue to satisfy its ongoing conditions of registration, and have obtained degree awarding powers (DAPs) to grant taught awards and research awards (without a time limit; see ‘Degree awarding powers’ above). Providers applying for the right to use ‘university’ title must, in addition, have a specified percentage of full-time equivalent students who are on courses at Level 6 or above on the Frameworks for Higher Education Qualifications of UK Degree-Awarding Bodies (FHEQ). The OfS will then assess the provider’s application, in line with its risk assessment of the provider in relation to its ongoing conditions of registration. Further information can be found in regulatory advice on applying for ‘university college’ and ‘university title’ published by the OfS in 2019.

Higher education providers which secured the right to use the title of ‘university’ before April 2019 may have done so via approval from the Privy Council under Section 77 of the Further and Higher Education Act 1992 (this included securing the ‘university college’ title); under the provisions of the Companies Act 2006; or under a private Act of Parliament. Additionally, since 2005, institutions that had taught degree awarding powers and enrolled stipulated minimum numbers of full-time equivalent students overall, and on degree courses, were permitted to apply to use the title ‘university’.

A brief overview of degree awarding powers and university title is also provided in the 2018 QAA publication, *The Right to Award UK Degrees*.

**Other publicly funded higher education providers**

Many colleges and other institutions, such as further education colleges, do not have degree awarding powers, but provide complete courses leading to recognised UK degrees. Courses at these institutions are validated by institutions that have degree awarding powers under a formal recognition arrangement. These other providers of higher education programmes may use other institutional titles such as ‘college’. The use of such titles is not regulated by law.

Higher education provision in further education institutions may either receive direct public funding, or be funded via a franchise arrangement. A franchise arrangement, which can cover all or part of a programme, means that a student is registered at a higher education institution, which receives the funding and is responsible for quality assurance. The HEI then passes a proportion of the funding to the further education college providing the teaching.

In cases where 55% of the students at such an institution or college are studying courses of higher education, it may transfer to the higher education sector, becoming a higher education corporation (HEC). The institution will then become eligible to receive direct public funding from the academic
year 2019-20 onwards, which it must apply for through registering with the Office for Students (OfS) and meeting its initial and ongoing conditions of registration.

Until 31 March 2019, decisions on applications from institutions wishing to transfer into the higher education sector and be eligible for public funding rested with the Secretary of State \[33\], in line with guidance \[34\] from the Department for Education (DfE).

**Alternative providers**

Higher education is also provided by an increasing number of government-independent private institutions, termed ‘alternative providers’. This is any provider of higher education courses that is not a further education college \[32\] and is not in direct receipt of public funding. Alternative providers include both for-profit and not-for-profit organisations.

There are a small number of private universities and private degree awarding bodies without university title, and many more alternative providers who hold specific course designation \[35\]. This means that eligible students on designated courses may access student financial support.

The detail of how private higher education operates is provided under the subheading ‘Higher education \[36\]’ in the article ‘Organisation of Private Education’.

**Representative bodies for higher education institutions**

There are two recognised representative bodies for higher education institutions in the UK.

- The members of Universities UK (UUK) \[37\] are the executive heads (vice-chancellors / principals) of UK university institutions which have met the criteria for membership \[38\] set by the UUK board. UUK aims to be the definitive voice for universities in the UK and to provide high-quality leadership and support to its members in the interests of promoting a successful and diverse higher education sector.
- GuildHE \[39\] members tend to be smaller and specialist institutions. GuildHE provides information and advice to members, their staff and governors through members’ mailings, reports, research and publications. It also undertakes lobbying, advocacy and policy development work.

Many institutions have also formed groups with common interests and with the aim of influencing policy. These encompass various regional university associations and so-called ‘mission groups’, and include the following.

- MillionPlus \[40\] is a university think-tank that works to help solve complex problems in higher education and to ensure that policy reflects the potential of the UK’s university system. It mainly comprises post-1992 universities.
- The Russell Group \[41\] is an association of 24 major research-intensive universities in the UK that are committed to maintaining standards in research, teaching and learning, and links with business and the public sector.
- The University Alliance \[42\], which was formally launched in 2007, includes technical and professional member institutions that have a balanced portfolio of research, teaching, enterprise and innovation as integral to their missions.
- The Cathedrals Group \[43\] is an association of universities and university colleges with church foundations. It has close links with the Anglican Church, the Roman Catholic Church and the Methodist Church.
[36] https://eacea.ec.europa.eu/national-policies/eurydice/content/organisation-private-education-93_en#HigherEducation
[37] http://www.universitiesuk.ac.uk/Pages/default.aspx
[38] http://www.universitiesuk.ac.uk/about/Documents/universities-uk-membership-criteria.pdf
[39] https://guildhe.ac.uk/
[40] http://www.millionplus.ac.uk/
[41] http://www.russellgroup.ac.uk/
[42] http://www.unialliance.ac.uk/
[43] http://www.cathedralsgroup.ac.uk/