National Audit Office

REPORT

Investigation into student finance for study at franchised higher education providers

Department for Education

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What this investigation is about

1 Universities and other higher education institutions are autonomous with a high degree of financial as well as academic independence. They are free to conduct commercial activities alongside teaching and research, and may create partnerships, also known as franchises, with other institutions to provide courses on their behalf. The provider creating the partnership (the lead provider) registers those students studying at their franchise partners, which allows them to apply for funding administered by the Student Loans Company (SLC).

2 Students may apply for loans covering tuition fees (up to £9,250 a year) and maintenance support (up to £12,667 for the 2022/23 academic year).[1] Students normally repay these loans, including accrued interest, once they have finished studying and are earning above a certain amount. These loans represent a long-term liability to taxpayers if not repaid. In the 2022-23 financial year, SLC issued £19.9 billion in student loans. Financial year figures relating to students at franchised providers are not available, but during the 2022/23 academic year SLC made £1.2 billion of loans for tuition fees and maintenance for these students.

3 Lead providers must be registered with the sector regulator, the Office for Students (OfS), for their franchised provider's students to be eligible for student funding. Franchised providers do not need to register. Lead providers retain responsibility for protecting all students' interests, including teaching quality at franchised providers. They also confirm to SLC that students at their franchised providers are, and remain, eligible for student funding. The Department for Education (DfE) sets overarching higher education policy and oversees the legal and regulatory framework within which SLC administers student loans and OfS oversees providers.

1 Throughout this report, central government financial years are written as, for example, '2022-23' and run from 1 April to 31 March; academic years are written '2022/23' and run from 1 September to 31 August.

4 Since early 2022, SLC and OfS have detected several instances of potential fraud and abuse at franchised providers. DfE involved the Government Internal Audit Agency (GIAA) in reviewing the regulatory landscape. GIAA aimed to provide independent assurance over the effectiveness of the system, including assessing whether students existed and attended courses. GIAA looked at the interdependencies between OfS, SLC and DfE and whether systemic fraud risks were being recognised and mitigated. These bodies have been investigating where they may need to strengthen governance and oversight of funding associated with students at franchised providers. GIAA issued its report to DfE in August 2023, finding there were weaknesses in the control framework.

5 This report sets out where franchised providers sit within the higher education regulatory framework; outlines the risks to public funds; and makes recommendations to strengthen assurance. It does not review any specific cases of potential fraud or academic misconduct, nor does it seek to assess whether student loans, or the process through which they are issued, could provide better value for money.

Summary

Key findings

Franchised higher education provision

6 **The number of students studying at franchised providers has grown since 2018 but remains a small proportion of all higher education students.** The number of students enrolled at franchised providers more than doubled from 50,440 in 2018/19 to 108,600 in 2021/22. Much of this expansion has been in a relatively small number of providers, with eight of the 114 lead providers responsible for 91% of the growth. Despite this increase, in 2021/22 those studying at franchised providers represented a small proportion, 4.7%, of the total student population (paragraph 1.6 and Figure 2).

7 **Franchised providers can help DfE support its policy objective to broaden access to higher education.** Higher education providers vary hugely in size and complexity, ranging from 'traditional' universities to more commercially focused private companies. Government intended the Higher Education and Research Act 2017 (HERA) to encourage providers to join the sector and improve innovation, diversity and productivity. DfE considers that franchising helps widen access to higher education. In 2021/22, 57,470 out of 97,000 (59%) students from England studying at franchised providers were from neighbourhoods classed as high deprivation, compared with 40% of students at all providers (paragraphs 1.2 and 1.7, and Figure 3).

8 **Within parameters set by Parliament, DfE sets the overarching higher education policy and regulatory framework, including OfS's and SLC's roles and responsibilities.** It obtains assurance on whether providers are delivering for students through OfS's regulatory activities, as set out by Parliament. OfS specifies and enforces the conditions of registration that providers must comply with and regulates registered providers against four objectives to ensure students can: access and complete higher education; receive a high-quality experience; progress into employment or further study; and receive value for money. To be registered, OfS requires providers to comply with management and governance conditions. It does not regulate unregistered franchised providers. SLC is responsible for assessing students' eligibility for funding, paying tuition fees to providers, and paying maintenance loans and grants directly to students (paragraphs 1.3 and 1.9, and Figures 5 and 7).

9 Almost two thirds of franchised providers are not registered with OfS, which may weaken their understanding of OfS's regulatory framework. Registering with OfS means providers must comply with a regulatory framework and explicit conditions that include academic quality, financial sustainability, governance and accountability. As a lead provider retains responsibility for a franchised provider's compliance with these standards for their students, there is no statutory or regulatory obligation on franchised providers to register with OfS. In 2021/22, 229 (65%) of the 355 franchised providers were not registered (paragraphs 1.9 and 1.10, and Figure 6).

10 Lead providers retain a proportion of the tuition fees for students studying at their franchised providers, and the amount they retain varies significantly. In the 2021/22 academic year, 114 (28%) of 413 higher education institutions had contracts with franchised providers. Lead providers may enter franchise arrangements for several reasons including, for example, to access specialist teaching or local areas. Franchises can also be financially beneficial to the lead provider. SLC pays lead providers tuition fees in respect of all their students, including those studying at franchised providers. Lead providers share fees with their franchised providers, the amount varying according to their contractual arrangements. OfS does not have detailed knowledge of these arrangements but, where it has, told us that some lead providers retained between 12.5% and 30% of tuition fee payments (paragraphs 1.5 and 1.7).

11 We have seen that some providers use agents or offer financial incentives to recruit students, activities which government does not prohibit or regulate. Government does not know how many providers use these practices, but those we have seen are used by franchised providers. One scheme offered students rewards for referring other people to the provider, with no limit on the number of referrals. There are no regulations to prohibit or regulate these practices, which may present risks to taxpayers' and students' interests. Students who sign up in response to incentives may be vulnerable to mis-sold loans, while also being potentially less likely to make repayments (paragraph 1.17).

Fraud and abuse of student loan funding at franchised providers

12 OfS and SLC have identified, and responded to, instances of potential fraud and abuse relating to franchised providers. Over the past five years trend data show that, at franchised providers, detected fraud cases have increased faster than the proportion of SLC-funded students. In 2022/23, 53% of the £4.1 million fraud detected by SLC by value was at franchised providers. Students at franchised providers made up 6.5% of the total SLC-funded students. OfS and SLC have taken steps to better understand fraud risks, including OfS asking four lead providers to commission independent audits of internal student recruitment and attendance controls. In this report we describe two specific instances of potential fraud and abuse:

- **In the first half of 2022, SLC's data analysis detected instances of fraud, potentially associated with organised crime, involving franchised providers.** Routine analysis by SLC detected suspicious patterns of activity involving franchised provider students across four lead providers. Further investigation by SLC raised concerns across a total of 10 lead providers. Following a request from SLC, DfE instructed SLC to suspend payment of tuition fees while cases under suspicion were investigated. This led to SLC identifying and challenging 3,563 suspicious applications associated with £59.8 million of student funding, with 25% of this money still withheld as at January 2023 (paragraphs 2.2, 2.3 and 2.5 to 2.8, and Figures 8, 9 and 10).

- **In May 2022 a lead provider disclosed to OfS, as required by its registration conditions,** that it suspected widespread academic misconduct at one of its franchised providers and was undertaking investigations. Following investigation the lead provider withdrew the majority of the then 1,389 students enrolled at the franchised provider. SLC has recovered £6.1 million in respect of the tuition funding provided to withdrawn students. OfS has clawed back £172,600 of its grant funding paid to the provider in respect of these students. To date, DfE and OfS have not imposed other sanctions on providers (paragraphs 2.9 to 2.12).

Systemic weaknesses in the control framework indicated by potential fraud and abuse

13 There are potentially fraudulent applications and opaque recruitment practices in this sector. In July 2023 DfE published a consultation response, referencing the use of agents to sign up students, that said providers should establish safeguards to protect students' interests when they are applying for courses. DfE, SLC and OfS do not know the extent to which lead or franchised providers use agents or financial incentives, and do not currently prohibit or regulate their use. The absence of information on these practices, and the lack of guidance about whether and how providers could use them, creates significant risks to both taxpayers' and students' interests. In 2018, the Committee of Public Accounts recommended that OfS should have greater oversight over recruitment practices (paragraphs 1.17, 2.17 and 2.18).

14 There is insufficient evidence that students are attending and engaging with their courses. In determining a student's eligibility for loan payments, and before making payments, SLC uses lead providers' data to confirm students' attendance. Lead providers self-assure their own data, also having responsibility for the accuracy of their franchised providers' information. There is no effective standard against which to measure student engagement, which attendance helps demonstrate, and there is no legal or generally accepted definition of attendance. Providers themselves determine whether students are meaningfully engaged with their course (paragraphs 2.19 to 2.21).

15 The regulatory framework relies on lead providers' controls over franchised providers. Lead providers have responsibility for ensuring franchised providers have adequate controls, including monitoring recruitment and attendance to mitigate the risk of student loan funding being paid out inappropriately. When making payments, SLC relies on these controls, and on OfS's oversight and intervention with lead providers when there are concerns providers are not meeting requirements. Given SLC's concerns about potentially fraudulent student loan claims, OfS required several lead providers to commission independent audits of their franchised provider controls and data submissions. This identified controls weaknesses. In October 2023, OfS announced that, for the first time, it would consider whether registered providers had franchise arrangements when deciding where to focus its work assessing student outcomes (paragraphs 1.14 and 2.23, and Figures 7 and 10).

16 GIAA identified weaknesses in the control framework. GIAA highlighted the complexity of the system for gaining assurance over the legitimacy of funding claims and concluded that neither SLC nor OfS has a formal fraud enforcement role. SLC can act on suspicions of fraudulent applications in respect of individuals, but at a provider or system level it does not currently regulate, launch investigations, request additional data, or apply sanctions. The current regulatory framework does not require OfS to act to prevent or address student loan fraud, but OfS does have a regulatory interest in the management and governance arrangements of registered providers. This means that OfS has powers to tackle some provider behaviour that may indirectly relate to misuse of SLC funding, but these powers do not directly relate to tackling fraud. DfE has overall responsibility for system oversight, roles and responsibilities (paragraphs 2.24 and 2.25, and Figure 12).

Addressing weaknesses

17 Differing risk appetites among DfE, SLC and OfS for student finance fraud and abuse are an obstacle to coordinated action to minimise risks to public funds. SLC says that it has minimal tolerance for risks to taxpayers' money. However, as illustrated in this report, SLC does not investigate providers. It shared intelligence with OfS which, as the higher education regulator, has responsibility for ensuring registered providers meet their registration conditions. These include having appropriate management and governance controls. To identify providers for further scrutiny, OfS is required to adopt a risk-based approach, relying on data, intelligence and providers' reports of increased risks. Lead providers benefit financially from increasing student numbers and have few incentives to detect abuse of the student loans system. OfS does not automatically have sight of the contractual arrangements between lead providers and franchised providers (paragraphs 1.7 and 2.24 to 2.26).

18 There is scope to strengthen data-sharing, coordination and collaboration between the bodies involved. GIAA recommended that DfE review information-sharing protocols between OfS and SLC. SLC is now an established member of the National Economic Crime Centre which collates intelligence from both private and public sources. Each accounting officer has responsibility for ensuring their organisation operates to the high standards expected by Parliament, complying with relevant legislation and wider legal principles, including safeguarding value for money across the wider public sector (paragraphs 1.3 and 2.28).

19 DfE is consulting stakeholders on potential changes to how providers are regulated. SLC has undertaken a 'lessons learned' exercise which proposed recommendations that need to be taken forward by other bodies, including OfS and DfE. GIAA has also made recommendations that can only be implemented through DfE, SLC and OfS all responding. DfE is considering options relating to franchised providers including the merits and challenges of additional oversight or regulation. Some options might require primary legislation or statutory instruments to implement. DfE told us there had been discussions on potential policy options with representative bodies and universities with a large proportion of franchised provision (paragraphs 2.15, 2.16 and 2.24, and Figure 10).

Recommendations

20 In March 2023, we identified nine insights on the steps government can take to tackle fraud and corruption.[2] Drawing on these and the findings set out in this report, we have identified recommendations for how the regulatory framework within which franchised provision falls could be tightened. In particular:

a **as a matter of urgency OfS and DfE should jointly reiterate to the higher education sector its role in preventing fraud and abuse, and particularly to lead providers that they bear direct responsibility for the governance and management practices of franchised providers.** They should also consider the effectiveness of communications across the higher education sector to develop an ongoing engagement plan to help reinforce respective responsibilities.

21 More widely, DfE has started an internal review of the controls across the higher education system. Building on that, we recommend DfE should:

b **establish a common anti-fraud and corruption culture and risk tolerance** by, for example, encouraging the reporting of fraud and corruption and embedding discussions in risk management forums;

2 Comptroller and Auditor General, *Tackling fraud and corruption against government*, Session 2022-23, HC 1199, National Audit Office, March 2023.

c **take a systems-based approach to mapping out its, SLC's, and OfS's formal responsibilities for protecting student loan funding from the risk of fraud and abuse,** making any legislative changes as required. As part of this, it should ensure responsibilities are agreed with respective parties, for example in a published memorandum, and ensure individual bodies have sufficient means to mitigate their respective risks to a tolerable level;

d **explicitly consider the inherent risks associated with using franchised providers, and the extent to which they represent value for money, setting out how it will manage these risks.** This should include consideration of both its risk exposure across the higher education sector and the benefits franchised providers can generate by broadening higher education participation;

e **draw on relevant evidence, improving this where necessary, to decide on the best way to address weaknesses across the governance and regulatory framework.** This should include consideration of whether all franchised providers should register with OfS, and whether to give OfS and SLC enhanced powers to intervene such as a power to review or audit franchise arrangements;

f **develop further guidance for providers explaining what constitutes meaningful student course engagement and how it expects providers to self-assure data.** As part of this, DfE should consider what SLC and OfS need to better assess the quality of provider data, and what SLC needs to have sufficient assurance over student payments; and

g **consider options to limit the amount of money at risk from fraudulently claimed maintenance loans** by, for example, making monthly rather than termly payments as fraudulently claimed payments are difficult to claw back.

OfS should:

h **increase activity to raise awareness among lead providers of the risks and benefits associated with using franchised providers.** This could include sharing good practice and setting out the consequences (including student loan funding being recovered or commercial damage) should concerns be identified after payment; and

i **following DfE's ongoing review of higher education controls, in 2024 share with all higher education providers good practice and advice on how to ensure those signing-up for courses are not being mis-sold courses or loans,** particularly where recruitment agents and incentive payments are used.

OfS and SLC should:

j **more systematically share data and testing results,** such as from statistical testing to identify anomalies or targeted sampling of provider data audits, to better understand risks and focus investigative work.