National Audit Office

REPORT

Investigation into student finance for study at franchised higher education providers

Department for Education

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HC 387

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Investigation into student finance for study at franchised higher education providers

Department for Education

Report by the Comptroller and Auditor General

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Gareth Davies
Comptroller and Auditor General
National Audit Office

12 January 2024

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Investigations

We conduct investigations to establish the underlying facts in circumstances where concerns have been raised with us, or in response to intelligence that we have gathered through our wider work.

This investigation was prepared in response to issues arising from work across government, which highlighted weaknesses in the overarching governance and regulatory framework in respect of student loans and franchised higher education providers.

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Contents

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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.

Part One

Franchised higher education provision

1.1 Across the higher education sector, bodies such as universities have set up franchise partnerships with others (known as franchised providers) to deliver courses on their behalf. This part of the report provides an overview of the higher education sector and student loan payments; the use of franchised provision across the sector; and how the overarching regulatory framework set up by the Department for Education (DfE) works with franchised providers.

Overview of higher education provision

1.2 Universities, and other providers, offer courses for students to gain a certificate, diploma, or degree at a higher level than A-levels or equivalent technical qualifications. Undergraduate students will study a foundation or bachelor's degree, and postgraduate students study for a master's or doctoral degree. Higher education providers are autonomous institutions, with a high degree of financial and academic independence, that can conduct commercial activities alongside teaching and research. They vary hugely in size and complexity, ranging from 'traditional' universities to more commercially focused private companies. The smallest have fewer than 100 students.

1.3 DfE sets government's higher education policy and has established a framework, within which organisations act according to their legal powers, to protect students' interests and taxpayers' money. Accounting officers have responsibility for ensuring their organisation operates to the high standards expected by Parliament, including considering, promoting and safeguarding regularity (which includes complying with relevant legislation and wider legal principles), and value for money across the wider public sector and not just their organisation. The framework includes:

- the Office for Students (OfS), an independent statutory non-departmental public body as the regulator of higher education in England. OfS describes its aims as ensuring that students have a fulfilling higher education experience which enriches their lives and careers. The Higher Education and Research Act 2017 (HERA) established OfS and sets out its powers and duties. Under HERA, ministers can influence OfS's work by appointing Board members and issuing statutory guidance, which OfS must consider; and

- the Student Loans Company (SLC), which administers student loans by: paying tuition fees to providers on behalf of students; paying maintenance loans and grants directly to students; and managing subsequent loan repayments from students. In 2022-23, DfE reported £19.9 billion being paid out for student loans (**Figure 1** overleaf). For the 2022/23 academic year, students could borrow up to £9,250 a year as a tuition fee loan and up to £12,667 as a means-tested maintenance loan.[3] In 2022/23, the provisional average tuition fee loan for full-time English students was £8,230 and for maintenance loans was £7,130. Students normally repay these loans, including accrued interest, once they have finished studying and are earning above a certain amount.

Overview of franchised provision

1.4 Given their independence, providers can agree commercial arrangements with other institutions, often described as franchised providers, to teach courses on their behalf. The lead provider retains responsibility for: the course content and quality; student wellbeing; outcomes for those studying with franchised providers; and confirming to SLC that students have registered and are attending their courses, so remain eligible for student funding. The lead provider must also notify SLC of any students withdrawing or circumstances changing which may impact their loan entitlement.

Changes in franchised provision

1.5 During the 2021/22 academic year, 114 (28%) out of the 413 providers registered with OfS had created partnerships with a total of 355 franchised providers.[4] Lead providers can create any number of partnerships, with one having 28 franchised providers. Franchised providers can themselves create partnerships, with 31 franchised providers also acting as lead providers during that year.

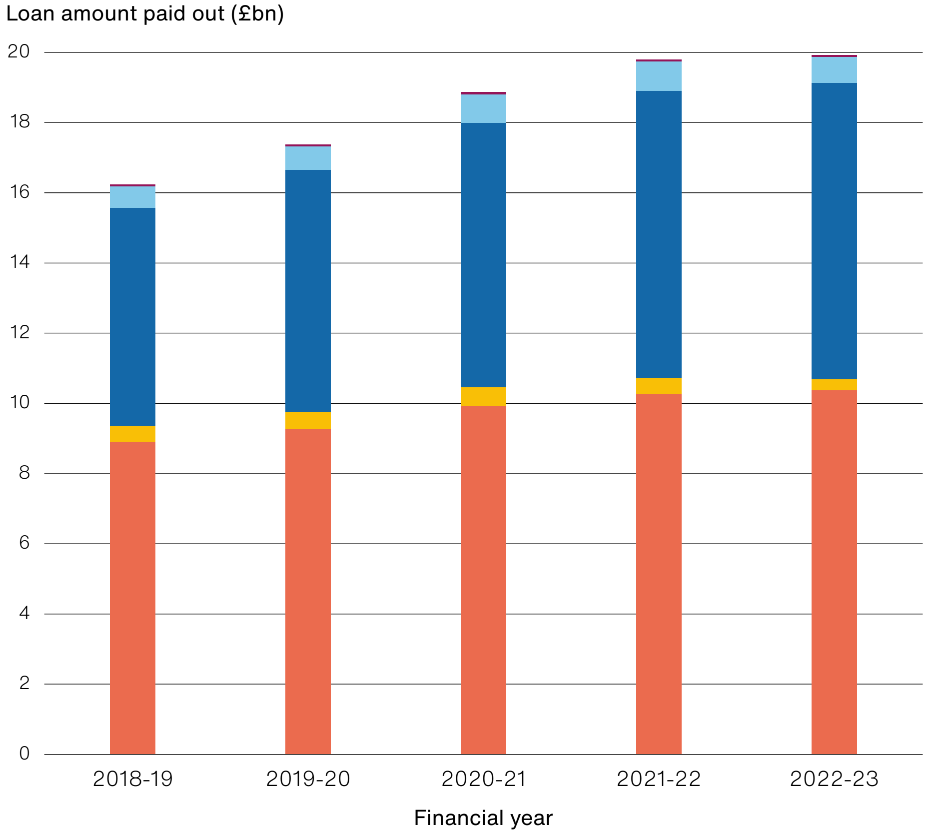
1.6 Although the number of franchised providers increased 6% between 2018/19 and 2021/22, the number of students more than doubled over that period, from 50,440 to 108,600 (**Figure 2** on page 15). Most of these students, 63,680 (59%) of the 108,600 students, enrolled on business and management-related courses. The increase in students was concentrated across a small proportion of providers – eight of the 114 lead providers had an increase in students of more than 1,500, making them responsible for 91% of the four-year growth. As a result, in 2021/22, these eight lead providers were responsible for 58% of all students at franchised providers. Despite this increase, those studying at franchised providers continue to represent a relatively small proportion, 4.7%, of the overall student population although the proportion is increasing.

3 Maintenance loans are means-tested based on a combination of factors including age, household income, whether students live at home or away, and whether they are studying in London.
4 The OfS register included 413 providers on 9 July 2022.

Figure 1

Breakdown of student loans issued by type, 2018-19 to 2022-23

Tuition fees for English students and maintenance loans comprise the largest loans paid out by the Student Loans Company



	2018-19	2019-20	2020-21	2021-22	2022-23
Postgraduate study (EU students)	0.05	0.06	0.06	0.05	0.05
Postgraduate study (English students)	0.61	0.67	0.81	0.85	0.74
Maintenance loans	6.21	6.90	7.54	8.17	8.46
Tuition fees (EU students)	0.48	0.49	0.52	0.46	0.31
Tuition fees (English students)	8.90	9.28	9.94	10.28	10.38
Total amount lent out	**16.25**	**17.38**	**18.87**	**19.81**	**19.93**

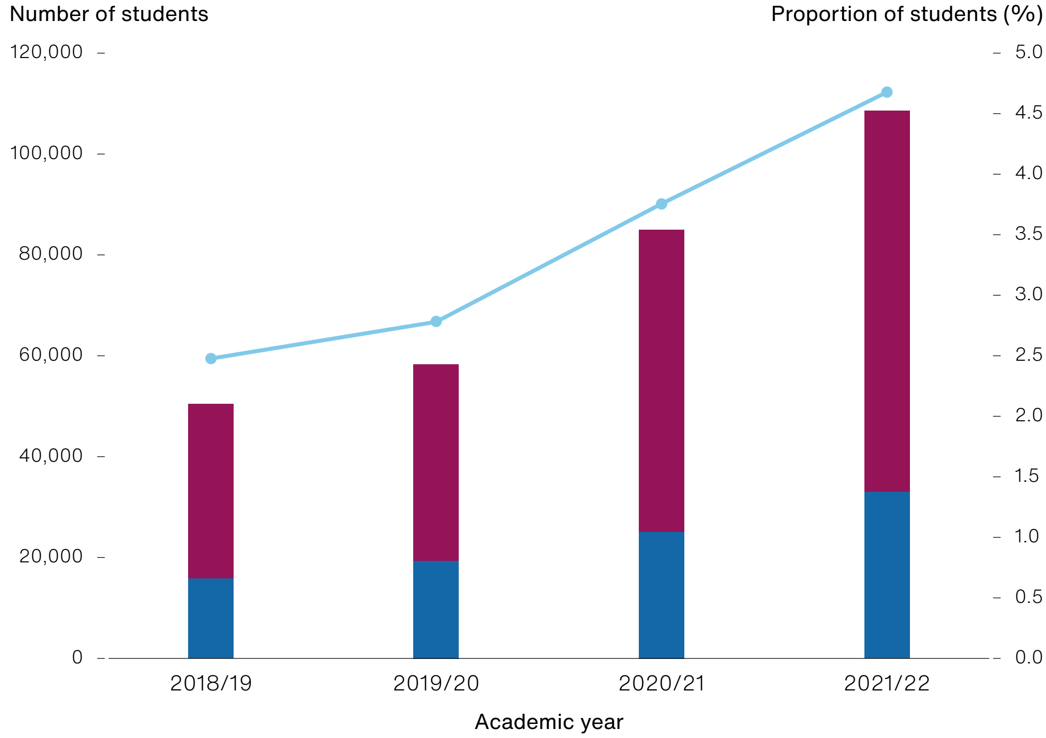
Note

1 Totals may not sum due to rounding.

Source: National Audit Office analysis of published Student Loans Company data

Figure 2
Number and proportion of students at franchised providers registered and not registered with the Office for Students (OfS), 2018/19 to 2021/22

The number of students studying at franchised providers more than doubled between 2018/19 and 2021/22



	2018/19	2019/20	2020/21	2021/22
Students in unregistered franchised providers	34,440	38,950	59,770	75,460
Students in OfS-registered franchised providers	16,000	19,380	25,220	33,120
Proportion of all students in franchised provision	2.5%	2.8%	3.8%	4.7%
Total franchised students	**50,440**	**58,330**	**84,990**	**108,600**
Total students overall	**2,035,060**	**2,098,440**	**2,262,410**	**2,321,820**

Notes
1 Includes all arrangements where students are enrolled with an OfS-registered provider (including further education colleges) and at least 50% of their teaching is delivered by a franchised provider.
2 Student populations include full-time and part-time undergraduates and postgraduates, but not apprenticeships.
3 Students in unregistered franchised providers include those at unknown franchised providers.
4 Totals for franchised students have been rounded.

Source: National Audit Office analysis of unpublished and published Office for Students data

Reasons for adopting franchised provision

1.7 Lead providers may enter franchising partnerships for different reasons, including to access specialist teaching or local areas. Other reasons for using franchised providers include:

- **broadening access to higher education**: when the government introduced HERA, it explained that its aims included encouraging new providers and improving innovation, diversity and productivity. DfE told us that it recognises the value of franchised provision in helping to broaden higher education participation. For example, in 2021/22, 50,600 (47%) of the 108,600 students at franchised providers were aged 31 years or over at the start of their course, compared with 18% of all students (**Figure 3**); and
- **franchise partnerships can be financially beneficial**, particularly for the lead provider. SLC pays the tuition fees associated with students at franchised providers to lead providers (**Figure 4** on pages 18 and 19). The lead provider can then share an amount with the franchised providers. DfE and OfS do not require lead providers to inform them of these arrangements, and do not regulate the amount lead providers can retain. However, OfS told us it understands that some lead providers retained between 12.5% and 30% of the tuition fees they received. Franchise arrangements can help generate income. In 2021/22, 72% of students at franchised providers were registered with lead providers classing themselves as having an income of £200 million or less, compared to 43% of all students registered with providers.

Oversight and regulation

1.8 OfS's primary role, as set out in legislation, is to regulate providers it has registered. Only registered providers may award degrees, and only students registered with these providers can receive student loans for tuition fees and maintenance. This can incentivise providers to register with OfS, although franchised providers can access these benefits through their lead provider.

1.9 Under HERA, OfS must publish a regulatory framework to structure how it carries out its functions. OfS's framework includes registration conditions providers must meet, and continue to meet, including responsibility for course quality and student outcomes (**Figure 5** on page 20). The regulatory framework also requires providers to have adequate and effective management and governance arrangements. OfS has a statutory duty to monitor compliance with these conditions through a risk-based approach (paragraph 1.12). OfS's wider objectives include ensuring all students can: access and complete higher education; receive a high-quality experience; progress into employment or further study; and receive value for money.

Figure 3

Profile of students at franchised providers compared with all students in higher education where data are available, 2021/22

Students at franchised providers are more likely to be older and have fewer formal qualifications

		Number with characteristic	Total population for which data are available	Percentage
None, unknown or 'other' entry qualifications (undergraduates only)	Franchised students	41,600	94,900	44
	All students	167,200	1,688,050	10
Aged 31 years and older on entry	Franchised students	50,600	108,600	47
	All students	412,920	2,321,740	18
Studying a business and management course	Franchised students	63,680	108,600	59
	All students	446,980	2,321,780	19
White ethnicity	Franchised students	64,340	95,800	67
	All students	1,214,580	1,740,840	70
Residing in an area of high deprivation (IMD quintile 1 or 2)	Franchised students	57,470	97,000	59
	All students	674,270	1,673,360	40

Notes

1 Includes all arrangements where students are enrolled with an Office for Students (OfS)-registered provider and at least 50% of their teaching is delivered by a franchised provider. Student numbers do not include apprenticeships.

2 Data do not include instances where "no response" has been recorded.

3 OfS did not define 'Other' in terms of entry qualifications.

4 Ethnicity is only recorded for UK domiciled students. Figures do not include students whose domicile was outside the UK or unknown.

5 The deprivation quintile refers to the English Index of Multiple Deprivation (IMD) and only applies to students domiciled in England. Figures do not include students whose domicile was outside England or unknown.

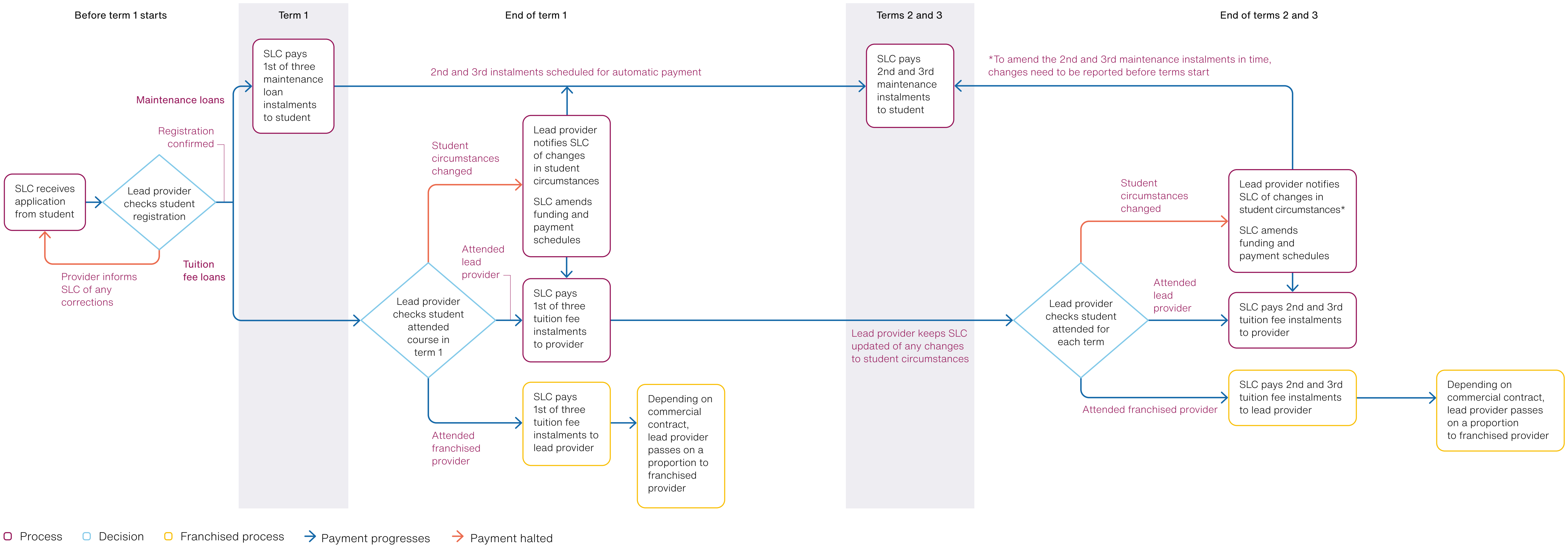
6 Totals for franchised students have been rounded to account for rounding differences in OfS data.

Source: National Audit Office analysis of unpublished and published Office for Students data

Figure 4

Student loans payment process for new applications, December 2023

Lead providers receive tuition fee payments from the Student Loans Company (SLC) for all their students, including those studying at franchised providers



Notes

1 Lead provider describes an institution using a franchised provider to deliver courses on its behalf.

2 Maintenance and tuition fee payments follow different payment schedules. Following an initial provider confirmation, maintenance payments are automatically scheduled throughout the year. Tuition fee payments require an initial and termly confirmation from providers before being paid out.

Source: National Audit Office review of Student Loans Company documents

Figure 5

Benefits and conditions for higher education providers registered with the Office for Students (OfS)

Registering with OfS places a range of conditions on higher education providers, but also provides benefits

Benefits of registration include	Can apply for degree-awarding powers Direct access to public grant funding for its courses Students can apply for maintenance loans and grants for its courses Can charge students fees up to statutory limits (up to £9,250 for the 2022/23 academic year for full-time study) funded by student loans
Conditions of registration include	A: Have an approved student access and participation plan B: Deliver positive outcomes for students with a high-quality academic experience C: Protect the interests of all students with an approved student protection plan D: Be financially viable and sustainable to deliver courses as advertised E: Have good governance and be responsible for notifying changes to register information F: Submit data and other requested information to OfS and the designated data body G: Follow fee limits and pay registration fee OfS monitors each individual provider in relation to its conditions of registration and has powers to intervene where it considers that there is an increased risk, or an actual breach, of a condition of registration by a provider

Source: National Audit Office review of Office for Students documents

1.10 Franchised providers do not receive tuition fees directly from SLC, do not award degrees, and need not to be registered with OfS. Where franchised providers are not registered, they may not have as good an understanding of OfS requirements. During 2021/22, 229 of the 355 franchised providers (65%) were not registered (**Figure 6**), with more than two-thirds (75,460) of those studying at franchised providers being at unregistered bodies.

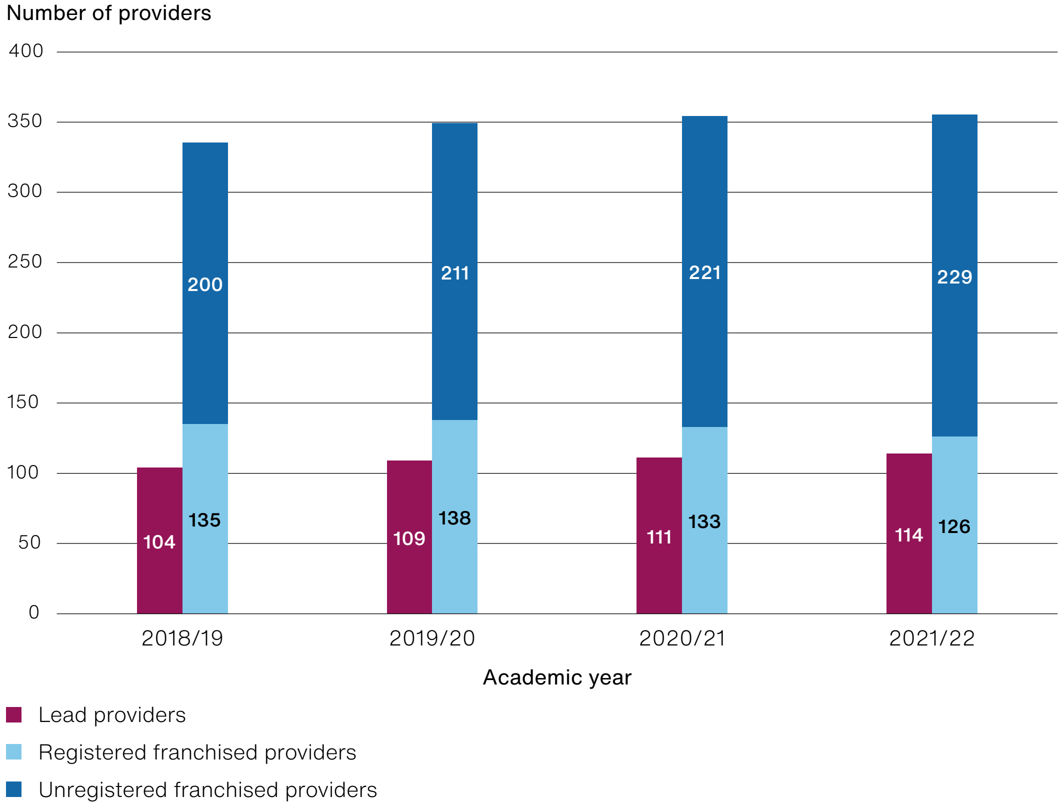
1.11 The OfS's regulatory framework makes clear that lead providers have full responsibility for those studying at their franchised providers – having the same responsibilities as it does for those it teaches itself.[5] OfS does not authorise or directly monitor franchise arrangements. However it seeks to ensure, through its routine monitoring, that lead providers are fully meeting their registration conditions. This includes having effective internal controls over the reliability of data, including that from franchised providers, provided to the OfS and the designated data body. **Figure 7** on page 22 summarises how the regulatory framework, for which DfE has ultimate responsibility, applies to franchised providers.

5 Office for Students, *Regulatory Framework for higher education in England*, November 2022.

Figure 6

Number of lead and franchised providers registered and not registered with the Office for Students (OfS), 2018/19 to 2021/22

In 2021/22, most franchised providers were not registered with OfS as a higher education provider



Notes

1 Includes all arrangements where an OfS-registered provider subcontracts another provider to deliver at least 50% of its teaching each year.

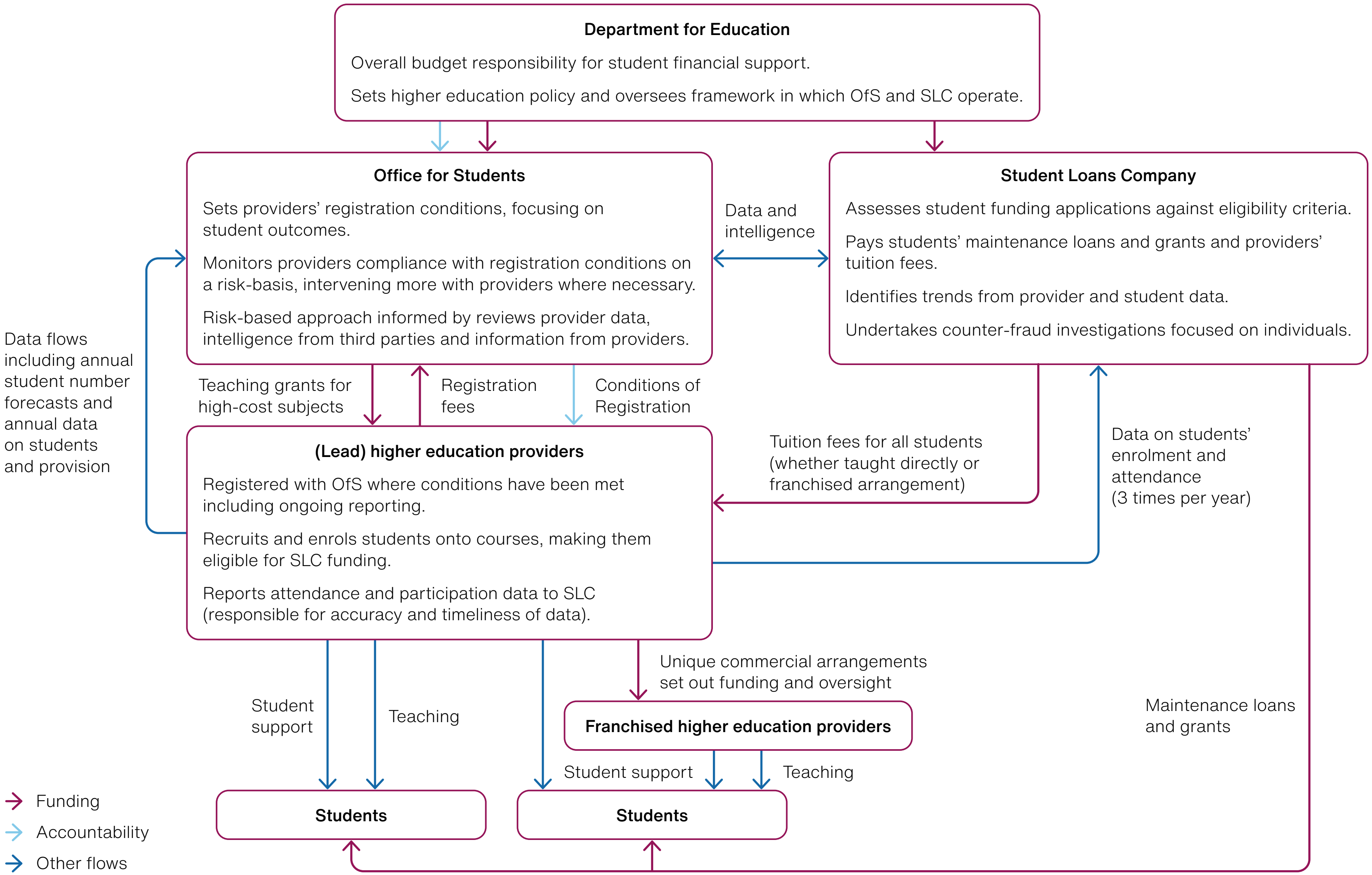
2 All lead providers must be registered with OfS to access Student Loans Company funding.

Source: National Audit Office analysis of unpublished Office for Student data

Figure 7

Overview of franchised higher education provision oversight

Franchised providers are not regulated by the Office for Students (OfS) and have no direct relationship with the Student Loans Company (SLC) or the Department for Education (DfE)



Source: National Audit Office analysis of Department for Education, Student Loans Company and Office for Students information

1.12 As set out in legislation, OfS must fulfil its oversight role to ensure providers meet their responsibilities through a risk-based approach. Given this requirement, and its limited resources, OfS uses data and intelligence to assess the greatest risks to its core objective – protecting students' interests – that may need investigating. It uses lead indicators, reportable events and other information to help identify early where a provider risks not meeting its registration conditions. It also considers various factors including: growth in student numbers; reported changes from providers; and SLC concerns.

1.13 During 2022, OfS opened quality investigations into business and management courses at eight providers, and computing courses at three providers, which included some providers where SLC had also raised concerns. OfS began to publish the results of these quality assessments in September 2023. In October 2023, OfS announced that, for the first time, in prioritising the providers it planned to review, it would consider partnership arrangements between lead providers and franchised providers.

1.14 Where it identifies an increased risk of a provider breaching registration conditions, OfS can increase its monitoring and engagement. It can impose sanctions where conditions have been breached. These may include specific conditions or formal sanctions such as a monetary penalty, suspension, or de-registration as a provider. OfS does not have powers to impose sanctions on providers that are not registered, including franchised providers.

Recruiting students

1.15 As part of its regulatory remit to protect students' interests, OfS publishes information on a registered provider's performance. This shows, compared with minimum thresholds, whether students have completed their course and progressed into work or further study. OfS publishes information for each lead provider and any registered franchised provider. While lead providers provide OfS data for all students, including those at franchised providers, OfS does not currently publish information for unregistered franchised providers, and users cannot distinguish providers where a lead provider has multiple franchising partnerships. This, along with many courses at franchised providers being new or small, may make it hard for prospective students to understand more about potential courses.

1.16 In summer 2023, the press reported instances of franchised providers using opaque recruitment practices. In particular:

- the *New York Times* published an article claiming that a franchised provider, Oxford Business College, had recruited students who struggled to speak English and who did not meet required admission standards. It said that Oxford Business College had paid agents based on how many students they enrolled.
- articles published on the *Wonkhe* website raised concerns about some providers offering business and health courses, usually franchised from universities, operating in large urban centres.[6] The articles highlighted the use of agents and advertising material that mentioned the lead rather than the franchised provider, gave incorrect student finance information, and did not disclose the involvement of an agent.

1.17 We have seen evidence that some providers have used agents or existing students, who earn a commission, to recruit students. One scheme, for example, offered rewards for students referring other people to the provider, promising £500 for each person who enrolled with no limit on the number of referrals. An agent may only be acting for one or a few institutions which creates a risk that prospective students may not have complete, high-quality, information to make well-informed decisions. These practices can create incentives to recruit students who may not meet admissions criteria, for whom the course is not appropriate, or who may not be committed to the course. Students who sign up may be vulnerable to mis-sold loans and may be less likely to make repayments. There are no regulations to restrict these practices, and DfE, SLC and OfS do not know how often providers use these incentives, but we found a small number of franchised providers using them.

6 *Wonkhe* describes itself as a home for debate about higher education in the United Kingdom.

Part Two

Controls over student finance funding at franchised providers

2.1 Since early 2022, several instances of actual and suspected fraud and abuse involving franchised providers have been identified, through different routes, revealing gaps in the overarching regulatory framework. This part of the report provides examples of suspected fraud and abuse; explains what this shows about system risks; and describes how the Department for Education (DfE), Student Loans Company (SLC) and Office for Students (OfS) are responding.

Potential fraud and abuse of student loan funding

2.2 Since the 2020/21 academic year, the proportion of SLC-detected fraud cases in franchised providers has increased faster than the growth in SLC-funded students at those providers.[7] The proportion of detected fraud cases in franchised providers, while greater than the proportion of students at those providers, fell until 2020/21 but rose sharply in the following two years. As such, in 2022/23, 6.5% of SLC-funded students were attending franchised providers, but 44.9% of detected fraud cases were at franchised providers (**Figure 8** overleaf).

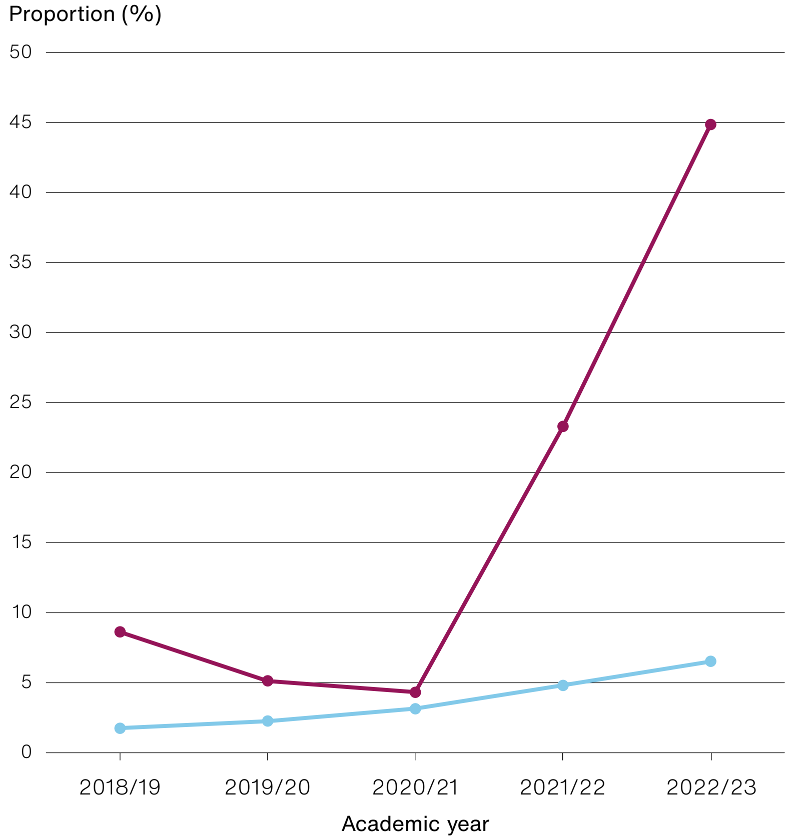
2.3 During the 2022/23 academic year, SLC made £1.2 billion loans to students at franchised providers. In 2022/23, the value of detected fraud involving franchised providers totalled £2.2 million, 53% of the total £4.1 million fraud identified by SLC (**Figure 9** on page 27).

7 An increase in detected fraud can result from various factors including, for example, increased monitoring. Fraud detected by the Student Loans Company includes that relating to childcare claims, organised crime, identity theft, migrant worker documentation, incorrect marital status, and false documentation on UK residency.

Figure 8

Proportion of total Student Loans Company (SLC)-funded students and detected fraud cases at franchised providers, 2018/19 to 2022/23

The proportion of detected fraud cases at franchised providers has increased at a greater rate than student numbers



	2018/19	2019/20	2020/21	2021/22	2022/23
Proportion of SLC fraud cases that were in franchised providers	8.6	5.1	4.3	23.3	44.9
Proportion of SLC-funded students that were in franchised providers	1.7	2.2	3.1	4.8	6.5

Notes

1 When SLC submits quarterly figures to Cabinet Office and the Department for Education on fraud rates, the reporting methodology has varied in recent years. The figures shown here apply the most recent methodology to allow a meaningful comparison between years.

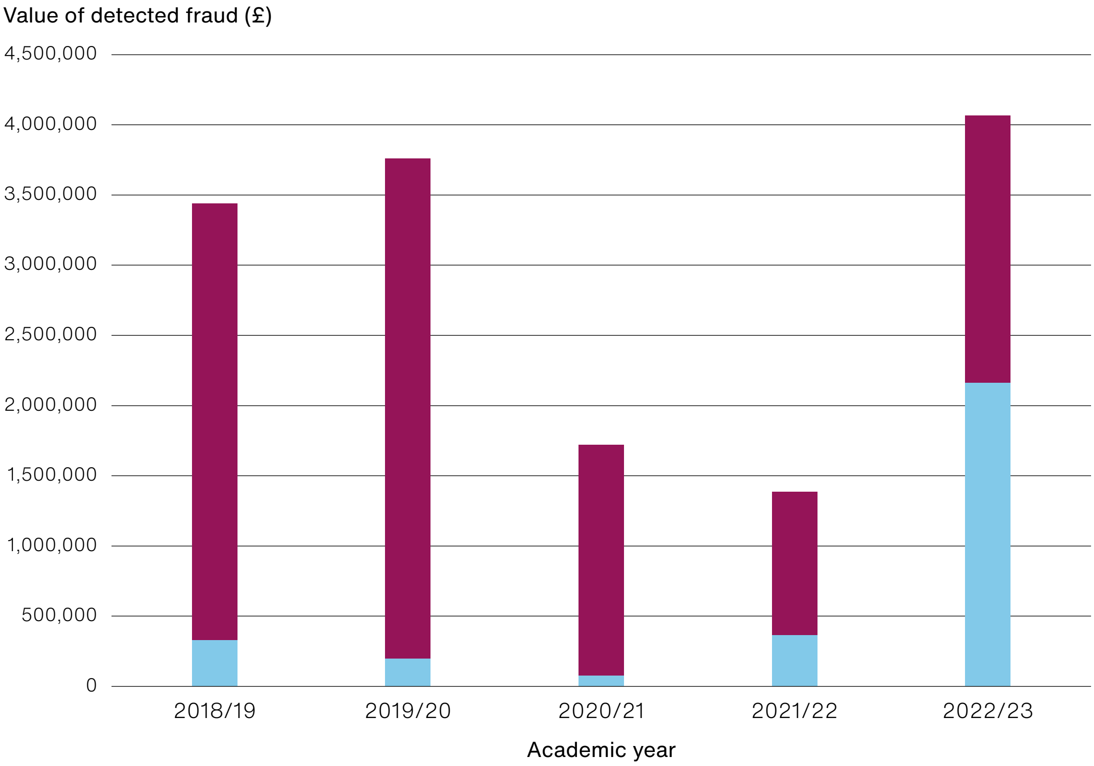
2 Fraud detected by SLC includes that relating to childcare claims, organised crime, identity theft, migrant worker documentation, incorrect marital status and false documentation on UK residency.

Source: National Audit Office analysis of unpublished Student Loans Company data

Figure 9

Breakdown of the value of total Student Loans Company (SLC) detected fraud associated with students at franchised and other providers, 2018/19 to 2022/23

The value of detected fraud associated with students at franchised providers has increased almost seven-fold over the past five years



	2018/19	2019/20	2020/21	2021/22	2022/23
Other providers	3,109,701	3,560,514	1,641,643	1,019,580	1,902,770
Franchised providers	329,831	200,198	79,151	366,869	2,163,459

Notes

1 When SLC submits quarterly fraud rates to Cabinet Office and the Department for Education, the methodology has varied in recent years. These figures apply the most recent methodology to allow for a meaningful comparison.

2 Fraud detected by SLC includes that relating to childcare claims, organised crime, identity theft, migrant worker documentation, incorrect marital status and false documentation on UK residency.

Source: National Audit Office analysis of unpublished Student Loans Company data

2.4 Since early 2022, DfE, OfS and SLC have identified, investigated and responded to specific instances of actual and suspected fraud and abuse relating to franchised providers. For example, in December 2022, OfS shared with DfE and SLC an independent audit report into a franchised provider where suspected misconduct had been reported. This found: poor management of recruitment agents; weak controls to assess students' English skills and course suitability; lack of an independent review of coursework and instances of plagiarism; inconsistent student enrolment processes; and inconsistent monitoring of student attendance. The report also flagged concerns with the lead provider's data, including SLC returns which would impact student loan payments. **Figure 10** on pages 28 to 30 illustrates two specific case examples.

Figure 10

Timeline of government's activities, and two specific case examples, relating to potential fraud and abuse associated with student loan funding at franchised providers, January 2022 to autumn 2023

During 2022 and 2023, the Department for Education (DfE), Student Loans Company (SLC) and Office for Students (OfS) became aware of risks to public funds across some franchised higher education providers

Dates	Case example: SLC identified issues	Case example: OfS notified of issues	Wider DfE, SLC and OfS activities
May 2022		A registered provider reported to OfS concerns at a franchised provider, given evidence of students outsourcing work and cheating, impacting evidence of attendance and attainment.	
June 2022	Between January and June, SLC's routine data monitoring identified unusual customer behaviour at some providers. SLC notified DfE and OfS of concerns with franchised providers for four lead providers.		DfE, SLC and OfS began discussing the adequacy of the regulatory landscape given potential irregular payments, fraud and error.
July 2022	OfS instructed the four lead providers to commission independent audits of their controls around student recruitment, enrolment and attendance. The audits identified various failings.	The lead provider made a fraud referral to the police.	
August 2022	Informed by additional intelligence, available through SLC's participation in the National Economic Crime Centre (NECC), DfE instructed SLC to block tuition fee and maintenance loan payments for applications matching 'high risk indicators', including nationality, age, provider and application timing, at seven providers.	The lead provider confirmed to OfS it had ended the franchise arrangement, with no further recruitment, enrolment, or progression for current or new students and no further teaching taking place.	SLC joined NECC Public Private Threat Groups. SLC also joined a group giving them access to shared public and private sector intelligence.
September 2022	DfE extended its SLC instruction to block funding applications at a further three lead providers (10 in total).	The lead provider engaged with SLC to begin discussing termination of the franchise arrangement.	
October 2022		DfE contacted SLC, after OfS alerted them to the termination of a franchise agreement. OfS did not name the provider.	OfS published an online blog, *Preventing fraud on campus*.

Figure 10 *continued*

Timeline of government's activities, and two specific case examples, relating to potential fraud and abuse associated with student loan funding at franchised providers, January 2022 to autumn 2023

Dates	Case example: SLC identified issues	Case example: OfS notified of issues	Wider DfE, SLC and OfS activities
November 2022	DfE, or OfS, wrote to each of the 10 lead providers, requesting information on aspects of their recruitment, admissions and course engagement practices for students at franchised providers by 9 December.		
December 2022	DfE wrote to seven of these lead providers confirming tuition fee payments due in February 2023 would not be suspended, aside from those relating to students being investigated.		
January 2023	As at 13 January, 710 applicants remained blocked, with SLC assessing £15.2 million at risk covering tuition fees and maintenance. SLC had initially challenged 3,563 suspicious applications associated with £59.8 million of student funding.		
February 2023	DfE wrote to the final three lead providers confirming no tuition fees would be blocked, aside from those relating to students already being investigated. OfS put in place enhanced monitoring, including a requirement for these lead providers to report to OfS new or terminated franchise partnerships.	The lead provider notified SLC that it had identified widespread systematic academic misconduct by students previously studying at the franchised provider. SLC shared this information with OfS and DfE. SLC subsequently asked the provider to suspend or withdraw students with payments due April 2023.	
March 2023		DfE officials advised ministers that they estimated £13 million in maintenance loans had been paid, and that DfE and SLC were discussing how to recover this from withdrawn students.	SLC's financial crime prevention unit, which it started setting up in mid-2022, became fully operational. OfS initiated an audit of the quality of data submitted to OfS by four lead providers.
April 2023			DfE asked the Government Internal Audit Agency (GIAA) to review the regulatory landscape between SLC, DfE and OfS, focusing on interdependencies between bodies, the mitigation of fraud risks and the effectiveness of the end-to-end process.

Figure 10 *continued*

Timeline of government's activities, and two specific case examples, relating to potential fraud and abuse associated with student loan funding at franchised providers, January 2022 to autumn 2023

Dates	Case example: SLC identified issues	Case example: OfS notified of issues	Wider DfE, SLC and OfS activities
May 2023		The lead provider agreed to refund tuition fees in respect of students withdrawn from the franchised provider, recognising a £6.1 million provision in its 2021/22 financial statements.	OfS held an event for the Chairs of providers' audit committees. SLC began co-chairing an NECC group responsible for coordinating the operational response to economic crime. The group aims to reduce the threat of fraud from organised crime groups against SLC.
June 2023			Media articles raised concerns about activities at a small number of franchised providers.
August 2023			GIAA issued its final report which found there were weaknesses in the overall control framework.
September 2023			DfE started to consult sector representatives to consider potential changes to provider regulation.
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.

Notes

1 This Figure focuses on two examples and relevant wider work. Alongside this, there will have been ongoing discussions between DfE, SLC and OfS about how to strengthen the overall framework in response to the potential and actual fraud and abuse identified.

2 Some providers involved in these examples were also subject to wider OfS quality investigations. In May 2022, OfS opened investigations into the quality of business and management courses at eight providers and in December 2022 it opened quality investigations into computing courses at three providers.

Source: National Audit Office analysis of Department for Education, Student Loans Company, Office for Students and Government Internal Audit Agency documents

Concerns identified by SLC

2.5 SLC routinely monitors student funding applications. Between January and June 2022, this identified links between patterns of applicants' behaviour and information from banks and the police which SLC suspected indicated organised criminal activity to fraudulently obtain student funding. This included applications from prospective students whose applications met student funding eligibility requirements but whose qualifications appeared not to meet the provider's course admission criteria; whose applications were made through certain agents; or whose student loan applications appeared inconsistent with other personal details. As a result, SLC notified DfE and OfS of concerns over recruitment practices at the franchised providers of four lead providers.

2.6 In July 2022, OfS asked these four lead providers to commission independent audits of their controls around student recruitment, enrolment and attendance. OfS told us that these audits identified various controls failings including weaknesses in lead providers' oversight of student admission and engagement with franchised providers.

2.7 In August 2022, DfE instructed SLC to block any prospective maintenance or tuition fee loan payments relating to students with certain high-risk characteristics who were applying for funding to attend one of seven providers. SLC ran scripts three times a day to identify student applications with these characteristics. It blocked maintenance and tuition fees pending receipt of a genuine offer letter issued by the lead provider and confirmation from the lead provider that the student was enrolled on their course. In September 2022, DfE extended this work to include three more providers.

2.8 In total, SLC identified and challenged 3,563 potentially suspicious applications associated with £59.8 million of student funding. This comprised £31.7 million in tuition fees; £26.5 million in maintenance loans; and £1.5 million in maintenance grants. By mid-January 2023, 710 (20%) of these 3,563 applicants had still not provided SLC with a genuine offer letter, with their future payments remaining blocked. The amount of money withheld totalled £15.2 million (25% of the originally blocked amount), comprising £10.9 million tuition fees; £3.9 million maintenance loans; and £0.4 million maintenance grants. Since these future payments related to new applications rather than current students, some applicants may not have gone on to take up a place at the provider and drawn down on their loan applications.

Concerns raised with OfS

2.9 In May 2022, a lead provider notified OfS, as required by its conditions of registration, that it had concerns about academic misconduct at one of its franchised providers, an unregistered institution. In August 2022, it then told OfS that it had terminated the franchise agreement, leading to no further recruitment, enrolment, or progression for current or new students and no further teaching. The lead provider informed SLC in September 2022 that it was ending this franchise agreement. It had started investigating to establish which students had been engaging in academic misconduct and should therefore be withdrawn. To stop making maintenance payments to students, SLC would have required an instruction from DfE. However, DfE was not informed of the issue, or identity of the provider, at the time. In October 2022, DfE contacted SLC, after OfS told them about the termination of a franchise agreement but had not named the provider. SLC had stopped making tuition fee payments but told us it had continued to make maintenance loan payments in October 2022 and January 2023 while the provider's investigations were ongoing and as students had not been formally withdrawn. SLC told us that it stopped making these payments as soon as the provider confirmed which students were being withdrawn.

2.10 The lead provider completed its own investigation and, in February 2023, told SLC and OfS that it had identified widespread academic misconduct by students at the franchised provider. SLC then sent DfE a formal incident report. The lead provider had found evidence of widespread plagiarism and cheating, with the majority of the then 1,389 students not producing their own assignments. By March 2023, 6% of the 1,389 students had provided follow-up information, with the lead provider suspecting they had been coached to do so. The lead provider also told OfS that it had commissioned an independent audit of engagement and working practices for its other franchised providers, responsible for teaching more than 1,000 students.

2.11 Later in February 2023, the lead provider told DfE that it expected to withdraw all students who had been cheating. DfE concluded that the lead provider had acted properly in notifying SLC and OfS of its concerns and keeping them updated on the progress of the investigation. DfE was less confident, however, that discussions between SLC and OfS had sufficiently focused on the risk that public funds had been improperly paid. DfE's understanding was that the lead provider had retained 20% of the tuition fees payable in respect of those studying at the franchised provider. DfE considered that, although the regulations do not make this explicit, it would be unacceptable for the lead provider to retain the money since it had ultimate responsibility for its franchised provider. It was difficult to justify making student loan payments in respect of students who were enrolled with a provider but who had fraudulently submitted assignments and who could not, in that context, be viewed as having the genuine intention and ability to study.

2.12 In May 2023, the lead provider agreed to repay £6.1 million representing tuition fees paid in respect of students withdrawn from courses at the franchised provider. In addition to tuition fees, DfE officials estimated that the students at the franchised provider had received an estimated £13 million maintenance loans to which they should not have been entitled. The OfS has clawed back £172,600 of its grant funding paid to the lead provider relating to these students. DfE and OfS have not, to date, imposed other sanctions on the providers.

Teaching quality within franchised providers

2.13 As part of its regulation of quality, OfS routinely reviews student outcomes (whether students continue courses, complete courses and progress to employment). This ultimately informs a decision on whether a provider is compliant with its registration conditions. **Figure 11** overleaf shows how those studying at franchised providers have less positive outcomes compared to students at all providers. DfE told us this may be explained by contextual factors, such as demographic differences.

2.14 OfS's remit relates to lead providers and they do not have direct oversight over franchised providers. DfE has raised concerns about the quality of teaching in franchised providers. The Secretary of State for Education told the House of Commons in July 2023 that DfE would work with OfS to consider franchise arrangements. She was concerned with indications that franchising could lead to a lower quality of higher education despite lead providers having a responsibility to ensure franchised providers provide good-quality courses. It has been publicly reported that providers who have had their registration rejected by OfS are now providing courses through franchise arrangements.

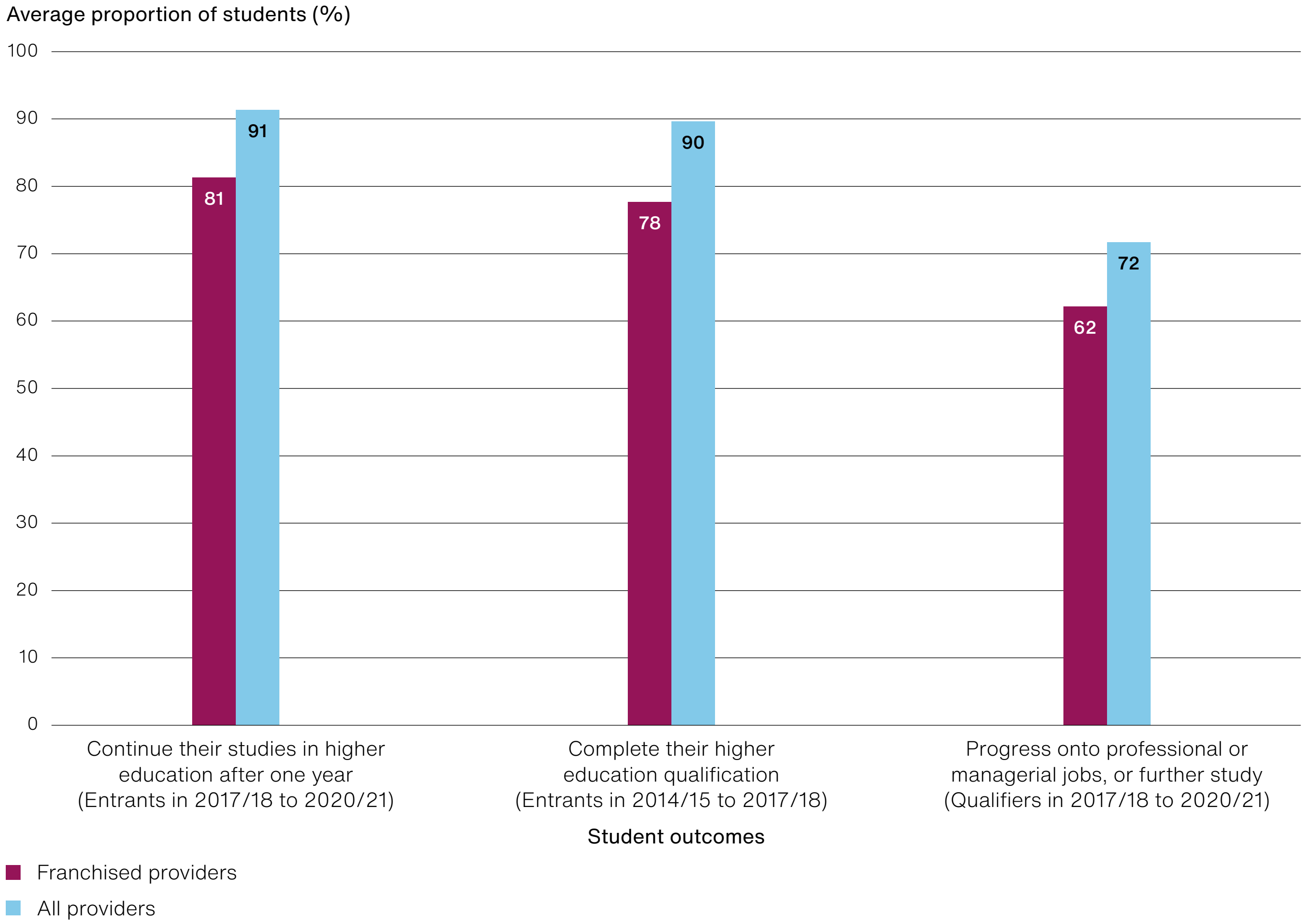
Overarching system weaknesses and government's response

2.15 DfE, OfS, SLC and the Government Internal Audit Agency (GIAA) recognise the need to make changes to the overarching system. Investigations have highlighted governance and regulatory weaknesses impacting the payment of publicly funded student loans to those studying at franchised providers. Not addressing these weaknesses will expose the taxpayer to longer term risks. Although DfE estimates the value of fraud and error associated with student loan payments and reflects this in its annual report and accounts, this does not separate out franchised provider risks.

Figure 11

Comparison of outcomes for full-time, first-degree students at franchised and all providers

Students studying at franchised providers had, on average, less positive outcomes than all students



Note

1 This Figure uses the weighted median, which takes student numbers at different providers into account, to calculate the average proportion of students in each category.

Source: National Audit Office analysis of published Office for Students data

2.16 DfE has told us that since September 2023, there have been discussions with sector representative bodies and universities, with a large proportion of franchised provision, to explore the current regulatory landscape and potential changes. It is now considering the extent to which the roles and responsibilities of different bodies, both individually and collectively, address identified risks; the need for improved information-sharing; and the value of better guidance or a code of practice to improve transparency, governance and oversight of franchising in the interests of providers and students. DfE is also considering options for additional oversight and potential impacts on the regulatory burden and independence of providers. Some options might require primary legislation or statutory instruments. In December 2023, DfE announced an independent review of OfS as part of government's Public Sector Review Programme focusing on OfS's efficacy, governance, accountability, and efficiency. The review will also consider the efficiency and effectiveness of DfE's sponsorship team.

Oversight of providers' recruitment practices

2.17 In March 2018, the Committee of Public Accounts published a report on alternative higher education providers and recommended that the newly established OfS should set out how it would investigate and reduce recruitment malpractice, faking attendance records and coursework, and opaque arrangements for validating degrees.[8] The Committee recommended that OfS should produce a robust plan for remedying these problems. In its Treasury Minute response to the Committee, published in May 2018, the government reported this recommendation as implemented. It said that "the Office for Students' regulatory framework sets out the ongoing conditions of registration that require good governance and management, and for recruitment and admissions arrangements to meet requirements".[9] It also said OfS had the power to investigate and, where necessary, impose sanctions, should there be evidence requirements had not been met.[10]

8 HC Committee of Public Accounts, *Alternative Higher Education Providers*, Twenty-Third Report of Session 2017-19, HC 736, March 2018.

9 Government consulted on the Office for Students' regulatory framework in April 2018.

10 HM Treasury, *Government response to the Committee of Public Accounts on the Twentieth to the Thirtieth reports from Session 2017-19*, Cm 9618, 23 May 2018.

2.18 Neither DfE nor OfS has published guidance relating to the use of agents and financial incentives to recruit students domestically. Recruiting agents are also not specifically mentioned in the Competition and Markets Authority's (CMA) consumer law advice for providers, but the CMA confirmed that consumer law, and its general compliance guidance, applies to recruiting agents and to providers using them. In July 2023, DfE published a consultation response stating that providers should have safeguards to protect student interests during recruitment, including where agents are used. Provider guidance, such as that issued to registered providers to help make prospective students aware of published course information and provider outcomes to help make informed decisions, has not yet been updated. DfE's consultation response indicates it will work with OfS to make clearer its expectations of providers relating to student recruitment. This does not apply to unregistered providers, over which government has less direct oversight.

Insufficient evidence behind students' course attendance to inform their eligibility for public funding

2.19 SLC pays student loan payments where lead providers have confirmed a student's attendance. DfE and SLC see attendance as an indicator of a student's course engagement, which in turn influences students' outcomes and the likelihood of student loan repayments. The overall framework does not set out what is meant by 'engagement' or 'attendance', with lead providers determining themselves whether students are meaningfully engaged in their course. SLC sees attendance as including self-study and exam preparation, and DfE views it as students participating in their course in good faith. GIAA noted that regulations do not make clear where responsibility to impose requirements on providers, such as a definition of student attendance, rests.

2.20 As part of its responsibilities, OfS ensures providers meet registration conditions which include having adequate and effective governance, for example controls to produce accurate data. In an online blog published in October 2022, OfS noted that it had "seen cases where a provider's approach to attendance monitoring is passive and reactive, with attendance confirmed unless a student has told the provider they are leaving their course. In the absence of a notification of withdrawal, students are deemed to be attending and engaging, whether or not this is the case."

2.21 In its internal audit report, GIAA identified an inherent risk that providers self-certify student attendance data on which SLC makes payments. GIAA concluded that SLC does not have (and is unable to implement on its own) sufficient controls to obtain assurance over the continued participation of students, particularly for franchised providers where they rely on the effectiveness of lead providers' controls. In April 2023, as part of a wider review of higher education controls, DfE was considering how to address the risks of students not engaging with their courses receiving public funding.

Reliance on lead providers' controls over franchised providers

2.22 Under the Higher Education and Research Act 2017 (HERA), OfS has powers to monitor providers' compliance with their registration conditions, requesting information from them to help exercise these powers. Although OfS has no direct oversight of unregistered providers, it can in principle request information from them to perform its regulatory functions. OfS recognises that this power has been used infrequently as it cannot enforce regulations on unregistered providers. To date, SLC and OfS have largely relied on lead providers' governance and internal controls over their franchise arrangements. The instances of actual and suspected fraud identified show that some lead providers have not established or maintained adequate controls. Lead providers have few incentives to detect abuse of the student loans system in franchised providers since they benefit financially from increasing student numbers. Where it has identified weak governance, OfS has not yet named the lead or franchised providers.

2.23 Lead providers have responsibility for ensuring franchised providers have adequate controls, including for monitoring recruitment and attendance, to mitigate the risk of inappropriate student loan funding payments. OfS told us that it had engaged with lead providers to remind them of their responsibilities for good governance. More specifically, in October 2022, OfS published a blog referencing its work with SLC, sharing provider information where fraud could be a concern. This noted that "courses delivered through partnership arrangements often feature in this intelligence and we have engaged with a number of providers because of our concerns."

Alignment of responsibilities, ability to act and risk appetite

2.24 As system leader, DfE has responsibility for setting the higher education regulatory framework within the parameters determined by Parliament (**Figure 12** overleaf). GIAA concluded that neither SLC nor OfS have a formal fraud enforcement role, and highlighted the challenges in gaining assurance over the legitimacy of funding applications. It also found that DfE, SLC and OfS do not routinely share assurances on how well they are fulfilling their respective responsibilities, and suggested that DfE considers whether OfS should be given new and express powers to oversee and investigate student loan fraud.

Figure 12
Responsibilities for managing risks within the regulatory framework for franchised providers

As of December 2023, gaps in the regulatory system increased the risk of fraud or abuse concerning student loans issued to those studying at franchised providers

Responsibilities for:	Department for Education (DfE)	Student Loans Company (SLC)	Office for Students (OfS)	Lead providers
Controls to reduce risk				
Oversight of recruitment practices, including agents and incentives	No explicit role, but sets overall policy framework	No role	No role	Implicit role, but unregulated and not covered by conditions of registration
Data on students' course attendance and eligibility for SLC funding	No explicit role, but sets overall policy framework	Explicit duty to pay following providers' assurance	No role	Explicit assurance to SLC
Adequacy of lead providers' controls over franchised providers in respect of SLC funding	No explicit role, but sets overall policy framework	No role	Monitors lead providers to ensure their compliance with conditions of registration, but no explicit duty to protect SLC funding	Explicit duty given conditions of registration
Identifying and following-up potential fraud risks in respect of SLC funding				
Investigation, enforcement action and sanctions on individuals	No explicit role, but sets overall policy framework	Explicit powers to act	No role	Implicit in responsibilities where, for example, academic misconduct is found
Investigation, enforcement action and sanctions on providers	No explicit role, but sets overall policy framework	No role	Subject to OfS's risk-based approach where relevant to conditions of registration	No role
Data sharing, coordination and collaboration to aid detection of systemic fraud risk in franchised providers	No explicit role, but sets overall policy framework	Share data by agreement, but not explicit	Share data by agreement, but not explicit	Explicit responsibility to submit data returns to SLC and OfS, and to notify of breaches

Source: National Audit Office review of the regulatory framework

2.25 As set out in accounting officer responsibilities, all public sector organisations have a responsibility for ensuring value for money across the public sector, but can only act within their formal obligations and powers. In terms of their roles, neither OfS nor SLC have a formal role to prevent fraud. In terms of detecting fraud and imposing sanctions:

- SLC told us that it has minimal tolerance for risks to taxpayers' money but considers that it cannot always act. SLC can act on suspicious fraudulent applications from individuals but is legally obliged to pay student loan payments for eligible students unless instructed by DfE. In terms of providers, it can review the robustness of lead providers' data. If it identifies issues, providers can resolve concerns by agreeing with SLC an action plan and statement to improve and SLC can notify DfE and OfS of concerns about the information submitted. Where they identify risks, SLC has no express power to investigate or impose sanctions on providers. It does not currently regulate, launch investigations, request additional data, or apply sanctions. It can recover overpaid tuition fees, whether or not students are still studying, from providers by netting off amounts owed against future payments. It is less straightforward to recover maintenance loans and grants paid directly to students once they have stopped studying. For most students, loan repayments are normally recovered by HM Revenue & Customs through the tax system.
- OfS has a statutory power to protect public money for the grant funding it distributes to providers, but it does not have any specific power to identify or investigate potential fraud relating to student loans. It has powers to impose sanctions where a registered provider has, or appears to have, breached its registration conditions. Given these conditions include quality, management and governance, OfS has the powers to influence providers' behaviour which may indirectly relate to misused SLC funding. HERA explicitly prohibits OfS from imposing terms and conditions on funding not coming from itself, which includes SLC funding.

2.26 We reported in March 2022 that OfS had adopted a data-led, risk-based regulatory approach in line with its legislative responsibilities. To identify providers for further scrutiny, it collects detailed annual financial and performance data from all registered providers; considers other information such as from third parties; and requires providers to report events, such as a change to teaching provision, that might increase risk. As part of this, OfS applies a degree of judgement, reflecting the resources it has available, in setting the risk it is prepared to tolerate.

Scope for increased data-sharing, coordination and collaboration

2.27 Within the regulatory framework overseen by DfE, each organisation must fulfil their own statutory objectives set by Parliament, but that alone will not ensure the framework works effectively. The level of coordination between respective bodies, the degree of tension between system-level and organisation-level objectives, and how incentives are balanced across different parties, including providers, will have an impact. The National Audit Office's *Good practice guidance: Principles of effective regulation* includes an expectation for mechanisms to coordinate and collaborate where bodies work alongside each other to achieve public policy objectives.[11] We have also set out the value of a whole-government approach in our wider insights work on fraud and error.[12]

2.28 In May 2023, SLC began co-chairing a group within the National Economic Crime Centre, which coordinates the operational response work to economic crime across policing, wider law enforcement, other government departments and the private sector. It includes the National Crime Agency, Serious Fraud Office, Financial Conduct Authority, and major banks. The group aims to reduce the threat of fraud against SLC committed by organised crime groups. More widely, GIAA suggested that OfS and SLC should further consider information-sharing protocols to flag potential non-compliance.

11 National Audit Office, *Good practice guidance: Principles of effective regulation*, May 2021.
12 Comptroller and Auditor General, *Tackling fraud and corruption against government*, Session 2022-23, HC 1199, National Audit Office, March 2023.

Appendix One

Our investigative approach

Scope

1 We conducted an investigation into the specific concern that discovery of fraudulent claims for student loan funding had exposed systemic weaknesses in the governance and regulation of providers, particularly among franchised providers.

2 This report scope differs from assessing the estimated fraud and error disclosed in the Department for Education (DfE) consolidated accounts, which totalled an estimated £327 million out of the £20 billion new loans issued in 2022/23. While these errors represent irregular payments, they are not necessarily deliberately fraudulent and are unrelated to the concerns covered as part of this investigation.

Methods

3 In examining these issues, we drew on a variety of evidence sources, through fieldwork conducted between August and December 2023, to set out the facts.

4 We interviewed key individuals from DfE, Office for Students (OfS) and Student Loans Company (SLC) to establish the landscape of franchised provision, the responsibilities of each organisation and the regulatory frameworks within which they operate, the timetable of events and the risks and gaps in the frameworks which these exposed, and available data and limitations:

- DfE – to find what data were used by DfE to gain assurance that the regulatory regimes were working for franchised provision, what limitations there were to that data and the current landscape of franchising.
- OFS – to establish:
  - OfS's perspective on its roles and responsibilities, the extent of its reach into franchised providers, its response to the risks and any success from OfS intervention;
  - the content, sources and frequency of data collection from providers and how it uses data regulatory intelligence to assess risk, and to request data on student numbers, characteristics and patterns of study at franchised providers; and
  - OfS's oversight and interventions where action was required.

- SLC to establish:
  - the perspective of SLC on its roles and responsibilities, to understand the payment process of loans and the dependence on self-certification of providers; and
  - lessons learned from the potential National Economic Crime Centre fraud investigation, and timeline of relevant events.

5 We reviewed the following documents:

- Reports by DfE to advise the accounting officer and ministers on the situation regarding fraud and academic misconduct and seek decisions on recommendations to respond to this.
- Government Internal Audit Agency's *Report on Higher Education (HE) Operational Assurance Arrangements*.
- Papers to the OfS board regarding sub-contractual relationships, the approach to fraud allegations and data relating to UK-based partnerships.
- SLC board and audit risk committee papers for the relevant period, and documents regarding the process and timing of loan payments, the timeline of fraud detections and lessons learned.
- National Audit Office financial audit information relevant to franchised provision from the financial audit of DfE.
- Publicly available information on:
  - the legal basis for regulation of the higher education sector, the Higher Education and Research Act 2017 (HERA), the regulatory frameworks for OfS and SLC, and DfE documents relating to the consultation on HE reform;
  - OfS regulatory advice, guidance and blogs to the sector;
  - SLC student loans guidance;
  - press and commentator articles (for example, published on *Wonkhe*); and
  - UK Parliament publications arising from the House of Lords inquiry into the work of the OfS.

6 We analysed the following data:

- Internal data from OfS on student numbers, characteristics, patterns of study and outcomes for students at franchised providers. This was used to illustrate trends in the numbers of students in franchised provision and ways in which the characteristics of students in franchised provision differ from those in the HE sector as a whole.
- Internal data from SLC on the numbers of students, amounts of loans provided and fraud case numbers and values for franchised and other providers.
- Publicly available data from OfS on student numbers, characteristics and outcomes for students. This was used to compare the analysis results for franchised providers with those from the higher education sector as a whole.
- The OfS data analysed were sourced from 2018/19 to 2021/22.
- Publicly available data from SLC on loans issued from 2018-19 to 2022-23. This was used to add context to the scale of student loans issued.

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