

Briefing for the Public Petitions Committee

Petition Number: [PE1807](#)

Main Petitioner: Jordan Hunter

Subject: Compensation for paying university students

Calls on the Parliament to urge the Scottish Government to make funding available for Scottish universities to compensate paying university students for lost class time and a lower quality of education as a result of staff strikes and the COVID-19 crisis.

Introduction

Most full-time Scottish-domiciled students studying in Scotland do not have to pay for the cost of their course if studying for an HNC, HND or first degree, or equivalent, for the first time.

Fees for these students are covered by the Student Awards Agency for Scotland (SAAS) – the fee is £1,820. However, the fee is only one part of the funding Higher Education Institutions (HEIs) will receive to support the teaching of Scottish domiciled students. The teaching grant, which is administered by the Scottish Funding Council (SFC), is paid to HEIs to deliver teaching and learning. Courses cost differing amounts to run. In 2018/19, the average total funding (teaching grant and fees) per FTE student was £7,159.

Under-graduate students from other nations of the UK may be charged fees up to a maximum of £9,250 per year. There is no cap on the fees a university can charge International students from outside of the EU.

It is important to note that Scottish domiciled students taking part-time and post-graduate courses would not necessarily have their fees and costs paid for in the same way. Scottish students studying outside of Scotland do not have their fees paid but may be supported by Student loans.

The COVID-19 pandemic and financial uncertainty

As with other sectors, the COVID-19 pandemic potentially represents a severe fiscal shock to the university sector. International students' fees represent a significant portion of income for the sector, and for some institutions in particular. The SFC undertook some initial work on the potential impact of coronavirus and published [a briefing on 29 April 2020](#). The SFC estimated that the sector could suffer deficits of around £450m-£500m and that these

losses could last several years. This is around half of the annual total of Scottish Government teaching funding for universities.

Brexit also creates some uncertainty for universities. Particularly around the access to research funding.

Disruption to teaching and learning in 2019-20

The petitioner identifies two elements of disruption to teaching and learning in the 2019-20 academic year: industrial action and the lockdown due to COVID-19.

Industrial action

There have been two sets of strike action by members of the University and College Union (UCU) in the 19-20 academic year. In November and December there were 8 days of strike action and in February and March 2020 there were 14 days of action. The dispute was about pensions and pay and conditions. Not all HEIs in Scotland were affected and the exact nature of the dispute also varied a little in some institutions.

COVID-19

At the start of the lockdown period, universities were required to close their campuses for face-to-face teaching activities. However, teaching, learning and assessment continued largely online. This response was praised by the SFC. Karen Watt told the [Education and Skills Committee on 15 May 2020](#)—

“I pay tribute to colleges and universities, which have been amazing at responding swiftly and responsibly from the outset of the crisis. They have quickly moved to online teaching and, where possible, assessments. They have taken care to look after the health and wellbeing of their students and staff. They have also been making a huge practical contribution to the national Covid19 effort by providing equipment and premises, and many of our universities have contributed to the world-leading research effort to tackle Covid19. Colleges and universities will also play a vital role in helping Scotland to recover from the current situation.” (Col.4)

The SFC did note, however, that teaching and learning in some practical courses may be a particular challenge, as could teaching and learning for those who may not have a suitable home environment for studying online. (Col. 7)

Guidance for universities from the Quality Assurance Agency (QAA) stated that, “Students with particular characteristics or specific needs may experience additional challenges and are likely to require additional support.”¹

¹ Covid-19: Thematic Guidance - Securing Academic Standards And Supporting Student Achievement <https://www.qaa.ac.uk/news-events/support-and-guidance-covid-19>

More broadly, the QAA stated, “Governing bodies need to be satisfied that academic standards are being achieved no matter what adjustments you need to make to the learning and assessment strategies in light of COVID-19.”²

International students may have chosen to return to their home countries and be unable to access teaching and learning. The QAA’s guidance stated that HEIs’ “existing policies on extenuating circumstances may cover such situations, in the same way as other accessibility issues.”

On 9 April 2020, the Scottish Government [produced guidance for international students living in Scotland](#). This guidance stated:

“We strongly recommend that for the information, support and advice that will be most relevant to you, that you regularly check with:

- your college or university’s website
- your course tutors and, where applicable
- your college or university’s International Department”

[QAA Scotland’s “Focus On” topic in 2019-20 is technology enhanced learning](#), and this has taken on increased relevance to universities as they respond to the pandemic. The QAA produced an online resource hub covering topics including getting teaching online, enhancing inclusion, and policy and strategy development.

In early April, [the Scottish Government announced a £5 million package](#) of emergency financial support to help students in further and higher education who are facing hardship as a result of the outbreak. The SFC provides financial support to students studying further education courses in colleges and has brought forward £2m of “advance funding to support students experiencing financial hardship as a result of COVID-19”. Universities have been active in supporting students to access learning through the provision of IT equipment. The Education and Skills Committee held an online focus group with a number of university principals in May 2020. [A write-up of that focus group stated](#)—

“All universities were aware of the potential barriers of ‘digital poverty’ through lack of devices, broadband or the opportunities for individuals to learn at home. Institutions had provided resources directly to students to support this. However, the full impact was not known.”

Role of the Scottish Government and SFC

Universities are independent charitable organisations. They are not generally considered to be part of the public sector. The Scottish Government provides

² Covid-19: Initial Guidance For Higher Education Providers On Standards And Quality, <https://www.qaa.ac.uk/news-events/support-and-guidance-covid-19>

a significant public investment in the sector in terms of both teaching and research activities.

As noted above, there is more than one funding stream, but much of the funding is distributed through the SFC. One of the roles of the SFC is to support the sector to contribute to national strategic goals. Strategic direction to the SFC is set out in ministerial letters of guidance. The SFC also plays a role in advising Ministers on Higher and Further Education policy.

Relationship between the student and the institution

There is some philosophical debate within education on the extent to which provision of education can be modelled on a commercial arrangement. On the one hand, a student may pay for and expect a service; on the other hand, teaching and learning is seen as a collaborative exercise and would not necessarily result in an expected qualification, which is unlike much commercial activity.

The Competition and Markets Authority (CMA) published [guidance for Higher Education Institutions in 2015](#) in which it noted that “consumer protection law will generally apply to the relationship between HE providers and prospective and current undergraduate students.”

Following the CMA guidance, [Universities UK published a briefing on student contracts in 2018](#). Both publications highlighted the need for clear processes for complaints and redress. The CMA noted that, in certain circumstances, a student could potentially pursue a civil claim for breach of contract (para 2.31); however, guidance by Universities UK states that students should, “have access to complaints schemes and independent adjudication to resolve disputes without costly court action”.

Universities can set out what a student may expect from a university in the form of terms and conditions. The [University of Edinburgh's](#) terms and conditions state—

“The University shall not be liable for failure to perform any obligations under the Contract if such failure is caused by any act or event beyond the University's reasonable control including acts of God, war, terrorism, industrial disputes (including disputes involving the University's employees), fire, flood, storm and national emergencies ("Force Majeure Event"). If the University is the subject of a Force Majeure Event, it will take all reasonable steps to minimise the disruption to your studies.”

The issue of redress in the event of a dispute between a student and a university is the subject of [PE1769: Higher Education in Scotland](#). That petition's genesis was a complaint and dispute about fees between the petitioner and their university following the industrial action in late 2019.

Scottish Parliament action

In addition to the Public Petitions Committee's work on PE1769, the Education and Skills Committee undertook work on the impact of COVID-19 on Higher and Further Education in Spring 2020. During its [meeting on 15 May 2020](#), Rona Mackay MSP asked the SFC for its opinion on the suggestion that "that students should be able to repeat years or receive refunds for fees that have been paid in the current financial year". Karen Watt, Chief Executive of the SFC, said:

"Those are complex issues with many sides to them. On the issue of fees and refunds, we are not aware of a lot of requests coming in, but we are looking at the issue. I cannot speak for SAAS or the Student Loans Company, but it is fair to say that if, for example, an institution is really struggling to keep tuition going— particularly in making sure that there is adequate online provision—there may well be a case for students looking at what they are being provided. However, as far as we can see, every institution has quickly pivoted to online support and provision, therefore we are seeing less requirement and less demand for refunds." (Col. 6)

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