

The government's plans for risk-based regulation for the higher education sector will encourage more risky and competitive behaviour among institutions, with potentially dire consequences.

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One of the proposals of the government's higher education White Paper is to introduce risk-based regulation of institutions, with the goal of reducing bureaucratic burdens and allowing universities to become more entrepreneurial. [Roger King](#) argues that while attractive on the surface, these reforms may drive some institutions towards highly risky behaviour, with potentially damaging consequences to the reputation of English universities at home and abroad.



The recent White Paper, '[Higher Education: Students at the Heart of the System](#)' proposes the introduction of risk-based regulation to English higher education. The Higher Education Funding Council (HEFCE) will become 'lead regulator' and coordinate other regulatory agencies, notably the Quality Assurance Agency (QAA). Although found across many government departments and regulators since the Treasury-sponsored [Hampton Review of 2005](#), risk-based regulation (RBR) is a dangerous move for higher education, not least on matters of quality and standards.

RBR will provide more selective monitoring of universities and colleges, based on considerations of the risks that individual providers pose to the sector, to the taxpayer, and to students. For example, full institutional review of standards by the QAA for most institutions will become a less regular event, and may disappear entirely. The idea is that most universities will benefit from reduced administrative burdens and become freer to engage as full-blown entrepreneurs in both domestic and global markets. Regulatory quality is also thought to be enhanced – by being proportionate, targeted, and explicit.

In the abstract, these developments appear sensible. In the context of the wider higher education reforms, they could be disastrous. They also appear at variance to the Bologna Process, where Agreements (to which the UK is a signatory) insist on equal treatment for all students and institutions through regular (cyclical) external quality review of all higher education entities. With RBR there is a clear danger of complacency and risk incubation in those institutions deemed 'low risk/highly trusted' (initially determining and justifying why institutions fall into the different classes of 'trusted to not trusted' will not be easy: challenges from various Boards could mire QAA in a quagmire of objections). Arguably, the benefits to students and taxpayers may be best served by a regular review of all institutions, with a view of capturing a range of low-to-medium risk across the sector, rather than an exclusive focus on perceived high-risk providers.

The new funding system for higher education will make for a much riskier environment for many and make the implementation of 'light-touch' RBR for the majority a source of systemic risk. Some institutions (by no means all ex-polytechnics) will become particularly vulnerable to the continual loss of allocated student numbers and this may lead to risky behaviour by even those deemed originally as 'low risk'. Reducing fees to a net figure less than £7500, in order to bid to HEFCE to reclaim lost student numbers stripped from the core for bidding purposes (higher than this and an institution is excluded from the bidding process), is likely to result in significant cost reduction measures, including possibly for institutional quality assurance.

Revenue seeking in such circumstances also may lead to risky entrepreneurial behaviour in high-fee earning (unregulated) international markets to replace lost domestic students. Particularly risky would be wider and rapid use of franchising with dubious partners abroad to expand provision and numbers. Failures in this type of activity are particularly prone to media scrutiny and potential 'scandalizing', leading to increased risk for the regulators. Moreover, too much of this and politicians may not be able to resist calls to return to more traditional command-and-control regulatory forms.

It is also not clear what arrangements HEFCE will establish for considering bids from institutions for the 'margin' students in the pool created from stripped down core allocations. Will HEFCE's decisionmaking be risk-based, and, if so, will it seek to guard against individual institution risk or wider systemic risk? The extent to which such bureaucratically-determined decisions will match those of the market (defined as student preferences) is not obvious. Moreover, such a system has the potential to impose significant data and

paperwork burdens on many of the so-called 'lightly-regulated' institutions as they bid to recapture lost numbers.

The White Paper also proposes to [exempt AAB](#) (A-level and equivalent) 'high performers' from the reduced allocations. Establishing a government threshold that defines 'high achievement' – effectively regulating university admissions – is an extraordinary move and unprecedented. Moreover, an elite of universities with high levels of recruited AAB students (plus established research funding and high status), will remain largely free from the domestic competitive pressures introduced by the reforms.

Consequently, the sector will become even more competitive (divisive some might say) and very high risk for many institutions. Yet it is not clear whether these varying risk and reputation potentialities stemming from the reforms will match the risk categories constituted by HEFCE and QAA for regulatory purposes. The introduction of RBR may significantly and adversely impact on the reputation and attraction of English universities as a whole, if it is felt abroad that the vast majority of English higher education institutions are subject only to sparse external quality assurance.

Moreover, the allocation of student numbers after a price-bidding war is not guaranteed to add lustre to the UK higher education 'brand'. Foreign senders and funders of international students may feel that the quality of at least some provision cannot be guaranteed and may consequently look elsewhere, despite the obvious encouragement by government for institutions to become even more competitive globally.

Finally, the proposal to use student satisfaction as a guide to the necessity of regulatory intervention or otherwise is unwise. Evidence from a range of other sectors (such as the financial services sector) suggest that often customers may be very well-satisfied with the service and advice received but possess limited ability to assess the comparative value of such advice. Recent [research by Duna Sabri](#) at the Centre for Public Policy Research at King's College London, indicates that the scores in the National Student Survey show it is a poor indicator of quality and has limited usefulness.

Introducing RBR to higher education follows its inception over the last decade in other sectors, as part of the 'Modernizing Government' agenda of the Blair and Brown governments. Its rather generalizing spread across government does not make it an appropriate model for all sectors in all circumstances. By apparently tolerating some forms of risk, the approach poses considerable danger for regulators too, particularly if a scandal in a 'low risk' institution suddenly blows up. Regulators in such circumstances understandably begin to focus as much attention of reducing risk to themselves as to the public.

Rather than the introduction of RBR for the purposes of institutional quality review – what we might term 'detection' – it may be better to utilize a RBR approach to regulatory enforcement strategies. That is, initial trusting approaches to enforcement of the regulator's requirements would escalate up a 'regulatory pyramid' to more punitive approaches in the event of non-compliance 'at the top', dependent on levels of remedial recovery and institutional amenability to the task in hand. More particularly, a capacity to learn the lessons from earlier applications of RBR to other areas of government would appear to be a necessary step for both government and the higher education regulators.

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A much expanded version of the arguments presented here may be found in ['The Risks of Risk-Based Regulation: The Regulatory Challenges of the Higher Education White Paper for England'](#), published by the Higher Education Policy Institute, 10 November.

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