

BAN ALL POLITICAL INTERFERENCE WITH UNIVERSITY TUITION FEES

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The question of whether the government should allow universities to increase their tuition fees above the current cap is being widely discussed. However, this question is based on the assumption that the government should be free to dictate how much a university should charge students for its services in the first place. If universities were state-owned institutions, then this would be expected. However, in the UK every university is recognised by law as a private, independent and autonomous institution. As noted by the Committee of University Chairmen in 2004, while universities may be different in origin and size, they all share the characteristic of being legally independent corporate institutions which are 'accountable through a governing body which carries ultimate responsibility for all aspects of the institution'.¹

This raises the question of why politicians are now dictating to apparently independent universities how much they can charge students for their services. Unfortunately, the cap on tuition fees was sanctioned in Section 24 of the 2004 Higher Education Act, which imposed a condition on the governing body of each institution to ensure that its tuition fees did not exceed the specified £3,000 limit. Any institution which fails to meet this condition is threatened with financial penalties and, as the government continues to provide more than 50% of university funding, the fear of losing this income is sufficient to force universities to do whatever the government dictates. However, as this condition clearly undermines the independence of universities and their freedom to set their own fees, it raises the question of whether there are now any restrictions or limits left relating to the nature and extent of government interference with private institutions operating in this sector?

The fact that this question is being asked suggests that there is now increasing uncertainty and confusion surrounding the rule of law in higher education, with the government no longer bound by rules which are fixed and announced beforehand. As a result, it is now difficult for universities to predict with any degree of certainty how or

what the government is going to do next, making it difficult for universities to plan for the future.

This suggests that the most important question which still needs to be addressed in higher education is not whether the government should allow universities to charge a particular level of fees, but whether universities are private, autonomous and independent institutions. If they are, then it is not up to the government to dictate what level of fees they can charge. The claim that this is a public matter, due to the level of public subsidies, is correct only up to a point and the government is only free to monitor how these subsidies are spent.

However, this does not justify the government introducing new legislation to further its political objectives, which also clearly undermines the private status of these institutions. Section 24 of the 2004 Higher Education Act therefore needs to be repealed and all future legislation on higher education must include a clause stating that any government intervention in the higher education sector must not in any way interfere or undermine the freedom and right of private institutions to set their own tuition fees. As noted by F. A. Hayek in *The Road to Serfdom* in 1944, the discretion left to the government should be reduced as much as possible in order to prevent it from 'stultifying individual efforts by *ad hoc* action'. Within the known rules of the game, universities must be free to pursue their own individual missions.

If any future government wants to use universities to help with social engineering, then they have two choices. Either they can try and nationalise the existing universities or they can set up their own government institutions. Otherwise, politicians need to be reminded that they are not there to dictate what private institutions can and cannot do.

1. Guide for Members of Higher Education Governing Bodies in the UK, November 2004, Committee of University Chairmen, p. 37.

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