

OxCHEPS Occasional Paper No.74 (November 22) - This Paper from UsforThem working with Paul Wiltshire presents an interesting exercise in trying to gather information to inform a family decision over the selection of possible universities at which to study Law. It demonstrates just how hard it is to access meaningful information when hoping to be an informed consumer and why HE providers need to be forced to set out such data - and then be held to their providing of such 'material information' via a standardised, fair, comprehensive University-Student (Business2Consumer) contract to educate that is compliant with the Consumer Rights Act 2015 and with the strictures of the CMA 2015 guidance to universities over the applicability of consumer protection legislation to the legal relationship with their students, and as enforced by the OfS as part of the regulatory framework or indeed by the student using the small-claims court if not Trading Standards. (See also Occasional Paper No. 60 - NB its suggested data template now needing updating to show the use of hybrid teaching delivery within courses.)



Online vs. face-to-face law course teaching for 2022/2023: are students being shortchanged?

BRIEFING PAPER FOR POLICYMAKERS

This research sets out to provide indicative data on UK universities' plans for 2022/2023 with regards to online vs. face-to-face teaching. It focuses on one undergraduate course, Law LLB, as an indicator for teaching delivery in the university sector as a whole

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- Nearly 30% of the 112 universities we surveyed offering an LLB course specifically stated that they were retaining online teaching to some extent, despite restrictions on in-person teaching having ended in July 2021
- 16% of the universities are yet to respond to our queries, or are still due to provide a clearer answer, despite multiple communication attempts over three weeks
- Whilst it is encouraging that the remainder claim to be back to full face-to-face teaching, it remains to be seen if structured in-person contact teaching hours genuinely match pre-pandemic levels
- Some universities' policies are well out of kilter with what students want and what is best for their education, socialisation, mental health and wellbeing. This is evidenced by alarming responses such as it is "too early" to provide teaching information for September or that continued online learning is in the students' best interests
- It is a concern that some universities may be being deliberately vague about their teaching methods to prevent students from making successful complaints to the Office of the Independent Adjudicator for Higher Education (OIAHE) should they not receive the level of face-to-face teaching they were led to expect
- We recommend that universities are compelled to give a detailed breakdown of online and face-to-face structured teaching hours for each course (e.g., with example timetables), to enable students to make informed consumer choices; this could either be provided via UCAS or on university websites

'Blended learning' the story of 2021/2022

The prevalence of online learning persisted over the course of the 2021/2022 academic year, despite the removal of restrictions on face-to-face teaching in July 2021. In fact, the Higher Education Policy Institute reported that only 11% of students had all their lectures face to face in the past academic year.¹ Data from the Office for National Statistics (ONS) 'Student COVID-19 Insights Survey' were even more revealing, with 27% of students reporting that they had zero hours of face-to-face teaching in the previous seven days (25/2-7/3/2022).² This indicates that most universities maintained a 'blended learning' strategy, involving mixed digital and in-person teaching in varying proportions. This also confirms our own research from May indicating that 81% of universities were retaining elements of online/blended learning right to the end of 2021/2022.³

Anecdotally, there appears to have been some movement back to more face-to-face teaching throughout 2021/2022, which will hopefully continue. With the main deadline of 9 June having passed for the 2022/2023 student intake to accept conditional offers via the UCAS university admissions service, potential students are well committed to their courses, but have little clarity on the proportion of face-to-face teaching they can expect in September. The independent regulator of higher education in England, Office for Students (OfS), announced in March that it is carrying out a review of blended learning due to be published in summer 2022, but this will be too late to impact this year's cohort.⁴

Survey data indicates a mixed bag for September

Lack of consumer focus

This month UsForThem conducted research into 112 UK universities offering law degrees to gauge the following: 1. The extent to which it is possible for prospective students and their parents to differentiate between courses which are fully face-to-face (perhaps with online elements as a supplement) and those which involve a significant portion of online teaching (as a replacement for in-person teaching); and 2. The extent of online teaching set to continue in 2022/2023 in the sector as a whole.

Of the 112 universities surveyed, 33 specifically stated that they were retaining online teaching to some extent. A surprising 16% of the institutions we contacted (18 in total) have still not answered the two simple questions posed, despite four communication attempts sent to the email address stipulated for admissions enquiries on their websites and/or by completing up to three enquiry forms. The remainder replied with varying claims of offering fully face-to-face teaching for 2022/2023. This is encouraging, but it is far from certain

¹ <https://www.hepi.ac.uk/wp-content/uploads/2022/06/2022-Student-Academic-Experience-Survey.pdf>

² <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandwellbeing/bulletins/coronavirusandhighereducationstudents/25februaryto7march2022>

³ <https://usforthem.co.uk/resources/term-3-review-of-teaching-delivery/>

⁴ <https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/ofs-to-launch-review-of-blended-learning/>

whether these statements can be taken at face value due to a lack of consistent terminology and comparable data (we explain below why claims like this cannot always be relied upon). Obtaining direct answers to the email/contact form questions often took 10 or more working days and required several follow-up e-mails and questions.

Some shocking responses

Alarming, many universities stated that it was “too early” to say in detail how teaching would be delivered in 2022/2023. One wonders just how much notice they think would be appropriate to give to student consumers planning to part with an annual fee of up to £9,250 (and much more for international students) in just over two months’ time?

In a remarkable example of gaslighting, many of the universities that admitted to retaining some online teaching for the coming year said that this was somehow in the students’ best interests. Responses to our questions included that online lectures “work well, if not better” than in-person, online delivery has “received good feedback”, that students “would rather listen to [lectures] online at their leisure”, and even that online sessions were “part of a plan to attain higher student engagement”.

Worrying trend for students’ education and wellbeing

Despite claims by universities on the popularity of online learning, independent polls show that students overwhelmingly want in-person teaching, with for instance 90% of students in a recent UPP Foundation survey saying they ‘strongly or somewhat prefer’ in-person teaching where content is also recorded.⁵ Many universities claiming to have returned to full face-to-face teaching are making recordings of lectures available and/or offering a livestream option. Whilst this may appear flexible and useful, without safeguards in place to ensure high levels of physical attendance, this could result in sparsely attended lecture halls, devaluing students’ in-person campus experience and affecting their socialisation and wellbeing. It is concerning that decisions to move more teaching online appear to be made without evidence that this is academically or socially better for students. Indeed, experts say that not only is online education “vastly inferior” to face-to-face teaching, it can also inflict “serious intellectual, social and psychological harm on students”.⁶

The aforementioned ONS survey which revealed the continued high prevalence of online learning also highlighted a worrying trend in mental health, with 17% of students reporting that they feel lonely ‘often or always’, significantly higher than the 7% reported for the adult population. In addition, 36% of students said in February/March 2022 that their mental health and wellbeing had worsened since the start of the autumn 2021 term; a statistically significant increase on the response from November 2021 (28%).⁷ With these figures,

⁵<https://upp-foundation.org/wp-content/uploads/2022/02/A-Student-Futures-Manifesto-Final-Report-of-the-Student-Futures-Commission.pdf>

⁶<https://www.telegraph.co.uk/opinion/2021/12/15/letters-scaremongering-announce-omicron-death-no-data/>

⁷<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandwellbeing/bulletins/coronavirusandhighereducationstudents/25februaryto7march2022>

parents have good reason to be concerned about the prospect of their children being stuck in their bedrooms watching hours of online lectures.

Teaching hours unclear

A wide range of total face-to-face contact structured teaching hours for lectures and seminars per week was given by universities claiming to be fully face-to-face, from as few as seven hours up to about 15. Potential students would have reason to be concerned whether those at the lower end of the range are genuinely fully face-to-face, and if they are truly offering the same level of face-to-face teaching hours as pre-pandemic. To further complicate matters, universities often refer to their overall contact hours rather than only their structured teaching contact hours. This higher total can give a false impression and could include, for example, optional drop-in question and answer sessions, which are not part of the compulsory structured teaching provision.

Vague and ambiguous language adds to the confusion

Even when a university replied to our queries, it was often difficult to interpret statements about contact hours due to the lack of consistency in terminology and vague and ambiguous – or even misleading – language. Examples include ‘the majority of teaching is face-to-face’ (when this could mean 51%), ‘we will be teaching on campus’ (instead of ‘all’ teaching will be on campus), ‘we are committed to in-person teaching’, etc. Often several emails had to be sent to get anything close to a clear answer.

Confusingly, many universities in their replies claimed to be fully face-to-face, but this was contradicted by the general and vague statements about blended learning plans still being displayed on their websites. And even when universities claim they are fully face-to-face for 2022/2023, in most cases this is caveated with vague language such as ‘we plan’, ‘it is our intention’, or ‘we hope’, rather than definitive statements.

Universities often state that online teaching materials or guided independent study are intended only to enhance face-to-face teaching rather than replace it. This can of course be very beneficial, for example if a lecturer wants students to prepare for upcoming lab work by watching an instruction video. However, it is difficult to ascertain how much of the online element is truly supplementary. A university may say that all teaching is now face-to-face, but at the same time may have redefined an online lecture so that this no longer comes under the category of ‘teaching’. In addition, many universities say they are fully face-to-face, yet also state that the occasional lecture may be online, or that lectures will be online only in exceptional circumstances, without properly defining ‘exceptional’.

Conclusion and recommendations

The inconsistency of information provided by universities makes it extremely difficult for prospective students (and their parents) to make informed consumer choices. The lack of definitive commitments across the whole sector serves at least to diminish, and probably extinguish, the student’s consumer rights to receive the teaching delivery method of their

choice. This would affect the ability of students to successfully complain to the OIAHE should they not receive the level of face-to-face teaching they expected (see Appendix).

It would be beneficial if the universities watchdog OfS would include the issue of the lack of transparency on teaching methods in their current review of blended learning. In addition, universities should be compelled to explicitly state the number of contact structured teaching hours per week that will be face-to-face or online, broken down into lectures and seminars, for every course they offer. They could do this either by directly stating the hours on their website, or providing easy-to-understand, example weekly timetables for each course. Without this detailed information, prospective students have little chance of being able to make a truly informed choice, or of ensuring that their consumer rights to receive the teaching delivery method of their choice can be enforced. Consideration could be given to publish this teaching delivery information on the UCAS system, which still has a statement on each course asking students to check for changes due to covid-19.

Furthermore, many universities still give general statements about teaching methods in 'covid-19' sections on their websites. It is time for these to be removed, and for universities to admit that if they have changed their teaching methods, it no longer has anything to do with covid-19, but rather is a deliberate and permanent change of strategy.

Research methodology

Only a handful of the universities surveyed have made any meaningful attempt in their website information to stipulate in detail for each course whether their contact teaching hours are online or face to face, so they were all contacted directly for clarification. Communications were sent by a parent supporter of UsforThem on behalf of their child who genuinely intends to enrol on a Law LLB course. This was done via email and/or by completing an enquiry form to the various admissions departments in all 112 UK universities offering an undergraduate Law LLB course. Questions were sent up to four times over 5-24 June if they remained unanswered. The two initial questions asked were as follows (further questions were asked dependent on replies):

1. How many hours of face-to-face lectures and seminars per week can a law student expect in the first year for 2022/2023?
2. Is this the same as pre-pandemic levels of face-to-face teaching?

Read our report on the normalisation of online lectures

Our report from 16 March 2022 on the normalisation of online lectures titled 'Universities challenged: Time for transparency around online teaching plans', is available from <https://usforthem.co.uk/resources/the-normalisation-of-online-lectures/>.

Appendix: legislation on teaching method transparency

Competition and Markets Authority (CMA) and Office for Students (OfS)

The CMA says that it is unlawful to mislead students by failing to give them the information they need to make an informed decision, which includes “...information about the composition of the course and how it will be delivered, and the balance between the various elements, such as the number and type of contact hours that students can expect”⁸

The OfS is required to ensure compliance by the provider with the CMA advice on consumer protection law: “The provider must demonstrate that in developing and implementing its policies, procedures and terms and conditions it has given due regard to relevant guidance about how to comply with consumer protection law”.⁹ The OfS has set up a review into blended learning (due to be published in summer 2022), but it is not known whether the report will cover the apparent failure of consumer protection law brought about by the prevalence of online teaching.

Office of the Independent Adjudicator for Higher Education (OIAHE)

In theory, students are entitled to complain to the OIAHE should they not receive the teaching method that has been offered to them by their university as part of the ‘student contract’. Therefore, the current regulatory framework should ensure that students are given the ability to make an informed choice regarding teaching methods, and to make a successful complaint if they are not getting what was promised. However, there are concerns that this framework is not working as it is designed and is not protecting students’ consumer rights.

For example, a recent case brought by a group of 20 Kings College London students complaining that their teaching remained online for 2021/2022 was rejected by the OIAHE on the basis that the student contract didn’t specifically state that they were entitled to receive full face-to-face teaching, with the Adjudicator stating:

“We are not however persuaded that the way the College delivered teaching prior to the Covid-19 pandemic is sufficient to establish a reasonable expectation of how teaching would be delivered during the 2021/22 academic year...As far as we are aware, there is no legal protection to suggest that there is an implied contractual term that students will receive all of their teaching and learning experiences face-to-face”.¹⁰

It seems that students have no actual consumer protection unless teaching methods are clearly stated, and there are concerns that universities are being deliberately vague about intentions to avoid students being able to make a successful complaint.

⁸ CMA Higher Education Providers' advice on consumer protection law 12 March 2015

⁹ OfS 2018.01 Securing student success: Regulatory framework for higher education in England

¹⁰ OIAHE complaint dismissal outcome G1 OIA/6107765/21 - 27/04/22 & review 30/05/22