

DRAFT REPORT v1 to Lumina Foundation.

October 1st 2012.

US/UK Higher Education Law and Policy Roundtable

US & UK Higher Education 2025

August 29 – 31, 2012

The title and theme:

US & UK HE 2025 – Market-driven or State-driven, Private-benefit or Public-good focused? The Legal Context and Framework for the Changing Higher Education Environment.

Venue: New College, University of Oxford

Steering Group:

Tim Birtwistle (UK), Bill Kaplin (USA), Barbara Lee (USA), Holiday McKiernan (USA), David Palfreyman (UK).

In addition to the Steering Group the following participated in the Roundtable:

Judith Areen (USA), Geoffrey Bennett (UK), Mark Davies (UK), John Hall (UK), Michael Olivas (USA), Nick Saunders (UK), Sally Varnham (Australia).

Unfortunately due to ill health Holly McKiernan and Geoffrey Bennett were unable to take part at the last moment.

Activities:

Papers were prepared by each participant to meet the aims and focus of the Roundtable (this was done in consultation with the Steering Group over a number of months). The papers were circulated 2 weeks prior to the Roundtable. The sessions comprised of a narrative of the essence of the paper by the author/s and questions and discussion by the group.

The context of the Roundtable was focused on the exploration of the shift in emphasis in much of the world from HE being seen as a largely public-good intellectual capacity building activity to one where there is greatly increased cost-sharing, participation rates and lifelong learning, along with shifting patterns of delivery and learning, mission differentiation, global outreach, governance changes and stakeholder scrutiny.

Higher education is increasingly a market-driven and private-benefit activity. The U.S. experience of a diverse higher education landscape in which even in the not-for-profit sector the fees demanded are increasingly high and, for many, a barrier to access is at one end of the spectrum, followed by the U.K. and then with many shades of variation across the globe.

How will this shifting scene, set in the context of economic uncertainty and the rise of, *inter alia*, the BRIC economies affect the higher education landscape in terms of: types of institution, forms of governance, accreditation and quality assurance, academic freedom and faculty working practices and conditions, attitudes to and structures for overseas activities, migrant populations, recognition of prior learning (lifelong learning, credits, focus on learning outcomes) etc. All of these topics are inter-related and the papers and sessions were deliberately set up to interact with each other in terms of discourse, challenge and analysis. How will or might this changing Higher Education environment be reflected in the legal context and framework within which Higher Education operates?

The programme for the sessions was as follows:

THURSDAY Morning – The landscape and the learning that takes place:

09.15 – 09.30	09.30-10.30	10.30-10.45	10.45-11.45	11.45-12.45
Welcome DP and TB	Setting the scene – structures, learning, accreditation, quality, disputes etc and challenges to be met TB (and HHM)	Break	Students as customers – what changes are faced? DP	Issues surrounding quality – what happens “down under”? Comparisons and lessons. SV (+TB)

THURSDAY Afternoon: Faculty in the changing landscape & the changing landscape:

13.30-14.15	14.15-15.00	15.00-15.15	15.15-16.15	16.15-16.30	16.30-17.30
Faculty – a US perspective BL (+MD) joined	Faculty’s role is changing as viewed from Europe MD (+BL) sessions	Break	So what about academic freedom amidst these changes? WK (+TB)	Break	Shared governance – a lasting model? JA (+JH)

FRIDAY Morning: Students, Institutions and boundaries:

09.30-10.30	10.30-10.45	10.45-11.30	11.30-12.30	12.30-13.00

Changing status - what happens to the assets, governance etc? NS	Break	Students - Immigration issues MO	Operating across borders – different models and challenges JH + BH	Wrap up TB and DP
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The major “take-aways” from the Roundtable may be summarised as:

- The landscape is changing but the “elites” will remain and the other layers will have to adapt and in many cases re-define their mission and how best to achieve it.
- Learning for the vast majority is both the key and the aim, and the purpose of learning is to enhance work and life opportunities.
- For all talent to be utilised and all persons to maximise their life chances attitudes to, and the legal framework surrounding, immigration and migration must be altered.
- Accountability (to who ever the stakeholders are) is increasingly required to be transparent and to be, for most, not locked in a localised paradigm but, given competition and mass open learning, internationally recognisable.
- The context of higher education systems is crucial to unlock change mechanisms. The law, as a servant of policy, is reliant on political will. Challenges to actions (in terms of being constitutional or *intra vires* or procedurally correct) will take place and are within legal competence. Challenges to inaction are not.
- In what ways and in which nations will economic, social, political, structural changes to the operating environment be pre-eminent, thus triggering the need for changes to the legal context and framework within which Higher Education operates?

Tim Birtwistle and David Palfreyman.