Thesis Title -

Deconstructing and reconstructing the student consumer during a

crisis

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April 2022

This thesis is submitted in partial fulfilment of the requirements for the degree of

Doctor of Philosophy

Department of Educational Research

Lancaster University

UK

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Abstract

Since the 1980s the marketisation of higher education has been profound in the United Kingdom. To assemble coherence that higher education can function as a market, students have been conceptualised as consumers in national higher education policy. As consumers they are rational, employment driven, economic agents who through choice, drive competition, sector behaviour and economic outcomes. Although the student consumer may be normalised in national policy rhetoric, corresponding to its rise is research that challenges the construct and offers a range of non-market-based alternatives for what a student should be. Actors beyond the State such as the National Union of Students (NUS) and Universities United Kingdom (UUK) have roles to play in influencing higher education policy and they offer alternative conceptualisations of students. Within the turbulence of the global pandemic there is a unique opportunity to examine these actors and how the crisis opened up opportunities for them to challenge the student consumer construct. This research engages the strategic-relational approach to understand how the strategic interplays of structure and agency challenged and created coherence around the student consumer. It employs critical policy analysis and discourse analysis to problematise policies and identify conceptualisation of students in the public facing consultations and statements made by these key actors. To conduct this research 105 documents including consultations, regulatory notices, press releases, letters, speeches and briefing notes produced by the actors between 11 March to 3 July 2020 have been identified and analysed. What is revealed is that in the earliest stages of the pandemic new opportunities to challenge and alter the student consumer construct did appear. However, the dynamic power struggles of the actors and the existing structure worked together to enable the

reconstruction and re-institutionalisation of an even stronger student consumer. The seemingly paradoxical discourses of vulnerability and empowerment were the tools to create this coherence.

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Acknowledgements

Author's declaration: I certify that the content of this thesis is the product of my own work and that all the assistance received in preparing this thesis and sources have been acknowledged. This thesis has not been submitted for any degree or other purposes.

Chapter 1: Introduction

Every societal crisis can and needs to be seen as being both simultaneously destructive and productive: they dissolve but also reconstitute. (Raaper and Brown, 2020, p.434)

1.1 Aims and rationale

This thesis explores the student consumer in higher education in the United Kingdom, with a primary focus on England, within the context of the COVID-19 pandemic. It has a specific and brief timeframe of 11 March to 3 July 2020. It is specific, commencing as the World Health Organisation declared a global pandemic on 11 March 2020. It is brief, with a timeframe of four months ending with the introduction of Regulatory notice 5: Condition Z3 (OfS, 2020w) which mandated that conditional unconditional offers would be banned until September 2021. This timing has been applied as the research explores how during the very early stages of the pandemic key actors in the higher education sector responded to a crisis of such enormous magnitude. Particularly, how government, Universities United Kingdom (UUK) the peak university representative body, and the National Union of Student (NUS) constructed or deconstructed the student consumer to preserve, progress, or challenge the status quo of political projects in a time of great uncertainty. During the writing of this thesis the crisis peaked, experienced multiple waves, multiple variant strains have circulated through the global population, vaccines have been developed and are still being rolled out to the world's 7.9 billion people; its impacts are still severe on the population's physical, mental and economic health and wellbeing. As of 19 December 2021, there had been a total of 275 million cases of COVID-19 and 5.37 million related deaths, and an average daily death rate of around 8,000 around the world/globe. At its first peak in January 2021 there were close to 18,000 daily deaths. In the United Kingdom the impacts have been significant with multiple national level lockdowns and 147,173 deaths (Worldometer, 2021). According to the Lowy Institute, the United Kingdom's management of the pandemic has been poor, ranking 74th

globally (Lowy Institute, 2021). There have been direct implications for the higher education sector, particularly in the early stages of the pandemic with campus closures, premature campus re-openings, disrupted international student intakes, the rapid move to online learning, and pressures for students in terms of ability to earn, learn and live and on their mental health.

As the quote at the beginning of this chapter reminds us, the inherent volatility of crisis offers opportunities for actors to abandon old or pursue pre-existing and new agendas. In light of this, the first step in this research was to understand how and why, pre-COVID-19, students have been constructed as consumers in the United Kingdom. This then enabled the analyse of the student consumer discourse in a crisis. The notion that contemporary students are constructed as consumers is well established in the United Kingdom's higher education policies. Research has likewise established that students have varying degrees of consumer attitudes towards higher education. This is widely discussed in academic literature in the United Kingdom where a consumer attitude to higher education is generally considered to be direct consequence of neoliberalism and its marketisation of higher education. The discussion is commonly linked to the impact that student tuition fees have and the way they confer purchasing power to students, which in turn creates consumer expectations like those in the consumption of traditional goods and services (Molesworth et al, 2011, Naidoo et al, 2011; Tomlinson, 2016). In this framework it is argued that education is treated by students as a product to be purchased irrespective of effort and at the expense of the transformational impact of deep learning (Molesworth et al, 2011; Naidoo & Williams, 2005). However, beyond tuition fees alone and the impact that a consumer attitude may have on learning, is the role that key actors have in constructing the student consumer identity. The student consumer is more than a consequence of marketisation of the sector, it is the outcome of deliberate discourse. This discourse normalises the idea that higher education can be a market, despite the public good that higher education confers, and that students have a

consumer role to play in it, just like in any other market for a private good (Naidoo & Williams, 2015). My research explores this concept to identify the construction of the student consumer, and how the crisis enabled new types of discourse to secure political agendas. It is not concerned with the values, attitudes, and behaviours that contemporary higher education students bring to higher education but with the strategic manoeuvring of key actors and their purposeful selection of discourses and imageries of students to achieve their objectives.

1.2 Research Questions

Two research questions have been formulated to consider, how in the light of the construction of the student consumer, policy makers have responded in a time of unprecedented crisis; and how they have deconstructed or reconstructed the student consumer. The research questions are:

1. How was student consumer policy challenged during the early stage of the COVID-19 pandemic?
2. How did the policy challenges deconstruct and/or reconstruct student consumers in the early stage of the COVID-19 pandemic?

1.3 Context and Research Sites

In my research, the higher education sector in England has primarily been dealt with. Although the term 'the United Kingdom' is used, I refer primarily to 'England'. With the 1998 devolution of powers to national assemblies in Scotland, Wales, and Northern Ireland, the United Kingdom National Parliament has jurisdiction only over education policies in England. However, in the policy discourse the differentiation is not always specific.

In a similar vein the policy discourse often refers to providers to include both universities and other higher education providers, however the differentiation is

not always clear. Therefore, it is not always possible to determine to whom attacks, or praise, are directed.

1.3.1 Context

Higher education is significant in the national economy of the United Kingdom. Without considering the broader public good effects of higher education such as higher labour force participation, employment, and productivity, in the United Kingdom the sector contributes £21.5billion to the nation's Gross Domestic Product (Universities UK, 2019). In some western countries, government neoliberal policy agendas over the last few decades have been progressively reshaping how higher education is positioned in the economy. Moving it away from reliance on government funding to private funding and applying market logic and economic principles so that, in theory, consumer driven demand creates increased competition, which in turn motivates greater efficiencies, cost reductions and a focus on better quality outcomes for students (Brown, 2015; Marginson & Considine, 2000; Molesworth et al, 2009; Williams, 1995). This marketisation attempts to establish the provision of higher education on a market basis, driven by supply and demand and balanced through the price mechanism (Brown, 2015).

Furthering this thinking is Williams (1995) who contends that three main principles need to be accepted for marketisation to be enacted and justified. The first principle is a contested one, that students know what they want and are rational decision makers. Building from this base, it is therefore up to universities to respond to their needs; if they don't, they will lose market share. Second, as demand increases and the university sector expands, government is unable to afford the growing costs, therefore private contributions need to be found. Third, because the benefits of education, particularly better employability prospects, accrue to students it is considered only fair that they should contribute to these costs. Bolstering these market principles is an agenda of massification and access by all socio-economic groups which seeks to ensure

most of the population has access to higher education to contribute to a more educated workforce and a stronger economy. This agenda is now seeing that around forty-nine per cent of United Kingdom citizens aged between 30 and 34 have a degree (Statista, 2022b).

Markets for public goods such as higher education don't just happen (Hemsley-Brown, 2011; Marginson, 2013). While it can be argued that they are created by governments this is true only in part. Policy alone is not enough to create a market. Their creation, as presented Komljenovic & Robertson (2016), is a process, something that is made and remade over time by a range of vested actors in response to dynamic circumstances. Since the 1980s, in the United Kingdom, higher education has deliberately and progressively been reformed by government agendas to operate through market principles, and higher education institutions, their representative bodies and student unions themselves have played a significant role in shaping the creation and specific identity of the consumer within this market (Raaper, 2020a & 2020b). Driven by policy agendas of increased quality and accountability and the shifting of the costs of education from government to students, higher education has been opened to competition from private providers, and universities governance have increasingly focused on entrepreneurial activities. These activities employ market mechanisms to control and take ownership of this space, to attract students, to diversity portfolios and chase the dollar to safeguard and grow income streams and reputations (Becher & Trowler, 2001; Slaughter & Leslie, 1997).

There is considerable debate as to whether higher education can in fact be a true market or merely employ some market characteristics (Brown, 2015; Marginson & Considine, 2000). This debate, while interesting and related to my research, is however outside its scope. And, while it is essential to establish the context for the debate on student consumers, what is apparent whether universities are operating within markets or quasi markets, is that free market conditions do not necessarily need to exist for market-like behaviours to occur

(Brown, 2015). In this way we can see that contemporary universities in the United Kingdom are responding to their economic environment in several ways. One way is the rationalisation of degree programs away from soft skills, such as liberal arts, to where students can see more readily available employment outcomes such as business, marketing, and engineering (McMillan & Cheney, 1996). Another is by attracting students with increasingly sophisticated marketing tactics and promises of degrees that lead to employability (Haywood et al, 2011) and heavy investment in attractive infrastructure, particularly accommodation and gyms. Scholars have expressed deep concern that in this marketised environment, higher education's focus shifts to employability outcomes, which makes higher education "pedagogically constrained" (Molesworth et al, 2009, p.278). They also note that the rise of the student consumer has replaced a desire to be transformed through learning with a desire to have a degree to get a job (Haywood et al, 2011; Molesworth et al, 2009). A desire which is exacerbated by marketing strategies that sell an idealised version of the future (Haywood et al, 2011) with a clear disregard for the realities of the highly competitive job market. It is argued that this in turn leads to grade obsession and expectations that academics will acquiesce to students' demands for the grades they want for their promised future. Teaching evaluations that are biased when lower than desired grades outcome are received, and therefore a more relaxed approach to cheating so that the desired grades are achieved (Delucchi & Smith, 1997). While the current transactional nature of payment of tuition fees is one contributing factor to a consumer identity, it has been noted that universities may construct a consumer orientation and behaviours in students prior to entry into university (Komljenovic et al, 2018; Tomlinson, 2014) and over time (Komljenovic et al, 2018). Further, that the use of marketing campaigns, league tables and assessment focused approaches are progressively training students to focus on instrumental outcomes rather than a holistic approach to learning (Millican, 2014).

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Within this dynamic context, it is important to understand how the process of higher education policy formulation constructs these identities and to empirically research the complex processes and the interactions of key actors that actively engage with each other to ultimately construct and normalise the student consumer.

1.3.2 Research site

My research explores how discourses which created a student consumer have been challenged, deconstructed and reconstructed by key actors in the higher education sector in the United Kingdom during the pandemic. The key actors are the Department of Education, Office for Students (OfS), the university peak body Universities United Kingdom (UUK) and the National Unions of Students (NUS). It explores how these actors, seeking to further their political agendas created conflicting discourses of students as vulnerable and empowered.

In the period of 11 March to 3 July 2020, across the globe, at particular points in time, normal business operations were ceased, international and national borders closed, and isolation, work from home, and social distancing was mandated for citizens. For universities this created serious, immediate and projected long term financial losses, closed campuses and made necessary the rapid transition to online learning. These events impacted students access to learning and course progression and left many students fearful for their health and safety, their futures and questioning the value of their education for their tuition dollars.

Across the globe, governments devised support packages to respond to the crisis which threatened to destabilise economies. In the United Kingdom, across the broader economy, market logic seemed to be put aside for interventionist policies to ensure access to essential goods and services, loans and grants for businesses, and income guarantees for employees and increased welfare payments. The former United Kingdom universities minister

Chris Skidmore described the crisis as "a highly anxious time for universities" (Skidmore, 2020, para. 1). Due to the significant loss of international student tuition fees, universities were expected to experience multi-billion-dollar losses. While support measures were devised to stabilise the sector, they fell well short of what the sector asked for, and what student unions called for; in essence the government merely brought money forward to solve a cash flow problem but did not provide new money. The measures were designed to maintain the status quo, until normalcy was returned, to hold the cost of education to the student, and to control the sector through regulation.

The following section outlines the methodology and methods that have been engaged to answer the research questions.

1.4 Summary of methodology and methods

To explore the research question, a critical policy analysis (CPA) approach has been taken. CPA asks the researcher to problematise policy creation rather than taking it at face value. This effectively illuminates policy as imperfectly constructed and contested, with intended and unintended consequences. This CPA approach has guided the exploration of the roles of structure and agency in the 'doing' - the creation and re-creation of the social world during the initial months of the pandemic. It underpins the application of the strategic-relational approach (SRA), developed by Bob Jessop (Jessop, 1999, 2013, 2014), to investigate how primary actors – the State, the National Union of Students (NUS) and the Universities United Kingdom (UUK) the peak university representative body - responded reflexively and recursively to structural constraints during COVID-19 to constitute new and re-constitute existing forms of student identity.

Common to both the CPA and SRA is the importance of the role of discourse. Discourse analysis informs this research to understand how the undergraduate domestic higher education student has been constructed in the United Kingdom during the COVID-19 pandemic. This analysis is compared between actors so that the construction and normalisation of the student consumer or other identities can be understood. The purpose of the research is to utilise CPAs concentrated looking (Young and Diem, 2018) to examine a period of crisis and illuminate the role of structure and agency to co-constitute the deconstruction and/or reconstruction of the student consumer in response to, and as a consequence of, crisis.

In a time of unprecedented social upheaval when the final outcome of a global health crisis on society and the economy was unknown and unknowable, this research looks deeply into how discourses were framed to achieve outcomes and how in determining what is discussed and, importantly, shaping how it was discussed, actors' exercised power. Jessop's SRA (Jessop, 1999, 2013, 2014)

closely examines discourse and the selections of discourses with the knowledge that actors assess and deploy specific selections on the basis that they believe these, rather than any other possibilities, will lead to the desired outcomes. The SRA has been applied to identify how the actors acted strategically, and within the structural constraints of the higher education sector's, pro- or anti- neoliberal and marketisation agendas and a global pandemic, to deploy particular discourses of students to justify, normalise the pursue their own agendas.

Adopting Lomer's (2017b) approach, in determining what types of documents to collect, and in recognition that the normal order of policy development had been fractured by the crisis, the genre remained open. Policy was understood not only as formal policy texts, but also on a range of informal genres originating from the actors under investigation and included consultations, regulatory notices, press releases, speeches, letters, and briefing notes. Including this range of genres captured the specific actions that were occurring and provided an official account of actors' views, the claims that were being made and the justifications for them. In this way they were expressive of the values, attitudes and desired outcomes that underpinned the actors strategic selectivities. Documents were identified though web searches of the Department of Education, Office for Students, UUK and NUS. In total 105 documents (Appendix three) were included in the dataset, this accounted for 504 pages of text. This included:

1. 38 documents produced by the Department for Education and OfS , including six policy documents, relevant press releases, briefing notes, Education committee evidence and letters.
2. 19 documents produced by the UUK including a proposal for achieving stability for the higher education sector, a collaboration with MillionPlus on stabilising the public services, a response to the government consultation, principles for emerging from lockdown, and relevant press releases.

3. 48 documents including a Coronavirus and student survey, press releases relating to a #StudentSafetyNet campaign with a mass action to redo, reimburse, write off and a Complaints chain.

With the use of NVivo software and employing discourse analysis, key discursive strategies were identified, contextualised and compared between actors and at policy junctures. This analysis illuminated the actors intentions and desires and their strategically calculated actions within and against the boundaries established by the State and the marketised sector.

1.5 Main insights and debate being addressed

The United Kingdom is deeply invested in marketisation of the higher education sector (Roberston & Komljenovic, 2016b). This study of how students are actively deconstructed and reconstructed by key actors offers new insights; offering empirical evidence of its real-life occurrence via key actors and during a global crisis. It focuses on vulnerability and empowerment discourses which dominated the discourse generated about students by the actors in early stages of the pandemic. In particular, it applies an SRA lens to explore how the seemingly paradoxical conceptualisation of vulnerability and empowerment were used by the State to regulate and control; the UUK to lobby for its diverse, and often incompatible, member universities interests; and how the NUS deployed these discourses in attempts to secure the welfare of students via sector reform.

While the research provides new insights within a global pandemic, these insights are formulated upon well-established theoretical frameworks of governmentality and vulnerability and empowerment discourse. Wilkinson (2009) provides a useful discussion on risk and how it relates to Foucault's view that vulnerability is a tool to dominate, discipline and control society (Elci Carikci, 2016, Wilkinson, 2009). In governmentality, vulnerable people are defined by risk which then legitimises policy interventions. When a sense of

vulnerability is formed by discourse, and certain behaviours are officially labelled as 'risk', then what we frequently witness are efforts made "to conduct people so that they in turn conduct themselves along a select course of action and towards a particular set of goals" (Wilkinson, 2009, p.54). Identifying some groups as vulnerable or some social problems as 'risk', is therefore a mechanism for regulation and control (Misztal, 2011). Once labelled as vulnerable, people can be taught how to regulate themselves which is framed to be for their own good (Wilkinson, 2009). This is a form of empowerment which transfers responsibility to individuals and therefore reduces the State's social and economic responsibilities to its citizens. However, this reduction does not represent a retreat from governing. This point is tied to Foucault's discussion of neoliberal governmentality which argues that the ensemble of the State has broadened and been restructured with the appearance of new actors on the scene of government who actively contribute to the State's objectives (Lemke, 2000).

Applying a SRA framework, the research explores the interplays between the State, UUK and NUS in their use of discourse of vulnerability and empowerment. It is particularly interested in the extent to which the UUK and the NUS are perpetuators or opponents of neoliberalism, and their roles in challenging student consumer policy via their strategic selectivities. This is achieved through the thesis structure as outlined in the following section.

1.6 Overview of thesis structure

The thesis has been organised into seven chapters. Chapter 1 has foregrounded the research, providing the aims and rationale, research questions, context, research sites, summary of methodology, methods and rationale and provides the structure of the thesis. Because the research question presumes that the student consumer is an actual and accepted construct in the United Kingdom an in-depth literature review was conducted and is presented in chapter two. The Chapter is divided into four parts. It

examines the student consumer as metaphor, as a policy tool and via empirical evidence. It then identifies gaps in the literature and how this research contributes to the scholarly debate on student consumers by empirically exploring the dynamism of the deconstruction and reconstruction of the student consumer during a time of crisis.

Having established what the literature says about the student consumer, the gaps and my research contributions, chapter three details the history of the marketisation of the United Kingdom's higher education sector and the roles of each actor in this. This is an important step, because in public discourse, the market is often portrayed as an 'invisible hand', an unseen force that is 'out there', rather than something that is 'in here' (McMillan & Cheney, 1996). This obscures the role that actors have in creation and perpetuation of both its whole and the sum of its parts. Therefore, chapter three looks closely at the actors. First, it looks at to the State and its creation of the market and the student consumer over time. It then focuses specifically on the State's regulator, the Office for Students (OfS) providing the antecedents to its creation and how it functions as the protector and perpetuator of the student consumer. The focus then shifts to the UUK and the NUS to explain their respective roles as representative bodies of universities and students, and how they as key stakeholders are not 'out there' but 'in here' and act within a complex web of interdependences to perpetuate or challenge the concept of the higher education market and the student consumer.

Chapter four is divided into two parts which contain detailed description of the methodology and methods. Part one, the methodology section, provides an overview and justification for why CPA and SRA offer the means to answer the research questions. It also offers a reflection on my own positionality and how this changed throughout the project. Part two, the methods section provides detailed explanation of the data collection, the compiled data set of 105 documents (Appendix three), how the coding was derived, and analysis was conducted and provides examples of data coding to demonstrate the rigour that

was applied to determine the dominate discourses of vulnerability and empowerment.

Chapters five and six present the detailed findings of the research across the dominant discourses that were identified in chapter four. Each selectivity is discussed in separate chapters. Chapter five looks at deployment of vulnerability discourse and Chapter six at empowerment. These chapters are presented in sections, by actor and at specific policy junctures. This allows for the concentrated looking which then illuminates, through a SRA lens, how student consumer policy was challenged and discourses about students were dynamically formed and reformed. Each chapter concludes by drawing together the actors to discuss their strategic interplays.

The last chapter brings the discursive strategies together to provide a conclusion, answer the research questions and present key findings, reflections, limitations, and ideas for future research.

1.7 Summary and introduction to next chapter

This chapter has introduced each element of the thesis to establish the logic, coherence, rigour and structure which guides and builds, cumulatively, on each preceding chapter towards the ultimate purpose of any thesis which is to answer the research questions.

In the following chapter the literature on student consumers is identified. Leavy (2017) describes the literature review as both a process and a product. As a process it identifies what has been established by scholars and focuses on findings and draws conclusions (Randolph, 2009). By synthesising this information, connections across the literature are made and the emergence of trends and themes are identified. As part of this process, it also identifies controversies, conflicts and unsolved issues (Leavy, 2017). As a product, the

literature review situates my research in the field of enquiry, and in so doing,
demonstrates how it extends on previous research.

Chapter 2: Literature Review

2.1 Overview of chapter

There is a large volume of research on student consumers. A search in the Education Resources Information Center (ERIC) database on 1 August 2021, using the terms 'student as consumer' and 'higher education' or 'university' in the abstracts of peer reviewed journals produced 90,223 results. The majority (50,173) were published between 2010 and 2019, and 6818 were published between 2019 and 2021. To answer the research questions and narrow the scope within this large corpus, this chapter provides an overview and synthesis of scholarly articles in relation to student consumers via four main angles, as a metaphorical concept, as a political agenda, via empirical evidence and through the identification in gaps in the literature. To achieve this the chapter is divided into four parts.

Part one explores the student consumer conceptually as a metaphor and how it forms what Lakoff & Johnson (1980) call a cognitive bridge between two dissimilar domains. Positive and negative aspects are teased out to provide the tools to understand the discourses deployed in the strategic manoeuvring of the actors discussed in chapters five, six and seven. Part two then situates the role and purpose of the student consumer into neoliberalism and the policy agenda of the State, and scholarly response to this. The third part of the chapter explores empirical evidence. It notes that while many scholars and students themselves reject the idea that students are consumers that over time there has been a progressive acceptance of the metaphor in the United Kingdom, and an insistence in public policy discourse that students are indeed consumers. Part four identifies gaps in the literature and how my empirical research contributes to the scholarly debate on student consumers.

2.2 Part 1. The student consumer as metaphor

Given the extensive interest in the student consumer it is important to consider the metaphor, how it has been constructed, by whom and for what purpose. This is important because metaphors help create our social reality (Nordensvärd, 2010). Metaphors occur in specific contexts and are produced and made sense of by specific people (Cameron, 2003). People think and communicate in terms of the images which are created by metaphors (Lakoff & Johnson, 1980). These metaphors are not simply ornamentations of language (Cameron, 2003) or decorations of discourse (McMillan & Cheney, 1996). They actively conceptualise things that are abstract, intangible and complex by placing them in a familiar context (Lakoff & Johnson, 1980). The importance of a metaphor for our meaning systems is in their ability to create a cognitive framework for knowledge and a worldview produced by associations in our minds (Lakoff & Johnson, 1980). As a metaphor, the cognitive bridge (Lakoff & Johnson, 1980) between student and consumer encourages us to see students in a particular way which is tied directly to consumerism, consumption, customers and markets. This cognitive bridge, depending on the perspective taken, can have both positive and negative associations.

The student consumer metaphor has been observed to be "initially appealing" (McMillan & Cheney, 1996 p.2) when it first emerged in the 1980s in North America and Western Europe. Its appeal was tied to the public accountability of higher education and the responsibility to deliver quality to students who were increasing bearing the private cost of higher education. (McMillan & Cheney, 1996). Its relevance remains strong today, particularly when we consider it from a consumer rights perspective, where consumers need to be provided with honest information, product guarantees and standards (Maringe, 2010). Conceptually thinking about students as consumers through this lens focuses us on the positive connotations and associations with markets where products and services are traded, where customers can shop around, where

value can be measured and where competition can create efficiencies. Conceptualising a student as a consumer in this way implies rights to quality education, rights to redress poor provision and protection of students via consumer protection law.

While some scholars are careful to differentiate between students as consumers and students as customers, these terms are often used interchangeably. While there are specific nuances of 'consuming' a product over the more active role of being a 'customer' the two are inextricably linked. While the student customer can be negatively linked to unpopular and no longer universal logic that 'the customer is always right' (Guilbault, 2018), there are positive associations with the student-customer logic. This includes an appreciation that student satisfaction matters and that in economic terms it is less expensive to keep a customer then find a new one. Therefore, viewing a student as a customer emphasises the importance of customer retention, satisfaction, loyalty and repeat business (Guilbault, 2016). Reinforcing this, Van Andle et al (2012), having examined student customer choice through consumption values theory, found that is a driver for innovation in the curriculum and therefore a driver for quality of academic standards. Love (2008) acknowledges that a 'customer-care approach' to teaching, benefits students because they are valued and teachers must be active in responding to student's needs. While Barnett (2010) says that as being a customer makes students more careful of their choices and more engaged with learning.

It is important to acknowledge that metaphors are normative. They can serve to keep us from focusing on aspects of the concept which are inconsistent with the metaphoric framing (Lakoff & Johnson, 1980). Looking at the metaphor via a consumer rights or consumption values theory can fail to problematise the concept and risk its unthinking acceptance. In reality, the student- consumer metaphor is not only complex (Maringe, 2010; McCulloch, 2009; McMillan & Cheney,1996) it is also seldom defined in the literature. McCulloch (2009) offers one of the few definitions available. He highlights the inherent tensions of the

metaphor, noting that the rise of the student consumer has accrued benefits for students but has also changed both student-university and sector-State relationships:

> In the metaphor, and the related model, of the 'student as consumer', the university acts as the provider of products and services, in the form of programmes of study and support for the pursuit of those programmes, and the student acts as a consumer of those products and that support. The notion of the student as consumer has driven much change within universities, not only within academic areas where 'quality', and its maintenance and its enhancement, have dominated agendas over the same period, but also in areas such as student support and institutional marketing. It has given a new perspective from which the university can be examined, managed and strategically developed, and has, undoubtedly, helped improve some aspects of the student experience (at all levels) in areas where they needed improving. (McCulloch, 2009, pp.171–172)

By closely examining the metaphor in this way inherent tensions are revealed. Many scholars' express concerns that its ready acceptance and embeddedness obscures that it is not possible to 'consume' education, that true markets for higher education don't exist and that students occupy many roles which are inconsistent with 'consumers' such as learners, partners, co-producers, lobbyists, protestors, citizens and workers (Ikeda et al, 2009; Obermiller et al, 2005; Tight, 2013). When the student consumer metaphor is problematised in this way it reveals a range of negative and potentially damaging connotations. The student consumer conceptualisation is therefore generally met with opposition from those within higher education on the grounds that it devalues education and undermines what a student is and should be and the educational process itself. This is because when a student is conceptualised as a consumer it is an ideological shift that puts a question mark over some of the basic assumptions and values that have traditionally underpinned higher education and is seen by some to potentially threaten its very mission (Fairchild & Crage, 2014) and altruistic purpose (Gross & Hogler, 2005). For many scholars conceptualising a student as a consumer exemplifies how the marketisation of higher education has changed long held views of the status, value, and nature of higher education, eroding the traditional value of being at the heart of society

contributing to the advancement of inquiry and knowledge, being a guardian of reason and debate and a place of higher learning. Therefore, the metaphor of the student consumer is seen as not simply an innocent construct but as a worrying indication of the broader shift of higher education towards the market.

2.3 Part 2. The student consumer, neoliberalism and the policy agenda

The student consumer is commonly linked to the payment of tuition fees. This is significant in the United Kingdom where fees were introduced in 1998 at £1,000, then tripled to £3,000 in 2004 and tripled again to £9,000 in 2011. Its overt and frequent usage has been enacted by the State to normalise an acceptance by its citizens that public costs of higher education should shift to students because they receive the private benefits of education. Through discourse, a negative (having to pay increased fees), becomes reconstructed as a positive (Collini, 2011). This has been achieved by declarations that students are powerful purchasers of a product, who should have consumer expectations of it such as value for money and satisfaction (Williams, 2010). The next logical step in this narrative is, that through this consumer power, choice drives sector behaviours and leads to higher quality provision.

However, when student-consumers become empowered as paying customers of universities some scholars argue that they feel they merely need to express their desires to have them fulfilled (Cheney et al, 1997). Typically, this phenomenon is described as dovetailing into a sense of entitlement to receive their 'purchased' product which distances students from essential elements of education, particularly its process towards building and co-creating knowledge. This is said to be accompanied by undesirable behaviours such as passive learning, a tendency to choose easy subjects, the transfer of responsibility for learning from the student to the teacher, a sense of entitlement to a good grade for minimum effort, and an expectation to be entertained (Delucchi & Korgen, 2002; Maringe, 2010; McMillan & Cheney, 1996; Molesworth et al, 2009; Wright, 2000). In this vein, there has been a focus on negative consequences

of student consumers and the way it undermines pedagogy and pedagogical relationships. This moves students into a way of thinking about a degree as a good to be purchased and as a right irrespective of intellectual endeavour (Williams, 2010) and where having a degree takes precedence over being a learner (Molesworth et al 2009).

A further complexity is that the benefits of education cannot be truly measured until well after graduation (Lomas, 2007). Therefore, quality is measured by proxies such as surveys, data and metrics (Furedi, 2010; Jones-Devitt & Samiei, 2010). This has not only incentivised university management to be increasingly obsessed with business ideologies, competition, metrics, rankings, and the bottom line; it has also led to comparison and the growth in student complaining behaviour (Maringe, 2010). In this way we see that consumerism is not simply an attitude, it is a function of a student within the United Kingdoms' regulatory and policy framework (Williams, 2016). As a function it assumes an active role where access to complaints mechanisms and competition for students will produce a more effective, efficient, and equitable higher education system. The rationale is that students as consumers are rational decision makers, with access to information who will reject poor education services and providers will in turn be forced to improve or lose out on revenue and exit the market (Williams, 1995). The student consumer metaphor has provided the State with a means to deliberately recalibrate higher education towards its agenda of market-based principles. In the United Kingdom, in a short period of time the student consumer has progressively been changed from a metaphor (McMillan & Chenney, 1996; Tight, 2013; Tomlinson, 2016) to a legislated reality protected by law. It is explicit in policy, which tell us that "universities [are] accountable to the students they serve" (BIS, 2011, p.66), and the purpose of regulatory frameworks is to "promote the interest of students, including as consumers" (BIS, 2011, p.68).

2.4 Part 3. Student consumer, empirical evidence

Alongside the student as consumer metaphor, scholars have proffered other options such as student as customer (Ikeda et al, 2009; Obermiller et al, 2005), client or product (Obermiller et al, 2005), managers, co-producers (McCulloch, 2009; Tomlinson, 2017), partners (Matthews et al, 2018); pawns (Tight, 2013) and apprentices (McCulloch, 2009). Of the options available when considering what a student ought not to be, none find resonance with scholars quite as strongly as student as consumers. As the debate has matured over time, there is a growing body of empirical research into students as consumers which increasingly shows the complexity of students' orientations and dispositions to the student-consumer conceptualisation (Tomlinson, 2014; Komljenovic et al, 2018; Budd, 2017; Saunders et al, 2017).

The literature shows that the student consumer metaphor relies on the construction of higher education that is commodified and where instrumentalism is foregrounded (Williams, 2010) so that other possible ways of being are marginalised for example as learner, or citizen (Nixon et al, 2018) protestors or lobbyists (Marginson et al, 2010). However, the empirical evidence reveals a complexity of views of the acceptance or non-acceptance of the student consumer. Taking a subset of the broad and expanding research and looking at empirical research alone reveals a limited research output. Therefore, while there is a huge corpus of work on student consumers, most of it is theoretical or critical. Only a minority of the literature considers student consumers empirically. This empirical evidence looks at the concept of the student consumer in a variety of ways: the perceptions of students themselves as consumers (Budd, 2017; Bunce et al 2017; Delucchi & Korgen, 2002; Fairchild & Crage, 2014; Finney & Finney 2010; Nixon et al, 2018; Saunders et al, 2015; Tomlinson, 2017; Vander de Schee, 2010), university administrators perceptions (Pitman, 2000), academics perceptions (Lomas, 2007), academic and students perceptions (Obermiller et al, 2005; Jabbar et al, 2018), Student

Unions (Brooks et al, 2015a; Brooks et al, 2016a; Brooks, 2018a; Brooks et al, 2021a; Raaper, 2020a; Raaper 2020b); and other university stakeholders perceptions (Pitman, 2016).

This, empirical research has revealed conflicting evidence that students see themselves as consumers because they pay fees or even at all (Komljenovic et al, 2018). Notably the more recent empirical research finds that negative 'consumer behaviours' do exist but that fee paying does not necessarily equate to a student-consumer orientation. An analysis of research by Saunders et al (2017), Tomlinson (2017), Bunce et al (2017); and Fairchild & Crage (2014) reveal a complexity not hitherto alluded to by earlier empirical research by scholars such as Delucchi & Korgen (2002); Obermiller el a (2005), and White (2007). Saunders (2015) found that first year students do not identify with a consumer orientation because they pay fees. Budd (2017), who conducted interviews with 13 students in the United Kingdom where fees are paid and in Germany where they are not concluded that there is no evidence that students in either national context felt that they were entitled to a degree nor that they were not personally responsible for their learning; a finding supported by Koris & Nokelainen (2015) in a study in Estonia. Similarly, Tomlinson (2017) who interviewed 68 undergraduates in four United Kingdom institutions to understand their consumer orientation found that while students are aware of the student-consumer position they did not universally subscribed to. Koris and Nokelainen (2015) found that students do not expect their institutions to cater to their every request and that they do not approach studies as nothing more than an enjoyable consumption experience; they do not consider themselves to be customers when it comes to curriculum design, rigour, classroom behaviour and graduation nor did the students "display specific expectations" in grading (Koris and Nokelainen, 2015, p.128). While Brooks (2021a), in a comparative analysis of student union officials found that while in Denmark, Germany, Ireland, Poland and Spain there was a distancing from the metaphor, in the

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United Kingdom there has been a general alignment with national policy and an acceptance of the student consumer over time.

These findings indicate that in the United Kingdom while the student consumer may be a legislated reality it is highly contested. A degree of acceptance may come from the fact that since 2015 students have been considered consumers, protected by consumer protection legislation (Competition and Markets Authority 2015; Raaper, 2019). This conceptualisation is reinforced, for example, by the Higher Education and Research Act 2017 which promotes a consumer identity via the Teaching Excellence and Student Outcomes Framework which links teaching quality to tuition fees (Raaper, 2019) and higher education policy that is based on a consumer ideology of achieving employability from personal investment rather than learning (Gourlay and Stevenson 2017, 391). However, despite the State's ready deployment of the student consumer, there is clear evidence of ambivalence and distancing from it (Tomlinson 2017; Fairchild and Crage 2014; Universities UK, 2017). This demonstrates that while it may be deployed at policy level it does not necessarily mean that it is internalised by students as pertaining to themselves and certainly not to every aspect of a their education (Tomlinson, 2017). So, while a consumer relationship may potentially exist because students pay fees it is evident that students do not want to simply consume education. They want a different type of relationship with their university which differs from a simple transactional relationship (Tomlinson, 2017).

2.5 Part 4. Contribution to scholarly debate

The State, the higher education regulator, universities, and student unions are important and dynamic sites for the production and reproduction of the student consumer. Although there is extensive literature on the role of that State in the construction of a marketised sector and the student consumer, there is very limited research into the roles of the OfS, NUS and UUK. Of the three actors, the NUS has received the most attention with eminent scholars in the field

including Rachel Brooks (Brooks et al, 2015; Brooks et al, 2016 Brooks, 2021a; Brooks, 2021b), Rillie Raaper (Rapper 2020a; 2020b; Wright & Raaper, 2018), and Manja Klemenčič from a whole of Europe perspective (Klemenčič, 2014; 2021a; 2021b).

This small degree of interest is somewhat surprising given the multi-level, multi-actor and multi-issue nature of higher education governance (Vukasovic, et al, 2018). As Vukasovic et al (2018) explain, higher education policy is not considered nor created in isolation, it connects with many other sectors such as employment, welfare and the environment. The higher education policy process is impacted not only by the issues of these sectors, but also changes in governance arrangements that span both beyond the national level and changes to internal governance which are increasingly strengthening the centralisation of institutional governance. At the same time the ensemble of the State has broadened and been restructured with the appearance of new non-State actors who now actively engage in higher education governance. These actors are both inside and outside in the decision-making process and will bring different perspectives and agendas to the same policy problem. Given that the UUK and NUS are formally consulted on matters related to higher education governance their degree of insiderness depends on the influence they assert and their organisational and political capacity to influence decision-making.

Within the multi-level, multi-actor and multi-issue framework the OfS has high stakes in the maintenance of the student consumer to execute the marketisation of the sector, fulfill its regulatory obligations and assure its own existence. While the peak national representative bodies of universities and students the UUK and NUS are also essential actors in constructing student identity. As representative organisations the UUK and NUS actively engage with the State to represent and negotiate members interests within the complex web of interdependencies that is the policy making process (Papadopoulos, 2003). Their presence as insiders at the decision-making table is important as it legitimises policies and makes the act of governing and control easier

(Papadopoulos, 2010). However, by virtue of their presence in decision making, like other representative organisations, Klemenčič (2012a) argues they can become domesticated to the State's agenda. With frequent and regular interactions between representative groups and public policy makers socialisation occurs as shared understanding of social meanings and cooperative behaviour reduces the likelihood of strong opposition (Klemenčič, 2012a). This can sit in tension with their members who may have different expectations of their representative organisation. This is particularly true for students who may or may not be ambivalent to the student consumer positioning but who would undoubtably prefer a system that does not burden them with high personal debt. This is equally true for UUK members who are diverse ranging from some of the world's most powerful and elite institutions to small local universities which makes it difficult to form a coherent position that benefits all members.

Research into these tensions and interplays between these actors in the actual doing, the construction of the student consumer, via discourse in an active and public arena has not to my knowledge occurred. My research addresses this gap, to a small extent, by focusing on a unique and specific time-period of the global pandemic to empirically investigate the role and the strategies that these important actors played in challenging, deconstructing and reconstructing the student consumer in a time of crisis.

2.6 Summary and introduction to next chapter

The research questions presume that the student consumer is an actual construct in the United Kingdom. To establish that this is true, an in-depth literature review was conducted and presented in this chapter. It examined the student consumer as metaphor, as a policy tool and the empirical research evidence. The literature review noted that the conceptualisation of students as consumers is highly contested and not necessarily internalised by students. However, it has been constructed over time by the State as a legal reality,

supported by the market like conditions that exist to enable its functioning. The chapter then identified gaps in the literature and how this research contributes to the scholarly debate on student consumers by empirically exploring the dynamism of the deconstruction and reconstruction of the student consumer during a time of crisis.

The following chapter is a situational analysis. It provides an overview of the history of higher education reform in the United Kingdom. It traces the early origins of higher education from the 1980s, the onset of neoliberalism and marketisation which provided the State with the tenants for the student consumer construct. It then provides an overview and insight into the actors under investigation – the OfS, UUK and NUS – in order to assess and understand their political agendas, constraints and actions during the period being researched.

Chapter 3: Situational Analysis

3.1 Overview of the chapter

Having established what the literature says about student consumers in the previous chapter, this chapter details the history of the marketisation of the United Kingdom's higher education sector, a summary of key policies is located in Appendix two. As McMillian and Cheney (1996) point out, the student consumer can only be understood in relation to the capitalist economic system of 'the market', to which it is extrinsically linked. Without the creation and acceptance of the 'market' the 'consumer' is nonsensical (McMillan & Cheney, 1996). This chapter looks closely at the State and its regulator the Office for Students (OfS) and the creation of the market and the student consumer. It then focuses on Universities UK (UUK) and the National Union of Students (NUS) to explain how as representative bodies in the higher education sector they are not 'out there' but 'in here' and therefore act with the State to perpetuate the concept of the higher education market and the student consumer. The Competition and Markets Authority (CMA) was not included in the dataset as during the period researched, they did not publish any media or consultations specifically targeted at higher education. Having established a CMA Coronavirus Taskforce to scrutinise market developments, take enforcement action, and ensure the functioning of markets of the 80,000 complaints received between 10 March and 28 June 2020, higher education did not feature at all in their COVID-19 Taskforce reports on 24 April, 21 May and 3 July (CMA, 2020a, 2020b, 2020c).

This chapter is divided into two parts. The first part opens with a brief overview of the key characteristics of higher education in the United Kingdom to situate the sector in the context of this research. It then considers the State, from pre-marketisation to pre-COVID-19, its treatment of higher education, its changing nature and the transfer of costs from the State to individuals. It establishes how over time, the State has prioritised market-based, market-oriented, and market-

disciplinary approaches (Brenner et al, 2010) in its handling of higher education and how trust in universities has been replaced by accountability. It also considers how this in turn has given rise to the imagery of the powerful student consumer and the establishment of the Office for Students (OfS) as a regulator to protect student interest.

Jessop (2009) notes the complexity of defining the state. For the purposes of strategic-relational approach (SRA) he concludes that it is a 'rational abstraction' and in order to initiate SRA its core "can be defined as a distinct ensemble of institutions and organizations whose socially accepted function is to define and enforce collectively binding decisions on a given population in the name of their 'common interest' or 'general will'" (Jessop, 2009, p.8). Jessop (2009) instructs that to engage in SRA historical analysis is necessary to "retroduce" the specific selectivities that are apparent and the particular conjunctures (Jessop, 2009, pp. 12-13). This historical analysis provides a lens to understand and observe where self-reflection and learning has informed strategic selectivities of the actors.

The second part of this chapter focuses on the UUK and NUS, to explain their origins, purpose, characteristics and roles as representative bodies who work, lobby and advocate within a complex network of interactions with policy makers. It discusses how their roles have become intertwined with the State to perpetuate rather than oppose a system that seemingly has neither universities nor student welfare at its heart, despite protestations to the contrary. With this framing, the chapter situates the SRA discussion that will take place in chapters five, six and seven through the establishment of the actors, their political agendas, the structural constraints that exist and the path dependent discourse of the student consumer.

3.2 Higher education in the United Kingdom

Universities in the United Kingdom are amongst the world's oldest universities. They are typically described and categorised in terms of the time period in which they were established. Looking at the development of universities from a pre- and post-1992 lens, the pre-1992 or 'old' universities are comprised of the ancients, civic or red brick, and plate glass universities. Boliver (2015) notes that up until 1992 the term 'old' was subsequently applied to 'new' groups as newer groups emerged. This distinction is important as 'old' is synonymous with high status universities and 'new' to low status. The ancients are Oxford (est.1096) and Cambridge (est. 1209); St Andrews (est. 1411), Glasgow (est. 1451) and Aberdeen (est. 1495) and Edinburgh (est.1583) (Farnham, 1999). A significant wave of developed occurred starting from the mid-1800s with the emergence of civic universities (Farnham, 1999). Civic and red brick are essentially interchangeable; the term red brick is derived from the red bricks that a number of the universities in this period were built from. The next wave of development saw the emergence of the plate glass universities from the 1960s, as with the red brick the term plate glass refers to the architectural style of the period.   When the binary system was dismantled in 1992 polytechnics were given university status but were conferred to a post-1992 'new' category along with universities which have emerged subsequently and of which there are many. This growth is attributed to the continued expansion of higher education and the 2004 legislation which removed the need to offer research degree awarding powers to be called a university. Within the complex system of higher education in the United Kingdom status is typically aligned to historical origins. However, there have been various typologies applied to cluster universities based on characteristics other than age alone such as research activity, selectivity, quality, resources and socioeconomic mix (Boliver, 2015; Tight, 1996).

Not only is the positionality of universities in the United Kingdom complex, so too is how they operate within the United Kingdom's national context. Although the term 'the United Kingdom' is used throughout the research, I refer primarily to 'England'. This requires an acknowledgment that the United Kingdom operates under a system of devolution. Following referenda in the late 1990s, Scotland, Wales and Northern Ireland exercise independent control over higher education policy and each country differs in their ideologies and policy approaches. Notable differences are a divergence away from the English model of market principles by Wales and Scotland who have sought alternative approaches which emphasise social and personal goals of education over economic ones (Gallacher & Raffer, 2012). This has translated to different funding models so that Scottish students do not pay tuition fees if they study in Scotland, Welsh students have a more generous maintenance system and Northern Irish universities charge a much lower tuition fee rate for their home students (Kernohan, 2020). There are clear challenges therefore in considering the United Kingdom as a single unit for investigation. In relation to the actors in this research the UUK and the NUS represent all of the United Kingdom yet the divergences in approaches to marketisation influences the how each nation responds to the policy position of these actors.

The divergence has also created differing approaches to regulation (Kernohan, 2020). England has a regulator (the Office for Students) who regulates and oversees competition in England. Scotland and Wales have their own discrete funding councils, and Northern Ireland funds and regulates universities from the Department of the Economy. There is further complexity for while they have distinct approaches, they are also interrelationships and convergence with many features of higher education policy adopted from England despite the underlying rejection of market strategy (Gallacher & Raffer, 2012) and while the OfS may only have a jurisdiction over England, according to a study by McCann (2019) each of the devolved nations needs to take into consideration the OfS policies and positioning.

3.3 The State's role in the transformation of higher education

From a small base, rapid expansion of the sector started to occur following the Second World War and in the 1960s with the United Kingdom government's commissioned Robbins Report (Committee on Higher Education,1963). The Robbins report (1963) advocated the public good of education and recommended an expansion in publicly funded university provision to allow all suitably qualified candidates the opportunity for higher education if they desired wish it. This was contextualised within a period of relative economic prosperity in the United Kingdom and the creation of the welfare state with increased public funding for higher education (Naidoo & Williams, 2015).

Despite these factors which encouraged the growth of the sector, by the mid-1980s there were only 60 universities and participation rates of just 6% (Foskett, 2010). However, from the 1980s to today significant transformation of the sector has occurred. Today there are 164 providers (Statista, 2020a) enrolling 2.5 million students (HESA, 2021a). Universities in the United Kingdom have also seen a massive expansion in overseas students during this period, in the United Kingdom they attribute 270,000 in numbers and £7billion in revenue (Institute of Fiscal Studies, 2019). In a relatively short amount of time universities have been transformed from a small group of medium sized, research and education focused institutions to an industry contributing £95 billion to the economy (Universities UK, 2019) and offering a private good which is essential for national competitiveness. This transformation has been via the direct interventions of government who have applied policy and funding mechanisms to further the state's political goals (Foskett, 2010). At the heart of this expansion has been the ideology of the market and a belief in its ability to grow and create an efficient and effective sector. Hence, marketisation and its companion, the student consumer has been the central concept and construct of higher education policy.

Although there was a brief period between 1977 and 1985 when all full-time undergraduates had both the cost of their tuition and some, or all, of their maintenance costs covered by public grants (Hillman, 2013), that students should contribute to the cost of their own higher education is an established principle in the United Kingdom (Hillman, 2016). Originally there was no State funding as the two original universities (Oxford and Cambridge) had large endowments and students who were from wealthy families who could pay the high fees. When expansion started to occur beyond the two elite institutions, the State provided support via a Treasury grant. Combined with their endowments as relatively autonomous institutions, universities were relatively free from state interference and able to set their own broadly liberal academic priorities, admission criteria and overall sense of purpose. However, increasing State funding which was motivated by a desire to promote the public good, opened up universities to greater intervention by the State (Williams, 2016). As the sector continued to expand, by 1939, State spending on higher education had reached two million pounds. This funding support continued to grow and was an important instrument that allowed student fees to be kept low. In the 1940s fees accounted for about 30% of the universities' income (Williams, 1997), this reduced to 10% in the 1960s following rapid post-war expansion (Anderson, 2013) supported by the Robbins Report (Committee on Higher Education, 1963). According to Williams (1997), the funding model acted to disincentivised universities from pursuing other sources of revenue, and consequently made universities vulnerable to economic shocks and fiscal contractions. Foskett (2010), explains how the global economic crises in the 1970s set the scene for interventionist government strategies and ultimately the sectors marketisation. He notes that the rising world oil prices, the decline of traditional industries and competition from emerging Asian economies caused the governments to surmise that the existing model of education provision had failed to produce a society of young skilled workers who could assure the country's economic success. The solution therefore was for government to intervene so that the education system could expand and produce larger

numbers of better educated graduates to ensure the United Kingdom economy would be competitive in global markets. This began the massification of higher education and also the reduction of state funding.

An important ideological shift was occurring during this time in the form of neoliberalism. The concept of neoliberalism of higher education was conceptualised by economists Milton Friedman (Foskett, 2010; Marginson, 2013) and Friedrich von Hayek (Foskett, 2010; Peck & Tickell, 2002). However, it was the Thatcher administration (1979-1990) that politically radicalised it in the United Kingdom (Peck &Tickell, 2002) and truly set it in motion on the principle that neoliberal policies where the answers to the country's economic troubles. However, as Rose (1999) explains the Thatcherite policies of the 1980s were not carefully structured and enacted realisations of a textbook neoliberal philosophy. Instead, they were ad hoc "lash-ups of thought and action, in which various problems of governing were resolved through drawing upon instruments and procedures that happened to be available" (Rose, 1999, p.27). Through a process of invention, justification and legitimation neo-liberalism linked up all the tactics and integrated them into a coherent logic. Once made rationale and explainable, neoliberalism could then be reproduced as the ethical basis for the State's actions (Rose, 1999). In this way the Thatcher years brought significant and enduring changes to the United Kingdom's higher education sector which have continued with each successive government from Major, Blair, Brown, Cameron, May and Johnson and their various political affiliations.

Public expenditure cuts of the early 1980s effectively reduced State funding per student and policies were put in place to encourage universities to actively seek out external revenue. Universities turned to thinking about alternative sources of funding and when Thatcher abolished subsides for non-home students' universities began expansion into a lucrative international student fees market (Palfreyman & Tapper, 2016). The 1988 Education Reform Act, which invested unprecedented powers in the Secretary for State (Naidoo, 2007) and the

subsequent 1992 Further and Higher Education Act were part of a strategy to transfer powers from providers to consumers of education services (Williams, 1997). According to Williams (1997), key features of the 1988 Act to enable this were the change in status for the polytechnics to be classified as universities, and the creation of the Universities Funding Council (UFC). The UFC was subsequently replaced by the Higher Education Funding Council for England under the 1992 Act. At the same time other government strategies were put in place to encourage competitive behaviours and lower costs. They were so successful that student enrolments across the sector increased so dramatically that student number caps were introduced to control the cost to government and taxpayers (Naidoo, 2007).

The start of major changes to university funding occurred in 1998 when an upfront payment of £1000 per year was introduced on recommendation of the National Committee of Inquiry into Higher Education. In 2004 this was raised to £3000, via loans repayable on an income-contingent basis, but still regarded as 'top-up' fees supplementing the state's direct grants to universities. Following the 2010 election, the United Kingdom's Browne Report (2010) into higher education and the White Paper Students at the heart of the system (BIS, 2011) it set out a radical policy framework of a new funding model that tripled tuition fees to £9,000 per year. This replaced teaching grants which had been the primary unit of state funding and the tripled fees were designed to cover the full cost of education via the introduction of a new student loans scheme, payable through deferred income contingent payments through the taxation system (Tomlinson, 2014). The rationale was that graduates' earnings would increase over time and that fee revenue would sustain the university sector in the longer term (Tomlinson, 2014).

However, the reform involved more than a tripling of fees. Geven (2015) articulates three interreacted elements (1) universities were able to charge higher tuition fees, (2) public subsidies were redirected from universities to students and (3) student number caps were loosened. These reforms

happened in parallel, the intention was for a more marketised sector and the creation of the empowered student consumer to save the state from financial ruin (Abbas et al, 2012; Morrison, 2017):

> We inherited an enormous deficit which created significant spending pressures. We could have responded by reducing student numbers or the level of spending per student. But this would have deprived people of the opportunity to go to university or jeopardised the quality of their education. Instead, our proposals for graduate contributions mean that good institutions will be well funded into the future, if they respond to student choices. (BIS, 2011, p. 14)

From this point on universities' funding became linked to choices of students. Money that was once paid to universities through government agencies (80% of the teaching budget) was now borrowed by students who paid back the fees to the state after graduation (Abbas et al, 2012). Since the introduction of the £9,000 fee cap in England, there has been very little direct government contribution; apart from the modest teaching grant distributed via the OfS (Norton, 2020). With only one indexation of the £9,000 fee cap to £9,250 there has been a real-term reduction in the level of funding per student (Norton, 2020).

The decades of reform discussed above have been driven by governments intent on increasing competition between universities and opening the market up to new providers to increase access to higher education and deliver a highly skilled workforce. As the purpose of higher education evolved, so too has the rhetoric of education as a private good with benefits accruing directly to the individual. With the increased private investment in higher education, the imagery of the student consumer came into being. United Kingdom policy discourse created the student as a consumer of a private good, with student choice driving the behaviours of the sector and the success or failure of individual institutions on the simple principal that fees follow the student. The neoliberal policy settings created a powerful consumer and a theoretical efficient market for higher education driven by student-consumer choice.

Students were "put …in the driving seat" (BIS, 2011, p. 2) with the "power to hold universities to account" (BIS, 2011, p. 37) "empower [ing] perspective students" through better course information, (BIS, 2011, p. 2), "giving power to students to trigger quality review" and empowering students through student charters and student feedback mechanisms (BIS, 2011, p. 6). Student consumer rights were made unambiguous in the Consumer and Markets Authority guide which details students' rights under consumer law (CMA, 2015).

This idealisation of student choice to drive market efficiencies was set against universities who on one hand were portrayed as having a "proud history and world class reputation" (BIS, 2011, p.2) and "national assets, underpinning both a strong economy and a flourishing society" (BIS, 2016a, p.5) but on the other hand as disadvantaging students through lack of information, especially about teaching quality (BIS, 2016a), providing "poor value or very poor value for money (BIS, 2016a p.11), delivering poor quality and "lack lustre teaching" (BIS, 2016a, p.3), and providing poor skills matches to employer needs (BIS, 2016a). Students were therefore created as vulnerable to the actions of providers and need of protection via legal consumer rights. The importance of knowing consumer rights the CMA states is to

> help you get the information you need when deciding which university and course to choose, get fair treatment once there, and help you progress any complaints you may have should you subsequently be dissatisfied with your choice or an aspect of the educational service. (CMA, 2015, pp. 2-3)

In this policy environment, universities would provide the right courses aligned to economic prosperity that knowledgeable students, ready to embark on the training for their future career, wanted. Making the right choice was simply a matter of universities providing more information to teenage secondary school leavers to adjust for the market's inherent problem of information asymmetry. The introduction of tuition fees which reached a capped £9,250 per annum was intended to be used by universities to differentiate offerings, but in practice had the effect of providing a single base rate for all degrees despite students future

earning potential. This was because universities wanted to maximise income and there was no perceivable economic value in signalling to the market that they were offering substandard product to their competitors. The cost of education now transferred to the student consumer enabled the radical downscaling of government funding, accompanied by the manoeuvring of the sector into the global knowledge economy, an agenda of 'world class' provision and expansion into the international student recruitment export market and the rise of offshore campuses. The combination of these government strategies resulted in a sector dependent on domestic student tuition fees and taxpayer funding of a large portion of domestic student debt. This debt remains unpaid as students earning potential has not reached the required levels to service the high interest loans. This fee debt is estimated to reach £1 trillion by 2040 given that an estimated the 80 per cent of students will never repay their loans in full (Taylor, 2021). This dependency on domestic tuition fees and taxpayer funding is heavily subsidised by international fee income of £7 billion generated by almost half a million international students who account for 20 per cent of United Kingdom university students and 17.3 pe cent of all income (Hubble & Bolton, 2020a,).

The global pandemic has revealed the systemic flaws of the approach.

3.4 Office for Students

Our priority is students and our role is that of a regulator. (Dandridge, 2019, p. 158).

It is critical that students as 'informed consumers' make the right choices about whether, what and where to study. (Dandridge, 2018, p. 160).

When fee levels are set and regulated by governments and are re-paid by students through income-contingent loans, a State regulated system is required

(Filippakou & Tapper, 2019). The Office for Students (OfS), established in 2018, provides this function to regulate.

In providing a brief history of the predecessors of the OfS (which are the University Grants Committee, University Funding Committee and the Higher Education Council Funding for England) both the changes that were occurring in the United Kingdom towards a marketised sector and ultimately the State's response to COVID-19 (which will be discussed in Chapters five, six and seven) become apparent. Prior to the introduction of tuition fees, predecessor bodies to the OfS were funding councils whose job was to ensure that the sector was suitably funded and sustainable (Shattock & Horvath, 2019). Between 1919-1989 the University Grants Committee (UGC) established under Treasury, administered funding and acted as a 'buffer' between the demands of the government and the needs of universities (Anderson, 2013; Brown & Carasso, 2013; Shattock & Horvath, 2019). The UGC membership was comprised of academics who supported universities values and their autonomy and provided little detailed control over how funds were spent (Anderson, 2013). The mission of the UGC was to steer higher education provision, and it worked closely with university governors in forming policy decisions and bringing forward debates, but it had little interest in controlling the sector. With the Thatcher administration, this lack of control was problematic and ultimately resulted in a lack of trust in the UCG's decision making particularly regarding the administration of funding. The UGC was abolished in the 1980s and the next two funding groups increasingly ceased to function as buffers and instead become government-controlled agencies with limited policy influence and little need to work with and consult universities.

The University Funding Council (UFC) was established in 1988 and was accountable to the Minister for Education for delivering outcomes. In keeping with the neoliberal reform agenda, the UFC membership was from outside academia and were supporters of markets and quasi-markets. Financial allocations to individual universities were now accompanied by financial

memorandums that specified what was expected in return for these financial allocations (Williams, 1997). The UFC was short lived and was replaced by the Higher Education Funding Council for England (HEFEC) in 1992. However, its title minimised that its remit was to monitor the financial health of universities, set targets for student number controls, ensure that teaching quality was assessed, and that universities complied with financial memorandum for access to teaching and research grants. With the introduction of student fees and the abolition of student number controls the HEFEC ended.

The OfS was introduced in 2018 as a consumer-focused market regulator (BIS, 2016a). Its purpose is to fulfil the vision of the higher education green paper to create a competitive market and choice for students (BIS, 2016a). In a break from its predecessors, as set out in the Higher Education and Research Act, its primary focus is on students and student interests, not the institution (Dandridge, 2018). These student interests are as "informed consumers" (Dandridge, 2018, p. 160) with an emphasis on value for money, broadly defined to include "quality of teaching, feedback and assessment, learning facilities and employability" (Dandridge, 2019 p.159). Its regulatory status and framework gives it a wide reach and there is a strong hint that it considers autonomy of institutions to be within its remit:

> The OfS is well placed to champion particular issues, themes, and approaches. Although the OfS will not, in general, dictate how autonomous providers should act or what methods they should use, the OfS will be able to help shape sector wide debate and focus. (OfS, 2018, para 45)

Since its establishment, although it claims to be an independent regulator (OfS, 2021) and at arms-length from government and Ministers (BIS, 2016b) it is not. Its remit is to "retain a duty to take direction from the Secretary of State on high level policy and for the Secretary of State to retain powers to appoint the OfS Chair and member of the Board" (BIS, 2016b p.12). Filippakou & Tapper (2019) conclude that the purpose of the OfS is to regulate with a particular focus on achieving the policy outcomes that the State desires. Its regulatory status gives

it power that its predecssors lacked mandate policies across the sector, to constrain activities of individual providers via its powers to deregister, sanction and fine universities and to regulate at the sector level "to make the whole system work" (Danbridge, 2018).

3.5 Representative organisations

Representative bodies such as the UUK and the NUS are important actors in the policy making process. Their roles are to represent and negotiate members interests within the complex web of interdependence with other institutions, organisations, or groups that make up the policy making process (Papadopoulos, 2003). As actors, representative groups are important to government as they offer expertise through their stakeholder participation which legitimises decision making and makes the act of governing and control easier (Papadopoulos, 2010). According to Papadopolous (2010) democratic governments are afraid to exclude stakeholders in the decision-making process because exclusion offers the potential for destabilisation through the threat of using 'voice' to dissent. As an instrumental part of this process representative bodies will tend to adapt to their environment to enable them to better perform their representative function. Regular interactions between representative groups and public policy makers initiates socialisation by generating shared understanding of social meanings and cooperative behaviour (Klemenčič, 2012a).

3.5.1 Universities United Kingdom

The UUK finds its origins in 1918 when the first recorded meeting of 22 university leaders took place. Their mission was to create a united sector in a shared commitment to work for the good of society. In 1930, Vice-Chancellors agreed to a formalisation of arrangements and the Committee of Vice-Chancellors and Principals (CVCP) was formed. In 1992, when the polytechnics became universities, the CVCP merged with its equivalent, the

Committee of Directors of Polytechnics. This formed a representative body for all universities that increased in size from 47 to 100 and offered a united front to the then newly formed HEFEC (Locke, 2007). The CVCP was renamed to the UUK in 2000 to reflect the evolution of the organisation, although Locke (2007) suggests this was more of a branding exercise. During the early stages of the pandemic Alistair Jarvis was the CEO. The membership of Universities UK was 137 heads of higher education institutions (UUK, 2021).

The UUK "aim(s) to shape policy that allows universities to deliver the greatest impact possible for students, staff, the economy, and the communities they serve" (UUK, 2021, NP). By demonstrating these benefits, the UUK claims to help universities "build trust with policymakers and the public" (UUK, 2021, NP).The notion of trust is further elaborated in the UUK's vision, where along with opportunity, impact and global leadership, protecting university autonomy and developing trust relationships are key elements of the UUK's role to promote "public trust and political support for UK universities by demonstrating the positive impact on students, the economy, public services and society" (UUK, 2021, NP).

Locke (2007), in a summary of the impact of the UUK notes that it is difficult to separate the impact of UUK from the effects of other influential, prestigious and economically powerful universities and alliances. The power of the elites - Oxford and Cambridge - is clear (Boliver, 2015) and important strategic alliances have emerged between UUK members in response to marketisation of the sector to cluster certain types of universities together to advocate for and protect their members' interest (Boliver, 2015). Douglass (2005) argues that while the ability to form powerful alliances is compromised in a competitive environment characterised by demand for government resources and prestige, that creation of voluntary links between groups provides avenues for collective responsibility and action. The power of the Russel group which advances the interests of research intensive universities, is well established and three other university interest groups Million+; Guild HE and University Alliance exist. The

membership within the UUK of these powerful universities and alliances suggest that decision making is not democratic and that the interest of the most powerful actors will drive the agenda. Therefore it can be surmised that strategies and discourse selectivities which are attributed to UUK have been the agendas of the most powerful and influential UUK members. Since the 1980s these agendas have furthered the neoliberal agenda. Specifically, Locke (2007) identifies the commissioning of the Jarratt report (1985) which recommended a range of market-based approaches such as corporate style management, performance indicators, long term strategic planning and seeking alternative sources of funding (Locke, 2007; Dennison, 1989). It specified a role for the CVPC to encourage and "assist universities to adopt the improved practices outlined in this Report, and also to help channel the pressures that are arising from […] Government with the same end in view" (Jarratt Report, 1985, paragraph 4.24); and building a case for the £3000 pound 'top-up' fees introduced in 2004; and support for the Dearing report and students' contributions to the costs of their education.

Although the membership of Vice-Chancellors establishes it as a powerful group, the UUK is not a cohesive group(Douglass, 2006). . Firstly, diversity of membership is high from the elite, research intensive universities to the smaller providers. Within this diverse and complex sector resourcing and student intake differs substantially. In 2017/18 around two thirds of United Kingdom higher education institutions had an annual income over £100 million more than one fifth had an income of less than £50 million. Around a quarter had 20,000 students or more (Universities UK, 2019). Not only do they differ in size and resources there are also significant differences in origins, reputation, academic strength, access to endowments, and relationship with industry. Despite these differences the same policy and regulatory rules apply to all higher education institutions. So, in practice, institutional autonomy is contingent on these other factors, which places different institutions in very different relationships of power and influence (Locke, 2007). Secondly, the conditions of the market which

place universities in competition with each other makes it difficult for them to come together and put individual self-interest to one side for the sector as a whole (Locke, 2007). UUK's messages, according to Locke (2007) therefore have become increasingly bland and designed not to cause offence to any of the interest groups, and particularly the influential research-intensive universities.

3.5.2 The National Union of Students

The NUS is recognised nationally as the only representative voice of students (Klemenčič, 2012a). It has a legal status and is acknowledged by the State as an important factor in the sector, particularly in its relationship to higher education institutions. During the period researched Zamzam Ibrahim was the elected president with Larissa Kennedy taking the presidency at the end of period on 1 July 2020; both are affiliated to the Liberation Left faction which advocates for free education.

The NUS was formed on 10 February 1922 with the objective to represent past and present students from a national and an international point of view (Day, 2012; McVitty, 2016). It is a confederation of approximately 600 student unions' in higher and further education, with full and part time officers, from the President to representatives of specific student groups (Harvey, 2012). Whilst students are automatically members of their institution's student union, they decide whether to affiliate their union to NUS. Income is derived from membership contribution with the income from members calculated as a levy of 2.0% of block grant income, with a minimum fee of £200 and a maximum of £30,000; 2019/20 income was £2 million. Other Income includes investment income from Endsleigh, and sponsorship income from Endsleigh (NUS, 2021) and other commercial services. The NUS is required to demonstrate value for money to its members or face disaffiliation. Policy is produced through a democratic process of submission and debate by elected student delegates to NUS conferences. However, in practice the NUS executive has discretion to

interpret, implement and translate policy into its campaigning activity (McVitty, 2016).

National organisations representing student interests have a certain "political potency" (Klemenčič, 2014, p.397). Today the NUS vision is 'as the definitive voice of students" to " fight barriers to education, empower students to shape both a quality learning experience and the world around them, supporting influential, democratic and well-resourced students' unions" (NUS, 2021, NP).

National unions on the one hand are forms of institutionalised political behaviour working within political structures of states and higher education whose functions are legitimised through funding allocations, their business operations, representation on governing committees and consultations on policy matters. The NUS is integrated into the State fabric, and it is recognised that "they can help greatly in improving dialogue and facilitating stronger partnerships between higher education institutions and their students" (BIS, 2011, p.36). On the other hand student unions, can also work outside the political structure offering a more radical voice for activists' type political behaviour (Klemenčič, 2012a, p.6).

In a comparative study of European Union's Klemenčič (2012a) distinguishes between two extreme conceptualizations of student unions, the corporatised union that aligns with the state and the university as a mechanism within the policy making structures, and unions as social movements that tend to be conflictual and take part in non-institutional forms of claim making such as boycotts, campaigns and protests. The NUS, falls into the former category; a position that can be attributed to the embedding of the student consumer and the shifting of the role of students' unions away from activist and campaigning work towards a representative function (Brooks, 2016).

As a national student association, the NUS's purpose is to represent student interests and influence public policymaking in higher education and for student

social welfare (Hensby, 2016; Klemenčič, 2012a). In doing this the executive members interact with OfS and other authorities, engage with their structures and cooperate in policy networks. However, the radical reforms to higher education, cuts in expenditure and transfer of costs to students would not sit well with the students the union represents. This can be attested to by the global waves of protests in the 1960s, early 1970s and early 2010s which demonstrate the dramatic and widespread student discontent against the reform of universities (Klemenčič, 2012a).

The early 2010 waves of student protests were centred on overturning the trend toward the marketisation of higher education and in the United Kingdom they were unexpectedly widespread and radical with large scale demonstrations, mass walk-outs, and occupations to protests the government plans to treble tuition fees (Hensby, 2016). Klemenčič (2014) identifies student protests during this period in Austria (2009), Croatia (2009), California (2009), Ireland (2010), the United Kingdom (2011), Nigeria (2011), Columbia (2011), Chile (2012), Canada (2012), South Korea (2012), Spain (2013), and Italy (2013) citing these as just a few among many examples of mass national student movements against tuition fees, marketisation, and cuts in public spending. She argues that student protests were successful in some countries, such as Chile, but were least impactful in countries that had an entrenched neoliberal agenda. In the United Kingdom, for example, the government calculated there was already sufficient societal support for its fees policy and consumerist agenda and pushed forward with its reforms despite the large scale student activism. Conversely, student protests were most impactful where governments did not believe that radical reforms would receive this widespread cultural acceptance (Klemenčič, 2014, Brooks, 2016; Brooks et al, 2016a).

Day (2012) provides a useful history of the NUS and highlights a number of significant reforms that have limited NUS's political activism over the last three decades. The 1994 Education Act formalised structures of the student unions and placed duties on the university governing body to ensure that the student

unions were run in a free, fair and proper manner. Additionally, all major office-bearers were to be elected by ballot of members and the financial affairs of the union were to be properly conducted. The 2006 Charities Act required that unions become registered charities and established the need for a board of trustees which created a corporate styled organisation whose aim was to exert bureaucratic control and therefore reduce the likelihood of it developing militant attitudes amongst its ranks. Over time student unions have moved towards a culture of less activism and more service provision and with leaders seeing themselves as co-producers within institutional governance (Brooks et al, 2016a) rather the activists against it. This alignment of student unions to university management has become increasingly close (Brooks et al., 2015a; Raaper, 2020a) and scholars suggest the marketisation of higher education has domesticated student unions and narrowed their interests to the point where strong critique is unaccompanied by action to challenge marketisation of higher education or the positioning of students as consumers (Raaper, 2020a). As Williams (2012) writes:

> Today's active campaigning students, who are heralded as agents of change within their institutions, are quick to learn the bureaucratic language of agenda items, assessment patterns, learning outcomes and programme monitoring, and are more likely to be found sitting on Staff-Student Liaison Committees than on picket lines. This domestication of the student voice and limiting of campaigning confirms the consumer identity of students rather than challenging it. (Williams, 2012, p. 110)

Recent history shows that the NUS has had little impact in making large scale changes to the issues concerning students such as tuition fees and have been working within the system and adapting to policy contexts of neoliberal imperatives rather than challenging them (McVitty, 2016). Researchers point to evidence that the NUS is disempowered and largely ignored in the policy debates but are increasing called in to consult with the sector on policy issues. The 2010 protests against the tripling of tuition fees signalled the impotency of the NUS for although they mobilised student protests, the NUS president

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distanced the union away from the more radical demonstrators (Kumar, 2011; McVitty, 2016).

Although many students involved in their students' unions or in NUS do not belong to a faction, within student politics there has been an ongoing debate between factions with the radical left and the moderate right (McVItty, 2016). With 'the left' being supporters of free education while on 'the right' moderates believe that students should pay some form of contribution. Those on the left advocate for change via militant tactics and see the NUS as bureaucratic and an impediment to social change. In their view, the NUS leadership is timid and passive and unable to fight for social change (Kumar, 2011; McVitty, 2016). Those on the right offer a more pragmatic solution and work within the system to advocate for structural reform. They engage in tactics of policy research, lobbying, and limited student mobilisation to maintain political influence and keep a seat in the national public debate (Day, 2012). As McVitty (2016) demonstrates in her research on the politics of higher education funding in the UK between 1996 and 2010, the moderate path has not been particularly effective in mitigating against the State's neoliberal funding policy.

3.6 Summary and introduction to next chapter

In this chapter, I explored how the construction of a student consumer in the United Kingdom has been formed at pivotal points in national education policy. It recognises that these points were not sudden apparitions but were built on decades of reform. This reform was based on a neoliberal agenda that emerged with the roughly parallel shifts from an elite to a universal higher education system to create a policy stance of a marketised higher education sector driven by student demand and consumer preferences. Recent reforms in the United Kingdom have entrenched this positioning with the Competition and Markets Authority (CMA, 2015) embedding undergraduate student rights in consumer protection law.

The chapter then provided a history and overview of the OfS, UUK and NUS to articulate their roles as key actors in higher education policy formation. The tensions within the UUK's diverse membership was highlighted as was the difficulty in achieving a coherent and powerful message and the observation that the UUK has historically been an advocate for marketisation. The complexity of the NUS being within the structures of higher education authorities and the tension this creates for its roles to advocate for students and against marketisation was explained as was its relative inability to effect change despite its potential to be political potent. Drawn together, this situational analysis provides the basis to explore the discursive strategies and motivations of the selected actors during the early stages of the pandemic.

The following chapter provides the details of the research design.

Chapter 4: Research Design

4.1 Overview of the chapter

This chapter details the research design to demonstrate how its design, data collection methods and data analysis are aligned to the research aims and enable the answering of the research questions:

1. How was student consumer policy challenged during the early stage of the COVID-19 pandemic?
2. How did the policy challenges deconstruct and/or reconstruct student consumers in the early stage of the COVID-19 pandemic?

The chapter is divided in two parts. Part one is the methodology and part two the methods.

Part one first sets the scene for the research design by providing a summary of how the research topic was derived and the impact that the COVID-19 pandemic had on it. It then goes on to describe the methodology and how critical policy analysis (CPA) will be applied to allow for the problematisation of policy creation; illuminating it as imperfectly constructed and contested, with intended and unintended consequences. This CPA approach will guide the exploration of the roles of structure and agency in the 'doing', the creation and re-creation of the social world. It then explains how the strategic-relational approach (SRA) – a theory of social change, developed by Jessop (Jessop, 1999, 2013, 2014) - will be used to investigate how primary actors responded reflexively and recursively to structural constraints during COVID-19. Common to both the CPA and SRA is the importance of the role of discourse. Discourse analysis has been undertaken to understand how the undergraduate domestic higher education student has been constructed and illuminate the role of structure and agency to co-constitute the deconstruction and/or reconstruction of the student consumer in response to, and as a consequence,of, crisis.

Part two is an in-depth explanation of the methods used to demonstrate the integrity of research methods and the validity, reliability, and trustworthiness of the research and its findings. It shows how the research procedures will be precise and consistent and therefore enables the interpretation of the data in an unbiased way.

4.2 Part One - Methodology

4.2.1 Forming the research question and design

This thesis presents an observation of higher education policy in England through the specific lens of the construction of the student consumer in a time of global crisis. The research draws on CPA which problematises policy creation and Jessop's SRA (Jessop, 1999, 2013, 2014) to examine how strategic-relational practices in the social world have constructed the student consumer identity. As both CPA and SRA see the role of discourse as a powerful enabling and explanatory factor in their theoretical constructs, the research methodology and method is informed by discourse analysis. The study does not presume that students necessarily act as consumers, rather it explores the way the discourse of higher education policy has constructed this identity and in what ways discourse has changed in a global crisis.

This approach is quite different from the original research questions and design. The original focus was along the lines of, Ozga's (1990) suggestion of the importance to "bring together structural, macro-level analysis of education systems and education policies and micro level investigation, especially that which takes account of people's perception and experiences" (p.359). The original purpose of my research was to understand the construction of the student consumer identity at the national level, its utilisation in university strategy and website material, and how/if this student consumer construction influenced the personal subjectivities of students. Data collection was to be via publicly available policy documents, two university websites (one in the United

Kingdom and one in Australia). Interviews and focus groups with students were to be conducted on the university sites. The major shift in research direction was a direct result of the COVID-19 pandemic. The closure of international and national borders, cessation of international travel, partial closure of campuses made it impossible to travel to the United Kingdom for data collection. In addition, national lockdowns, social distancing, and the introduction of controlled gatherings made it impossible to conduct the research domestically. The original research proposal was therefore abandoned and a new proposal which looked at the construction of the student consumer during COVID-19 in the United Kingdom was formulated.

Within this new context, the recalibration of my research turned to how student consumers are constructed, deconstructed and/or reconstructed in response to the COVID-19 crisis. It uses data from publicly available websites to source key United Kingdom higher education policy responses from the Department for Education, the Office for Students (OfS), Universities UK (UUK) and the National Union of Students (NUS), during the 11 March to 3 July 2020 period. Existing scholarly literature on the construction of the student consumer has been used to provide the foundations for the historical construction of the student consumer along with key policy documents from the United Kingdom.

The theoretical perspective a researcher employs influences the research journey and outcomes. It influences the way problems are identified and described and how the research is conducted and its outcomes. The theoretical perspective is informed by the researcher epistemological and ontological beliefs and positioning. As a researcher my interest in the phenomenon of students as consumers stems from over a decade leading and managing Learning and Teaching units in two Australian Universities. As Bourke (2014) explains, the positionality that a researcher brings, and the personal experiences that have shaped the positionality, may influence what the researcher brings to their research, choice of processes, and interpretations. It is therefore important to be aware of one's own position and positioning and

exercise reflexivity to control the potential for biases stemming from one's own subjectivity (Marguin, 2021). I reflected on my positionality as being responsible for the strategy and operations of a university business unit with limited direct contact with students. Through the process of reflexivity, in the early stages of the research, I noted that as a manager I had absorbed, accepted and promulgated some of the tenants of neoliberalism and the marketisation of higher education. Yet, at the same time running counter to this positionality I was also, as a student, aware of questioning of this position. I had observed with interest the academic debate that increasingly stresses the degradation of the traditional student teacher relationship, the expectation of good grades apparently irrespective of effort, the expectation of instant availability and response to queries, and the increasingly litigious response when expectations of what should be provided fall short of students' expectations. While hearing this debate I had not necessarily joined it but had, as a student myself, wondered to what degree student expectations of their learning experiences are consumeristic and to what degree they are informed by policy narratives of the student as a powerful agent of a marketised higher education sector whose choices drive quality.

I was aware therefore, that there were certain contradictions and tensions between my positionality as professional identity and student identity. So that the research could be conducted from a position of discovery rather than having a defined agenda or an axe to grind, two important decisions were made: 1) to conduct the research in a higher education national context that was marketized but not intimately known to me 2) to focus at the undergraduate student level. Positionality can be fluid and shifting and can change over time (Fasavalu & Reynolds, 2019) and my positionality did change throughout the research process. As I engaged with the data and applied the methodologies of CPA and SRA to understand how key actors used their agency in the deconstruction and re-construction of the student consumer a clearer appreciation of how higher education policy discourses have actively

constructed a particular form of reality to realise neoliberal political agendas became apparent. Therefore the process of conducting the research acted like a 'critical incident' and a re-positioning occurred to me becoming an active questioner of the marketisation of higher education and the potential damage that can be caused when students are constructed as consumers..

4.2.2 Ethics Approval

Ethics approval was received from Lancaster University to conduct this research on 18 December 2018 (Appendix one). With the revision required by the pandemic an amended ethics approval was granted on 2 June 2020 (Appendix One).

4.2.3 Critical Policy Analysis and Discourse analysis

According to Diem et al (2014) early forms of educational policy research have tended to operate within a traditionalistic (positivist) paradigm. Over time, this has created a group of taken-for-granted assumptions, norms, and traditions that institutionalise conventional ontological, epistemological, and methodological traditions. The result has been a limited set of research findings, based on a methodologically restricted group of theories and methods (Diem et al, 2014; Taylor, 1997; Young, 1999). CPA diverges from these traditional policy approaches by problematising the nature of policy creation and takes a critical theory-based approach to its analysis. Refusing to simply accept policy at face value:

> Critical policy researchers engage in critique, interrogate the policy process, and the epistemological roots of policy work, examine the players involved in the policy process, reveal policy constructions, and consider how policies and the problems they address might appear if reframed from a different perspective (Young & Diem, 2018).

CPA is concerned with how policy constructs meaning and how meanings become unconsciously assumed and over time are normalised, accepted,

reproduced and standardised. Adopting a CPA perspective enables a researcher to decipher multiple, conflicting arguments and viewpoints and at the same time question and discover how nebulous concepts have become accepted reality and ideas normalised (Diem et al, 2014). It acknowledges that policies are messy and non-linear. This knowledge allows for its distancing from the rational-technical view that policy problems are natural, policy solutions are value free; planning and implementation can be well managed, and that the knowledge required for planning and evaluation is obtainable, objective, and communicable (Young, 1999).

Because of the need for deep understanding of the question under investigation, it is more common for a CPA researcher to use qualitative methods of exploration. This allows for concentrated looking (Young and Diem, 2015) which is required for the collection and examination of contextualised information including policy documents, texts, interviews and observations. To enable my research, policy texts produced between 11 March to 3 July 2020 have been collected and analysed. This specific period has been selected as it traces from the declaration of the pandemic to the height of uncertainly and confusion as society grappled with its impact and governments sort to exert order. For this research, policy texts are loosely described. They include government, the higher educational regulatory body, student unions and university peak representative body's consultations, regulatory notices, press releases, speeches, Education Committee evidence, letters, and briefing notes as related to COVID-19. The purpose of examining these texts is to critically decipher their meaning. Public discourses such as press releases and policy texts are produced to address an ideal reader. There is an implicit attempt to create an ideological common ground between the text producer and the reader, reducing space for disagreement and competing voices, and importantly for this research, reflecting the existing power structures (Lomer, 2017a). Through these documents and their discourses, produced within and outside government agencies, CPA therefore actively questions through

concentrated looking, how students have been constructed and how the various agents with the power to create and deliver the discourse in the rapid policy responses to higher education in a COVID-19 world have altered that construction in different ways.

Policies are according to Ball (1993) both text and discourse. As texts, and as discussed above, they are produced within the complex and contested structures, by agents with competing interests. This lends itself to an encoding process full of ad hocery, serendipity, compromise, negotiation and renegotiation (Ball, 1993). Just as a single policy will be designed and influenced by many actors, as text (and although an ideal reader will be in mind), the decoding process is similarly complex offering a variety of intended and unintended interpretations that are dependent on the readers' histories, experiences, skills, resources and context. Taking a literary deconstructive approach places meaning making in the hands of the readers rather than the writers (Bacchi, 2000), and as Codd points out "for any text a plurality of readers must necessarily produce a plurality of readings" (Codd, 1988, p.239). However, over time policy as discourse, sets limits upon what can and cannot be said (Bacchi, 2000). Discourses represent, structure and imagine the world, changing it in line with particular ideologies (Fairclough 2003). Policies as discourse, exercise power through the production of 'truth' and 'knowledge' (Ball, 1993) and "capture the ways in which bodies of knowledge, interpretive schema, conceptual schema and signs define the terrain in ways that complicate attempts at change" (Bacchi, 2000, p.48). Dominant discourses can naturalise certain ideological assumptions as common sense (Fairclough, 1985) because they have limited and shaped what can be imagined. This reduces plurality and contradictory discursive alternatives for the reader. However, in times of radical upheaval the opportunity for plurality and discursive alternatives becomes viable and acutely visible before the process of normalisation again occurs.

As explained by Young (1999) successful CPA cannot be achieved through mechanistic, atheoretical coding, and reducing data to themes, rather it requires the application of a critical theoretical framework. Discourse analysis is such a framework, providing as it does a multidisciplinary approach informed by discursive psychology, ethnomethodology and foucauldian approaches (Sitz, 2008). It is an analytic technique that has been successfully used in the study of higher education policy by researchers who wish to take a critical perspective, questioning taken-for-granted knowledge and practices (Lester and Paulsen, 2018; Sitz, 2008). With respect to its epistemological stance it takes a relativist view that discourse and the truth it constructs arise out of relations and practices in the social world. Importantly discourse analysis is considered a well-suited method for analysing the phenomenological dimensions of consumption as well as sensemaking and sensegiving processes of situating an individual within the market and constructing them as a consumer (Sitz, 2008). For these reasons, a research strategy informed by discourse analysis is an appropriate way to explore the pre and post COVID-19 positioning of the student consumer.

Conducting discourse analysis examines how language functions and how meaning is created in different social and political contexts (Pitman, 2016). It is a useful means by which to examine the intersection of social theories and language. Language does not have a fixed, objective meaning, but is influenced by factors such as political, economic and social context. Language is performative, which means it does something. When language is used it performs a purpose such as recognising achievement, ascribing blame, passing judgement, describing events, negotiating peace etc (Lester & Paulsen; 2018). Language is both moulded by the social context and moulds the social world as it is through the use of language that perspectives are shared and normalised and the social world is built. When we consider the construction of a policy document its reliance on language is obvious. Language provides choices, the construction of every sentence is a choice between sometimes myriads of

options. If language has the potential to make meaning, then what is selected by the writer is the realisation of that potential (Janks, 2005). These selections are purposeful and are intended to convey to that reader the truth of the reality that has been constructed rather than any potential alternatives.

The relationship between discourse and my research is therefore powerful because it is discourse that has constructed realities, objects and subjectivities – in this case the student consumer. To elaborate with the aid of Foucault, discourses are the "practices that systematically form the objects of which they speak" (Foucault, 1972, p.52), these practices define and shape an object, the language that is used to speak about it and ultimately what can be said and not said about it (Foucault, 1972). As discourse shapes reality it establishes the subject positions within which people function (Fairclough, 1989). Subject positions are related to identity, how a person perceives themselves and acts and how others perceive and respond to them (Lomer, 2017a). People will accept and comply with the dominant subjectivities often reinventing themselves in the discursive image (Fairclough, 2003). But people can also contest the way they are constructed. Policies open as they are to interpretation and vested with the interests of the dominant power, can both engender compliance and resistance, with people reflexively offering their own redefinitions of themselves as subjects (Clarke et al, 2007).

Discourse analysis is a useful research method for my research as it studies language in relation to its social context. Jank's (2005) describes discourse analysis as originating from a critical theory of language which sees the use of language as a form of social practice tied to specific historical contexts. Understanding that context is imperative and as Fairclough and Wodak (1997) state that "discourse is not produced without context and cannot be understood without taking context into consideration ... Discourses are always connected to other discourses which were produced earlier, as well as those which are produced synchronically and subsequently" (p.277).

Because of this a CPA approach informed by discourse analysis provides a valuable mechanism to explore to phenomenon of the student consumer within the specific time period and context of a global pandemic.

4.2.4 Strategic-relational approach

If CPA is concerned with the problematisation of policy and the complexity of meaning making which is contested within the wider cultural political economy (Robertson & Dale, 2020) then discourse analysis provides the mechanism to explore it. But why and how are these meanings within policy made, agreed and normalised and through what processes? In what ways, do meanings change in times of crisis where the status quo is challenged and new spaces are opened up for contestation and the possibility for new alternatives emerge? When a dominate discourses such as student consumers become naturalised and taken for granted, it is in periods of crisis we can most clearly see the weakness in existing accepted discourses as the search for new replacements begin (Knops, 2015) and the struggle to hold the status quo by powerful actors is amplified. Beyond the State, actors such as unions and peak bodies have roles to play in the creation, stabilisation and destabilisation of discourses of higher education. The discourses of these groups are important because it is the wider perceptions and actions of these social actors that will ultimately influence public policy. In this context it is important to understand how construction, deconstruction and reconstruction of the student consumer occurs in real world social and political interactions. SRA developed by Jessop (1999; 2001; 2005) provides a theory of social change which can usefully explore this by making clear the relationship between actors (agency) and society (structure) (Robertson & Dale, 2020) in creating institutional coherence and institutionalisation.

In the SRA structure and agency are purely analytical (Jessop, 2005; Hay, 2002). Unlike other conceptualisations of structure and agency which are based on dualism, structure (the context within with political and social events occur

and acquire meaning) and agency (actions and the ability to act consciously to realise desired intentions) cannot exist in isolation from each other and must be considered as simultaneously co-constituted (Hay 2002; Robertson,2010). In Jessop's words the SRA seeks to "examine structure in relation to action and action in relation to structure, rather than bracketing one of them" (Jessop, 2001, p.1223). In place of approaches that emphasise bracketing or de-coupling agency from structure, the SRA explains real-world changes through identifying the reflexive and recursive nature of the structure and agent relationship where actors act strategically in response to a structure and in so doing alter it.

Figure 4.1 Strategic Relational Approach to Structure and Agency, depicts Jessop's SRA and shows how coherence around a social phenomenon (such as the student consumer) is achieved. The first row is the antitheses of the SRA, depicting a complete separation between structures that impose total external constraints in contrast the agents who are fully unconstrained. The second row moves closer to the SRA, showing that structure is the effect of action, and agency which is both constrained and enabled by structure, however this approach brackets structure from agency. The third to fifth row depicts the SRA, removing the bracketing and revealing reflexive and recursive social relations and structural selectivities that create social phenomena. The third row depicts the strategic relational aspects of particular occurrences/interactions between structure and agency; the fourth row shows the strategic relational aspects of following occurrences/interactions. And finally, the fifth row reveals how the recursive interaction between strategic selectivities and the reflexive behaviour of agents has produced a structurally coherent and self-reproducing social configuration (Jessop, 2001) which is both path finding and path dependant.

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Structure
External constraints

Agency
Free-willed subjects

Dichotomy

Dualism masquerading as duality

Emergent structures

Socialized agents

Genuine dialectical duality

Structurally inscribed strategic selectivity

Structurally oriented strategic calculation

Reflexive – recursive unity of opposites

Reflexively reorganized structural configurations

Recursively selected strategies and tactics

Second-order limits to transforming selectivity

Strategies to transform selectivities

Structured coherence (or patterned incoherence)

Figure 4.1 Jessop (1999) Strategic Relational Approach to Structure and Agency.

Structures are strategically selective in that they will privilege some forms of agency over others, reinforcing some actions and discouraging others. Agential selectivities (the capacities of agents to engage in structurally oriented strategic calculation), allow agents to reflect on the nature of this privileging and select the courses of action that they calculate will strategically advance their interests (Jessop, 1999). But the capacity of agents to change structures is unequal and power is not exercised unilaterally. The more power, information and technological and discursive selectivity available the better able agents are to influence structure. Therefore, the reflexive nature of agency is important as agents learn from their actions and learn how to alter their approaches to achieve their desired outcomes. In Jessop's words:

> structures are thereby treated analytically as strategically selective in their form, content and operation; and actions are likewise treated as structurally constrained, more or less context sensitive, and structuring. To treat structures as strategically selective involves examining how a given structure may privilege some actors, some identities, some strategies, some spatial and temporal horizons, some actions over others. Likewise, to treat actions as structurally constrained requires exploring the ways, if any, in which

actors (individual and/or collective) take account of this different privileging through strategic context analysis when undertaking a course of action. … In short, the SRA is concerned with the relations between structurally inscribed strategic selectivities and (differentially reflexive) structurally-oriented strategic calculation. (Jessop, 2005, p. 48)

In the SRA the context of action is strategically selective and also discursively selective (Hay, 2002). According to Knops (2015), the SRA more so than other forms of structure-agency theory explores the role of discourses in informing agents' choice of strategies. Because structures are not immediately accessible or interpretable but are characterised by complexity and change and lacking complete information, agents are required to interpret the world to orient themselves strategically. This interpretation is the abstraction of ideas formed into discourses. The discourses that are adopted are dependent on their 'fit' with the agents experience of the world. Discourses may be inaccurate, but this may not be immediate recognised and it may be some time before the inadequacy or limitations of a particular discourse are realised and abandoned (Hay, 2002). If a particular discourse leads to failure, it is likely to be abandoned in favour of a new one. Conversely if one is successful, it will be repeated.

According to the SRA, power imbalances emerge between different groups of actors. This depends on the actors' organisational capacities (ability to form alliances and access finance), their learning capacities (ability to modify behaviour), and their capacities to enforce strategies through discourses (Jessop, 2005; Hiegl, 2011). In exploring power and agency for this research the actors are ministerial departments responsible for higher education, the OfS, NUS and the UUK (the peak representative body as the collective voice of 137 universities). Each actor offers unique perspectives on higher education, and each has access to different learning, organisational and discursive capacities.

Through the SRA we can view the neoliberal creation of student consumers and how the State, NUS and UUK have responded to the construction of the consumer imaginary during crisis. The SRA permits us "to delve deeper into the

complex interaction between structure and agency, and the ways in which different outcomes are possible in different contexts" (Knio, 2019, p.936) and the importance of history and path dependency in its creation. Path dependency implies that the prior developments shape current and future trajectories. But history can make a difference, and social forces can intervene to actively rearticulate established norms so that new trajectories become possible (Jessop, 2001). The articulation of a crises relies on the discourse used to describe and frame it (Hay, 1995) and those who control its definition hold the key to the strategies to resolve it (Hart, 1993). Figure 4.2 COVID-19 discourse construal, represents an overlapping sequence of variation, selection and retention of interpretations during crisis that sees the contestation of discourses and the breakdown of established patterns of institutional coherence. This research explores the capacity of powerful political actors to remain committed to neoliberalism and the student consumer and whether resistance emerges from other actors offering new and potentially better ways of regarding students other than as economic agents.
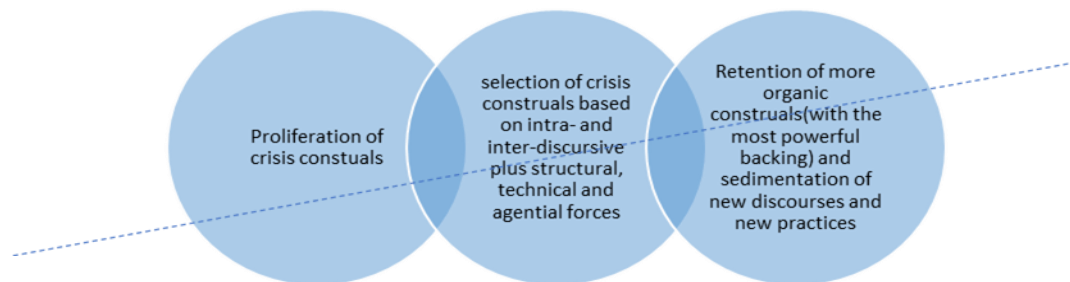
Figure 4.2 COVID-19 discourse construal (Jessop, 2013 p.238)

4.3 Part Two - Method

The research questions must guide the choice of methods; for this reason discourse analysis has been applied. Gill (2000) describes the virtues of discourse analysis based on four principles:

1.   It offers a critical stance towards taken for granted knowledge, and a scepticism towards the idea that our observations of the worlds unproblematically reveal its true nature to us.

2.   That the way we view the world in historical, culturally specific and relative.

3.   It is based on an understanding that the knowledge is socially constructed.

4.   In offers a commitment to exploring those ways that knowledge are linked to actions.

Discourse analysis sees social life as being characterised by action and conflict with discourse being used to establish one version of the world in the face of other competing versions. When undertaking discourse analysis, researchers apply three questions as presented by Potter (2004); 1) What is this discourse doing?; 2) How is this discourse constructed to make this happen?; and 3) What resources are available to perform this activity? Potter (2004) expands on the idea of action and how discourses reveal the sequencing of actions. This is important from a SRA perspective because actions do not occur in a vacuum. They are responses to other actions which in turn instigate other actions. These actions set the conditions for what happens next, but they do not dictate precisely what or when it will happen.

4.3.1 Qualitative data collection and analysis

Qualitative research can be criticised as "merely an assembly of anecdote and personal impressions, strongly subject to researcher bias" (Mays and Pope, 1995 p.109), that it lacks rigour and validity and that is it not reproducible (Anderson, 2010). The concept of validity is defined by Maxwell (1996) as the "correctness or credibility of a description, conclusion, explanation, interpretation, or other sort of account" (p.87). It refers to the extent to which the findings accurately represent the phenomena they are intended to represent (Anderson, 2010). Reliability of a study refers to the reproducibility of the findings. Noting the discourse analysis has been criticised for its subjectivity, the following section provides details of the data collection and analysis which was undertaken to ensure that the research and its findings are not biased anecdotal personal impressions but are based on a rigorous and consistent attention to data collection, coding and analysis.

4.3.2 Data collection

Adopting Lomer's (2017b) approach, in determining what types of documents to collect the genre remained open. Policy was understood not only as formal policy texts, but also on a range of informal genres originating from the actors under investigation and included consultations, regulatory notices, press releases, speeches, evidence, letters, and briefing notes. Including this range of genres captured the specific actions that were occurring, claims that were being made and the justifications for them. In this way they were expressive of the values, attitudes and desired outcomes that underpinned the actors strategic selectivities.

From a distance (me being an Australian living in Australia) it was difficult to clearly understand what was occurring as the crisis and the responses were rapid and did not have the coherence and patterns that would be expected in more orderly times. At the same time this distance provided an opportunity of a

different positionality of being an external observer removed from the political and social turbulence. Documents were identified though web searches of the Department of Education, OfS, UUK and NUS. I initially concentrated on press releases with intertextual references being followed up and new documents identified and added to the data set. All documents were then read in chronological order by actor.

As part of the sense making, the data was triangulated against other sources located during the data collection. This was an important step as triangulation aligns multiple perspectives, leading to a comprehensive understanding of the phenomenon of interest. Sources media stories, previous policy statements, briefing notes and reports.

The decision to utilise SRA was made after the initial data collection and triangulation while I was broadly familiar with the data but had not commenced the coding. In this way SRA was not the driver of the data collection but was applied to make sense of the data, and through it, the actions of the actors whose strategies and discursive selectivities initially eluded me. Appling the SRA after data collection provided the way of identifying through the coding process, rather than presume or artificially force, the linkages and interplays that were occurring between what sometimes seemed unconnected actions and interactions. Combined, the steps taken, with the utilisation of SRA illuminated the timelines, policy junctions, and claim makings of each of the actors as detailed in Figure 4.3. It also determined the end date for the research period which had not been pre-determined entering into the data collection phase. The end date of 3 July was selected to coincide with the release of Regulatory notice 5: Condition Z3: Temporary provisions for sector stability and integrity (OfS, 2020w). This was a natural end date as it concluded the Consultation on the integrity and stability of the English higher education sector (OfS, 2020h).

Having determined the timeframe, a process to refine the dataset began with exclusion criteria developed to focus on answering the research questions. Documents were included if they were:

• Published between 11 March and 3 July 2020.

• Related to the impact of COVID-19.

• Publicly available.

• Concerned with domestic undergraduate students', but excluded if they primarily dealt with international students, postgraduate students, mental health support, accommodation, gender, diversity, ethnicity, or research.

In total 105 documents (Appendix three) were included in the dataset, this accounted for 504 pages of text. This included:

The Department for Education and the OfS policy documents which were produced and are listed below and 28 relevant media releases, briefing notes, speeches, oral evidence, and letters (Appendix three):

1.   Government Support Package for Higher Education Providers and Students (DfE, 2020c).

2.   Consultation on the integrity and stability of the English higher education sector (OfS, 2020h).

3.   Introduction of Temporary Student Number Controls (DfE, 2020f).

4.   Guidance for providers about student and consumer protection during the coronavirus (COVID-19) pandemic (OfS,2020r).

5.   Consultation on the integrity and stability of the English higher education sector Analysis of responses to consultation (OfS, 2020u).

6. Equality impact assessment: Time-limited condition of registration on the stability and integrity of the English higher education sector (OfS, 2020v).

7. Regulatory notice 5: Condition Z3: Temporary provisions for sector stability and integrity (OfS, 2020w).

UUK's initial proposal for achieving stability of the higher education sector, its collaboration with MillionPlus on enhancing public services, its response to the government consultation and its Principles for emerging from lockdown and 15 media releases were included (Appendix three).

1. Achieving Stability in the higher education sector following COVID-19 (UUK, 2020j).

2. Strengthening and enhancing United Kingdom public services in response to Covid-19 (UUK, 2020m).

3. UUK response to the Office for Students' consultation on the integrity and stability of the higher education sector in England (UUK, 2020n).

4. Principles and considerations: emerging from lockdown (UUK, 2020q).

The NUS's produced no policy documents, however they instigated a Coronavirus and students Survey, a #StudentSafetyNet campaign to redo, reimburse, write off and a call for a mass action complaints chain; 48 NUS documents are included in the data (Appendix three).

4.3.3 Coding and Analysis

Using NVivo software and moving between a priori and open coding approach (Gibbs, 2018) initial coding was line by line to identify key concepts through repetition of words, phrases and ideas. A code is defined by Salanda (2009) as "most often a word or a phrase that symbolically assigns a summative, salient, essence capturing, and/or evocative attribute for a portion of language based or

visual data" (p.14). Initially codes were descriptive and drew on prior knowledge and theoretical elaboration of what defined a student consumer (such as choice, tuition fees, future workers, rational decision makers). However, this approach was restrictive as it limited my ability to understand what was actually occurring in the construction of the student consumer in crisis and compromised my access to the "richness and dimensionality" (Leung, 2015 p.324) of the text. Therefore, by drawing on Gibbs (2018) advice to constantly ask questions of: who, when, where, what, how, how much, and why the data was re-coded drawing on the language used in the text, on a theoretical basis which was as inclusive as possible to capture and code any statements that seemed to be constructing students in certain ways and for certain purposes.

The process was iterative and involved intensive engagement with the data, combining and eliminating coding and the development of a codebook (Appendix four) which was applied to all documents; examples of coding are located at Table 4.2, Table 4.3 and Appendix five. Consistent with Anderson's (2010) observation coding was not a discrete stage of the research, but a process that was ongoing from the point where the data was collected to when the write-up was complete.

Two overarching discursive strategies were identified as being common to all actors, although to greater or lesser extents and depending on the actor and context. The strategies were that students were constructed as either vulnerable or empowered, within the themes there were 20 and 8 categories respectively as shown in Table 4.1.

Vulnerable	Empowered/Powerful
Vulnerable - consumers	Autonomous, rational decision makers
Vulnerable - current workers	Empowered by government
Vulnerable - future workers	Empowered by providers
Vulnerable - health care students	Empowered through complaints
Vulnerable - learners	Heroic
Vulnerable - need help with decisions	Powerful consumers
Vulnerable - no voice	Powerful future workers - economic benefits, human capital
Vulnerable - physical and mental health, safety and wellbeing	Powerful voice
Vulnerable - protected by government	
Vulnerable - protected by NUS	
Vulnerable - protected by providers	
Vulnerable – renters	
Vulnerable - to COVID	
Vulnerable - to financial hardship	
Vulnerable - to government	
Vulnerable - to market failure	
Vulnerable - to marketisation	
Vulnerable - to providers	
Vulnerable - to tuition fee debt	
Vulnerable - treated differently	

Table 4.1 Summary of codes

Early in the coding process vulnerability as a theme was immediately obvious, with 63 direct usages of the word itself and instances of related words such as anxious (NUS, 2020i, para.2; 2020q, para.2; para.3; 2020aa, para.13), "stuck" NUS, 2020ah, para.3), "struggling" (NUS, 2020n, para.1) "forgotten" (NUS, 2020ab, para9; para10), "ignored" (NUS, 2020at, para.9), "disadvantaged" (NUS, 2020q, para.5; 2020aa, para.6). Because vulnerability is a social relation, in that to be vulnerable you need to be vulnerable to something, themes emerged of students being vulnerable to behaviours of higher education institutions, government, marketisation, competition, market failure and debt. On the surface, it appeared obvious that students were vulnerable as the pandemic had made all citizens vulnerable. By using constant comparison between actors and policy junctures the purpose of constructing students

began to emerge as each actor positioned themselves as protectors of vulnerable students to legitimise and justify their claim making. An example is below.

Code	Example of coded data
Vulnerable to providers	The measures aim to allow students, who want to go to university and meet their entry requirements, to access higher education while avoiding competition among providers taking a form which would go against the interests of students and the sector (DfE, 202coc, para.5). So, I want to make it very clear to any university or college – and its leaders and governors - that if any university or college makes unconditional offers or adjusts any offer to students during this two week moratorium we will use any powers available to us to prevent such offer making on the grounds that it is damaging to students and not in their interests (OfS, 2020b, para.5). It is no surprise that university management would like to continue as if it is 'business as usual' for fear of losing out on the income students provide (NUS, 2020ar, para.3).

Table 4.2 Category: Vulnerable to providers

Empowerment was more elusive, the word itself appeared only three times in relation to students and only by the Department for Education and OfS (DfE, 2020c; OfS, 2020u & 2020v). Although the sentiment of being empowered was clear across all actors for example with usage of 'choice', 'option', 'information', 'rights', 'protection plans', 'contracts', it was less clear what its purpose was. Taking the initial direct references to empowerment it seemed that the State was deliberately conducting behaviour towards something. Being aware that policies are designed to achieve something material and gain support (Brooks, 2018) and that ideologies tend to perpetuate themselves (Brenner et al, 2020; Peck 2020) after a period of studying the texts and exploring connections through Nvivo it became apparent that empowerment, like vulnerability, was a tool being used for control by the State and that actors engaged with this dominant discourse similar to their deployment of vulnerability.

Code	Examples of coded data
Empowered	We're therefore calling for practice which is motivated by student welfare and student choice, giving students control over their education, ensuring progression and completion when they desire it. (NUS, 2020q, para. 5) We are also empowering students to make more informed decisions about entry into HE by ensuring they have good quality information and advice, and by reassuring them that there are places available this year. We can support them in choosing a course and provider which are best aligned with their career aspirations and talents. (DfE, 2020c, para.6) We will continue to support students to progress and achieve their learning outcomes, to overcome barriers so they succeed and flourish, to offer a fulfilling and varied learning experience, and to give them skills and hope for the future. (UUK, 2020p, para. 9)

Table 4.3 Examples of empowerment coding

Contextualising and making connections between discursive strategies was important to build a coherent argument supported by data and to avoid a common pitfall of qualitative data analysis of simply describing themes (Bazeley, 2009). Contextualising and comparing how vulnerable or empowered discourses were used by actors revealed the relational elements of vulnerability and empowerment. It also illuminated that the construction of students is not passive nor accidental but an active and purposeful discourse of actors who operationalised ostensibly non-market language within a marketised environment.

From the coding timelines and relationships become apparent as outlined in Figure 4.3 The State, UUK and NUS - policy Junctures and impacts, 11 March - 3 July 2020. The arrows show connections that had influence in terms of affecting change around the major policy decisions. Between the State and UUK it is clear in the very early months of the pandemic between March and May 2020 that there was strategic manoeuvring that achieved outcomes as the

players responded to each other around policy debates. For example, the initial strategy by the State to declare a moratorium on unconditional offers triggers the UUK to respond with Achieving Stability in the higher education sector following COVID (UUK, 2020j). In turn the Government Support Package for Higher Education Providers and Students (DfE, 2020c) was released which turned two of the UUK proposals into a rules based regulatory approach. This was followed by consultation and engagement, a retreat from some elements of the package based on UUK and other stakeholders opposition and the eventual release of the Regulatory notice 5: Condition Z3: Temporary provisions for sector stability and integrity (OfS, 2020w) on 3 July.

Interestingly, in the period there was little two- or three-way engagement between NUS and the other actors. Although the diagram is somewhat limited as it does not show the smaller interplays and manoeuvring that occurred in alliances between the UUK and the NUS. For example, the UUK supported the NUS call for hardship funds which the State conceded to on 19 May although the amount was £1.4 million not the £60 million ask. They also engaged with each other on accommodation issues facing students. What it does show clearly however was that the NUS was essentially outside the debate in terms of its ability to influence change which culminated in mounting anger and frustration towards the end of the period researched.

Figure 4.3 will be modified and presented in chapter seven to illustrate the strategies employed by actors, intersectionality with other actors, and degree of vulnerability or empowerment discourse used.

UUK

10 April	29 April
Achieving stability in the higher education sector following COVID-19 (UUK)	Strengthening & enhancing UK public services in response to Covid-19 (UUK & MillionPlus)

3 June

Principles emerging from lockdown (UUK)

11 March

Global pandemic declared

23 March

National Lockdown

The State

23 March	17 April	4 May	26 May	9 June	3 July
Moratorium on unconditional offers announced by DfE	Extension of moratorium by DfE	Government Support Package & Consultation on the integrity and stability of the English higher education sector	Consultation on the integrity and stability of the English higher education sector closes (OfS)	Guidance for providers about student and consumer protection during the coronavirus (COVID-19)	Regulatory notice 5: Condition Z3: Temporary provisions for sector stability and integrity

NUS

Lobbying for student accommodation, hardship funds, no detriment NUS elections take place	22 April	6 May	3 June	24 June	1 July
	#Safety Net campaign & re-do, reimburse, write off	Forgiveness and removal of Health care students tuition fees added to demands	Strengthening message of anger at State and universities	Lauch of student complaints chain	New NUS executive team Strengthening message of anger at State and universities

Figure 4.3 The State, UUK and NUS - policy Junctures and impacts, 11 March -3 July 2020

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4.4 Summary and introduction to next chapter

Chapters one to four have provided the background and theoretical framework of this research via a literature review on the student consumer, providing the situational context of the research sites and backgrounds of the actors, and the methods and methodology approaches of CPA, SRA and discourse analysis which will be applied to answer the research questions

The remainder of the thesis will foreground the answering of the research questions via a detailed exploration of the policy responses during the early stages of the pandemic. To answer the research questions, I will identify specific policy junctures and how the construction of the student served actors interests within the interplay of structure - the constraints it imposed and the selectivity it favoured - and the agency of actors to move within, towards and against those structures. It will conclude with an overview of the findings and a discussion on limitations and directions for future research.

Chapter 5: Findings -Vulnerability

Vulnerable adjective

vul·ner·a·ble | \ ˈvəl-n(ə-)rə-bəl , ˈvəl-nər-bəl \

1: capable of being physically or emotionally wounded

2: open to attack or damage : ASSAILABLE

www.Meriiam-webster.com/dictionary/vulnerable

In these exceptional times, it is essential that the interests of students, as consumers, are protected. (OfS, 2020u, p.22)

5.1 Overview of the chapter

This chapter discusses the findings that emerged from data analysis of policy documents between 11 March and 3 July 2020 in the United Kingdom. It identifies the specific policy junctures and discursive strategies which emerged and how and why students were constructed as vulnerable at key points of strategic activity by each actor. Patterns have been identified and discursive strategies induced from the data and compared between the actors' policy responses to reveal how meaning making was used to manipulate and influence decision-making processes to create new or solidify existing norms related to student consumers.

To apply the strategic-relational approach (SRA), the chapter is first divided into three sections, to focus on each actor in turn. Within each section there are subsections which represent policy junctions and discuss how students were constructed at key points of strategic activity by each actor. At the end of the chapter the actors are brought together to discuss the dynamic interplay between them.

5.2 Discourses of vulnerability

Vulnerability was one of the primary themes of the discourse in the United Kingdom during the period being researched. There is no one agreed definition of vulnerability (Misztal, 2011). Gibb (2018) provides an insightful historical overview of the evolution of vulnerability from its linguistic origins of 'vulnerabilis' describing the state of soldiers lying wounded on the battlefield; being vulnerable to prior damage and with reduced ability to respond to further attack. In the mid-twentieth century the concept of vulnerability progressed to a physicalist conceptualisation where vulnerability was redefined as a condition of susceptibly following stress, for example the ability to recover following a natural disaster. More recently the structural approach has reconceived vulnerability as a relational dynamic between complex structural, social, ethical, political and equity dimensions. For the purposes of this research, because the focus is on the discourses of student via the application of SRA, Blaikie et al. (2005) definition of vulnerability is useful as it describes "a combination of characteristics of a person or group, expressed in relation to hazard exposure which derives from the social and economic condition of the individual, family and community concerned" (p.61). Vulnerability therefore is a social construct and is context specific; being at risk to something generates the state of being vulnerable.

As a relational construct, in the period researched, what vulnerability meant, from whom or what, and importantly why, varied by actor, their agenda, degree of power, agency, and the structural constraints they faced. Barnett (2010); Campbell & Barnett (2010), in writing about vulnerability discourse, describe it in this way:

> things that are vulnerable are not powerful, large, robust and knowing, but are weak, powerless, and fragile and naïve. These characteristics imply then that the large and powerful can and should act to help the helpless from their predicament since vulnerable cannot by definition act to help themselves. Thus, vulnerability discourses are a form of knowledge/power: they represent

the world in ways that serve the interests of power. (Campbell & Barnett 2010, p.163)

Vulnerability discourse has significant political implications, in that it can be used as a mechanism for intervention, regulation and control by those with power. Defining a group as vulnerable acts to normalise the phenomenon, homogenise the group, construct the problem as a technical problem and legitimises the need for interventions (Elçi Çarıkcı, 2016). It can be anticipated therefore that when vulnerability discourse is used to serve the interests of power, helping is not always helpful, nor is it necessarily in the interests of those who are deemed to be being helped. Because vulnerability infers weakness, policy responses can lead to stereotyping and discrimination as well as unwarranted paternalistic interventions (MacKenzie et al, 2014). An analysis of the policy documents at the beginning of the pandemic reveals students were constructed by actors as vulnerable and needing to be protected from universities, government, marketisation, and market failure. The stance taken was dependent on the actor and their motivations. How the discourses of vulnerability were deployed in the actors strategic manoeuvring is explored in the following section.

5.3 The State

The declaration by the World Health Organisation of a global pandemic on 11 March and the corresponding intervention to contain the spread of COVID-19 via widespread lockdowns from 23 March 2020 occurred towards the end of the United Kingdom's 2019/2020 academic year. Due to the timing, a number of impacts occurred simultaneously for current students, prospective domestic and international students. For currently enrolled students the national lockdowns and campus closures meant that: students who were unable to return home in time were locked down in their student accommodation; courses and assessment were rapidly (and with varying degrees of success) moved online; access to part time work was interrupted; and final year medical and health

care students' entry into the National Health Service was accelerated. For prospective university undergraduate students, high schools were suddenly closed and exams cancelled. With A level examinations being the primary tool for assessing eligibility for university entry the need to rapidly determine a new valid and reliable methodology to calculate grades needed to be urgently devised. In a state on unprecedent uncertainty, this had the potential to destabilise the admission processes of around 550,000 high school leavers into the higher education system. For international students intending to study in the United Kingdom international flights were cancelled and borders closed, and due to the sectors over dependency on their fees this had potentially massive consequences for the sector's financial stability. Combined, these circumstances had the potential to seriously harm the sector, the economy, students' prospects for higher education, their learning and future job prospects. It was widely agreed, that like other major industries, the higher education sector was in peril from the impact of COVID-19. Projections of huge losses and collapse of some higher education providers was predicted. The imperatives for the State and universities alike, particularly during the March to April period was to maintain the fee revenue of current students and to stabilise admissions of the incoming 2020/21 cohort of undergraduate students. This was crucial to ensure that that new domestic tuition fees flowed across universities.

Although the State advocated the need to "support the financial health of the sector as a whole" (DfE, 2020a, para.3), its strategy was to divest itself of what Marginson (2020) referred to as their financial responsibility to protect social infrastructure. In practice this meant, as far as practicable, the maintenance of the functioning of the regulated market despite the "unprecedented circumstances" (DfE, 2020a, para.6) the country was facing. To achieve this, it was critical that a normal domestic intake was prioritised. Holding universities accountable for their own survival, despite the conditions they were grappling with, in place of a rescue package afforded to other industries and citizens, the

major and immediate policy response to a higher education sector in crisis was to stabilise admissions via regulation to control provider and student behaviour.

The State adopted elements of a UUK proposal (discussed later in the chapter) Achieving stability in the higher education sector following COVID-19 (UUK, 2020j) which proposed adhering to principles of fair admission practices to control the use of unconditional offers and capping 2020/21 student recruitment targets. However, it reframed these as a strict rule based and regulatory approaches with associated severe penalties for non-compliance. Subsequently, two interrelated mechanisms to achieve stability were announced on 4 May 2020. The first was the reintroduction of student number controls via the Government Support Package for the Higher Education Sector and Students (DfE, 2020c). The second was the proposed removal of university autonomy over admissions via the OfS Consultation on the Integrity and Stability of the Higher Education Sector (OfS, 2020h) which sought to install new time limited increased regulatory powers to control any behaviour that the OfS deemed to threaten the interests of students and sector stability:

> This consultation therefore sets out proposals to prevent providers from engaging in any form of conduct which, in the view of the OfS, could reasonably have a material negative effect on the interests of students and the stability and/or integrity of all or part of the English higher education sector (OfS, 2020h, p.1)

The creation of the vulnerable student, powerless at the hands of exploitative university leaders was the key tool deployed by the State via the regulator to intervene, control, and legitimise these policy responses. This enabled the State to insert itself into the dialogue as students' protectors to justify their refusal to inject money into the sector and receive support for their policy positions.

In the documents analysed, students were portrayed by the OfS, State Secretary and Minister of Education explicitly and repeatedly as 'vulnerable' (58 instances). While particular groups of students were highlighted as more

vulnerable such as those with caring responsibilities, who are care experienced, care leavers, black and minority ethnic students, international students, students suffering from coronavirus, those estranged from their families, those from lower socio-economic groups or with protected characteristics' of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation (OfS, 2020u) and unaccompanied asylum seeking children (OfS, 2020l) The term also included students with health problems, learning difficulties (OfS, 2020e), mature students (OfS 2020u) and those who need to self-isolate, and students unable or less able to access and effectively participate in remote learning for whatever reason (OfS, 2020r), With these, 27 categories with few exceptions' students were homogenised as a group categorised by their vulnerability.

To be labelled as vulnerable there is a requisite need to be at risk of, or experience vulnerability to, something. While the COVID-19 pandemic was the external impetus for the health crisis and the resultant issues universities and students faced (such as closure of campuses, challenges to accessing learning, disruptions to the admissions process) it also revealed the structural fragility of a marketised higher education sector. With the now highly uncertain arrival of international student fees which sustained institutions, although only "a small number" (DfE, 2020a, para.3) of universities had changed conditional offers to unconditional, competition between providers for domestic students was publicly projected to be fierce and destabilising. In this environment, with a range of possible options, seeking to avoid both a financial outlay and the political furore which would accompany the collapse of weaker universities and private providers the State framed prospective, current and future domestic students as being at risk of and therefore vulnerable to the actions of higher education providers. These actions were specifically admissions practices of "mass use of unconditional offers" (DfE, 2020f, p.4) combined with aggressive marketing practices to attract students away from other providers. Framed in

this way, the protestations to protect vulnerable students was not about concern for student welfare, but for their 'best interest', which for the State equated to the stability and functioning of the market and the provision of "a wide range of course options" (OfS, 2020h, p.1) aligned to the State's objectives for its economic prosperity.

Despite the fact that it was acknowledged that only "a few" (OfS, 2020i, para.7) providers were resorting to this behaviour, at the heart of the State's claims against universities was that all providers either lacked, or had the potential to lack, moral and social responsibility. The temporary measures would ensure that the State would "look out for students" (DfE, 2020a, para 8a) and protect vulnerable students by compelling universities to "do right" (OfS, 2020i, para.6) by them:

> During the coronavirus crisis, all organisations will be judged by how they demonstrate a sense of wider social responsibility, and this is as true of universities and colleges as anyone else. We are confident that universities and colleges will want to do right by their students and the wider community in these difficult circumstances. This new temporary regulatory condition is designed to reinforce the socially responsible approach that so many in the sector have already shown. (OfS 2020i, para.6)

It is important to note that the vulnerability of students to the sector was intensely contradictorily and illustrates the tension and struggle over competing societal needs of higher education as a public good and the State's neoliberal agenda to force the creation of a market funded by private financing. The sector and the public good it generated was repeatedly referenced in policy documents from its heroic efforts at the "frontline" (DfE, 2020e, para.11), in the production of a COVID vaccine to "beat this invisible enemy" (Williamson, 2020a, para.44) and the early release of final year doctors and nurses to support the efforts of the critically stretched National Health Service. Despite applauding the "innovation and ingenuity" (DfE, 2020a, para.12) and "the remarkable way our education community has responded to this outbreak" (Williamson, 2020a, para.43) and being "enormously proud and inspired by the

incredible spirit they are showing." (Williamson, 2020a, para.43), the sector was nonetheless portrayed as unethical, irresponsible, and exploitative in the attempts of some providers to exert undue pressure on students to protect their own interests specifically through the increased use of unconditional offers and by taking advantage of the pandemic and the supposedly reduced regulation to engage in these and other unethical behaviours. Despite the value of universities to the economy, and the role and responsibilities that universities have in protecting students, discourse of student vulnerability was strategic to establish structural constraints and direct action and debate to symptomatic behaviour rather than the root cause. This vulnerability discourse was the mechanism for the government to insert itself into the dialogue in a positive and strong light, with not only the power, but the ethics and compassion to protect students through their policy responses and to seek wider support for its Consultation on the Integrity and Stability of the higher education sector (OfS, 2020h). Under the auspice of responding to the call for assistance by the UUK, the State declared that was not financial assistance that the sector needed but more regulation in the form of the reintroduction of student number controls and the removal of autonomy over admissions. These measures, as they relate to student vulnerability discourses and the student consumer, are discussed in turn.

5.3.1 Student Number controls

As critical policy analysis (CPA) tells us, policies are messy and non-linear. Rose (1999) articulates policy formation as "lash-ups of thought and action, in which various problems of governing [are] resolved through drawing upon instruments and procedures that happen to be available" (Rose, 1999 p.27). As an underlying measure to control admissions and calm the market, the Government Support Package for Higher Education Providers and Students (DfE, 2020c) drew on an established, but previously discarded instrument, by

reintroducing domestic student number controls, which had been abandoned in 2015.

The proposal of Student Number Controls on the 2020/2021 domestic student intake had emanated from the UUK. The State's adoption of this measure indicates it presented a palatable option and an alignment with the UUK. As a known regulatory intervention to manage government investment in higher education (Taylor and McCaig, 2014) number controls offer a means to maintain the student fee financed system, while also stabilising domestic admissions and ensuring that no provider would take "more than its fair share of taxpayer funding" (DfE, 2020f, p.4). However, given that student number controls were abandoned just 12 weeks after their introduction (which is outside the timeframe of this research), it was with prescience that Nick Hillman, former education advisor to the government observed their reintroduction was in opposition to "every ministerial utterance [on the subject] since at least 2010" (Guardian, 2020, para.18).

However, with their sudden reintroduction in May, a complete policy U-turn was required. To establish legitimacy for the State's action, discourse of student vulnerability was deployed in a swift reversal of the market logic and the powerful student consumer that had legitimised number control loosening in 2012 and their removal in 2015. The initial 2012 relaxation of number controls was intended to stimulate a market effect led by powerful student consumers purchasing power which would "drive a more responsive system" where "to be successful, institutions will have to appeal to prospective students…Putting financial power into the hands of learners makes student choice meaningful" (BIS, 2011, p.5). The expectation was that in a competitive market product differentiation would occur with higher achieving students accessing the more prestigious or 'popular' universities with the less prestigious competing for lower achieving students. Overall quality would be enhanced, supported by variation in tuition fees (which did not eventuate) which was a key rationale of the White Paper Students at the heart of the system:

> We will move away from the tight number controls that constrain individual higher education institutions, so that there is a more dynamic sector in which popular institutions can grow and where all universities must offer a good student experience to remain competitive. (BIS, 2011, p.5)

By 2015, number controls were abolished on the grounds that they capped aspiration of 60,000 hardworking youth. These young people were eager to become consumers of higher education. They were ready to access a freer market, contribute to the United Kingdom economic success and global positioning by taking on tuition fee debt:

> Each year, about 60,000 young people who have worked hard at school, got the results, want to go on learning and want to take out a loan to pay for it are prevented from doing so because of an arbitrary cap. That makes no sense when we have a lower proportion of people going to university than even the United States, let alone countries such as South Korea. Access to higher education is a basic tenet of economic success in the global race, so today I can announce that next year we will provide 30,000 more student places, and the year after we will abolish the cap on student numbers altogether. (UK Parliament, 2013, col 1110)

To stabilise admissions during the pandemic and "ensure a fair, structured distribution of students across providers" (DfE, 2020c, p.4) a semantic reversal of both the discourse of powerful student consumer and its market companion, competition, was immediately required. Discourse of vulnerability and the need for fairness, not competition, became prevalent in attempts to protect the State from claims that it should do more. The State declared it was universities responsibility to be 'fair' to students, so they did not 'miss out' and students were deconstructed from their earlier selves as rational and eager consumers and drivers of quality. Now while still consumer-like, students had characteristics of vulnerability, passivity, dependence and helplessness. Having been conferred these characteristics was strategic as the State now required that higher education institutions protect its vulnerable prospective students.

In defending its policy position the anti-competitive and unethical actions of universities were called to task and paternalistic overtones were apparent in the discourse. The State defined its role as the protector of students "looking after"

(DfE, 2020c, p.1) them, "reassuring them" (DfE, 2020c, p.2), "helping them" and giving "them the best prospect for success in their lives and careers" (DfE, 2020c, p.1):

> This package will ensure we continue to look after the best interests of students and help them make well-informed choices that give them the best prospect for success in their lives and careers. (DfE, 2020c, p.1)

Now that students were no longer as powerful or rational as they were pre-COVID-19, they were now less able to handle competition and the State offered them protection via its most powerful higher education market mechanism, the student finance system:

> In the event that a provider does not abide by its student number controls, the Government will address the consequences for the stability and the sustainability of the HE sector by reducing the sums available to the provider through the student finance system in the subsequent academic year. We expect students who want to go to university, and meet their entry requirements, to be able to access HE. (DfE, 2020c, p.1)

Beyond the discourse at the macro level of the consumer and the market, there is an individual element that should not be lost. The language of vulnerability and protection deliberately acts to disguise that number controls can serve to disadvantage students. As Naidoo and Williams (2015) points out drawing on Hirsh (1976) students, are acutely aware that higher education is a status market and that degrees hold symbolic value. They understand that higher education is a positional good (Hirsch, 1976) so that the more prestigious the university the more social status and lifetime opportunities including graduate earnings are accrued to them individually. So, despite the fact that it was acknowledge that "the coronavirus pandemic is creating a huge amount of uncertainty in the decision making process "(OfS, 2020q, p.1), and the desire to "give them the best prospect for success in their lives and careers" (DfE, 2020c, p.1), capping numbers disadvantaged many students. This is because, without the artificial limits imposed for the purpose of spreading students across providers, students who might otherwise gain entry into more prestigious

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universities - who now had spaces made available by reduced international enrolments - would miss out. Therefore, the discourse of vulnerability and the insisted desire to protect students had elements of duplicity and deception as individual student interest was at the expense of the stability of the market.

The second policy position, to remove university autonomy over admissions practices will now be discussed as it relates to the student consumer.

5.3.2 Unconditional offers

At the beginning the pandemic there were two types of university admissions offers that functioned in the United Kingdom higher education sector. Conditional offers that are conditional on receiving a certain grade and unconditional offers which confirm that all entry requirements are met. There is a subset of the unconditional offer, the conditional unconditional offer. These are controversial and are conditioned by the student's unconditional acceptance of the offer at the expense of any future or other offer. Unconditional offers had received much attention prior to, and at the onset, of the pandemic as they can be accompanied by time pressures to accept them and other inducements.

As discussed in this chapter, the consequence of the pandemic was an economy and sector in turmoil. In this turmoil university admissions practices of unconditional offers immediately came under the spotlight. They were the subject of the first media release from OfS included in the data set and was the subject of seven of the 15 OfS press releases (2020a; 2020b; 2020c; 2020f; 2020i; 2020s; 2020t) accounting for close to a half of all the OfS issued press releases. The government's concern over the use of unconditional offers was not new and strategies were already underway pre-COVID by OfS to moderate the practice. Their concerns noted that the lifting of student caps in 2015 had led to unconditional offers being used as a predatory recruitment strategy whose 'rapid growth indicates they are increasingly being used indiscriminately,

without consideration of particular course or student imperatives" (OfS, 2019, p.2).

Following the loosening of number caps on domestic enrolments in 2012, and their removal in 2015 the practice of unconditional offers to final year high school students had grown from 1.1% in 2013 to 37.7% by 2019 and from 16 universities to 88 in the same time period (House of Commons Library, 2020). OfS expressed concern that unconditional offers were having a negative impact on students' attainment before university, when they reached university and later sought employment (OfS, 2019). Prior to COVID-19, the government had issued OfS with Statutory Guidance notifications as priorities for the Financial Year 2018-19 (20 February 2018) to "monitor the use of unconditional offers" and 2019-2020 (7 June 2019) "which notes concern with the admissions process and a disturbing use of unconditional offers". Statutory Guidance notification of Ministerial Priorities from the Secretary of State (16 September 2019) which requested "that the OfS continue its review of admissions and in particular the "injudicious use of unconditional offers", as well as "seeking to empower students as consumers" (OfS, 2020h, p.20). In response, on 25 January 2019 the OfS issued an Insight brief, Unconditional offers: Serving the interests of students? The Insight brief questioned the ethics of the practice and highlighted concerns for the student consumer being subjected to 'pressure selling' practices that risked breaching consumer protection law. At the time of the brief the OfS were moving towards a regulatory position on these offers via an "evidence-led approach by identifying and articulating the issues for students and the implications for our regulation of universities" (OfS, 2019, p.2).

In addressing concerns of unconditional offers pre-COVID-19, discourse of the student consumer was employed placing "the power in the hands of the student consumer ... to empower students to challenge this" practice (OfS, 2019, p.2). At the onset of the pandemic, the illusion of the pre-COVID market led strategies to monitor and control behaviour of universities via students who performed the role of informed self-interested individuals was rapidly replaced

by regulatory controls. The immediate intervention was a moratorium on all unconditional offers; and its proposed 'time limited' (OfS, 2020h, p.1) attempt to remove all universities autonomy, despite any involvement in making unconditional offers or not, over their admissions practices.

The timing of the press releases which coincided with the communications surrounding exam cancellations indicates that the initial motivation for the moratorium was almost certainly the lack of clarity over how prospective students' grades would be calculated reliability, validly and on time in the absence of exam results. So, while unconditional offers were a concern in more stable times, it was now manifest by OfS as close to catastrophic with the regulator threatening to use all powers available to stop the practice. To legitimise this and shield from any uncertainty over the State's handling of the admissions processes a shift from the pre-COVID-19 powerful consumer to vulnerable student needed to occur. To achieve this the imaginary of student vulnerability was amplified by discourse which created a power imbalance between apparently unscrupulous university leaders and worried and vulnerable students. Within this, the State presented itself as a strong paternal authority figure to protect students, guide them and ensure that their choices were protected. The voracity of their messaging grew rapidly, commencing with a warning by the OfS and immediately followed by a directive from the State to stop damaging students on 23 March 2020:

> it would be quite wrong for any university or college to respond to the coronavirus crisis by making unconditional offers that may put pressure on worried students to accept courses that may not be in their best long-term interests. (OfS, 2020b, para. 3)

> So, I want to make it very clear to any university or college – and its leaders and governors – that if any university or college makes unconditional offers or adjusts any offer to students during this two week moratorium we will use any powers available to us to prevent such offer making on the grounds that it is damaging to students and not in their interests. (DfE, 2020a, para.12)

In this vein, it is no accident, that the title of the single consultation during the period - Consultation Ensuring the Integrity and Stability of the Higher Education Sector (OfS, 2020h) – explicitly links the stability of the market to the integrity of providers. Forming this link legitimatised the State's role to intervene with unprecedented regulation to buffer competition under the auspices of protecting vulnerable students from socially irresponsible and unethical providers. The following is illustrative:

> We are alive to the concern that our proposals may overstep the mark in curtailing universities' autonomy. But in these extraordinary circumstances, it is clear to me that the need to protect students' interests and the stability of the sector is more important, and our strictly time-limited proposals are a necessary and proportionate means to do this. (OfS 2020i para.11)

Via the Consultation, the OfS sort to test the extent of its regulatory power 45 which in general was not to dictate how providers should act:

> The OfS is well placed to champion particular issues, themes, and approaches. Although the OfS will not, in general, dictate how autonomous providers should act or what methods they should use, the OfS will be able to help shape sector wide debate and focus. Through its influencing power, the OfS may promote innovation in particular areas, or encourage the dissemination of information about what works best to enhance particular outcomes. (OfS, 2018, p.24)

It attempted to do this by limiting the autonomy of providers over its recruitment practices and preventing them from engaging in any form of conduct that would not be in the best interests of students:

> engaging in any form of conduct which, in the view of the OfS, could reasonably have a material negative effect on the interests of students and the stability and/or integrity of all or part of the English higher education sector. (OfS, 2020h, p.1)

There was an array of discourses from thwarted rational consumers who need to "benefit from high quality information, advice and guidance to make good decisions about the next step in their educational journey" (OfS, 2020g, para. 12). But also, as preyed upon and therefore unable to exercise judgement with

the State deeming marketing practices to be "unfair" (OfS, 2020h, p.1) and at risk of "distorting student decisions" (OfS, 2020h, p.3). Universities were accused on "taking advantage of their [students] behavioural biases" (OfS, 2020h, p.3). Therefore, the rational and powerful student consumer whose choice drives sector quality was unable to operationalise their responsibilities in the market and protection equated to increased regulation rather than offering assistance to the sector or students themselves.

Unconditional offers have a legitimate place in higher education admissions, particularly when grades are known, or for mature entry students, or in the creative arts where entry is based on other criteria such as a portfolio or is performance based. Ignoring the legitimate use of unconditional offers, to protect against providers taking advantage of other temporarily reduced regulations these new regulations would, it was declared, stop a range of imagined, potential, misleading and unethical aggressive marketing tactics and anticompetitive behaviours of a few providers, that would harm vulnerable students by "pressuring students to accept places that would not be in their best interest through incentives, such as free laptops" (DfE, 2020d, para.23), and

> making misleading statements about other providers or failing to comply with public commitments are just some of the ways a provider could seek to gain an unfair commercial advantage over competitors. Such behaviour from providers would not be in the interests of current or future students. (OfS, 2020h, p.4)

The Consultation on the Stability and Integrity of the Higher Education sector (OfS, 2020h) concluded on 26 May and the Regulatory notice 5: Condition Z3: Temporary provisions for sector stability and integrity (OfS, 2020w) was released on 3 July 2020. Due to heavy criticism by the UUK and other stakeholders of the breath and extent of the proposed powers including retrospectivity of penalties, the legitimacy of a wide range unconditional and contextual offers, and the proposed withdrawal of unconditional offers made to students prior to the moratorium, the regulation was limited to the prohibition of

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conditional unconditional offers and certain marketing practices which the UUK and NUS agreed where problematic.

Having established that students were vulnerable and required protection from conditional unconditional offers, the OfS established itself as knowing what was best for students to ensure a post-COVID-19 higher education market that was competitive and diverse to deliver student choice on the regulator's terms:

> This may sit in tension with the interests of the cohort of students making choices about what and where to study in the 2020-21 and 2021-22 academic years as, for some of these students, less regulatory control over the admissions system might provide greater choice. Beyond 2020-21, the interests of future students are likely to be served by regulatory interventions to preserve the stability and integrity of the sector so that a wide range of providers continue to exist to support student choice and quality. (Ofs, 2020w, p.11)

This discussion on the role of the State illustrates that over past decades, having willingly devolved responsibility from the centralised delivery of publicly funded education to university management the discourse of protecting vulnerable students served to take attention away from the State's actions and lack of action. These actions and inactions had created a marketised environment where competition and anti-competitive behaviours were being resorted to, where students were being induced to accept offers, where entry requirements where being lowered and growth in unconditional offers was occurring (Leighton, 2020). While other options exist for the management of higher education the actions of the State strategically reinforced market principles even further, rather than offering an alternative vision for a better and fairer system.

5.4 Universities United Kingdom

> Universities are nothing without students. (UUK, 2021)

This quote from the UUK website may be intended to mean that students are valued and vital to the life of universities' communities. However, it also serves to remind us that in the existing marketised environment that universities have the potential to be at the worst truly nothing (i.e. bankrupt) or at least significantly altered if levels of student domestic students and international fee income cannot be sustained. Therefore, it is not surprising that at the onset of the pandemic that the financial risk which emanated from the existing structure was quickly identified by the UUK.

The first highlighted risk identified in Achieving stability in the higher education sector following COVID-19 (UUK, 2020j) was the immediate loss of £790million in revenue due to accommodation, catering, and conference services. The fact that this represented such a risk illustrates the conflict within the marketised structure. Universities are required to differentiate their portfolios and are commonly both providers of education products and accommodation to student-consumers. Therefore, for those providers who had not sufficient diversification the pandemic had a double impact of risk of losing both tuition and accommodation revenue (Dolton, 2020). They also predicted a potential loss in the 2020/2021 intake of £6.9 billion if there were no international student enrolments and domestic deferrals reached predicted estimates (UUK, 2020j). Designed to highlight the peril to the sector, it was considered to be a strategic overestimation. For example, a study by London Economics and an estimate from the Times Higher Education, predicted a potential fall in tuition fee income to still be significant (but much less than the UUK estimate) of between £2 billion and £3 billion but much less than the UUK's prediction (Ahlburg 2020).

The strategic manoeuvring of the UUK is summarised below under a single heading of stabilising the sector.

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5.4.1 Stabilising the sector

With the government failing to be financial accountable for the sector and calling university leaders out as unethical, the UUK as the umbrella organisation and voice of 137 providers sought to protect members' interest. Strategies were couched in terms of the market and discourse aimed at securing government investment via bridging loans, reprofiling funding and tuition fee payments and a transformation fund to allow mergers and acquisitions between providers. To garner support, they created imageries of student vulnerability to demonstrate that the best way to protect student interests was to protect all members especially the most vulnerable from financial collapse. Their Achieving Stability in the higher education sector following COVID-19 (UUK, 2020j) was future focused on post-pandemic recovery a mere 18 days after the national lockdown. This was at a time of rapidly escalating COVID-19 cases and no certainty over the duration and scale of the pandemic. To influence the State, it and its companion Strengthening and enhancing UK public services in response to COVID-19 (UUK, 2020m), focused on the public good that universities produced for the economy "to maximise universities contribution to the economy, communities and the post virus recovery" (UUK, 2020j, p.1). These public goods were specifically the development of human capital in the form of key workers which were directly aligned to those proposed by the State as being essential and included "key workers in hospitals, schools and local authorities" (UUK, 2020m, p.1). The request to deliver this human capital was £500million in funding.

To realise these public goods, the vulnerable and disadvantaged students in need of protection via investment were the primary concerns and the UUK endeavoured to "treat students fairly and protect them" (UUK, 2020j, p.3). The UUK proposed that "Universities need investment from government" (UUK, 2020j, p.1) not market forces "to protect the student interest" (UUK, 2020j, p.1). In a move towards calming the market and protecting the social structure of the

United Kingdom, their Achieving Stability in the higher education sector following COVID-19 (UUK, 2020j) proposal centred on a one-year stability measure with recruitment set at 5% above the 2020/2021 projected intake. Essentially projecting an increase (despite their fear of high domestic deferrals) in domestic and European Union student demand across all institutions. This would allow universities to make up for the shortfall of international students, allowed growth of key workers who were to be uncapped under their proposal, and satisfied the more prestigious universities that they could exercise their privileged status and select higher quality students at a higher volume.

The UUK argued that their measures would protect vulnerable students from competition at a time of great uncertainty which would "be destabilising for students, creating pressure to switch from their chosen institution" (UUK, 2020j, p.2). Because of the reduced likelihood of international fees and the counter intuitive fears that (counter-to previous recession occurrences) that deferrals would rise, an investment package of £2.2billion (Alburg, 2021) was requested to "protect student interests and choice" (UUK, 2020i, p3). In return, the UUK conceded to government that aggressive competitive practices were problematic and proposed a new sector agreement on fair admissions practices to acquiesce to the State's stance on unconditional offers and avoid further scrutiny and regulatory control. This agreement would include "adhering to a new principle that universities will not put undue pressure on students and new rules to restrict destabilising behaviours such as use of unconditional offers at volume" (UUK, 2020k, p.4) to stop "large, unplanned expansion of UK student numbers" (UUK, 2020k, p.3). And rather than allowing the market mechanisms to allow closure, taxpayer value would be maximised by a transformation fund to enable university corporations to engage in mergers and acquisitions "to support universities over the next two to three years to reshape and consolidate through federations and partnerships or potentially merge" (UUK, 2020j, p.4).

The UUK emphasised members roles in protecting vulnerable students to validate their claims for State support and counter the narrative of unscrupulous

and self-serving behaviours that had emerged from the State. It is notable that this protection focused primarily on students as human capital, and protecting their wellbeing, rather than as learners. This selectivity was intended to align with the States market agenda and influence the structure in the UUK's favour. It also shielded the UUK members who were struggling to equitably provide access to teaching, learning and assessment for millions of fee-paying students due to the severity and wide-reaching impact of the pandemic which necessitated the rapid conversion to online. So, while on the one hand the package of measures was to protect student interest via a stable sector, the immediate impact on learning that was being felt by students was minimised because of the impossibility to support all students:

> Universities are working hard to ensure as many students as possible can continue with their studies, access alternative forms of teaching, and are able to demonstrate – and feel confident – that they have met all the required learning outcomes.(UUK, 2020k para.7)

While the protection of welfare was maximised:

> The health and wellbeing of all students and staff is the number one priority and a range of measures are being taken to keep university communities well-informed, supported and safe. (UUK, 2020b, para.3)

and the recruitment of the next cohort of students was prioritised:

> we want to reassure you that all organisations involved in the higher education admissions process are working flat out to find a solution that's efficient, fair and in your best interests. We appreciate this is a difficult and uncertain situation for applicants planning to start university in the autumn and we are committed to work together to ensure that your hard work to date will not go to waste and that no-one is unfairly impacted in this process by the Covid-19 virus. (UUK, 2020c, para. 2)

The UUK engagement with student vulnerability could therefore be considered somewhat circumspect. As autonomous providers student vulnerability was limited to the role that the government had to protect students and ipso facto to protect institutional survival. It did not serve the UUK's strategic calculations to overplay student vulnerability. They were already being attacked by the State

from this angle and engaging in the discourse would further question their ability to deliver on their responsibilities to students, make university less attractive to prospective students, would require them to do more in terms of their responsibilities to students and open them up to increased regulation and control. This is especially pertinent at a time when reopening campuses was the only way to ensure survival at the expense of students and the wider community.

5.5 The National Union of Students

As discussed in chapter 3, while national student unions can be places of activism, offering a radical and dissenting voice, but they can also work within the institutionalised political system (Klemenčič, 2012a). Working within the system, in their claim making, student unions rely on conventional tactics and use existing structures, accepted routines, norms and meanings (Barnhardt, 2012). Because they work within the apparatus of the State, and are consulted with as key stakeholders, they may be reluctant to be too disruptive or accusatory. In a democratic State they may have an expectation that, like other citizens, students will be looked after in a crisis.

Prior to the 4 May 2020 release of the Government support package for higher education providers and students (DfE, 2020c) and the OfS Consultation Ensuring the Integrity and Stability of the Higher Education Sector (OfS, 2020h), interventionist actions of the State to other sectors such as, the furlough scheme, increased welfare benefits and help for business, seemed to offer a suggestion that preferencing human rights and social interests over market interests might be emerging. The NUS approached this possibility by appropriating the discourse of vulnerability to call for protection by the state for its vulnerable student citizens, learners, and future work force via a safety net and by redressing tuition fees.

With a range of options available and having a certain "political potency" (Klemenčič, 2014, p.397). Student vulnerability discourse presents an interesting strategic selectivity for exploration in use. Applying a SRA lens the following analysis explores the application of this vulnerability discourse to mobilise political agency and voice to bring about improvements for their members. Unlike the State and the UUK, where admissions practices and student number controls were the dominate site of policy contestation, for the NUS in the early stages of the pandemic student welfare, access to learning and tuition fees were their primary concern.

According to scholars (Campbell and Barrett, 2010; Robson et al 2017) while those who are deemed vulnerable often reject the label itself because they do not wish to be seen as weak or powerless, the discourse of vulnerability can be the language used to capture risks and facilitate engagement with power. Like the other actors NUS emphasised students' vulnerability. They were vulnerable across a range of factors related to the higher education market, to government, to a lesser extent to universities, to unemployment, to accommodation costs, to insufficient support and resources. Use of vulnerability discourse by the NUS was not new, as Brooks has noted the NUS has used imagery of student vulnerability, to argue against neoliberal policy reforms (Brooks, 2018a). During the pandemic appropriating the language of vulnerability by the NUS was an important tool to attempt to influence policy actions by strategically aligning their agency to the structure. While the specific label of 'vulnerable' was very seldom used in relation to domestic students (just twice) language associated with vulnerability was prevalent. The NUS referred to students as "young people" (NUS, 2020, para.2i; 2020z), "forgotten" (NUS, 2020ab, para9; para10); "kicked into the long grass" (NUS, 2020z, para.2); their situation as "precarious" (NUS, 2020h, para.4; 2020q, para.4; 2020z, para, 3; 2020aa, para.4); and themselves as at "risk" (NUS, 2020a, para.4; 2020ad, para.5; 2020ak, para.10; 2020aq, para.2). This discourse was used to draw attention to the risks students faced and the need for the State to protect them.

Unlike the other actors in this research, the NUS was uninterested in, or at least did not prioritise, the debate on admissions practices. Their primary focus was on currently enrolled students and the extreme difficulties they were experiencing. In Education Committee (Education Committee, 2020a) evidence hearing the NUS president presented disturbing evidence of students who, needing to meet assessment deadlines, were living and studying in their cars, or had no access to space or privacy to engage in learning, were locked in student accommodation, had increased carers responsibilities, and had no access to the internet. Dealing with immediate hardships of current students, reduced the level of engagement with the problems that prospective students were facing. This was evidenced by the need for the OfS to actively facilitate a response to their Consultation on the integrity and stability of the English higher education sector (OfS 2020h). NUS expressed concerns around the increased use of conditional unconditional offers, on the grounds that it can put pressure on students and prevent them from making the right choices (NUS, 2020au) and they welcomed the ban on conditional unconditional offers because "current applicants have less access to information, advice and guidance than students in previous year" (NUS, 2020au, para.2). However, of the 48 items in the data set there was only this one media release addressing unconditional offers and that was only after the consultation had been finalised.

For the NUS the solution did not rest in fixing the admissions system, nor in protecting students from university leaders. The NUS had a pro-university stance and aligned their messages to the UUK's which required the government to work with and do more of the sector:

> We are all working through an exceptional set of circumstances and urge government to respond positively and proactively to students and the university sector's plea for support. (NUS, 2020ad, para.1)

> the government needs to move quickly to work with the higher education sector to ensure that all students are able to receive quality education next year. (NUS, 2020an, para.5)

The solution was a sustainable higher education system and a government who prioritised the protection of students rather than one who failed them (NUS, 2020ag) and trapped them so they were "stuck" (NUS, 2020ah, para. 3) in a market system that created perverse incentives. They attempted to use the opportunity created by the crisis which overtly recognised and positioned student as vulnerable to reframe the student as something other than a consumer. Adopting the dominate discourse of the State they manoeuvred to position themselves within the paradigm of the new structuring to bring about change to their advantage. The following are illustrative:

> The current crisis has shown that students occupy the worst of all possible worlds – with the majority paying extortionate fees for their education and are treated as consumers but are left out in the cold when the product cannot be delivered as described. (NUS, 2020ab, para.10).

> Students are ultimately still stuck in a system which threatens their education by leaving it to the whims of the market. (NUS, 2020ah, para.3)

Their primary focus was on leveraging the consultation to pursue an agenda of protecting current students.

> NUS is calling for a student safety net: access to a £60million hardship fund nationwide, an economic package for education leavers and the option to redo, reimburse or write-off: to retake this year at no additional cost if need be, or to have their fees or payments written off or reimbursed. If the government is serious about taking action to protect education, it must protect students too. (NUS, 2020ah, para.5)

This protection was protection of learning and grades, for graduates entering the workforce, a welfare safety net, and from tuition fee debt. The NUS Safety net and strategies around tuition fees will be addressed in turn.

5.5.1 Safety Net

The pandemic meant that students faced significant risks across accommodation, access to learning, access to work, poverty, isolation, and reduced job prospects on graduation. In response to these issues the NUS

launched a Student Safety Net campaign on 22 April 2020 which evolved and rapidly expanded. The Safety Net as a metaphor relied on imagery of vulnerability and risk, a tightrope walker "in danger" (NUS, 2020ae, para.1), and in need of adequate support measures to catch students. The Safety Net was intended to; provide protection via a government funded £60 million hardship fund to support renters, part time, the self-employed, gig economy workers, and full-time students (NUS, 2020j); protect learners via a no detriment grade policy (NUS, 2020aa); provide a grant for graduates entering a disrupted job market (NUS, 2020ae); and the option to redo, reimburse of write off one year's debt (NUS, 2020ab). Within its broad remit, through their demands for a safety net the NUS positioned students as vulnerable, as victims and outsiders and their issues as human rights issues. They positioned institutions as protector and government as having the potential for being responsible, caring and compassionate.

The NUS Safety Net campaign presented a counter narrative to the neoliberal ideology, which reduces the states responsibility to protect human rights by diminishing its social and welfare responsibilities. They created the imaginary of vulnerable, starving and potentially homeless students, forced to rely on charity. This was deliberately enacted as a human rights issue to attract support for its claim making for a £60 million hardship fund (of which they received £1.4Million). As pointed out by the NUS, students were being treated as secondary, lessor members of society who were being "forgotten" (NUS, 2020ab, para. 14) and "ignored" (NUS, 2020at, para.9).

As vulnerable students the NUS sort to establish that students were disproportionately suffering from the national response to COVID-19. This suffering included paying rental contracts where students were not in the rental accommodation, being unable to work to pay rent or buy basic life necessities, being locked in student accommodation, and being isolated from families, being unable to learn, and not knowing where their next meal was coming from. To validate their claim making for a safety net the NUS provided a counter

narrative to the 'we're in this together dialogue' which was being espoused by the government and language of being forgotten was evident:

> The government keeps telling us 'we're in this and will get through this together', but we shouldn't have to rely on past students and the public putting their hands in their pockets to make sure students can have a meal. (NUS, 2020ak, para.11)

> Students must not be forgotten. A Student Safety Net will demonstrate that this government cares about the students of today. (NUS, 2020ab, para. 15)

This vulnerability discourse presented the mechanism for the NUS to call for a solution from the State to show "responsible and compassionate leadership and support" (NUS, 2020aa, para.7), enacted with "flexibility and compassion" (NUS, 2020q, para. 17).

5.5.2 Tuition fees

Calling for a national solution the NUS urged the Secretary of State to involve them in discussions (NUS PR, 2020, April 2) and asked for more information and guidance from government (NUS, 2020aa) and a the option to "redo, reimburse, write off" their "extortionate fees" (NUS, 2020ab) with the ability to retake courses at no additional cost, or reimburse upfront payment or write off deferred tax debt if students chose to withdraw (NUS, 2020ab); and (later) to exempt health care cohorts from fees (NUS, 2020ai).

In the discourse of the NUS in relation to tuition fees there are two distinct tones and tactics employed as they sought to use the vulnerability positioning which had been bestowed on them to change the market towards a public sector system. In terms of tone, one has a certain expectancy that the State would act in their favour. Just as the State positioned itself as the protector of students, the NUS likewise positioned the State as their caring benefactor who could protect students and save a fragile sector, for example:

The sector is so fragile, this demonstrates the need for renewed government investment in post-compulsory education and a reformed funding system. (NUS, 2020v, para. 5)

The other was more forceful, impatient and demanding of a complete reworking of a failed system:

The coronavirus pandemic has highlighted, once again, why in the long term our education system needs a complete reworking to become one that it is free to all, life-long and accessible. (NUS, 2020ad, para.10)

In this way we witness experimentation with various tactics to redress education as a market. There is a strong rejection of marketisation which is consistent with Brooks (2018a) who found vulnerability to be a common tactic deployed by the NUS to resist marketisation. Discourse of being a vulnerable consumer, 'stuck', threatened and in a hostile environment, left out in the cold and powerless to whims of the market is evident. But at the same time there is an acceptance that there is a need to work within the structural constraints of a consumer ideology and a marketised sector. So that despite the "extortionate" (NUS, 2020ab, para.10) £9250 per year cost of an education that was not being delivered as expected, complete reform was not the chosen platform. Instead, the NUS settled on a shorter-term goal of compensation for 2020 fees having strategically calculated this tactic would garner more favour and thereby essentially abandoning hope that they could radically change the market structure. Given the history of tuition fees and past failures of the NUS to impact the tuition fee debate, this less radical approach was tactically considered to have more chance of succeeding and was the subject of 18 (38 percent) of the media releases in the dataset. It was also strategically aligned with a petition Reimburse all students of this year's fees due to strikes and COVID-19 which was established by a single student and received 353,130 signatures and, unlike the claims of the NUS, required a formal Ministerial response (DfE, 2020b; DfE, 2020e).

This tactic of compensation over radical reform and lack of attempts to create a new imagery of what the higher education system could be, indicates a lack of clear strategy to use the opportunity of the crisis in their favour as well as an acceptance of a student consumer ideology and marketisation. It also accepts market-based compensation for the delivery of a sub-standard product. While this may appear surprising in the circumstances, it is consistent with the research by McVItty (2012), Day (2012) and Klemenčič (2014) who suggest that NUS leadership may believe that it is impossible to present a case for free education which will be taken seriously. This could be due to the failed outcomes of 2010 protests over tuition fees, factionalism within the NUS, or a feeling of being powerless and being ignored which is prevalent in the NUS discourse, the inability to activate traditional style protests which physically mobilise students due to lockdowns, or that as a corporatized union NUS has been de-politicised and works with rather than against the State and sector leaders.

However, claim making for a specific cohort who was both created as vulnerable, and heroic was an exception. Presented as "radical" (NUS, 2020ai, para.4), NUS formed an alliance with the Royal College of Midwives, the Royal College of Nursing, and UNISON to "acknowledge students' selfless service, not only with words, but in a tangible and quantifiable way" (NUS, 2020ai, para.2), and used this leverage to demand bursaries, free education and loan exemption for all current and future nurses, midwives, and allied health workers who were unfairly forced to by government to pay tuition fees:

The contribution of nursing, midwifery and allied healthcare students to our society has always been immense but for too long has not been adequately recognised. The very cohorts of healthcare students currently experiencing unparalleled disruption to their education and volunteering to work on the frontline against Coronavirus are those who were also forced by the government to pay tuition fees and study without an NHS bursary. These key learners need more than weekly applause, they need a Student Safety Net. We

urge the Government to commit to a radical new financial settlement for these students and all those to come. (NUS, 2020ai, para.5)

This was not a new platform for the NUS but it was one that now aligned with a national crisis, an overwhelmed National Health Service, and the proposal released on 29 April 2020 by the UUK and MillionPlus, for maintenance grants, uncapped places and fee loan forgiveness for students enrolling in public service subjects (UUK, 2020m). However, the State was not willing to respond to these demands and no formal response is evident in the documents analysed expect for a commitment to 10,000 additional places for health care and other essential workers.

If vulnerability discourse was intended to mobilise political agency and voice and bring about improvement to student welfare and tuition fee debt it failed to have any affect. The State deferred the tuition fee problem to the supposedly autonomous universities who set their fee level and universities to the State who determined the functioning of the system, and students were informed that they were not to expect a write off of fees.

> Any refund is a matter for universities, so we are not considering a write off of tuition fee loans. (DfE, 2020e, para.3)

Overall, although the NUS adopted the dominate discourse of vulnerability in relation to students it had little impact. The vulnerability discourse simply served the State by subscribing to the idea that students were not adult decision makers, but children who required protection and thus took away agential power.

5.6 Vulnerability – Strategic interplays been actors

Applying SRA illuminates the strategic interplays between actors. By identifying the particular and significant junctures of policy creation we can examine dynamic interplays in action. There are a number of junctures around

vulnerability at the early stages of the pandemic, most particularly up to 23 March and through to 4 May. This is significant as this is the period of extreme turbulence, uncertainty and undoubtably panic. The junctures are the immediate moratorium on unconditional offers (23 March), the extension (17 April) and the release of the Government Support Package (4 May) and the Consultation on the stability and integrity of the English higher education sector (4 May). After this point in time the State and UUK discourses of student vulnerability is greatly diminished and only the NUS continues to engage with it, although to a lesser extent.

At the onset of the pandemic the State's immediate action was to strategically calculate the greatest risk to the functioning of the regulated higher education market and consider what, if any, form of intervention it would take. There were a number of critical factors to consider in its calculations: the health crisis itself and its impact on society and the economy; the closure of campuses and the impact on the "captive market" (Slaughter, Slaughter & Rhoades, 2004) of enrolled students; the non-arrival of international students and their fees; and the disruption to the normal admissions processes for 550,000 prospective first year undergraduate students. Within this context great pressure was already being exerted for financial bailouts from across the sector and other industries. The UUK itself had exercised agency and had commenced lobbying the State for support. The NUS likewise was lobbying the State for the protection of current students for hardship funds, reimbursement of one year's tuition fees and for support for the sector. It was also lobbying Universities for protection for accommodation security and no detriment policies.

With a range of possible options, the State opted to prioritise a pre-existing agenda, the elimination of unconditional offers. It asserted that a significant risk was that providers would engage in fierce competition for prospective students and that this would disrupt the functioning of the market by distorting student decision making. Although these practices were traditionally more common in less prestigious institutions who, being unable to compete for the highest

achieving students recruit rather then select (Foskett, 2010) and are more incentivised to entice students away from other providers, the moratorium was applied as a structural constraint to control all providers. Therefore, on the grounds that "some" (DfE, 2020a; DfE, 2020d, p.4) providers had converted conditional offers to unconditional offers the State opportunistically imposed a moratorium on all unconditional offers. In doing so it signalled its intention to use its regulatory powers to remove university autonomy over admissions and chastised the sector for its abuses of vulnerable student interest. In this way the discourse of the vulnerable student at risk of provider behaviour was used to alter the structure under which the sector operated through the imposition of even greater regulation over the existing systems market failures.

The moratorium on unconditional offers allowed approximately three weeks for actors to grapple with the evolving impact of the pandemic and consider what selectivities would be the most successful and how to frame the discourse to both align their agency within the new structure and alter it. The UUK, as a holder of power representing the voice of 137 Vice-Chancellors who collectively manage a multi-billion-pound enterprise were highly concerned with securing fee income, stabilising admissions, and re-opening campuses for a range of reasons including accommodation revenue. They strategically calculated that the State could not afford to let the sector fail and framed their lobbying on the sector's continued contribution to the public good, provision of human capital, global positioning, and economic recovery. Within this context, they had a relatively strong position of power. Calculating catastrophic financial losses (well beyond what more impartial stakeholders predicted), the UUK bargained that securing and advancing the interests of the majority of members would best be achieved by accepting that students were indeed vulnerable but to the State's inaction which had behavioural consequences for its members. They argued that by protecting the sector the State would be protecting vulnerable students. Ultimately the UUK was able to influence the structure with the selectivites that were aligned with the State's marketised agenda. The known

mechanism of student number controls was adopted to calm the market and dampen competition and control sector behaviour, and loans and reprofiling (bringing money forward) were agreed. However, anything that was not aligned the State's agenda such as halting planned cuts to the teaching grants for 2020/21, or new money, or a transformation fund that would reduce the number of providers in the market, were dismissed.

While the UUK and the State engaged in active debate and worked together and against each other to secure their objectives the NUS played a diminished role with little power to affect change. The vigorous debate between the State and the UUK over unconditional offers received little engagement by the NUS, with just one related media release. While the reimposition of student number controls was vehemently opposed by the NUS because it "will augment the challenges students are bound to face by restricting their opportunities in the education system" (NUS, 2020aq, para.5). Again, this was not a high priority with mention in just one media release. The NUS launched the Student safety net campaign on 22 April. This campaign was centred on student welfare and human rights and which were being violated by a State who absented itself from its duty of care and valued the market over student interests and a sector who (aside from the prestigious universities) was scrabbling for purchase on slippery terrain. Over time, the NUS engaged with the dominate vulnerability discourse with increasing energy and impatience to demonstrate that the State primarily was the cause of their perilous position, which in turn forced universities to prioritise the market over the student:

> COVID-19 has shown that university management is not prioritising staff or students at this time, but is forced instead to focus on how to bring money into an institution because the government refuses to sufficiently underwrite the higher education sector. (NUS, 2020ar, para.3)

As the least powerful actor their voice did not have the power to affect the structural constraints. This is because the State trivialised students lived experience and functioned to silence the NUS claim making that 33% of

extremely vulnerable students, were in precarious circumstances and could not access their education (NUS, 2020ab). Instead, students were infantilised and portrayed as simply being unhappy at not receiving a good standard of education (DfE, 2020e). This process of infantilisation contributes to 'diminished subjectivity' (Furedi 2001) where the students and NUS are not 'agents' in the world and therefore incapable of influencing their environment (Williams, 2010). This silencing and diminished subjectivity was compounded by an inability by the NUS to present a convincing alternative vision for higher education and an acceptance of it rather than making the most of the opportunities presented by the crisis for a more radical and disruptive position.

5.7 Summary and introduction to the next chapter

This chapter provided detailed analysis of the interpretively coded data from 105 sources, across the State, OfS, NUS and UUK, which were broadly defined as policy, and including press releases, letters, proposals, speeches, Education Committee evidence, consultations, and briefing notes. The discursive strategy of student vulnerability emerged across all actors and revealed how discourses were used to construct students in this way to attempt to exercise power in order to achieve political projects. The chapter revealed how the State constructed the vulnerable student at risk of provider self interest in order to impose regulation on the sector to avoid financial responsibility, how the UUK acquired it to lobby for investment from the State and the NUS attempted to radicalise it for reform of the sector. The following chapter examines the second discursive strategy of empowerment used by the actors and what happened after students were constructed the vulnerable.

Chapter 6: Findings - Empowered (and powerful) students

Empowered adjective

em·pow·ered | \ im-ˈpau̇(-ə)rd \

having the knowledge, confidence, means, or ability to do things or make decisions for oneself

https://www.merriam-webster.com/dictionary/empowered

6.1 Overview of the chapter

This chapter discusses the findings that emerged from data analysis of policy documents between 11 March and 3 July 2020 in the United Kingdom. It identifies the specific policy junctures and discursive strategies which emerged and how and why students were constructed as empowered at key points of strategic activity by each actor. Patterns have been identified and discursive strategies induced from the data and compared between the actors' policy responses to reveal how meaning making was used to manipulate and influence decision-making processes to create new or solidify existing norms related to student consumers.

As in chapter five, in order to apply the strategic-relational approach (SRA), this chapter is divided into three sections, to focus on each actor in turn. Within each section there are subsections which represent policy junctions and to discuss how students were constructed as empowered at key points of strategic activity by each actor. At the end of the chapter the actors are brought together to discuss the dynamic interplay between them.

6.2 Discourse of Empowerment

A close reading of policy texts during the 11 March to 3 July 2020 period reveals complexity in the construction of the student across a range of different and contradictory subject positions. This is evident in the second dominant theme which emerged from the data during the early stages of the pandemic which was that of the empowered student. Like vulnerability, empowerment is illusive and hard to define. Tracing the history of empowerment Bacque and Biewener (2013) note that the word 'empowerment' has existed since the middle of the nineteenth century and emerged in the 1970s as an ethos for activists fighting for feminism, equality and civil rights. It has since become common in usage across gender, health, education and development across social, economic and political domains.

The core of 'empowerment', is 'power' which is an essential starting point of any interpretation of empowerment. Power can be defined as having 'power over' and obedience to those who hold the power to dominate, or 'power to' do or achieve something, 'power within' the transformation of individual consciousness with new self-confidence to act, or 'power with' to act collectively with others. Rappaport (1987), defines empowerment as "a process, a mechanism by which people, organizations, and communities gain mastery over their affairs" (p.122). But empowerment is not 'power itself', but a process (Lincoln et al, 2002) which may not emancipate the 'empowered' but instead seek to control and retain the status quo.

Having researched the origins of the word (Lincoln et al, 2002) observe that the Oxford dictionary has identified that a definition of the word empower that is obsolete: ''to gain or assume power over'' (Lincoln et al, 2002 p.271). While it may have disappeared from common usage, and while it may not be stated as such, to gain or assume power, through empowerment, was the intent of the

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State during the early stages of pandemic. This is consistent with James (2003) who describes empowerment as being little more than the conferment of responsibility delegated from above to monitor or control.

Empowerment relationships in neoliberalism find their early origins in the move away from the Keynesian welfare state were the creation of citizens with individual freedom and responsibility acted to transfer responsibility from the state to individuals (Davies and Bansel, 2007). Rushling (2016), points to neoliberalism's "paradox of empowerment" in that it sounds liberating but is in fact the opposite as it legitimises the transfer of responsibilities to vulnerable and dependent citizens in the name of self-determination. Davis and Bansel (2007) offer further insight into empowerment discourse. Reflecting on Foucault's notion of governmentality as not only to political structures but also 'the way in which the conduct of individuals or of groups might be directed' (Foucault, 1994, p. 341 in Davies and Bansel, 2007) they suggest that to govern presents considered and calculated actions to guide the actions of citizens in certain ways. In neoliberalism the role of citizens is defined in relation to the economy and choice. Hand in hand with this is the concept of responsibilisation, which shifts the responsibility for a range of social problems from the state to the individual. As Lemke (2000) explains, a good citizen is responsible and moral when they are behaving in an economically rational way. Because they are independently exercising choice the consequences of their actions reside with the individual alone. The State therefore focuses on empowering responsible citizens who believe they are exercising freedom through choice, but who are in fact acting in ways that the state has prescribed. Empowerment from this perspective is not about giving greater freedom, it is about succumbing to greater State control.

6.3 The State

"Nothing is less innocent 2020 than noninterference" (Bourdieu, 1993, p.629 in
Reay, 2001, p.344).

Between March and April, it was established that students were vulnerable to
providers and the moratorium on unconditional offers was enacted. On 4 May
2020 the Government Support Package for Higher Education Providers and
Students (DfE, 2020c) was released to calm the competitive market via student
number controls and reprofiling of tuition fees to offer short term stability to the
sector and protect student interest. On the same day the Consultation on the
integrity and stability of the English higher education sector (OfS, 2020h) was
released which also relied on student vulnerability to universities to legitimise
the OfS claims that they needed to remove university autonomy over their
admissions. With these interventionist measures now in place a semantic
reversal started to occur and the pre-COVID discourse of the empowered
student consumer began to reassert itself as the debate turned to the possibility
of reopening campuses for the Autumn. With the release of the regulatory
Guidance for providers about student and consumer protection during the
coronavirus (COVID-19) pandemic (OfS, 2020o) on 10 June, it became
increasingly clear that the State would not intervene further and nor would it
take a position on campus reopenings. University autonomy was now
imperative and each university needed "to take their own decisions based on
their own circumstances and in line with Public Health England guidance." (OfS,
2020p, para. 9). In short, Universities remained responsible for their survival
and for students:

> It will be a matter for universities themselves to deal with individual students'
> situations…If you think that there is more that we can do, please contact the
> department. (Donelan, 2020a, pp.1-3)

This recalibration towards the State operating at a distance signalled that market principles were to be reclarified as the following discussion on autonomy, informed choice and complaints reveals.

6.3.1 Autonomy

For the regulated higher education market to function the appearance of university autonomy needs to be preserved. The State cannot dismantle university autonomy as it is an essential element for a functioning higher education market. University autonomy allows freedom to specify product offerings and the recruitment and deployment of resources to deliver that product. This involves freedoms to determine mission, programmes, fees, admissions, student numbers, staff numbers, and terms and conditions (Brown, 2010). Although essential for a functioning market, there is no doubt that university autonomy has been eroded over time and as observed through the actions to control admissions practices. But now university autonomy was not only critical, but there was also no alternative. Having briefly intervened the State saw that it needed to confer responsibility back to universities and therefore extricated itself from ownership of a range of problems the sector and students were facing; as the opening quote illuminates this non-interference was calculated and anything but innocent.

The State laid out its expectations that universities like any other business were solely responsible for their decisions. This included what fees to charge based on their ability to provide the purchased products to the standard required and as per their contractual obligations to their customers. As the Secretary of State attested:

> For me there is very clear guidance that universities, if they are wishing to get tuition fees, have to provide learning, education and assessment to those students who are paying through student loans in order to be able to access higher education, and that is what is to be expected. Universities have to be doing that in order to be able to claim the fees that students are paying. (Education Committee, 2020b, p.28.)

In this the State distanced themselves from the claim making for assistance by the UUK and the NUS's safety net campaign to redo, reimburse, write off fees for the year by reactivating their pre-COVID-19 neoliberal agenda. Having initially asserted that students were vulnerable across a range of issues and specifically to providers, the State's strategy was to help students by empowering them to protect themselves through informed choice and complaint.

6.3.2 Informed choice

Informed choice is a typical device for market making as greater access to information is commonly considered to help students become empowered consumers (Naidoo & Williams, 2015). The following is illustrative of the transitions between being vulnerable and the role of the State in protecting via reassurance and support on one hand but with the expectation of empowerment for self-sufficiency and a strengthened market on the other:

> We are also empowering students to make more informed decisions about entry into HE by ensuring they have good quality information and advice, and by reassuring them that there are places available this year. We can support them in choosing a course and provider which are best aligned with their career aspirations and talents. (DfE, 2020c, p.1)

However, empowerment is not a thing that can be given. As Taliaferro (1991) points out any notion of empowerment being given is hiding an attempt of control. Once the power has been bestowed it allows the giver to monitor, supervise and define. In this way having been found to be vulnerable, empowerment reconstructed the pre-COVID-19 student consumer.

There are 67 instances of the word 'consumer' used in relation to students. It's first usage on 4 May 2020 is the Consultation on the integrity and stability of the English higher education sector (OfS, 2020h) and culminated in the release of the Guidance for providers about student and consumer protection during the coronavirus (COVID-19) pandemic (OfS, 2020o) released on 10 June 2020.

In the documents analysed the implicit consumer in the marketised environment is evident with pre-COVID-19 student choice and access to information being prevalent discursive strategies. While the OfS acknowledged on one hand that more information could be "overwhelming and "does not necessarily result in better decisions (OfS, 2020q, p.1), they nonetheless required universities under temporary consumer protection guidance to supply increasingly complex information to reinforce surety via market information. Some of which could only be guessed at due to the impact of the pandemic, the following is illustrative:

> the extent to which the course will now be delivered online rather than face-to-face and how the balance between, lectures, seminars and self-learning has changed. Prospective students will be particularly interested in the volume and arrangements of contact hours and support and resources for learning if this is now taking place online and virtually. (OfS, 2020p, para.5)

Having been provided with this information, the student consumer as purchasers of their education product, were now empowered. Being empowered, they were obliged, through their rights, to exercise agency.

6.3.3 Complaints

The discourse around student agency strongly illustrates that the rebuilding of the market and the rational student consumer was occurring by the State as illustrated by the following quote:

> Students pay a significant amount for their course, and, although the 'purchase' of higher education is not a straightforward transaction and students have their own obligations that will affect their experience, their rights as consumers are important. (OfS, 2020r, p.4)

As self-interested individuals the student consumer is a rational optimizer and the best judge of their own interests (Olssen & Peters, 2005). Protecting these interests is exercised through the empowerment of complaint (or 'power to' complain). There are 37 references to the word complain in the State's discourse. In a marketised sector the student is expected to apply market

pressures on providers to improve quality via complaints which are considered to be markers of institutional failure (Furedi, 2009). The re-constructed student consumer therefore serves as the personification of market pressures (Furedi, 2012) The following is illustrative:

> all current students have had their studies disrupted. … students must have access to a transparent and flexible complaints process should they feel that suitable changes have not been made (OfS, 2020, para. 8)

This empowerment through complaint, which re-constructed students as consumers, functions to serve the interests of the State on a number of levels as discussed below.

The power of complaint places a moral and ethical responsibility on students to use their consumer rights power. When students are part of the functioning of the market then to be a good citizen they must also be a good consumer. This demands an active role for individuals to navigate through a range of choices and assumes that students possess the ability to make these choices (Jones-Devitt & Samiei,2010). When students are understood through this market logic they are individualised and not only have a responsibility to pursue their individual desires but they have moral responsibility to uphold market values but also maintain confidence in the sector:

> their rights as consumer are important not only in protecting students but also in maintaining confidence in the integrity of the higher education sector (OfS, 2020r, p.4)

Emphasising individual complaints individualises students which has several significant implications. It silences the possibility of 'power with' others for collective action and disables democratic citizenship as consumers are expected to be disciplined citizens; thereby controlling the possibility of more radical behaviours such as protests. This is because students are empowered by the State to exercise their individual agency within the market-based rules they have established. Exclusions from other possibilities are important as they limit the possibility for students to be seen in more powerful ways such as

protesters. That policy discourse excludes these is a deliberate process of selection and prioritisation and discursive formation. This naturalises assumptions and institutes silences for the benefit of the State (Fairclough 1989; Lomer, 2017a).

For the State, encouraging student complaints conveniently focuses consumer anger at the university (Furedi, 2010). To enable this we witness the State's duplicitous insistence that quality provision was possible during the pandemic despite the recognition that "all current students have had their studies disrupted"(OfS, 2020p, para. 8) and "[t]he pandemic is causing immense disruption to students' experience of higher education and has created significant challenges for providers" (OfS 2020o, p.1). So that despite the recognised impossibly of being able to deliver the same quality education either online or on-campus, and the evidence produced by students of the fact (for example the over 300,000 signatures on the Reimburse all students of this year's fees due to strikes and COVID-19 petition) the State's rhetoric and production of its Guidance for providers about student and consumer protection during the coronavirus (COVID-19) pandemic (OfS, 2020o) insisted the possibility and in fact congratulated the sector for their "speedy conversion to online teaching" (DfE, 2020c, p.1). They even expressed pride in the sector and its commitment to quality:

> But I want to stress how very proud I am of the response by the UK's HE sector to both help with the fight back against Covid 19 and also to ensure that students are supported whilst having access to flexible and high-quality online learning. (Donelan, 2020c, para.12)

Within these competing contexts students were not only encouraged but empowered to make demands for quality and value for money on their degree purchase. So, despite the acknowledgment that quality was difficult to maintain, and that financial redress was the responsibility of universities the right to complain was legitimised as it functions as 'care' by the State. If students did have a compelling personal reason for needing to repeat a year, the State

determined it would act with benevolence and offer students access to even more debt:

> Where students are unable to complete their current year of study or need to repeat a year due to compelling personal reasons, they may be eligible for an additional year of fee loan support above their standard entitlement under existing arrangements. (DfE, 2020e, para.6)

Empowerment did not engage with the actual human realities of the situation. Rather, it shifted the problem away from the State and placed responsibilities at the university and the student-consumer level ignoring that it the State alone had the power to effect change. That the State was unambiguous that it would not bail out the sector nor write off debt and that any reimbursement remained the responsibility of individual autonomous providers with "[a]ny refund is a matter for universities, so we are not considering a write off of tuition fee loans." (DfE, 2020e, para.2) showed its commitment to maintain marketisation, a desire to use the financial crisis to create further efficiencies in the sector and invoke stronger regulatory control, and a lack of empathy and will to address the NUS claims for its members rights.

How the UUK manoeuvred to gain advantage is summarised below under a single heading of campus re-openings.

6.4 Universities United Kingdom

Universities are not only responsible for students' education, but they are also responsible for them across an increasing range of services and support from accommodation, mental health support, hardship funding, widening participation and employability. Because universities are dependent on students for tuition fees and their reputation, students did not need to be empowered by the UUK in the earliest stages of the pandemic. They already had "expertise and skills" (UUK, 2020g, para.9) which were conferred on them by their status as students. They were not weak and vulnerable but powerful inspiring, courageous and hard workers, for example:

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students are central to the fight against Covid-19. The spirit and tenacity shown by university staff and students is inspiring and will continue to be vital as we look to come through these testing times and move forward as a sector and a nation. (UUK, 2020g, para.9)

Rather than needing to be re-empowered, students were already rational decision makers in an education market, who when presented with a dilemma, such as unconditional offers students would "think first" (UUK, 2020c, para.9) before making a decision. However, with the uncertainty over the Autumn term, the UUK focused its efforts on securing the student intake and empowering student consumers with the confidence to return to campus.

6.4.1 Campus re-openings

Despite UUK's tactical efforts to ensure that the State would support the sector and that they would work together (UUK, 2020h) the Government Support Package for Higher Education Providers and Students (DfE, 2020c) provided short term liquidity but did not contain the £2 billion funding UUK called for, nor the transformation fund nor requested changes to 2020/21 teaching grant funding. While it was claimed that universities had access to financial support schemes including the Coronavirus Business Interruption Loan Scheme (CBILS), Coronavirus Large Business Interruption Loan Scheme (CLBILS), COVID Corporate Financing Facility (CCFF) and Coronavirus Job Retention Scheme (CJRS), whether they were eligible to access them was uncertain.

In addition, the Government Support Package for Higher Education Providers and Students (DfE, 2020c) did not offer a guarantee that all institutions would survive the pandemic. Universities who were at risk of closure, might be eligible for intervention but only where "there is a case to do so" (DfE, 2020c, p.1) and then only "as a last resort" (DfE, 2020c, p.1). This assistance, if sought, was risky as it would take the form of a restructuring regime and potentially forced mergers as part of the proposed regulatory reform. Given this uncertainty, with no underwriting of the sector, universities were compelled to turn to the market

and take on the burden to manage the impact of the crisis to ensure their own survival.

Unable to wait or speculate that the State would change its position in their favour, universities seemed to have little choice but to start mobilising the opening of campuses for the Autumn term despite the inherent risk to lives and the very real possibility of COVID-19 related deaths which was identified by the NUS (NUS, 2020ar). Despite, these risks, under the circumstances mandated by the State, it was imperative for the market to function so that tuition fees and other student revenue, such as rental revenue, could flow to the sector. For this functioning market universities were required to be able to "compete effectively within the UK and global student recruitment markets during and beyond the pandemic" (UUK, 2020n, p.1). This was for the sector and student interest (UUK, 2020n); and in this the UUK claimed that universities were "united" (UUK, 2020p, para.4).

In the midst of the pandemic, with a COVID-19 vaccination not yet on the horizon, and without a mandate from the State to do otherwise, Universities - within the confines imposed by the moratorium on unconditional offers and the "generous" (UK Parliament, 2020, para.23) student number controls - continued competing for prospective students to whom they planned deliver a "full and exciting" (UUK, 2020r, para.3) on-campus student experience. These plans were within the context of known uncertainties that "the way the world will look by the autumn is not completely clear to any of us yet" (UUK, 2020o, p.1) and acknowledging that "[r]estrictions relating to Covid-19 may continue for some time or be lifted and then be imposed again in response to further national or localised outbreaks" (UUK, 2020q, p.1).

The UUK released its Principles Emerging from Lockdown (UUK, 2020q) on 3 June for the 97 per cent of UK universities who would "be open and ready to teach…at the start of the new academic year" (UUK, 2020p, para.4). The discourse employed was consumer focused with "University remain[ing] an

excellent choice" (UUK, 2020s, para.1) for students to progress towards their careers. To address the inherent risk of re-opening campuses during a pandemic the UUK advocated that "the top priority is to protect the health, safety and wellbeing of students, our staff and the wider community" (UUK, 2020p, para.7). The discourse was designed to establish normalcy and to empower students with the confidence to return to campus. In effect attempting to both ensure the prospective student intake and dampen the rising anger of enrolled students over online learning and calls for reimbursement for poor quality provision.

As consumers, students were told they would receive value for money via a high-quality experience with access to "[a] university education [which] is more relevant and valuable than ever in these uncertain times" (UUK, 2020p, para.4). Not only would students have access to face-to-face learning the full university experience of student life would be available. Ignoring the lived experience of isolating in rental accommodation in less-than-ideal situations and that places for social gathering were closed, students were promised a positive student experience:

> New and returning students can be confident their universities will be providing high-quality, accessible and engaging teaching and learning this autumn; and can look forward to a positive student experience and wide-ranging support. Universities will provide as much in-person learning, teaching, support services and extra-curricular activities as public health advice and government guidance will support. (UUK, 2020p, para. 5)

As beacons of social justice and transformers of lives and communities the UUK leveraged discourse of higher education as a trusted, honourable and respected public good to reassure students:

> The UK's world-leading universities transform lives, enrich local communities, drive regional and national economic growth, and improve society and social justice" (UUK, 2020q, p.1)

The UUK was keen to ensure that students were able to receive the "world-class experience" (UUK, 2020p, para.9) to which they were entitled so that they

could "succeed and flourish" (UUK, 2020p, para.9). By returning to campus, the UUK promised that students would be given both "skills and hope for the future" (UUK, 2020p, para.9) to which as consumers they were also entitled. Although it was conceded that first term might be a little 'different', face-to-face teaching and the full spectrum of campus life was promised:

> Although their first term will be different from previous years, most students can expect significant in-person teaching and a wide range of social activities and support services. Universities are committed to providing an engaging academic and social experience for all while ensuring the safety and welfare of the whole university community. (UUK, 2020r, para. 5)

These discourses naturalised assumptions about the ability to return to business as usual, and that the measures put in place would be adequate and their confidence silenced questions to the contrary. Of the UUK Principles emerging from lockdown (UUK, 2020q) there is little reference to anything that might contradict the ability to resume learning or receive value for money. Instead, students were assured that they could have "confidence in their safety" (UUK, 2020q, p.1) through universities attention to better hygiene and social distancing.

The behaviour of UUK was at best hopeful, but in turning a blind eye to the reality of reopening campuses in a pandemic it was at worst unethical, dishonest and dangerous. While their actions were the direct behavioural consequence of the inaction of the State, there is also no evidence in the documents contained in the data set that they requested a State mandate on campus re-openings. There is however acknowledgment that "the sector understands that government cannot provide full replacement of lost income" (UUK, 2020j, p.1) and therefore an implicate acceptance that the market would need to function.

In empowering student consumers to accept offers and existing students to plan for an on-campus return to receive the promised quality provision and value for money, the UUK was attempting to dampen the rising anger, and

active campaigning for reimbursement of poor quality provision. They also chose to risk student and staff welfare rather than jeopardising their own survival. By making these market-driven choices they deliberately acted to maximise the student intake, minimise complaints, and failed to uphold their responsibilities to students and society. They also failed to uphold the very first of their nine principles (UUK, 2020q) which was that "[t]he health, safety and wellbeing of students, staff, visitors, and the wider community will be the priority in decisions relating to the easing of Covid-19 restrictions in universities" (UUK, 2020q, p.1).

6.5 National Union of Students

While National unions work within the institutionalised political system, they can also be sites of activism, offering a radical and dissenting voice (Klemenčič, 2012a). In a study of European Union's Klemenčič (2012a) distinguishes between corporatised unions that align with the State and university leadership, and unions as social movements that are conflictual and engage in boycotts and protests. Unlike conventional tactics, this style of radical activism which causes disruption and gets people talking, thinking, and responding are more powerful because they are disruptive (Barnhardt, 2012). While corporatized unions such as the NUS will use more conventional tactics, conflictual tactics are also available to them (Klemenčič, 2012a).

As a representative body the NUS occupies a powerful position as the national student entity with whom the State, UUK and other stakeholders engage. A significant degree of their power lies in the option to disrupt via protest and disruptive behaviours, as the NUS president asserted "history shows that when students lead, others follow" (NUS, 2020l, para.7). Therefore, vulnerability discourse alone, as discussed in the previous chapter, did not serve its members interest and the powerful voice which needs to heard "loud and clear" (NUS, 2020l, para.7) in its fight for "equality and human rights" (NUS, 2020l, para.7) and against marketisation of the sector (NUS, 2020b; 2020g; 2020ar,

2020as, 2020au) was also present during the early stages of the pandemic and began to escalate in late April/early May.

As the NUS pursued its agenda of a student safety net (launched on 22 April) which argued for a £60 million hardship fund (NUS-UK, 2020ab; 2020ag; 2020aj;2020ak) and the right to redo, reimburse or write-off to retake this year at no additional cost (NUS PR, 2020ab; 2020ad, 2020ae; 2020af; 2020ag, 2020ah; 2020an; 2020as) and a complaints chain(NUS, 2020at). it strategised by opting for the growing dominant discourse that would influence the State of the empowered, active responsible student and the future worker.

6.5.1 Responsible citizens

Positioning students as empowered, responsible and future workers is a key feature of both the Browne Report (2010) and the White Paper Students at the heart of the system (BIS, 2011) which positioned students as consumers and human capital who were empowered and autonomous decision-makers. The NUS discourse during the early stages of the pandemic emphasised and valorised the self-sufficient, independent and responsibilised citizen. The adoption of this language is path dependent, finding it roots in the discourse of neoliberalism where responsible citizens minimise their dependence on the government. So that instead of being passive recipients of welfare, students desired to be seen as autonomous and in control (NUS, 2020q) entrepreneurs of self who make active decisions across a range of options (NUS, 2020q) and using their own discretion (NUS, 2020q). They have their own personal duties, obligations and expectations to further their own interests (Davies & Bansel, 2007) as illustrated by the following quotes:

> We're therefore calling for practice which is motivated by student welfare and student choice, giving students control over their education, ensuring progression and completion when they desire it. (NUS, 2020q, para. 7)

> Students who wish to, should have the option to extend their time in education to complete their degrees. [….]. This should be at their own

discretion and made possible through self-certification. (NUS, 2020q, para. 13).

This adoption of the language of the rational decision maker is the foundation of the student consumer. The NUS discourse goes beyond passive consumption with students taking an active engagement and control over their own destiny and the use of words to signify their empowerment such as 'control', 'choice' (NUS, 2020q), having 'options' (NUS, 2020q) and their enthusiasm and motivation to exercise their 'own discretion' (NUS, 2020q). The student complaints chain was presented as one such mechanism for empowered students to sign up for mass action:

> Students have racked up tens of thousands of pounds of debt to access once-in-a-lifetime university education courses. Is it unreasonable for them to want a fair response from government on something they've invested so much time and money into? We've warned the UK government and education leaders repeatedly that the scale of student anger is too large to be handled through existing local processes. But they have not listened to our concerns, so NUS' job is to take action in the best interests of students. (NUS, 2020at, para. 13)

However, these best interests were presented as market-based compensation for failure as consumers to receive an appropriate return on their investment, indicating once again the NUS acceptance of the system it was rejecting.

6.5.2 Future workers

The power of students as economic agents, essential workers and future workers (NUS, 2020ag) was also deployed in the NUS claim making tactics. Human capital theory is a cornerstone of neoliberalism which ensures that that State invests in human capital to produce economic growth and direct investment towards areas of economic need. As explained by (Marginson 1989, 1993) the acquisition of skills and knowledge through education equates to human capital. The acquired skills and knowledge increase productivity in the workplace and consequently attract a higher salary. Therefore, people invest in education up to the point where the private benefits from education are equal to

the private costs. Brooks (2018a) found that the construction of student as future workers was prevalent in government and employer discourse but largely absent from Students Unions. However, during the pandemic the NUS chose to depart from this stance with a platform that actively deployed discourse of the value of students as future workers. As human capital their education was a consumer item and an investment which went beyond individual benefits, it was the key to the economic growth of a country. To substantiate their claims and campaigns for students rights the NUS emphasised the power of students to lead economic recovery. In doing this they therefore accepted one of the main tenants of neoliberalism that the purpose of higher education is to contribute to economic growth and prosperity rather than for any other purpose:

> We are the future workforce that will have to help to rebuild our economy over the coming years. (NUS, 2020ab, para. 15)

> Students are the future workforce that will help rebuild our economy over the coming years: a student safety net that gives students the choice of a redo, reimbursement or write-off of their courses is crucial in supporting the revival of the economy. (NUS, 2020ad, para. 9)

Empowerment discourse at the time, and as deployed by the NUS, ultimately aligned with the established constructs of neo-liberalism and the institutionalised political system, rather than activating potential for real power via dissent. To a large degree this may be attributed to the fact that as citizens of a democratic state the NUS would have assumed that vulnerable students would be protected and therefore were slow to recognise the need for a more radical approach. However, by June 2020 with the prospect of campus reopening and the rejection by both the State and the UUK of their claims for reimbursement the tide stated to shift towards discourse of demands and threats of action over requests for help. The following is illustrative:

> We've warned the UK government and education leaders repeatedly that the scale of student anger is too large to be handled through existing local processes. But they have not listened to our concerns, so NUS' job is to take action in the best interests of students. (NUS, 2020at, para. 13)

That it is has come to this shows the failed experiment of marketisation in our education system. We were told students were going to be 'empowered consumers' but actually, when something like this happens, we feel we've got less rights than if we'd booked an Airbnb. The UK government is desperate to reduce this to a series of individual problems - it's a total betrayal of trust to the thousands of students who are now facing lifelong debts for a once-in-a-lifetime education they haven't received. (NUS, 2020at, para.14)

Although the NUS deployed discourse of power and empowerment from late April/early May it was positioned within the marketised system and lacked the radical grassroots activism that was later to be deployed throughout the UK. This was despite the identification that students were victims of the system and were being exploited for their fee income as per the quotes above and below:

It is no surprise that university management would like to continue as if it is 'business as usual' for fear of losing out on the income students provide - but students and staff are not just figures on a balance sheet. (NUS,2020ar, para. 3)

In this way the integration of the NUS executive into the fabric of the State apparatus is evident. The executive at the time had served its two-year term and was to be replaced by incoming team. The new leadership perhaps heralded a new energy and direction for the NUS and the identification that the State's attention to fixing the admissions systems and securing the functioning of the market was in an insufficient solution for students who were the ones who were jeopardised by systemic failure of the higher education market.

6.6 Empowerment – strategic interplays between actors

Through the application of SRA it came clear that at the onset of the pandemic student vulnerability was the strategic selectivity deployed by all actors to a greater of lesser extent to influence structure. However, this was evident for only a very short period of time and through SRA the pivot to discourses of empowerment is identified. Specifically, between 4 May when the Government Support Package and Consultation on the integrity and stability of the English

higher education sector were released and 26 May when the consultation closed this shift to empowerment occurs. At this juncture the State and UUK discourses of student vulnerability becomes greatly diminished and empowerment becomes the main discourse selectivity to reconstruct the student consumer. The NUS also adopts this empowerment discourse but continues to engage with vulnerability although to a lesser extent.

By 4 May 2020 new structural constraints were in place which calmed the market and controlled provider and student behaviour. The was a pivotal policy juncture. Within the context of the crisis it was a moment of stability which allowed the State to shift its focus towards the imperative of establishing a new higher education market characterised by regulation over admissions practices, marketing behaviours and provider exits. This focus was despite the fact the pandemic's impact was rapidly growing and deaths were escalating. To enable their agenda of normalcy, a restructuring needed to occur and students could no longer be vulnerable. The State commenced the re-constructed of students as empowered to re-establish the responsible, rational, choice driven student consumer. This conferral would ensure that the market could function under its principles of autonomy, competition, price and access to information to inform choice. Now, choosing a stance of inaction, which as observed earlier is anything but innocent, the State did not mandate to either open campuses or not. Thereby they distanced themselves from the consequences and conferred full responsibility to the market and therefore all risk to universities and students.

In relation to campus reopening this caused great ambiguity for the sector as universities were still being governed by market rules and therefore had little choice but to act as they did or risk bankruptcy. It is undoubted that the actions of universities would have been known or at the very least predicted. Within the existing market forces universities were compelled to accelerate reopening as they faced a number of risks:

- If other competitors opened, but they did not, there would be consequences for a reduced 2020/21 intake which would impact financial viability, increase redundancies, closure of programs and departments and impact research.

- Losses from accommodation, catering and conference services would not be recovered.

- Consideration would need to be given to a differentiated fee level or reimbursements as it had become increasingly difficult to sustain an argument that online learning was equivalent to face-to-face teaching and offered the same value for money.

- Student satisfaction would fall which would impact essential market information on ratings, ranking and reputation.

To address these risks UUK released its Nine principles emerging from lockdown (UUK, 2020q) which empowered students with the (false) confidence to return to campus but downplayed the risks. The State, relinquishing responsibility for health and wellbeing, empowered student consumers through provision of even more information to inform choice, but at the same time caused ambiguity as the implication was that campuses could and should reopen. They emphasised individualisation to counter for the power of collective action and complaints as the ordinary vehicle to redress poor provision. Empowerment functioned to control student behaviour and compelled them to exercise their power as responsible citizens and redress any discontent through established complaints mechanisms towards universities and away from the State. This proved to be a successful tactic as the initial support by the NUS which universities had enjoyed with began to change and university integrity and their treatment of students as consumers and specifically as "just figures on a balance sheet" (NUS,2020ar, para.3) began to be challenged.

Within this structure, NUS engaged with empowerment discourse to position students as powerful future workers and rational decisions makers who had control over their destiny. Of the three actors researched only they emphasised the peril of reopening campuses too early but they were surprisingly polite and did not question the lack of State mandate:

> The government must also advise institutions to carefully consider the start dates and format of any blended learning environments, so that everyone can be confident that these environments are safe for students and staff." (NUS, 2020ar, para. 4).

As with their engagement with vulnerability discourse we see that the NUS did not have the agency nor the ability to deploy discursive selectivities that would result in a change the structure. Also, that the selectivities chosen could not affect the structure as they were aligned to consumer ideologies of rational decision makers, economic agents and education as an investment which the State was intent on maintaining.

6.7 Summary and introduction to the next chapter

This chapter provided detailed analysis of the interpretively coded data from 105 sources, across the State, NUS and UUK, which were broadly defined as policy, and including press releases, letters, proposals, speeches, Education Committee evidence, consultations, and briefing notes. It discussed how the second discursive strategy of empowerment emerged across all actors and revealed how it was used to reconstruct the previously deconstructed student consumer and re-establish the neoliberal agenda. The chapter revealed that after the State constructed the vulnerable student at risk of provider self-interest, it then empowered students to individualise them, suppress radical activism and ensure that students were the responsibility of universities. The UUK and the NUS each had roles to play as operating within the market they had little choice but to pursue market-based remedies for the perils they faced. The next chapter, which is the concludes this thesis, brings the findings from

this and the preceding chapter to the answer the research questions and propose new avenues of research.

Chapter 7: Conclusion

7.1 Overview of the chapter

In the previous two chapters, how the State, Office for Students (OfS), Universities United Kingdom (UUK) and the National Union of Students (NUS) constructed students in the early stages of the crisis have been explored via discourse analysis and what Young and Diem (2018) describes as critical policy analysis (CPA) concentrated looking. The purpose has been to examine a period of crisis and illuminate, through the mobilisation of the strategic-relational approach (SRA), the role of structure and agency to co-constitute the deconstruction and/or reconstruction of the student consumer in response to, and as a consequence of, the COVID-19 crisis. The function of this final chapter pulls these constructions together to answer the research questions:

1.   How was student consumer policy challenged during the early stage of the COVID-19 pandemic?

2.   How did the policy challenges deconstruct and/or reconstruct student consumers in the early stage of the COVID-19 pandemic?

To do this it first draws together the findings in the previous chapters to provide coherence and situate the answer. I then reflect on the findings, the limitations of the research and propose new areas for future research.

7.2 Answering the research questions

The research questions which focus on the English higher education system are located within the United Kingdom's marketised higher education sector. In this market environment, if fees follow students, which is the mantra of the market, and choice is the mechanism by which price can be differentiated, quality provision can be assured, and supply and demand balanced, what does this mean for a sector in crisis and an admission system that has been

destablised? History has shown that the neo-liberal policy agendas do not get abandoned easily or, so far, even at all. In this sense the higher education market has been re-constituted over time to be further entrenched along with greater control and regulation.

In determining the answers to the research questions, I first considered a broader question. What does this mean for a multibillion-dollar higher education sector which has been built on market principles of consumer driven demand? Where universities, with progressive and deep government funding cuts, are now heavily dependent on the global education market and domestic student fees for income generation? When a global pandemic has critically impacted access to its international student markets and fundamentally destabilised traditional universities largely face to face and didactic mode of teaching, is it prudent to continue to create a discourse of the student consumer, and did policy actors persisted in doing so, further embedding the already entrenched neoliberal agenda? Or did other constructs emerge within and outside government agencies, such as UUK and NUS to contest and attempt to displace it?

The essence of these broad questions has been distilled into two research questions:

1.   How was student consumer policy challenged during the early stage of the COVID-19 pandemic?

2.   How did the policy challenges deconstruct and/or reconstruct student consumers in the early stage of the COVID-19 pandemic?

Figure 7.1 The State, UUK and NUS – Strategies, intersectionality and degree of vulnerability or empowerment discourse, 11 March – 3 July 2020, provides a visual representation to support the following discussion which answers the research questions. It depicts the major policy junction (the boxes), the interplay between the junctions and the actors (the lines/arrows) and the degree of

vulnerability and empowerment discourses that were deployed by the actors (the colour and shading as revealed by NVivo coding). In the figure we see two junctures. In the very beginning of the pandemic vulnerability was the dominate discourse selectivity across all actors although degree varied. We see very strong vulnerability discourse from the State and NUS but a more measured approach from UUK. From late April/early May there is a distinct shift towards empowerment from the State and UUK as the functioning of the market is preferenced and deployed by both actors. The NUS discourses in this period are mixed. Having failed to change the structure with its vulnerability discourse it recalibrated but was reluctant to abandon vulnerability altogether. Reflecting on its likelihood of impacting the structure it repositioned itself towards empowerment.

Figure 7.2 The State, UUK and NUS – the discursive deployment of vulnerability and empowerment, 11 March – 3 July 2020 provides an overlay to Figure 7.1, distilling the findings from the SRA into the specific deployment of vulnerability and empowerment used by each actor over the time period.
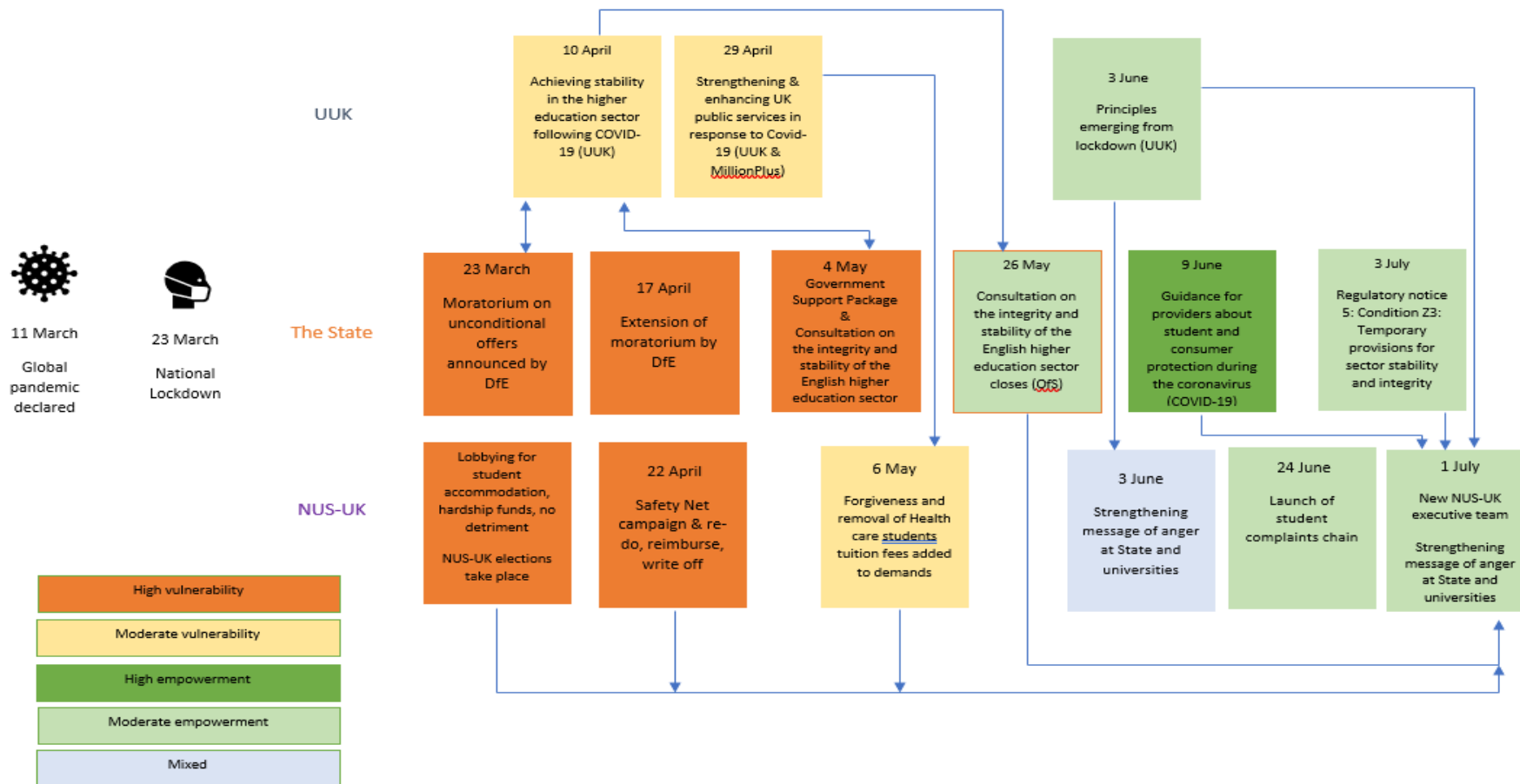
Figure 7.1 The State, UUK and NUS – Strategies, intersectionality and degree of vulnerability or empowerment discourse, 11 March – 3 July 2020
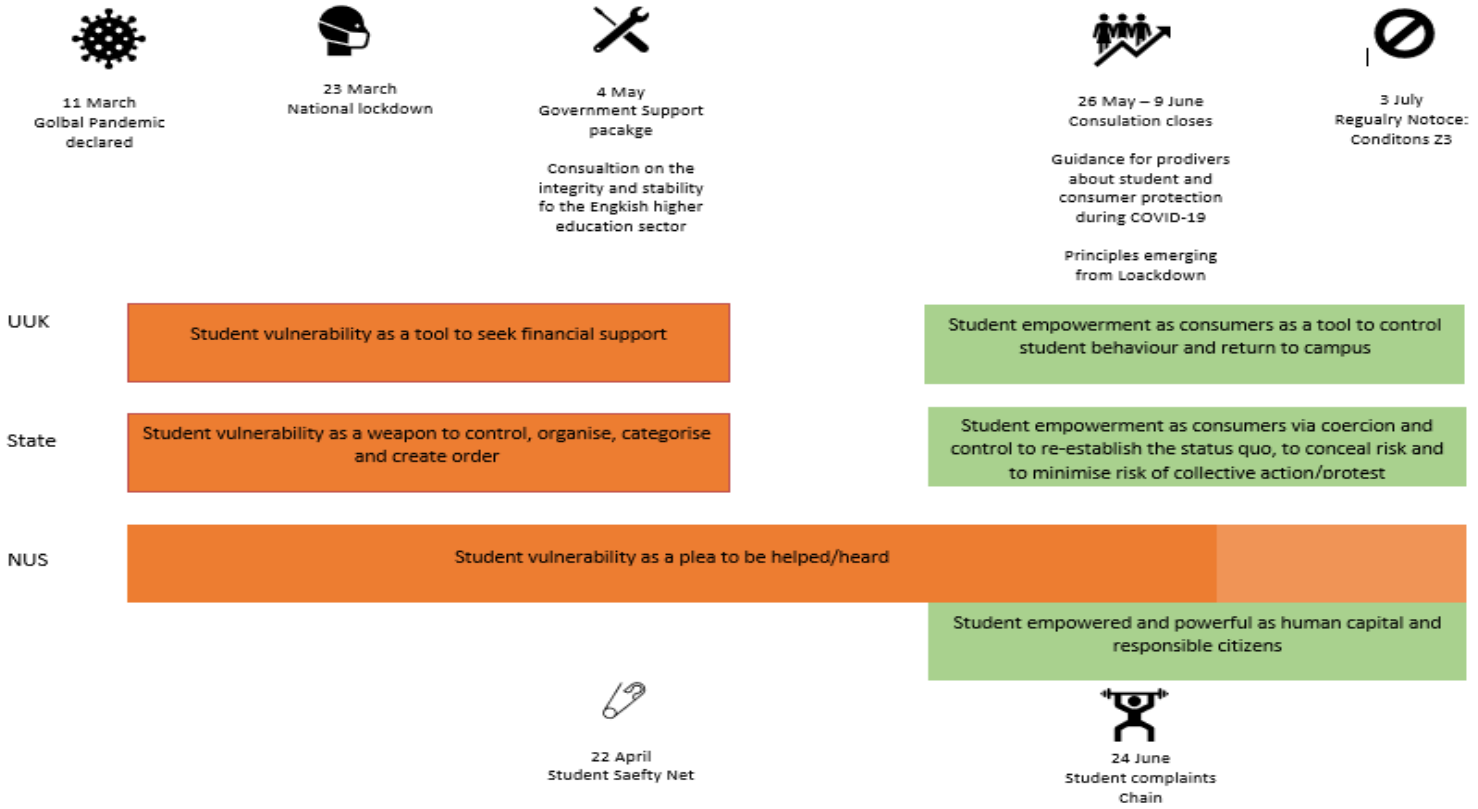
Figure 7.2 The State, UUK and NUS – the discursive deployment of vulnerability and empowerment, 11 March – 3 July 2020

7.2.1 Answering research question one

To assemble coherence that higher education can function as a market, students have been conceptualised as consumers in the United Kingdom's national higher education policy. The nature of the COVID-19 crisis opened up opportunities to challenge the established structures under which higher education sector operates and to present alternatives to the student consumer. Understanding the challenges and the strategic interplays between the actors is essential to answer research question one, how was student consumer policy challenged during the early stage of the COVID-19 pandemic, before proceeding to the second research question which deals with the mechanism by which the challenges were enacted in the deconstruction and reconstruction of the student consumer. The following challenges are identified.

Challenges to the higher education market - competition and regulatory control

The State used the opportunity of the pandemic and student vulnerability discourse to pursue a pre-existing agenda for greater regulatory control over the market. It targeted university autonomy; particularly over admissions practises of unconditional offers and controlling behaviour of the sector. This was supported by the UUK and the NUS but only as it related to conditional unconditional offers.

The UUK deployed student vulnerability discourse to propose the market calming mechanism of temporary student number controls set at forecast numbers for 2020/21, plus five per cent. The temporary student number controls indicates that there was a moment to reform and calm the market and reduce competition. It is important to note that student number controls were introduced but then revoked just weeks after their introduction.

While proposed by the UUK as a voluntary agreement, this was to be a strict rules-based approach and the OfS was given wide-ranging powers to control the excesses of market competition which OfS considered to be not in vulnerable students' interest.

The OfS conceded to the UUK to reduce the span of its regulatory power to the temporary abolition of conditional unconditional offers (not all unconditional offers). But significantly increased its powers to intervene over university behaviour to protect vulnerable students, including over their marketing practices. Thereby further embedding its control over the sector and establishing precedent for future regulatory oversight. The NUS rejected that regulation was the solution to the marketised higher education and the vulnerable students within it.

The UUK and NUS challenged negative effects of competition which was destabilising and created negative behavioural consequences. They both sought investment from the State into the sector. The UUK sought investment to maintain the status quo, build human capital and return to business as usual. Its agenda was not to effect change to a more altruistic model but to moderate the impact of the pandemic within market-based rules of the game. The NUS deployed vulnerability and empowerment discourses to seek investment to protect students and alter the structure of higher education but accepted the conditions of the market to do this and their role as human capital and the future workforce.

Challenges to the student consumer construct

Student consumer policy on tuition fees was perpetuated by the State, supported by the UUK and challenged by the NUS. The conceptualisation of students as consumers of a higher education product normalises the acceptance that costs of education should be borne by students because they receive private benefits. Tuition fees are the basis of the higher education

market and the student consumer. In the United Kingdom's higher education market, they are also the primary source of income for universities. Despite the inherent problems of this financing model, including the projected £1 trillion public debt of nonrepayment of student loans, the State and the UUK did not challenge or attempt to change the structure of the financing of higher education, nor the dependency on international student fee income.

The NUS as the least powerful actor and representative of students, was vocal in its dissent over tuition fees using both vulnerability and empowerment discourse to attempt change. However, they did not effectively challenge there full removal, nor did they campaign on a platform of free education. As actors with the complex network of governance they demanded market-based compensation to redo reimburse or write off the costs of the academic year and therefore accepted: the marketisation of higher education; that students should contribute to the cost of their education; the appropriateness of market-based compensation to redress provision of a sub-standard product; and their own inability to effect large scale reform.

The reintroduction of more Keynesian welfare style approaches by the State to other citizens offered the NUS the opportunity to consider that the State would treat students fairly. Based on this assumption and hope, the NUS vocally and vehemently challenged the idea that students are rational and powerful consumers. They sought State intervention and protection across a range of issues from welfare provision to access to learning by engaging with the dominate vulnerability discourse that was being utilised by the State.

However, to maintain the status quo any redress was conferred by the State to the individual providers. In terms of poor-quality provision, students were empowered to complain. This empowerment via a complaint's mechanism is a typical market approach to individualise complaint and reduce the possibly of collective action. During the crisis it also acted to direct anger away from the State to providers. Having failed in its attempts to seek redress via vulnerability

discourse the NUS then enacted empowerment discourse, via threat and complaints chain campaign for mass action. However, a complaints chain reinforces an orderly approach within a market based system and the rational student consumer.

The UUK empowered students not to complain, as any action would have serious consequences on their members budgets and reputation, but instead to return to campus and receive the full high quality and social student experience in the Autumn.

In the absence of a national approach to the Autumn term, the student as a rational and powerful consumer was confirmed by the State via the issuing by the OfS of student consumer guidance.

Having considered how the student consumer policy was challenged and the alliances in the process, the next section answers the second research question about how the challenges acted to deconstruct and reconstructed the student consumer

7.2.2 Answering research question two

The second research question, How did the policy challenges deconstruct and/or reconstruct student consumers in the early stage of the COVID-19 pandemic, is answered below by considering each actor separately and then pulling them together in the key findings section.

The State and OfS deconstruction and reconstruction of the student consumer

The State's data set contains 38 items; the majority (23) of which were from the OfS. The key policy documents were the Government Support Package for Higher Education Providers and Students (DfE, 2020c) and the Consultation on the integrity and stability of the English higher education sector (OfS, 2020h)

and the subsequent Regulatory notice and Guidance for providers about student and consumer protection during the coronavirus (OfS, 2020w).

As Figures 7.1 and 7.2 illustrates, students were primary deconstructed in policy documents from being powerful student consumers by the State during the early stages of the pandemic via vulnerability discourse. The student consumer was still apparent, but their power was greatly diminished and they were referred to as children and bestowed with new qualities of passivity, anxiety and helplessness. The State constructed the vulnerable student around 27 characteristics so that with very few expectations students were vulnerable. It cannot be doubted that they were vulnerable– the pandemic had made all citizens vulnerable. But their construction as 'vulnerable' was a strategy by the State to regulate to stabilise and control the sector without injecting money into it or consider an alternative non-marketised structure.

Being constructed as vulnerable requires the vulnerable to be at risk of something and thereby legitimises action and creates the imagery of a valiant protector of the weak and innocent. In the State's construction, students were not vulnerable to the virus, or to State inaction, or the financial precarity of the sector, or to their inability to access learning, they were vulnerable to unscrupulous and unethical providers who were acting against the interests of students by engaging in the very competition that a marketised sector requires. Not only did this deconstruction enable regulation and control it also allowed the State to pursue its pre-existing agenda to intervene in the autonomy of the sector and remove the practice of conditional unconditional offers. This practice had been a directive of the Department of Education to the OfS since 2019 and from the State's perspective was well overdue for resolution.

Looking closely at the documents, vulnerability was at its strongest from 11 to 23 March 2020. In Figures 7.1 and 7.2, it is apparent that the State aggressively deployed discourse on student vulnerability to control the narrative of the crisis construal and provide the solution on its own terms. If students

were anxious and worried, then universities behaviours were at fault not the neoliberal policy agendas which had led to the behaviours. This enabled the moratorium on unconditional offers and the introduction of student number controls. Both served to stabilise the sector but disadvantaged individual students which was now less important as they were no longer powerful consumers.

By late April/early May having been deconstructed and new structural constraints installed, students were swiftly reconstructed as powerful and rational student consumers. The purpose of this U-turn was to switch focus on reopening of campuses in Autumn and the rebuilding of the higher education market. This occurred via the Guidance for providers about student and consumer protection during the coronavirus (COVID-19) (OfS, 2020o). This new guidance made it clear that students were consumers. The Guidance aligned to the UUK 3 June Principles emerging from lockdown (UUK, 2020q). The consumer guidance did not specify whether or not campuses should be opened but what universities needed to provide student consumers with and the terms and conditions of their educational contracts. Specifically access to market-based information to inform student 'choice' and recast students as rational, employment driven, economic agents who through choice, drive competition, sector behaviour and economic outcomes.

The discourse of empowerment and responsibilisation was primarily via the pre-COVID-19 market tools of individualisation and complaint. This responsibilisation draws on the relationship between empowerment and vulnerability discourse. Empowerment is linked to vulnerability (Gibb, 2018). When individuals are constructed as vulnerable they can be targeted for empowerment so that they can become responsible citizens who can take care of their own welfare instead of the state. So that despite acknowledging the "all current students have had their studies disrupted" (OfS, 2020p, para.8) any redress was presented as being the responsibility of individual students to exercise their individual consumer rights via consumer protection law and

complaints mechanisms, rather than expecting government to intervene. In this way, what was constructed as human rights issues by the NUS, were framed as consumer rights issues by the State. This empowerment did not bestow real power but was a control tactic that placed an ethical responsibility on students to monitor and report on provider behaviours, erroneously implied that the same or close to the quality of education could be achieved despite the pandemic, trivialised NUS claim making about the predicament of students and individualised the student to reduce the possibility of disruptions via protest. In this way students no longer needed the help of the State they were once again powerful consumers, who controlled their own destinies and universities were accountable to them.

There are a number of important points to consider in the construction as both vulnerable and empowered. Firstly, this is path dependent and therefore a mechanism by the State for market making. There is evidence that since the 1980s the State has produced extensive discourse on the powerful consumer (Molesworth, Nixon, and Scullion 2009; Williams 2012). We also know that the discourse of student vulnerability to the sector behaviours is pre-existing; it has been a practice for decades as a mechanism to create and sustain the rationale for a higher education market. As one example, Brooks (2018a) found that government policy created marketisation-policy-serving discourse of students being vulnerable as "thwarted consumers" (p.3) to a not fully formed market and also as dependent children vulnerable to providers self-interest.

Secondly, it enabled the State to pursue its agenda for monitoring and control. Constructing students as weak and powerless and needing protection was an important tactic by the State and the regulator who did not help students in any real sense, they offered limited hardships funds, deliberately avoided discussing tuition fee debt and instead made a pretence, despite the evidence that quality education could be provided during the crisis, that there was no need for reform of a sector either in the short term or in the long term such as

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free education, or lower tuition fees or more core state funding to genuinely serve the interests of students.

Thirdly, that while the theory of neoliberalism presupposes a very limited role for the state, in practice it requires a strong state with high regulation to be effective (Dean, 2014; Somonja, 2021). We see that, although the state declared that it would allow the market to function and providers to fail, its actions did not support this. The attempted removal of autonomy, the cap on student numbers, the initial moratorium on unconditional offers, and the abolition of the conditional unconditional offers all facilitate a regulated market characterised by tightened regulatory controls and policies that continued to modify the role of universities from autonomous institutions to collective drivers of the economy and of students from learners to economic agents

The UUK deconstruction and reconstruction of the student consumer

The UUK data set contains 19 items, which is the least of the actors. The policy junctions for United Kingdom were the Achieving Stability in the higher education sector following COVID-19 (UUK, 2020j) and Strengthening & enhancing UK public services (UUK, 2020m), and reopening campuses via Principles Emerging from Lockdown (UUK, 2020q).

Unlike the other actors there is less evidence of the degree of de-construction or re-construction of the student consumer. While the initial attempt to secure support for the sector clearly rested on student vulnerability to the sector's volatility and potential collapse, the tone lacked the intensity of both the State and the NUS. Students were constructed as vulnerable to COVID-19 and initially the protection of their welfare was prioritised, over the protection of their learning. The relative neutrality of the UUK's discourse about students is because as the peak representative body of the institutions that students are enrolled in it is difficult to claim that students are vulnerable because in the marketised environment the institutions themselves are responsible for students

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and accountable to them. They are required to provide quality education in exchange for tuition fees, if they cannot, then students have the right of redress via complaints and legal avenues facilitated by student contractual relationships with universities. Therefore, empowered consumers are also not necessarily a desired subject position from the UUK point of view unless they are individualised and thereby discouraged from collective action.

In Figures 7.1 and 7.2 it is evident that the UUK's strategic selectivities were constrained by its responsibility for students on the one hand and the need for State support on the other. Figure 7.1 demonstrates that they deployed moderate vulnerability of students in their two policy Achieving stability in the higher education sector following COVID-19 (UUK) and strengthening & enhancing UK public services in response to Covid-19 (UUK, 2020m). This is explained by the need to engage with the State's dominate discourse to influence structure but the tension in implying that students were too vulnerable. This is because the State's argument was that student's vulnerability was primary a function of university behaviour. Therefore, for the UUK, universities needed to be protected by the State which would in turn protect student interests, students could be vulnerable to state inaction or to COVID-19 itself but not to the sector. At the same time students could not be portrayed as too vulnerable to the State or the UUK risked offending the State who they were working closely with on a package of measures for the stability of the sector. As it became clear that the State would not intervene with a financial bailout the empowered students discourse became more dominate as UUK aligned with the Guidance for providers about student and consumer protection during the coronavirus (COVID-19) pandemic (OfS, 2020o) and required the market to function to ensure student enrolments.

The UUK challenged certain aspects of consumer policy that impacted members. It challenged the negative effects of competition which was destabilising and created negative behavioural consequences and the proliferation of universities and private providers which it sought to rationalise

via a request for transformation funding. It did not challenge the structure it worked within and therefore further entrenched student consumer policy. It did not advocate change to the level of tuition fees, nor to the private financing of higher education, nor to the model of dependency on international fee income. It sought investment from the State and to work together to maintain the status quo, build human capital and return to business as usual. Its agenda was not to effect change to a more altruistic model but to moderate the impact of the pandemic and establish new rules to control the market. Specifically, and in the words of the UUK its intention was "reshape and refocus some institutions to promote longer term sustainability and to better meet skills needs; measures to reduce market volatility in undergraduate admissions for the 2020-21 year; and the creation of new rules to restrict destabilising behaviours such as the use of unconditional offers" (UUK, 2020j, p.2). That it was the UUK who proposed the actions that the State accepted and acted on consolidates Locke's (2007) findings of the significance of the UUK's role in not only influencing policies, but that those policies are intended to further entrench a neoliberal agenda.

The NUS deconstruction and reconstruction of the student consumer

The NUS had 48 items in the data set in the period under investigation, this was the most prolific of the three actors. As Figures 7.1 and 7.2 demonstrates there is a mix of vulnerability and empowerment constructions of students in the NUS policy documents. Figure 7.1 shows that the greatest degree of vulnerability is evident in its campaigning for a Student Safety Net.

When considering what tactics to deploy in discourse the creation of identity is extremely important. Within social institutions, images, models, and templates are constructed and made available as resources for construction of identity (Leisenring, 2006). These institutional identities are revealed with a certain clarity when subjects choose to construct themselves in one way over the other options that may be available to them. As an important actor representing the interests of students the NUS proffered a similar but at the same time

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substantially different view of students. Like the State and the UUK they agreed that students were vulnerable. However, contrary to the State's positioning, they disagreed that students were vulnerable to providers, instead they posited that both students and providers were primarily vulnerable to the (in)actions of the State. In this way vulnerability was the basis of their claim that they were not consumers but victims and that the state needed to be more responsive to their vulnerability and protect students' human rights.

Robson et al (2017) acknowledge that students are vulnerable consumers to debt and Brooks (2018a) has noted that student unions use imagery of student vulnerability to argue against neoliberal policy reforms. In the global health crisis, the degree of this path dependent discourse of vulnerability was amplified and also path finding as they campaigned for hardship funds and a redo, reimburse write off student fees for the academic year. However, within this discourse is an acceptance that students should contribute to the cost of their education which shows that while NUS resisted discourses of the market and the student consumer, they frame their resistance within a neoliberal logics.

The NUS actively engaged in vulnerability discourse in the early stages of the pandemic, adopting the State's discourse to engage with power and facilitate the achievement of their agenda. They initially aligned their support to the UUK and argued for State to support universities. However, over time as they learned that this was not achieving the outcomes they desired their messaging became mixed retaining vulnerability but moving towards student empowerment and adopting the market discourse of rational consumers, responsible citizens and as human capital and the future workforce to argue for a student safety net and to redo, reimburse and write off debt. As campuses moved to be reopened the NUS actively questioned the ethics and wisdom of this and in this, they were also ignored which lead to the final stage was to threats to establish their claim making was valid and should be listened too.

In the period researched we therefore find that there was the briefest of moments for change to occur. However, in the hands of the powerful State who had perused an agenda of neoliberalism and marketisation for decades the end result was the seemingly inevitable further entrenchment of the market and the reconstruction of an even more powerful student consumer. In reaching this state the support of the UUK was pivotal and perhaps unintentionally the NUS further embedded the system as they did not have the power to effect change.

7.3 Key Findings

SRA provides important insights, illuminating the process of change around the student consumer at a particular and unique moment of crisis. Through this lens the primary finding is that the moment of crisis allowed for opportunities to challenge and change the student consumer construct. However, the power struggles between the actors and the structure itself served to enable the re-construction of an even stronger student consumer. The discourses of vulnerability and empowerment were the tools to achieve this. Although these discourses appear paradoxical in relation to each other, they worked together to serve the State's interest to continue to reinforce the marketisation of higher education. Figure 7.1 illustrates that power was in the hands of the State with whom the actors largely complied with rather than opting for a new narrative; or if an opposing narrative was presented it had no way to gain purchase as it did not serve the State's interest.

This is because the purpose of policies produced in the early stages of the pandemic, like all policies, was to achieve effects and to gather support for these effects. The State's policies were intended to legitimatise their political decisions, define the higher education sector as a market and retain control of universities and student as consumers. As explained by Brenner et al (2010) and Peck (2010a) processes to achieve policies, and the policies themselves are inherently path dependent. Within the ensemble of the State, the UUK and NUS operated in regulatory landscapes that were inherited from earlier rounds

of regulatory formation and contestation to which they had contributed and were not easy to abandon. The processes themselves were not linear, or straight forward, but were messy and influenced by the external forces of the pandemic, state priorities for the economy and political contestation. All actors had their own biases, preferences, knowledge and access to organisational resources and information. To achieve structured coherence, strategies and tactics co-evolved over a short period of time to produce a relative stability out of what was potentially highly unstructured complexity. A conditioning factor of this structured coherence was the preferencing by the State of the strategic selectivities that were most compatible with the reproduction of the existing structure. Through the application of SRA we see that the student consumer construct was perpetuated and reproduced rather than radically altered or abandoned as without a consumer the market cannot function.

The preferencing of the UUK's strategic selectivities and their compatibility with the State was clear. Of the UUK and the NUS only the strategies of the UUK had any influence over the structure as their agenda was to maintain the market which directly served the interests of the State. The UUK had more power by virtue of its respected membership which included some of the most highly paid Vice-Chancellors in the world who managed institutions with global brand and research dominance and multibillion pound budgets. They therefore had better information and technologies and their discursive selectivities was better able to influence structure. The highly educated UUK demonstrated the reflexive nature of agency and the learning to influence structure by working within the market framework and acquiescing and endorsing the State preference for a functioning market as it was also their agenda. However, it had an inherent organisational weakness. Its resolve to protect all members ran counter to its most powerful members self-interest; they were disadvantaged by student number controls as their status meant that they could fill number of places they desired. Therefore, while the UUK presented itself as united it was not as other representative group such as the powerful Russel Group were also lobbying the

State with opposing agendas. The UUK therefore was unable to present a unified voice and a cogent argument which made certain claims, such as a transformation fund or halting planned cuts to the teaching grants for 2020/21 easier for the State to ignore. Because the State preferences strategic selectivities that were most compatible with the reproduction of the existing structure the NUS actively engaged with learning adopting each discursive turn but having no power except the power to complain lacked the agential power, status, political will, and organisational ability to propose and achieve strategies to affect structural change. That their agenda conflicted with the State's, compounded the silencing of their claim making.

In the period there was a brief indication with the reintroduction of student number controls the State might be willing to adjust it market based approach. But this was short lived. In effect while this small window presented an opportunity to take a different route between March to April, by May the window was rapidly closing and by June with the OfS release of its Guidance for providers about student and consumer protection during the coronavirus (COVID-19) pandemic (OfS,2020o) it was closed. Strategic selectivities of the State had reinforced the student consumer via greater regulatory control and the achievement of pre-COVID agendas to control providers use of conditional unconditional offers.

Set within the global health crisis, where all citizens were vulnerable, the degree of vulnerability and empowerment discourse was path dependent, amplified and path finding for the State, UUK and the NUS as they moved away from or towards vulnerability and empowerment imagery when and if it served their purposes. Despite the disruptive and destructive consequences of the global health crisis neoliberalization tendencies of the last four decades that had progressively reinvented itself since the 1980s was not permanently altered in the early stages of the pandemic. Instead, for just a brief period of time the functioning of the market was constrained before the market and its student consumer was again the dominant discourse.

Having created the particular knowledge system of neoliberalism, marketisation and the student consumer over the preceding decades in normal times the established discourse of the student consumer maintained the interests of those who held power and benefited the most. During the upheaval and as noted by Hay (1995), the articulation of the crisis relies on the discourse used to describe and frame it and those who control its definition therefore held the key to the strategies to resolve it (Hart, 1993). The State controlled the definition of the crisis as being a crisis of the integrity of the sector. This was an important tactic as it defined the sector as unethical and manipulative in order shield the truth that practices that the sector was engaged in where the product of the State's making. Through an SRA lens rather than defining vulnerability as the consequences of neoliberalism, vulnerabilities were presented as structural problems for the operation of neoliberalism; they therefore required neoliberal solutions. The solution was labelled 'empowerment', but disguised control. Empowering students via consumer mechanisms of consumer protection law and complaints mechanisms provided the solutions for the neoliberal state which empowered vulnerable students with consumer rights, rather than human right, for the state's benefit.

7.4 Limitations

There are several limitations to this research.

The time frame of the research is brief and during a period of great upheaval. The timeframe limits the exploration and understanding of consumer policy responses across a larger time span or the whole of the crisis. In this way it precludes an understanding of the multiple stages and phases that occurred as the pandemic continued to impact the sector and how the structure of the market was altered.

Only publicly accessible documents were used for this research. Although this allowed ease of access there are other documents such a committee minutes

or correspondences that would provide a more nuanced understanding of the strategic interplays between actors. That consultation and negotiations did occur between the State, NUS and UUK is clear in various references in the documents. But what they were and how the actors engaged, dominated, or deferred engagement is unclear. Therefore, while the consultation, proposals, regulatory conditions, guidelines, and briefing notes provide clarity on the positions of the actors, what was behind the scenes and outside the public domain remains hidden. In addition, press releases in themselves are useful, as the provide a distillation of the key messages that the actors wish their readers to hear. But they are marketing tools designed for the press and will only ever present what the actors perceive to be their best light and in their best interests.

The actions of other important actors, such as: the Treasury; Ofqual, other university representative groups from Oxbridge (Oxford and Cambridge), the Russell Group, Universities Alliance and Million Plus, non-national student unions; staff unions; industry; students, university staff and senior executives are excluded and therefore the research is limited artificially to only a sub-set of actors. This limits the ability to see the interplay with other key actors and how they responded to and influenced the policy outcomes.

Noting these limitations, the research does offer value as a useful insight into peak representative bodies who lobby for their university and student members and actively engage with the State in policy formulation. The research shows the ways in which the active and actual deconstruction and reconstruction occurred and offers new empirical insights on the student-consumer construction during a global crisis. It illuminates how paradoxical conceptualisation of vulnerability and empowerment were used by the State to regulate and control; the UUK to lobby for its member universities interests, and how the NUS deployed it in attempts to secure the welfare of students via sector reform. Importantly, it reveals that despite the opportunity that the crisis presented that the student consumer was reinforced along with its neoliberal

accompaniments of the market, personal responsibility, privatisation of public goods and the view that higher education is about job training for economic prosperity, not the transformation of the student through higher learning and personal growth.

7.5 Ideas for future research

This research offers insight into a specific point in time in a global pandemic and is built on the pre-COVID-19 conceptualisation of the student consumer. This pre-COVID-19 student consumer conceptualisation was constructed by the marketisation of higher education. We know that markets don't just happen, and that policy alone is not enough to create a market. Their creation, as presented Komljenovic & Robertson (2016), is a process, something that is made and remade over time by a range of vested actors in response to dynamic circumstances. Actors such as higher education institutions, their representative bodies and national student unions themselves have played a significant role, alongside the State, in shaping the creation and specific identity of the higher education market and its companion student consumer.

Driven by policy agendas that have shifted the costs of education from government to students via unconscionably high tuition fees which has led to personal indebtedness and with a projected £1 trillion public debt, an important body of research should explore if higher education in the United Kingdom has been given a wakeup call. As a site of further research, close to two years after my research commenced, the higher education market will have been remade again and again and the post pandemic student consumer has no doubt emerged. This offers rich opportunities for further research. This post pandemic student consumer having experienced not only the profound personal difficulties of the pandemic but having experienced the exploitation of their vulnerability may have different expectations of what higher education can and should offer, different expectations of what value for money entails and different

expectations for their human rights as student citizens. The question is do they have they had the political will to affect change?

Appendices

Appendix One – Ethics approval, 2018 & 2020

Educational Research | Lancaster University

18th December 2018

Dear Michaela

Thank you for submitting your ethics application and additional information for **Constructing Students as Consumer a study in the UK and Australia.** The information you provided has been reviewed and I can confirm that approval has been granted for this project.

As Principal Investigator your responsibilities include:

- ensuring that (where applicable) all the necessary legal and regulatory requirements in order to conduct the research are met, and the necessary licenses and approvals have been obtained;
- reporting any ethics-related issues that occur during the course of the research or arising from the research (e.g. unforeseen ethical issues, complaints about the conduct of the research, adverse reactions such as extreme distress) to the Research Ethics Officer (Dr Murat Oztok or Dr Natasa Lackovic).
- submitting details of proposed substantive amendments to the protocol to **Dr Janja Komljenovic** for approval.

Please do not hesitate to contact your supervisor if you require further information about this.

Yours sincerely

Kathryn Doherty
Programme Co-ordinator
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Educational Research | Lancaster University

2nd June 2020

Dear Michaela

Thank you for submitting your ethics application and additional information **for Constructing, Deconstructing and Reconstructing the Student Consumer in responses to crisis - a study in the UK and Australia.** The information you provided has been reviewed and I can confirm that approval has been granted for this project.

As Principal Investigator your responsibilities include:

- ensuring that (where applicable) all the necessary legal and regulatory requirements in order to conduct the research are met, and the necessary licenses and approvals have been obtained;
- reporting any ethics-related issues that occur during the course of the research or arising from the research (e.g. unforeseen ethical issues, complaints about the conduct of the research, adverse reactions such as extreme distress) to the Research Ethics Officer (Dr Murat Oztok or Dr Natasa Lackovic).
- submitting details of proposed substantive amendments to the protocol to **Dr Janja Komljenovic** for approval.

Please do not hesitate to contact your supervisor if you require further information about this.

Yours sincerely

Kathryn Doherty
Programme Co-ordinator
PhD in Higher Education: Research, Evaluation and Enhancement

Appendix two – UK higher education policy timeline

Month	Year	Event
July	2004	Higher Education Act
September	2006	Introduction of variable fees up to £3000
November	2009	Higher Ambitions: The future of universities in a knowledge economy (BIS)
May	2010	General Election – conservative and Liberal Democrat Coalition
October	2010	Independent Review of Higher Education and Student Finance (Browne Review)
June	2011	White Paper: "Students at the Heart of the System"
September	2012	Tuition fee cap raised to £9000
September	2015	Cap on domestic student numbers removed
November	2015	Green Paper: 'Fulfilling our potential: Teaching Excellence, Social Mobility and Student Choice
May	2016	White Paper: 'Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice
June	2016	Referendum to leave EU
July	2016	Theresa May elected Prime Minster
September	2016	Teaching and Excellence Framework pilot commences
April	2017	Higher Education and Research Act 2017
June	2017	General Election – Conservative minority Government
June	2017	TEF results published
September	2017	Cap on tuition fees raised to £9250 if TEF rating meets expectations
September	2017	Trial year 1 of Subject level TEF starts
January	2018	OfS established
September	2018	Trial year 2 of Subject level TEF starts
June	2019	Review of post-18 Education and Funding (Augur Review)
July	2019	Boris Johnson becomes Prime Minister
March	2021	WHO declares global pandemic

Appendix three – Data

Office for Students

1	OfS (2020a, March 20). OfS responds to further details on grading following cancelled exams [Press Release]. https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/ofs-responds-to-further-details-on-grading-following-cancelled-exams/
2	OfS (2020b, March 23). Universities must pause unconditional offers for two weeks in student interest, says regulator - Office for Students [Press release]. https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/universities-must-pause-unconditional-offers-for-two-weeks-in-student-interest-says-regulator/
3	OfS (2020c, March 26). Office for Students sets out slimmed down regulatory requirements during coronavirus pandemic - Office for Students [Press release]. https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/office-for-students-sets-out-slimmed-down-regulatory-requirements-during-coronavirus-pandemic/
4	OfS (2020d, April 2). Maintain good courses and credible qualifications for students during pandemic, says regulator - Office for Students [Press release]. https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/office-for-students-sets-out-slimmed-down-regulatory-requirements-during-coronavirus-pandemic/
5	OfS (2020e, April 3). Unconditional university offers ban extended over Easter amid concern for 'vulnerable' students during coronavirus outbreak [Press release]. https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/unconditional-university-offers-ban-extended-over-easter-amid-concern-for-vulnerable-students-during-coronavirus-outbreak/
6	OfS (2020f, April 3) Moratorium on unconditional offer-making [Letter]. Moratorium on unconditional offer-making - Office for Students
7	OfS (2020g, April 4). Higher education regulator urges fairness for students in admissions [Press release]. https://www.officeforstudents.rg.uk/news-blog-and-events/press-and-media/higher-education-regulator-urges-fairness-for-students-in-admissions/
8	OfS (2020h, May 4) Consultation on the integrity and stability of the English higher education sector https://www.officeforstudents.org.uk/publications/consultation-on-the-integrity-and-stability-of-the-english-higher-education-sector/
9	OfS (2020i, May 4). Regulator warns of penalties for recruitment practices that undermine student interests and stability of higher education - Office for Students [Press release]. https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/regulator-warns-of-penalties-for-recruitment-practice
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Appendix four – Codebook

Name of node	Description	Example
Empowered Powerful	Overarching level to capture all empowered and powerful discourse. No individual data coded at this level.	
Autonomous, rational decision makers	Where students are described as rational and active decision makers who are in control, want to be in control or will be in control	We're therefore calling for practice which is motivated by student welfare and student choice, giving students control over their education, ensuring progression and completion when they desire it.
Empowered by government	All discourse where students' sources of empowerment is directly attributed to government	We are also empowering students to make more informed decisions about entry into HE by ensuring they have good quality information and advice, and by reassuring them that there are places available this year. We can support them in choosing a course and provider which are best aligned with their career aspirations and talents.
Empowered by providers	All discourse where students' sources of empowerment is directly attributed to providers	We will continue to support students to progress and achieve their learning outcomes, to overcome barriers so they succeed and flourish, to offer a fulfilling and varied learning experience, and to give them skills and hope for the future.
Empowered through complaints	Discourse where complaining is a tool for students to seek redress for poor quality and tuition fees. Exclusion:	Providers need to continue to ensure that their terms and conditions are fair and transparent, and students must continue to have access to complaints processes which are accessible, clear and fair. It is our expectation that complaints processes should be operated flexibly and in a way that recognises the significant disruption that students have faced

Name of node	Description	Example
	complaining tone adopted by NUS wrt student circumstances	
Heroic	Where students are described in heroic way e.g., being at the front line. Exclusions: Where universities supply the heroic students	The contribution of nursing, midwifery and allied healthcare students to our society has always been immense but for too long has not been adequately recognised. The very cohorts of healthcare students currently experiencing unparalleled disruption to their education and volunteering to work on the frontline against Coronavirus are those who were also forced by the government to pay tuition fees and study without an NHS bursary. These key learners need more than weekly applause, they need a Student Safety Net. We urge the Government to commit to a radical new financial settlement for these students and all those to come.
Powerful consumers	Where being a consumer with access to choice and information empowers students and the purpose of education is for career	Applicants need to have confidence that the admissions process will be conducted as fairly and transparently this year as it would be in any other year. Current students need to know that their university will be able to continue delivering high quality courses. And potential future students will be best served by a higher education system that continues to offer a wide range of course options. We are especially concerned that any unfair practices during this crisis could particularly harm the chances of those who are already more vulnerable, at a time when information, advice and guidance is less readily available than might normally be the case.
Powerful future workers - economic benefits	Where being a future worker benefits economic recovery	Students are the future workforce that will help rebuild our economy over the coming years: a student safety net that gives students the choice of a redo, reimbursement or write-off of their courses is crucial in supporting the revival of the economy.
Powerful voice	Where students are heard, including references to collective	NUS is pleased that the Department for Education and the Student Loans Company have responded to the strong concerns that we and our member students' unions have raised in the last week by confirming third term payments will be made as normal, despite the many changes to teaching arrangements made by universities in response to the

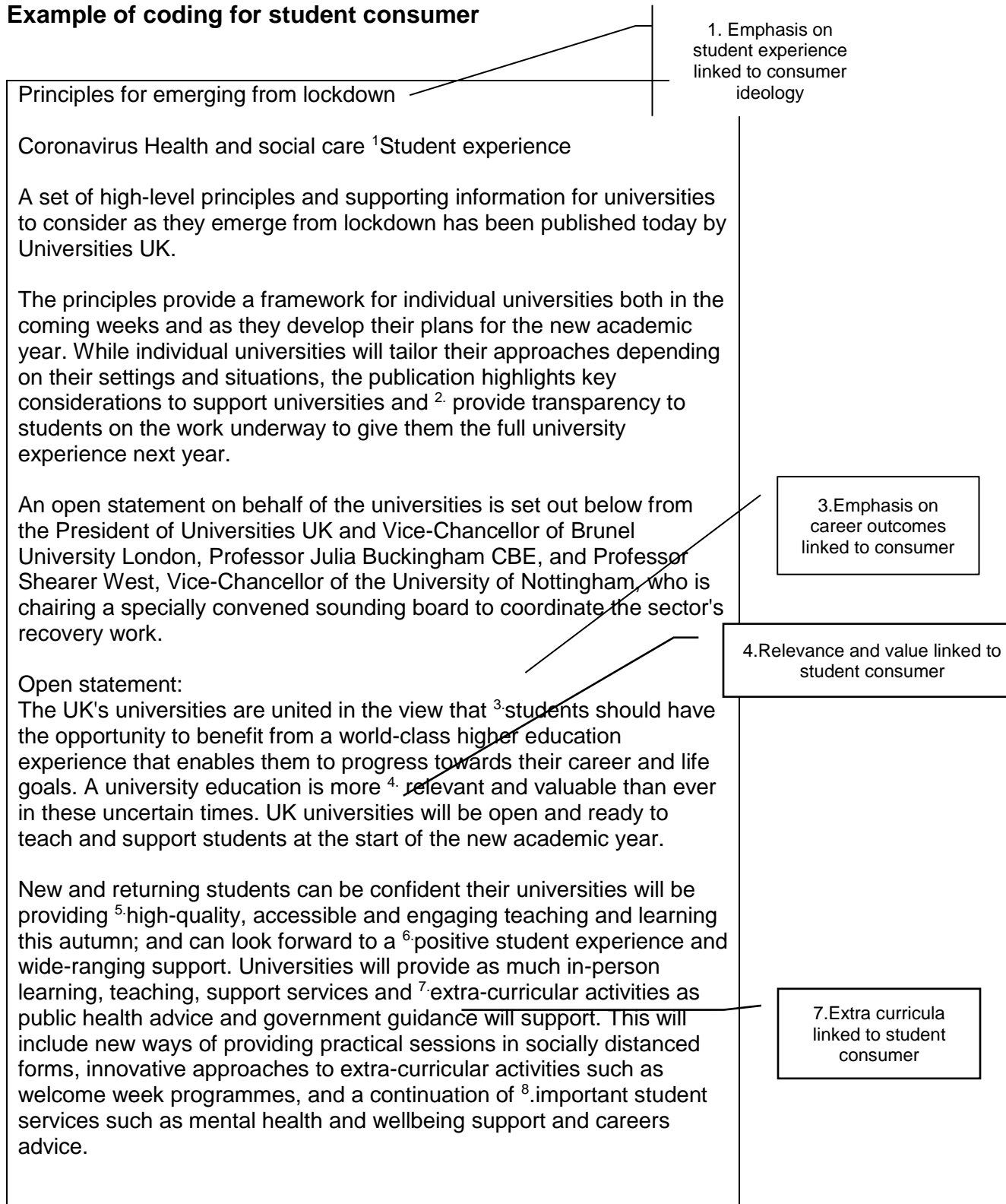| Name of node	Description	Example
	action, power of students as change makers	pandemic. We will continue to work with them to ensure clear communication to students and to ensure students are treated fairly.
Vulnerable	Parent node to capture all subordinate nodes of students as vulnerable	
Vulnerable consumers	Such as contracts not being honoured, complaints mechanisms not allowed	The current crisis has shown that students occupy the worst of all possible worlds – with the majority paying extortionate fees for their education and are treated as consumers but are left out in the cold when the product cannot be delivered as described. On top of this, thousands of trainee 'key workers,' such as healthcare students, are currently racking up debt whilst having their education disrupted or volunteering to fight coronavirus on the frontline.
Vulnerable current workers	Where inability to work is the cause of vulnerability	Students' income will already be affected as many rely on part-time jobs in hospitality and retail – while we welcome the Chancellor's commitment to support those who lose employment income, we are concerned that those students who are self-employed or who work in the gig economy will not be supported, and most full-time students cannot claim benefit
Vulnerable future workers	Where students are vulnerable as future workers (COVID, economy)	Students across the UK are now uncertain of their futures.
Health care students	Specific node for tuition fee for health care students	We've long advocated that the NHS bursary is reintroduced for allied health students, along with a fee waiver. As we see healthcare students completing their courses early to work on the frontline of the NHS, the case for this is clearer than ever.
Vulnerable learners	Vulnerable as learning, vulnerable to accessing learning, vulnerable to	Our recent proposals for exams to be cancelled are very much an example of our practical approach to these challenging times and demonstrate how we can provide solutions with the support of students.

Name of node	Description	Example
	completing learning (including exams)	
Vulnerable - need help with decisions	Where students are described as not being unable to form a decision without help, commonly with paternalistic overtones	Previous polling conducted by YouthSight for the OfS found that prospective students were more likely to consult their parents, teachers and friends or peers than websites, careers advisers or staff at a higher education provider to help them make choices about what and where to study. Some prospective students and others may be disadvantaged by this reliance on members of their immediate circles
Vulnerable - no voice	Claims of not being heard, being ignored	For many applicants this has been an anxious time and many rightly worry that their efforts may not be judged fairly. Young people and others affected still need to be brought into the conversation about the exact processes used and NUS will continue to work with UUK, UCAS and others to ensure their voices are heard."
Vulnerable - physical health, safety and general wellbeing	Instances of vulnerability that aren't related to COVID illness, physical safety or as current workers	74% are experiencing a negative impact on family life, and 88% are experiencing a negative impact on their social lives • Almost all are constantly connected to their friends and families on their phones through social media and phone/videocalls
Vulnerable - protected by government	Where student vulnerabilities are protected by government	However, we know that COVID-19 has placed great strain on our HE sector and those who study and work in it, and that the sector has called for measures to achieve stability. That is why we have announced a package of measures to stabilise university admissions and support our world-class HE system to continue to deliver for all students and the wider economy. This package will ensure we continue to look after the best interests of students and help them make well-informed choices that give them the best prospect for success in their lives and careers.

Name of node	Description	Example
Vulnerable - protected by providers	Where vulnerabilities are protected by providers	The response from the Higher Education (HE) sector to the COVID-19 outbreak has been impressive. From the speedy conversion to online teaching, to the ongoing support for students who need to remain in halls of residence, as well as the application of university resources, both physical and intellectual, to combatting the effects of COVID-19, the work of HE is an important part of the national effort to mitigate and recover from the effects of this pandemic.
Vulnerable renters	Stuck in accommodation that they are paying for but not using	The government must ban all evictions, for all renters, for the duration of the crisis and ensure that renters who are financially impacted by the coronavirus have their forthcoming rents subsidised, significantly reduced or waived entirely for 3 months. They should also ensure that all student landlords offer a no-penalty release from tenancy contracts for the current and next academic year, so that students are not financially impacted where they are forced to leave campus.
Vulnerable to COVID	Where COVID is the threat to which students are vulnerable	62% of students are somewhat or very scared of contracting Covid19
Vulnerable to financial hardship	Vulnerable to hardships, unable to pay bills, need hardship funding, includes references from Safety Net campaign	Some of the biggest issues that students face are in regards to their living costs. Students cannot wait until autumn and the government's response to the Augar review for the reintroduction of maintenance grants and raising of household income threshold for student support – they need them now.
Vulnerable to government	Where government is argued to be the cause of students vulnerability, including where government could/should act	It is disappointing that despite significant increases in government expenditure the government has ignored some of the biggest needs for our students.

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Name of node	Description	Example
Vulnerable - protected by NUS	Vulnerabilities that are protected by NUS - this is different from empowerment/activism	However, there is a role for SUs, NUS and TOTUM to help support student welfare and issues, which are not being addressed by the institution
Vulnerable to market failure	Students feel vulnerable to collapse of the market	University and College Union (UCU) has published new research that shows almost a quarter of prospective students fear their university could go bust as a result of Covid-19
Vulnerable to marketisation	Students are vulnerable to the processes of marketisation	We need post-16 education to be funded, life-long and accessible. The market approach has failed to achieve this, and so we believe HM Treasury must use this budget to take the opportunity to invest in post-16 education, and the students studying within it, as a clear public good and to ensure a skilled and diverse workforce for the future. That process will take longer than one year, but our recommendations would ensure that we move in that direction.
Vulnerable to providers	Where providers behaviours are the cause of vulnerability, including where they could/should act	So, I want to make it very clear to any university or college – and its leaders and governors - that if any university or college adjusts any offer to students, or make any unconditional offers, during this two-week moratorium we will use any powers available to us to prevent such offer making on the grounds that it is damaging to students and not in their interests.
Vulnerable to tuition fee debt	Vulnerable to cost of education, include references to NUS redo reimburse write off campaign	We welcome the proposals from UCU for a clear plan from government, such as the proposal to ensure that students who wish to repeat courses or modules that have been significantly disrupted as a result of the current situation are not subject to additional fee costs and encourage the Secretary of State to involve student and trade unions in any discussions.
Vulnerable - treated differently	Students do not have the same rights are other citizens.	While the wider public has been given answers to many of their questions, the government and authorities must now ensure students receive the support they need to endure this pandemic.

Appendix five – Example of coding

Example of coding for student consumer

Principles for emerging from lockdown

Coronavirus Health and social care [1]Student experience

A set of high-level principles and supporting information for universities to consider as they emerge from lockdown has been published today by Universities UK.

The principles provide a framework for individual universities both in the coming weeks and as they develop their plans for the new academic year. While individual universities will tailor their approaches depending on their settings and situations, the publication highlights key considerations to support universities and [2.] provide transparency to students on the work underway to give them the full university experience next year.

An open statement on behalf of the universities is set out below from the President of Universities UK and Vice-Chancellor of Brunel University London, Professor Julia Buckingham CBE, and Professor Shearer West, Vice-Chancellor of the University of Nottingham, who is chairing a specially convened sounding board to coordinate the sector's recovery work.

3. Emphasis on career outcomes linked to consumer

4. Relevance and value linked to student consumer

Open statement:
The UK's universities are united in the view that [3.]students should have the opportunity to benefit from a world-class higher education experience that enables them to progress towards their career and life goals. A university education is more [4.] relevant and valuable than ever in these uncertain times. UK universities will be open and ready to teach and support students at the start of the new academic year.

New and returning students can be confident their universities will be providing [5.]high-quality, accessible and engaging teaching and learning this autumn; and can look forward to a [6.]positive student experience and wide-ranging support. Universities will provide as much in-person learning, teaching, support services and [7.]extra-curricular activities as public health advice and government guidance will support. This will include new ways of providing practical sessions in socially distanced forms, innovative approaches to extra-curricular activities such as welcome week programmes, and a continuation of [8.]important student services such as mental health and wellbeing support and careers advice.

7. Extra curricula linked to student consumer

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Example of coded datum

1. Students are the future workforce that will help rebuild our economy over the coming years[:] [2.]a student safety net that [3.] gives students the choice of a [4.]redo, reimbursement or write-off of their courses [5.] is crucial in supporting the revival of the economy.	1.Powerful + Future workers 2.Vulnerable 3. Empowered + Autonomous 4. Consumer 5. Powerful + future workers

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