



## DEBATE PACK

Number CDP-0132, 12 November 2020

# That this House has considered e-petitions 300528, 302855, 306494, 324762, and 552911, relating to tuition fees

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## Summary

On 16 November 2020, there will be a debate in Westminster Hall on “The e-petitions 300528, 302855, 306494, 324762, and 552911, relating to tuition fee refunds.”. The debate will be led by Chris Evans MP.

In November 2019 lecturers who were members of the University and College Union voted for strike action over a dispute about pay and conditions and pensions. Strikes took place over 14 days in February and March 2020 and caused disruption to students through lost lectures and tutorials.

On 20 March 2020 universities were closed due to the Covid pandemic, this caused further disruption to students’ as teaching moved to online delivery.

The disruptions caused many students to call for tuition fee refunds. In response the government said that “universities should ensure that a range of appropriate remedies and mitigations were available, which may include financial compensation, to prevent and minimise the effects of any strike action” and with regard to Covid disruption they said that “if courses were of good quality refunds should not be expected.”.

Several e-petitions were tabled on fee refunds - four petitions on the subject received in total over half a million signatures. On 13 July 2020 the Petitions Committee published a report, [The impact of Covid-19 on university students \[HC 527\]](#), the report recommended a new complaints process for refunds and that the government should provide universities with funds to cover the cost of refunds.

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# 1. Background

## Lecturers industrial action and Covid-19 disruption

In November 2019 lecturers who were members of the University and College Union in 57 branches voted for strike action over a dispute about pay and conditions and pensions. Strikes took place over 14 days in February and March 2020 and caused disruption to students through lost lectures and tutorials. Library briefing, [University strikes FAQs](#), 11 March 2020 gives an overview of the industrial action by university lecturers- compensation for lost teaching due to the strikes is discussed on p6.

On 20 March 2020 universities were closed due to the Covid pandemic, this caused further disruption to students' as teaching moved to online delivery. Refunds of fees is discussed in library briefing, [Coronavirus: implications for the further and higher education sectors in England](#), 17 April 2020 p15.

### 1.1 Refunds of tuition fees

On 18 February 2020 the Office for Students, the regulator for higher education in England, issued [guidance](#) for students affected by the industrial action.<sup>1</sup> It encouraged students to discuss with their university or college whether it was possible to make up for any lost teaching, and whether any other loss of services and support could be rearranged so as to minimise the disruption that students experienced.

The government's position on the refund of fees due to the industrial action was given in a PQ on 28 February 2020:

[Universities: Industrial Disputes](#): Written question - 18835

**Dr Matthew Offord**: 21 February 2020

To ask the Secretary of State for Education, what guidance his Department has issued to students on claiming a refund on their tuition fees in the event of cancelled lectures during industrial action.

**Michelle Donelan**: 28 February 2020

We expect higher education providers to consider their obligations under consumer law and students' consumer rights carefully, including during industrial action. This includes ensuring that a range of appropriate remedies and mitigations are available, which may include financial compensation, to prevent and minimise the effects of any strike action upon their students.

The closure of universities due to the Covid pandemic and the move to online teaching caused more students to call for refunds of tuition fees.

A number of PQs have been asked on the issue of refunds of university fees such as: [\[Universities: Coronavirus\]](#) 12 May 2020, [\[Students: Coronavirus\]](#) 19 October 2020, and [\[Students: Coronavirus\]](#) 12 May 2020. The government's position on refunds during the Covid crisis is that students should not expect refunds if good quality online learning has been provided by a university during the pandemic.

The Universities Minister Michelle Donelan appeared before the Education Committee on 6 October 2020 and questions were asked about refunds, or discounts of tuition fees. The chair of the committee, Robert Halfon, suggested that discounts could be given on fees, but the Minister repeated that if courses were of good quality refunds should not be expected:

**Chair:** Finally, before I pass on to Fleur, what are you doing in terms of ensuring that students get discounts of some kind, whether it is towards the cost of their tuition next year or a refund, if they are not getting the full learning that they would expect? Surely it is wrong to pay the full £9,000-plus and not get the full package, whatever the reason. If they are not getting the full package, surely they should get some kind of discount.

**Michelle Donelan:** First of all, we all appreciate how difficult this is for students, and how different the offer is this year for university. But to be absolutely clear, I have been very clear with universities that I expect the quality and the standards to be there. It is important to note that often online learning is more expensive than traditional learning, if done correctly and innovatively, et cetera. University students are consumers. They have consumer rights, and the CMA has published that. If they feel their quality of education is not there, that the quantity is not there, they can go through the process of, first, complaining to their university and, if that is not successful, they can then go to the Office of the Independent Adjudicator.

Q1065 **Chair:** In reality that will not be easy, and the bureaucracy of that will be very hard. Should we not just give students an automatic discount where they are not getting a significant amount of face-to-face learning with lecturers or tutors, or whatever it may be? If you and the OFS said that, I think it would help students quite a bit under the current circumstances.

**Michelle Donelan:** There are two points in response to this. The Office of the Independent Adjudicator is the process available. It is a proper complaints process that is set up to look at those individual circumstances. I do not accept that, across the board, the situation is that students are getting poor-quality learning. In fact, we are seeing innovative and amazing examples. I have seen them at first hand in these universities. I do not accept that. The second point is that the Government only set maximum fees; they do not set a minimum. It is up to universities. If they want, and if they believe they are not providing adequate learning that is up

to that value, they could themselves issue a discount. The Government do not have the final say on that.

[Education Committee Oral evidence: Accountability hearings, HC 262 Tuesday 6 October 2020](#)

## 1.2 Refund process

A student requesting a refund would have to make a complaint against their university stating their dissatisfaction with the course that was provided. Students should first contact their university and go through their provider's own complaints processes. Students who exhaust their provider's internal process and remain unsatisfied may then be able to take their case to the Office of the Independent Adjudicator for Higher Education (OIA) if they live in England or Wales.

## 1.3 E-Petitions

A number of e-petitions were tabled by students calling for refunds of tuition fees due the disruptions to their teaching over the 2019-20 academic year- four petitions on the subject received in total over half a million signatures.

E-petition [Reimburse all students of this year's fees due to strikes and COVID-19](#) received 353,129 signatures - the government response to the petition repeated the government's previously stated policy on refunds:

HE providers must deliver high quality courses.  
If students are unhappy they should first complain to their provider and if their concerns are unresolved they can ask OIA to consider their complaint.

[...]

There are some fantastic and innovative examples of high-quality online learning being delivered by HE providers across the country, and the sector is working hard to provide and prepare learning materials for the summer and autumn terms. Universities are autonomous and responsible for setting their own fees. In deciding to keep charging full fees, universities will of course want to ensure that they can continue to deliver courses which are fit for purpose and help students progress their qualifications. Any refund is a matter for universities, so we are not considering a write off of tuition fee loans.

[...]

The Government's clear expectation is that HE providers should make all reasonable efforts to enable students to complete their studies. If providers are unable to facilitate good online tuition, they should seek to avoid charging students for any additional terms they may need to undergo as a consequence – avoiding effectively charging them twice. Whether or not an individual student is entitled to a refund of fees will depend on the specific contractual arrangements between the provider and student.

## 1.4 Petitions Committee report July 2020

On 13 July 2020 the Petitions Committee published a report, [The impact of Covid-19 on university students \[HC 527\]](#). The report was written in response to “the significant support for petitions calling for students to be refunded their tuition fees for this academic year.”

The Petition committee report recommended a new complaints process for refunds and that the government should provide universities with funds to cover the cost of refunds:

The Government should work with the Office for Students and Office of the Independent Adjudicator for Higher Education to produce guidance on the circumstances in which university students are likely to be entitled to seek a refund or to repeat part of their course, and to establish a new system which enables all students to easily seek a full or partial refund of their tuition fees, or to repeat part of their course, based on an independent and objective assessment of the quality of education they have received over the academic year. (Paragraph 23)

Given the importance of the higher education sector to the UK economy, and the exceptional circumstances facing both universities and university students, the Government should consider providing additional funding to universities to enable them to pay any refunds university students are entitled to as a result of the Covid-19 outbreak. The Government could also consider alternative means for reimbursing students, where an independent process has found that they are entitled to a refund, such as reducing student loans of students who are entitled to a refund. (Paragraph 31)

This report is discussed in an article on the Wonkhe website, [Students are entitled to tuition fee refunds over Covid](#), 17 September 2020.

## 1.5 Views on refunds

### Labour party

The Labour party’s view on refunds of fees was set out in an article on the Labour List website, [Sturmer declines to back student requests for tuition fee or rent refunds](#), 30 September 2020.

### NUS

The NUS has called for the government to introduce a [Student Safety Net](#), including allowing current students to redo the summer term of education at no extra cost, or have their tuition fees written off or reimbursed.

### Think tanks

An article on the Wonkhe website by David Palfreyman and Dennis Farrington reviewed the legal position facing students claiming refunds, [Student consumers, refunds, discounts and the law, 24 July 2020](#), they

suggest that students would find it difficult to bring a complaint about poor quality teaching:

Here is problem one for the court – if the student is complaining about the quality of online teaching provision the global norm is that there is judicial deference to the proper exercise of academic judgement as a kind of academic professional immunity to challenge, so will any court entertain the student’s complaint over alleged poor teaching not delivered “with reasonable care and skill”?

The OIA is similarly prevented by its founding statute from taking such complaints – as it has just pointed out in its June guidance. Might the statutory requirements of CRA15 override this judicial doctrine, that otherwise would need a case to reach the UK Supreme Court to see this academic immunity ended? This has already happened long ago for doctors in medical negligence cases, and more recently for expert witnesses in other litigation.

We are sceptical that the courts will be awarding significant damages across the board to any and all students complaining that their universities have breached the contract by resorting to entirely online teaching in term three of 2019-20, or some hybrid teaching arrangement for 2020-21. Moreover, it will take some time for any such claims, whether as a class-action or a one-off test case, to grind through the County Court, the Court of Appeal, and even reach the UKSC as noted above.

## 2. Parliamentary Material

### 2.1 Committee inquiries and reports

#### [Education Committee Oral evidence: Accountability hearings HC 262](#)

Tuesday 6 October 2020

#### [The impact of Covid-19 on university students](#)

Second Report of Session 2019–21

House of Commons Petitions Committee

7 July 2020

### 2.2 Parliamentary Questions

#### [Students: Coronavirus](#)

22 Oct 2020 | 104005

**Asked by: Dame Cheryl Gillan**

To ask the Secretary of State for Education, what compensation is available to university students who have their online tuition cancelled.

**Answering member: Michelle Donelan | Department: Department for Education**

This is a difficult and uncertain time for students, but we are working with the higher education (HE) sector to make sure that all reasonable efforts are being made to enable students to continue their studies. We have seen some fantastic and innovative examples of high-quality online learning being delivered across the sector and are aware of a number of universities that have increased their online teaching in response to local COVID-19 outbreaks. This is in line with government guidance, which sets out 4 tiers of restrictions for education settings, and SAGE advice.

However, the majority of universities are now open for the autumn term, using a blended learning approach which combines online teaching and in-person tuition in ways that they consider appropriate to minimise risk.

Whether or not an individual student is entitled to a refund of tuition fees will depend on the specific contractual arrangements between the HE provider and student.

If students have concerns, they should first raise their concerns with their university. If their concerns remain unresolved, students at HE providers in England or Wales can ask the Office of the Independent Adjudicator for Higher Education to consider their complaint.

Universities are autonomous and responsible for setting their own fees within the fee caps set by the government. In deciding to keep charging full fees, universities will of course want to ensure that they can continue to deliver courses that are fit for purpose and that help students progress their qualifications.

The government has been clear that it expects universities to continue delivering a high-quality academic experience and help students to achieve qualifications that they and employers value.

### [Students: Coronavirus](#)

19 Oct 2020 | HL8777

**Asked by: Lord Taylor of Warwick**

To ask Her Majesty's Government what plans they have to ensure that students who have been impacted by COVID-19 lockdowns are offered partial tuition fee refunds.

**Answering member: Lord Parkinson of Whitley Bay**  
**| Department: Department for Education**

Universities have worked hard to put in place a wide range of measures to deliver a COVID-secure environment. These include enhanced cleaning and improved ventilation, smaller groups for in-person teaching, adjusted timetables to limit contact between groups, and changes to physical layouts to comply with social distancing guidelines.

The government expects universities to continue delivering a high-quality academic experience. It is a registration condition of the Office for Students (OfS) that institutions must deliver well-designed courses which provide a high-quality academic experience for all students and enable a student's achievement to be reliably assessed.

Universities are autonomous and responsible for setting their own fees, up to a maximum of £9,250 for approved (fee cap) institutions. In deciding to keep charging full fees, universities will of course want to ensure that they can continue to deliver courses that are fit for purpose and that help students progress their qualifications. Whether or not an individual student is entitled to a refund of fees will depend on the specific contractual arrangements between the institution and the student.

If a student is concerned about their education, in the first instance they should speak to their higher education institution. The government expects student complaints and appeals processes to be operated flexibly and sympathetically. Students who are not satisfied with their institution's response can ask the Office of the Independent Adjudicator for Higher Education (OIA) to consider their complaint if their institution is based in England or Wales.

Additionally, the Competition and Markets Authority (CMA) has published guidance on consumer contracts, cancellation and refunds in light of COVID-19. This sets out the CMA's view on how the law operates to help consumers understand their rights and help businesses treat their customers fairly. This is available

here: <https://www.gov.uk/government/publications/cma-to-investigate-concerns-about-cancellation-policies-during-the-coronavirus-covid-19-pandemic/the-coronavirus-covid-19-pandemic-consumer-contracts-cancellation-and-refunds>.

The OfS has also published guidance on student consumer protection during the COVID-19 pandemic, which is available

here: <https://www.officeforstudents.org.uk/for-students/student-and-consumer-protection-during-coronavirus/>.

### **Higher Education: Coronavirus**

01 Sep 2020 | 77565

**Asked by:** Fiona Bruce

To ask the Secretary of State for Education, what steps the Government is taking to ensure that students receive value for money for university courses during the covid-19 lockdown restrictions.

**Answering member:** Michelle Donelan | **Department:** Department for Education

This is a difficult and uncertain time for students, but the government is working with the higher education sector to make sure that all reasonable efforts are being made to enable students to continue their studies. We have seen some fantastic and innovative examples of high-quality online learning being delivered by providers.

The government expects universities to continue delivering a high-quality academic experience and to help students to achieve qualifications that they and employers value. We expect that higher education providers will be open for the autumn term, with a blend of online teaching and in-person tuition that they consider to be appropriate and in line with public health advice. To help providers make informed decisions about their provision in ways which minimise the risk to staff and students, the government has issued guidance for providers on reopening campuses and buildings: <https://www.gov.uk/government/publications/higher-education-reopening-buildings-and-campuses/higher-education-reopening-buildings-and-campuses>.

The government is working with the Quality Assurance Agency for Higher Education, professional bodies and the Office for Students (OfS), the higher education regulator in England, to ensure that students continue to leave university with qualifications that have real value. The OfS has produced guidance on practical ways in which students can

complete their studies whilst ensuring that quality and standards are upheld. The guidance is available at the following link: <https://www.officeforstudents.org.uk/publications/guidance-for-providers-about-quality-and-standards-during-coronavirus-pandemic/>.

It is an OfS registration condition that providers must deliver well-designed courses that provide a high-quality academic experience for all students and that enable a student's achievement to be reliably assessed. If providers are unable to facilitate good online tuition, they should seek to avoid charging students for any additional terms that they may need to undergo as a consequence, avoiding effectively charging them twice. Whether or not an individual student is entitled to a refund of fees will depend on the specific contractual arrangements between the provider and student.

If a student is concerned about their education, they should speak to their higher education provider in the first instance. The government expects student complaints and appeals processes to be operated flexibly, accessibly and sympathetically by higher education institutions to resolve any concerns. Students who are not satisfied with their provider's final response can ask the Office of the Independent Adjudicator for Higher Education to consider their complaint if their institution is based in England or Wales.

### [Covid-19: Universities](#)

30 Jun 2020 | 804 c560

**Asked by: Lord Craig of Radley**

My Lords, many university students in England have been missing tuition and access to libraries, laboratories and other university facilities, and may face financial hardship. The Minister says that the Government will not cut the amount paid to universities in tuition fees, but will they reduce sums to be recovered from formerly affected students in later life?

**Answered by: Lord Parkinson of Whitley Bay**

The noble and gallant Lord is right to point out some of the many ways in which the university experience is being affected by this pandemic with regard to access to libraries, laboratories and so on. I am pleased that universities across the sector have responded swiftly and creatively to ensure that they remain open and that students can continue to avail themselves of high-quality education. Universities are autonomous and responsible for setting their own fees, and of course, as they approach the forthcoming academic year, if they decide to charge full fees, they will want to ensure that they can continue to deliver courses which are fit for purpose and which help students to progress their qualifications. However, any matter regarding the level of those fees and refunds is first and foremost for the providers and those who apply to them.

[Universities: Coronavirus](#)

16 Jun 2020 | 55889

**Asked by:** Kevan Jones

To ask the Secretary of State for Education, what estimate the Government has made of the number of universities that have charged (a) full or (b) partial tuition fees during the covid-19 outbreak.

**Answering member:** Michelle Donelan | **Department:** Department for Education

Higher education providers are autonomous institutions and responsible for setting their own fees. Higher education providers will of course want to ensure that they can continue to deliver courses that are fit for purpose and that help students progress their qualifications.

As of 11 June, no university had made a submission of changes in the level of chargeable fees for courses during the COVID-19 outbreak for the academic year 2019/20. It is possible that a higher education provider has submitted adjustments for an individual or sub-set of students on a course. However, these adjustments would have been processed on a student-by-student basis, and no information is recorded on the reason for a fee reduction being recorded.

[Students: Coronavirus](#)

12 May 2020 | 40793

**Asked by:** Colum Eastwood

To ask the Secretary of State for Education, what discussions he has had with counterparts in the devolved Administrations on the refunding of tuition fees paid by students who have had their tuition interrupted as a result of the covid-19 outbreak.

**Answering member:** Michelle Donelan | **Department:** Department for Education

Education is devolved and it will be for each administration to determine the actions they wish to take.

We are working closely with sector representative bodies in England to understand the impact of COVID-19 and the immediate financial implications for students and providers, and we are working with universities to make sure all reasonable efforts are being made to enable students to continue their studies to the best of their abilities.

The government has made it clear that if universities are unable to deliver adequate online teaching then it would be unacceptable for students to be charged for any additional terms of study, which would effectively mean that they were being charged twice. We only expect full tuition fees to be charged if online courses are of good quality, fit for purpose and help students progress towards their qualification. If

universities want to charge full fees, they will have to ensure that the quality is there.

Whether or not an individual student is entitled to a refund of their fees will depend on specific contractual arrangements between the student and their university. Students ordinarily should not expect any fee refund if they are receiving adequate online learning and support.

In the first instance, students should speak to their university. We expect student complaints and appeals processes to be operated flexibly, accessibly and sympathetically by institutions to resolve any concerns. Students who are not satisfied with their institution's final response can ask the Office of the Independent Adjudicator for Higher Education to consider their complaint if their institution is based in England or Wales.

### [Universities: Industrial Disputes](#)

28 Feb 2020 | 18835

**Asked by:** Dr Matthew Offord

To ask the Secretary of State for Education, what guidance his Department has issued to students on claiming a refund on their tuition fees in the event of cancelled lectures during industrial action.

**Answering member:** Michelle Donelan | **Department:** Department for Education

We expect higher education providers to consider their obligations under consumer law and students' consumer rights carefully, including during industrial action. This includes ensuring that a range of appropriate remedies and mitigations are available, which may include financial compensation, to prevent and minimise the effects of any strike action upon their students.

The Office for Students, the regulator for higher education in England, has issued guidance for students affected by industrial action. It encourages students to discuss with their university or college whether it is possible to make up for any lost teaching, and whether any other loss of services and support can be rearranged so as to minimise the disruption that students have experienced. Where lost teaching has had an impact on assessments or other work that has had to be submitted, students may be able to submit a claim for this to be taken into account as part of the university's mitigating or extenuating circumstances process.

If the issue is not satisfactorily resolved, students can complain through the university's complaints process; if they are unhappy with the outcome, students have the right to make a complaint to the Office of the Independent Adjudicator for Higher Education (OIA). The OIA has also published guidance on its website about its approach to complaints by students affected by the industrial action.

## 2.3 Statements

### [Higher Education Student Finance](#)

6 July 2020 | HCWS336

Michelle Donelan | Minister of State for Universities

## 3. Press Articles

### 3.1 Press Articles

[UK universities accused of keeping students at all costs until after fee deadline](#)

The Guardian

17 October 2020

[Starmer declines to back student requests for tuition fee or rent refunds,](#)

Labour List

30 September 2020

['Where is the money going?': students demand tuition fee refunds](#)

The Guardian

29 September 2020

[Coronavirus: Boris Johnson fails to support students requesting tuition fee refunds](#)

The Independent

29 September 2020

[University students are entitled to tuition fee refunds due to Covid-19 disruption, Government suggests](#)

The Telegraph

16 September 2020

[Petitions Committee welcomes Government response to coronavirus university report but warns it 'risks letting down students'](#)

FE News

16 September 2020

[NUS warns of "tidal wave" of refund requests from students](#)

FE News

05 August 2020

[Nearly 4,000 university students join NUS 'complaint chain' demanding tuition fees refund](#)

inews

05 August 2020

[Student consumers, refunds, discounts and the law](#)

Wonkhe

24 July 2020

[UK universities: no automatic tuition fee refunds, MPs say](#)

The Guardian

13 July 2020

[University students start to win tuition fee refunds](#)

The Times

28 June 2020

[Universities face student revolt as watchdog attacks 'blanket refusal' to consider tuition fee refunds](#)

The Telegraph

24 June 2020

[Students 'being ignored' over fee-refund claim](#)

BBC

07 May 2020

[Students 'should get a year's refund due to Covid-19 crisis'](#)

The Guardian

22 April 2020

[Universities warned not to force students to pay for any extra terms in order to graduate](#)

The Telegraph

15 April 2020

[Are University Students Justified in Refund Demands for Coronavirus Closures?](#)

FE News

06 April 2020

[Universities paid out nearly £3m to students for lost teaching hours due to strikes](#)

The Telegraph

13 March 2020

[Thousands of university workers strike across UK](#)

The Guardian

20 February 2020

[University strikes: Students demand compensation for second wave of cancelled lectures](#)

The Independent

07 February 2020

[UK universities told to compensate students over campus strikes](#)

That this House has considered e-petitions 300528, 302855, 306494, 324762, and 552911, relating to  
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The Guardian

14 May 2019

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