

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

First Sitting

Tuesday 6 September 2016

(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
Motion to sit in private agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 10 September 2016

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The Committee consisted of the following Members:

Chairs: SIR EDWARD LEIGH, † MR DAVID HANSON

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| † Argar, Edward (<i>Charnwood</i>) (Con) | † Milling, Amanda (<i>Cannock Chase</i>) (Con) |
| † Blackman-Woods, Dr Roberta (<i>City of Durham</i>) (Lab) | † Monaghan, Carol (<i>Glasgow North West</i>) (SNP) |
| † Blomfield, Paul (<i>Sheffield Central</i>) (Lab) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| † Chalk, Alex (<i>Cheltenham</i>) (Con) | † Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP) |
| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Evennett, Mr David (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Rayner, Angela (<i>Ashton-under-Lyne</i>) (Lab) |
| † Howlett, Ben (<i>Bath</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Johnson, Joseph (<i>Minister for Universities, Science, Research and Innovation</i>) | † Streeting, Wes (<i>Ilford North</i>) (Lab) |
| † Kennedy, Seema (<i>South Ribble</i>) (Con) | † Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Marsden, Mr Gordon (<i>Blackpool South</i>) (Lab) | † Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| | Katy Stout, Glenn McKee, <i>Committee Clerks</i> |
| | † attended the Committee |

Witnesses

Professor Simon Gaskell, Universities UK

Professor Joy Carter, Chair, and Gordon McKenzie, Chief Executive, GuildHE

Paul Kirkham, Vice Chair, and Alex Proudfoot, Chief Executive, Independent Higher Education

Pam Tatlow, Chief Executive, MillionPlus

Sir Alan Langlands, Vice-Chancellor, University of Leeds

Professor Quintin McKellar, Vice-Chancellor, University of Hertfordshire, University Alliance

Professor Sir Leszek Borysiewicz, Vice-Chancellor, University of Cambridge

Mary Curnock Cook, Chief Executive, UCAS

Public Bill Committee

Tuesday 6 September 2016

(Morning)

[MR DAVID HANSON *in the Chair*]

Higher Education and Research Bill

9.25 am

The Chair: Good morning, colleagues. Before we begin, I have a few preliminary comments. First, we must silence or switch off mobile phones. Neither teas nor coffees are appropriate during our deliberations. I and my co-Chair, Sir Edward Leigh, welcome you all to the Committee. Today we are considering various proposals, beginning with the programme motion. We will then deliberate in private about the questioning of today's witnesses. Later in the week we will move on to the formal line-by-line consideration of the Bill. We have limited time and have to finish the first question session by 10.30 and the second session by 11.25. Any time spent debating the programme motion will be taken out of the first witness session, but it is entirely up to the Committee how it wishes to deal with that.

Mr Gordon Marsden (Blackpool South) (Lab): Mr Hanson, is it in order for us to remove our jackets?

The Chair: It is. I will not be difficult about that. Indeed, Mr Smith has already removed his, as has Mr Howlett, and that is fine. I am fairly relaxed about that, so please feel free, Mr Marsden.

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): I beg to move,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 6 September) meet—

- (a) at 2.00 pm on Tuesday 6 September;
- (b) at 11.30 am and 2.00 pm on Thursday 8 September;
- (c) at 9.25 am and 2.00 pm on Tuesday 13 September;
- (d) at 11.30 am and 2.00 pm on Thursday 15 September;
- (e) at 9.25 am and 2.00 pm on Tuesday 11 October;
- (f) at 11.30 am and 2.00 pm on Thursday 13 October;
- (g) at 9.25 am and 2.00 pm on Tuesday 18 October;

(2) the Committee shall hear oral evidence in accordance with the following Table:

Date	Time	Witness
Tuesday 6 September	Until no later than 10.30 am	Universities UK; GuildHE; Independent Higher Education (formerly Study UK); MillionPlus

Tuesday 6 September	Until no later than 11.25 am	Sir Alan Langlands, Vice-Chancellor, University of Leeds; Professor Sir Leszek Borysiewicz, Vice-Chancellor, University Cambridge; University of Alliance; Universities and Colleges Admissions Service (UCAS)
Tuesday 6 September	Until no later than 2.45 pm	Which?; Confederation of British Industry; MoneySavingExpert.com; Professor Chris Husbands, Chair of the Teaching Excellence Framework and Vice-Chancellor, Sheffield Hallam University
Tuesday 6 September	Until no later than 3.30 pm	University and College of Football Business (UCFB); Condé Nast College of Fashion and Design; Further Education Trust for Leadership; Prospects College of Advanced Technology
Tuesday 6 September	Until no later than 4.15 pm	University and College Union; Alison Goddard, Editor of HE; Office for Fair Access
Tuesday 6 September	Until no later than 5.15 pm	Universities Scotland; Royal Society of Edinburgh; Scottish Funding Council; John Kingman, Chair of UK Research and Innovation
Thursday 8 September	Until no later than 12.30 pm	Research Councils UK; Engineering and Physical Sciences Research Council; Innovate UK; The Royal Society
Thursday 8 September	Until no later than 1.00 pm	Department for Business, Energy and Industrial Strategy; Department for Education

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clauses 2 to 10; Schedule 2; Clauses 11 to 15; Schedule 3; Clauses 16 to 26; Schedule 4; Clauses 27 to 56; Schedule 5; Clauses 57 to 60; Schedule 6; Clauses 61 to 65; Schedule 7; Clauses 66 to 82; Schedule 8; Clause 83; Schedule 9; Clauses 84 to 104; Schedule 10, Clauses 105 to 110; Schedules 11 and 12; Clauses 111 to 113; new Clauses; new Schedules; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 18 October.
—(Joseph Johnson.)

I am pleased to be here this morning to start the Bill's passage through Committee stage. I thank everyone who has given up their time over the summer to make the arrangements for us all to be here today, the members of the Committee, those who have submitted volumes of written evidence, and those who will be giving evidence

today and on Thursday, who include higher education mission groups such as Independent Higher Education and MillionPlus, and vice-chancellors such as Professor Sir Leszek Borysiewicz of Cambridge University and Sir Alan Langlands of the University of Leeds, whose universities are affiliated to the Russell Group.

Dr Roberta Blackman-Woods (City of Durham) (Lab) made a declaration of interest. She said that, given that the Bill created a new office for students, witnesses from student organisations such as the National Union of Students should have been called to give oral evidence, as should representatives of the Quality Assurance Agency for Higher Education.

Joseph Johnson said that it was open to all parties to propose witnesses, but that the Labour party had not proposed NUS representatives until so late in the process that they could not be accommodated within the programme motion. He commented that the Scottish National party had proposed witnesses representing Scottish higher education and that they would give evidence in the afternoon sitting.

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP) made a declaration of interest in that he is an honorary professor at the University of Stirling.

Mr Marsden made the point that the Government's failure even to consider students' presence in the evidence sessions before being pressed to do so was deplorable, and that they could have accommodated students on the Thursday, as they had the SNP at late notice.

Paul Blomfield (Sheffield Central) (Lab) commented that it was odd not to have witnesses representing students, either from the NUS or those who had participated in QAA audits.

Joseph Johnson thanked hon. Members for their comments and said that he did not want the Committee to think that the Government had not been engaging with students.

The Chair reminded the Committee that further witnesses could be heard on Thursday if an amendment to the programme order were tabled and accepted at the start of the sitting on Thursday morning, although it would be a starred amendment and therefore subject to the Chair's discretion.

Wes Streeting (Ilford North) (Lab) made a declaration of interest as a member of the advisory panel for the University Partnerships Programme Foundation.

Valerie Vaz (Walsall South) (Lab) asked whether there had been any discussions about how the change in the machinery of government would affect the Bill, given that it would be split between two Departments.

Joseph Johnson stated that the machinery of Government changes had gone through in July and that the lines of ownership were clear.

Mr Marsden repeated his view that representatives of the NUS should be called as witnesses, stating that input from students was crucial, and this should be accommodated by the programming motion allowing half an hour on Thursday.

The Chair repeated his advice regarding the tabling of an amendment to the programme order adding further witnesses, saying that the amendment would be a starred amendment and therefore subject to the Chair's discretion, and that, if selected, it would be taken at the start of business on Thursday.

Question put and agreed to.

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(Joseph Johnson.)

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(Joseph Johnson.)

9.38 am

The Committee deliberated in private.

Examination of Witnesses

Professor Simon Gaskell, Gordon McKenzie, Professor Joy Carter, Pam Tatlow, Alex Proudfoot and Paul Kirkham gave evidence.

9.42 am

The Chair: Good morning and welcome to our first witnesses. Thank you for joining us for the first session of the Bill today. We are going to hear evidence from the witnesses and I will ask Members to ask questions of the witnesses. Witnesses need to be aware that we will finish this session at 10.30 am. Questions can be put to specific witnesses or to the panel as a whole. If they are to the panel as a whole, given the number of members, I would appreciate brief responses. Will the witnesses please introduce themselves for the record, starting from the left?

Professor Simon Gaskell: I am Simon Gaskell, president and principal of Queen Mary University of London. I am also chair of the Higher Education Statistics Agency and am on the Russell Group board. My primary reason for being here is to represent Universities UK. I have led for UUK on regulation issues and in the responses to the Green Paper, the White Paper and now the Bill.

Gordon McKenzie: I am Gordon McKenzie, chief executive of GuildHE.

Professor Joy Carter: I am Joy Carter. I am chair of GuildHE and also Vice-Chancellor of Winchester University.

Pam Tatlow: I am Pam Tatlow, chief executive of MillionPlus, the association for modern universities, with members throughout the UK.

Alex Proudfoot: I am Alex Proudfoot, chief executive of Independent Higher Education, which represents alternative providers.

Paul Kirkham: I am Paul Kirkham, chief executive of the ICMP, an independent higher education provider. I am also vice-chair of Independent Higher Education.

The Chair: Thank you. We will open for questions, first from Mr Streeting.

Q1 Wes Streeting: Good morning. Thank you for coming to give evidence to the Committee. I have a really simple question to start with, and it would be good to get the views of each organisation represented, if not each panellist. Do you think it is right that there should be student representation on the governing body of every higher education institution, on the board of the office for students, on the board of the quality provider and the quality committee? Would you like to see the scope of the Bill extended to make that provision?

Professor Joy Carter: Absolutely. It has been a revelation to me to engage more with students in the delivery of higher education over the last decade. I think you make an important suggestion.

Pam Tatlow: Yes, we think it is important, but I don't think it is the only answer. We have made some proposals that all members of the OFS board, for example, should have some knowledge of social mobility, widening participation and student interest.

Professor Simon Gaskell: I think it is important to recognise the general point that students, quite correctly, see themselves as co-creators of their own education. That principle would suggest that their voice is extremely important. Your question covered everything from individual institutions to the OFS. As far as my own institution is concerned, we already have two student members on our governing body—one a member, one an observer, but the voice is very loudly heard. There are a variety of mechanisms for ensuring that the student voice is heard, often in conjunction with their own institutions. We can argue about the precise prescription of the extended membership, but the general principle of the student voice being first and foremost is absolutely the right one.

Alex Proudfoot: It is very important that the student voice is heard, both on governing bodies and on the office for students. I believe that the mechanism for that voice being channelled into the office for students is for Government to decide at this juncture. At the moment few alternative providers have student unions that are formally affiliated to the NUS, so I think it would be problematic if a directly nominated NUS representative was on the board, as I would have difficulty finding confidence in their ability to represent the views of the full spectrum of students.

Q2 Wes Streeting: Will you elaborate slightly on that final point?

Alex Proudfoot: Yes. I think student representation is an excellent idea, as long as the views of the full spectrum of students are represented. Students at alternative providers tend not to engage in formal student unions; they tend often to be professionals or mature students or to have responsibilities outside their studies. For that reason, it is difficult to require representation, but it should be encouraged.

Q3 Wes Streeting: Finally, I am interested in the panel's views about the fairness of either institutions or Government being able to alter the repayment terms or the conditions of student loans—whether those are tuition fee levels or repayment terms and conditions—after

a student has enrolled on a course or while they are still repaying the loan as a graduate. Do you think that enabling universities or Government to tinker with the terms and conditions has the serious risk that when students sign up as applicants, they do not necessarily know what they are signing up for? That has real risks for fair access and for basic fairness to consumers.

Gordon McKenzie: I think it is unfair to change the conditions after the student has taken out the loan. When the Government changed the repayment threshold and decided not to uprate it annually by inflation, GuildHE commented that it was unfair—we think it is unfair.

Pam Tatlow: I would distinguish between repayment and fees. Like GuildHE, we commented on and opposed the amendment to repayment conditions and indeed the proposal to abolish maintenance grants. In respect of fees, it has at times been the case under previous Governments that if fees increased by inflation, that could apply to the whole student body. We are dealing with a headline price, if I can put it that way, of £3,000. We might want to distinguish between fee levels and repayment levels. On repayment we have been very clear.

Q4 Wes Streeting: Is there a Universities UK view on that, Professor Gaskell?

Professor Simon Gaskell: The basic principle is that it must surely be right that students know what they are signing up to when they start their course. That places obligations on both institutions and Government. The general principle is that the terms of engagement, as it were, should not be changed after a student has started on their course and made a commitment to a university, as the university has made a commitment to them. The idea that the terms of engagement should not change seems to me to be a basic principle.

Q5 Carol Monaghan (Glasgow North West) (SNP): Professor Carter and Professor Gaskell said that student representation is important and beneficial. Can I ask you to give us a quick example of how student representation has been beneficial and why we should have it?

Professor Joy Carter: It is about not so much representation, but the holistic sense of student engagement, of which representation is a part. If I can answer the question from a more holistic perspective, in my own institution—to give you one example—we have a student fellows scheme. Students work in partnership with members of staff on projects of their choosing to enhance the quality of the higher education that they are receiving. At any one time in my institution we have got 60 to 100 of those enhancement projects—real partnerships between students and staff—going on. The quality of enhancement that is achieved is beyond measure.

Q6 Mark Pawsey (Rugby) (Con): To ask a broader question, how important do you think this piece of legislation is, given that there has not been any legislation for more than 20 years? Which part of the Bill, from your perspective, is the most important?

Paul Kirkham: As an independent provider, working with a very fragmented regulatory system for many, many years has been an absolute nightmare, so having a

simple, straightforward, single regulatory system is absolutely crucial. The most important part is that we have a level playing field whereby providers are treated equally and correctly.

Pam Tatlow: I think we should be looking at the Bill in a holistic way. There is a real risk that we look at the Bill in terms of a silo—the office for students, and then UK research and innovation. What we have got at the moment through the Higher Education Funding Council for England is some holistic oversight over the whole of the sector, in terms of reporting. Therefore, there are issues around OFS, and some of the hard corners need to be taken off the regulatory framework. We look at the Bill as a whole, because one impacts on the other. Teaching impacts on research and innovation, and vice versa.

Q7 Mark Pawsey: How important is the Bill?

Pam Tatlow: The Bill is very important because the Government want to table it. It would not have been our most immediate priority, but there are regulatory things that need to be sorted out, as colleagues to my left have pointed out. You can undertake the teaching excellence framework without this Bill—we should be clear about that—and HEFCE is already making preparations to do so. We do not necessarily need the Bill to deliver the Government's commitment to teaching.

Gordon McKenzie: I agree with Mr Kirkham that the Bill is essential. It was essential from 2011, when the Government made substantial changes to the fee regime. I think it is important to look at the Bill holistically. The essential part is the creation of the office for students and the ability to regulate all providers on a fair and equal basis, whatever their background and history. I have concerns that, in the approach taken—having the office for students on the one hand and UKRI on the other—some of the benefits of having a single body looking at higher education as a whole might be lost, but there are perhaps ways around that.

Q8 Roger Mullin: In terms of the panel members who have already commented on the regulatory framework, some people have been criticising the proposals as being overly summative and not formative enough to enable or encourage proper development. Would you like to comment on that?

Professor Simon Gaskell: I will come to your question in a moment. I just want to say, in terms of the need for the Bill, that clearly it is essentially replacing the 1992 legislation, which was appropriate at the time, although the times were quite different then. The argument for an upgrading of the regulatory framework for higher education is compelling.

Of course, it has to be admitted that throughout the coalition Government we survived on, frankly, a series of fudges, which nevertheless enabled the out-of-date legislation to allow the sector to continue. So one could not say that the Bill is absolutely essential, but it does have some important tidying-up aspects. The importance of the Bill derives largely from a measure advocated by Universities UK, which was to have a single entry into the sector through a well described and well regulated register of higher education providers. Whether one calls that a “level playing field” or some other term, that is an important aspect.

If I understood the most recent question correctly, it asked whether the Bill might perhaps be too permissive rather than directive in terms of its content. We at Universities UK and in our member institutions do have concerns about that. There are some aspects of the wording of the Bill which could be interpreted to enable directions from the office for students, or indeed from the Department for Education, that would allow measures to be taken which we think would not be in the best interests of the sector. These may be allowed rather than prescribed by the Bill. We are very aware of the need to get the wording and the detail right to make sure that something which may not be immediately intended would not be allowed by incautious phrasing in the Bill.

Q9 Mr Marsden: Since the Government presented the Bill, and indeed since it came before the House, we have had two major seismic shocks to the British political system. One of them, of course, is the impact of Brexit. The other, although perhaps not as seismic as Brexit, is nevertheless important for us: the changes to the machinery of Government which have moved this subject to the Department for Education rather than the Department for Business, Innovation and Skills. I wanted to ask the panellists if they would give us their views.

The Government have made certain commitments to underwrite funding which comes from the EU, particularly in the area of research, but have made no commitments about where we are going from there. I know very well from conversations with many university providers how concerned they are about this—not simply from the research side, but because community-based universities are worried about loss of funding from the European Social Fund and other things. I wonder if I could take a quick snapshot of whether you think that the Government are on top of this and doing enough about it already.

Pam Tatlow: There are 120,000 EU students studying in the UK. We have a commitment to access to the student loan system only for this admissions year—that is, for students entering higher education in 2016-17. Ministers are, quite correctly, encouraging us to get on the Brexit bus, if I can put it that way. We are slightly worried that the best might leave before we have got all the commitments that we need in place. I think that my colleagues in Scotland also raised this with the Minister in Scotland. The commitments we need include the commitment to EU student funding beyond this academic year, however it is delivered in each Administration. Of course, there are also fairly major issues about how those students will be classified in the future.

The final point I would raise is that there are universities which are very engaged in structural funds. We talked with one principal last week, and there is now £50 million worth of structural funding in the west of Scotland. It is very important that the Government address these things, and that they are addressed not only in DfE but in the Department for Business, Energy and Industrial Strategy, the Department for International Trade and the Home Department. We need a joined-up approach.

Professor Simon Gaskell: We could have a long debate about the effects of Brexit, which I am sure would be inappropriate in this forum. Just to add to the list of concerns, as it were, clearly we are concerned about the loss of EU students. We are concerned about the polls that indicate that overseas non-EU students now find

non-EU Britain to be a less attractive place to study. I am particularly concerned not only about the loss of EU students and EU staff, but about the loss of UK students and UK staff, who are not as enamoured of the system and the environment as they were before.

Clearly there are important financial issues, but actually what is more insidious is the loss of talent, the loss of networking and the loss of engagement with European partners. That will be much less easy to quantify but, unless we are very careful, it will become quite a damaging development over the next few years.

Q10 Mr Marsden: May I press you, Professor Gaskell, on that particular point? Members of the Committee will probably have seen the poll about the reaction to Brexit, which I think said that something like 40% of people between the ages of 18 and 35 were thinking about leaving the country as a result. That addresses one of the points that you made.

May I press you on the particular issues and concerns that you as a Russell Group member and also UUK generally have pressed the Government on? They relate to the very mixed position in terms of funding for research. We have heard all these stories about people being edged out. We know that the Government have supported Horizon 2020, but what is the position with the support they are currently not giving or are giving for beyond the 2020 process, while we are still in the EU and able to bid for these things?

The Chair: I remind colleagues that there is a wide debate on Europe, but we have to keep it within the context of the scope of the Bill.

Professor Simon Gaskell: You are absolutely right to be concerned. The assurances that have been given so far are welcome but do not go anywhere near far enough. Producing evidence will be very difficult, because my colleagues and I do not get phone calls saying, “We were going to include you in our research network, but now we are not”—they do not get the phone call. That will be the problem in amassing the evidence.

Paul Kirkham: There are many issues surrounding Brexit that are important for the sector, but I do not believe they in any way undermine the need for the Bill or its importance. I would hate for things to be distracted in any way as a result of these discussions.

Q11 Amanda Milling (Cannock Chase) (Con): Good morning. I have a question for Mr Kirkham. I want to pick up on the point you made earlier about the importance of the single regulatory framework and creating a level playing field. I was wondering whether you could elaborate further on why that is so important and the benefits from your perspective.

Paul Kirkham: We do not think that the system as it exists is to the benefit of students, the taxpayer or a wide range of providers. There are myriad different regulatory bodies, conflicting data and information that need to be submitted in different ways, differences in fees, and differences in the tier 4 visa system—that is kind of outside the scope of this, but the differences exist.

From the point of view of the provider, having clarity on what we are expected to do is extremely useful. From the point of view of the student, having clarity on what a particular provider offers and how that compares to other providers is absolutely crucial. From the point of

view of the taxpayer, where taxpayer funds are being used for student loans or other grants or associated support, it is absolutely critical to know where that is going and whether, for example, it is going to registered approved providers who are subject to equal quality assurance checks. At the moment, it is very difficult to differentiate between providers on all those issues.

Professor Simon Gaskell: It is seductively attractive to talk about a level playing field, but we should recognise that implicitly or explicitly, we have expectations of our universities that go well beyond financial sustainability. One of the obligations I feel in my university is that we should cover a broad range of subjects.

If I was concerned about financial sustainability, I would close our medical school and certainly would not engage in science and engineering—far too expensive. I would have a management school, a law school and an economics school. I would be wonderfully financially sustainable and attractive to the private sector, but we take on that obligation. That means that we are not on a level playing field with other providers who do not accept that responsibility. We need to be very careful nationally to understand what our expectations are of our universities, because that will help inform a term—“level playing field”—that can otherwise be flippant.

Pam Tatlow: We absolutely endorse that. You can have the lowest common denominator and have a level playing field. Actually, we want high criteria to protect the student interest. It is not so much about protecting the institutional interest; we have got to protect quality and standards for our students. We have also got to maintain a system in which we can maintain confidence. It is in nobody’s interest in the independent sector or the more established sector if any provider goes under. That would undermine confidence and therefore the global reputation of UK higher education. I know what my colleagues mean. They clearly want a level playing field, but we have to unpeel the onion a bit as to what that actually means.

Q12 Dr Blackman-Woods: Would the panel accept that, if we are looking at another playing field, we should consider something beyond regulation and maybe have a set of expectations about what institutions are actually delivering, so that, if it is a level playing field, it goes beyond regulation?

Professor Simon Gaskell: We certainly favour inclusion in the Bill of a clause that indicates that there is a responsibility for the public good of institutions that wish to call themselves universities.

Pam Tatlow: This is properly addressed in terms of the general duties of OFS. For example, we have proposed a reference to confidence and the public interest. In other words, we know that Ministers are very clear that they want a more competitive market. The risk is that we just see students as consumers. Students, and we ourselves, see students as much more than that, and higher education has got a wider purpose.

One way to address the issue would be to knock off what I call some of the hard edges around the general duties of OFS to ensure that there is a wider commitment, which I am convinced Ministers actually have.

Q13 Paul Blomfield: Can I press a little further on the regulatory framework? I think there is a consensus that we need a new regulatory framework and it is welcome

that the Government are bringing forward a Bill to enable us to debate that. The Bill has also been brought forward in the context of trying to change the terrain of higher education and encourage greater diversity of providers. In that context, do you think that the regulatory framework as presented in the Bill is fit for purpose? Are there any risks involved in the proposals before us?

Gordon McKenzie: I think it is broadly fit for purpose. There are risks in some of the detail. Although I know the Government released some further information yesterday evening, which I have still to look at in detail, I do not think the Government are yet saying enough about how they will ensure that the new entrants to the market and sector are high quality.

I do not think the Government are yet convincing about their proposal that some people may be able to have the power to award their own degrees on a probationary basis, because I do not think that the Government have yet answered the question of what happens to the students if the provider fails probation. Who awards their degree? What have they got for their three years?

I think there are elements of the detail that require scrutiny. I do have concerns that at the moment the promised role of the office for students as taking an overview of the sector is not really there or enabled by the Bill. I think those things could be fixed—so it is basically fit for purpose, but with further work.

The Chair: As there are six members of the panel and time is limited, could you give relatively succinct answers? We have other Members who wish to ask questions.

Professor Joy Carter: I echo what Gordon said. For me the risks are in three broad categories. One is speed: are we moving too quickly to give the power to award degrees—the provisional degree-awarding powers and so on? The second category is around university title and the notion that we have already discussed about academic community and public engagement. The third category of risks is about autonomy and the power of the office for students and the power of the Secretary of State in relation to autonomous and successful universities.

Paul Kirkham: I would say that there is greater risk in leaving it as it is and not adjusting this right now. There are significant risks to student and taxpayer of a very static, non-changing universe of providers and way too much emphasis on the three-year, on-campus degree.

The biggest risk for me in the Bill is that it has not properly addressed the issue of student financing. We currently have a student loan system, which is essentially based around a calendar year and predicated primarily on the traditional three-year degree system. Until such time as we have proper reform of the finance system, we will not get proper innovation into the sector. I personally advocate some form of credit-based financing, which will give students much more flexibility, and when combined with more effective credit transfer will also give them much more mobility across the sector.

Pam Tatlow: I simply refer to clause 2, which we think extends the Secretary of State's powers; we have an explanation around that if the Committee wants a supplementary submission on it. We have particular reservations around OFS being a validator and a provider. In other words, it seems almost to be the validator of last resort. You can't have it both ways—the OFS being

a regulator of the sector as well as a validator and provider. That is a contradiction in terms. We have specific queries around that.

We welcome part 2 on a sharia-compliant loan system, but it does absolutely nothing if you want to deliver accelerated degrees, for example. It is a missed opportunity.

Alex Proudfoot: Briefly, I think the OFS needs to have a power reserved in order to validate degrees because, unfortunately, the current foundation system in the UK is so broken. That would not be necessary if the autonomous institutions in the UK that currently validate new provision acted as if they had a public interest in diversifying the landscape of higher education and making new provision available to students. Unfortunately, we find that, quite rightly within their own autonomous priorities and strategies, some institutions draw back from validation, leaving institutions and students high and dry. We see institutions blocking new courses from being validated because they compete with one of their own courses or, indeed, one of their own partner's courses. Unfortunately, we see a very high cost and very limited transparency in the process across the sector.

We are currently doing some work to try to improve the situation, but it is important that the OFS has this as validation of last resort, as Pam referred to it. If nothing else, it should encourage validating institutions to take their responsibility seriously.

Pam Tatlow: May I come back on that? More than 100 institutions can validate throughout England. If you cannot be validated as an independent provider by one of those, what is the matter with what you are delivering? That is the point. This is not a closed shop.

Alex Proudfoot: In some cases, the matter—

The Chair: Order. Professor Gaskell?

Professor Simon Gaskell: I think the Bill is right and that the fundamental point is establishing a regulatory framework and pre-eminently the register of providers. That is overdue and very welcome. We need to get the entry standards to that register absolutely right because the key risk here is the reputation of the UK higher education sector. It was pointed out in the press earlier this week that the UK is second to the US in two areas of activity: winning Olympic medals and higher education. I think the second is probably more important to the country than the first, but that is a personal view. We risk that at our peril, which is why the detail is so important. The framework is right; the detail is critical.

The Chair: We do not have a university in my constituency, but we do have a gold medal winner.

Q14 Ben Howlett (Bath) (Con): One of the key areas of regulation proposed in the Bill obviously relates to participation, and for a long time social mobility has been lacking in many areas of the regulatory system.

I want to unpick a bit, following on from the last question, your views on the Government's ambitions for improving participation and also the regulatory framework around improving participation.

Professor Simon Gaskell: I speak as head of an institution where two thirds of our students are from ethnic minorities and 89% are from state schools, so I

can speak with some authority on this. That of course is a set of achievements of which we are very proud and that have been achieved in the current framework—regulatory and otherwise.

My personal view is that widening participation is not enough. We need to do much more and indeed we are doing more at Queen Mary to ensure that students not only get into university and succeed academically while they are at university but, despite a lack of social capital in many cases, succeed after university. There is a lot to be done and we are doing it in universities. I do not think it needs legislation to enforce it.

We have had encouragement through the Office for Fair Access, which has been entirely aligned with our aspirations as an institution. Other institutions have perhaps needed more encouragement in that direction. Fundamentally, I think some universities at least, including my own, are leading the way in recognising what needs to be done in social mobility. Widening participation is not enough.

Pam Tatlow: We support the Government's ambitions 101% and we would add that experience to that of board members to be taken into account.

We think clause 9, which deals with some of the participation figures and information, does not go far enough and, in fact, it should discuss some of the protected characteristics. It does not talk about age: one in three higher education students enter university for the first time when they are over 21, often entering modern universities. That must be reflected in the diversity of the sector. We are proud of that and should do more about it and, therefore, I think more could be done on clause 9.

Professor Joy Carter: Widening the market to alternative providers is often good for widening participation students, because many alternative providers focus on WP students and offer products and prices that are particularly attractive to them. That is good.

My concern about the marketplace and the effect on WP is about the work at primary school and the work of individual institutions at primary school. There is a lot of research that says young people are made or broken at that age and lots of universities already do fantastic work with primary-age children. In the new world allowed by the Bill, how much of that will continue?

Paul Kirkham: Obviously we support this ambition. Independent providers are, traditionally, very good at this in the main. Where you have a fee cap of £6,000 you have two choices: either you deliver a different kind of experience or you have to charge cash, up front, to students, which is not exactly a widening participation exercise. In many cases, we are disadvantaged in the work we can do when we would like to do it given that we have that fee cap of £6,000, but we understand the reasons why that is there.

Q15 Carol Monaghan: The OFS as the regulating body will be funded by subscriptions from higher education institutions. New providers or new entrants, by their nature, will be a higher risk than the more established institutions. Is it right that all institutions pay the same amount of subscriptions or should there be some sort of sliding scale?

Professor Simon Gaskell: Some thought needs to be given to this because you are right, not every institution will require the same degree of scrutiny. You could

argue that the most established and most reliable institutions should pay least. To be fair, there is some offset against that, building on my earlier point: we are all concerned with the reputation of the sector and we all have an interest in the sector. I would not suggest an exact proportionality, but some system that takes note that the greatest demands on the OFS will come from the providers who represent the greatest risk seems to me a reasonable principle.

Pam Tatlow: I understand there will be a consultation if this remains in the Bill, but the more general point is that this is a direct switch from funding from what is now the Department for Education to universities and the average would be about £62,000. If you look at the White Paper, it shows that over several years, the bulk of funding for the OFS will come from providers.

Paul Kirkham: To be clear, not all independent providers are new and pose that kind of risk. Many have decades, if not hundreds of years, of experience in provision. My second point is that it should be equitable in terms of the cost. Many of the incumbent universities' perceived lower risks have been achieved through decades of taxpayer support and I think it would be grossly unfair if a sliding scale were applied on the basis of some form of perceived risk.

Gordon McKenzie: As well as risk, it is also important to take account of a university or a provider's size and resources.

Q16 Matt Warman (Boston and Skegness) (Con): This is a question specifically for Professor Gaskell. I should begin by declaring that my wife is technically a student at Queen Mary University London.

Professor Simon Gaskell: What does technically mean?

Matt Warman: Technically in the sense that she is on maternity leave, but she is still part of it.

The Universities UK report on sustainability and the future of higher education regulation was recently a tangential part of the Science and Technology Committee's review of the future provision of skills. How do you feel the Bill addresses the concerns you brought up in that report?

Professor Simon Gaskell: I think I have covered some of those things already, in the sense that we were looking for a simplification of the system—an assurance of equity of treatment of all providers, whether established or new. That led us to propose a tiered register of providers, which would go well beyond the current HEFCE register, which is essentially a list. A key point that was emphasised in the UUK report was that the register has to have very clearly defined entry standards to protect both the reputation of the sector and, crucially, the position of students at less secure institutions. Indeed, it is often overlooked, but we also need to protect the interests of the alumni of those institutions. If you graduate from an institution that lasted for four years and then disappeared in a puff of smoke, you have a degraded qualification.

The need for a register was emphasised so much in the UUK report because all those things add up to the need not to simply try out a new institution, as it were, or give it an opportunity to fail. The failure of an institution is very problematic for students and the general public, and for the locality in which that institution

is placed, because institutions often make critical contributions to their locations. To us, all that adds up to the need not only for a register, which the Bill certainly includes, but for a clear indication and a secure prescription of entry standards for that register, in the interests of students, the public and the locations in which universities are based.

The Chair: I am sorry to rush you, but we have nine minutes remaining and four Members want to ask questions. I am going to turn first to Roberta Blackman-Woods, then Valerie Vaz, Roger Mullin and Gordon Marsden. No Government Members have indicated that they want to ask any further questions.

Q17 Dr Blackman-Woods: In the interests of brevity, I shall push two questions together. As you know, the OFS will have a remit to cover standards as well as quality. Do you foresee any issues that might emerge from that? The Bill also puts in place provisions on market exit. Do you envisage many institutions exiting the market?

Professor Simon Gaskell: There is some apparent confusion in the current wording of the Bill. I believe that some amendments have been suggested to correct this, but the distinction between standards and quality is critical. In higher education parlance, quality refers to the quality of the provision, while standards refers to the achievements of the students who receive that provision. That clarification needs to be made much more clearly. I, and UUK, would argue that standards are the fundamental responsibility of autonomous institutions, whereas quality is something we need to be very much concerned with nationally and as a sector.

Q18 The Chair: Does any member of the panel have a view that is different from that?

Witnesses indicated dissent.

Q19 Valerie Vaz: I think the UK leads in the league table of Nobel prize winners, so we need to protect that.

On the split between education and research, do you think there is enough protection for, for example, postgraduates who do some of both? What are your views on the split between the two departments?

Paul Kirkham: I think some consideration should be given to how those two arms of the regulatory system will work together.

Pam Tatlow: We are at risk of forgetting that HEFCE has funded postgraduate students and undertakes the research excellence framework exercise. There are implications for the devolved Administrations as well. There has to be on the face of the Bill a very clear idea of joint working, because some things are not referred to. The section on UKRI very much concentrates on what are currently the research councils. We have to do better on what we think those responsibilities are.

One final thing is that I have no idea why students should not be on the board of UKRI as well. I do not agree with the idea that students have no interest in it. We want not only the great and good scientists there, but people who deliver innovation and who are very engaged.

Gordon McKenzie: I agree with that. There is an opportunity to make it clearer on the face of the Bill that both the office for students and UKRI have a joint responsibility for the sector as a whole.

Q20 Valerie Vaz: A quick question about clause 2, which is on general duties. Subsection (1)(c) refers to “the need to promote value for money”.

Do you know what that means and do you think it would help to include a public interest amendment there?

Professor Simon Gaskell: That covers a lot of things. I think universities absolutely do know the value for money. Certainly my finance and investment committee is very keen on value for money and we work on that all the time. In a sense, this addresses a general point—the fiction that the universities do not work in a competitive environment. The current environment is highly competitive. Talk to my colleagues who worked like Trojans a couple of weeks ago on confirmation and clearing—hugely competitive. All this adds up to a very significant current demand for value for money. So, yes, universities do understand what that means.

Q21 Alex Chalk (Cheltenham) (Con): This is about seeing if we can have new providers in the sector. Mr Proudfoot, what is your assessment of the level of demand for new providers?

Alex Proudfoot: The level of demand is clearly significant because already between 250,000 and 300,000 students are currently studying with alternative providers. I do not foresee a deluge of new providers opening up the day after the Bill passes. At the moment we have 700 institutions in the UK which are not considered part of the mainstream framework. We need to be able to bring them into the mainstream framework and provide effective regulation for the benefit of students and taxpayers and provide information that students can use to make choices between the providers.

I think there will be some new providers interested in coming into the sector and some interesting innovations. Already we have seen in the past few years, for example, large employers starting their own colleges and higher education programmes, simply because they were not finding the graduates they needed to take the jobs they had available. That should be encouraged and the opening of overseas higher education institutions could, of course, be a positive effect.

Professor Joy Carter: Current demand requires an environment where bold, innovative, new higher education flourishes. The Bill allows us to do that, but we have to maintain the reputation of UK higher education and the autonomy which leads to that reputation.

Q22 Roger Mullin: The way in which discussions about diversity have been confused with the need for new entrants has been very unhelpful. I come from a Scottish tradition where I would say that quality enhancement of existing institutions is the way to create diversity. When I look at the landscape in Scotland with everything from the University of the Highlands and Islands to traditional universities such as Edinburgh and newer universities such as Stirling, there is plenty of diversity through quality enhancement.

Q23 Mr Marsden: This is a very specific question for Mr Proudfoot, but other colleagues might want to comment briefly. Mr Proudfoot, you have expressed your exasperation with the present system. You must therefore be very pleased that the Government are preparing to give you most of what you want in being able to start off with university-like things from the beginning. Given the issues around security, what extras, representative of those organisations, do you think that alternative providers now need to put into the pot in terms of public interest? Specifically, do you think that issues around size and track record of new providers should be a contingent part of the registration process?

Alex Proudfoot: A great many quality assurance and regulatory burdens are already placed on alternative providers. I think the new system would make that more transparent, clearer and more consistent across the sector. I agree there should be a high bar in quality for new entrants and a very high bar for degree-awarding powers with close monitoring.

Q24 Mr Marsden: And for track record?

Alex Proudfoot: I think not necessarily track record of higher education delivery. There may be education providers in other parts of the sector who have not had a higher education track record who would be well placed to deliver higher education from day one. There could be overseas institutions that would be well placed to deliver higher education from day one. What we need is a flexible system which has proper monitoring in place but a range of options—

Paul Kirkham: It is very frustrating—my institution has 30 years of history and many have much longer than that. Every institution has to start somewhere. Look at the history of the university sector—look at the history of King's and UCL, for example, look at the red bricks. Everybody has to start somewhere. I think if a provider is capable of providing something that a student needs and the wider economy needs and the regulatory framework is correct, why should they not?

Q25 The Chair: Final comment, Miss Tatlow.

Pam Tatlow: The issue here is not that we do not want competition, not that we cannot accept new entrants into the sector, the issue is on what terms and conditions they are allowed to flourish. That is a real challenge for the Committee as it works through the Bill.

Gordon McKenzie: Briefly, diversity—yes, agree with that. We have suggested an amendment that would help protect the existing diversity including specialist institutions and those founded by the churches.

The Chair: Order. I thank the panel for their attendance and stand them down.

Examination of Witnesses

Sir Alan Langlands, Professor Quintin McKellar, Professor Sir Leszek Borysiewicz and Mary Curnock Cook gave evidence.

10.31 am

The Chair: We now commence the second witness session of the morning that has to be completed by 11.25 today. It would be helpful if the panel could introduce themselves from left to right.

Sir Alan Langlands: Good morning, my name is Alan Langlands and I am the Vice-Chancellor at the University of Leeds.

Professor Quintin McKellar: Hello, I am Quintin McKellar and I am the Vice-Chancellor at the University of Hertfordshire.

Mary Curnock Cook: Mary Curnock Cook: I am the chief executive of UCAS, the University and Colleges Admissions Service.

Professor Sir Leszek Borysiewicz: Les Borysiewicz, Vice-Chancellor, University of Cambridge and formerly head of the Medical Research Council.

The Chair: You are very welcome and my colleagues will commence questions, starting with Mr Marsden.

Q26 Mr Marsden: If I can ask the panel generally—we have already heard in the previous session about issues around Brexit and the impact that that is going to have. Do you think that the Government have taken sufficient cognisance of the issues around Brexit, particularly in terms of research but also in terms of the development of staff in your organisations?

Sir Alan Langlands: I think, given where we are and how we arrived at the vote, Government have responded as quickly as they could to try to reassure particularly the science and research community. That does not mean that all is particularly well, because people are very anxious. Equally, sensible people are aware that there is a much wider discussion going on about trade and the free movement of people that will dictate the final outcome of other issues in relation to Brexit. I think the higher education sector is patient; I am sure its patience will be tested over time—

Q27 Mr Marsden: The question is whether we have enough time. We are already hearing stories of researchers and people losing grants and things like that.

Sir Alan Langlands: We have had one example of that and I think it needs to be challenged. The discussions that Ministers have had in Brussels have been helpful in essentially saying, “The law is the law, the rules are the rules, and things continue as they are for now”, and it is down to individual universities to make sure that our partners—

Q28 Mr Marsden: So they are on their own?

Sir Alan Langlands: No, I do not think we are on our own. I think there has been good co-operation across the sector. There have been good discussions in Brussels, as I say, in very difficult circumstances. I think Ministers are doing their best to reassure but patience will wear thin as times goes on, there is no doubt about that.

Professor Quintin McKellar: I think we have the wellbeing of our students at heart and we have a lot of EU students within our university. The Government have responded quickly to give us reassurance regarding those who are currently in train within our universities. The issue for us is what is going to happen in the future, and that is an area of considerable concern for us. As for research, the Government have quickly put in place some helpful reassurances. Again these are short-term, and we need to think about what is going to happen in the longer term with regard to research collaborations across Europe, but in the short term they have done all they could.

Mary Curnock Cook: Only to say that the European student intake this summer seems to have been growing strongly, as in previous years, and that includes some who applied before the referendum vote was known and a few who applied afterwards. It will be important for us to be able to tell applying students in the next few weeks what their fee situation will be for the 2017 intake.

Professor Sir Leszek Borysiewicz: The University of Cambridge shows the largest number of awards from the European Union of any institution in Europe, let alone the UK. The total financial sum is in the order of £100 million, so the impact is quite significant in financial terms. We are quite confident that we can deal with the assurances that the Government have given in the short term. The problem is the long term. We have not experienced what many institutions have experienced, with people not being asked to continue on grants. In fact, we have continued to attract considerable sums from the EU, even in the current setting. However, there are two major issues: first, students from the EU contemplating coming to UK universities are already looking at the 2017-18 entry. Current assurances only provide entry for those coming in during this year so we will be looking to Government to provide that assurance. The second issue is the nationality issue. 19% of our staff at the University of Cambridge are EU nationals, and those people want to know whether or not they can reside in the UK, bring up their families, and make their future careers in the UK. That is the current impasse that is probably causing more disquiet among staff than any other. Some statement on this would be very helpful.

Q29 Mr Marsden: Just on that specific point: the issue around EU postgraduates is also important. Would it be helpful if the Government were to make some movement and some flexibility in terms of what those postgraduates themselves could do in this country to contribute locally to the economies?

Professor Sir Leszek Borysiewicz: I think there are a variety of issues that we are exposing here, and if we are not careful this will open up into a whole debate on the immigration issue and the capacity of individuals to make their future lives and help our economy. I do not want to go there, but for the postgraduate side on the EU, nearly 30% of our postgraduate entry is around the EU or around continental European students. We have to remember that on the postgraduate side, over 60% of students are coming into the UK from overseas, and a further 10% to 15% are coming in from the EU. These issues have to be resolved if we wish to remain internationally competitive.

Q30 Mr Marsden: May I put one further brief question to the panel? It relates to the new institutions that have been developed and the Bills around research: there has already been concern about the overlap of responsibilities between the new institutions and UKRI—UK Research and Innovation. The devolved Administrations have raised that as well. Is this an issue for the competition between English-only funding and UK funding, and the impact on the UK brand internationally?

Professor Sir Leszek Borysiewicz: I can only reflect back on my own time in the research councils and therefore the bearing that this has on the matter. There is a long-standing issue, which was identified in the

Nurse review, of ensuring that there is an overall view and perspective taken of where the individual siloed research councils actually sit. There is a lot of sense in having a body that will scrutinise, and ensure that we can take a wider purview of the UK R and D effort. By R and D, I do not just mean science and technology. It is just as important for the humanities, bearing in mind that this is a major source of income for humanities research. There is a lot of sense in what is being proposed. The key things are always going to be the key things. How is this managed at an individual and personal level? You must not degrade the authority of individual research councils—you must make sure that those individuals have standing, because they are well recognised by the research community.

The addition of Innovate UK is welcome, because it means that industry and the translation to industry has skin in the game at the very basic level. That is really important, as is the proposal that Research England play a huge part in ensuring that we can sustain credible international competitiveness for the United Kingdom's very enviable research position. So it looks quite good.

Q31 Mark Pawsey: Again, I would like to go the general and ask if you would tell us which are the most important parts of the Bill as far as you are concerned, and why the Bill is so important right now.

Professor Quintin McKellar: The Bill is important because we have had such a significant change in higher education over the past 20 years. We now have almost 50% of 19 to 23-year-olds going to university, which is a significant change from the situation that existed previously. Even more fundamental to our students is the fact that they are now paying through their tuition fees for that education, which creates a different relationship between universities and students—you might call them customers as well. That has changed significantly and I think that the Government's idea to have an office for students that would primarily be interested in student wellbeing and the student experience is a good thing. Clearly, separating it from research presents some challenges; nevertheless, the idea of UKRI bringing together the majority of the research funding bodies within one remit is a good thing as long as the innovative part of that continues to be business-focused. The challenge might be linking the two and ensuring that there is commonality in membership so that the research activities continue to inform our teaching excellence, at undergraduate and postgraduate level.

Q32 Mark Pawsey: Are you happy with the Bill as it stands on that issue or would you like to see some form of change?

Professor Quintin McKellar: I do not know whether the Bill explicitly suggests that there will be commonality between UKRI and the OFS, but it might be helpful if it did.

The Chair: Does any other panel member wish to respond to Mr Pawsey?

Professor Sir Leszek Borysiewicz: We are broadly supportive of the recognition that the Government are giving to teaching in particular. That is really good, because for a long time the criticism has been that research gets a disproportionality to teaching. I also

particularly like the implicit and explicit recognition of autonomy, as originally proposed by Robins and Deary, the fact that diversity in the sector is lauded and also that dual support is for the first time given real recognition for the work it does in supporting the sector.

The problems we see are brought on a little by Brexit and a little by the fact that the remits of research and teaching are now under two different Secretaries of State, so I would be looking for safeguards regarding the unity we were able to get, and in those safeguards I would be particularly looking at PhD students, because all the expertise for ensuring that there is a research environment will sit within the UKRI sector; it does not exist in the OFS sector, yet we note, for example, that higher degrees, which may be largely research-based, are going to sit with the OFS. There are some musts that need to be introduced in the Bill to ensure that there is absolute co-working between UKRI and the OFS in that area.

Sir Alan Langlands: The symbiotic relationship between teaching and research is central, and therefore the office for students and UKRI must collaborate. They need to have equal standing. It is not explicit, of course, but my sense is that UKRI is in the Bill as an independent organisation—a non-departmental public body—to advise Ministers, and the office for students is there to do what Ministers tell it to do. We have to be clear that they have equivalence. For example, the suggestion that was made by, I think, Universities UK, that UKRI provide advice to Ministers show flow to the office for students and be explicit.

My sense is that we have to be clear that the office for students is not just an instrument of Government but is an organisation that is reflecting back to Government the issues and the challenges facing the sector, and that balance has been hugely important since 1992 and has to be sustained.

Q33 The Chair: Ms Cook, do you wish to add anything?

Mary Curnock Cook: I would just say that from the UCAS point of view what we want to be able to do is make sure that students are very clear about what they are getting when they apply for higher education, what they are paying for through their loans or other means—

Q34 Mark Pawsey: Does the Bill make that more explicit? If so, does that help students who are applying to your organisation to understand more?

Mary Curnock Cook: I think it does and, in particular for us anyway, the register of providers, which sets out very clearly the status of each provider, is important, because a lot of providers want to be listed on UCAS, because it gives them a sort of credibility, and to be honest some of the providers who apply to us to use UCAS services are quite shocking in terms of how small they are, how parlous their finances are and so on. It will be very helpful for us to have that kind of regulatory support for who comes into the UCAS service.

Q35 Dr Blackman-Woods: One of the things that the Bill does is open up student data, including individual-level data, to a wider range of people, possibly taking the use of that data outside current research protocols. Do you see that as a problem and something that we should address as a Committee? Also, would it be helpful to have all the data in one place? There are lots of requirements

on individual institutions to produce data, but would it be helpful to have all that data available in one place, for example in UCAS?

Mary Curnock Cook: Yes. We broadly welcome clauses 71 and 72, which require UCAS or potentially other organisations like UCAS to share admissions data for research purposes. Indeed, we have recently signed an agreement with the Administrative Data Research Network, and we will make a very large deposit of data going back to 2007, which will be available to researchers under clearly controlled conditions, including that they only have access to de-identified data, but then they can also link it to other administrative data sets.

We have proposed some amendments to the Bill because the Bill gives powers to the Secretary of State to provide those data from us or organisations like us to other parties, and we are very keen that that is done in a way that offers the same protections to students, particularly over their personal data. Some of the amendments that we have put forward suggest that it is made very clear that access to these data is for researchers and particularly only for public benefit.

UCAS is a charity and our trustees are concerned that UCAS should not have a sort of blank check available, such that data requests could be made on us at any time for multiple purposes, which would obviously increase our costs very considerably and those increased costs would inevitably have to be passed on to students and higher education providers.

The Chair: Thank you. Does any other member of the panel wish to respond to those points? I am conscious that we have to get a number of questions in.

Professor Sir Leszek Borysiewicz: Briefly, the data has a range of granularity and is invariably collected in this sector with a major contextual element. The sector as a whole is keen that where the data is provided, the pure context, which varies from institution to institution, is provided alongside, with a responsibility on the researchers to take into account all the elements. This is not a simple set of numbers merely to make headlines out of; it is something to be very carefully considered.

Sir Alan Langlands: In 2012 I chaired the administrative data taskforce for the Government. The proposals within that were accepted by Government, principally by BIS and the Cabinet Office. If the data, which largely derive from UCAS, are handled properly and within the framework set out in that report, and if UCAS's suggested amendments to the Bill are made, I think people would be content with that.

Professor Quintin McKellar: Very quickly, I would say that as long as the individual is protected, that is fine. I think, though, that the other point to bear in mind is that the effort of collection ought to be proportionate. In other words, it should be value for money, if I can put it like that, to collect the data.

Q36 Ben Howlett: I want to find out what your views are on the creation of UKRI, and your thoughts on whether it will bring a greater sense of oversight and more strategic direction as well. Professor McKellar, perhaps you can start off.

Professor Quintin McKellar: I am very comfortable with the creation of UKRI. It seems that bringing together the major funders for what you might call

blue-sky research with those that have responsibility for innovation and knowledge transfer is a good thing. What we must reassure ourselves of is that those two different activities are and continue to be funded in an appropriate way. We would want neither the blue-sky research—I am using “blue sky” in a generic sense—nor what might be classified as the business-facing research that is undertaken to be sacrificed at the expense of the other. Provided that we can get those reassurances, putting the whole thing together potentially provides administrative savings and seems a relatively straightforward and sensible way to go.

Q37 Ben Howlett: Do you agree with that assessment, Professor?

Professor Sir Leszek Borysiewicz: Yes, overall I would, but one has to remember that of the research funders in the UK, UKRI merely looks after the Government component side of the funding. For instance, 30% of funding sits with the charitable sector. What is important with UKRI, which is fine as is currently laid out, is that the support and the safeguards proposed in relationship to Research England are also very good. It has to be a body that takes into account the whole of the United Kingdom in its purview. It also has to work closely with other funders and other organisations that have a say in this important area, and it has to relate to individual researchers and research communities. It is a very important body, but it has to be born of the community to be able to provide the right guidance and advice that Ministers can call on in making decisions about policy and public direction. It has a role and I think it is a good structure that is proposed.

Q38 Ben Howlett: Does the legislation as it currently reads enable that to take place?

Professor Sir Leszek Borysiewicz: In the main, I would read it that it probably does. I would want to see a much tougher line in terms of the postgraduate student and the research environment in which postgraduate students find themselves, because I do not see where in OFS that expertise sits. It sits in UKRI, whose constituent members will after all be funding those postgraduate courses, so it has to have a role in assuring itself that the environment in which that investment is to be made is an appropriate environment for the UK as a whole.

The Chair: Does any other member of the panel wish to comment? Sir Alan.

Sir Alan Langlands: Going back to an earlier point, I think that this depends on very strong personal relationships. The relationships not just between UKRI and the charities, but with industry contacts, other parts of central Government, the Government’s chief scientist, and now, critically, with the EU and other overseas research organisations, are absolutely critical. That comes down to personal relationships.

I can remember a time when all of those different players were falling out with each other. We have now lived through a time, in England and across the UK as a whole, where the science and research community at a national level has really got its act together. We must sustain that into the future, so those relationships will be absolutely critical. To reinforce that point, now, given Brexit, UKRI has a hugely important part to play in promoting and looking after the interests of UK science and research around the world.

Q39 Carol Monaghan: Following on from that, I am looking at clause 84(2), which appears to give the Secretary of State the authority to add or remove a council from UKRI. Does that concern the panel at all?

The Chair: Does anybody wish to comment?

Professor Sir Leszek Borysiewicz: It is a very important measure. Clearly, that would be debated in the public context and among the scientific community. The question is, at what level within the Bill would the Secretary of State have to account for that to Parliament? It is a moot point. Also—still speaking as a Welshman—the role of devolved Administrations is important. A lot of investment goes on locally, not just in the devolved Administrations but in the regions, to ensure that the research enterprise can work. How that can all be brought together and, at the same time, have a body that is not so unwieldy that there are 100 members sitting round a table—which means that it can decide nothing—is very important. As my colleague Alan Langlands said, it is very much down to the individuals leading this organisation, who will have to be engaged, inclusive, and listen hard, both to the research community and communities outside the UK, if we are to sustain Britain’s enviable leadership in this area. Let us not forget that that is the real prize that UKRI has to fight for. We are in a fantastic position internationally; despite everything else, we really want to make sure that that is retained.

Q40 Carol Monaghan: You have answered my second question, namely: is there a requirement to have devolved Administrations represented on the board of UKRI?

Professor Sir Leszek Borysiewicz: That is an interesting one. If you are going to have a manageable board of 12 individuals—and I note that the Russell Group is proposing that the chair of each of the research councils sits on it, with which Cambridge would not agree—there would be little opportunity for additional input. If you have all four devolved Administrations represented, it tends to load the committee with particular areas. So the choice of members of that committee will be absolutely vital. These will have to be individuals who are broadly respected across the devolved Administrations, the different elements of research across industry and the different players, so that they are genuinely seen to be acting in the interests of UK research and our international positioning, first and foremost.

Professor Quintin McKellar: It is a really good point. The research councils have evolved into the shape they are in over a period of time and that has helped to deliver extraordinary success for the UK. What we would not want to see is any of the particular areas of research activity weakened as a consequence of one of the research councils or the remit of one of the research councils disappearing. As you have heard, that would be debated long and hard before it actually happened. The fact that there is legislative power in the Bill to remove the title of one of the research councils presents a challenge, but one that can be dealt with.

Sir Alan Langlands: I was the vice-chancellor of a Scottish university for nine years. It was absolutely critical that we were part of the UK-wide discussion and that we had access to UK-based charities and the UK research councils. Even given the dynamics of

devolution and the fact that essentially we are dealing with four different financial systems and four different policy frameworks, the one thing that has stuck together through all this has been the UK science and research community. The research councils, HEFCE and, indeed, BIS have played a hugely important part in that. It is very precious: the Scottish universities and the universities in Northern Ireland and Wales make a huge contribution to UK research output. Damaging that would be something we do at our peril.

Q41 Amanda Milling: Good morning. I want to go back to the creation of the single regulatory system. I want to understand how important you think it is, and why—the benefits, but also any points you want to raise in the context of the system.

Sir Alan Langlands: I think it is important, because for some time, through the growth of student numbers, the introduction of higher fees, the creation of the Office for Fair Access and the changing arrangements in relation to quality assurance, everything has been very untidy. Having sat at HEFCE for four and a half years, I would say that it was very difficult when something went wrong—sometimes things did go quite badly wrong in higher education—to find a locus for intervention. There needs to be a bit of sorting out. I think the Government have struck a reasonable balance, and putting students at the centre is sensible, but we need to be careful not to go too far, because the whole system is based on institutional autonomy. We already have a hugely diverse higher education system in this country, and one set of rules does not apply to every institution around the country; many of them have very specialist needs. My sense is that, yes, it is the correct thing to do, but we must be very careful, and I am particularly concerned about some of the changes that might begin to eat away at institutional autonomy.

I have three specifics to mention quickly. The first is clause 2; I really do not understand why the Secretary of State's guidance need

“in particular, be framed by reference to particular courses”.

Equally, in clauses 13 and 23, which deal with quality and standards, I am not sure that the current definition of “standards” in the Bill sits comfortably with the requirements and the dynamic of an autonomous institution. I would like to see that softened a bit; the Russell Group and others have suggested amendments to that part of the Bill. I hope we are talking about threshold standards, because there are some very clear benchmarks already in place for each subject. It is often a complex area, and we cannot move ourselves into a national curriculum mindset. There still has to be flexibility and innovation in how universities design their own programmes. We also often have to take account of external regulators in the development of professional programmes: regulatory bodies for engineering, for example, or the General Medical Council for the way we design medical education. There are many parts to this jigsaw, and universities are very good at it, in the main. The notion that another body, removed from the action, would somehow second-guess universities on standards and on the quality of their degrees needs attention.

The Chair: Order. I apologise, Sir Alan, but we have very limited time and a number of Members wish to ask questions. Does any other member of the panel wish to respond to Amanda Milling's points?

Professor Quintin McKellar: I support Sir Alan in what he said, and would say essentially the same things, with one exception—perhaps not an exception, but I emphasise that the Bill looks at too granular a level, in the sense of looking at courses within universities. We develop our own courses according to their popularity and according to the expertise within our institutions. Having the autonomy to develop those courses has helped our institutions become great, if I am allowed to say that, so I think removing it at that level would be a mistake.

Professor Sir Leszek Borysiewicz: If you remove that ability, you remove the ability of institutions to innovate and to remain at the cutting edge. It is therefore important to retain that right at the autonomous institutional level; it is also right to scrutinise it to make sure that it is appropriately continued. The powers seem a little over the top at times in relation to what is going on, because most institutions could not continue courses that were not financially viable.

Q42 Valerie Vaz: To touch on the split between research and education—you have made your views clear—is there anything that would help the collaboration between the two parts? Obviously, there is still a big gap about where postgraduates fit between the two. We would like people, rather than having lots of discussions and meetings, to just get on and do their work. This is not a leading question, but is it your view—this is to all of you—that it would be better if it sits in one Department?

Sir Alan Langlands: I think it may well be better if it sits in one Department. There have been instances in the past where the educational activity in higher education has been in one place, and science and research has been in another place, but not since 1992 have the questions of funding for teaching and quality-related funding for research been separated. That would be a big thing, and something that we have to be careful of. The Government are very clear about wanting to protect dual support, and that is welcome. We are dealing not just with quality-related funding for research. At the moment in HEFCE, there is funding related to charity support, support for research degrees, and businesses research and innovation. All those things need to be resolved. It needs to be very clear between UKRI and the Government who is doing what in those areas.

The Chair: Does any other member of the panel wish to comment on that?

Professor Sir Leszek Borysiewicz: May I just comment—

The Chair: Professor McKellar first.

Professor Quintin McKellar: Can I emphasise that while we have, to some extent, focused on the contribution that research makes to postgraduate teaching, it also makes a huge contribution to undergraduate teaching? We must not forget that. Ensuring that there is an appropriate relationship between UKRI and the office for students is going to be critically important. I cannot answer your question about whether it is important at a departmental level, but certainly at the level of the organisations it is going to be absolutely critical. We have suggested that there be commonality in membership between the two.

Professor Sir Leszek Borysiewicz: That is the point that I was going to make. If the two Secretaries of State can work together, this can be made to work, but it requires an awful lot of collaborative work between those two versions. Continually scrutinising it is going to be an important issue for Select Committees and other bodies.

Q43 Valerie Vaz: Briefly, on science, technology, engineering and mathematics subjects, there is a great opportunity to put things into this Bill to protect certain subjects. You do not operate on a basis on which you can make a profit on things like that, because all those subjects operate at a deficit. There are laboratory issues that you have to work with, and medicine is a long degree. What can we do that is not already in the Bill to protect those subjects? To the best of your knowledge, how can we protect the strategically important vulnerable subjects—for example, chemistry and physics?

Sir Alan Langlands: We probably should not get into the funding argument, but there is, I think, a funding shortfall in the top-up for STEM subjects, and that should be registered very clearly. I think people are aware of that. You struck an important point in focusing on the health of subjects. That is where the research community and those who oversee it and the education community need to come together. If you want to worry about the health of physics and chemistry, or other subjects, such as foreign languages, in the UK higher education sector, you need to do so from an educational and a research perspective. The two things have to work hand in hand. That is why the office for students and UKRI have to work together. At the moment, HEFCE is able to fulfil that role, but often it does so with reference to the wider research community and the charitable community.

The Chair: Order. I must remind the Committee that five Members have indicated that they wish to ask questions and we have 16 minutes left before I have to call order, so we need brief questions and answers.

Q44 Jo Churchill (Bury St Edmunds) (Con): Moving to a slightly different area, do you think the reforms in the Bill will help to drive social mobility and widen participation? I am particularly interested in capturing the more mature people in our workforce to ensure skills are kept up throughout a working life.

Professor Quintin McKellar: We would specifically hope that the Bill might include not only elements that drive competition but those that drive collaboration, because we think that collaborative activity can help us with our widening participation. To give one example, black and minority ethnic students have currently got an attainment disadvantage across the sector and we are working together collaboratively across the sector to try to address that. Without that sort of collaboration—if we were simply competing with each other—it is very difficult. Collaboration is hugely important, particularly in regard to social mobility.

Mary Curnock Cook: While the arrangements for making data from UCAS, for example, available to researchers will not change social mobility in itself, it does open up the opportunity to look specifically at different aspects of social mobility.

Professor Sir Leszek Borysiewicz: One potential advantage that we must recognise of the move of some of the education and OFS to the Department for Education is that it may well begin to address the continuum of education and the attainment shortfalls that largely reside within the secondary schools. If that promotes greater interaction between the requirements for entry into higher education and a greater understanding of that within secondary education and more cohesion at that level, that could be a real help towards closing the attainment gap of BME students.

Q45 Paul Blomfield: May I pursue the issue of the regulatory framework a little further? Obviously, this is the first major discussion we have had on this for some time and it is important that we get it right. It is in the context of a Bill that is also seeking to encourage new providers. What thoughts do members of the panel have on how we should get it right and whether there are any ways in which the Bill could be improved in relation to the entry point of the new providers, the overall oversight of the system and the potential for market failure?

Professor Sir Leszek Borysiewicz: This is a difficult issue. I think the provision of diversity in the sector is something that has stood British higher education well. Different institutions have different goals and directions and cater for different needs for higher education within the sector, from mature students at one end, to vocational courses, to those operating in a very academic sphere.

New providers have to be looked at in the context of what is the positive contribution they can make. Two important issues will be the demand from the sector for this new provision and, secondly, the standards under which those institutions are recognised. From my point of view there is a third which is very important: high standards have to be set for the sustainability of new providers in the sector. It is no good an operation starting with an income stream that is predicated on a business plan of recruitment without a sufficient resource to ensure that those entering in year one will be able to complete their studies and end up with a degree that is actually worth something when facing employers. Otherwise, this is something that becomes not helpful and potentially very detrimental to the achievement and attainment of those individual students. That is the one area on which I would like to see rather more stress paid; the sustainability of the provision by a new provider.

Professor Quintin McKellar: We would support the diversity and competition that new providers would bring to the sector. The concern we have is one that has been raised already: that they cherry-pick subjects. In terms of continuing to provide across the board STEM subjects of engineering, mathematics and so on, it is unlikely that the new providers will enter those areas, and that could be a risk for the rest of us.

Sir Alan Langlands: I think the Bill does try to strike the balance between rigour in relation to new entries and streamlining the system a bit. We have to be careful that we are not driven too much in the direction of streamlining without the rigour. The rigour has to be on quality and standards, access and participation, good governance. Linking to Professor Borysiewicz's point, it is hugely important that financial sustainability is seen alongside academic sustainability. This has got to be a long-term effort, if you are developing a new universe.

Mary Curnock Cook: Briefly, I would like to echo the points about sustainability, because I think it is absolutely catastrophic for students if their provider is forced to exit the market. A lot of higher education is very local. A lot of students go to university within a few miles of where they live, and there are not necessarily other providers where they could continue their studies if their institution fails.

The only other point I would make is about university title. I do not want to start a debate about “What is a university?”, but I think that most people, their parents, advisers, teachers and everyone else involved has a clear idea about what they think a university is. It would be of concern if students were applying to something that they thought was a university in the general understanding of the issue and found that it was something quite different.

The Chair: Three Members, 10 minutes.

Q46 Matt Warman: I want to return to the issue of data, but not looking at the social mobility aspect. We know that students struggle to come to sensible decisions in their own eyes about which university to go to. Do you feel the Bill will address the level of data that is available to students to allow them to make better decisions about which universities to go to?

Mary Curnock Cook: Honestly, the more data that is published—whether that is about who goes to university, who does not go to university, what qualifications they go with and their retention and success in their studies, which relates to the transparency clause—the more that organisations like UCAS have a much better opportunity to make that information available and accessible to students. A lot of students and the people who advise them think that they have information overload, because there are so many sources of it in the technological age. It is not as simple as just making more and more information available. The transparency duty and the ability of UCAS to make data available to researchers will be helpful overall.

Q47 Matt Warman: Would the duty put organisations such as UCAS in a better position to be able to translate the data and see what the worthwhile stuff is that students should perhaps look at first?

Mary Curnock Cook: It does not necessarily put UCAS itself in a better position, because we have most of the data. The critical bit for us is being able to link our data with the Higher Education Statistics Agency, which then allows us to track progress all the way through. We are talking to HESA about doing that so that the transparency goes right through application, retention and success and even to employment afterwards.

The Chair: Do any other panel members wish to comment? No.

Q48 Roger Mullin: The clear concern is about some of the managerialist assumptions that are built into the Bill. Can the panel help me understand what they think the Bill will do to help their institutions enhance quality development?

The Chair: Any takers?

Sir Alan Langlands: I think having a national system of quality assessment is important and has proved to be important in recent times. It is only as recently as 2014 that the new UK quality code was published. I think it is a good model that works extremely well, within reason. It certainly creates within institutions a clear sense of responsibility for the quality of provision. People sometimes misunderstand the extent and depth at which institutions tackle this issue on a day-to-day basis. I come back to my point about standards. I do not think that interfering further in standards will help UK higher education at all. I think it will just be an extra administrative burden that will take us nowhere. Being content with the current benchmarked approach, as I outlined earlier, would from my point of view be a better way forward.

Professor Sir Leszek Borysiewicz: In the main, what the Bill does within an institution such as Cambridge is about the broad statements that are made. There is the implication of trust in the autonomy of an institution. There becomes a partnership between the institution and the Government in trying to deliver an end outcome that is done on the basis of trust and not imposition. That is something that is implicit and really important.

Another statement the Bill makes is that diversity is valued. If you have new ideas for new courses and new areas, that is now going to be lauded and supported. That matters. The fact of dual support, and the positioning that those who work in universities will not be subject to an institute-driven direction in research, are an absolute recognition of the fantastic contribution which British universities make to research diversity.

On UKRI, the capacity to establish a voice in some of the major decisions the United Kingdom has to make about capital infrastructure for large-scale projects and programmes, and the capacity to be overtly engaged in some of those debates and discussions, are the take-away areas. Above all else, even in an institution such as Cambridge, we are hearing for the first time that teaching is as important as research. That goes to every higher education institution in this country. There are some very important statements in the Bill in the round, but I think that the specifics will have much less impact.

Q49 Wes Streeting: Mary Curnock Cook, you said it was important for applicants to know what they should expect when they apply to university. Do you think that that also applies to student finance? What challenges present themselves from the Government or universities being able to tinker with repayment terms and conditions after students have entered university?

Mary Curnock Cook: It does. You are absolutely right. UCAS goes to extraordinary lengths to make sure that students know how they can fund their tuition, and there are pages about this on our website. We are a UK organisation so obviously there are different arrangements in the four countries. It is not for me to comment on the tuition fees going up or down in line with the teaching excellence framework outcomes, but our concern is that we need to get the information early enough in the cycle so that we are able to tell students who are starting to apply for 2017 clearly what they are getting into. Right now—this week—we opened the UCAS application system for 2017. We need to be able to tell students about this so that they are making those choices and those applications with their eyes open. We just want to

make sure that, whatever decisions are made, we know about them and we are told early enough to make sure that students make informed decisions.

Q50 Wes Streeting: Is it right that universities or Government should be able to alter the terms and conditions after a student has enrolled on a course or after they have graduated?

Mary Curnock Cook: I do not think that that is really for me to say, but as I said we are on the receiving end of decisions that are made and do our best to—

Q51 Wes Streeting: Nicely dodged. We have a few minutes left, so let me ask Professor Borysiewicz why the university council proposed to move in the wrong direction when it came to access and participation targets for low-participation neighbourhoods?

Professor Sir Leszek Borysiewicz: Sorry, that was based on a series of information from more than 10 years of data collection, and what we thought was a realistic target that was subject to discussion. The universities agreed a 13% target on POLAR—participation of local areas—one and two.

Q52 Wes Streeting: When the university council made its approach to OFFA, how did the target move from the moment you first engaged with OFFA to the agreement you reached? What was the difference, and how would you characterise that process of discussion?

Professor Sir Leszek Borysiewicz: There was a productive discussion with OFFA over the issues that they saw as opposed to what the data indicated to us. As always, this was resolved by amicable discussion between OFFA and ourselves.

The Chair: I am afraid that this must be the final question.

Q53 Mr Marsden: Sir Alan, you said earlier that OFS was there to do what Ministers told it to do. I assume that you meant that that was the ministerial view, rather than the OFS view. Do you think that there are sufficient safeguards to the autonomy of the OFS in this legislation, in particular the autonomy of the director of the Office for Fair Access? This is very specific; you have had 20 years at the highest levels in these areas and you know that the devil is in the details.

Sir Alan Langlands: I do think that there may be an issue there which needs to be looked at. I was very clear in saying—and maybe this is born from experience—that the tone seemed to me to suggest that the Government were perhaps going to be more directive in relation to OFS than they were to UKRI. I think that that is fundamentally wrong. The strengths of the financial allocation system and the regulatory system in higher education have depended on HEFCE playing it absolutely fair, and working clearly to the Government's remit while representing the interests of the service.

Q54 Mr Marsden: Would the other panellists share that view?

The Chair: Briefly.

Professor Quintin McKellar: Yes. [*Laughter.*]

The Chair: As there are no further questions, I invite the Whip to move the motion to adjourn.

Ordered, That further consideration be now adjourned. —(*David Evennett.*)

11.24 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

Second Sitting

Tuesday 6 September 2016

(Afternoon)

CONTENTS

Examination of witnesses.

Adjourned till Thursday 8 September at half-past Eleven o'clock.

Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 10 September 2016

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The Committee consisted of the following Members:

Chairs: † SIR EDWARD LEIGH, MR DAVID HANSON

† Argar, Edward (<i>Charnwood</i>) (Con)	† Milling, Amanda (<i>Cannock Chase</i>) (Con)
† Blackman-Woods, Dr Roberta (<i>City of Durham</i>) (Lab)	† Monaghan, Carol (<i>Glasgow North West</i>) (SNP)
† Blomfield, Paul (<i>Sheffield Central</i>) (Lab)	† Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con)
† Chalk, Alex (<i>Cheltenham</i>) (Con)	† Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP)
† Churchill, Jo (<i>Bury St Edmunds</i>) (Con)	† Pawsey, Mark (<i>Rugby</i>) (Con)
† Evennett, Mr David (<i>Lord Commissioner of Her Majesty's Treasury</i>)	Rayner, Angela (<i>Ashton-under-Lyne</i>) (Lab)
† Howlett, Ben (<i>Bath</i>) (Con)	† Smith, Jeff (<i>Manchester, Withington</i>) (Lab)
† Johnson, Joseph (<i>Minister for Universities, Science, Research and Innovation</i>)	† Streeting, Wes (<i>Ilford North</i>) (Lab)
† Kennedy, Seema (<i>South Ribble</i>) (Con)	† Vaz, Valerie (<i>Walsall South</i>) (Lab)
† Marsden, Mr Gordon (<i>Blackpool South</i>) (Lab)	† Warman, Matt (<i>Boston and Skegness</i>) (Con)
	Katy Stout, Glenn McKee, <i>Committee Clerks</i>
	† attended the Committee

Witnesses

Pete Moorey, Lead on policy and campaigns work, Which?

Neil Carberry, Director of Employment and Skills, CBI

Professor Chris Husbands, Vice-Chancellor, Sheffield Hallam University

Martin Lewis, Founder, moneysavingexpert.com

Professor Philip Wilson, Chief Executive, UCFB

Angela Jones, Academic Director, Condé Nast College

Susie Forbes, Principal, Condé Nast College

Dame Ruth Silver, Chief Executive, Further Education Trust for Leadership

Neil Bates, Principal and Chief Executive, Prospects College of Advanced Technology

Sally Hunt, General Secretary, University and College Union

Professor Les Ebdon CBE, Director, Office for Fair Access

Alison Goddard, Editor, HE

Alastair Sim, Director, Universities Scotland

Dr John Kemp, Interim Chief Executive, Scottish Funding Council

Dr John Kingman, Chair, UK Research and Innovation

Professor Jonathan Seckl, Vice-Principal (Planning, Resources and Research Policy), Royal Society of Edinburgh

Public Bill Committee

Tuesday 6 September 2016

(Afternoon)

[SIR EDWARD LEIGH *in the Chair*]

Higher Education and Research Bill

Examination of Witnesses

Pete Moorey, Neil Carberry, Professor Chris Husbands and Martin Lewis gave evidence.

2 pm

The Chair: Welcome to our afternoon sitting. We will now hear oral evidence from Which?, the Confederation of British Industry, moneysavingexpert.com, and the chair of the teaching excellence framework panel and vice-chancellor of Sheffield Hallam University.

Would you like to introduce yourselves? The session is quite informal. Colleagues will ask you questions—already about six colleagues have said that they are interested in doing so. Obviously, we have not got a lot of time, so I ask for brief answers. I will leave it to you to decide, as a question is asked, which of you wants to answer it. Would you like to introduce yourselves quickly?

Martin Lewis: I am Martin Lewis, founder of moneysavingexpert.com and former head of the Independent Taskforce on Student Finance Information.

Neil Carberry: I am Neil Carberry. I am director for people and skills at the Confederation of British Industry.

Professor Chris Husbands: I am Chris Husbands. I am Vice-Chancellor at Sheffield Hallam University, and I have been appointed to chair the teaching excellence framework panel.

Pete Moorey: I am Pete Moorey, head of campaigns at Which?

Q55 Mr Gordon Marsden (Blackpool South) (Lab): May I say at the beginning of this sitting that it is a pleasure to serve under your chairmanship, Sir Edward?

Let me turn to our colleagues. Can I start you off with a question about the issue of students as consumers? Obviously, the language of the Bill talks, significantly—as the Government have—about boosting the rights of students as consumers, yet the paradox is that, in the past few months, some of the main controversies have been about the way in which students as consumers seem to be getting a raw deal from the Government, who have moved the goalposts in certain areas. With that in mind, would you like to comment, first, on whether the Government are right to put so much emphasis on students as consumers and, secondly, on whether there are practical measures in the Bill that strengthen their position as consumers?

Pete Moorey: I am happy to start. The fact is that universities have been covered by consumer law for some time—that was further confirmed by the passage of the Consumer Rights Act 2015—but the Competition and Markets Authority, partly as a result of research

that Which? conducted, has demonstrated that, on occasion, some universities have failed to comply with consumer law. That has gone across a range of issues, including the information that they made available to students, whether prospective or sitting; their terms and conditions; their complaints handling; and a whole range of other issues. We welcome the fact that as a result of the Bill we will have, hopefully, a proper regulatory structure to deal with that issue.

We very much welcome the creation of the office for students. We think that there has been an issue with regulation of this sector. Clearly, we now need to ensure that that regulator works effectively and has the powers to take action because, although we have seen some improvements from universities, in the way that they are complying with consumer law, we are still finding too much evidence from students around problems that they are facing. Therefore, action needs to be taken by regulators when that is found, so that students who are, obviously, now paying an awful lot of money are properly protected.

Martin Lewis: I think that raises lots of things. Students as consumers is a difficult one. It is a difficult to be a consumer where we should not automatically give a good consumer full choice: they should not choose what the make-up of their course is and what the academic standards are. The subtext to this question is the abominable and disgraceful behaviour of the Government in the retrospective hike in student loan fees. Looking at students as consumers, if they had borrowed money from a commercial lender, the Financial Conduct Authority would have struck out in a second the idea that, five years after announcing that the repayment threshold would go up from £21,000 in April 2017 with average earnings, that would be frozen.

Let us make no bones about it: that is a hike for students. They will pay more each month and the vast majority of them will pay more in total. In fact, the only ones who will not pay more in total are the very high-earning ones who will pay off their loans more quickly. There has been a lot of debate about whether the Government actually promised this or not. It was not in the terms and conditions, but the FCA regulations are quite clear: if your major marketing states that you will do something, whether the terms and conditions have an exemption for it—we have seen it with shared appreciation mortgages and others—it will be ruled out.

I am very pleased that last week—which was rather wonderful timing—I finally got my hands on this letter that I would like to submit as evidence, if I may. It is from David Willets, the former Minister for Universities, and is written to a parent telling them that the rate would go up in April 2017 with average earnings. If I were sitting in another forum I would be here lobbying you, if a company had done this, for mis-selling and for compensation for the students who have been affected. We have a higher education Bill, which touts throughout, and goes on about, equality and fairness. It is built on a lie if the Government and the state itself are not behaving fairly to students.

This is a retrospective hike. It breaks all good principles of good governance. It breaks all good principles of good finance. Moreover, not only that, but this breach of trust makes it more difficult for people like me who have been trying to say to students, regardless of the political spittle generated—forgive me—by you people

when you argue over these issues, that students can still afford to go to university. I get asked the question, “Can we trust what you say?” Well, how can they if the Government will retrospectively change terms?

Let us not just treat students as consumers; let us treat them as voters and citizens. The danger here is that, when you retrospectively change terms, when people have signed a contract with the Government and you breach that contract, you knock not only the faith in the student finance system, but the belief in politics as a whole. It is absolutely wrong and until that is sorted out, until student finance is put on statutory terms and until the Minister—who it is nice to see sitting there, and we have discussed this—gets his Government, in this new era of fairness and equality for all, which we hear about, to turn this abomination around, then no, students will not be treated fairly as consumers and this whole thing is a bloody farce.

The Chair: Okay. I will appeal for crisp answers. Are you finished with your question, Gordon?

Mr Marsden: No, I am almost speechless at that strong rhetoric that was used. I would like to press one—

The Chair: One more question—perhaps we will just get one answer to the next question, because there are a number of other people who want to come in.

Mr Marsden: The point that you touched on, Mr Lewis, is about the spirit of the proposals, as well as the letter of the proposals. It is in that spirit that I want to—

2.9 pm

Sitting suspended for a Division in the House.

2.30 pm

On resuming—

The Chair: Gordon, you have the floor for a brisk question and a brisk answer. As time is now galloping on, just one answer from our panel to each question, please—and a crisp answer. You decide between you.

Q56 Mr Marsden: Thank you, Sir Edward. Moving on from the consumer issue, I want to ask about where the panel sees the role of skills in the Bill. Mr Carberry, you have waxed lyrical on this issue on a number of occasions, but the fact of the matter is that the skills issues that affect us are, I would suggest, relatively untouched in the Bill. Are you concerned by that? Do other people have concerns?

Neil Carberry: You are right to raise it. Clearly, we live in different times from the last time we regulated universities. Participation at higher levels is much higher, and necessarily much higher now. Our key concern regarding skills is, first, making sure that the diversity of our university base is protected through things like the teaching excellence framework, and what it recognises as good provision. To ensure that diversity of provision is encouraged, we would very much like to see more focus on a statutory basis for the promotion of part-time learning, which is something we need to be thinking

about, as most of the people who will be in the labour market in 2030 are in the labour market now. Broadly, the approach of the Bill is one that we support.

I will put one other thing on the table, which is around research and engagement with business on the research side. A lot of focus goes into things like the higher education innovation fund and knowledge transfer, which helps businesses to develop their skills and production. We would like to see more focus on knowledge exchange and protection for the Innovate UK role so that that remains business focused and we get some really genuine business engagement out of the new system.

Q57 Ben Howlett (Bath) (Con): I want to move on to the alternative provider of student finance, which some of the panel have talked about heavily. Given that, over the years, a large number of religious students are not necessarily able to access that funding, I was wondering in terms of the Bill itself whether you support what is being detailed and outlined here, or is there anything that should be enhanced or improved.

Martin Lewis: Certainly on sharia finance, I think it is a very good move towards having an alternative. The provisions need to make sure that there is no benefit or disbenefit in doing so, and that it works on the same basis as for other students. I think that is important, because having been out there talking to people, there is often a question from non-sharia students, “Does this mean that they’re getting a better deal than us?” We do not want to get involved in that type of social division. On a straight basis, certainly having given many, many talks on this issue over the years, every time I go there and there are members of the Islamic faith there, if they are more religious they are disengaged from the student finance process and looking at parents funding them. That is not often possible, because we are talking about large amounts of money and, generally, it is bad finance for anyone to be funding up front—it does not work with the way our system works. Therefore, they are disfranchised from the system, so I wholeheartedly support it—it is something I have asked for in the past. I need to do more work on the exact structure, but presuming it is a sharia-compliant mimic of the existing system, I think it is very good news.

Q58 Carol Monaghan (Glasgow North West) (SNP): Since tuition fees were trebled in 2012, there is no evidence to suggest that there has been an improvement in either teaching quality or student satisfaction. Do you have concerns that we are tying in TEF to fees and that we could have a situation where there is no benefit for the students involved?

Professor Chris Husbands: To answer that from a TEF point of view, it is worth putting this into a slightly longer-term context. Since 1986, when the research selectivity exercise became the research assessment exercise that became the research excellence framework, there has been a performance management regime around research, which is a critical function of universities but only one function. What that has tended to do at some institutional levels is focus attention on career development through research. The bulk of university income, for virtually all universities, is from teaching. What the TEF is designed to do is provide a framework that encourages universities to focus on teaching quality, in

much the same way that the REF has encouraged them to focus on research quality. The fees issue is absolutely critical. What the tripling of fees for students did in 2012 was not to shift the amount of resource going to universities, because the fee backfilled the loss of T-grant. At some point, we as a sector are going to need to look at fee increases, because if there is a fixed fee against rising costs, essentially fees have been falling since 2012. What we are interested in the TEF doing is providing a mechanism for focusing attention on quality at a time when we need to look at the way in which the fee increases to meet rising costs.

Q59 Carol Monaghan: Are you confident that the metrics used within the TEF are going to tease out that quality?

Professor Chris Husbands: I will take that on two levels. It seems to me that the broad core metrics, which are about teaching quality, learning environment and student outcomes, are absolutely the right places to look in a mass higher education system. There is more work to be done on how you drive that out in terms of precise metrics. We have some indicators in there, largely from existing datasets. My assumption is that, as the TEF develops, pretty much as the REF develops, so the nature of the metrics will develop over time.

Q60 Alex Chalk: If I may step back for a moment, picking a higher education provider is one of the most important decisions any of these younger people—or, indeed, older people—can take. Do you think that students have sufficient information at the moment on which to make such a life-changing decision?

Pete Moorey: No. From our perspective, we think an awful lot has been done over the years to make information more available to students, but we think that a lot more can be done with that. One of the things that Which? does in the university space is provide Which? University: a website that prospective students can use to find the right course for them. That is really important. The critical thing that needs to be done is ensuring that more people and organisations such as Which? have access to a rich dataset, which they can be taking, analysing and presenting to students and parents, so that they can make the right choice. I think that more can be done in the Bill on that. There could be an amendment to clause 59, which could explicitly state that third-party information providers such as Which?—but not just us; there are plenty of other organisations that do it—could have access to this information so that we can make it more readily available to prospective students. Also, the office for students will need to look quite carefully at the range of information that is provided. We have a long list that we would be happy to provide to the Committee around a whole range of information that we think should be made available.

Professor Chris Husbands: May I gloss that with one sentence? I think that the issue is not so much about the range of information available but navigating that information. There is a vast amount of data out there; it is navigating it that is difficult.

Martin Lewis: There is a secondary issue, in that universities do not yet present themselves in the way that one would expect of large corporate entities. I have

been to open days where grand professors of a subject have come and spoken to the students. Once some clever students picked up and said, “How many contact hours do you have?” and the professor said, “Actually, I don’t teach undergraduates”. That was the person who was doing the talk on undergraduates, set up to sell. In other categories that would be a mis-sell; I think we have to be careful about that.

If I could go back to the earlier point for a second, I think that the language of the trebling of tuition fees is a rather dangerous one for institutions, because it makes the public perceive they have had three times as much money which, as we all know, is far from true. It was just a shift from the state paying directly to the state giving the burden to the student to pay and to pay back.

There is a bigger point regarding the increase of fees that comes with the ratings up to £9,250. I do not have much of a problem with that, because when you do the maths, only students who start on £35,000 salaries and who have above-inflation pay rises afterwards will pay any more from the increase to £9,250. The rest will not clear within 30 years anyway, so it does not have any increase.

The problem with this whole system—and this is an opportunity for me to say this—is that it is time for all of you to change the name. These are not student loans. They do not work like any other form of loan. They are paid through the payroll. It is somewhere between a loan and a tax, and the fact that we call it a loan scares people from non-traditional university backgrounds from going because they are scared of debt. More so, it also inures students to other forms of debt—credit cards and payday loans—because we have educated them into debt with the student loan.

Other countries call our system the graduate contribution. If I call the system a graduate contribution it is much easier to explain, because that name actually fits the product. When we start to talk about tuition fee rises and we have this hideous language of “you will be £53,000 in debt,” this is a meaningless figure. Some people will pay nothing back while others will pay hundreds of thousands of pounds back, with the interest on top.

It is time to change the name for the benefit of our future generations so they understand what they are getting. Call it a graduate contribution. Of course, some parties are suggesting a graduate tax. It is not that dissimilar, except a graduate contribution stops and a graduate tax does not. This is a good opportunity to start looking at the language.

I know politicians are scared of this, especially those from the parties that introduced it, because they fear it will look like they are trying to spin, but we have a duty to our future generations to start calling the product what it is.

The Chair: Okay Mr Lewis, thank you very much. You have made your point in a very articulate way, but lots of people want to ask questions.

Q61 Paul Blomfield (Sheffield Central) (Lab): Can I probe Chris a little bit more on the teaching excellence framework? When we conducted an inquiry on the Select Committee into teaching quality, there was uniform agreement that it is good for the Government to focus

on teaching excellence, but concern about the metrics. It is welcome that Government thinking has been evolving and did so during the course of our inquiry. You were suggesting there is room for further evolution. I am thinking particularly about how satisfied you are with the pretty crude metrics around employment retention and the national student survey. There is also the balance between the quantitative metrics and qualitative assessment.

Professor Chris Husbands: My brief is to deliver the TEF in a transparent, robust and reliable way. What I said and what I would defend is that the three broad areas—teaching quality, learning environment, student destinations—are absolutely the right place to look. I am also comfortable with the fact that we have started with already existing datasets: essentially, the national student survey and the destination of leavers from higher education. That gives us a purchase on what are some really difficult issues.

My professional judgment is that, as we go forward, we will refine the metrics within those broad indicators. The TEF will work by getting the initial fix on institutional performance from the core metrics. There is then a providers' submission, which allows providers to draw on a range of quantitative and qualitative data that will allow them to gloss those data or throw further light on them in ways that paint the institutional picture.

I am broadly comfortable that this is a very difficult task that we have started in broadly the right place. As ever in these things, as you take the logic of applying this technically, bringing professional judgment into play, we can deliver this in a way that does what it is intended to do—providing better information for students; encouraging an institutional focus on teaching quality; and drawing all that together in a frame that looks at student outcomes.

Q62 Paul Blomfield: You mentioned earlier a comparison with the REF. To get to the current stage with the REF took a considerable amount of time. Do you think we are rushing it with the TEF before moving on to stages two and three?

Professor Chris Husbands: At the risk of giving a slightly technical answer, the REF always began with peer review and it has increasingly supplemented that with metrics. Given the range and amount of data we now have across the sector, the TEF is doing this the other way around, starting with metrics and supplementing it with peer judgments.

We have a published timetable. We look at institutional judgment in year 2; judgments that we will reach in the early part of next year. We will then work with the sector to work out how we can most effectively move that to institution level and probably at a slightly later date move that to incorporate postgraduate teaching quality as well. I am broadly comfortable with the timetable, while accepting that these are technically difficult questions.

Q63 Paul Blomfield: Will you be able to take account of the work that HEFCE is doing on value-added?

Professor Chris Husbands: We will certainly be able to take account of the HEFCE learning-gain work. There is some really interesting stuff coming out of that.

The Chair: We have only 10 more minutes for this session.

Q64 Mark Pawsey (Rugby) (Con): I would like to know whether the changes we are making will provide our businesses with more qualified people with the right qualifications to enable our economy to grow. Mr Carberry, is the CBI satisfied that the Bill does that?

Neil Carberry: We are broadly supportive of the Bill. Our members feel that—

Q65 Mark Pawsey: What else would you like? What is not there that you would like to see?

Neil Carberry: Higher education is a critical part of our industrial strategy. We support the TEF. As Chris has just said, we favour an element of narrative alongside the metrics to allow for acknowledgement of things such as student entrepreneurship and engagement with careers. These are really important things for universities to be thinking of alongside pure teaching and student experience.

I come back to the point I made earlier. We need to make sure that the Bill works for students on all parts of the life span and not just those who go at 18. We need to make sure that the office for students is looking at making sure that part-time and later life learners—

Q66 Mark Pawsey: Do your members think that once the Bill is implemented, they are more likely to get the kind of graduates that they need than they would have had previously?

Neil Carberry: I think broadly that is the case. We would like to see a move on part-time. We would also like to make sure that the development of the TEF is an inclusive process that includes business throughout its development. As Chris has just said, it is a long path. I think broadly business feels we have got to a very positive place on the REF now. We would like to go in the same direction on this.

Q67 Dr Roberta Blackman-Woods (City of Durham) (Lab): Returning to the TEF, do you think it is going to raise teaching standards or is it going to provide a mechanism to increase fees? Could we end up with a very complicated system of fees, where the levels are changing from one course to another or from one year to another, leaving quite a difficult situation for students to comprehend?

Professor Chris Husbands: The policy intention is to provide clearer information for students. The question some way down the track—I do not think the sector has begun to think this one through—is whether once you move to discipline level TEF you end up with discipline variability in fees. There is experience on this. If you look at the postgraduate or international market, which are unregulated in terms of fees, there tends not to be, with one or two exceptions, institutional differentiation—*intra-institutional differentiation*—on fees, so I think that is unlikely.

As I said earlier, at some point, the reality of higher education economics is that we have to have a framework for increasing the fee basis. We cannot be here in 30 or 40 years' time on £9,000 fees when prices are considerably higher. The challenge for me and the panel is to make

sure that as those fees increase, the institutions are appropriately focused on developing and further enhancing teaching quality.

Q68 Mr Marsden: At the risk of making this a TEF love-in, I would like to pursue a final point with Chris. The elephant in the room on TEF, which has not surfaced today, although it has at many other meetings, not least the meeting of vice-chancellors with the all-party parliamentary group, is the basis on which the TEF is produced. If we go back to the consumer conversations we had earlier, if you were a consumer, you would not just want to know whether chocolate was good or bad for you, you would want to know whether dark chocolate or white chocolate was. This inevitably raises questions about whether you do the test on the basis of disciplines, which would probably be hugely complicated, or perhaps by schools of humanities, et cetera. Have you any thoughts at the moment? Have the Government given you any guidance on where they want you to go with that?

Professor Chris Husbands: I will make three brief points if I may. First, the Government did not need, I suspect, to appoint a serving vice-chancellor to chair the TEF panel. I have taken that as an indication that they want to work with the grain of the sector on this. The second point is that we have said that as we move beyond year 2 and from institution to discipline level we will be working as far as we can to co-design this with sector bodies—with individual institutions, mission groups and the sector. That is very important.

The third thing—I genuinely do not have an answer to this, and as this is a TEF love-in, I am very happy to come back for another one—is this. There are some challenges that we have to negotiate in relation to discipline level, because one of the things that Neil's members value is the very broad variety of course provision in universities. There is a real danger—I am keenly aware that we have to avoid this—that you produce an assessment regime that leads institutions to make their offering less entrepreneurial and more small-c conservative, whereas what we need to be doing to meet the demand in a very dynamic economy is increasing the diverse provision at discipline level. We have to get that right and we have to work at it. There are a range of ways—I have had some discussions with civil servants about what it might look like, but we are not in a position yet to say what it looks like.

The Chair: We have time for one last question and answer.

Q69 Amanda Milling (Cannock Chase) (Con): I too want to pick up on the subject of the TEF. This question is for Mr Carberry. We talked about metrics at length in the Select Committee. From a business perspective, what is your view of including employability in assessing teaching excellence?

Neil Carberry: One has to approach employability with a certain amount of care, but to me, there are three things that would be a sign that universities were engaging with employability. The first would be that they have a robust careers framework placed around students and focused on destinations—not necessarily coming to one of our members, but maybe doing other things in future, including student entrepreneurship, which really matters.

The second thing would be business engagement. I am thinking back to the other parts of the Bill, on research, where our concern is making sure that the business-focused part of the Higher Education Innovation Fund and Innovate UK is not lost. We want to see that travelling across into the teaching side. Where there is genuine business engagement in courses, we see innovation; we see accelerated courses, which we have not seen since the fees reform. All of that over time ought to encourage businesses as and when they have apprenticeship levy funds—a subject on which I have many opinions. At higher level, the apprenticeship level, it ought to encourage businesses to lean in to work with universities more, to do more engagement.

The third thing—going back to the Wakeham and Shadbolt reviews on some of the science, technology, engineering and maths work—is this: how often are curriculums in universities being refreshed to match up to the needs of, the nature of, UK business and UK society more broadly?

Those things, I think, are good proxies for employability. I would probably also say that measuring students' employment outcomes six months after they have left university is a little soon; we need a longer view than that.

The Chair: Thank you, gentlemen. That concludes this session. We are very grateful to you and we apologise for the interruption.

Examination of Witnesses

Dame Ruth Silver, Neil Bates, Professor Philip Wilson, Angela Jones and Susie Forbes gave evidence.

2.54 pm

The Chair: Welcome to our fourth panel of witnesses. We will now hear oral evidence from the University College of Football Business, Condé Nast College of Fashion and Design, the Further Education Trust for Leadership, and Prospects College of Advanced Technology. Ladies and gentlemen, would you like to introduce yourselves very briefly?

Dame Ruth Silver: I am Ruth Silver. I am co-chair of the Skills Commission with Barry Sheerman, and I am the president of the Further Education Trust for Leadership.

Neil Bates: I am Neil Bates. I am the chief executive and principal of Prospects College of Advanced Technology.

Professor Philip Wilson: I am Philip Wilson. I am the provost and chief executive of UCFB, and also the chair of Independent Higher Education.

Angela Jones: I am Angela Jones. I am the academic director of the Condé Nast College of Fashion and Design.

Susie Forbes: I am Susie Forbes. I am the principal of the Condé Nast College of Fashion and Design.

The Chair: I am afraid that I am bound by a programme motion which is quite rigid in its timings, so I will call for crisp questions and answers. The entire panel does not need to answer every question, so let us have perhaps one person answering each question. We want to try to let in all of my colleagues who want to ask questions. First, Gordon Marsden.

Q70 Mr Marsden: All the members of the panel are—I will not say not in the mainstream—not in the usual stream of what people think of as higher education. I want to ask two questions to two sides. To witnesses from what might broadly be described as the vocational and further education sector, do you feel that this Bill has enough for you? There has been a lot of talk about alternative providers, but there is not much detail in the Bill about skills or about how FE and vocational education can help with the promotion and expansion of HE.

To our other witnesses from UCFB and Condé Nast college, a further question. You operate at the moment as independent providers in a different field. Some of your fees, not least those of Condé Nast, are fairly eye-watering. How would you feel about your institution and others being brought into the central process, where you might be regulated more than you are at the moment?

Susie Forbes: I can speak for Condé Nast college as its principal. I feel that we are already pretty regulated. Yes, we are operating as an independent, but we have already had to adhere to QAA and all of the other normal bureaucracy that everybody else is facing, so we are already in a highly compliant and regulated industry as part of the HE field. I believe that the idea is to bring in more streamlining and more ease for people such as us, so that we do not have to depend on HEFCE, QAA and everybody else. When we have a tiny team of 10 people it is quite hard to deal with the multiple systems of the HE pattern, so in principle that streamlining and ease of the OFS might help us. I do not get the impression that we are about to get a new fee structure imposed upon us, because we remain a private provider.

Q71 Mr Marsden: That is perfectly true, but it is also true that one of the aims of the Bill is to widen access and participation. The fees for your school are £27,000 per year. Clearly, at the moment you are probably not in a very good position to do that. If you come into a mainstream system, how will you be able to address that particular aspect of the Bill?

Susie Forbes: The way we do it now is to offer three full, free scholarship places. Out of 100 students that is not a bad proportion. We are also interested in looking at projects beyond the bricks and mortar college in Greek Street, and earlier somebody mentioned the apprenticeship levy. There are all sorts of things that we could do beyond our building. We also only set out to be a very—we give incredible value for money, and that is what all of our students say.

Mr Marsden: It is a very niche offering.

Susie Forbes: It is a very niche, very specialist offering. We sit where we sit.

Angela Jones: There are also economies of scale.

Q72 Mr Marsden: To be fair, perhaps I should bring in Philip to give us his perspective on that.

Professor Philip Wilson: We very much welcome the new HE Bill opportunity. Again, we are very highly regulated. We proactively subscribed to QAA oversight four years ago, and we are looking to start the TDAP process in the next six to 12 months, hopefully with the university title following that. So we are very much conforming to the checks and balances of wider higher

education. We charge a £9,000 fee through our validation partner, so any fee changes would be in line with any public provider.

Dame Ruth Silver: There is lots to welcome in the Bill in relation to further education colleges. Neil and I represent the college sector and the independent sector. The college sector, of course, has its roots in Victorian mechanics' institutes, so we have long been around in this field. The Bill does much to lift lots of parts of the college sector.

I welcome the plans for regulation, though I am concerned about its fairness, both in terms of costs and data. If we look at the numbers of what is going on in colleges, 220 colleges offer HE provision, and 70 of those have more than 500 learners, but a lot have much smaller groups of learners, and for them to be paying the same fee as everybody else is really prohibitive. So, fairer regulation that is fit for size, context and purpose is what we are looking for in the FE sector.

Neil Bates: We are the first new college of advanced technology to be established since the Further and Higher Education Act 1992. We have been established to try to address a fundamental problem within the skills system, because we think there is a fundamental faultline that runs through it. On the one hand it unhelpfully channels people between an academic and vocational route, while equally a significant skills gap exists, particularly at technical professional levels 3, 4 and 5, which we need to solve. The UK economy is not going to be globally competitive unless we have people with the right skills to respond to that challenge.

We approach this not just from the point of view of the student, but from the problem we are trying to solve, which is that, in the engineering sector alone, we need 80,000 new technicians at levels 3, 4 and 5 in order to support businesses. The faultline has occurred because, after the 1992 Act, polytechnics became universities and a whole gap opened in HNC and HND level of provision. Further education colleges saw part-time participation in HE decline dramatically and the consequence is a gap between apprenticeships that are high volume and low level and an HE system that is high level but remote from the needs of business.

Q73 Mr Marsden: But what do you see in the Bill that is actually going to change that? Is there much read-across from the Bill and, for example, some of the proposals from the Sainsbury review? When you look at the forecasts in the technical documents that go with it, the number of FE colleges that are guesstimated to be providing HE courses in 10 years' time is more or less exactly the same as at the moment. The concerns of many people are that this is a Bill that is predicated for alternative providers, but the FE sector does not really seem to be at the table.

Dame Ruth Silver: I have been both surprised and shocked at two things: first, the lack of mention of skills generally in the Bill, and secondly, the lack of knowledge or appreciation of what colleges do. To give some figures, 10% of HE graduates in 2014-15 came through colleges—180,000 learners every year. Those learners are different from the traditional, rather “boarding school” model of universities. They are part-time working while they have families, they are women returners and so on. Colleges widen access in crucial areas and areas where there is a cold place for communities. They are

local, they are everywhere, and they are actually well used to the coming challenges, too. Neil talked about the polytechnics, which came from colleges of advanced technology, but the CATs came from technical colleges, so we have a long tradition of moving in, challenging and enriching the spread and fairness of offer to all in our communities, especially those in cold spots.

We are nearly ready. Look at the number of colleges that award higher education qualifications. I am hoping you will look, too, at thinking further about colleges having degree-awarding powers as well, again fitting employers' and local community needs. This could be rather like the Olympic legacy planning. Start early and work with local communities; bring them in and bring them on. Go downstream and give people a fairer chance in the way that local colleges and local training providers can.

Q74 Amanda Milling: Good afternoon. I want to take a slight step back. Could you outline some of the barriers and challenges that new providers face in entering the market? How do you feel the Bill and the reforms will address these?

Angela Jones: We have just been through the whole process of finding a validating partner for our degree, and it was really difficult. There was no one place to go. There was no guidance. It was just a case of trying a few different bodies and trying to find some place that would support us. There was nothing central—no one that you could go to and say, “This is what we are looking to do. Can you advise us and help us through that process?” For us, the idea of an office for students in a central place to go and be supported through that process is very helpful.

We got a very different response from different universities. We started our own piece of research into the places that would suit us. We shortlisted five different universities that might work with us on the validation of our BA, and the responses that we received were wildly different. Some people just did not want anything to do with us; with some people we could not even find the information, despite them doing it as part of their business. Finding the partner initially was the biggest challenge. Anything that can address that for alternative providers is very important.

Professor Philip Wilson: We have been through the same process with finding a validation partner. The fees quoted by vice-chancellors for a validation partnership are very different. Because these agreements are often for a four to five-year period, business planning in the long term, particularly around capital expenditure on buildings, staff recruitment and staff planning, is very difficult. It almost encourages a shorter-term view of your business strategy, rather than something longer term. I totally agree about having a centralised place where there could be a list of universities that would be prepared to enter the validation market. That has become more difficult since the student number controls came off, because universities do not necessarily need the income. We have seen a number of institutions pull the ladder up from colleges on validation powers with pretty much no notice, which has caused a number of issues—it filters down to the students and causes disruption.

Neil Bates: Can I pick up on Gordon's question? We as an organisation provide a whole range of high-level HE provision, but it is all delivered in the workplace context. All of our students on HNCs, HNDs or indeed our new degree apprenticeship in embedded electronics

are employed by the businesses we work with. Our relationship with those businesses is extremely close. We support them in all their workforce development. We will be applying to have our own awarding powers because of our concern about the ability and capacity of universities to deliver degree-level programmes in a workplace context.

We spoke to two universities about our degree apprenticeship. One wanted to deliver it over six years and the other wanted to deliver it over four years. All of them wanted the apprentices to spend a whole year at the university, which is not what businesses want. Businesses want a responsive way of training their workforce up to degree level, and universities either have to become much more flexible and much more responsive or they are going to face competition from other organisations that are prepared to do that.

Q75 Ben Howlett: One question that came up a number of times earlier today is about social mobility. We often hear in the media that we should be focusing on the red brick and Russell Group universities. We hear a lot about that, but obviously organisations and institutions in the same sectors as your own have a responsibility to do that, too. What I would like to hear, further to your reading and understanding of the Bill, is how that is going to be enhanced within your sectors as a result of this Bill being introduced.

Neil Bates: One of the ways that is enhanced is that colleges are much more responsive to their local communities and much clearer about the needs of the local community and those areas of disadvantage. In our own college, 53% of our students come from disadvantaged areas, and we target those areas deliberately to try to encourage mobility.

The other issue is that if someone comes to us and does an advanced apprenticeship over four years and then goes on and does an HNC, they are earning from day one. On one of our advanced rail apprenticeships, they are earning £18,500 in year one; they are earning £40,000 by the end of a four-year apprenticeship; they have no debt, and they have four years of employment experience. That makes it much more accessible for young people to follow a higher education route without having to take on debt, live away and all of that. It is a much more responsive approach to linking the needs of individuals to those of the economy.

Dame Ruth Silver: The FE colleges, of course, have the long tradition of the dual mission: widening participation into education and widening participation onwards into economic life. Doing that at a local level, and with local employers, we offer part-time short courses and full-time courses flexibly to people who have needs other than learning needs—social needs and support for care. Colleges too are closely linked to employers in order to enable links for job offers. You will find employer days in colleges: employers coming down to offer opportunities to people.

The benefits of colleges are that we are local, we are everywhere, and we do evening classes, part-time classes, weekend classes and short courses. We are responsive and offer a variety of entry points.

Q76 Ben Howlett: I am glad you are but social mobility is not just about socio-economic factors; it is also around the public sector equality duty. In terms of

BME for example, and in relation to women within STEM as a prime example of under-representation, do you see this Bill presenting new opportunities to enable greater participation in other areas, not just in socio-economic terms?

Dame Ruth Silver: I think it is what I meant when I talked about cold spots. My own college was in downtown Deptford and we had a high percentage of all that you mentioned and a long tradition of engineering and construction down in docklands as well. It opened up all sorts of opportunities: good relationships with universities and with local authorities, for example, made movement and change much more available. Also working with people in work, with employers—a different stage from Neil—we were able to work out special compact programmes as the area needed, and as people like the planning authorities decided. That flexibility and the fact that most of the members of staff there—and I am concerned about how you get staff ready for this increased participation in vocational education—of course, had come through the vocational route and its strong contacts.

Ben Howlett: Any comments from anyone else?

Neil Bates: I just wanted to pick up on the gender issue as it is a real issue. We always start by asking, “What is the problem that we are trying to solve?” As a practical example, in the rail industry there is a huge shortage of technician engineers, partly the result of having an ageing workforce that is about to retire without the investment in training over the last decade, and they are finding it extremely difficult. Yet at the same time there are no more women working in the rail industry than there were at the end of the first world war: only 4% of women are technician engineers. We need to be saying to employers, “You’ve got to play your part. There is 50% of the workforce that you are largely ignoring.” We can do some of that work in producing those pathways for young women to go through into that industry because we are connected to the local economy.

Professor Philip Wilson: One thing that alternative providers do very well is the recruitment of students from a very wide, diverse background. It is not death by UCAS points, because we are smaller. To judge an 18-year-old on 16 hours—which is eight exams on four A levels—is short-sighted, because they have been on the planet for 18 years, and we look at people with a holistic approach. In the same way, if you apply for a job your degree or your postgraduate qualification gets you in through the door but you are employed based on who you are as an individual, and that is what employers look for.

We do very well on that: we have got 94% employability for our graduates. On the day of graduation last year, 90% of our graduates already had a job on the day of graduation. That is because we recruit people who are suitable for the industry because we ask the industry and then fold that back into the way we recruit the students, so we work on being work ready for day one. That encourages people from very diverse backgrounds.

I would probably also touch on the reporting of the ranking of how institutions are perceived. Take what is called “good honours”—first class degrees and 2:1 degrees. If we are going to look at wider participation, then the dichotomy is that we get clobbered at the other end by

having students with lots of 2:1s, 2:2s and thirds. For me, the impact on an institution is: what does that institution do for a young person for three years in their building? If you have a good public institution that recruits people with straight As and they all go through an automatic path and get first class degrees, where is the impact? If you get students from a wider participation background and they get a 2:2, that could be the absolute pinnacle of their academic achievement, and will change their life. So the way that educational success is understood needs to be examined at the other end of the process.

Q77 Paul Blomfield: You made a very powerful point, and contributed to the discussion that we have been having around the TEF and its metrics. I wanted to raise a different point which is around part-time students, because whatever the other impacts of the 2012 changes to fees and student funding, which we could debate, the consequences for part-time students have been devastating—I think everybody agrees on that. Do you see anything in the Bill that addresses that issue?

Dame Ruth Silver: It depends on who else you let into the sector. The Bill is predicated on a very traditional model of HE. It is not systematic or systemic reform. So bringing in new providers, particularly colleges is quite important. It is easier for FE students locally to manage some of the costs. There is quite a gap to be caught up with since 2012, and it has been difficult for part-timers to do this. Full-timers are much easier to serve. So there is a real catch-up there, but this notion of “local is easier, flexible is easier, part-time is easier” will, on the whole, happen in non-traditional HE.

Neil Bates: I do not have the exact figures, but if you looked at participation at levels 4 and 5 in FE some 10 years ago, you would have seen large numbers of people who were in work, coming into their FE colleges in the evenings, attending twilight sessions to get their HNCs and HNDs and so on. That whole system evaporated as colleges were driven towards full-time students and away from workforce training. We are living with the consequences of that now.

Dame Ruth Silver: May I comment on the disconnect between the skills world and the reforms going on there? There are 3 million apprentices to be trained: those are high-level, in great part. The Institute for Apprenticeships is about to start as well. That is not connected to this. It is a traditional model but it is also a very closed system of higher education, and it is in the other areas where you find a more flexible, responsive curriculum on offer. That responsiveness is key to dealing with the long problem we have had here relating to technicians in the economy and also high-level skills qualifications.

Q78 Dr Blackman-Woods: I wonder if it is entirely accurate to categorise universities as boarding schools, having no links with business and not having employability as part of their agenda. The picture of HE is actually quite diverse, and that is creating a bit of a problem for the TEF. I wonder whether some of the issues that you are raising could be addressed by making employability, for example, central to the TEF.

Dame Ruth Silver: It depends which part of the UK you look at. I know you have got colleagues coming from Scotland where the third highest number of graduates

come through the FE sector and come through a relationship jointly with universities called articulation at high-level skills qualifications. Wales is different as well. It varies; there are national variations in what is going on.

What has happened with all the reforms in universities is that today it is easier to take more and more bachelor degree, full-time younger people. There is an impact. It depends where you are looking for impact. I am very focused on access and social mobility and those are the things that universities are not strong at, certainly in England. They are very closely connected to employers in postgraduate roles and in research.

Q79 Mark Pawsey: I want to ask the representatives of the independent sector here today how representative are you of the sector? How much bigger could the independent sector be once the Bill is enacted? Are you the tip of the iceberg, or are you just going to be able to grow a little bigger and do a little bit more than you used to be able to do?

Professor Philip Wilson: The majority of the independent sector are specialist in a narrow field, in which case there is a glass ceiling of how many people want to work in a certain industry, whether it be in the arts or within our degree portfolio. I think there will be a natural point where, because employability will be everything, we as an institution have to be very careful of market saturation.

We have actually self-imposed a cap for the number of students we will take in the UK because of that. The majority of the independent sector have no ambition to become the University of Manchester with 30,000 students. With an independent HE hat on, anyone who says different to that is maybe not representative of what the independent sector feels.

Q80 Mark Pawsey: Why is this Bill so important to you?

Professor Philip Wilson: It is about a level playing field, absolutely. We want to be considered and judged and monitored the same as everybody else. That then leads through to more informed student choice. I get frustrated at open days talking to parents who spend more time researching their summer holiday on TripAdvisor and look for more information than they will do on their university of choice. We need to educate the parents and the families on how they choose their institutions. It is not just based on longevity—how long an institution has been around.

Angela Jones: For us it is about a change in emphasis away from research and into teaching quality and excellence because that is what we do and do well. We are providing an excellent environment for students to learn in and that is our focus. Higher education has always traditionally been judged on research output. If we are being judged against people based on research output, essentially we have to compete on a different level and the TEF is better.

Professor Philip Wilson: I also think the QAA need to expand and broaden their assessment when they come into an institution. We have had some very successful QAA reviews but when they do not actually go into a classroom it beggars belief—I just do not get it, because that is what the student interaction point is; that is

where the customer service interaction is. I really would support the QAA getting into the classroom, sitting at the back of the room and understanding what the teaching quality is like. So that students are not having PhD students doing the majority of their teaching. Institutions must be held to account of qualified people standing at the front of every room.

Q81 Mr Marsden: Both our colleagues from the FE sector have laid stress on the way that higher degrees can be delivered through very strong local connectivity. To be fair to the Government, the Government have banged on in the Bill all the time about higher skills but there are issues at the moment, I would suggest, around the implications of Brexit for funding. The figure that I had from the Government just before the referendum was in the region of £725 million of ESF funding.

We have heard from colleagues this morning about the support that the Government are giving to the university sector in terms of research. Are you concerned that a lot of that money that fuels the sort of work that you do will go west if there is not a renewed effort on that part by the Government?

Dame Ruth Silver: It is a growing concern certainly in colleges, where European social funds come through local authorities and through universities. A lot of partnership work is funded by that, so it is a great concern. What will be removed would be those new initiatives that seem to have an impact on bringing people in, dealing with individuals but helping employers as well. Diversity of employers in Lewisham has certainly been helped by that. It is the loss of the layer below that will infect and affect progression for those communities. There is a concern that that money will be lost at the same time.

Q82 Mr Marsden: So you are looking for similar guarantees to the ones that the HE sector and universities have had?

Dame Ruth Silver: Absolutely.

Neil Bates: I would like to link this back to the previous question on why we are interested in offering degrees in our own right. Part of the answer to that is that we are not much interested in providing a traditional degree like the universities. We are not trying to compete with universities like that. We are trying to create a legitimate pathway for young people who do not want to go down the A-level, university and degree route, but who want to get their professional development, high-level skills and degree through a work-based route. Frankly, we are better positioned to be able to provide that kind of experience, through the College of Advanced Technology, than many universities are.

In our experience, the universities' default position has been to go back to the traditional model and to offer that as the diet for people who want to do a degree. We are looking to do this in a different way. There is a mile of difference between the funding of a university compared with the funding available in FE. One of the real challenges for us is levelling that a bit so that we can actually provide the quality of experience that they would expect.

Q83 Dr Blackman-Woods: We have heard quite a lot already about a level playing field. For the independent sector, it is generally about regulation. Do you think

that we should look at a level playing field in other ways? If a student goes to university, they have access to a whole range of cultural and sporting activities, they have intensive student support and they can exchange with other universities. Should not that be a set of demands that we also place on the independent sector?

Angela Jones: I think they are getting something different, and that is the point. We do not do what big universities do. They come to us because they do not want to go to a big university. We can give them other experiences and arrange for other things for them to do that our small numbers allow, but our small numbers do not allow us, for example, to have whole departments to support student activities such as sports clubs and things like that. We do everything that we can to provide access to those things or point our students in the right direction. We have a really particular set of students and that is not why they come to us. They do not want those things from us. They have a different set of expectations and demands.

Q84 Dr Blackman-Woods: So is it not right then that you remain outside the main university sector and you are never categorised as that, and that it is clear to the students that, although they may be getting specialist education, it is not the same as getting university education?

Angela Jones: I would not go so far as to see it that way. They are still getting a university education in the sense that they are getting a degree and a really high standard of education in the classroom. It is the extra-curricular things that are different.

Professor Philip Wilson: I would agree but also disagree. Purely from a UCFB perspective, we provide all those additional services for students. We have very successful teams—male and female—in football leagues and other sporting areas. A degree means different things to different people. Some people just want to get a piece of A4 with the word “degree” on it. Some people want to have the specialist vocational experience and knowledge, particularly in the arts and music sector. For other people, it is about growing as a human being.

When I speak to parents at graduation, they do not talk about the great lecture their son or daughter had on gearing in their finance degree in year 2. It is more about how they have grown up as an individual, so our enrichment is different. I have created what we call the complementary curriculum, which runs parallel to the academic curriculum and is a three-year journey of personal and professional development. We give our students double the contact time of a traditional institution. That includes everything from essentials of public speaking certificates to food and wine appreciation—if you are in the business world, you need to understand those softer skills—media training and so on.

We try to create an all-round, holistic human being, not purely get people through to pass exams. This brings up the point that we are representative of the same sector and we would be in the same bit of the Venn diagram, so to speak, yet we have differences.

Susie Forbes: I would like to add something. The word “eye-watering” was used about our fees earlier. When we have open days, people have a choice. No one is sending them to our college with a big stick, saying, “You must pay £27,000 a year and go to that one.” They choose us, and all of the things we are talking about are the reasons why.

Mr Marsden: With respect, the point is that that is the classic definition of the freedom to dine at the Ritz.

The Chair: I am afraid that is going to have to be the last answer.

Dame Ruth Silver: May I make a point? I think that the non-traditional sector needs to be represented at the Office for Students and the quality assurance committee. The Education Committee must scrutinise the student experience—not just the culture, but learning support for learners who may struggle in a different flexibility.

The Chair: Thank you very much for your evidence, ladies and gentlemen.

Examination of Witnesses

Sally Hunt, Professor Les Ebdon and Alison Goddard gave evidence.

3.31 pm

Q85 The Chair: We will now hear oral evidence from the University and College Union, the editor of *HE* and the Office for Fair Access. Perhaps you could kindly introduce yourselves. Remember that the acoustics in this room are not very good and you are not necessarily talking to the person asking you the question, who might be quite close to you; you are also talking to someone 10 rows behind you and, more importantly, to me. I want to hear every word you say.

Alison Goddard: I am Alison Goddard. I am a journalist who has been reporting on higher education and research for the past 20 years.

Professor Les Ebdon: I am Les Ebdon. I am the Director of Fair Access to Higher Education.

Sally Hunt: I am Sally Hunt, the general secretary of the University and College Union.

The Chair: Thank you very much. Gordon, do you want to start?

Q86 Mr Marsden: Yes, if I may. We have heard this morning some spirited conversation from witnesses about the extent to which this is a Bill for students, the issue of representation and the office for students, for example, as part of that process. I wonder whether I could ask the witnesses to look more broadly than simply the issues in terms of students, and to look at all the people who make HE institutions tick. Obviously, that includes students, and it also includes big issues around the extent to which, for example, the director of fair access at OFFA is empowered more in this Bill than he or she is at present. To start us off, does the Bill do enough to put students more in the driving seat? Does it do enough for the people who work in our HE institutions?

Sally Hunt: I will start, and please tell me if I have not got the volume right, because I agree—I was finding it very difficult to hear at the back. Does this put students in the driving seat? I think that what it actually does is turn the whole debate on where students sit within the university system and the degree awarding system—be that within universities, further education or others—into a debate on the level of fees and on the relationship being one of customer and provider. Rather than empowering them, that actually gives them quite a strange set of tests—if I may put it that way—by which

they are meant to judge the whole system, which, I acknowledge up front, is complex, can be intimidating and can sometimes be quite opaque.

What I think would be helpful, in response to the more general point you are making, Gordon, is that, if we are looking, through this Bill, to improve student experience, employability and quality—all of which I would tick the box on for the people I represent, in very strong terms—what we have to say is, how does the Bill actually do that? Does it actually make it a better experience for students, or is it simply a case of fulfilling a manifesto commitment? Is this a case of reinventing the wheel, in terms of how we justify and explain increased fees for students? Is this a way by which we are going to open the door for different providers to come in to a sector that is already under great strain? That is the question that has to be answered straightaway, because unless you can actually show that the student is going to come away better as a result of the Bill—and I really question that—I do not know why we are at this point anyway. I think we ought to ask that question before we get into anything else.

Professor Les Ebdon: In a sense, I have a role not only to protect the interests of current students but to protect the interests of potential students and the opportunity for those with talent, wherever they come from, to get to university. I welcome the Bill, in the sense that fair access and participation will have the possibility of permeating all the activity of the office for students. I am fond of saying that universities that are successful at fair access have embodied that in the totality of their strategy. There is the opportunity in this legislation to do that for potential students to make a significant stride in social mobility and towards a fairer society.

The concern that I would have is around whether it actually gives more power to the director of fair access or not. At the moment, the director of fair access has the sole authority for deciding whether an access plan is sufficient and universities have done what is sufficient to promote and safeguard the interests of students. I know there would be a number of universities that, if they had somebody else—another chief executive above me—to go to, would take my decision to them, because they argue long and hard with me about the decisions I make.

Q87 Mr Marsden: Are you concerned that the specific and technical nature of the clauses that have been put in, regarding where you sit in relation to the OFS and the Secretary of State, do not give that clarity at the moment?

Professor Les Ebdon: I am concerned that there should be clarity in those clauses to make it clear that the responsibility, particularly for deciding on an access plan and approving it, should rest with the director for fair access and participation. There should be absolute clarity about the responsibility. The expression used in the Bill at the moment is “report”; I understand from lawyers that a report is a narrative exercise and the report could describe a good or a bad situation. I want to see words like “responsibility” and “accountable for” in there.

When it comes to the delegation of authority, as far as access and participation are concerned, that should be exclusively delegated to the director for access and participation, so that there is clarity about that particular

role—and indeed, a greater power there—and the progress that we have made in recent years through OFFA can be sustained and, indeed, we can make further and faster progress.

Alison Goddard: I come to this as an observer, rather than a player in the higher education game. I applaud the aim of the Bill in putting students at the heart of the system; however, I have concerns that it will fail to do so. I have concerns especially about the funding of the office for students. It strikes me as being much more of an office for higher education. At the moment, it is funded almost entirely by universities. There may be some role for Government funding. If the office for students is to regulate properly the university system, it cannot be funded by those universities themselves.

Q88 Valerie Vaz (Walsall South) (Lab): I want to pick up on some points that you have made. I have not got the feel of a definitive answer from any of you as to whether the Bill puts students at its heart. Professor Ebdon, you have been doing the job around fair access. My view is that students think they are paying £27,000 net for higher education, and yet they are receiving bills for £45,000, which comes as a great shock to them. Also, I cannot see anything about lifelong learning here—the value of education throughout one’s life. Could you be a bit more definitive about whether you think this is a good, necessary Bill and whether it fulfils the function of putting students at the heart of it?

Professor Les Ebdon: The Bill is not fundamentally about funding the system and that is not my responsibility. Parliament decides on the level of fees and I believe you may soon have a vote on that matter. I am concerned that we continue to make progress in fair access so that people from all parts of the country, all groups, can get to university.

We have seen a 65% increase in the numbers of students from the most disadvantaged communities in our universities since 2006, in the first 10 years of access agreements. The entry rate has gone up by some 65% for the most disadvantaged 20%. I want to see us building on that and increasing that dimension and I think that we can do that. We have found in access agreements a way of doing that. Incidentally, the application rate is up by 76%. If we could turn that increase in application rate into an increase in acceptances, we would be doing even better.

Q89 Valerie Vaz: I sometimes get responses like this from the Minister, who says lots of people are doing it, but if you drill down into the figures, that is not quite what I was asking you. I was asking, is the Bill necessary, does it put students at its heart, and does it address the issue of lifelong learning? After all, that is what education is about. We do not just do it at university, we go on—for example, the diversity, the part-time learning, that kind of thing. I do not want to deal with Brexit that much, but there is a change. We also have a change in the machinery of government. Are all those issues really addressed in the Bill?

Alison Goddard: My answer to that question is no, but that is at least in part because it is a very difficult thing to do. When you try to put students at the heart of the system, your first question is, what do we mean by students? We heard from the previous panel how parents

very much value the way in which children grow up at university. The person who arrives is not the person who leaves at the end. You have the elements of lifelong learning.

I would say the Bill does not take on lifelong learning and it really cannot put students right at the heart of the system, not least because students are evolving the whole time, they are a diverse bunch of people and the institutions at the heart of this are the universities, which are ancient institutions that have a very strong track record of providing high-quality, world-class higher education and research. So, at present, the university is very much in the driving seat.

Sally Hunt: My answer is no, I do not think the Bill is going to address the points you have made, Valerie. Although you said that you do not want to explore in depth the issues surrounding Brexit, the changes in where higher education and further education in particular sit within the government function mean you really do have to think about that because the timelines that we are talking about with the Bill are exact when you look at the timelines that you are talking about with the implementation of the Brexit vote. That is just reality. The reality is also that, as a result of that, we have a system that, while having to perform at a very high level and maintain the high quality that we expect of it through the work it does, is going to be put under severe pressure. So I think there is an issue there. I put that in the UCU submission and I would ask you to reflect on that.

Does the Bill put students at the heart of it? Every single measure I have ever heard from any Government has always said that students are at the heart of it. That, again, is fact. It is also rather sad that, if we are talking about this issue, we do not have the National Union of Students giving evidence to you in some way, shape or form because I think it has a view that reflects the student body. The NUS is not here. I am, and I represent the people who teach students and undertake research with them. What I think this does is introduce a further justification for higher fees. What I think this does is introduce a rationale for extending the system and access to public funds for profit. What I think this does is introduce a further complication to quality through TEF, which is not necessarily going to hit the nail. Since those seem to be the key pointers in the Bill, I do not see that it actually addresses what it should be doing, which is, what is the great experience that every student should have at university? That is about the teacher and the students in the lecture hall, in the seminar or in the one-to-one interaction that they should have. That is something that does not need this Bill, but it does need a lot of discussion and a lot of thought about what actually drives that and makes it better.

Q90 Alex Chalk: May I ask about social mobility? Professor Ebdon, you rightly said that since 2006 there had been a 65% increase. This Bill contains a number of provisions requiring providers to publish more information about all sorts of metrics. Do you think it provides the architecture for us to move to the next phase of improving social mobility between now and the end of this decade?

Professor Les Ebdon: With the amendments that you should make to ensure that you properly empower the director of access and participation, I think the Bill can make a contribution. Of course it will be backed by a number of regulations, which I hope will reflect a

recognition that postgraduate education represents almost a double glazed glass ceiling these days. We have made good progress on access at undergraduate level, but we need to make progress at postgraduate level. How can we do that? Perhaps there is an opportunity in this legislation to make progress on postgraduate education. If we really want this concept of social mobility to permeate the OFS, we should make it one of the criteria for appointment of the board. Strangely it has dropped out, but I think it should be one of the criteria so that people focus on it. It would also help to have an annual report to Parliament on progress, as we do at the moment.

Q91 Dr Blackman-Woods: I want to return to the student issue. The sell of this Bill, and I am sure the Minister will correct me if I am wrong, is that opening up the sector will provide more diversity and more choice for students and that the TEF will deliver more information to students to help them make up their mind about where to go, which will add some transparency on the quality of teaching and provide a mechanism to relate it to fees. We know what the possible positives are, but the risks to students from the Bill are less clear. Have any of you thought through what some of the risks could be?

Alison Goddard: I have thought through some of those risks, and I am afraid that to my eye they extend far wider than risks to students. There are also risks to the future economic success and the cultural, scientific and diplomatic strengths of this nation. What we have here in the UK is a world-class system of higher education and research, which has taken hundreds of years to emerge—its roots lie before the formation of the modern state. Fundamental to that success is institutional autonomy. At the moment, universities are answerable to Parliament. Creating the office for students and enabling it essentially to override existing royal charters and previous Acts of Parliament will allow what is essentially a Government body to remove from universities the right to call themselves universities or to award degrees; it will make those Government functions.

If I can draw a parallel, the BBC is also protected by a royal charter at the moment. The Bill appears to enable removal of the protections of the royal charter; if that applied to the BBC, it would essentially make the BBC a body within the Department for Culture, Media and Sport. I really worry that, if the Bill is passed unamended, it will allow future Administrations to interfere with institutions and universities to the extent of damaging the future prosperity of the whole nation.

Q92 Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): I am going to dare to ask a question similar to one that was asked of an earlier panel and that led to some hilarity. I have deep concern about the applied managerialist approach in the Bill. If you look at the institutional architecture and the metrics that are being used, I do not see how they are going to contribute very much to true quality enhancement, either for students or for research. Would you like to comment on that?

Sally Hunt: I will probably be picking up on some of the points Dr Blackman-Woods was asking about as well. If we are looking at a risk matrix, which is the same point phrased in a different way—“What does this actually do to enhance the sector or our ability to

contribute to our nation's economy or to a world-class reputation within higher education?"—there are real risks. If you start from where the student is being given information and the university is being given the funding stream, those become very narrowed by the Bill. They become narrowed for the student because the questions they are being schooled to ask—"What is your employability? What is the drop-out rate?"—are very narrow and do not necessarily give the right indications. To me, those things do not tell you the quality of the course; they tell you that there might be differences in your ability to go through three years, depending on your class, your type of university and the student intake, but that is not the same as saying whether the course is good or bad at providing a good foundation. They are too narrow and too opaque. They do not ask us to encourage the student to say, "What is the level of the teacher who will be giving me the education and the teaching I have signed up for?"

I think someone made the same point earlier: as the student, you are not being told at any point how many of the people who will be teaching you are on casual contracts, how many can guarantee they will be there in a year's time, or how many will be able to say, "I have been paid enough that I can do proper preparation, teaching, feedback and all the stuff I ought to be doing to enable you to be confident of getting what you signed up for." None of that is in the Bill as it stands.

There are some very practical points at issue. Alison's point is really important. I think you should all be very concerned about the issues of governance and the lack of oversight given to Parliament by the Bill, because that is going to strip away the ability for us to guarantee and protect academic freedom, which is fundamental to student choice and student education and is important for our ability to develop critical thinking and difficult and challenging research areas. That is not there in the Bill. As it stands, the office for students is very much Government-driven; it does not have staff representation or enough student representation on it. All of these points need to be teased out. As I said at the beginning, that is set against a really stressful time for universities. They do not have the answers about student funding or about the stability of their staff, and they have big questions about their ability to deliver against the current environment, let alone if this is put in place. There are real problems alongside opportunities. We should all say that these opportunities are positive. We should all say that we are looking to increase quality, increase choice and increase knowledge, but I am not sure that the Bill is delivering at this point. I hope that that covers both the points.

Professor Les Ebdon: I am not sure that I entirely recognise the picture that has been painted. For a start, you can make a very strong case that increased transparency is not inimical to freedom. I welcome the requirements for increased transparency of data. You might argue with the particular data points specified in the legislation, but they are just indicative of the points that could be asked for. I have no problem with that transparency of data.

Of course, there is clear recognition within the Bill of the importance of academic freedom. The way that we approach access agreements at the moment is a good indication of how you can work with the grain, using the context of institutions. This could involve getting

the institutions themselves to set their own challenging targets and negotiating with them to do this, and also giving them support, particularly through enhanced research and evaluation of what is happening. This would go with the grain of the institutions and build on the great strengths of our universities in terms of researchers and their interest in finding out what works to achieve the kind of success that we have. I do not see a tremendous threat to academic freedom in anything related to access and participation which, clearly, are the parts of the legislation that I have studied in detail.

Q93 Roger Mullin: I was not suggesting that, and I accept that it is not a threat to academic freedom. That was not the point I was making. Professor Ebdon, your response makes me more concerned, because you talked about data and the use of data. It is the metrics that I am concerned about, and the way in which they are moving away from a concern about quality development and quality enhancement. One of the great features, which I think Alison talked about in her earlier remarks, is that institutions have built up over centuries. They have developed cultures of engaging in different ways with the learning as well as the research in their institutions. That is just so difficult to capture through the kind of metrics that are applied in the Bill.

Professor Les Ebdon: I certainly understand the point that the data have to be interpreted in the context of the institutions, and I think that I was implying that in terms of the way that we approach access agreements. I do not have a problem with that information being in the public domain. I am surprised that in this day and age people do have a problem with that.

Q94 Roger Mullin: I do not have a problem with it. It is just that it is an inadequate way of looking at teaching in universities.

Alison Goddard: I think that there is always a danger that you end up with metrics looking at what can be measured, rather than what you actually wish to measure. That is a problem which pervades modern life.

Q95 Amanda Milling: The research excellence framework has been in place for some time now and is well established. Ms Hunt, you referenced TEF briefly. Do you recognise the need for greater emphasis on the teaching aspect of the sector? That is a question to all three of you. What will that ultimately mean for students?

Sally Hunt: We have always said that teaching ought to have greater recognition and greater celebration in terms of the funding streams for universities, because without that there has always been a mismatch between some universities and others depending on whether they have a stronger research stream and reputation. We have found from what our members have told us that that has never been about the quality of experience for the students. We have no objection whatsoever to teaching being raised up, being part of the standard by which a university is judged, alongside its research. In fact, we would say that that is a good thing. All we are questioning is how.

All we are saying—we have said it repeatedly—is that if you start this process, rather than using blunt instruments that do not necessarily address the core issue that we are all told this Bill is about, which is increasing the quality of teaching for students, you need to look at what is going on in the classroom and why. That means that

you have to address the fundamentals of how teaching is delivered in most universities. In most universities, if you are an undergraduate student, particularly in your first year, you are going to have the least experienced, qualified and stable—in terms of their contracts—group of teachers in universities. That, I think, is the issue that has to be addressed, not simply the outcomes, which as I said, can be quite blunt in the way that they are interpreted. They are not themselves necessarily about the quality of the course or the teaching. But in terms of the principle, absolutely; teaching is as important as research in terms of how the quality of a university should be judged. That is something that should be welcomed in the debate that is starting to happen now.

Q96 Amanda Milling: In the Select Committee, we talked a lot about metrics and the balance between quantitative and qualitative metrics. Does the use of qualitative measures to evaluate performance address some of your concerns?

Sally Hunt: It is hard to answer the question. I do not mean to avoid it. What I am trying to convey is that TEF is not enough as it is constructed at the moment, with the criteria and tests that are being put in place and the links that are being created, for example, with fees. Peer review should be sitting at the core of it. What should also be at the core of it is universities showing students that the teachers in place are well trained, resourced and supported. That is not necessarily something that will be delivered through the criteria put in place at this point in time.

We are concerned about the Bill because it will put in place a system that will increase the complexity that universities have to weave their way through in order to get funding. It will increase the pressure on teachers, who are already under a great deal of strain—the average week is 50-plus hours and the average contract is very insecure—without necessarily asking universities to embed what will make the real difference to teaching, which is making sure they have quality terms and conditions for staff.

That is my central point on this. I recognise that others do not necessarily agree with us, but I think it is our duty and our role to bring it to your attention. There is nothing in the Bill at the moment that talks about the quality of staff, in terms of how they are supported, resourced and employed. At the end of the day, staff members and students in the classroom are critical, rather than everything going on around them.

Q97 Mr Marsden: The White Paper that gave birth to the Bill talks—in fact, it waxes lyrical—about the trials and potential successes, but also the downside, of the market. It talks about market failure. Particularly in respect of new providers and the proposals to lower the threshold at which they can come in—and, indeed, enjoy a form of university title almost from day one—what do the panel think the pluses and minuses of that process might be, in terms of both the teachers at those institutions and of the students? Obviously in your case, Professor Ebdon, if we have a large number of market failures, there are implications for what you are trying to do with the Office for Fair Access.

The Chair: Time is running out, so perhaps a crisp answer and then we will move on to a couple more questions.

Professor Les Ebdon: Students are weak consumers, which is why it is important to have a regulator to ensure that their interests are protected. University education is expensive and it is a one-off investment that students make, and therefore it is very important to protect students. I do recognise particularly that some of the newer entrants have been quite active in recruiting students from disadvantaged areas. I welcome the opportunity now for proper regulation across the sector.

Q98 Mr Marsden: What if they go bust?

Professor Les Ebdon: The interests of those students must be protected. If they have paid their fees, they need to be protected. I would always hope that the sector would be able to come up with something on that, but I assume that the regulations underpinning the Bill will ensure that they are protected. I would certainly think it a national scandal if students had invested their money—aided and abetted, as it were, by the state, through the Student Loans Company—and not received the education for which they had paid.

Q99 Ben Howlett: Going back to some of the points raised earlier by Professor Ebdon in relation to the independence of OFFA, how does the Bill deliver true independence and actually enhance independence?

Professor Les Ebdon: I am not arguing for independence in the sense that we have independence now. I quite value the coherence that bringing the Office for Fair Access activity into the office for students brings. I am concerned about the authority of the director for access and participation. Based on my experience, you need to have the authority to sign off or not to sign off on an access agreement and for that to be untrammelled, other than the usual opportunity to appeal against a totally unreasonable decision. That does not guarantee it.

I also think that it is important, if you are going to get a high-profile director for access and participation, that that authority is enshrined. The responsibility lies with the director. One of the reasons I can be successful is that I am a former vice-chancellor. I know most of the tricks; in fact, I invented one or two. Therefore, that gives me greater authority in dealing with universities. That is my concern.

Q100 Paul Blomfield: I was going to ask much the same question as Ben, so perhaps I could drive that home a bit further. Since you were not an uncontroversial appointment by David Willetts, you have been extremely successful. What do we have to hang on to from that success, in integrating the Office for Fair Access into the office for students?

Professor Les Ebdon: A single focus. I do not have to worry about things other than access and participation. We need to ensure there is independence; that the role is not trammelled by an interfering chief executive or chair of OFS, for example—or indeed, dare I say it here, a Secretary of State or Minister.

You need somebody who is going to be a champion of fair access, keeping it high up on the agenda. One reason we are successful now is because it is recognised as a vitally important aspect of modern society that we build a fairer, more inclusive society. That is all about championing fair access and participation.

The Chair: Thank you very much, ladies and gentlemen, for your evidence.

Examination of Witnesses

Alastair Sim, Dr John Kemp, Dr John Kingman and Professor Jonathan Seckl gave evidence.

4.10 pm

The Chair: Good afternoon. We are now hearing oral evidence from Universities Scotland, the Royal Society of Edinburgh, the Scottish Funding Council and the chair of UK Research and Innovation. Please remember that the acoustics in this room are not good, so you are speaking to both ends of a rather large room, not just the person asking the question. We have limited time, and not every person needs to answer each question.

Dr John Kingman: I am the chair of UK Research and Innovation, which is a body that currently exists in shadow form and will, subject to the Bill's passage, come into existence from April 2018.

Alastair Sim: I am a director of Universities Scotland, the representative organisation for Scotland's university leaders.

Dr John Kemp: I am the interim chief executive of the Scottish Funding Council.

Professor Jonathan Seckl: I am vice-principal at the University of Edinburgh, representing the Royal Society of Edinburgh. When I do not do that, I am a humble hormone doctor.

The Chair: Good. As there is a Scottish theme to this session, I think Roger should ask—*[Interruption.]* Sorry, Carol wants to ask the first question.

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): Ladies first.

Q101 Carol Monaghan: Thank you very much for coming. I know you have come at short notice this afternoon, so we appreciate you taking the time to be here. One of our concerns is that at the moment Scotland's quality assurance in higher education is distinct. We have concerns that that is not being recognised in the TEF. Do you think that Scotland's distinct quality assurance is being considered fully and is there provision for further work to be done on that?

Alastair Sim: It might be helpful if I describe what the sector leadership is thinking about this. We think that the Bill has presented us in Scotland, with the TEF, with what one might describe as a bit of a cleft stick. On the one hand, we are not sure that the TEF is exactly right for Scotland; on the other, there are strong competitive pressures. If institutions are going to get markings for being very high quality in terms of their teaching in England, there is a competitive disadvantage to Scottish institutions in not being part of that. The reasons that we have reservations about TEF is because we think that what we have in Scotland is, in some respects, quite special. It is a very collaborative system, which involves students very much at the heart of assessing whether quality and enhancement is what it should be. It is very enhancement-driven; it is about institutions learning from themselves, from peers and from international panellists on enhancement review panels about how to

make the system better and how to collaborate across the system—for instance, produce graduates that are more employable and respond to that sort of challenge. There is a strong feeling in Scotland that we want to protect the best of what we have, but we also wonder whether, given this competitive pressure, institutions will end up deciding to go into the TEF. We do not know the answer to that yet. Given that that is also a possibility, we are working with the Department for Education to make sure that as the TEF is engineered, it does not have metrics in it that are perverse to Scotland, that sufficient recognition is given to the way things are done in Scotland and that potentially an equivalence is drawn between an evolution of the quality enhancement framework in Scotland and the teaching excellence framework in England.

Dr John Kemp: To be clear, there is no intention to get rid of the Scottish quality system. We will retain a distinctive Scottish quality system. However, we are keen to make sure that the possibility exists, should institutions in Scotland and the Scottish Government wish, for Scottish institutions then to have the TEF. For comparative reasons internationally, and also because a substantial number of students at Scottish universities come from England, that might be valuable; but we have no intention of changing the Scottish quality system and replacing it with the TEF. The TEF would sit alongside, rather than replace it.

Q102 Carol Monaghan: Alastair Sim, you mentioned the potential implications of what Scottish institutions choose to do. Can you expand on that?

Alastair Sim: The essential implication is a competitive one. Everyone is out there to attract the best students and to build the best possible reputation for their institution. If you have institutions in England being able to say, for instance, that they are outstanding in terms of teaching quality and you have an unvariegated system in Scotland where everyone is working on this consensual basis to continually enhance and improve but not compete against each other in a gamed system to get better marks than your neighbour, there is a risk, competitively, that you are not seen to be as high quality as English institutions, even if you believe in the integrity of the Scottish system.

Professor Jonathan Seckl: From an institutional point of view, the metric that TEF will give is obviously sought after—I say that on the day the University of Edinburgh moved up to 19th in the world on the QS rankings, so I am sitting here with a big smile on my face.

The Chair: Yes, we want to all congratulate you.

Professor Jonathan Seckl: It is clearly a badge we would all like. We would be very keen for TEF to recognise the differences in the Scottish system, to recognise the equivalent but different nature of what we do and maybe celebrate that and incorporate the best of the best.

In some ways, the devolved nature of the United Kingdom allows a lot of experiments in how to do things, and it would be good if we could take the very best from what this experiment delivers and incorporate it more widely.

Q103 Carol Monaghan: Do you think there has been enough engagement between the UK Government and the Scottish Government or Scottish higher education institutions in the run-up to the White Paper and then the Bill?

Professor Jonathan Seckl: I cannot comment on what Governments do in terms of their engagement; it is way outside my humble pay grade. I think there is an opportunity going forward for learning and appreciating the best of the two systems, as I said.

Alastair Sim: If I may say, on a clerical note, over the past few weeks the engagement with the Department for Education has been constructive and creative about how the metrics of the TEF might be configured in ways that take account of Scottish interests. I think Scottish institutions are still on the cusp of this decision about whether to go into TEF or to do something, as Professor Seckl says, that is different but equivalent.

The Chair: Well, I think we want to hear from someone from an even more humble pay grade. Matt?

Q104 Matt Warman (Boston and Skegness) (Con): I am not sure how to take that.

As Carol and Valerie will know, part of what the Bill seeks to do is put the Nurse review into effect. Where there is some concern—if there is concern—it is about putting research and innovation together and ensuring that the innovation aspect continues to be complementary but also to work as well as it can. Dr Kingman, can you tell us how you envisage that working in practice and how you will safeguard the innovation aspect in particular?

Dr John Kingman: You are absolutely right about the range of views on this topic, though I think they might be coming together a little bit.

I believe very strongly that we would be better advised to have Innovate UK in the new body. I have been involved in this area over a long period and I think one of the things we have got better at over the years is recognising that the world does not divide starkly between the basic pursuit of pure knowledge and the exciting innovation happening in British companies. Actually, there is an interesting terrain between these two extremes and it is much better filled than it used to be. We are seeing part of that in how Innovate UK has really come on as an organisation and it is doing a lot of interesting work, working with the research councils within that terrain.

I think we would lose something and it would be a step backward if we somehow disconnected Innovate UK. That said, there are very important protections in the Bill that I fully support. It is correct to say Innovate UK has a very different culture and mission and a rather different—for the want of a better phrase—client base than the research councils. I was involved in the creation of the original technology strategy board that preceded Innovate UK. As I said, that organisation has really come on, and my responsibility, if Parliament chooses that it should be, is to nurture that and to build within this mid-terrain as far as we can.

Q105 Matt Warman: Will you give us a sense of what that means in practice in terms of the measures that you approve of in this Bill that you mentioned but were not specific about?

Dr John Kingman: The Bill is very clear that Innovate UK has to focus on the growth of the economy and on business, which obviously involves a distinct set of legal duties from those that apply to the research councils. It is also quite clear that the separate status and standing of Innovate UK as an organisation is permanently protected in the Bill and I welcome that. Frankly, even if these protections were not in the Bill, my approach to the role would certainly be one that—you know, I would like to see Innovate UK come further faster. I will be challenging it to do so in a supportive and constructive way. That simply reflects the approach that I have taken throughout my career with other hats on.

The Chair: Okay, we have a long list: Roger and then Valerie.

Q106 Roger Mullin: As a former student and teacher at Edinburgh University who is pleased to see us doing so well at the moment, I am a bit concerned about some of the institutional architecture. I am sure it was without any malice whatsoever but the first draft of those called to give evidence did not include any representatives from Scotland. Carole and I intervened and we got plenty of co-operation to allow that to happen. My concern is that in some of the institutions proposed in this Bill, I do not see any place for formal representation of the Scottish sector which, as already indicated, has some particularly unique and important features. Do you have a view on that?

Dr John Kemp: Yes, we do. Clearly, because UK Research and Innovation—I presume you are talking about the architecture of UKRI—is UK-wide as regards some of its funding and because a substantial amount of research council funding comes north of the border, we think it is important that Scotland is part of that architecture and that somebody with knowledge of the Scottish research landscape is involved in it. It is also important that in the architecture of UKRI the distinction is drawn between the UK-wide parts and the England-only parts, which mirrors what is called “balanced funding” in the Bill: keeping the idea of a distinction between focused research council funding and wider RAE funding. It is important that the architecture keeps that distinct.

Alastair Sim: If I could pick up on what John Kemp has said, in our paper we suggested some specific ways in which the Bill could be amended that would address these concerns. It would be sensible for UKRI to be a under a general duty to discharge its functions for the benefit of England, Scotland, Wales and Northern Ireland. Membership-wise, yes, the membership should be expertise-based but it should also be based on geographic balance so as to have people with experience from across the UK sitting on UKRI and on the councils within it.

Innovate UK presents a particular issue. As an agency it particularly relates to economic policy and given that there are different economic policies within the devolved jurisdictions, I think it is sensible for UKRI to have regard both to UK Government and to devolved Administration economic policies. Given that the devolved Administrations are themselves major research funders, when UKRI is developing a strategy or a Secretary of State is considering whether to approve a strategy, that should be the subject of consultation with the devolved Administrations.

Research England raises a bit of a special issue. Here we have an institution of England-only funding relevance sitting within a UK-wide UKRI. Culturally, that raises some issues that UKRI will need to address about how to make sure there is no unconscious bias that favours the institutions you work with most closely on a day to day basis through your Research England function. More for the legislation, I think it would be sensible for the whole of the UK for there to be a statutory firewall between the funding of UKRI's UK functions and UKRI's English functions, so that money is not leaching across without parliamentary consent and without devolved administrations being consulted about the UK functions of UKRI and the England-only functions of UKRI.

The Chair: The wind-ups are starting in the main Chamber and I do not want to keep our witnesses waiting through a Division, so perhaps we will carry on until the Division and perhaps we can have some quick questions and answers.

Q107 Valerie Vaz: Dr Kingman, you are obviously quite interested in the science side of things and preserving that. I want to focus on the research element of UKRI and the teaching element given that postgraduates have to do the two. Do you think it will work having it separated like that?

Dr John Kingman: I am very confident about this. In my role so far I have obviously had a great deal to do with colleagues in HEFCE because there are very important links, as you say. All that dialogue has been incredibly constructive and helpful. I think it is quite clear that this whole structure could not be made to work unless these two bodies work hand in glove. I have no doubt whatever about our ability to do that.

Q108 Valerie Vaz: You will know the understanding and definition of dual funding. That definition has slightly changed in the Bill in clause 95, where it is called balanced funding. Do you understand that to mean exactly the same thing as dual funding and preserving dual funding?

Dr John Kingman: Yes, and for what it is worth I have always been a very strong supporter of a dual support system.

Q109 Valerie Vaz: Why do you think there has been a change in wording?

Dr John Kingman: I am afraid I do not think that I am qualified to answer that. It is probably a legal question. *[Laughter.]*

Valerie Vaz: It is not actually funny, because it is not a legal question. This person will be the head of an institution that is going to try to understand what that is, so it is not funny. It is about money going to certain areas of science research. With the greatest respect, you should understand the difference.

Dr John Kingman: What I believe very strongly and what—

Valerie Vaz: You were involved in the White Paper, weren't you? Were you involved in the White Paper?

The Chair: Order. This is not a personal conversation, so let's have an answer for the room.

Valerie Vaz: He is a witness and I am entitled to ask the witness a question.

The Chair: Would you like to answer the question, then?

Dr John Kingman: What I believe very strongly is that it is a huge strength of the UK support system for science that we have both project-specific support within research and institution-specific support. If that were to change, I think it would be a huge step backwards. I intend to preserve it, but even if I did not intend to preserve it, I think the Bill ensures that I have to preserve it.

Q110 Valerie Vaz: I understand your commitment absolutely and appreciate that. My question was why was there a difference in the terminology and do you understand the difference to be the same? Are you convinced that the change of words is going to protect dual funding?

Dr John Kingman: I am absolutely confident of that and that is how I understand it.

Q111 Valerie Vaz: One last question. I know you are a Treasury man. If I was a researcher I would be a bit terrified of this. You hope that the aim is making sure that we invest every pound wisely. Do you believe that is currently not taking place in UK research?

Dr John Kingman: I go back to Paul Nurse's report, which I think sets the agenda for the organisation I have been asked to lead. It does not describe a broken system, but it does describe a system where certain things are lacking. One is strategic prioritisation between disciplines across the system, particularly when it comes to interdisciplinary work, which is becoming ever more important; another is a perspective across the system and an ability to speak for the system. I think the organisation I have been asked to set up is one that needs to be very clearly focused on those specific roles and not, as it were, attempt to throw up in the air the institutional arrangements underneath it which broadly speaking, I think, do an excellent job.

Q112 Dr Blackman-Woods: Do you think the measures in the Bill are sufficient to protect the excellence of research in the UK and enhance it, if that is possible, post-Brexit?

Professor Jonathan Seckl: The concern I have is about the potential for emasculation of the research councils which have served us so well. It has been well aired here I am sure, and it is well aired in the press that the UK is number 1 pound for pound in delivery of research excellence on the globe. We do this really well. The academic community—the Royal Society of Edinburgh has to reflect that—has concerns about this. There is some reassurance, but it will be interesting to see how it works out.

The research councils are highly trusted by their constituents and it would be terrible to see their ability to drive forward research in their communities being lost. I fully endorse the inter-disciplinary argument—we have enormous opportunities to become more inter-disciplinary, but we must not do that at the expense of losing our existing world-class disciplinary expertise.

Q113 Ben Howlett: There is an elephant in the room, and I am surprised that it has not yet come up. The Sutton Trust report which came out earlier this year—this is more of a question to Mr Sim—it stated that Scottish 18-year-olds from the most advantaged areas are still more than four times more likely to go straight to university than those from the least advantaged areas, compared with 2.4 times more likely in England. First, why do you think that is the case? Secondly, we were talking about experiments earlier on: how long is an experiment that is causing a reverse trend in social mobility going to continue?

Alastair Sim: Before I deal with the substance of that question, I would quickly address the statistical basis. One of the frustrations of my professional life is that there is not a statistical basis for comparing widening access in Scotland and England, because they use different statistical means of calculating who is in a deprived population from which we are drawing. That has been very frustrating, because it does lead to these miscomparisons.

We have had a serious challenge in Scotland from Ruth Silver's commission on widening access which has said, "There are lots and lots of good things going on, but somehow across the school, college and university system they are not adding up to the sort of step change we would want to see in addressing the attainment gap and improving access to higher education." I think that we, as a university leadership community, want to take ownership of pressing things forward. We want to look at how we can make better and greater use of contextual admissions so that people from disadvantaged backgrounds are recognised and are able to get an offer at a potentially lower level that recognises that their exam grades are harder won than those of more privileged people. We want to look at how we can further build articulation routes from college—which are often second chances for people from challenged backgrounds—and we want to look at how bridging programmes can be used to give people from challenged backgrounds an easier transition from school into university, and a wider choice of where they transition into.

Q114 Ben Howlett: So you have identified the problem, and you have come up with what is almost a small tweak to the system. Surely, with a four-times disparity, that requires fundamental change in the system itself?

Dr John Kemp: I do not think we would accept that there is a four-time disparity. As Alistair said, it is quite difficult to compare the figures across the two countries, because of the different ways of doing so—

Ben Howlett: This is not comparing with the UK.

The Chair: Okay, let him answer.

Dr John Kemp: I accept that point. However, we are not talking about tweaks here. The Government in Scotland have set fairly radical targets for improving widening access, which will be backed up by outcome agreements with the universities and a programme of work, some of which might begin to be announced this afternoon. It is far more than tweaks to the system in Scotland to widen access. We recognise that meeting the targets set by the government in Scotland will require substantial work by the sector, by the funding council

and by other sectors, including schools and colleges in Scotland too. It is something that sees a whole-system approach rather than tweaks.

Q115 Mr Marsden: I have a fairly quick question to Mr Kingman. You have talked eloquently about where you want to take UKRI. I am sure that your senior roles in the Treasury will equip you in many ways for that task, but you are going to be doing it at a time when there is going to be a flux between the development of HEFCE and QAA and finally the OFS. As someone said earlier, that may mirror the time it takes us to operate Brexit. How are you going to promote the UK brand, which you need to do, when you have the OFS coming up, which may in decades come to be a sufficient substitute for the Privy Council brand internationally but certainly will not be initially?

Dr John Kingman: I think it is a very fair point, but I would argue that the creation of UKRI means that, for the very first time, there is an organisation whose job is partly to put the case internationally for the extraordinary strength of the UK science and research base. I am in the process of recruiting a chief executive of this organisation, and I believe we will be able to hire an outstanding one, part of whose role will be absolutely focused on that. That is a new role that has never existed historically. This whole architecture was designed in a pre-Brexit world, but as it happens, I think it is very opportune.

Q116 Mr Marsden: Okay. You are optimistic about this, but I have a supplementary. There is a great queasiness—I put it no more strongly than that—in the representations that I and others have had from the research community about the powers that this new Bill will give the OFS, and by implication the Secretary of State, in relation to research councils. Are you queasy about the fact that research councils could be abolished under this Bill, without it having to come to the Floor of the House?

Dr John Kingman: I would certainly say that I cannot imagine it. The Bill provides for circumstances in which Ministers could change the structure of the research councils.

Q117 Mr Marsden: But is that the same as abolishing them?

Dr John Kingman: I cannot imagine circumstances in which Ministers would choose to exercise that power without consulting widely.

Q118 Roger Mullin: Can you confirm, Dr Kemp, in terms of access in Scotland, that over 20% of students entering HE do so through the college sector?

Dr John Kemp: Yes, and the students entering HE in the college sector more or less exactly match the population, in terms of social background.

The Chair: Thank you very much, gentlemen, for some excellent testimony. We are very grateful.

Ordered, That further consideration be now adjourned.—(Mr Evennett.)

4.35 pm

Adjourned till Thursday 8 September at half-past Eleven o'clock.

Written evidence reported to the House

HERB 01 UCL's Vice-Provost (Research)

HERB 02 Professor G.R. Evans, Emeritus Professor
University of Cambridge

HERB 03 Bournemouth University

HERB 04 *Research

HERB 05 Royal Society of Chemistry

HERB 06 Universities UK

HERB 07 Association of Colleges

HERB 08 National Union of Students

HERB 09 University of Nottingham

HERB 10 UCAS

HERB 11 GuildHE

HERB 12 Association of Medical Research Charities

HERB 13 Open University

HERB 14 Professor Les Ebdon, Director of Fair Access
to Higher Education, The Office for Fair Access

HERB 15 MillionPlus

HERB 16 MillionPlus (further submission of key questions)

HERB 17 University of Cambridge

HERB 18 The Russell Group

HERB 19 Universities Scotland

HERB 20 Quality Assurance Agency for Higher Education

HERB 21 University Alliance

HERB 22 This individual wishes to remain anonymous

HERB 23 Estelle Clarke, Solicitor

HERB 24 GSM London

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

Third Sitting

Thursday 8 September 2016

(Morning)

CONTENTS

Programme order amended.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 12 September 2016

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The Committee consisted of the following Members:

Chairs: SIR EDWARD LEIGH, † MR DAVID HANSON

- | | |
|--|--|
| † Argar, Edward (<i>Charnwood</i>) (Con) | † Milling, Amanda (<i>Cannock Chase</i>) (Con) |
| † Blackman-Woods, Dr Roberta (<i>City of Durham</i>) (Lab) | † Monaghan, Carol (<i>Glasgow North West</i>) (SNP) |
| † Blomfield, Paul (<i>Sheffield Central</i>) (Lab) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| † Chalk, Alex (<i>Cheltenham</i>) (Con) | † Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP) |
| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Evennett, Mr David (<i>Lord Commissioner of Her Majesty's Treasury</i>) | Rayner, Angela (<i>Ashton-under-Lyne</i>) (Lab) |
| † Howlett, Ben (<i>Bath</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Johnson, Joseph (<i>Minister for Universities, Science, Research and Innovation</i>) | † Streeting, Wes (<i>Ilford North</i>) (Lab) |
| † Kennedy, Seema (<i>South Ribble</i>) (Con) | † Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Marsden, Mr Gordon (<i>Blackpool South</i>) (Lab) | † Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| | Katy Stout, Glenn McKee, <i>Committee Clerks</i> |
| | † attended the Committee |

Witnesses

Professor Philip Nelson, Chief Executive, Engineering and Physical Sciences Research Council, and Chair, Research Councils UK Strategic Executive

Dr Ruth McKernan CBE, Chief Executive, Innovate UK

Professor Ottoline Leyser CBE FRS, Royal Society Fellow and Director of the Sainsbury Laboratory, Cambridge, The Royal Society

Sorana Vieru, Vice-President for Higher Education, National Union of Students

Douglas Blackstock, Chief Executive, Quality Assurance Agency for Higher Education

Public Bill Committee

Thursday 8 September 2016

(Morning)

[MR DAVID HANSON *in the Chair*]

Higher Education and Research Bill

11.30 am

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): I beg to move,

That, the Order of the Committee of 6 September be varied so that the following is added at the appropriate place in the table—

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Thursday 8 September	Until no later than 12.45 pm	National Union of Students Quality Assurance Agency for Higher Education

We considered the request of the Committee to make time within the period we had allocated to oral witnesses to hear from the National Union of Students and the Quality Assurance Agency for Higher Education, which is the quality body for the sector. That had been a subject of discussion between the usual channels over the course of the weeks leading up to the agreement of the programme motion on Monday, but in the light of views expressed about the importance of ensuring the broadest possible set of views being heard directly by the Committee, we are happy to make space in the schedule. We realise it is a brief period, but I believe we will be able to get to the substance of what they are trying to get across in the time we have made available to them in the programme motion as amended.

Dr Roberta Blackman-Woods (City of Durham) (Lab): I thank the Minister for responding positively to our request.

Paul Blomfield (Sheffield Central) (Lab): I also thank the Minister. This is an extremely positive step. I wondered, however, whether we could squeeze the session with the Minister, for whom I have high regard and with whom I am looking forward to having many debates, so that we could have more time with the NUS and the QAA.

The Chair: Before the Minister responds, are there any other comments on the motion?

Carol Monaghan (Glasgow North West) (SNP): I echo the comments of the other Members and thank the Minister for making the time available.

Joseph Johnson: I have reduced the time that I had been allocated to give evidence to the Committee by 50%, going down to 15 minutes, and I feel it is important, before we get into the line-by-line, nitty gritty scrutiny of the Bill, that we have the opportunity as a Government

to give an overview of what we are trying to do, the context for the Bill and the core measures that we propose to achieve those objectives. If we shorten the time much further, I am afraid we would lose the ability to give a coherent sense of what we are trying to do overall. I would prefer to be left with the 15 minutes to which I have already reduced my slot.

Question put and agreed to.

Examination of Witnesses

Dr Ruth McKernan, Professor Philip Nelson and Professor Ottoline Leyser gave evidence.

11.33 am

The Chair: I welcome the first set of witnesses this morning. We are now to hear oral evidence from Research Councils UK, the Engineering and Physical Sciences Research Council, Innovate UK and the Royal Society. Could I ask witnesses to introduce themselves, perhaps going from left to right?

Professor Ottoline Leyser: My name is Ottoline Leyser. I currently chair the Royal Society's science policy advisory group and I am here representing them.

Professor Philip Nelson: I am Philip Nelson, chief executive of the Engineering and Physical Sciences Research Council. I also chair Research Councils UK, which is the strategic partnership of all seven research councils.

Dr Ruth McKernan: I am Ruth McKernan, chief executive of Innovate UK.

The Chair: I remind Members gently that questions have to be within the scope of the Bill and that this session has to be completed by 12.30 pm. I call Gordon Marsden to open the questions.

Q119 Mr Gordon Marsden (Blackpool South) (Lab): Thank you, Mr Hanson, and our thanks to our witnesses this morning for appearing. I will kick off the session with a general question put within a timeframe, if I can put it that way. It was clear on Second Reading that there were a number of concerns—I put it no stronger—about the variable geometry of the new structures. The submissions we have had from the various research councils and the Royal Society underline that fact. Since then, we have had some of those issues about the variable geometry between the UK and its constituent parts emphasised and underlined by the implications of Brexit. Do the members of the panel still hold strongly to the reservations that were submitted to us? How do they think the situation post-23 June has altered the position?

Professor Philip Nelson: I am happy to answer first. The result of the referendum has given still more impetus to the need for reform in research and innovation. One of the key features of the review that Sir Paul Nurse undertook was to ensure a stronger voice for science and innovation in the UK and I think that to backtrack on that at this stage would be entirely wrong. I think we need absolutely to ensure we have a strong voice through the Brexit negotiations.

Q120 Mr Marsden: Without wanting to do too much cross-examination, can I take you up on that point? We were not suggesting backtracking on it. What we were

saying—you will know this well, Professor Nelson, because you will have seen the correspondence about this and the House of Lords' report—was that there are strong concerns about the structures here. I am asking you to say not just, “We need to get on with it more because of Brexit,” but particularly how the variable geometry has affected some of the concerns that you have received.

Professor Philip Nelson: If I understood you correctly, by variable geometry you mean the fact that we are having nine councils under one single body.

Mr Marsden: Not simply that. That is an issue, but there are also the continued concerns about what the split is going to be for funding between the UK and the England aspects of that, and the issues about the independence of Innovate UK and so on. No disrespect, but those are not things that can be blandly dealt with by just saying, “We ought to get on with it.”

Professor Philip Nelson: I completely agree with that. I want to emphasise the fact that we have spent a lot of time engaging with Government on these issues and have been deeply involved in constructing the so-called variable geometry and made our views very clear on this. We have been very clear about the principles that we feel we need to subscribe to to ensure that we do retain the strength of UK research and innovation. Those include things such as dual support, the Haldane principle and the disciplinary identities being very clear in the existing research councils. I think we have made all those points very clearly throughout this process.

Q121 Mr Marsden: Have you got any results?

Professor Philip Nelson: I think we have. I think the policy intent as stated in the White Paper is very clear and I can find several references to exactly the sort of points that we have been making through the process, so I do not feel too uncomfortable about that at all at this stage.

Q122 Mr Marsden: Perhaps I could ask Professor Leyser and Dr McKernan to give their views.

Professor Ottoline Leyser: I should say that our understanding at the Royal Society is that the clear intention of the Bill is to implement the recommendations of the Nurse review and those recommendations have been broadly welcomed by the community for a variety of reasons. In terms of variable geometry, on the one hand, people have expressed concerns about, for example, ensuring a robust implementation of the Haldane principle so that money winds up in particular pots of money that are under the power of the individual research councils to spend; but at the same time, there is wide recognition that the ability of those research councils to collaborate at present and the ability to consider the research base across the piece is currently compromised by the way in which the divisions between the research councils are so hard. Therefore, the variable geometry is to be welcomed, as long as it does not simultaneously destroy the strength of our research base that has grown up through the Haldane principle and the power of individual research councils to allocate money independently.

From our point of view, the key question is the extent to which that opportunity for flexibility while maintaining our strong research base is enshrined in the Bill. We do not have huge concerns about that. There are particular

phrases that we have submitted in our concerns that touch on those questions, but overall we think that the direction of travel is absolutely right.

Q123 Mr Marsden: The devil is in the detail, is it not? A question that has been raised by a number of people is about the new powers that are given to the office for students, particularly in terms of research councils. I am sure that colleagues will want to probe that point. Are you worried about those things—that the connection between the research councils and the OFS in the Bill is not yet strongly established and that, in extremis, that could result in situations where the research councils have powers taken out of their hands?

Professor Ottoline Leyser: The relationship between UK Research and Innovation and the OFS needs strengthening. The specific recommendations about the obligations of those organisations to interact, as we have laid out in our written response, need to be strengthened and embedded across the system because there are a number of issues where a lack of co-ordination between those bodies could cause major problems—for example, in maintaining the health of disciplines, in postgraduate research training, and in shared facilities and the efficiency of spend across Government. We understand why there has been this division and clearly there are some advantages to be had from that, but as usual, if you are making a change you need to ensure that you do not then have unintended consequences on the parts left behind.

Dr Ruth McKernan: From the perspective of Innovate UK and small and medium-sized enterprises, SMEs get 30% of the Horizon 2020 funding. It is very important for them. Last year, it was as much money as they got from Innovate UK. With the formation of UKRI, the opportunity to do the research that businesses need to be competitive is a big opportunity and it is a win for us. With Brexit, the opportunity to help companies scale and become really competitive is even more important than it was before. Post-Brexit, UKRI is more important.

Q124 Mr Marsden: You have expressed in previous correspondence not just to me, but to other people, a concern—if I can put it that way—that the buccaneering spirit of Innovation UK does not get entangled in this new relationship. Do you feel you have the guarantees you need about that in the Bill at the moment?

Dr Ruth McKernan: There are some really great things about the Bill and it was nice to hear John Kingman say that he would encourage Innovate UK to go further and faster. There are some really good parts such as not changing the name or the purpose.

Q125 Mr Marsden: What about the not-so-good parts?

Dr Ruth McKernan: I am getting to that. Another good part is maintaining the business focus. There are three areas in particular on which we need to be absolutely sure that the intent and what was in the White Paper is still there in the Bill. The first of those is the business experience of the board and the Innovate UK champion, which is very clear in the White Paper. As I understand it, that is possible and enabled through the Bill, but I think that the balance of business and research experience is very broad and could be tightened up a bit.

The second area is the financial tools. We are keen to be able to use things such as seed loans and equity, and other councils within UKRI have dipped a toe into that. Seed funding through Rainbow has been done through the Biotechnology and Biological Sciences Research Council and the Science and Technology Facilities Council, and the Medical Research Council has done a very forward-thinking thing by creating MRC Technology, which looks at royalty streams from work it has done.

We need to be absolutely clear, in how the Bill is finalised, that we ensure we have as much flexibility as the research councils have had and some of our enterprise partners have. We work very closely with Scottish Enterprise, which uses more financial tools than we currently have, and Enterprise Northern Ireland. We want to move at speed and to empower companies to grow in scale and be really competitive, but we must ensure we have the flexibility to do that and not slow down our clock speed. I think there is a bit of work to do looking at that in more detail.

The third point is about institutes and research. The Bill gives us the great opportunity to look across the whole spectrum, from very basic research institutes to catapults. They go from future-thinking research to business-focused, short-term delivery. At the moment, as I understand it, if Innovate UK wanted to create an institute and employ researchers to do the work that businesses need, we absolutely could. I am not sure, within the letter of the Bill, that we are still going to be able to do that. I think that probably needs to be looked at. These are all conversations that we are already having with the people who are putting the proper wording on the Bill, so it will not be a surprise that those are some of our concerns. They are the main three.

Q126 Matt Warman (Boston and Skegness) (Con): The Science and Technology Committee has heard from all three of your organisations about the UKRI future. I think the consensus was that UKRI allows the research councils to be more than the sum of their parts. Can you talk a little about how we ensure that is actually the case, rather than just hoping it happens?

Professor Philip Nelson: That is the critical question. The objective is absolutely to make us more than the sum of our parts. I think it will take, in practical terms, a lot of good will and hard work on the part of the new executive chairs of the new research councils, when they come into being.

I think the principles are clear, and I believe they are accepted by the Government, that we still need those seven discipline-facing identities and that those disciplines have clearly delegated budgets, with authority over them. That is one of the core principles that we have expounded. Set against that, we absolutely need to enable the councils to work together better and incentivise that working through some means. Those details have to be thought about more and worked out, but I certainly detect a will on the part of the councils to do better collectively. We have had a programme across RCUK for about a year now which is aimed at achieving precisely that. I think that the move to a single accounting officer will probably enable that to happen more easily, so I do not have too many concerns about it happening. It should be set up to enable that.

I think we absolutely need to retain the good things that the councils already do. Paul Nurse acknowledged that we are highly effective organisations, and the key trick is to make sure we retain that while enabling better collaboration. I am confident that that can be done.

Q127 Matt Warman: Your view is that the Bill lays the foundations to do that?

Professor Philip Nelson: I believe so. Again, it goes back to technicalities, and we are talking to the Department for Business, Energy and Industrial Strategy about one or two of them. I think that the intent in the White Paper is absolutely clear. We are talking about the extent to which that gets reflected in the Bill, but I am sure we can resolve these minor issues.

Professor Ottoline Leyser: I would probably take it beyond the notion that the outcome should be that the research councils are more than the sum of their parts. To me, a key issue here is to provide a really effective interface between the UK research and innovation base, broadly defined, and the Government. That is more than just about the parts being the research councils; it is really about the whole research base and the way that is harnessed, in terms of how bottom-up opportunities arise, how knowledge about them feeds into the Government, and how Government priorities are fed into that research base. That interface is what we have to get right. It is the least effective part of our current wonderful system. We have a wonderful system, but that part is what we are trying to fix.

From the Royal Society's point of view, what is currently in the Bill is fine, but there is a key missing part that was explicitly laid out in Nurse and that is the executive committee, which is not mentioned anywhere in the Bill. That is where the chief executives of the research councils would sit. That committee is a key layer in governance integration across those activities, and the board will not be able to do that. It is a much higher level, strategic-thinking organisation that must have an overall, big vision focus. The nitty gritty information about the community, understanding where things are going with the science—we must not forget the social science, arts and humanities people—the direction of travel and what opportunities there are come up through those chief executives so it is really important. Even though in principle that body could be established under the current wording of the Bill, the Royal Society's view is that that should be enshrined in it as an explicit requirement because without that layer of governance I don't think the operation will work effectively. As I say, it could be back-fitted, but that is always a danger because one never knows going forward what people will decide to do.

Q128 The Chair: Dr McKernan, do you have a view on Mr Warman's question?

Dr Ruth McKernan: Yes, I have three points to make. On being more than the sum of its parts, with the cross-disciplinary approach we have worked very well with all research councils, but being part of one organisation will absolutely give us the opportunity to do that more efficiently and, furthermore, will help us to do the research that business needs to be successful. That is the element—the business view into research—that is not always easy to get. That is my first point.

The second big advantage is that from the business perspective, a company does not find it easy to know how to access the latest innovation in science that will work for its business. So simplifying and improving the transfer of skills into business is very important. In innovation indices our absorptive capacity, as it is described, is not world leading. I think UKRI will give us the opportunity to improve that.

Thirdly, on a much longer horizon, we want to know and understand how, when we spend money on research, it plays back into economic growth. It is very hard to do that. Many innovation agencies like mine are struggling with the data and the analysis. We are moving into the fourth industrial revolution. So much more will be driven by data and algorithms, and we can do much more sophisticated evaluation. As one organisation, we can ask questions of a common database of grant systems what works and what doesn't work so we can spend money wisely.

The Chair: I remind colleagues that we only have until 12.30 and there is a lot of interest in questions from Members, so brief questions and succinct answers will be very helpful.

Q129 Carol Monaghan: Elements of this have been mentioned by all the panel. Dr McKernan, you are talking about working together with the research councils and how this should be more easily facilitated under this Bill. Is there a conflict, first between the different role of Innovate UK, which is looking to competition to market, and the research councils? You spoke about needing to see the results of the research but, as we know, in some of the best research the results, implications or applications are not found for 20 or 30 years. Do you see a conflict there and, if so, how do you intend to work with the research councils to make that relationship smooth?

Dr Ruth McKernan: I think this is one of the fundamental challenges that the Bill has faced and most of the discussion I have had has been around maintaining the business focus of Innovate UK. Our funding goes to businesses and research is included to the extent that it delivers what the business needs. We must make sure that business focus is maintained. We are a UK-wide organisation and we work very closely with enterprise partners in the regions and the nations. Provided that the Bill really does ensure that at the board level we have the aspiration to link up business and science better and has a sufficient business expertise and input, that would really help. I also feel that ensuring that we work very closely with partners who also support businesses will help us to keep our business focus.

Professor Ottoline Leyser: I would dispute that it is a conflict. There is obviously a budget and it has to be spread but, in my experience, businesses are enthusiastic about blue skies research that will not have any obvious application for 20, 30, 40 years. At the same time, the scientists conducting that kind of research are interested to know what the current challenges are facing business.

More effective communication across the system can support all parts of the system and ensure that the movement of people and knowledge to and fro within that community is increased and enhanced, so that we can capture the benefits as quickly as possible, take the

excellent blue skies research that is widely acknowledged as essential to fuel the system, and turn that into economic or societal benefit.

Professor Philip Nelson: I would agree with that completely. The current state of affairs is very much that the research councils do have very effective engagements with industry already. It is not as if we do not do that. I think something like 60% of my own council grants are done collaboratively with some partner or another.

We get very good leverage. We in fact do get industry, as Ottoline rightly said, interested in quite basic research, and some of the bigger more sophisticated companies, as you might expect, do invest in really long-term projects, so it is a spectrum of activity. Getting the big picture clearer and looking at the relative activities across that whole range is going to be an important function for UKRI, and making the strategic interventions that we think are the most important to propel the economy forward.

Q130 Carol Monaghan: Professor Nelson, since you are talking about people looking for grants and getting funding from different organisations, potentially somebody looking for a grant here could be getting all of their money from the one institution—from UKRI—because they will be going to a research council, the funding council and Innovate UK. Is there a problem that everything could be coming from the one body?

Professor Philip Nelson: I do not see that. The roots will still be distinct. For example, when it comes to the dual support system, it is clearly being protected—in fact, enshrined in legislation for the first time. It is clear that the QR money as it is called—the quality-related money—that currently comes from the Higher Education Funding Council for England is still going to be delivered via Research England. That is a clearly separated and different funding stream from the research council funding stream. I do not think there are any intrinsic difficulties because the Bill deals with that clear separation.

Dr Ruth McKernan: With Innovate UK grant funding, it is all matched funding. Businesses or private investors have to put in an equal amount and there are regulations that surround how businesses get their funding—state aid rules. One reason we are keen to use more financial tools is to ensure that we use public money to the extent that it is useful but also encourage private investment. With our business-facing mind we need to ensure that we use private investment as much and do not expect people to rely wholly on UKRI for funding.

Professor Ottoline Leyser: I would say that basically it is all taxpayers' money, apart from the stuff that comes in through business; if we think of it in those terms.

Q131 Jo Churchill (Bury St Edmunds) (Con): Looking at that connection between business and research and charities, which is of particular interest to me, and building on the opportunities that we have got there, would you welcome the protection of the dual support in the Bill, helping to provide long-term confidence to both universities and charities in order to drive some of that innovative work forward?

Professor Philip Nelson: I would certainly welcome it, as I said in my opening remarks. Dual support was absolutely key to us in terms of sustaining the effective

system that we have, mainly because the QR money—the HEFCE money—takes that sort of retrospective view of performance, whereas research councils are looking prospectively at what might be achieved. So I think it is critical that that balanced funding, as it is called in the Bill, is properly maintained and retained.

Professor Ottoline Leyser: Absolutely. Dual support is a key strength of the UK Research and Innovation system, and not just because of the charities. We are really excited that it is now going to be in law.

Q132 Dr Blackman-Woods: As you know, the Nurse review proposed establishing a ministerial committee to enable joined-up, cross-Government discussion of strategic priorities for research and funding. The Government rejected that in favour of reforming the Prime Minister's Council for Science and Technology. Do you think that council can be reformed to deliver what Sir Paul Nurse envisaged?

Professor Philip Nelson: I think it can be.

Dr Blackman-Woods: Can you tell us what needs to happen?

Professor Philip Nelson: I think it will require very strong liaison between that committee and the Government Office for Science and UKRI. I do not think that quite how that will work has been completely sorted out yet, but there was certainly a recommendation that the chair or the chief executive of UKRI—I cannot quite remember which—would be on the CST, for example. That would be one step that you would take.

I certainly think that strong and regular dialogue between those two bodies is going to be essential to make this work, because I think that GO-Science does its work, which is really mostly aimed at science for policy, whereas UKRI will be doing the policy for science. The two inevitably overlap, and taking a holistic, national view of all this will be very important. So I think it will be critical that those two organisations are able to work together. I think the details have yet to be worked out, frankly.

Professor Ottoline Leyser: With another hat on, I was on the Nurse panel and we talked quite extensively about whether the CST could do the job of this ministerial committee. It could if it reforms itself to look like the ministerial committee. It is a job that needs to be done and it does not really matter what the thing is called. I think we wound up recommending a new body, because it can be difficult to change an existing body and to move it away from its current *modus operandi*. As long as there is a clear direction of travel to refocus it more specifically on this kind of in-government role—really interfacing across Government Departments—then I think it could be done.

Dr Ruth McKernan: I would say that we work very closely with the Government Office for Science. We work across all Government Departments as well, and where I think we need to pay attention to connectivity is looking at the long-term horizon. What are the future areas that will impact us or that we can create value from?

In terms of the futures work, Innovate UK and the Government Office for Science work very closely together. That is something that we do not want to lose in whatever this new committee looks like, because we need to scan the horizon for the UK for our businesses and for the research that we do.

Q133 Dr Blackman-Woods: Do you think that the Bill should address more clearly liaison between the relevant bodies, rather than just hope it happens and hope that individuals talk to each other?

Professor Philip Nelson: I think it would be helpful. It is clearly very, very important.

Q134 Ben Howlett (Bath) (Con): At our last evidence sessions, we talked about the importance of diversity and participation on the teaching side, but it is incredibly important for the research element as well. There have been great strides in relation to Athena SWAN—scientific women's academic network—projects and so on across the country. However, specifically in relation to this Bill and in research, how does this Bill help to improve diversity and participation?

Professor Philip Nelson: I think we can probably again take a more joined-up view of the diversity issue, if you like, across the research councils. In fact, we have already done a lot of work on this. We have an action plan in place, commissioned by our Minister, to take forward. We are certainly working very hard on that. In my own council where we have an issue—in engineering and physical science, the community of females is smaller than it should be—we are doing a lot of things, certainly in terms of governance and the way our own organisation works.

Our governing council got 30% female representation; we are aiming to get that up to 50%. Similarly, for our strategic advisory teams that really are at the coalface of scientific developments, we are trying to make sure that we get proper representation on those as well. We are working very hard to do that. So I think the new organisation can take that bigger holistic view and ensure these issues are driven forward effectively.

Professor Ottoline Leyser: I would go with an even bigger, more holistic view. Again, for me there are exciting opportunities from the creation of UKRI. There is this big overarching strategic vision of research and innovation in the UK and the world. It is not just about whether we have the right number of particular minorities on our board; it is about a much broader agenda for social inclusion and social cohesion, which a knowledge-based economy provides.

In parallel with a developing industrial strategy, the role of UKRI is twofold, both in driving that kind of economy and bringing the skilled workforce along with it, which gets back to the question about a really important requirement to link with the office for students so that we have those skills pipelined, but also in generating the research and understanding about topics like social inclusion and regional development so that we can most effectively deploy the strategies and funds that we have to grow those things.

These questions about diversity and inclusion are exactly core drivers. We can be a linchpin in establishing Government policy that moves those agendas forward well beyond “Have you got enough women on your committee?” into your society benefiting from the exciting opportunities from knowledge and innovation.

Q135 Ben Howlett: So, given what has just been said, do you think the Bill—to go back to the earlier question—goes far enough? Can it be strengthened? Is there anything that could be looked at?

Dr Ruth McKernan: To the extent that UKRI gets a business view of what business needs in terms of skills, that is really valuable. When it comes to diversity and inclusion, that should absolutely be business as usual for all of us in improving that. I did not see it specified in the Bill. I am not sure that is the appropriate place. That should be what we just do.

Ben Howlett: As long as it works in practice.

Q136 Paul Blomfield: May I ask two unrelated questions? The first is about distribution of research funding across the sector. Professor Nelson, you talked about working together better. I wonder whether you are looking at working together more consistently as well, because it is fair to say that there is a difference of approach by research councils in terms of how effectively they enable every part of the sector to compete equitably for research funding. In many senses, Horizon 2020 and FP7 before it have been more successful in doing that. What thoughts do you have on how the new framework can enable that?

Professor Philip Nelson: It should help us resolve some of those differences that have developed over the years that we appreciate are unhelpful. We need to resolve some of that. There are very often small differences in policy that have a disproportionate effect, so we need to work at that. We have a lot of work under way already in trying to think that through. Some of it gets entangled. Certainly the new organisation with a single accounting officer who can just turn around and say, “Right, we are going to do it this way” will be helpful, if I can put it as bluntly as that. So I think that will enable us to resolve those things, or many of them at least. So that is another good feature of the proposed reform.

Q137 Paul Blomfield: My second, unrelated question is about the office for students, which is there to ensure we get the best learning experience for all our students. The narrative and discourse around the Bill so far is inevitably around undergraduate and postgraduate taught students. What responsibility do you see the office for students having in ensuring the best learning experience for postgraduate research students?

Professor Philip Nelson: I think that is an important issue, absolutely. For example, we in the research councils have three main ways of supporting PhD students across the sector. We do interact with HEFCE on that currently. I think it will be very important—the point has already been made in evidence to this Committee—that the OFS and the UKRI connection is carefully made. In that particular area, there is clear overlap of responsibility. It will be down to ensuring that that connectivity is well and truly in place.

Professor Ottoline Leyser: I agree. I think this is very important across the board for a number of reasons. There are a couple of points I would like to make. One is that one of the opportunities generated by UKRI would be the possibility to have more integrated research into teaching and research training. One of the things that the cross-council pot could do would be to consider whether we could develop better understanding of the most effective ways to do research training and teaching. That is one opportunity that is more difficult within a single research council.

I would like to connect that a little bit back to this diversity point. I think there is a concern about the narrative of “the best teaching”, because by definition

different people work in different ways and the system has to support diversity of provision. Any system that is set in place at any level—whether undergraduate, graduate or graduate research—has got to have on tap different options for different kinds of students with different kinds of learning styles and different kinds of goals for what they want to get out of that learning. There is a danger of winding up with too much of an assessment-driven, individual metric-driven approach for assessing across the board. You canalise into a rather narrow range of provision that will not suit the diversity of students.

Q138 The Chair: Professor McKernan, do you want to add anything?

Dr Ruth McKernan: I do not have anything more to add.

Q139 Alex Chalk (Cheltenham) (Con): You have already said a bit about this, but may I just press you for specifics on the dividends that can accrue to UK plc from the councils working together? It all sounds great and very sensible. I have heard so far about improvements from the transfer of innovation to business, improving diversity and social exclusion and integrating research into teaching, but are there other specific concrete dividends that you would wish to identify that can flow from this?

Professor Philip Nelson: One of the main things that came very strongly out of the Nurse review was—there are two levels to this—that many societal challenges are intrinsically inter-disciplinary. It is about enabling us to tackle those challenges more efficiently. Take urban living, for example. Some 70% of the world’s population will be concentrated in cities, and there are massive challenges in that whole process, both here and overseas. That involves physical science, engineering and social science—all those factors come into play. We have got a pilot study running with Innovate UK where all seven research councils and Innovate UK are working on precisely that subject area.

Q140 Alex Chalk: So it improves the co-ordination of a complex issue.

Professor Philip Nelson: Absolutely. So that is one dividend. Another dividend is at the more basic science level. One sees that an awful lot of the great opportunities in science are at the interfaces between physics and biology and between biology and chemistry and so on. Those are the sorts of fundamental aspects of science where we need to be able to ensure that we do not get very innovative researchers having to deal with too many individual silos. We already take steps across the research councils to do that. We have a cross-council funding agreement. We have done our best to enable that to happen, but we can do more, especially at the more strategic level, to say, “This is clearly a cross-disciplinary work of basic science”—

Q141 Alex Chalk: So, “You do that bit, you do that bit, and you do that bit.”

Professor Philip Nelson: Exactly. There are lots of fantastic opportunities there.

Dr Ruth McKernan: I would add that where the challenge is business-led, it would probably be very difficult to make it happen without the voice of business represented in UKRI.

For example, if we wanted to be world leading in robotics and autonomous systems, that would require much of the technology that Phil's council is developing, SMEs that are already in the space and some additional maths skills; if a healthcare or medicinal purpose was involved, you would need the participation of the MRC. This allows a process by which business could put forward a challenge that required many different groups to work together, which today would be incredibly difficult.

Q142 Alex Chalk: Right. Because it is too labyrinthine at the moment.

Dr Ruth McKernan: It is labyrinthine. We run collaborative R and D programmes that pull together people from big business, SMEs and the research environment, but as part of UKRI we will have the opportunity to speed that up—and business speed is on a quarter. It gives us the opportunity to move at the speed that business needs.

Professor Ottoline Leyser: I would echo the point that both challenge-led and blue-skies interdisciplinarity is going to be a huge benefit. I would like to add strategic oversight of various things. Large research facilities would be high on the list for me. We have a lot of large research facilities. They have appeared historically in various places for various reasons, and they are very eclectic in how they have arisen, how they are maintained and funded, and who gets to use them and who does not.

This provides exactly the kind of place where we could have a national overview of what we need, where it should go, how it should be accessed and how it should link in internationally with other facilities. We just do not do that at the moment, and there is nowhere obvious to do it.

The Chair: I remind the Committee that time is now beginning to press down upon us. Three Members have indicated that they wish to ask questions and we have to finish at 12.30. Should we finish earlier than that, there will be more time for the next set of witnesses. I call Roger Mullin.

Q143 Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): Thank you very much for your evidence this morning. It has inspired me to ask a different question from the one that I came in to ask; it is about the wider policy context.

I have been listening carefully, and on quite a number of occasions you have talked about, for example, industrial strategy, social inclusion and economic policy with the assumption that there are such things in the United Kingdom. Of course, there are not because the devolved Administrations have increasingly different approaches to economic policy and the like. How do you see the Bill and your own functions as described in the Bill being able to accommodate the different policy contexts that are developing in the UK?

Dr Ruth McKernan: This is something that Innovate UK works through very successfully by partnering with the other enterprise agencies in the regions and nations. We are actually prototyping a process with Scotland. When we run a programme, the number of high-quality,

fundable applications always exceeds our budget. We are working with Scotland to enable them to pick up some of those applications against their policy and preference, to the extent that they want to do that.

We would like to be able to roll that out. Being connected to the research environment helps us to put out the right sorts of competitions, which allows regions and nations to develop their own expertise and specialist skills and choose where they want to invest in proposals that come in at a national level against their priorities. We have a way of simplifying that. We have a way of working with different policies and values in different parts of the UK.

Professor Philip Nelson: Research Councils certainly engages strongly with the devolved Administrations; we are in dialogue across those Administrations. For example, I led a delegation to Scotland back in June. All seven research councils were represented. We had conversations with the Scottish Government and we visited Scottish universities.

We absolutely treat all those universities out there in devolved Administrations as part of the team, as it were. There is no question about that. How to deal with industrial strategy and perhaps different slants on how things should be developed in that way will be a challenge for us, but by working with Ruth, for example—this is another advantage of working closely together—we can absolutely address those challenges. We are definitely minded to do so. There is no difficulty in that.

Professor Ottoline Leyser: I agree that good interfaces, once again, are crucial, so Research England will be part of United Kingdom Research and Innovation, but the equivalent organisations from the devolved nations will not. Establishing really good relationships with those organisations and maintaining those, going forward, will be important.

I would say in principle that the research landscape, the research base, is the same, and it can feed into anybody's industrial strategy. Exactly how that knowledge is used will depend on the Governments in the various Parliaments taking it, understanding it and using it to develop their own priorities. The fact that there will be one place which will have a better integrated understanding of what is going on in the research base will in principle help all those organisations. I do not see it as a conflict if that interface works properly. It is about an interface. There is not one at the moment and there needs to be one, and that is what this Bill will try to achieve.

Q144 Roger Mullin: A quick follow up, particularly to Professor Nelson. You will be aware, having consulted with the Administrations in Scotland and your partners there on the research side, that there is some anxiety about the Bill and the lack of formal representation in some of the architecture described in it. Would you like to comment on that?

Professor Philip Nelson: We did absolutely acknowledge the existence of those anxieties and said we would make it clear that we needed to do something about it. I know there have been proposals about representation on the board of United Kingdom Research and Innovation. I would have thought at the very least one would want to have a clear point of contact within United Kingdom Research and Innovation.

I do not know how we would do this but we certainly need to absolutely manage it, and those anxieties were very clearly expressed, but from the research councils' point of view there is no need for concern. We place huge value on the Scottish universities' contributions. There are some great institutions there doing great work, and we would continue to fund excellence wherever it is across the UK.

Q145 Mark Pawsey (Rugby) (Con): I have a question—mainly, I think, for Dr McKernan, but I am interested in other views. The UK has traditionally had a reputation for cutting-edge research, brilliant innovation and coming up with ideas, with the commercial exploitation taking place in other countries. Does the Bill mean that the UK manufacturing sector is more likely to benefit from the research that takes place here?

Dr Ruth McKernan: I do not think the Bill specifically addresses that, but indirectly I think there is a benefit from having business close to research such that the benefits of research and innovation could be more easily adopted in business and provide a competitive edge.

Some 50% of productivity growth comes from innovation, so to the extent that we can help businesses grow more quickly because we can help them innovate, they have a chance to be more globally competitive, although many other factors in terms of access to capital and the competitive environment come into that. The Bill can only ever relate to a small component of your question.

Professor Philip Nelson: An awful lot of our work is focused on doing exactly what you are asking and I think that we will continue to do that. I think, frankly, this country has got an awful lot better at converting its scientific output into application in the last 20 years, and I would hope we will continue on that upward path.

Q146 Mr Marsden: My question is principally for you, Professor Nelson, but perhaps Professor Leyser will want to comment on the thrust of it.

You spent your academic life in acoustics, engineering and technology, but of course your position as chair of the board means that you have to recognise the needs and aspirations of non-science areas, and particularly the humanities and social sciences. Does it worry you that in the whole thrust of the Bill, and certainly the thrust of the White Paper, there seems to be little to say about the role of the social sciences and arts? Does it worry you that the Academy of Social Sciences is concerned that the Bill gives the power to do away with research councils by statutory instrument, which is often a rubber stamp? Are you concerned about that, and, if you are, what representations have you made to the Government?

Professor Philip Nelson: We are concerned about that. In fact, we absolutely hold dear the continued existence of those seven disciplinary councils. We have made it very clear to the Government that we felt that what we had was an effective base from which to work and that we did not want to abandon that in any regard. Personally, I have a huge sense of support for social sciences, arts and humanities. Those councils are extremely well read—sorry, well led.

Mr Marsden: And well read.

Professor Philip Nelson: Yes—Freudian slip. I would be very concerned about any sense that they were to be abolished. I would have deep concerns about that. In terms of exactly what the Bill says, that is one of the details on which we will be working with BEIS to ensure that we have the right sort of protections. I do not think that any Minister would undertake such an action lightly. I imagine they would want to consult widely before changing any sense of direction.

Q147 Mr Marsden: You would like to think so, but we have to legislate for a generation, and not for the best Ministers but for the worst. Do you think something should be made more explicit in the Bill?

Professor Philip Nelson: I think there is scope for doing that. Again, it is down to the detail. For the research councils, it is a very important principle.

Professor Ottoline Leyser: We would agree that there should be an obligation to consult before any drastic reorganisation of research councils—that is in our paper. In principle, UKRI has the opportunity to allow the social sciences, arts and humanities to be better included and considered across the research base.

There is a tendency to say, “And arts and humanities”, rather than it being brought across, but the interdisciplinary working will integrate those disciplines much more strongly and allow the obvious benefits, in terms of policy developments in the social sciences, design and manufacturing. For those kinds of issues where that expertise is clearly crucial, it should be strengthened by bringing everybody together in a single body.

Q148 Mr Marsden: All I can say is that as a medievalist, a historian and politician, I am grateful on all three counts.

Professor Ottoline Leyser: I am the daughter of two medieval historians, so I am very familiar with the medieval history argument.

The Chair: Are there any further questions to the panel? No. I thank the panel for their contributions and stand them down. If the next panel is available, we can commence the session two minutes or so early.

Examination of Witnesses

Douglas Blackstock and Sorana Vieru gave evidence.

12.27 pm

Q149 The Chair: We will now hear oral evidence from the National Union of Students and the Quality Assurance Agency for Higher Education. As Members know, we have until 12.45 pm for this session. Members should try to limit themselves to one question, and we will try to get people in. I am afraid it is going to be difficult to do in that time. Will the panel introduce themselves from left to right?

Douglas Blackstock: I am Douglas Blackstock, the chief executive of the UK's Quality Assurance Agency for Higher Education.

Sorana Vieru: Hello, my name is Sorana Vieru. I am the National Union of Students vice-president for higher education. I am delighted that consideration of the Bill is including student representation.

Q150 Wes Streeting (Ilford North) (Lab): I want to pick up on student representation first, because several amendments have been tabled that seek to address the lack of it. Given that it has been such a powerful way of getting students' voices heard and has been used as a tool for quality enhancement, why is the NUS proposing to boycott the national student survey?

Sorana Vieru: At the national conference in April this year, an amendment was proposed to the education zone motion, which was looking at tackling the increasing marketisation of higher education and promoting students' interests. Because the NSS was to be a metric in the teaching excellence framework, the amendment, proposed by a students union, mandated the NUS to look at boycotting or sabotaging the NSS in order to campaign against the teaching excellence framework.

Q151 Wes Streeting: Given that there are few ways for policy makers to get a national picture of student opinion, or for student unions to have some quantitative data to take to their institutions, and given that dozens of student unions seem to be concerned about the policy, I wonder whether decisions made by the national conference, which potentially have a detrimental consequence for all students, are a case of the NUS being led by its activists, rather than by its students.

Sorana Vieru: The spirit of the motion was in debating the usefulness of the data of the NSS itself—I am not debating that. It was proposed as a particular tactic, as the NSS is a metric considered in the teaching excellence framework. I have taken steps to ensure that we are carrying out a full consultation with our members. We have not made a decision about the next steps of the campaign. So we are seeking to maximise the number of responses from the student unions and the campaign and response will be structured in such a way as to mitigate any downfalls of the campaign as well. All those concerns are very high on my agenda.

The Chair: I remind Members that questions must be within the scope of the Bill. While “students” appeared in the question, it was slightly outside the scope of the Bill.

Wes Streeting: The NSS is linked to the TEF, which is within the scope of the Bill.

The Chair: You have to be clear about that.

Again, a number of Members wish to speak and we have limited time.

Q152 Ben Howlett: Before I come to my substantive question, the National Union of Students has been campaigning to give evidence at these sessions. For the record, why has the NUS sent a vice-president, not the actual president?

Sorana Vieru: I am the representative who holds the portfolio for higher education. I have been allowed the opportunity to come and give evidence, considering I have also been leading on the response to the Green Paper, since last year in November. I am in my second year, and I have been leading on the NUS's response to the Green Paper, the White Paper and now the Bill as well.

Q153 Ben Howlett: Don't get me wrong, I have worked with the NUS for a long time, and it has been a productive relationship, but this is a serious Bill and not to have the president here—

Sorana Vieru: Absolutely, but our president started on 1 July and I am in my second term. I have been dealing with the reforms and the Green Paper since November, and have been doing sector engagement, so I have been given the opportunity to present evidence today.

Q154 Ben Howlett: I think that is a bit of a shame but, obviously, the president is not here in person at the moment.

Moving on to my more substantive point, do you welcome the measures in the Bill that open up alternative student finance?

Sorana Vieru: The steps taken to ensure that sharia-compliant loans are available to students are very welcome. This is something that NUS has been working on with the Department for Business, Innovation and Skills for a number of years, in conjunction with the Federation of Student Islamic Societies, so this is definitely a welcome step.

Q155 The Chair: Mr Blackstock, do you have any views on Mr Howlett's question?

Douglas Blackstock: On the specifics on student finance—we do not have a brief for student finance. I think it would be inappropriate for me to comment.

Q156 Carol Monaghan: With the increased marketisation that the Bill will create—potentially, we could have new providers popping up all over the place—what needs to be done to keep students and their higher education safe?

Sorana Vieru: Two things are really important to consider with the increased image of higher education right now. The first is student protections. If we are opening the door to more providers and the shape of the sector is increasing, it is really important to protect students and their education and to ensure a quality education.

Student protection plans are very important in the case of a course or of a private provider closure. A full indemnification for students will be required should that happen, but student protections need to go beyond what is reasonable and fair in terms of financial compensation and to look at the reasons why students enter higher education—that is, in order to get a degree. It is about looking at ways in which we can ensure that students will complete the degrees, or a similar kind of degree to the one that they signed up to—so looking at transferring to new providers—and at the interplay that the Bill has with the consultation on credit transfer and lifelong learning, which is extremely crucial.

In this case, when we talk about student protections, we are talking about worst-case scenarios. It is also important to put in place student representation systems. It is important that new providers have established student representation systems that are autonomous and independent from the institution to allow the student voice to come through.

Douglas Blackstock: We already have a diverse higher education system. The QAA has reviewed more than 600 providers, and 170 or 180 degree-awarding bodies, 220 further education colleges in England, Wales and

Northern Ireland, and more than 200 private alternative providers are still under our remit since we took on work first for the Home Office, then for the Department for Business, Innovation and Skills, and now for the Department for Education on tier 4 licensing and cost designation for student finance.

We have a diverse sector. The Bill is bringing in measures that will strengthen the system. We particularly welcome the creation of a single register so that students—UK students and overseas students—can check that this is a bona fide institution that has actually gone through a series of checks. It also strengthens checks on financial sustainability, management and governance.

To pick up on Sorana's point, it is really important for student protection that if we have providers that exit the market—and we have already experienced that, particularly through some of the work we have done with colleges that have failed the QAA reviews—there should be a permanent register of the qualifications that those students have obtained so that if they apply for a job in the future, an employer can check that that is a bona fide qualification that was awarded at that time.

The Chair: I am bound by the programme order to 12.45 pm. We have six Members and nine minutes. People need to bear that in mind so that we have short questions and short answers.

Q157 Matt Warman: I think this question is mainly for Mr Blackstock. The Bill moves towards a risk-based approach to regulation. Could you just talk us through your views on the advantages of that?

Douglas Blackstock: The advantage of a risk-based approach for an organisation such as us and the office for students is that you can direct resources where they are most needed. You can pay attention in a system like that, which is proportionate, to the track record and the ongoing performance of particular institutions. An example that I have used in many speeches over the past year is: why would we visit the University of Oxford as often as we would visit the college above the kebab shop on Oxford Street? They have different track records. It allows you to move to a system described in the White Paper, the Bill and the recent quality reforms—what I would call intelligent monitoring—which is where you actually look at the performance of institutions and then have an intervention that is proportionate to the risk that exists in that institution. That is the right way to go. It is what has happened in Australia, and the United States is probably a year or so behind where we are.

Sorana Vieru: With a move to a more risk-based approach, we really need to ensure that we capture the student voice throughout. With the current system, students really welcome the review opportunity to get changes and to get those from the students as well. A move that goes to student outcomes and annual reports is important to get a robust way of capturing student feedback and ensuring that it is acted on.

Q158 Mr Marsden: I have a couple of questions for Douglas Blackstock, if I may.

The Chair: Just one question.

Mr Marsden: Okay. On the issue of alternative providers, the QAA's most recent survey shows that shortcomings were uncovered in a third. Are the proposals for registering

alternative providers adequate? That is obviously a point that Sorana might want to comment on. The other point is about the process on the creation of the OFS. The complicated architecture between QAA, HEFCE and all the rest of it will take up to two or three years. Are either of you alarmed that that will create problems for the UK brand abroad?

Douglas Blackstock: Starting with the current arrangements, I think that they have been proved. We have made significant steps through the introduction, in our activities, of financial sustainability checks, and HEFCE has been doing that as well. The creation of the register will strengthen it too. It is a sign of the system's success that the providers that are doing well have come out well. We have now had the first alternative providers that have commended judgments and are doing well, but where there have been shortcomings, they have been exposed in public reporting.

In the five years we have come through since we took on the review of alternative providers, the market has reduced in terms of the number of providers, but the stronger ones have survived and are doing better in reviews. We recently published an analysis of our reviews of alternative providers, and those that have a partnership with a university do well. They come out well, because they have a mature relationship.

Sorana Vieru: I am alarmed by the fact that these are risky reforms that are being pursued at risky times, and I cannot see where student representation sits. With the split of knowledge exchange—with it coming out of HEFCE and going into UKRI—do postgraduate research students fall through the cracks? I would like to see more clarity about where those functions are. We are creating an office for students without having student representation designated on the board or the quality assessment committee, or any statutory duty placed on that office to work with and consult students to represent their interests.

Q159 Jo Churchill: Mr Blackstock, you have said that you welcome the single register, financial stability and so on, but you are the quality body for higher education, so do you believe that the necessary quality safeguards are in place to do that intelligent monitoring that you spoke about and to ensure that there is quality for all students of any age at any institution?

Douglas Blackstock: We are in the process of reform anyway, and there has been a detailed consultation and a move towards this risk-based system, which involves an annual provider review. There is much more regular checking up on how institutions are performing, and then a series of triggers to investigate where there are problems. That is all strong and good, and I welcome it. My one residual concern was put rather nicely to me recently by a vice-chancellor of a prestigious university: "If we never look at the best, how will we know what good looks like?" That is my one concern—that we need to work with the system on an enhancement approach that would help improve quality, perhaps learning the lessons from the quality enhancement framework that we operate in partnership with others in Scotland.

Q160 Dr Blackman-Woods: On that point, do you think the teaching excellence framework will raise teaching standards, or will it simply lead to a very complicated

[Dr Blackman-Woods]

fee system in which we will get different levels of fees across courses and institutions over time and they will change constantly?

Douglas Blackstock: I think the teaching excellence framework has real potential to raise teaching standards in UK HE.

Sorana Vieru: I do not think it is a secret that we do not think the metrics in the teaching excellence framework are robust enough. We welcome a focus on teaching quality and a way to improve that, but given the way the teaching excellence framework has been proposed, it is not likely to achieve that, due to the metrics not actually matching teaching excellence.

Q161 Valerie Vaz (Walsall South) (Lab): Is there sufficient clarity in the Bill on where postgraduates sit, or returning students, or students who are perhaps—as my colleague mentioned—slightly older and do not fit the profile of a normal young student?

Douglas Blackstock: In the current arrangements—it is certainly covered in the UK quality code and QA reviews—postgraduate research students and postgraduate taught students are part of that. We recently published a characteristics statement of what a doctoral degree looks like. We are working on a similar statement of what a degree apprenticeship looks like. I think that is captured in there, and we, with the office for students, should continue to have responsibility for ensuring that all students get a good quality education.

Q162 Valerie Vaz: Can you say specifically where in the Bill it is captured?

Douglas Blackstock: I would need to go back to it. I can come back and follow up on that.

Sorana Vieru: I have already mentioned the issue with postgraduate research responsibilities falling through the cracks. With UKRI still funding research degrees, it will obviously have an interest in ensuring the quality of provision for those degrees, with the office for students overseeing student experience as a whole. That muddies the waters a little bit. On the point of lifelong learning, there is something to be said about the student loan system currently being quite inflexible and working on an annual basis. If we are talking about mature students, we need to look at very flexible and part-time provision and a different kind of loan system that is not annually based and works on different—

The Chair: To ask the final question, I call Paul Blomfield.

Q163 Paul Blomfield: The NUS has put student representation at every level of the system at the heart of its submission. Can you explain in practical terms why that is important?

Sorana Vieru: We cannot talk about working for the benefit of students without involving students themselves. There is a bit of doublespeak in saying, “We’re introducing a single regulatory framework because we need to keep up with how the sector is looking currently. However, on the board of the office for students, we don’t require someone who has current experience and could reflect what being a student is like right now.” It could be

anyone—someone who graduated 20 years ago. If our regulatory framework is mirroring the state of higher education institutions right now—

Douglas Blackstock: A useful model would be to look at what we have done over the last decade. We have embedded student engagement through all of our work. Students are on our review teams and are involved in all the developmental processes. There are two students on our board. There is a student advisory board of 20 students who we recruit through public advertisement to give strategic advice to the board. I think that would be a useful model for the Committee to look at.

The Chair: I thank the witnesses. I am sorry to have rushed them, but time is limited; I am bound by the programme motion.

Examination of Witness

Joseph Johnson gave evidence.

12.45 pm

The Chair: Our next witness is the Minister, who will introduce himself formally for the Committee.

Joseph Johnson: Thank you, Mr Hanson. I am Jo Johnson, Minister for Universities and Science.

The Chair: This sitting has to finish at 1 o’clock. The Minister has asked to make a brief opening statement, and I have agreed. We will then take questions, commencing with Gordon Marsden.

Joseph Johnson: I want to take a couple of minutes of the Committee’s time to make a brief opening statement, and I am grateful to you for allowing that, Mr Hanson.

I want to provide the context for why we are introducing this Bill in this Session. We have not had an overhaul of the higher education and research system for more than 25 years. The sector itself has long been calling for these changes, and we now have the ability to make significantly overdue reforms. I would like to highlight the nature of the need.

Since the previous reforms in 1992—I believe that was the year you entered Parliament, Mr Hanson—
[Laughter.]

The Chair: Was it that long ago? It feels like yesterday.

Joseph Johnson: The year we passed the Further and Higher Education Act 1992, in which you may have had a hand.

The Chair: I have lasted longer than the last legislation.

Joseph Johnson: The world has significantly changed. The world of higher education has been transformed. Back then, it was an elite system of higher education in which barely a fraction of the cohort of the student population had the chance to go to university. Now we are in a system of almost mass participation, with nearly 50% of the relevant cohorts having a chance to gain the benefits of higher education. It was a period of relatively limited university competition. Perhaps most importantly, the Treasury’s tight fiscal control limited student numbers through a system of quotas.

Unless we fix the regulatory problems that have emerged through operating with this out-of-date system, there is the risk that our system will fail to keep pace with the

changes in the world around it. Although we have a world-class HE and science system, there are signs that we are at risk of falling behind unless we fix emerging problems. I am going to identify what those problems are.

First, opportunity for all is far from achieved. Access is still very uneven in our system, even though more people from disadvantaged backgrounds are getting a chance to go to university than ever before.

Secondly, the needs of the economy are unmet. Employers, who are a big motivation behind our reforms, are not getting the pipeline of skilled graduates that they need. We need to address the mismatch with the graduates who are coming out of university.

Thirdly, as we heard from Which? on Tuesday, applicants are choosing universities on grounds that are not necessarily the best and most relevant for their futures. We need to ensure they are properly informed and, critically, can choose from a range of good providers.

Fourthly, there is a lack of innovation in our system. Because entry into the sector is so heavily circumscribed at the moment through the requirement that new institutions be validated by existing incumbents, there is a lack of innovation and an increasing predominance of the traditional three-year residential model. There is insufficient innovation, such as new provision of accelerated courses, two-year provision, part-time provision, degree apprenticeships that offer workplace experience, and other sorts of things. We desperately need to allow more innovation to provide meaningful choice to students looking to gain the benefits of higher education.

The last motivation is to ensure that we have a research landscape that can take us forward in the 21st century, with science and innovation at the heart.

The Chair: Thank you, Minister. We have an opportunity now for questions. We have very limited time—11 minutes—and I already have six Members who wish to speak.

Q164 Mr Marsden: I do not think anyone round this table would disagree with any of the aspirations, Jo, but the devil is in the detail. You have referred already to the length of time that it has taken to get this Bill—since Mr Hanson came into Parliament. We need to put something forward that will last for 20 or 25 years. We need 21st-century structures, not 20th-century structures, for 21st-century solutions. We will be pressing you on some of those issues, particularly about part-time and mature students in future.

I do want to press you specifically on this. You talked about the research landscape. You have come forward with this very complicated structure for the future. Are you actually engaging with what parliamentarians have said? There was a major 12-page letter sent to you by the Chairman of the House of Lords Committee at the end of June, which essentially duffed you up—not you personally but the Department—

The Lord Commissioner of Her Majesty's Treasury (Mr David Evennett): I can't believe that!

Mr Marsden: Well, you wouldn't. You're the Whip [Laughter.]

The Chair: Order. Can I remind colleagues that we have 10 minutes and we have to have succinct questions? Otherwise we will run out of time and people will be frustrated. There are lots of opportunities to question the Minister.

Mr Marsden: I will be very specific. What have you done to respond to the widespread criticisms of the way in which you have put the future of the research councils together, set out in the letter that Lord Selborne sent you on 30 June?

Joseph Johnson: Thanks, Gordon. I do not think your comments reflect the evidence that you have been hearing this morning and Tuesday from witnesses such as Professor Sir Leszek Borysiewicz and others. They saw huge merits in the creation of UKRI and were unanimous in agreeing that we should incorporate Innovate UK within that body.

Of course, we received Lord Selborne's letter and I gave a very comprehensive reply to it, which has been published and is in the public domain. We strongly believe that there are huge benefits to the business community from having a better understanding of what is going on in the research base and the opportunities that are coming out of it. We think there are huge advantages to the research base of being more aware of the needs of business. There is a big synergy there to be exploited.

Q165 Amanda Milling: Good afternoon, Minister. On Tuesday, Professor Gaskell said that Universities UK had advocated a well-regulated register of higher education providers. Do you feel that the Bill will enable that?

Joseph Johnson: Yes—one of the centrepieces of the Bill is the creation of the register. For the first time we are going to have a unified list of institutions that are recognised, that meet a defined quality standard and that are able to assure students that the institution that they are going to has been through a quality threshold. This is a really important unifying mechanism that creates coherence in what is currently a very fragmented regulatory architecture, where HEFCE regulates a number of publicly funded institutions, BIS directly regulates alternative providers and there is a third huge universe of providers who are outside of both regimes altogether.

For the first time we will have a register, which Mary Curnock Cook, the chief executive of UCAS, said on Tuesday would be of huge benefit to people applying to university and wanting to have some kind of assurance that the institution they were thinking of going to had been through some basic sanitary and hygiene checks.

Q166 Carol Monaghan: Having heard from the witnesses over the past couple of sittings, can you tell me what the current position is on representation of devolved Administrations on the board of UKRI?

Joseph Johnson: UKRI is a body that will represent science and research across the United Kingdom. That is in the name. We want to ensure that excellence is well represented on the board, that there is a proper understanding of the systems that are operating in all parts of the UK.

We want to ensure that there is a proper ability for the devolved Administrations to have their specific needs well understood by the board of UKRI. As you know,

in the research council system there is no ex officio membership for the devolved Administrations on the boards of those bodies. We have a reserved settlement in which science and innovation are presently reserved to the United Kingdom Government. We would not want to unpick our devolution settlement in this bit of legislation on its own.

Q167 Alex Chalk: Why structure rankings by provider and not by subject?

Joseph Johnson: You are referring to the teaching excellence framework?

Alex Chalk: Yes.

Joseph Johnson: We are introducing the teaching excellence framework in a phased, careful approach. In the first years of its operation, we are approaching the assessment and performance ranking on an institution level. In later years—piloting in year 3 with plans for introduction in year 4—we will be moving to discipline-level teaching excellence framework judgments.

Q168 Dr Blackman-Woods: Can you point to the evidence base that demonstrates a lack of innovation in the sector?

Joseph Johnson: In the HE sector?

Dr Blackman-Woods: Yes.

Joseph Johnson: It is interesting to note that the share of HE provision currently dominated and held by traditional provision—the classic three-year course—is increasing. It has gone up, for example, from 2010, when it stood at about a 65% share, to 78% in 2015. Rather than seeing increasing diversity of HE provision, with more people doing, for example, degree apprenticeships—although they have been growing this year—or more accelerated courses or more part-time courses, we are seeing a growing share for the traditional three-year model. What we want to see, and what these reforms will allow, is a greater diversity of provider and new models of HE provision, which mean that we are providing the kinds of opportunities for students that meet their needs at all stages in their lives.

Q169 Ben Howlett: What benefit will this Bill have for the most disadvantaged in society?

Joseph Johnson: In many, many ways it will help the most disadvantaged in society. First of all, we are introducing significant reforms on how we deal with transparency in the sector. Universities will be under an obligation to publish full information about their admissions processes and their offer rates, broken down by characteristics such as socio-economic disadvantage. We are putting a duty on UCAS to publish its data in a way that has not fully been available to researchers before. The teaching excellence framework will encourage institutions to focus on how much support they are giving to students from disadvantaged backgrounds, and we are strengthening the powers of the director for fair access, widening his role to participation too.

Q170 Wes Streeting: Looking at the evidence of the amendments, what do you think now are the weaknesses in the Bill that you would like to address in Committee and on Report?

Joseph Johnson: We are always keen to hear from Members of the Committee and broader stakeholders with a strong interest in the Bill on how we can strengthen it and make it better. That is what this is all about. I have been working on this for 14 months.

Wes Streeting: But what are the areas that you would like to see strengthened through that process?

Joseph Johnson: We are open to all ideas. You have already submitted 150 amendments as a Committee on the first two or three clauses. I think many of them have interesting proposals and we are keen to—

The Chair: We will reach those very shortly. I call Mark Pawsey.

Q171 Mark Pawsey: Minister, why should institutions treat students as informed consumers?

Joseph Johnson: They are required to by the Consumer Rights Act 2015. That is the first thing. They are required to by law. Universities are governed by consumer legislation in this country, so that is a starting point. Questioning whether this is a market completely misses the point. It is a market by law.

Q172 Paul Blomfield: You really do not seem to have lamented the lack of part-time education. Part-time student numbers have obviously collapsed since the funding arrangements changed in 2012. What do you think the Bill does to address that?

Joseph Johnson: It does a lot. It builds on measures that we have been taking over recent months. As you know, we have introduced maintenance loans for part-time students with effect from 2017-18. That is an important provision that will facilitate access to part-time education. That built in turn on access to tuition fee loans that we introduced just before. We have extended the equivalent or lower qualifications exemption so that more people can take a second degree on a part-time basis in science, technology, engineering and maths subjects. The bigger picture is that by allowing new providers into the system, we are more likely to get providers who are providing part-time provision. Alternative providers, as they are known, have a much higher proportion of part-time students in their student cohort than traditional providers. It follows therefore that allowing a greater diversity of providers into the system will benefit part-time students and people who want to study later in life.

Q173 Valerie Vaz: It is good to see you Minister. Presumably the Secretary of States didn't think that this was an important meeting, so they sent you along, but this is within your expertise, isn't it?

The Chair: Forty seconds, Valerie.

Valerie Vaz: I had to get that on the record. Minister, you have said you have been working on this for 14 months. Every single person who presented the Bill has now changed—

Joseph Johnson: Apart from me.

Valerie Vaz: Apart from you—you are the only one who is left. Everybody else has changed. Given that we now have two Secretary of States and machinery of

government changes, that we had an important vote on 23 June, and that, as you have heard, there are 150 amendments, is this not a good time to pause the Bill?

Joseph Johnson: Ms Vaz, you are pretty much alone in wanting that. The sector bodies are not calling for this Bill to be paused—

The Chair: Order. I thank the Committee for making me feel very old. [*Laughter.*] Twenty-five years does not seem like yesterday.

1 pm

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

Fourth Sitting

Thursday 8 September 2016

(Afternoon)

CONTENTS

CLAUSE 1 agreed to.

SCHEDULE 1 under consideration when the Committee adjourned till
Tuesday 13 September at twenty-five minutes past Nine o'clock.

Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 12 September 2016

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The Committee consisted of the following Members:

Chairs: SIR EDWARD LEIGH, † MR DAVID HANSON

- | | |
|--|--|
| † Argar, Edward (<i>Charnwood</i>) (Con) | † Milling, Amanda (<i>Cannock Chase</i>) (Con) |
| † Blackman-Woods, Dr Roberta (<i>City of Durham</i>) (Lab) | † Monaghan, Carol (<i>Glasgow North West</i>) (SNP) |
| † Blomfield, Paul (<i>Sheffield Central</i>) (Lab) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| † Chalk, Alex (<i>Cheltenham</i>) (Con) | † Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP) |
| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Evennett, Mr David (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Rayner, Angela (<i>Ashton-under-Lyne</i>) (Lab) |
| † Howlett, Ben (<i>Bath</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Johnson, Joseph (<i>Minister for Universities, Science, Research and Innovation</i>) | † Streeting, Wes (<i>Ilford North</i>) (Lab) |
| † Kennedy, Seema (<i>South Ribble</i>) (Con) | † Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Marsden, Mr Gordon (<i>Blackpool South</i>) (Lab) | † Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| | Katy Stout, Glenn McKee, <i>Committee Clerks</i> |
| | † attended the Committee |

Public Bill Committee

Thursday 8 September 2016

(Afternoon)

[MR DAVID HANSON *in the Chair*]

Higher Education and Research Bill

2 pm

The Chair: We now begin line-by-line consideration of the Bill. To curry favour from the start, I should say that Members may, if they so wish, take off their jackets. I remind Members that mobile phones should be switched to silent or turned off.

As a matter of form, I also remind Members that my fellow Chair Sir Edward Leigh and I do not intend to call starred amendments. The required notice for Public Bill Committee amendments is three days, which in effect means that amendments should be tabled by the rise of the House on Monday for consideration on Thursday, and by the rise of the House on Thursday for consideration on the following Tuesday. The Clerks will circulate a note shortly on the arrangements that will apply during the forthcoming recess.

The selection list for today's amendments is available in the room and on the website. It shows the selection of amendments that I have made, and their groupings. Today, I intend to call first the Member who has put his or her name to the leading amendment in the group. Other Members are then free to catch my eye accordingly. Members may speak more than once in a single debate, should they so wish.

At the end of the debate, I shall again call the Member who moved the leading amendment in the group. Before any such Members sit down, they will need to indicate to me whether they intend to withdraw the amendment or to press it to a decision by the Committee. Any Member who wishes to press any other amendment or new clause in a group to a vote needs to let me know, because some amendments are not decided on in the order of their consideration in Committee, but are taken at a later date, as are new clauses that have been grouped. Let me know at that stage if any amendments in the group are to be taken further, and they will be dealt with at the appropriate point in the Bill or at the end. Decisions on new clauses, as I have said, will be taken at the end of the Bill, so after consideration of clause 113.

I shall use my discretion to determine whether we are to have clause stand part debates following the initial debates on amendments.

Clause 1

THE OFFICE FOR STUDENTS

Valerie Vaz (Walsall South) (Lab): I beg to move amendment 119, in clause 1, page 1, line 5, leave out "Office for Students" and insert "Office for Higher Education".

The Chair: With this it will be convenient to discuss the following:

Amendment 120, in clause 1, page 1, line 6, leave out "OfS" and insert "OfHE".

Amendment 121, in clause 1, page 1, line 7, leave out "OfS" and insert "OfHE".

Valerie Vaz: Thank you, Mr Hanson. It is a pleasure to serve under your chairmanship. My amendment is intended to be helpful; obviously, if Members do not like what I say, they can just trash me in the press. "Office for Students" is a misnomer. First, this body is not about being an office for students; as various clauses make clear, the body is about registration and regulation—a registration procedure—and not about students. It is certainly not about having students as part of the office for students.

Secondly, from the written and oral evidence given to the Committee, the situation of postgraduate students has clearly not been acknowledged or mentioned in setting up this body, and, with the new changes in the Government, we now have two responsible Departments. Postgraduates do a fantastic job of not only research, but teaching, so they are split between the two. There is a gap there, which has been acknowledged. Postgraduate students have to be somewhere in the Bill.

Furthermore, there is nothing about subject-specific support—the strategic and vulnerable subjects, which require a higher level of funding. That is why I say that this body is not about students. There is nothing about skills, the skills deficit or protecting the STEM subjects of science, technology, engineering and maths. I liken the office for students to the Care Quality Commission. This is like calling the CQC the "office for patients" when its responsibility is not actually about that, but about regulating healthcare providers.

The office for students appears to set up regulation and registration processes. We can see in the Bill a power to impose monetary penalties and a power for the suspension of registration. Higher education providers will have to pay for the benefit of being part of the register. If we continue to look through the Bill, we see clauses titled "De-registration by the OfS" and "De-registration by the OfS: procedure". Higher education providers are going to be spending all their time on bureaucracy, and all that money will be taken away from front-line services—away from the students themselves. That is why I say, again, that it is not about students.

According to clause 2(2), the Secretary of State has to give guidance. Again, there is no clarity. We need to change that, because we now have two Secretaries of State. If the OFS was for students it would be about fees protection, because students who were having to face bills of £27,000 are now being provided with invoices for £45,000. It would also be about students' wellbeing, the skills shortage, retraining, returners, and all those people who do not classify themselves as students as we imagine them to be. Our time as a student is actually a very short part of our lives. There are people who do not fit the student mould, yet who will be students at some stage during their lifetime.

I want to pick up on the Minister's remarks earlier about my being the only one who wants to pause the Bill. I do so because I am a lawyer, and was a Government lawyer. It is important to have clarity on the face of the Bill. Currently, that is not the case. The Minister helpfully

told us that he has been living with the Bill for 14 months. I sympathise with him on that, but there have been a lot of changes, not least the new grammar school policy that might be coming through. What happens at the early stages of education filters up. The abolition of the Office for Fair Access and what happens to young people as they go through the education system will have a great impact. I know that it is not part of the programme motion, and I have been told that we cannot discuss this, but what happened on 23 June is vital. I say again that the machinery of Government changes.

There is no clarity on the face of the Bill. “Office for Students” is a misnomer. I would prefer to work with the Minister to find another way to describe the body, not least because it is not about students.

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): I echo the hon. Lady’s pleasure at serving under your chairmanship, Mr Hanson.

I shall move straight to the points raised by the amendment, with which I fundamentally disagree. I do, though, appreciate the hon. Lady’s efforts to be helpful and am pleased to have a chance to address the points she made. The Bill sets out a programme of reforms for higher education that will improve quality and choice for students. It will encourage competition and allow for consistent and fair oversight.

As I said when I gave evidence to the Committee this morning, there have been several significant changes to the higher education system since the last legislation was introduced to overhaul the regulation of the sector, all the way back in 1992. The majority of funding for the system used to come directly from the Government, in the form of grants. We have now moved to a system in which students themselves fund their studies.

The regulation of the sector clearly needs to keep pace with developments if confidence, as well as our international reputation and standing, are to be maintained, so we need an HE regulator that is focused on protecting students’ interests, promoting fair access and ensuring the value for money of their investment in higher education. That has been a central tenet of Government reforms since the publication of the 2011 White Paper, “Students at the Heart of the System”. Ensuring that the student interest is at the centre of the sector’s systems and structures is a cardinal principle of our approach.

Paul Blomfield (Sheffield Central) (Lab): I thank the Minister for giving way; it is probably the first of many occasions. I wonder whether he could not give some reassurance to my hon. Friend the Member for Walsall South on the issues she is raising by indicating that he views our amendments sympathetically. They would give life to what he just talked about—putting students at the heart of the system—by providing for effective student representation both at the top on the OFS board and throughout the system.

Joseph Johnson: Yes, I will certainly come on to that issue, which is the subject of a number of later amendments, but I will happily touch on it in answering the hon. Gentleman.

In its written evidence, University Alliance states that:

“As the organisation responsible for regulating the higher education sector, the OfS will need to ensure that institutions operate in the interests of students.”

That point was reiterated by Professor Quintin McKellar, vice-chancellor of the University of Hertfordshire in his evidence to this Committee, when he said that

“the Government’s idea to have an office for students that would primarily be interested in student wellbeing and the student experience is a good thing.”—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 22, Q31.]

We also heard from Alan Langlands, vice-chancellor of the University of Leeds, who concurred when he said:

“I think the Government have struck a reasonable balance, and putting students at the centre is sensible.”—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 27, Q41.]

The creation of the office for students is about putting students at the heart of the system. It has been a consistent theme of Conservative and, formerly, coalition policy for a considerable time. The OFS will, for the first time, have statutory duties focused on the interests of students and equality of opportunity when using the range of powers given by the Bill.

In addition, unlike appointments to the HEFCE board, the Secretary of State must “have regard” to the desirability of the OFS’s members having proven experience of representing the interests of students when appointing the OFS board. That goes straight to the point that the hon. Member for Sheffield Central raised. Schedule 1 of the Bill captures the intent of many of the amendments that have been tabled for later clauses. We feel that schedule 1 fully meets those intentions of ensuring that the OFS board has people with the experience of representing student interests.

Mr Gordon Marsden (Blackpool South) (Lab): May I repeat my delight in serving under your chairmanship, Mr Hanson, and that of Sir Edward? On the very specific reference that the Minister has just made, some might say he is just trying to defend the indefensible. It is “Hamlet” without the prince, but we will come on to that in a moment.

Is it not the case that the specific phrase “have regard” offers the minimum in draftsmanship, not the maximum? We have to legislate not for the best universities—I am sure the Minister will in due course become part of them—but for the most unexcellent. Just saying “have regard” will not be sufficient to give the guarantees that students need.

Joseph Johnson: I completely agree that for the OFS to function effectively in students’ interest, they should be represented properly on it. We have had a crack at that in schedule 1. I am certainly receiving a lot of representations from Opposition Members and from student unions and so on saying that we have not gone as far as we might in entrenching that core principle with which we are in basic agreement: students need to be properly represented in the governance of the office for students.

I have understood the messages we are being sent, but I point out that at board level we will be recruiting those with experience of representing or championing the student interest. A critical feature of the OFS as it is organised is that overall it must have members with experience of representing the full diversity of the sector, including students. It is essential that the individual appointed can act on behalf of the wider student interest.

[Joseph Johnson]

That reflects common practice: board members are typically appointed for their breadth of experience and representation.

OFS members will have significant responsibilities in taking decisions, many of which will ultimately impact on all students, so it is essential that each member brings more than an individual perspective to the decision-making process to ensure that the diversity of stakeholders is fairly represented.

2.15 pm

Student interests are genuinely at the heart of our reforms, and we will continue to engage with our partners as the implementation plans are developed. As seen from the Green Paper onwards, we have sought the engagement and thoughts of all involved in the sector.

I return to the amendment of the hon. Member for Walsall South. Changing the name of the organisation to the “Office for Higher Education”, as she suggests, implies that the market regulator that we are explicitly creating with the office for students is in fact a creature of the sector that answers to higher education providers, rather than one focused on the needs of students. It would achieve the very opposite of our objectives for the organisation.

Mark Pawsey (Rugby) (Con): Does the Minister agree that the Opposition are focusing far too much on the institutions themselves? The whole point of the Bill is to focus on students. By calling for such a change, the hon. Member for Walsall South is missing the entire point of the Bill.

Joseph Johnson: I thank my hon. Friend for his point. That is right. HEFCE is a brilliant body. As we discussed this morning, it was set up in 1992 as the successor body to the Universities Funding Council. It is in the tradition of being a funding council at a time when the Government no longer principally funds the universities, so it is doing its job in a regulatory environment that reflects a bygone era. We need a regulatory structure that reflects the fact that students are now the primary funders of their education through the student loan system. This is a market, as recognised in law, so we need a market regulator. The office for students is the body that we believe is best placed to do that.

A change of name of the kind that the hon. Member for Walsall South suggests would go against the main principles that we are trying to achieve through these reforms. I note that none of the stakeholders who gave evidence to the Committee on Tuesday or today asked for a change of name.

As a regulator, the OFS will need to build relationships across the sector. Part of its duties will be thinking about the health and sustainability of the HE sector. However, that does not change the fact that the new market regulator should have students at its heart, and I believe that the name of the organisation needs to reflect that. For that reason, I ask that the hon. Lady withdraws her amendment.

Valerie Vaz: The stakeholders may not have asked for it, but that does not mean that people cannot have an idea of their own, take soundings or look at the face of

the Bill and see what strikes them. I have not missed the point, as the Minister said, because clause 2(1)(b) says that the OFT is needed

“to encourage competition between English higher education providers in connection with the provision of higher education”.

Anything to do with students, universities or higher education is also about collaboration and public good. I wanted to flag up the fact that the name, as it currently stands, does not incorporate the idea of putting students at the heart of it, for reasons that I will not go through again. It is open to very clever civil servants to come up with something that reflects this debate. With that, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 1 ordered to stand part of the Bill.

Schedule 1

THE OFFICE FOR STUDENTS

Wes Streeting (Ilford North) (Lab): I beg to move amendment 2, in schedule 1, page 63, line 17, leave out “twelve” and insert “ten”.

This amendment would maintain the maximum number of OfS members as twelve when taken together with amendment 3.

The Chair: With this it will be convenient to discuss the following:

Amendment 122, in schedule 1, page 63, line 18, at end insert—

“() At least one of the ordinary members appointed under sub-paragraph (1)(d) must, at the time of their appointment, be currently engaged in the representation or promotion of the interests of individual students, or students generally, on higher education courses provided by higher education providers.”

This amendment would ensure that at least one of the members must be a student representative.

Amendment 3, in schedule 1, page 63, line 37, at end insert—

“(2A) The members appointed under subsection (1) shall appoint two further members (“the student representatives”) who—

- (a) are persons—
 - (i) enrolled on a higher education course of a registered provider,
 - (ii) elected as representatives of a students’ union, or
 - (iii) elected as representatives of the National Union of Students, and
- (b) are considered by the members of the OfS able to represent, or promote the interests of, a broad range of students.

(2B) For the purposes of subsection (2A), “course” means any graduate or postgraduate course.”

This amendment would require there to be two student representatives as members of the OfS.

Wes Streeting: It is a pleasure to serve under your chairmanship, Mr Hanson. I welcome this opportunity to debate the first higher education Bill that we have had for some time. In introducing the first in a series of amendments I have put forward to the Bill, I want to offer the Committee some context for what I am trying to achieve.

The Minister's warm words about the importance of students and of placing them at the heart of the system, as in the title of the coalition Government's White Paper, are laudable but that aspiration is not currently reflected in the Bill. Since the introduction of university tuition fees and their subsequent trebling and trebling again, students have not been afforded anything like the rights and protections that they deserve, given the substantial contribution that they now make to the cost of their higher education.

When I saw the Bill on publication I thought it was at risk of being a missed opportunity. Instead of being a higher education Bill it ought to be a Bill of Rights for students, addressing some of the serious deficiencies that currently exist and ensuring that students are better protected.

During the evidence session, the Minister talked about the importance of consumer rights for students within the context of the current higher education system. I regret that language and the pace of marketisation that we have seen in higher education. It has always been my view that higher education is not simply a commodity to be bought and sold in the marketplace. It is a mission that goes far beyond benefits to individuals. Higher education has a far broader societal benefit and a benefit to students. At the heart of the relationship between the student, their lecturers and institution is not a sense of suppliers and consumers; it is actually a partnership. I would like to see a focus on higher education that places principles of co-production of higher education at the heart of the Bill rather than aggressive consumerism.

Dr Roberta Blackman-Woods (City of Durham) (Lab): My hon. Friend is making a series of excellent points about the current state of higher education. Does he agree that we are getting payment for higher education out of balance and not recognising that there should be a relationship between the state, the public good and individual students in the payments funding of higher education? At the moment too much weight is being placed on individual students for funding higher education. Although they benefit, society benefits, too.

Wes Streeting: I wholeheartedly agree with my hon. Friend, who has made an enormous contribution to the debate on higher education in this place over a great many years. I know she shares some of my frustrations about these issues.

When the Dearing report was first published, it placed a tripartite principle at the heart of contribution. All the beneficiaries were expected to make a contribution: society, through general taxation, employers, and students themselves as graduates. I will not open the funding debate in its entirety today as that is outside the scope of the Bill, but I must say to those outside this place who take an interest and watch these proceedings that I share some of their frustrations that the scope of the Bill means the Opposition cannot set the direction of higher education policy on a radically different course, by placing more progressive principles at the heart of the Bill. To have that opportunity, a party needs to win a general election. There is a lesson in that as people make their choices.

To return to the scope of the Bill and in particular the amendments tabled by the Opposition, not only is there a lack of general protection for students, but the proposed

office for students itself epitomises the problem with the Bill as it stands: students have their name on the door but they do not have a seat at the table. The amendments seek to ensure that students are represented on the board of the office for students.

I listened carefully to what the Minister said about the responsibilities that board members have for not just representing their own perspectives or interests but promoting the broader interests of higher education. I speak as someone who has been a student nominee on the governing body of the University of Cambridge, the board of the Office of the Independent Adjudicator for Higher Education, the Higher Education Academy, and several other bodies that I cannot instantly recall, during my previous life as president of the National Union of Students. It has always been accepted that when someone accepts a role as a board member, they are not there solely to represent their own interests; they must take on a broader responsibility for the duties of the body concerned, particularly where that is a public body. That would be implicit and explicit in the student representatives' responsibilities.

Ben Howlett (Bath) (Con): The Care Quality Commission was mentioned earlier. There is no patient on the board of that organisation to represent the views of patients, because things evolve quickly. How does the hon. Gentleman want student voices to be engaged more effectively? The Quality Assurance Agency for Higher Education, which the Labour party requested give oral evidence to the Committee, provided a probably successful and succinct idea for embedding the student voice by representing and engaging students at every level, not by having a token director on the board. Other regulators in the system certainly do not. Why not embed and engage students throughout the system as we move on?

Wes Streeting: Given the nature of the role of board members, those people would not be token; they would in fact have serious duties and responsibilities, and their voices and valuable perspectives would be heard at the heart of discussions. I might argue, by the way, that patient interests really ought to be represented on the board of the Care Quality Commission, but that is certainly outside the scope of the Bill. I have a serious point: I urge the hon. Gentleman and the Minister to agree with the new Prime Minister, who has said some interesting things since her elevation to the highest office about the importance of having worker and consumer representatives on company boards. That is an interesting point that ought to be addressed at the heart of the Bill.

Whether we believe that students are consumers of higher education or we prefer to see them as co-producers, both those visions would be served by these amendments, because students' voices would be heard on the board of the office for students. I propose that there should be two student representatives, because I found—particularly in the higher education sector,—that it was often helpful for there to be someone else who shared my perspective and experience when I was sat at the table with people who had often been around for some time, had been through the mill and had a great deal of experience. That principle has been supported by the evidence that the Committee has gathered. It is regrettable that we had only one NUS representative in, and for only 15 minutes. We had two GuildHE representatives in for an hour. In fact, we heard a whole range of perspectives

[*Wes Streeting*]

from just the universities represented during our evidence gathering, but there was very limited time for students. I hope that we do not make the same mistake with the architecture of the higher education system.

Placing students on the board of the office for students would bring to life the Minister's commitment that the new body will place students at the heart of its work. We might have a debate about the best mechanism for that and the appointments process. I have suggested, for example, that the board itself should appoint student representatives, there might be some chopping and changing as a result of turnover or churn, and the Secretary of State may not want to get bogged down in annual or biannual appointments.

We can debate implementation and perhaps even tidy it up on Report, but at this stage I would like the Government to commit to including students on the board of the office for students. That is not much to ask. It would not have a great cost, but there would be an opportunity cost of excluding students. Students have a valuable perspective to offer. There are countless examples of NUS representatives, student union representatives and students themselves making valuable contributions to university governing bodies and higher education bodies and enhancing the quality of our higher education sector as a result. I commend these amendments to the Committee and hope for a favourable hearing from the Minister.

Paul Blomfield: To make up for failing to do so earlier, may I say what a pleasure it is to serve on this Committee under your chairmanship, Mr Hanson? I look forward to several weeks of debating with the Minister, who through the process of this Bill being brought together has proved to be a very listening Minister. He has ensured that proposals have developed and responded to concerns that have been raised. I hope we can continue to do that as we debate. While there will be a few dividing lines between each side of the Committee, there are also many things on which we can agree. Many of the amendments have been tabled genuinely to be helpful—this is one such amendment—and I hope there will be space for us to reach some understanding around them.

2.30 pm

I echo the concerns of my hon. Friend the Member for Ilford North about the consumer-producer language we use in relation to students and universities. It is to a degree inevitable, given the change in the funding regime, that students are consumers and in a different way universities are producers, but they are much more than that. In his evidence, Professor Simon Gaskell said that students are co-creators of education. That is an important point to make as we start our deliberations, and we should all seek to see students in that context.

The hon. Member for Bath—for whom I have high regard and work with closely on the all-party parliamentary group on students, seeking to give students a voice—made a point in relation to Douglas Blackstock's remarks on the QAA and the way students can engage. The QAA is an excellent example of what my hon. Friend the Member for Ilford North seeks to do through his amendment and, indeed, subsequent amendments. I have tabled one in relation to the quality assessment committee.

The QAA decided 10 years or so ago not simply to listen to students, but to bring them into their audit teams so that students sat within audit teams as equal members when they went on institutional visits and prepared the assessment of institutions. That, as Mr Blackstock shared with us earlier, has been extraordinarily successful in improving the quality of the assessment process undertaken by the QAA. That spirit of providing for student representation is what all of us are trying to capture in the amendments tabled, and in that spirit I hope we can find a way forward with which the Government will agree.

Mr Marsden: I rise to support the comments of my hon. Friends the Members for Sheffield Central and for Ilford North and to propose amendment 122, which stands in my name and that of the shadow Secretary of State. I begin by making it clear that in no way do I doubt the bona fides and the good intentions of the Minister; I hope he realises that. However, as I said in the previous session, we have to produce legislation for a significant period, so we have to think about all sorts of situation.

My hon. Friend the Member for Ilford North, in an excellent speech, drew attention to the context in which these amendments are proposed today and to the aggregation of decisions, costs and responsibilities that has been growing for individual students of every age since we decided in the early 2000s to introduce a tuition fee regime. I do not wish to sound unkind, but there is an old saying about hanging concentrating the mind of the condemned person wonderfully. If the Government wish to put students as consumers at the heart of the Bill, I can only say that there has been a great deal of hanging and stretching over recent years to concentrate their minds in that respect. I do not wish to be partisan—I merely remark on the fact—but in my experience, having listened to a large number of students on the issue, perhaps the more profound point is that the tripling of tuition fees, the withdrawal of grants and their substitution with loans for disadvantaged students, and the freezing of the threshold, of which Martin Lewis spoke so eloquently in our evidence session, make the question of how they can have their voice truly heard in the process even more important.

Let me address what the Minister and the hon. Member for Bath said about their perception of the role of the proposed student representatives. Again, I do not believe that either intended this—I have already referred to the bona fides of the Minister, and the hon. Member for Bath does excellent work with my hon. Friend the Member for Sheffield Central on his all-party group on students, and all the rest of it—but I ask them to consider whether students might see as a little condescending the suggestion that the representatives are in place simply to represent the student body and not to reflect on any of the broader issues.

The Minister is right to say that in any corporation or organisation of any description, when people are put on boards, whether as paid or non-executive directors, we want to get good value out of them, so that they are not simply a representative of a particular organisation but have broader perspectives. Indeed, by being on the boards and involved in the process, they themselves develop in understanding of the industry—to talk in commercial terms—or, in this case, of the vocation and structures of universities.

We see that in other areas. I will remain within the spirit and the text of the amendment, Mr Hanson, but I wish to reflect on young people's councils, which a number of Members of Parliament have in their constituencies. In some cases, those young people's councils are involved in making decisions, working with the local councils and local authorities. As I am sure has been the experience of other hon. Members, when I have had engagement with students or young people in informal or formal events in my constituency, the one thing that has always come across strongly is that they do not want just to be sitting there and wearing only the one hat—to talk about young people's issues. Young people of course have interests in specific areas such as higher education, but they are interested in all sorts of other areas as well. By extension, therefore, it is a faulty or deficient argument to say that the amendments are merely putting forward a token representative for a particular perspective.

Alex Chalk (Cheltenham) (Con): Does the hon. Gentleman think it would be appropriate to take into account that the existing clause bakes in the desirability—in fact, the requirement—for OFS members to have experience of representing or promoting the interests of individual students or of students generally? In other words, that is already baked into the proposed legislation.

Mr Marsden: I hear the point made by the hon. Gentleman. He is absolutely right to say that paragraph 2(2)(a) of the schedule has such a reference. He talks about baking in, and I will not ask for a description of whether it is soft or hard-baked, but I would prefer to have the measure hard-baked into the Bill. The reason is to send out the message to students that they are valued, not simply as instrumental members of the board, but as a holistic part of the operation and one that can add value.

The principle is important, which is why I am spending some time on it at this stage, and it will appear in a series of other amendments that we will consider in due course. To turn specifically to the existing drafting of the Bill, the OFS is to have three designated places—one each for a chair, the chief executive officer and the director for fair access and participation. The remaining non-designated members have to collectively demonstrate experience and satisfy a number of criteria, but I agree with what the NUS said in its submission. Without the guarantee we propose, there would be no statutory protection for the student voice and no statutory protection for that time in the future when the Minister has moved on to higher and greater things and possibly even to No. 10—we may yet get a Johnson in No. 10. There is no guarantee in the Bill. It is true to say that ordinary members of the OFS will have experience of representing students, but that is not in itself a sufficient guarantee that the voice of students would be heard in the office that bears their name. This is about sending out a very important symbolic message, which would benefit the Bill.

In their evidence to the Committee, the NUS talked about specific values—it is, after all, a trade union and trade unions have to have due regard to the interests of their members, otherwise they would not exist—but it went beyond that. It said that, following the recent referendum and elections over the last few years, it is

clear that young people have a great appetite to engage in politics and civic society and to shape the world around them. The NUS suggests all sorts of ways that that might be done, including individual electoral registration, but there is a broader point here, and on that point I want to refer to our evidence session with Mr Martin Lewis. Giving students the opportunity and the right to be at the heart of the office for students would confer not only those benefits on students, but would add value to this Government's—to any Government's—commitment to the democratic process.

To remind Members, Martin Lewis spoke in his evidence about the controversial issue of the freezing of the threshold—I am not going to go down that road at the moment. He went on to talk more broadly about breaking the principles of good governance and finance, and then continued:

“not only that, but this breach of trust makes it more difficult for people like me who have been trying to say to students, regardless”—
I am sure we don't all share this view—

“of the political spittle generated—forgive me—by you people when you argue over these issues, that students can still afford to go to university... Let us not just treat students as consumers; let us treat them as voters and citizens.”—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 38-39, Q55.]

The danger is that retrospectively changing terms breaches a contract and breaches the belief in politics as a whole. My point is not about that specific issue; it is that this is a social contract, and that is extremely important. The Government are contracting to produce a body that they believe will do far more for students in the future. They want students to be enthusiastic about it, to abide by it and to participate in it. In return, students want to have the right to sit on that body. I am tempted to quote the famous saying of the American colonist who said, “No taxation without representation.” I hope that we will not have a civil war, such as that between England and what became the United States, but this is a totemic issue, which students feel strongly about.

If the Government were to consider and reflect on this issue, it would send a very strong signal of how important it is to include students in this process and in broader democratic processes. That would benefit all of us in Parliament in terms of improving engagement not just from younger students, but from older students as well. For those reasons, while I do not in any way mistrust the bona fides of the Minister, the hon. Member for Bath or indeed anyone in the room, we do intend to press amendment 122 to a vote.

2.45 pm

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): It is a pleasure to serve under you again, Mr Hanson. I hope that this is not a private fight, and that the Committee does not mind a Scot intruding in this debate, which would seem rather strange to anyone who has been in receipt of university education in Scotland, because universities in Scotland have had students at their centre, in different ways, for centuries. Indeed, the amendments are extraordinarily modest in their intent.

Some may know that for centuries ancient universities in Scotland—the four ancient, as we call them—have had elected rectors. Only the students have been able to vote to elect rectors, who are chairs of the court. That has not led to an utter collapse in the system. Indeed,

[Roger Mullin]

the other day we heard a professor saying how proud he was that his university was ranked 19th in the world. Over the years there have been some aberrations; in the early 1970s in Edinburgh, they elected a student as rector, who did go on to No. 10: a Mr Gordon Brown, I believe, who also used to be able to get elected as MP for Kirkcaldy and Cowdenbeath, but no more.

Having worked in the education sector at times, I know that students can show remarkably wise judgment: students elected me honorary president of Paisley University in the early 1970s for two years. More recently, when I was doing some work at Stirling University, I was invited to chair the students' association as an external person. The engagement has been great, and there are many platforms for student engagement.

The serious point I would like to make about the nature of student engagement, however, is that we should look at some of the problems that we have on boards, not just in the education sector, but more generally in society. Look at what happened when the banks crashed. The Government regularly point out that part of the problem is group-think on boards—in other words, nobody on the board comes from a different perspective, able to challenge.

Although I respect many of the contributions we heard in evidence in the past two days, it strikes me that many of the people were talking with similar assumptions and in similar ways. We are just as likely to get group-think among well suited academics sitting together in a room as we are on the board of a bank. Student representation can provide a type of challenge, which is important. It is not even a problem if challenges are wrong, as long as there is challenge. To avoid group-think, there should always be someone willing to provide that challenge. That is where I think student representation has a particular role to play. If I correctly understood the hon. Member for Blackpool South to say that he intends to put his amendment to a vote, we will be happy to support it.

Joseph Johnson: I will respond to amendments 2, 122 and 3 together, as they all relate to student representation on the board. As I said earlier, students' interests really are at the heart of the reforms. They are hard-baked into the Bill. They are clearly and explicitly, in black and white, in schedule 1, in which, as has already been made clear, the Secretary of State must have regard to the desirability of the OFS board containing people with experience of representing students' interests.

We will continue to engage with our partners as the implementation plans are developed. That will include ensuring that the student perspective is represented on boards and decision-making bodies. That is why, for the first time, we are setting up an office for students, with the intention, set out in primary legislation, that its members will, between them, have experience of representing such interests. I think it is fair for the Committee to acknowledge that that is progress. The current legislative framework, which was set up in 1992, did not have any requirements for the board of HEFCE or its predecessors to have experience of representing the student interest. It is also fair to acknowledge that putting students at the heart of the governance of the main regulatory body that will oversee the sector is a

significant step in the right direction, even if that is not quite as hard-baked as the hon. Member for Blackpool South would like, in terms of prescribing the specific number of people on boards who are capable of representing the student interest, or prescribing that those involved be current students.

Mr Marsden: I entirely acknowledge what the Minister says about the provision not existing in 1992 or subsequently, but that, while not exactly being a lawyer's argument, is a slight straw person, if I could put it that way. We might as well say, "We have near-universal suffrage in the UK today; they didn't have that 200 years ago." It is not a very strong line of argument, I would suggest. The Minister talked about experience of representing the student interest; most of us here have that experience, so I wonder if either he or his officials could give us a definition of that, and say whether it includes or excludes existing students.

Joseph Johnson: It could easily include students who are presently at university, but we would not want to put that in the legislation, because that might exclude people who are quite capable of playing that role. Many NUS executives, for example, could occupy the position, but they are often not actually studying, as I understand the NUS's arrangements. They take leave of absence or years out from their university. They sometimes perform these important functions shortly after they have stopped studying. Putting in legislation the kind of requirement that the hon. Gentleman wants would prevent many of those kinds of people from contributing their valuable experience. We would not want to exclude them by putting in a requirement that they be existing students. It would perhaps not be in the student interest to do so, because we want to make those skills available.

It is essential that the individuals who are eventually appointed be able to act on behalf of the wider student interest that I spoke about. Students are a highly diverse group, and we want representatives on the OFS board who can represent the rich diversity of the student population—mature, part-time, minority ethnic and distance learners, as well as many other forms of learners. We want the OFS board members to be able to represent more than one type of student. It is very possible that we can recruit members with several of the criteria that we are looking for.

Dr Blackman-Woods: May I help the Minister out by suggesting that he looks at having the president of the NUS, or an immediate past president of the NUS, as a member of the board—somebody with a very up-to-date knowledge of a wide range of issues relating to students and the higher education sector more widely?

Joseph Johnson: We have made it clear that we want the student voice prominently represented in the governance structures of the main regulatory body. We would not want to set out in legislation that the holders of particular positions in the NUS or other student unions had ex officio places on the board of the office for students. That would tie the hands of the board of the OFS in a way that would be entirely undesirable in primary legislation.

I want to pick up on one or two points that the hon. Member for City of Durham made. She said that the way in which the higher education market had evolved

to cause students to be regarded as consumers was regrettable, and she also regretted the withdrawal of the state from the financing of higher education. I would like to point out that that is not true: the taxpayer still makes a considerable contribution to the funding of the system. Taxpayers fund it directly, and also often subsidise the loans that underwrite students' studies. That is a critical feature of a progressive higher education system that has enabled many people from disadvantaged backgrounds to go to university and benefit from it.

As I was saying, schedule 1 is progress. It includes a requirement that is not found in current legislation. The student voice and the student interest will be represented in the main regulatory body; that has not previously been the case. The Committee should welcome that, even if some want the types and specific characteristics of the student representatives to be set down even more clearly.

Paul Blomfield: I thank the Minister for giving way again. He has explained his aspiration to engage students. The first OFS board will set the tone; it will set an operating framework that will be maintained over many years. Under the Bill, would the Minister expect that first board to include a current, or at least very recent, student, so that that particular experience could complement its work?

Joseph Johnson: I would not want that to be explicit in primary legislation. It will be for the Secretary of State to have regard to the duty to think about the desirability of student representation, but I do not want the Bill to be clear now as to whether it would be a current student or someone who had just finished studying. It could be either of those, or people with a number of other characteristics. The key thing is that there will be people on the OFS board who will be capable of representing the wider student interest.

Mr Marsden: Without trading lawyers' words, the amendment says that at least one of the members should,

"at the time of their appointment, be currently engaged in the representation or promotion of the interests of individual students, or students generally".

That is drafted quite widely, for the specific and practical reasons that the Minister outlined. It certainly does not say that a member has to be an NUS officer or official. There is a degree of latitude in the amendment.

Even at this stage, I shall make an offer to the Minister: if he is worried that the amendment is technically deficient—after all, he is Goliath and we are David in this matter; he has many officials to draft amendments, whereas ours may well be technically deficient—and he wants to suggest improvements to it, that would be a different matter, but he has not said that.

Joseph Johnson: I deal with the amendments that have been tabled. I do not choose which amendments Opposition Members table; I can deal only with those that are presented to me. The amendment as drafted would restrict student representation at board level to a current student. We think that is over-prescriptive. It is of course right that we engage directly students who are currently in higher education, but restricting the requirement

in such a way would risk our not being able to appoint the right person to the role. It could, for example, prevent us from appointing a future full-time officer of a student representative body. For that reason, I urge the hon. Member for Ilford North to withdraw the amendment.

Wes Streeting: Having listened to the arguments, I am genuinely baffled by the Government's reluctance to give way on the notion of student representation on the board of the office for students. I cannot understand how it could be reasonably argued that students' interests lie at the heart of the office for students when there might be no voice around the table with current or recent experience of being a student.

Alex Chalk: Does the hon. Gentleman recognise that students are not being excluded? It is not the case that they will not be included; they just might not be. The schedule simply allows the flexibility to ensure that if the representative is a student, they are the best person for the job.

Wes Streeting: I am grateful for the hon. Gentleman's intervention. It is in the nature of the business of the office for students, which is, after all, for students, that it will be always discussing the kind of issues on which it would be advantageous to have the perspective of a current or former student who had been involved in student representation, so that the OFS could reach the right conclusion and listen to the right perspectives.

It is some 12 years since I graduated from university, and more than half a decade since I left student representation. Although I maintain a passion for representing the interests of students, as reflected in the amendments I have tabled and in the contributions I tend to make in the Chamber, I do not pretend for a moment to know what it is like for students currently studying on my course at my university, let alone on all other courses at all other universities. Things have moved on. I know the higher education sector can sometimes move at a glacial pace when it comes to improvements and developments, and it suffers from small c conservatism, but none the less there have been significant changes. In the student finance system alone, the architecture for tuition fees has changed twice since I was at university, and the repayment terms and conditions have changed even more. I cannot understand the argument we have heard this afternoon.

3 pm

The Minister spoke about progress, but this is not meaningful progress at all in the context of how radically higher education has changed since student representation was first considered in legislation in a meaningful way. It is outrageous that students are graduating with record levels of debt. The nature of the student finance system and the changes made to it in this Parliament will mean that the poorest students graduate with the highest levels of debt. It is genuinely outrageous that students are bearing so much of the burden of repaying their education as graduates, yet they are being afforded so few rights, protections, and opportunities to have their voices heard. Whether we see this as a matter of consumer rights or as a matter of ensuring meaningful co-production

in the relationship between students and their institutions, the fundamental point is the same: co-producers deserve a voice and consumers deserve rights.

Amendments 2 and 3 are not necessarily meant to be prescriptive. Amendment 3 provides that the two student members should be

“enrolled on a higher education course of a registered provider...elected as representatives of a students’ union, or...elected as representatives of the National Union of Students, and...considered by the members of the OfS able to represent, or promote the interests of, a broad range of students.”

We recognise that there is diversity in the sector; that was the motivation for providing for two members.

I am disappointed that the Minister is not giving way on this matter. As a member of the Treasury Committee, I am able to count the number of Members in the room, and I appreciate that, thanks to the Government Front-Benchers’ effective whipping, I am unlikely to win the day. I am content to withdraw the amendment, but I appeal to the Minister to reflect on our discussion as we continue debating the principle of student representation, and to consider bringing the amendments back on Report, perhaps in a slightly modified form.

This debate is almost divorced from the reality of the higher education sector. There are student representatives on the governing bodies of most higher education institutions, including the Higher Education Funding Council for England, the Quality Assurance Agency for Higher Education, the Office of the Independent Adjudicator for Higher Education, and UCAS.

Ben Howlett *rose*—

Wes Streeting: I give way to the hon. Member for Bath, in the hope that he has had a change of heart.

Ben Howlett: I appreciate that the hon. Gentleman is withdrawing his amendment, but some of the examples he has cited show that student representation can be looked at by one of the committees provided for in schedule 1. If he tables further amendments on student representation, surely he should look at that at a committee level, rather than board level.

Wes Streeting: It comes back to the Minister’s point, which is that we do not want to see tokenistic representation. The board of the office for students is the governing body of the institution; it has powerful regulatory functions to oversee and it will have a degree of responsibility for allocation of resources. It is quite right that the student perspective should be heard right at the top.

I fear that the Government’s reluctance at this point in our discussion to include student representation will go down very badly throughout the country, not just among student representatives—many of us have large student constituencies—but with the sector, as we saw in the evidence session. I am sorry that university and higher education sector leaders seem to have a greater appetite for, and understanding of, the true value of student representation than the Government have demonstrated this afternoon. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 122, in schedule 1, page 63, line 18, at end insert—

“() At least one of the ordinary members appointed under sub-paragraph (1)(d) must, at the time of their appointment, be currently engaged in the representation or promotion of the interests of individual students, or students generally, on higher education courses provided by higher education providers.”—
(*Mr Marsden.*)

This amendment would ensure that at least one of the members must be a student representative.

The Committee divided: Ayes 9, Noes 11.

Division No. 1]

AYES

Blackman-Woods, Dr Roberta	Rayner, Angela
Blomfield, Paul	Smith, Jeff
Marsden, Mr Gordon	Streeting, Wes
Monaghan, Carol	Vaz, Valerie
Mullin, Roger	

NOES

Argar, Edward	Kennedy, Seema
Chalk, Alex	Milling, Amanda
Churchill, Jo	Morton, Wendy
Evennett, rh Mr David	Pawsey, Mark
Howlett, Ben	Warman, Matt
Johnson, Joseph	

Question accordingly negatived.

Mr Marsden: I beg to move amendment 123, in schedule 1, page 63, line 20, after “have” insert “equal”.

This amendment would ensure all the related criteria are taken to be of equal importance and there would be no perception that a hierarchy exists between any of them.

The Chair: With this it will be convenient to discuss the following:

Amendment 124, in schedule 1, page 63, line 24, at end insert “or further education providers”.

This amendment would ensure experience of Higher Education at Further Education providers is taken into account.

Amendment 125, in schedule 1, page 63, line 37, at end insert—

“(h) working to improve equality of opportunity and the widening of access and participation within higher education, including via part-time, adult and lifelong learning.”

This amendment would ensure improving access and widening participation is considered when appointing board members.

Amendment 126, in schedule 1, page 63, line 37, at end insert—

“(i) being an employee of a higher education provider, particularly in the capacity of teaching or researching.”

This amendment would ensure the Secretary of State had regard for the experience of Higher Education employees, teaching or research staff.

Mr Marsden: The aim of these amendments is again to extend and clarify our view of the direction in which the Bill should travel. I like to hope that other members of the Committee feel likewise. I will take them in order.

Amendment 123 is relatively straightforward but contains an important principle. It marks a slight dividing line between Government and Opposition. We had a lot of discussion about consumers in the previous debate—rightly so, because we wanted to take the Government at their

word, when it came to their interpretation. Surely it should be a principle that all the related criteria referred to in this part of the Bill, which talks about the desirability of the proposals, should be of equal importance. There should not be a perception of them being in a hierarchy.

The Government have suggested that the new office for students will be explicitly pro-competition. I am sure, as we go through the Bill, we will have a number of significant debates on amendments that will draw out what the Government mean by being pro-competition. There is a risk—I put it no stronger than that at this stage, as we will want to return to the subject in detail when we talk of providers—that if we encapsulate that preference in the criteria, that element will take priority over other functions, which could harm the quality of higher education and act against the wider student interest.

We believe that members of the office for students should have prior experience and understanding of all aspects of the work of the OFS board, and that should be made explicit in legislation.

Amendment 124 addresses what I hope we will discover from the Minister's reply is a drafting error. We are asking for the words "or further education providers" to be included in the list of things that members of the board should have experience of. There is a very straightforward reason for that. Further education colleges in England have provided and increasingly provide a range of higher education, including higher-level skills and qualifications for students entering the workforce and individuals wishing to pursue a higher education qualification.

I speak with some feeling, although I do not have a university in my constituency. We might have had one in the 1960s; it was between us and Lancaster, but unfortunately the Conservative council at the time thought that revolting students—because that is, of course, what people were doing in the '60s—were not what they needed in Blackpool, so it went to Lancaster. However, we do have an excellent further education college—Blackpool and the Fylde College—which has thousands of higher education students and was one of the first FE colleges to be awarded independent degree-awarding powers.

The direction of travel in that respect is absolutely clear—or at least I hope it is. Some 159,000 people study at higher education colleges, and colleges deliver 85% of HNCs, 82% of HNDs and 58% of foundation degrees. Given what the White Paper said about the crucial importance of skills and vocational education in driving the objectives that the Government describe—indeed, the Minister said that when he introduced the debate in the House of Commons—I would have thought it was a no-brainer, if I can put it that way, that we should consider looking at people who have worked in the further education sector and have specifically promoted and developed higher education degrees.

This is a good opportunity for the Government to respond to the concern, which I and other people have raised, that further education colleges and their role in higher education got a raw deal in the White Paper and the Bill. On Second Reading, I raised the forecast figure in the Government's technical paper for the number of further education colleges that would be delivering higher education as a result of this Bill. The figure for 2027-28 is exactly the same figure as that projected for 2018-19.

Now, perhaps the Minister will say, "Oh well, that's speculative" or whatever, but there is a suspicion—I will put it no stronger than that—in the further education sector that when the Government talk about the importance of new and existing providers of higher education, the further education sector is not absolutely at the forefront of their mind. For those reasons, it is desirable, and frankly in the Government's interest, that this modest amendment, which simply identifies what is actually the case at the moment—that more than 10% of higher education is delivered by FE colleges—should be incorporated in the list of criteria, not the obligations, that should be considered when the members of the board are appointed.

In amendment 125, we are developing and taking forward the same principle of widening participation and social mobility. We are suggesting again that they need to be made explicit criteria in the Bill. Again, the Labour Opposition are putting forward our strong view of how important widening participation and improving equality of opportunity and access are. I am not going to speak in detail about the inclusion of the phrase "part-time, adult and lifelong learning",

because there will be other opportunities when we debate other amendments, but we want the Government to put money where their mouth is, and their mouth has been very eloquent about the need to improve and widen participation. Again, I cannot see any reason why those measures should not be included.

Indeed, the previous Prime Minister made great play of this issue at the beginning of the year, and I have no reason to believe that that position is not supported by the current Prime Minister. The Minister herself has spoken eloquently about the need to get universities and higher education institutions to step up to the plate.

3.15 pm

The Association of Colleges is supportive of the Government's measure to widen participation and, as I have already said, colleges play a key role in advancing the position of disadvantaged black and minority ethnic people, as do many of the new universities. The old universities need to do more; I think the Minister and I agree on that.

These particular amendments, which are relatively modest, would simply put in the Bill at this very significant point the issues that the Government think are important for the board to consider. As one of my hon. Friends said earlier, the appointment of this first board—the people who are on it and the criteria used to appoint them—is crucial, regarding the message that is to be sent out.

The final amendment in this grouping, amendment 126, addresses a really important point. We are proposing that another of the criteria should be to ensure that the Secretary of State has regard for the experience of higher education employees—teaching or research staff. I would add, although it is not formally in the amendment, that the Government should consider the experience of all staff who work in the HE sector at whatever level. However, for the purposes of the amendment, we are talking about teaching and research staff.

Again, that is an issue that the University and College Union feels strongly about and we support it, because the success of a university does not only depend on

having excellent vice-chancellors or excellent managerial staff; it depends on the work of everybody in that university, from the highest professor to the most modest junior lecturer, or whoever. I would have thought that having that broad mix of people included in the list of people with desirable attributes from whom the Government wish to produce this first board for the OFS would set an admirable precedent.

Those are the reasons why we are tabling these specific amendments. We do so to broaden and—if I can put it this way—make more catholic, with a small c, the criteria and the pool of talent from whom the Secretary of State will be able to draw the members of the first OFS board.

Joseph Johnson: Ensuring that the OFS board members reflect the diversity of the HE sector is of the utmost importance to this Government. It is also essential that the board has the range of skills, knowledge and experience that will be required for it to be the market regulator of a sector that is of such strategic importance to the UK.

The current legislative framework requires the Secretary of State solely to have regard to the desirability of appointing HEFCE board members with experience of the HE sector, business or the professions. Over the years, that has given successive Secretaries of State from different parts of the House the flexibility to ensure that the HEFCE board has the breadth and depth of experience and skills that it has needed to deal with the priorities of the day.

The provisions in this Bill relating to the OFS board appointments take the same approach as the current legislative framework. In line with the OFS's broader remit, we have expanded the number and range of areas to which the Secretary of State must have regard when appointing OFS board members. For example, those areas now include developing and implementing a regulatory framework, and promoting student or consumer choice. However, the basic approach remains the same. The Secretary of State must have regard to the desirability of appointing, but is not bound to appoint, people with certain backgrounds. The aim of the Bill remains to preserve the crucial flexibility for Secretaries of State to constitute the OFS board in the most appropriate way to address the challenges and opportunities it faces at any given time.

On amendment 123, it is extremely important that the Secretary of State has the ability to determine the overall balance of the board, and to decide where the OFS board needs greater strength and depth. While I agree that a balanced approach will be important, the amendment would inhibit the Secretary of State's ability to make appointments that reflect current priorities. It risks having a board lacking the depth and breadth of key experience it needs to tackle the issues of the day, which may vary over time. The amendment would mean that the Secretary of State needed to have equal regard to all the criteria. It therefore implies that it would be desirable to have equal representation from all the areas on the list all of the time.

The process we have adopted for making appointments to the OFS board is based on that which has been successful for the HEFCE board over the past quarter of a century. The current legislative framework requires the Secretary of State to have regard to the desirability of appointing HEFCE board members with expertise

in higher education, business and the professions. In terms of OFS board recruitment, the legislation expands the skills it is desirable to have. In purely numerical terms, the Bill lists seven areas, whereas the previous legislation mentioned only three, which means there will likely have to be some trade-offs between different types of experience that the Secretary of State will need to consider when making appointments. Furthermore, it is highly probable that some people will satisfy more than one of the criteria, and it would therefore be odd to try to pigeonhole individuals into a category for the purposes of satisfying the amendment, rather than making a judgment on the best way for the OFS to deliver its duties.

On amendment 124, I am glad that the hon. Member for Blackpool South has raised the important role of FE colleges in HE. Some 159,000 students study HE in a college, which is why I would like to highlight the support given to the package of reforms contained in the White Paper and the Bill by the AOC. The AOC says:

“We welcome much of the Bill's content, as it has been one of AoC's key long-standing policy objectives to make it easier and quicker for high performing institutions, including colleges, to achieve their own degree awarding powers”;

as the hon. Gentleman's college in Blackpool has successfully done recently. I will read another quote from the AOC that shows the support from colleges for what we are trying to do through our reforms:

“Choice, access and quality are the welcome watchwords of the Government's long-awaited plans to open up higher education and to allow more colleges to award HE qualifications. This step change away from the country's traditional university system will empower more people than ever before to access HE in their local area through a college. It will also provide a wider choice of courses that are linked to employment.”

I agree that having board members who can represent a wide variety of students would serve to enhance the diversity of the board. However, a specific amendment to ensure that is not necessary, as the definition of higher education providers in clause 75(1) is broad enough to capture further education providers. The definition already includes any provider who is offering higher education courses, which reflects the definition used in the Education Reform Act 1988. That definition has been used deliberately so that it captures HE in FE as an important and valued part of the sector.

There is nothing to be gained by highlighting a distinction between higher education and further education providers as the amendment proposes. The Bill enables the necessary flexibility to select board membership that best represents a very broad range of student interests. The amendment would serve to restrict that flexibility. It is essential that the individuals appointed can represent all students, which reflects common practice, where board members are typically appointed for their breadth of experience and representation.

Mr Marsden: I have to say that the Minister's response was an extraordinarily—this was possibly predictable—managerialist response written by his civil servants. It was a pretty poor response. On the specific point he made, I would have more sympathy with the technical position—I have no doubt that the civil servants have gone through the previous legislation—were it not for the fact that in the White Paper and the Bill that was presented, the role of further education colleges in

delivering higher education was pretty non-existent. That is why it is important to include the phrase in the Bill at this point.

Joseph Johnson: I have made the point that including the phrase is simply unnecessary, because the definition of “higher education provider” that we are using, which is taken from the 1988 Act, captures the delivery of HE through FE colleges. It would be entirely redundant and confusing for people to see a new definition spring up at this point in the Bill.

Turning to amendment 125, widening access and promoting the success of disadvantaged students will be a key part of the office for students’ remit. We want to ensure that in bringing forward our reforms, higher education providers do not lose sight of their vital role in promoting social mobility and in helping some of the most disadvantaged young people in our society to benefit from our world-class HE system.

The integration of the remit of the director of fair access within the OFS signals our commitment to making fair access and participation a priority. The OFS will have a new duty that will require it to consider equality of opportunity in connection with access to and participation across its functions, so widening access and participation for students from disadvantaged backgrounds will be at its very core.

I understand the concerns expressed about the importance of considering experience of widening access and participation when appointing the chair and ordinary members, but just because it is not in the list in schedule 1 does not stop the Secretary of State from appointing ordinary members who have that experience. The OFS’s members will be drawn from a wide range of backgrounds to ensure that the body is supported by the knowledge and expertise critical to delivering its mission and informed by representation that reflects the diversity of the sector’s providers and students.

We have already signalled the importance we attach to access and participation through the duties we are placing on the OFS and through the creation of the director for fair access and participation post. The DFAP will, like other members, be appointed directly by the Secretary of State. The DFAP must have the skills necessary to fulfil the duties placed on the OFS in widening access and participation. The necessary experience will therefore be there within the membership of the OFS. The OFS members will operate in effect as a board.

Amendment 126 relates to HE staff representation. The HE sector is diverse. It includes: large teaching intensive institutions that operate on an international level; highly specialist conservatoires of music, dance and the performing arts; and small, very locally based organisations focused on giving the most disadvantaged groups access to HE. In the Bill we have already included measures that mean the Secretary of State must have regard to the benefit of having represented on the board experience of providing higher education and experience of a broad range of providers. Such experience could come from higher education staff involved in teaching or research, or from leaders of higher education providers.

The most important thing will be that the individuals can bring a broad range of experience and represent interests that go beyond their personal position. In any

case, it would be difficult to get a truly representative cross-section of HE staff, even if they filled all 15 available places on the HE Board. It would be impossible to ensure anything like fair representation from the other stakeholders in the HE sector alongside having anything approaching even reasonable representation of HE staff.

In practice, we see no reason why many members of the OFS board will not, at one time or another, have worked in HE and be able to use the experience they gained there to represent HE staff, regardless of whether they are actually employed in HE at the precise time they are serving on the OFS board. I therefore ask the hon. Gentleman to withdraw the amendment.

3.30 pm

Mr Marsden: I have listened carefully to the Minister and, again, I have no reason to doubt his bona fides. But what he has said and, particularly during the discussion of the last two amendments, the criteria on which he has based the Government’s unwillingness to take them on board underline our concern about the direction of the Bill.

I mentioned earlier the need to have a Bill that is fit for the challenges of the 21st century and does not simply reflect the issues of the 20th century. I do not want to sound like a sociologist, but I am disappointed that the assumptions in the definitions of what the Minister has said are so extraordinarily hierarchical. In the context of the Bill, none of the amendments are mandatory. We are not saying there must be a cleaner on the board of the office for students—perhaps that would be a good thing—or a junior lecturer or X or Y. We are saying that when thinking about such things we should think broadly and outside the hierarchical box that has occupied, perhaps for too long, the attention of civil servants and Ministers. We are talking about a revolution in higher education in the 21st century, yet the very modest issue of not putting in the Bill indicators that show that the Government are thinking in a new, rather more creative and profound way instead of going back to the hierarchical models that have obsessed higher education in the past is extraordinarily dispiriting and disappointing.

Another point should be made. My hon. Friend the Member for Ilford North talked about the impact of what we have had today, and I am sure debate on it will recur in other places at other times. We heard the Government using their majority on this Committee to slap down any suggestion of student representation in the office for students—[HON. MEMBERS: “No!”] It is true.

The Lord Commissioner of Her Majesty’s Treasury (Mr David Evennett): That is rubbish.

Mr Marsden: No, it is not. The fact that you protest too much shows the weakness of your position.

The Chair: Order. That is not my position.

Mr Marsden: I apologise, Mr Hanson, on both counts.

If Conservative Members are feeling touchy on that subject, I will move on to the broader point. We have now heard the Minister talk without mentioning further

[Mr Marsden]

education colleges or the importance of such things. It is no good the Minister saying the Government are thinking about it elsewhere. Symbols and permissiveness matter when considering the people we want on the board, particularly because this is the first time this has ever been done. I am genuinely frustrated, as I think are my hon. Friends, with that position. The Minister could have said he would go away and think about it or work on it but, no, he has fallen back on the standard managerial, hierarchical structures that have turned so many people off higher education in the past.

On this occasion, because the Minister is clearly not prepared to consider the amendment further, I will not press it to a vote, but we will be watching him carefully during the progress of the Bill for a more positive response to the issues covered in this group of amendments than that which he has shown today. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Marsden: I beg to move amendment 127, in schedule 1, page 64, line 5, at end insert—

“() The Director for Fair Access and Participation shall be responsible for all the OfS Access and Participation functions.”

This amendment would ensure the Director for Fair Access and Participation is responsible for all Access and Participation Functions

The Chair: With this it will be convenient to discuss the following:

Amendment 156, in schedule 1, page 64, line 6, leave out from “responsible” to the end of line 8 and insert—
“for the access and participation functions of the OfS and must report to other members of the OfS on the performance of these functions.”

This amendment aims to clarify that the Director for Fair Access and Participation is responsible for the performance of access and participation in addition to just reporting on those functions.

Amendment 134, in schedule 1, page 66, line 21, at end insert—

“() The Director for Fair Access and Participation must be consulted before any function relating to access and participation is delegated by the OfS under subsection (1).”

This amendment would require the Director to be involved in access and participation functions.

Amendment 157, in schedule 1, page 66, line 23, at end add—

“(3) Any functions in relation to access and participation functions will be delegated to the Director for Fair Access and Participation.”

This amendment aims to underline the exclusive responsibility of the Director for Fair Access and Participation for all matters relating to access and participation.

Mr Marsden: In the Minister’s concluding remarks on the previous group, he referred to the important role of the director for fair access and participation. In the amendments we are proposing now—I see that my hon. Friend the Member for Ilford North has tabled other amendments in this regard, too—we want to explore the independence and flexibility of the director with the Minister. He rightly described that in his comments as part and parcel of what the Government want to embody in the Bill.

I am not being particularly critical, but, as always, we did not have a great deal of time to tease out some of the implications for the director—whoever holds that office—when the current director of fair access appeared in the evidence session. We could take enough from what he said to know that the ability of the director for fair access and participation to negotiate with institutions—whether soft-baked, hard-baked or anyway-you-want-baked—would be seriously compromised if the director did not have the ultimate authority to approve or refuse access and participation plans. My hon. Friends who have tabled amendments and I believe that that is not sufficiently clear in the Bill, so we want to pursue the matter further with the Minister.

To ensure that the targets set by universities and colleges are sufficiently challenging will always involve tough negotiations. For the director to have had that independence to engage in negotiation free from conflicts of interest has been crucial in securing high levels of commitment by institutions to date—the key factor in OFFA’s success, which vindicates the decision of the Minister’s predecessor, David Willetts, to appoint Les Ebdon to the post in the first place. Negotiations can secure significant additional investment in access and a marked increase in the ambition of many universities and colleges. For example, in the 2016-17 access agreements the director’s negotiations led to improved targets at 94 institutions, and 28 increased their level of predicted spend, which secured an additional £11.4 million for fair access and participation.

Those are the statistics, and statistics are important. After all, we often talk about evidence-driven policy, and it is gratifying when there is evidence to drive the policy. It also, incidentally, strengthens the Minister’s hand in the financial discussions that he has to have from time to time with the Treasury. Behind the figures, however, lies the success story, or aspirational stories, of hundreds and thousands of not only young people, but—I speak with feeling as a former Open University tutor—older people who traditionally thought that higher education was not for them. In any system, some people will always be able to bustle their way through, even when they have not had opportunities on a previous occasion, but the whole point of a director for fair access and participation is to spread best practice, not only from the best universities and the most determined students, but generally.

I am labouring this point, because it is so important to continued success. When an important new framework is to be established with the office for students, it is crucial that the director’s ability to do his or her job is not impeded, whether by omission or by unexpected and unplanned consequences. If the director for fair access and participation can be bypassed and overruled by the chief executive or board of the office for students, we believe, as do others, that that would significantly undermine his or her ability to negotiate directly with vice-chancellors and to offer a robust challenge. That would probably lead to a significant scaling down of ambition by some institutions. That, I am sure—indeed, I do not need to be sure, because the Minister has waxed eloquent on it in several speeches and lectures at a number of institutions over the past year—is not the Minister’s intention. The amendments are, therefore, genuinely intended to be helpful in getting clarification.

It is vital to have a high-profile director for fair access and participation with the authority and credibility to offer robust challenges to institutions. A director who has first-hand experience of how tension at a higher education provider plays out in practice—in relation to finance, marketing, recruitment, student voice, learning and teaching, and Government policies and initiatives—will be well positioned to make nuanced judgments across access agreement negotiations about what is reasonable and achievable. That would obviously require the director to be a credible champion and a high-profile person in this field.

If the director does not have responsibility over access agreements and that is not clear in primary legislation—putting to one side the helpful advice that Ministers may be able to give subsequently—that will send out the wrong message for the institutions that we would expect to engage in the new settlement resulting from the Bill, and will make much more difficult both the Government's avowed intent to widen participation and access and the specific responsibility of the director to pursue that.

Jo Churchill (Bury St Edmunds) (Con): I am getting a little lost. Is not the hon. Gentleman being a little managerial now by saying that only the director for fair access and participation is responsible? Based on the arguments he made in favour of previous amendments—that we should be looking at the broader ability of the board to make decisions—should it not be the responsibility of the whole board to feed into such a position in order to ensure that the important area of access and participation really does what it says on the tin?

Mr Marsden: I have considerable respect for the hon. Lady, not least on the basis of the speech she made on Second Reading, and she has made a valuable point. It is not my intention, or that of my colleagues, to say that the director for fair access and participation should sit in a great bubble somewhere thinking great thoughts and that the OFS should simply rubber-stamp them at the end of the day. It is about who takes the initiative and carries things through on a day-to-day basis. With the best will in the world, we do not believe that that should be left to the board.

I have served on boards, committees, trusts and all the rest—as have, I am sure, many Committee members from both sides of the House—and everyone knows that one of the most difficult things to get right is the balance between overall strategic policy and the day-to-day administration of that policy. In my view—I have not heard many people dissent from this position—the director of fair access has been a successful innovation. It is important that those elements of the role that have worked so well so far are not restricted, unintentionally—I am not saying there is a dastardly plot to undermine them—by a defective or unclear identification and delegation of the director's powers in the Bill.

This is a question not of managerialism but of realpolitik. We all know that in the real world and in the political world, if people's powers are not well defined, there will always be someone who at some point will try to chip away at them. That is the point I am trying to get at. I understand entirely the point that the hon. Member for Bury St Edmunds was making. I do not wish to micromanage the affairs of the office of the director for fair access and participation any more than I think the

Minister does, but I do not want to see set in legislation a train of views that takes us down the path I have described.

To meet the Government's goal of doubling the rate of young people from disadvantaged backgrounds entering higher education by 2020 will require an acceleration of the process and a director who can continue to offer those robust challenges. If the director does not retain the authority to approve or reject an access and participation plan, if it is not clear that he or she retains that authority, or if that power can be delegated to others and decisions overturned, there is a real risk that the director's position will be seen as weakened. Believe me, having sat on the Education Committee, I do not think that lawyers and judicial reviews or internal rows in Departments, detracting from the work of that Department, are something to be recommended.

3.45 pm

To make these points more clear—my hon. Friends will want to add their own views—these are important issues, and getting them wrong could send a message that fair access had been deprioritised and would likely lead to a scaling down of ambition by institutions. That kind of message would be seen as contrary to the Government's fair life chances and social mobility agenda.

Dr Blackman-Woods: I rise to support the amendment and the excellent case that my hon. Friend the Member for Blackpool South has made. On Tuesday, we heard from the director of fair access, Professor Les Ebdon, about how important it is that the Bill protects the interests of not only current students but future students. I cannot overstate the importance of the Bill providing a robust framework for fair access to universities, and I am concerned that it may water down some of the director of fair access's powers to hold universities to account on widening access.

That issue was raised by Professor Ebdon in his evidence, during which he said:

“The concern that I would have is around whether it actually gives more power to the director of fair access or not.”

He was speaking about the new role of director for fair access and participation. He added:

“At the moment, the director of fair access has the sole authority for deciding whether an access plan is sufficient and universities have done what is sufficient to promote and safeguard the interests of students. I know there would be a number of universities that, if they had somebody else—another chief executive above me—to go to, would take my decision to them, because they argue long and hard with me about the decisions I make.”—*[Official Report, Higher Education and Research Public Bill Committee, 6 September 2016; c. 57, Q86.]*

The point of the amendment—this may address the point made by the hon. Member for Bury St Edmunds—is that it seeks to ensure that the final responsibility for decisions relating to fair access and participation rests solely with the director for fair access and participation, not with other members of the board or a chief executive who might be in the structure above the director. The amendment seeks to address the concerns expressed by OFFA by ensuring that responsibility for holding universities to account rests solely with the director for fair access and participation, and that universities cannot

[*Dr Blackman-Woods*]

try to undermine the authority of the director by going above his or—at some time in the future—her head to a higher authority.

There is a danger that without the amendment, the good progress that we are making on widening access could be slowed down as universities delay taking action on failings in their access programmes, believing that they can rely on complaining or appealing to someone else to overturn what has been requested of them by the director for fair access and participation, and that they may not ultimately have to take the actions that he or she suggests.

I look forward to hearing what the Minister has to say. If he does not like the wording of the amendment, we would be happy for him to come back with another form of words that would ensure that there is no watering down of directives that might be given by the new director for fair access and participation.

Paul Blomfield: I rise to speak to my amendments, which in an extraordinary example of excellent co-ordination say much the same thing but in a slightly different way. Amendment 156 tries to address what I see as a flaw in the schedule as drafted, which makes the director for fair access and participation responsible simply for reporting. The amendment seeks to clarify that he or she is not responsible simply for reporting but for that function and reporting on it. I think that is a helpful additional drafting point.

Amendment 157 clarifies the point about delegation and that the director should not be bypassed by his or her responsibilities being delegated to somebody else. The way that we deal with the matter could set the tone for discussions over the next few weeks. There is complete agreement on trying to achieve widening participation and enormous progress has been made. The Government have shown commendable ambition to make further progress. With these amendments we are considering ways to help that along.

I am sure my colleague the hon. Member for Cannock Chase will acknowledge that when we considered this issue in the Select Committee on Business, Innovation and Skills there were, despite the one area of disagreement, many areas of agreement. One was fair access. Changing the institutional architecture of the sector, which has merits, by bringing the Office for Fair Access into the OFS, also has risks unless we protect the autonomy and authority of that function within the office. That was a key recommendation of the Select Committee report, agreed by all Members. It also relates to the next group of amendments and I will say more about it then. We are simply seeking to ensure that that function has the authority to deal with universities, to get the sort of change of culture and practice that we are all trying to achieve.

I was a supporter of David Willetts's appointment of the current director, which was not uncontroversial at the time. That was a signal from the previous Government that there was an intention to see change and Professor Ebdon has assisted that process enormously. He has been a very impressive director of fair access and we should listen closely to the evidence that he gave us on Tuesday. He is clear that this sort of definition is

required to ensure that the director has the authority to help the Government achieve their objectives in negotiating the deals with the universities.

I hope the Minister will say he is happy to bring back some different form of wording, if not to accept the amendments, picking and choosing between mine and those tabled by my Front Benchers. I hope he will be able to make an amendment that reflects that suggestion, in which case I would be happy not to press mine to a vote.

Joseph Johnson: I thank hon. Members for their helpful and extremely interesting amendments. Although I was less able to be accommodating on previous amendments, I would like to signal that we are giving these amendments very careful thought. There is obviously agreement on both sides that social mobility is a huge priority, all the more so now for this Government. Widening access and participation in higher education is one of the key drivers of that.

I agree strongly with the hon. Member for Sheffield Central that the current director of fair access, whom I played a part in reappointing last year, has done a superb job and continues to be exemplary in the way he discharges his functions in that critical role.

Through our reforms, we are keen to ensure that promoting the success of disadvantaged students will be a central part of the OFS's remit. Through the Bill, the OFS will bring together the responsibilities for widening participation currently undertaken by the director for fair access and HEFCE. Bringing those functions together in one body will ensure greater co-ordination of activities and funding at national level. That should allow greater strategic focus on those areas identified as a priority. In establishing the OFS, we have been clear that we are creating a single body, whose members will, in effect, operate as a board responsible for a range of functions, including access and participation. It will be the responsibility of the OFS to ensure that all its functions are being fulfilled.

Let me reassure Members the intention is that the OFS will give responsibility to the director for fair access and participation for activities in this area. The intention is that the OFS will give responsibility to him for these matters. We envisage that in practice that will mean that the other OFS members will agree a broad remit with the future director for fair access and participation and that the DFAP will report back to them on those activities. As such, the DFAP would have responsibility for those important access and participation activities, including—critically—agreeing the access and participation plan on a day-to-day basis with higher education institutions.

Amendment 134 would place in legislation details of how the OFS members will operate when considering delegation of functions. It would not, however, be appropriate to put that kind of detail into statute. Rather, we would expect the OFS, once established, to confirm how it will operate and exercise its delegation powers taking account of guidance from the Secretary of State. However, let me repeat and attempt to reassure hon. Members that the intention is for the OFS to give responsibility for access and participation to the director for fair access and participation.

The work of the DFAP does not need to be separated from the rest of the work of the OFS. The reforms mean that access and participation will be considered in the context of everything that the regulator does, with the Secretary of State's directly appointed champion in the form of the director for fair access and participation. The Government are serious about social mobility and that is exactly what the measures will help to drive. I therefore ask the hon. Member for Blackpool South to withdraw his amendment.

Mr Marsden: I thank the Minister for laying out the outline and broader direction so strongly. I am glad that he reflected on my comments and those of my colleagues, and indeed the exchange I had with the hon. Member for Bury St Edmunds, because that was helpful in bringing out the tensions between day-to-day executive activity and broad strategy and policy. He referred to that in his comments.

We will take the Minister's assurances at face value. We need to do that because what Ministers say in Committee influences the interpretation of the final legislation. We will wait to see how that issue is dealt with—in another form, if that is what he wishes. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Wes Streeting: I beg to move amendment 10, in schedule 1, page 64, line 6, leave out "is responsible for reporting" and insert "must report"

This amendment, together with amendments 11 to 14, would require that the Director of Fair Access and Participation reports directly to the Secretary of State and that the report produced be laid before Parliament.

The Chair: With this it will be convenient to discuss the following:

Amendment 11, in schedule 1, page 64, line 7, after first "OfS", insert "and Secretary of State"

See Explanatory Statement for amendment 10.

Amendment 12, in schedule 1, page 64, line 9, leave out "may" and insert "must"

See Explanatory Statement for amendment 10.

Amendment 128, in schedule 1, page 64, line 9, leave out

"the other members of the OfS"

and insert

"the Board of the OfS"

This amendment would ensure that the Director for Fair Access and Participation reports to the Board Members of the OfS on performance of access and participation functions.

Amendment 13, in schedule 1, page 64, line 9, after "OfS", insert "and Secretary of State"

See Explanatory Statement for amendment 10.

Amendment 14, in schedule 1, page 64, line 12, at end insert—

"() The Director must prepare a report under sub-paragraphs (1) and (2) at an appropriate time but at least annually.

() The Director must send the report to the Secretary of State.

() The Secretary of State must lay the report before Parliament."

See Explanatory Statement for amendment 10.

Wes Streeting: The amendments follow a similar theme to the previous group, being about the architecture of the higher education system and in particular safeguarding the position the Office for Fair Access has occupied since it was first created.

I will take members back to that debate in 2003-04. OFFA was one of the important concessions—one of the surviving concessions, I have to say—of the debate surrounding the introduction of variable tuition fees in the Higher Education Act 2004. OFFA was born out of a concern about the risk that increasing tuition fees might jeopardise fair access to the most elite universities, particularly if they are charging higher variable fees, and a broadening concern that it might jeopardise widening participation more generally among students from under-represented backgrounds.

4 pm

There were also concerns, regardless of the risks that were considered at the time of the discussion of that legislation, that progress in both widening access to selective universities and widening participation in education more generally was being made far too slowly, so the role of OFFA and the director of fair access was considered for all of the reasons that have already been discussed. It is important that the director for fair access and participation occupies a prominent and important role, and I am grateful to the Minister for indicating that he is looking very carefully at that. In that context, I think Parliament needs to think about its role in relation to safeguarding fair access to higher education.

The amendments would provide for the director for fair access and participation to report to the Secretary of State, and for the Secretary of State in turn to lay the report before Parliament. I think that is important. We have seen in debates in this Parliament, the previous one and many before it that the issues of social mobility and fair access to universities is of importance to all Members, regardless of whether they represent a constituency with a large student population or areas that have particular social disadvantage. Given that widespread interest, and given that progress is still too slow, I think it is reasonable to expect that Parliament would have some oversight over progress or lack of progress, and an opportunity to debate that accordingly.

We know from all of the evidence that exists that fair access to higher education is not simply the responsibility of universities; it stretches back far earlier, in terms of both the education system and broader aspects of social policy. In that context, it is important to give all Members an opportunity to look carefully at the issues contained therein. Given that, I hope the amendments will receive a favourable hearing from the Minister and that he can consider them as he will be considering the amendments we have just debated.

Paul Blomfield: I will only make a brief contribution, which is to pull up on the point I was making about the Select Committee report on this specific point. I will share the brief recommendation we made as a Committee, with the endorsement of every member of the Committee:

"In order to best promote widening participation, and to help the Government meet its own targets, we believe it important that the decisions of the Director for Fair Access are seen as fully independent and not subject to being overruled by any higher

[Paul Blomfield]

authority within the same organisation. The ability for this post to report direct to the Minister and to Parliament should therefore be built into the new higher education architecture.”

I think that crystallises the point made powerfully a moment ago by my hon. Friend the Member for Ilford North when moving his amendments. I hope, and I am sure, that we can reach the same accommodation if the Minister is able to respond in the same terms as he did to the previous group of amendments.

Mr Marsden: The generic points the Opposition Front Benchers would like to make in this area have been amply covered by my hon. Friends the Members for Sheffield Central and for Ilford North. I will briefly touch on amendment 128. I say again that we entirely endorse and think it is of huge importance that that report should come to Parliament on a regular basis. Although this is not part of any of the amendments, it is taken for granted that it should also go to the relevant Select Committees. It is in that context of closing the circle that we wanted to clarify with a probing amendment that the director would report to the board members of the OFS on his performance.

To go back to the point that the hon. Member for Bury St Edmunds made earlier, we do not want the director to sit in a bubble. I can imagine that the OFS board, once it gets going, will have myriad things to consider at its meetings and it is important therefore that we flag up that there is a regular slot for the board members to receive that report from the director for fair access and participation. That would be of benefit to the board as a whole and to the director in maintaining his strong relationship with it.

Joseph Johnson: Again, I thank hon. Members for their interesting amendments. Widening access and promoting the success of disadvantaged students will be a key part of the remit of the office for students. It will build on the important progress that has been made in widening participation in recent years. Hon. Members will have noted that the latest data for 2016 entry shows that the application rate for 18-year-olds from disadvantaged backgrounds is again at a record level.

We want to ensure in bringing forward our reforms that higher education providers do not lose sight of their vital role in promoting social mobility and in helping some of the most disadvantaged young people in our society to benefit from our world-class higher education system. The integration of the remit of the director of fair access into the OFS signals our commitment to making fair access and participation a priority. The OFS will have a new duty requiring it to consider equality of opportunity in connection with access and participation across all its functions, so widening access and participation for students from disadvantaged backgrounds truly will be at its very core.

There is a further protection in the arrangements because, as I have said, the DFAP will be directly appointed by the Secretary of State, but ultimate responsibility for access and participation sits with the OFS and it will be the responsibility of the OFS to ensure that all its functions are being fulfilled. As I said in my comments on the last group of amendments, the intention is that the OFS will give responsibility to the director for fair access and participation for activities in

this area. We envisage that, in practice, that will mean that the other OFS members will agree a broad remit with the DFAP and that the DFAP will report back to them on those activities.

The OFS board will have responsibility for access and participation but, on a day-to-day basis, I envisage that that will be given to the DFAP. In particular, he or she will have the responsibility for agreeing access and participation plans, as is currently the case. I reiterate that because it is such an important point and I know hon. Members are focused on that issue.

The amendments would have the effect of requiring reports by the director for fair access and participation to be presented to the Secretary of State and to Parliament separately from other OFS reporting. As I said, that is an interesting idea, to which we will give some thought. We agree that it is important for the DFAP to report on their activities and areas of responsibility, so the Bill does require the DFAP to report to OFS members. As I have said previously, we are mainstreaming access and participation as a key duty for the regulator as a whole. As such, it will then be for the OFS members to report on that function.

The OFS members will operate in effect as a board, although they are not referred to by that term in the Bill. It will be required to produce an annual report covering its functions, and access and participation activities have been identified as a key function by virtue of their prominence in the Bill. That report will be sent to the Secretary of State and laid in Parliament. The work of the DFAP does not need to be separate from the rest of the OFS and its work should be reported to Parliament as part of the OFS's overall accountability requirements. In addition, the Bill allows the Secretary of State to ask the OFS to provide additional reports on access and participation issues, either through its annual report or through a special report. Any such report will also be laid before Parliament and therefore made available in the Library. The OFS can produce separate independent reports on widening participation. It would not be consistent with integrating the role into the OFS to require separate external reporting from a single OFS member when the organisation will be governed collectively by all its members.

These arrangements ensure that effective reporting will be in place, so that the Secretary of State and Parliament can effectively monitor activity in this area. As I said, we are looking carefully at it, but in the meantime I ask the hon. Member for Ilford North to withdraw his amendment.

Wes Streeting: I listened carefully to the Minister, and I am grateful that he will go away and reflect. What he said about clarifying the reporting mechanisms reinforces my belief that the present arrangements do not go far enough. It is right and proper that the Secretary of State should be able to demand additional or more extensive reporting, either as part of the annual report or separately. That is to be welcomed, but it somewhat dilutes parliamentary accountability, which is separate from Government accountability. Many Members would welcome the opportunity to consider issues of access and participation through parliamentary scrutiny; it need not be burdensome, but it would be welcomed. I was particularly struck by the evidence given by my hon. Friend the Member for Sheffield Central.

Paul Blomfield: Does my hon. Friend agree that we are at such a critical juncture in developing widening participation targets and strategies that it is a risky time for them to be completely subsumed? I would not challenge for a moment the Minister's genuine intent, but there is a risk in organisations that what the Minister described as "mainstreaming" sometimes means that functions get subsumed, and we have to take care that the particular function of widening participation is not.

Wes Streeting: I wholeheartedly agree with my hon. Friend; his point reinforces the recommendation of the Business, Innovation and Skills Committee. When the Minister goes away to reflect on these issues, he should consider not just what is being said here but the view of that Committee. Parliamentary accountability is important, and as my hon. Friend warns, there is sometimes a risk that mainstreaming leads to a lack of focus. I do not think we are anywhere near where we need to be as a country on social mobility—on ensuring that people's backgrounds and the circumstances of their birth do not determine their destiny in life. Higher education has a critical role to play. We know from looking around the Palace of Westminster and from looking at the top of business and civil society that the levers of social, political and economic power tend to be pulled by people who went to university—often to the same universities.

It is important that we keep a close eye on this matter, because it goes beyond the question of value to higher education; it is in the national interest. That is why there is such interest in parliamentary debates on these issues, and why I think parliamentary accountability is important. However, I am mindful of what the Minister said about considering these issues further and so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Marsden: I beg to move amendment 129, in schedule 1, page 64, line 21, at end insert—

"() The appointment of the Chair of the OFS shall be subject to a pre-appointment by the relevant Select Committees and the proposed appointment shall be subject to the passing of a resolution by each House of Parliament."

This amendment would ensure Parliament was able to ratify the chair of the OFS.

We have had an interesting and productive exchange on social culture and the role that the OFS will play both in governmental activity and, as my hon. Friends quite rightly reminded us, in parliamentary activities. It is in that spirit that I move amendment 129.

This House is a place that invents precedents, and one of the most useful precedents that we have invented in recent years—I am a former member of Select Committees, and we have current members of Select Committees here, too—is the principle that Select Committees should play a significant role when key appointments are made, which is now well established. Of course, that has not always meant that the Select Committees concerned have got their own way, and we have had an interesting example of that recently in the context of Ofsted. We might argue about whether the Select Committees have a veto power or a restraining power, or whatever, but there is no major disagreement or lack of consensus in the House that it is important for Select Committees to have that watching brief when key officials are appointed by Ministers.

4.15 pm

We have already had a major discussion about the role of the OFS. We might disagree about many things in relation to the OFS as we go through the Bill, but the one thing on which we will not disagree is that the Bill will be creating an important new body if it passes in something like its current form. As the Bill will be creating an important new body, at the beginning we should lay down the principle that the appointment of that new body's chair should be subject to a pre-appointment process by the relevant Select Committees. I use the word "Committees" advisedly because, although I am sure the Minister is groaning under the practical day-to-day implications of the machinery of government, I am not entirely sure—maybe even his officials are not yet entirely sure—of the extent to which the chair of the OFS might be scrutinised by more than one Select Committee. The most important thing is that the proposed appointment should be subject to the relevant Committee, and it should then be confirmed by a resolution of each House.

There it is. This is a modest proposal that is entirely in line with the powers that the House has given to its Select Committees in recent years. Some form of pre-appointment scrutiny or process by the relevant Select Committees would be important for democracy in this House and would signify the importance of the office.

Ben Howlett: Does the hon. Gentleman realise that this already exists? My hon. Friend the Member for Bury St Edmunds and I have just sat on the pre-appointment process for the selection of the Equality and Human Rights Commission chairman. Select Committees already do this, and legislation is not necessarily needed to implement it.

Mr Marsden: The hon. Gentleman refers to another welcome precedent. Yes, Select Committees sometimes have this power but the devil is in the detail. I am reminded of what President Reagan said: in these matters one should "trust, but verify". There have been discussions in the past about the powers of Select Committees. This is a new proposal, and it is a probing amendment, but it would do no harm if the Minister were prepared to say today that this is a part of the process that he would welcome.

Joseph Johnson: I think I can be of some help. There is no legal obligation for pre-appointment hearings to take place for OFS appointments, as currently none of them is on the Cabinet Office list of appointments subject to pre-appointment hearings—that is a technical point, and I do not want to be accused again of being overly managerial. Despite there being no direct legal obligation, I reassure the Committee that we fully intend to actively involve the Select Committee or Select Committees, as appropriate, in the appointment process, including the option of pre-appointment hearings for senior OFS appointments. I welcome the constructive role that Select Committees can play through pre-appointment hearings. I believe that that involvement will ensure sufficient parliamentary oversight.

For that reason, I firmly resist the suggestion in the amendment that a vote in both Houses should be needed to ratify the appointments. We need to ensure an

[Joseph Johnson]

appropriate level of ministerial involvement in the appointment to a key public role. Parliamentary ratification is not in line with normal practice and would be both burdensome and unnecessary. Furthermore, there is no precedent for parliamentary approval of such appointments. HEFCE appointments have never been subject to parliamentary approval, and the Cabinet Office general guidance on pre-appointment scrutiny states that it is for Ministers to decide whether to accept the Select Committee's recommendation on an appointment. We are following the Office of the Commissioner for Public Appointments approved process and as such are working closely with an assigned public appointments assessor to ensure that all public appointments are fair and open. I therefore ask the hon. Member for Blackpool South to withdraw the amendment.

Mr Marsden: I have heard what the Minister has said. I am grateful for his endorsement of the overall principle. Heaven forbid that I should ruffle feathers in the Cabinet Office dovecote on this matter and provoke a constitutional crisis. On that basis, I am happy to take his assurance and to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Marsden: I beg to move amendment 130, in schedule 1, page 64, line 39, leave out “considers appropriate” and insert “must specify”.

This amendment would ensure the Secretary of State must specify why a person has been removed as a member of the Ofs.

I do not think that this is an issue of constitutional niceties, but it is an issue of beefing up something that I think is extremely important. I make this not as a partisan political observation, but as an observation from having been—dare I say it?—in this House for nearly 20 years and having seen various rows, crises and everything else about why various people have been removed by Ministers at various points in time.

The wording of the Bill at the moment gives far too broad a remit to the Secretary of State—any Secretary of State—simply to remove a member of the OFS without some form of explanation. I am familiar with the civil service: I have been a Parliamentary Private Secretary in three Departments. I am familiar with the civil service's use of terminology, and the terminology “considers appropriate” basically means “You can do what the...you like if you are the Secretary of State.”

Again, I am thinking of the reputation of the OFS, particularly in its formative years. I do not think that simply saying “considers appropriate” is necessarily the best way of proceeding. That is why we are suggesting the alternative of “must specify”. And let me be very clear to the Minister and his officials before they come back and say, “Oh, this is terrible. It can't be done.” The implication of this is not that we would expect the Secretary of State, if there were some person on the board who they thought was completely and utterly disruptive, objectionable and all the rest of it, to give chapter and verse as to why that was the case. However, we do think, for the sake of confidence in the board, that it would be helpful, including to the Minister concerned, if we had stronger terminology that dealt

with situations in which the Secretary of State would have to remove a member of the OFS. There may be all sorts of perfectly non-controversial reasons why a member of the OFS would be removed—because of health or whatever—and those personal discretions could be dealt with, but we would feel more comfortable if we did not have the wording “considers appropriate”, which is vaguely suggestive of Henry VIII powers and which we would not be happy having in the Bill.

Alex Chalk: This is a reasonable point if I may say so, but is it not also right to take into account the fact that a Minister, as an officer of the Crown as it were, has to act rationally? If he does not act rationally, there is always the risk of sanction in the courts, and that always has to be recognised as a safety net.

Mr Marsden: I hear what the hon. Gentleman says, and of course we are all honourable Gentlemen and Ladies in this place and I hope we all act rationally, although there has been just a smidgen of examples in the past in which Ministers, on both sides of the House, appear not to have acted entirely so. [HON. MEMBERS: “Surely not.”] Surely not. I take the point that the hon. Member for Cheltenham is making, but I feel that some movement—again, the Minister might not like the phrase “must specify”—away from a phrase that is redolent of Henry VIII powers would be helpful.

Joseph Johnson: I understand that the amendment is well intended, but I am afraid we are not going to be able to support it and certainly not as it is drafted. The amendment would require the Secretary of State to specify the reasons for removing a member of the OFS board from office and we strongly resist it. It would take us well away, quite clearly in the wrong direction, from the current legislative arrangements for HEFCE board membership. Such a requirement would be inconsistent with normal practice on public appointments, and as my hon. Friend the Member for Cheltenham hinted, it would be unnecessary, as general public law principles require that the Secretary of State must act reasonably and proportionately in taking an action such as removing a member from the board. The specific terms and conditions of appointments would also have effect in that way.

The Secretary of State might remove a board member for a number of reasons, and in many cases it would not be appropriate to disclose the grounds for dismissal. I am sure hon. Members can understand that the removal might, for example, be because of personal or health-related issues and making those public could be an inappropriate breach of a member's privacy. Disclosure of reasons for dismissal may have an adverse effect on the reputation or future employment of the member.

Schedule 1 to the Further and Higher Education Act 1992 currently empowers the Secretary of State to appoint HEFCE board members on such terms and conditions as he deems appropriate. For the past 25 years, Secretaries of State from successive Administrations have routinely attached terms and conditions to the appointment of HEFCE board members relating to the circumstances in which they might be removed from office. These have, for example, included conditions relating to the individual's fitness to hold public office and record of attendance at HEFCE board meetings.

Mr Marsden: On that point, I appreciate that the Minister is trying to be helpful and I also appreciate there is a balance to be struck between transparency and the sorts of personal issues he talks about. I do not think I am going to agree with him that the Bill has got the balance right; I personally believe that there needs to be greater transparency in it. To be helpful, given that he is praying in aid HEFCE as the precedent, if he is not prepared to accept the amendment, will he at some point disclose the generic list of principles that would be appropriate to remove a member of the OFS board?

Joseph Johnson: As I have said, over the past 25 years Secretaries of State have routinely attached terms and conditions to the appointments of HEFCE board members. I gave a couple of examples of the conditions that have been common practice, including that an individual must be fit to hold public office and that they must have a strong record of attendance at HEFCE board meetings. Those are the kinds of conditions that are typical, the breach of which might lead to a Secretary of State deciding that it was necessary to remove a member. I have to say that it has never proved necessary to remove a HEFCE board member over the past 25 years. If it had, the Secretary of State would have written to the board member in question to explain his or her decision. That letter would have had to be clear about the grounds on which the Secretary of State was removing the board

member, and the individual in question would have had every right to make that letter public if they had wished to.

The Bill draws on that successful historical practice. Schedule 1 makes provisions identical to those in the Further and Higher Education Act as regards the Secretary of State's discretion to set such terms and conditions for appointing OFS board members as he or she deems appropriate. As I have said, that replicates current arrangements and provides that crucial flexibility for the Secretary of State to set a clear expectation, appropriate to the circumstances of the time, on appointing OFS board members. In addition, the amendment would be inconsistent with the arrangements that apply more generally across the range of public appointments. I therefore ask the hon. Gentleman to withdraw his amendment.

Mr Marsden: We are not going to agree in principle on this issue, but I understand the Minister's position. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned.
—(Mr. Evennett.)

4.29 pm

Adjourned till Tuesday 13 September at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

HERB 25 Dr Sherrill Stroschein, Senior Lecturer in
Politics, University College London

HERB 26 Institute of Physics

HERB 27 Academy of Medical Sciences

HERB 28 British Medical Association

HERB 29 Goldsmiths, University of London

HERB 30 Higher Education Statistics Agency Limited

HERB 31 Royal Society

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

Fifth Sitting

Tuesday 13 September 2016

(Morning)

CONTENTS

SCHEDULE 1 agreed to.

CLAUSE 2 under consideration when the Committee adjourned till this day
at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 17 September 2016

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The Committee consisted of the following Members:

Chairs: † SIR EDWARD LEIGH, MR DAVID HANSON

- | | |
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| † Argar, Edward (<i>Charnwood</i>) (Con) | † Milling, Amanda (<i>Cannock Chase</i>) (Con) |
| † Blackman-Woods, Dr Roberta (<i>City of Durham</i>) (Lab) | † Monaghan, Carol (<i>Glasgow North West</i>) (SNP) |
| † Blomfield, Paul (<i>Sheffield Central</i>) (Lab) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| † Chalk, Alex (<i>Cheltenham</i>) (Con) | † Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP) |
| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Evennett, David (<i>Lord Commissioner of Her Majesty's Treasury</i>) | Rayner, Angela (<i>Ashton-under-Lyne</i>) (Lab) |
| † Howlett, Ben (<i>Bath</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Johnson, Joseph (<i>Minister for Universities, Science, Research and Innovation</i>) | † Streeting, Wes (<i>Ilford North</i>) (Lab) |
| † Kennedy, Seema (<i>South Ribble</i>) (Con) | Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Marsden, Gordon (<i>Blackpool South</i>) (Lab) | † Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| | Katy Stout, Glenn McKee, <i>Committee Clerks</i> |
| | † attended the Committee |

Public Bill Committee

Tuesday 13 September 2016

(Morning)

[SIR EDWARD LEIGH *in the Chair*]

Higher Education and Research Bill

9.25 am

The Chair: Good morning, everybody. It is a very beautiful morning; it is sunny and we are all in a happy mood.

Schedule 1

THE OFFICE FOR STUDENTS

Gordon Marsden (Blackpool South) (Lab): I beg to move amendment 131, in schedule 1, page 65, line 3, at end insert—

“() Remuneration, allowances and expenses as determined under subsection (1) must be made publicly available.”

This amendment would ensure transparency of OfS members costs.

The Chair: With this it will be convenient to discuss amendment 132, in schedule 1, page 65, line 10, at end insert—

“(4) Compensation as determined under subsection (3) must be made publicly available.”

This amendment would ensure transparency of OfS members costs.

Gordon Marsden: It is indeed a sunny morning, Sir Edward; it is also a rather airless one, so I am happy to see that the window is open. That leads me, reasonably effortlessly, on to the subject of transparency, covered by the amendments.

Without straying outside the narrow confines of the amendments I would just pause to reflect that when any new organisation is set up in government, it should reflect the mores of the time. The mores of our time are those of transparency. Transparency is an interesting word. When I was growing up it had a slightly different meaning. If someone was said to be transparent it meant they were trying to conceal something—or one might say “His arguments are transparent.” Now the English language takes it to mean, “Let a thousand flowers of information bloom.” That is an interesting development in the language.

Today the specific focus is on the office for students as a new organisation. We now conduct our proceedings in this place with transparency, and we believe in public transparency in the matter of remuneration, allowances and expenses. I do not need to remind you, Sir Edward, that we had our own trenchant discussions of transparency in Members’ expenses some time ago. That revealed much about what the general public thought about the lack of transparency on those issues in this place. I do not see why new Government bodies should be exempt, and I think transparency would strengthen the image of the OFS.

Similarly, with respect to amendment 132, there should be transparency on compensation. The other day we had a debate about the reasons why the Secretary of State might think it reasonable to discharge a member of the OFS. There are perfectly reasonable circumstances in which people might leave or settlements might be reached, or in which there might be no particular reason for the Secretary of State to have a person continue in their post. In those circumstances, subject to the civil service code, among other things, it might be perfectly reasonable for some forms of compensation to be made available. However, again, the same principle should apply: subject, obviously, to there not being undue private intrusion, the details of the compensation and what it is for should be made publicly available.

That is an important principle for the Minister to effect. If he agrees with the amendments but considers them defective and tells us that he will present something later, we will accept that. If not, we would like to hear some strong reasons—other than the usual “Well, it is inconvenient”—why there should not be transparency in the two key areas I have outlined for a newly appointed public body.

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): It is indeed a beautiful day. However, it is tinged with some poignancy and sadness because the former Prime Minister, my right hon. Friend the Member for Witney (Mr Cameron), was a great supporter of transparency in everything he did in his last role. He was also a great supporter of this Bill. It was presented by the then Secretary of State and supported by the former Prime Minister and the current Prime Minister, reflecting the commitment across the two Administrations that have followed the general election to push forward these reforms and to transparency as a great driver of quality and choice in our higher education system.

Amendments 131 and 132 relate to the disclosure of the remuneration and compensation of OFS board members. I welcome transparency, which is a vital element in the effective functioning of the sector, and the Bill champions transparency from universities by requiring them to publish information on their records. Although we do not oppose the intention behind the amendments, we do not accept them on the grounds that such specification is unnecessary in the Bill.

I can confirm to the hon. Member for Blackpool South that once they are appointed, and in the usual way, the OFS chair and chief executive’s salary will be included on a list of senior civil servants and senior officials in Departments, agencies and non-departmental public bodies that is made publically available on an annual basis.

On the transparency of expenses, allowances and compensation, ultimately the chair and chief executive will be responsible for accounting for OFS expenditure and the finer details of their approach to transparency will be for them to determine. However, the Government are committed to greater transparency, and we expect that, in their annual reporting, NDPBs will publish data on board member remuneration, allowances, expenses and other payments, such as compensation, in line with guidance in the Treasury’s financial reporting manual. I fully expect that the OFS will follow this practice.

Therefore, as the amendments refer to approaches to transparency that are already common practice among NDPBs through successful delivery of the Government's transparency agenda, the provisions are unnecessary and would restrict future flexibility. If legislation starts to stipulate specific provisions of this type for public bodies, they will inevitably soon become out of date as the transparency agenda progresses. That may then require further primary legislation to deal with any inconsistencies or anomalies that arise. The Government therefore do not propose to accept the amendment and I respectfully ask the hon. Gentleman to withdraw it.

Gordon Marsden: I thank the Minister for responding in the spirit of the amendment, even if he did not feel able to respond in the letter. It is a pity that we cannot have the provision in the Bill to send out the message I have talked about, but I accept the Minister's points. It is important that agreements in the terms of the chief executive and chair are made public in a public fashion, if I can put it that way, and not just tucked away at the end of a list of things that might not attract the attention of Members of Parliament on an off day. I accept the Minister's assurance.

When I hear Ministers or civil servants talking about flexibility, I sometimes feel that I should reach for my revolver, because flexibility can cover a multitude of sins. On this occasion, not least because the Minister has made it very clear on the record—that will obviously form part of these proceedings—and because I welcome and respect his commitment to transparency, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Roberta Blackman-Woods (City of Durham) (Lab): I beg to move amendment 158, in schedule 1, page 65, line 31, at end insert—

“(1A) A joint committee shall be established by UKRI and OfS, which must—

- (a) consist of representatives of both UKRI and OfS, and
- (b) produce an annual report containing details on—
 - (i) the health of the higher education sector,
 - (ii) work relating to equality of opportunity,
 - (iii) the health of different academic disciplines,
 - (iv) research funding,
 - (v) the awarding of research degrees,
 - (vi) post-graduate training,
 - (vii) shared facilities,
 - (viii) knowledge exchange,
 - (ix) skills development, and
 - (x) maintaining the public interest.

(1B) The report must be sent to the Secretary of State who shall lay it before Parliament.”

This amendment would ensure that the two major bodies, UKRI and OfS, do not work in silos and that the work of each organisation is complementary to the other.

It is a pleasure to serve under your chairmanship again, Sir Edward. It is a beautiful day, but I can assure you that for someone from northern climes, these temperatures present quite a challenge.

Amendment 158 is a probing amendment that will hopefully elicit from the Minister some more information about how oversight of the whole sector will work, particularly with regard to the OfS and UK Research

and Innovation. As the Committee knows, a great many witnesses, including MillionPlus, the University Alliance and almost all of the research bodies that gave evidence, were concerned about how the OfS and UKRI will work together. It is essential that there is overarching oversight to guarantee the continuing success of the sector. This amendment would require the OfS and UKRI to establish a joint committee that would produce an annual report each year about the higher education sector in its totality, which would be reported to the Secretary of State and be put before Parliament. The amendment would add an additional layer of scrutiny and give parliamentary oversight to the whole sector.

When Pam Tatlow from MillionPlus gave evidence to the Committee, she said:

“I think we should be looking at the Bill in a holistic way. There is a real risk that we look at the Bill in terms of a silo—the office for students, and then UK Research and Innovation. What we have got at the moment through the Higher Education Funding Council for England is some holistic oversight over the whole of the sector”.—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 9, Q6.]

That is the point that people are making. There is additional concern that the separation of responsibilities for research and teaching could mean that the interests of postgraduate research students, in particular, are lost.

I would like the Minister to reassure us about where PGR will sit, and about some of the other issues on the list, including the health of the sector, work relating to equality of opportunity, research funding, shared facilities, knowledge exchange, skills development and maintaining the public interest. Where will those issues sit, and how will they be reported on?

As I said, this is largely a probing amendment. I look forward to hearing what the Minister has to say.

Carol Monaghan (Glasgow North West) (SNP): We support this amendment in principle but, because the research element of the Bill has implications for Scotland, a copy of any report that is produced should also be made available to the Scottish Government. More generally, any report produced as a result of this Bill should also be made available to the Scottish Government.

Gordon Marsden: I rise to support the amendment of my hon. Friend the Member for City of Durham, and I commend her for her argument. I would spare her blushes, but as chair of the all-party universities group she is in an admirable position to take soundings from across the sector on this matter, which are of considerable concern. Before I address some of them, I endorse what the hon. Member for Glasgow North West just said about the Scottish dimension. When we debate part 4 of the Bill, we will discuss the new structure of research, about which there was rightly some sharp questioning in the evidence sessions. Given what I called in the evidence session the variable geometry of the Bill in relation to UKRI, the OfS and the research councils, it is essential that there is co-operation to ensure confidence and good relations between the devolved Administrations and the Westminster Government. I entirely endorse what the hon. Lady and her colleague, the hon. Member for Kirkcaldy and Cowdenbeath, have said.

On committees, again they can be set up to be what we want them to be: a token, a sop, or something that does some useful good. In the modest but nevertheless

[Gordon Marsden]

substantial way in which my hon. Friend the Member for City of Durham has phrased her amendment, she has struck the right balance.

I will not be outwith the subject of the Bill when I refer to the situation that occurred in 2007, because it is relevant. I will not get into the issues relating to the machinery of government today, because we will debate them properly under part 4—the implications for this and the issues to do with research in connection with the new Department for Business, Energy and Industrial Strategy, as opposed to the Department for Education, are complex, and we will want to discuss them later.

To go back to the machinery of government changes that took place in 2007, before what became BIS and the Department for Education were set up, I was on the Select Committee that questioned David Bell—Sir David Bell, as he is now—the chief executive officer about the relationship between the two organisations was to be. He said that he would continue as chief executive of DFE, Ian Watmore would continue as chief executive of BIS and they would have regular discussions. I said that sounded as if they would have two or three pleasant but meaningful lunches during the year to chat about things, and they would get on very well.

The crucial thing, however, is what happens lower down the food chain, if I may put it that way. Unless there is co-operation and collaboration between the people who do the day-to-day work in the two Departments, the co-operation will not work properly. That is directly relevant to my hon. Friend's amendment. If the committee is established, it is important that it is not simply two or three agreeable lunches between the high-ups, but a meaningful, continuing and regular communication between UKRI and the OFS.

As I have said, the views of what I might describe as the higher education fraternity and sorority are pretty strong. My hon. Friend has already referred to the evidence given by Pam Tatlow of MillionPlus. Cambridge University, in its written evidence to the Committee, stated:

“The Bill in its current form gives some recognition to the relationship between teaching and research”,

and this is the other broad issue, apart from the desirability of getting the new research structures right and in co-operation; it is also important to get the relationship between teaching and research right.

Cambridge University's evidence went on to state that

“the Office for Students...and UK Research and Innovation...must work together if required to do so by the Secretary of State, and must also share information”,

with an important caveat:

“However, this provides no burden of responsibility for collaboration outside of any specific request from the Secretary of State. There is also little indication of how oversight will be given to the entire university...portfolio... This risks creating an artificial separation of functions”.

As my hon. Friend also touched on, the university declared that it had

“a particular concern regarding oversight of postgraduate students. Although there have been some assurances from Government that UKRI will have responsibility for funding and OFS will be responsible for their regulation, this is unclear in the legislation.”

Universities UK has offered similar concerns in its note to Committee members and, more widely, on 25 August, when it stated that there was a “substantial need” for collaboration between the OFS and UKRI, and that there was a “lack of clarity” as to which one would lead on cross-cutting institution or sector-wide issues, such as knowledge exchange. Also, since science and education are in separate Departments for the first time—this goes back to the point I made about the machinery of government changes—there is particular need for strong planning. The document that Universities UK circulated expands on that further.

Other organisations have also commented. It is particularly important to look at what some of the key research bodies have said. The Wellcome Trust expressed its concern that the separation of the functions of the Higher Education Funding Council for England, which is what will happen in the process of setting up UKRI and the OFS, could break the links between teaching and research if not well handled. There is no suggestion that that is the deliberate policy of the Government—why would it be?—but you and I, Sir Edward, have been in this place for long enough to know the perils of unintended consequences. When new structures are set up with lots of grand words and gestures, the peril of the unintended consequence is not putting in place the safeguards and the detail that would allow the two newish departments to co-operate. We are trying to be helpful to the Government by flagging up the concerns from the various bodies that have written to us all.

Whatever the Minister says about the specifics of the amendment, I hope that he will go into some detail—if not today, perhaps in future weeks with a letter to members of the Committee—spelling out what he has said today and reassuring all those who want the new structure of UKRI and the OFS to work. We will talk about the broader issues with the research structure in part 4, but we would like some reassurance now that the image of the two agreeable lunches and not much else happening further down the food chain, which I evoked in 2007, will not be replicated in the relationship between the OFS and UKRI.

9.45 am

Joseph Johnson: I thank the hon. Member for City of Durham for allowing me this opportunity to explain further how the office for students and UK Research and Innovation will work together on a range of issues relating to their respective remits. Clause 103 proposes safeguards to ensure joint working, co-operation and the sharing of information between the OFS and UKRI, which reflects the Government's commitment to the continued integration of teaching and research within the HE system, and the clause goes far beyond the image that the hon. Member for Blackpool South conjures up of two or three meaningful lunches between the high-ups, agreeable though that sounds in some respects—I hope I might receive an invitation to one of them.

Both organisations also have a statutory duty to use their resources in an efficient and effective way, which means that they will look for all opportunities to collaborate and share information. As the new organisations are created, we will develop appropriate governance arrangements that embed joint working principles and practice in the framework documents for both organisations and in the informal agreements between them, such as a

memorandum of understanding. Those framework documents will provide the hon. Member for Blackpool South with the clarity that he is looking for and will set out the working arrangements between the two bodies, which are highly likely to include regular senior level meetings that could be akin to a committee.

Gordon Marsden: I thank the Minister for his response thus far, which is encouraging. On the subject of the framework documents, we know that the process of merging HEFCE into the OFS, the Quality Assurance Agency for Higher Education and so on will be a complex one that will probably take two or three years. Where does the Minister envisage those framework documents coming in that process, as that will be crucial? It would be helpful if he could give us some timeframe for that.

Joseph Johnson: We envisage publishing the framework documents once the Bill has received Royal Assent, but I intend to write to the Committee to provide more detail about the co-operation arrangements that we envisage coming into existence as a result of the co-operation and information-sharing provisions in clause 103. For that reason, I believe it is undesirable and unnecessary to be prescriptive in the Bill. As I have said in relation to other amendments, the legislation must remain sufficiently flexible for the Government and organisations to be able to respond to the circumstances of the time. We would not want to restrict the areas in which the OFS and UKRI should work together, and the list proposed by the hon. Member for City of Durham of the important areas raised by the community is not actually comprehensive now, and nor is it likely to be at points in the future.

Let me turn to some of the points raised by hon. Members, the first of which was about postgraduate students. As now, the councils, through UKRI, will fund doctoral students, while the OFS will be the funder for masters courses, providing, for example, top-up teaching grant for high-cost subjects only. The OFS will be the regulator for all students, including all postgraduate students. As I have said, the Bill proposes safeguards to protect joint working, co-operation and the sharing of information between those two bodies, reflecting the integration of teaching and research at all levels.

Each organisation will be required to produce an annual report detailing its activities that will be laid before Parliament. To ask them to produce an additional annual report would, I believe, be duplicative and unnecessary. The Secretary of State also has powers to request any further information from those organisations if such reporting does become necessary.

Let me turn to the changes to the organisation of HEFCE and to the machinery of government. The OFS and UKRI will have distinct missions and it would not be workable to create one large body responsible for all the regulatory functions, as well as a specific focus on the student interest, while simultaneously acting as a funding body for the full range of research funding. The research funding role that HEFCE played now sits better with UKRI, a body explicitly tasked with bringing a coherent approach to funding research, than it would with the OFS, an economic regulator for the student interest.

Higher education and research policies are no strangers to changes in the machinery of government. Prior to 2007 they were also in separate Departments, with

higher education in the Department for Education and Skills and research and science in the Department of Trade and Industry. Our partner organisations are already adept at working across departmental boundaries. For example, HEFCE has effective relationships with the Department for Education's own National College for Teaching and Leadership and Health Education England as well as with the devolved Administrations. The OFS and UKRI will be no different.

Turning to the devolved Administrations, the White Paper is clear that it is our policy intent to ensure that Research England, as part of UKRI, can work jointly with devolved funders. That will mirror the effective working relationship HEFCE currently has in respect of the operation of the research excellence framework, for example, which it runs on behalf of the devolved funding bodies.

Research councils and Innovate UK will continue to operate throughout the UK. We will work closely with the devolved nations as UKRI is established to ensure that the UK's research and innovation base remains one of the most productive in the world. I welcome the opportunity to provide assurances on joint working. I will write to the Committee to provide further detail ahead of the publication of the important framework documents that will formally govern those relationships. In advance of that, I call on the hon. Lady to withdraw her amendment.

Dr Blackman-Woods: I thank the Minister for his response. I would point out that clause 103 states that the OFS and UKRI "may co-operate"; it does not actually direct them to do so. I heard what the Minister said about providing the Committee with more information about the nature of the framework and what might underpin an MOU.

There is one other point that I want to make to the Minister. I do not see any reason why UKRI or the OFS cannot work together to produce a single report that would really help the sector at large to understand what is happening across the whole of it. It would be helpful if he could consider that when putting the framework together. On the basis of what I have heard, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Gordon Marsden: I beg to move amendment 133, in schedule 1, page 66, leave out lines 9 and 10.

This amendment would prevent the Secretary of State's representative from taking part in any deliberations of meetings of the OfS or any of its committees.

I have already spoken this morning about setting out guidelines and principles for the OFS. I know that the Minister is keen for the OFS to be seen as having independence under broad direction from the Secretary of State. If it is to function effectively and correctly, it is extremely important that it is seen as independent—after all, it is an arm's length body. It is worth looking at this in context, because there is a section on procedure on page 66. It states:

"A representative of the Secretary of State is entitled...to attend any meeting of the OfS or of any OfS committee".

The practicalities of that and how it would work out are obviously a matter for the parties concerned, so I have no problem with someone attending a meeting.

[Gordon Marsden]

However, parts of meetings fall into different categories, as they do in Select Committees when we have a public session and a private session. I am not sure about the representative of the Secretary of State taking part in OFS deliberations, even though there will be a veto over the decision. I do not know whether this Government are fans of nudge theory—we have not heard the new Prime Minister pronounce upon it yet—but the previous Government and the coalition Government were greatly in favour of the principle of nudge. They believed that people should be nudged towards things rather than legislating on matters. I have observed on occasions that there is nudge and nudge, and sometimes there is iron nudge.

I would not want it to appear, either for the Secretary of State's reputation or for the subsequent independence of the OFS, that a functionary of a Secretary of State—if I may be so crude as to put it that way—sitting there quietly in the best traditions of Whitehall and observing the deliberations of the committee might cast aspersions on its ability to make judgments independently. I am genuinely curious to know why the Minister feels it would be necessary for a representative of the Secretary of State to take part in deliberations. I think that it would be wholly otiose and that it would send out the wrong signals. Therefore, in the spirit of transparency that we talked about earlier, and the need not to apply undue pressure to the new body, I hope that he will be able to give us a favourable response.

Joseph Johnson: The amendment seeks to remove the ability of the Secretary of State's representative to take part in OFS board meetings. I understand the hon. Gentleman's desire to ensure—

Gordon Marsden: I am sorry to interrupt the Minister, but this needs clarification. We have not sought to stop either the deliberations of the board or having the representative at a board meeting. We have said—this applies to other committees and organisations—that when the board is deliberating on things as opposed to receiving reports and so on, the Secretary of State's representative should not be present. I beg the Minister not to misinterpret or to allow officials to misinterpret the situation and set up a straw man by saying that we do not expect the representative to be in any shape or form at the board meeting. That is not the case.

Joseph Johnson: I understand that difference, although it does not change the substance of what I am saying. Although I understand the hon. Gentleman's desire to ensure the independence of the OFS board, I do not believe that his amendment, well intentioned though it is, is the right way to achieve that, because it would effectively make the representative a silent observer of the deliberations. It takes us a step back from the arrangements that have worked successfully for the HEFCE board for more than a quarter of a century and it risks the OFS not having access to the Government's latest policy thinking when it considers how it should act.

10 am

Schedule 1 to the Further and Higher Education Act 1992 allows the Secretary of State to send a representative to take part in meetings of the council—in practice, that

is the HEFCE board. The arrangement has worked well. It has allowed the HEFCE board to discuss, normally with a senior civil servant, the Government's latest policy direction. Those discussions have routinely been two-way, with the HEFCE board able to feed its operational expertise into ministerial thinking. During all of this time, no one has seriously questioned the HEFCE board's independence or suggested that it is in any way inhibited by the Secretary of State's representative taking part in its meetings. That is because the existing legislative framework gives the Secretary of State's representative no voting powers or formal influencing right over HEFCE board decisions. The Bill replicates those arrangements for the OFS board. There is absolutely nothing in our approach that will inhibit the OFS board's independence or stop it from taking impartial, objective decisions.

The amendment risks damaging the quality of the OFS's decision making. It would deprive the OFS board of access to the Government's latest thinking on HE at the very time it needs it most: when it considers how to act. In short, the amendment would unpick arrangements that have worked well for a long time, would add nothing demonstrable to the OFS's independence and would put the efficacy of its decision making at risk. While I appreciate the hon. Gentleman's good intention in tabling the amendment, I do not believe it would achieve the policy outcomes he desires. I therefore ask him to withdraw it.

Gordon Marsden: I am disappointed by the Minister's response, not so much for the detailed and no doubt carefully looked-up examples of precedents from the 1992 Act, which he used in support of his position, but—if I can say this without being rude—for the slightly naive view he takes of the ways in which people can be influenced. I do not wish to stray outwith the amendment, but I can think of numerous occasions in bygone years—not so bygone in some cases—when Government pressure was allegedly applied on HEFCE, so I do not share the rosy view of the Minister or his officials. It is always dangerous to assume that everything in the past was perfect and that we should continue with that. That is an issue for all Administrations, whatever their political shade, and since 1992 we have had both sides of political shade. I am not impressed with that argument.

I am sorely tempted to put the amendment to a vote because I do not think we have had satisfactory reassurance. I hope that the Minister will reflect on the concerns and on the potential reputational damage to the OFS. I have said before and I will say again that we legislate here not for the best circumstances in the affairs of the body but for the worst and to put in safeguards for those circumstances. That is why we tabled the amendment. I will not press it to the vote, but I do not think the Minister has heard the end of this issue. It will probably reappear in other forums. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Gordon Marsden: I beg to move amendment 135, in schedule 1, page 67, leave out line 31.

This amendment would prevent the OfS from accepting gifts of money, land or other property.

I move from a part of the schedule that caused me some bafflement to one that causes me substantial bafflement. The Minister was talking about good lunches earlier, so in that vein I was surprised to see on page 67, line 31, the list of things the OFS may do. It may do anything except borrow money, but, slightly curiously in that context, we are told that it can acquire and dispose of land and other property, enter into contracts and invest sums. I assume that the Minister will elaborate on some of those examples so that we can be clear that the OFS will not go into offshore investments or anything similar. The serious provision concerns the acceptance of

“gifts of money, land or other property.”

I am by training a historian. We talk about Henry VIII clauses in this place, and when I read this I had an idea of the Tudor way of doing things and of getting things done. The idea that the OFS, which is supposed to be a reputable and even-handed body, would be accepting

“gifts of money, land or other property”

without some aspersions—or nasturtiums, to use the old phrase—being cast on the motives for those acceptances is one that I fail to understand. I look to the Minister to reassure me as to why paragraph 15(2)(d) is included. What sort of gifts of money, land or other property is it envisaged would be accepted? Is he concerned that they would inhibit or influence future decisions, which at that stage the OFS might not be able to foresee, involving the people who had given the gifts? I will simply conclude—going back to our lunch analogy earlier—by reminding the Minister of the saying “there ain’t no such thing as a free lunch”, or in this case, free

“gifts of money, land or other property”

and I look forward to his further explanation.

Joseph Johnson: I am very happy to explain the provision. The amendment would remove the OFS’s ability to receive

“gifts of money, land or property”.

Although I think I understand the motivation behind it and even though we can sympathise to some extent with the hon. Gentleman’s underlying concern, we will resist the amendment. In practice, it would remove from the OFS an ability HEFCE has always had—an ability that would allow the OFS to manage any issues raised by the public ownership of some of the land and property of some existing HE institutions if those institutions merged or ceased to operate, and to ensure that the assets were managed effectively. I accept that it may seem odd for any public body—particularly an independent regulator—to be empowered to accept gifts, but there is a specific reason for the existence of this ability in the current legislative framework, and for why we need the OFS to continue to have it.

HEFCE was created at a time when a Conservative Government were implementing substantial reform to the HE sector. Central to that was allowing our polytechnics to become full universities—the single biggest institutional expansion of the sector ever. Before this, as the hon. Gentleman knows well, polytechnics had been owned by local education authorities. Some of the property and land used by some of these institutions was owned by the local authority, meaning that it was public property,

so the Further and Higher Education Act 1992 gave HEFCE powers to accept this public property to ensure that if any of the institutions failed or merged into new forms, then HEFCE would have the powers to manage these changes effectively.

As we now know, the former polytechnics have thrived as universities and made a huge contribution to our sector as a whole over the intervening decades, and no one is suggesting that any of them are at any sort of risk of collapsing or even merging, but the fact remains that the public retains some ownership rights of some of the land and property that these institutions use, and no responsible Government can simply give those rights away—indeed, Government need to retain the ability to manage these assets effectively should that ever prove necessary, and the most effective way to do this is to give the OFS the power to accept those assets on behalf of Government.

Gordon Marsden: I thank the Minister for his explanation, which I assume he has not concluded. I entirely understand the context of HEFCE and the 1992 legislation. We could have an interesting discussion about whether HEFCE and the OFS are ultimately the same sort of beast, but I do not intend to pursue that argument. I merely say that I do not think that the analogy between what HEFCE did and what the OFS will do is entirely accurate. The OFS will be doing all sorts of things that HEFCE did not do, but we will let that pass.

If I heard the Minister correctly, this is essentially what one might describe as a reserved power, to be exercised in the limited circumstances that he has described—and he described them very accurately in the context of what needed to be there post-1992. I understand the context of making the provision, but I remain concerned that the terms of reference are extraordinarily wide. If I am not to press the amendment I would therefore urge the Minister to put his explanation in writing to all the members of the Committee, so that everybody—not just those here today—can clearly understand the circumstances in which the Department intends that the OFS should use this power, so that there is no doubt that it could not be used for, for the sake of argument, a group of people who wanted to set up a new organisation—

The Chair: Is this an intervention? It is very long.

Gordon Marsden: It is very long, Sir Edward, and I will shut up at this point.

Joseph Johnson: I got the gist of the hon. Gentleman’s point. I would like to provide him with some additional reassurance on one of the other aspects of his earlier remarks in relation to individuals within the OFS taking gifts or money, and that sort of concern. This power only enables the OFS as an organisation to accept gifts. It will obviously be for the OFS to set the terms and conditions of employment for its staff, but we see absolutely no reason why these would not include the standard public sector rules on gifts and hospitality, which set out that a public servant may only accept gifts or hospitality of a purely nominal value. I hope that that provides some reassurance about the seemingly wide scope of this provision. Of course I am happy to

[Joseph Johnson]

set out in writing many of the points I have just made if that would provide reassurance, and I commit to doing that now.

To sum up, in these respects the Bill replicates the arrangements in the existing legislative framework for precisely the same reasons as those arrangements were first put in place. As I said, the amendment would unpick those arrangements. If at some point in the future, for example, one of the former polytechnics were to want to merge, or if it faced a collapse—obviously we hope that would not happen—the OFS would be unable to accept any part of the assets that the institution held over which the public had any ownership rights. This is a failsafe power. We do not anticipate that it will be used frequently, if ever, but it is an important power because in its absence there is a risk of loss to the public purse. For that reason we resist this amendment, and I respectfully ask the hon. Gentleman to withdraw it.

Gordon Marsden: On the basis of the Minister's extended explanation of the circumstances and his promise to put this in writing for the members of the Committee, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 1 agreed to.

Clause 2

GENERAL DUTIES

10.15 am

Wes Streeting (Ilford North) (Lab): I beg to move amendment 15, in clause 2, page 1, line 8, at end insert—

“() Within six months of its establishment the OFS must publish its strategy to ensure fair access and promote wider participation in higher education, which must be reviewed and updated at least every three years.”

This amendment would place a statutory duty on the OfS to ensure fair access and promote wider participation in higher education.

The Chair: With this it will be convenient to discuss the following:

Amendment 20, in clause 2, page 1, line 8, at end insert—

“() The OfS must co-operate with the Institute for Apprenticeships to develop a strategy to encourage registered higher education providers and any institution authorised under section 40 of this Act to increase provision of higher and degree level apprenticeship places.”

This amendment would place a duty on the OfS to work with the Institute for Apprenticeships to develop more higher and degree level apprenticeship places.

Amendment 28, in clause 2, page 2, line 6, at end insert—

“() The OFS must monitor the geographical distribution of higher education provision and introduce measures to encourage provision where the OfS considers there to be a shortfall in relation to local demand.”

This amendment would place a duty on the OfS to monitor the geographical distribution of higher education provision and encourage provision where there is a shortfall relative to local demand.

Wes Streeting: It is a pleasure to serve under your chairmanship again, Sir Edward.

Amendments 15, 20 and 28 all deal with the responsibilities and duties of the proposed office for students in relation to access and participation. We all know that there have been significant strides to widen participation in higher education and ensure fair access to our most selective universities, but much more progress is needed in both respects. Amendment 15 would place a statutory duty on the office for students to ensure fair access and to promote wider participation by publishing its strategy to ensure both aims. That strategy would be reviewed and updated at least every three years and would enable the sector, the wider public and Parliament to engage actively in the debate about how best the OFS can fulfil its duties. I hope that the amendment is uncontroversial and that the Government will be able to accept it.

Amendment 20 would place a duty on the office for students to work with the Institute for Apprenticeships to develop more higher and degree-level apprenticeship places. That would address two issues. While it is right to ensure wider participation in higher education and fair access to our most selective universities, there is a degree of public cynicism and scepticism. With the effort to get more people, particularly younger people, into higher education and to enable them to go, sometimes there is pressure on people to go to university when other, better routes might be available to them.

I welcome the extent to which apprenticeships feature more heavily in parliamentary debate. The debate between the Government and the Opposition seems to be about how to create more and better apprenticeship places and how to fund them effectively, rather than whether we should do that, and that is to be welcomed. However, the higher education sector can do more to engage with the debate about apprenticeships, particularly on higher level and degree-level places. In that respect, the amendment would help to shift the public debate on life chances and opportunities and where and how people should participate in higher education and higher level skills in a positive direction, but it would also deal with the reality of Britain's changing economy.

The fact is that however, Britain voted in the recent referendum, Britain's future in this century is all about high-level skills and ensuring that we are competing effectively in the global race to provide better job opportunities. In the light of the referendum, there could be a reverse pressure to have deregulation of employment rights, a race to the bottom, more casualised labour and lower pay, and I do not think anyone would want that future for themselves or their children. By placing a greater emphasis on higher and degree-level apprenticeships, we can ensure that appropriate routes and genuine choice are available to every talented person growing up in Britain today and, indeed, to an older generation that will increasingly have to retrain and reskill to move into different employment paths. Those routes should not just be the conventional full-time higher education degree course that has traditionally been embraced by 18 to 22-year-olds, but more part-time higher education provision and, as the amendment alludes to, more higher and degree-level apprenticeship places.

Amendment 28 deals with another challenge that has been thrown up by public policy in recent years: the changing patterns of participation in higher education

among people of all ages. There is a degree of complacency about the extent to which the new fees and funding regime and the student finance regime have impacted on participation. There are still real concerns about part-time participation and mature student participation. Not enough evidence has been gathered about those who have the ability and the grades to participate in higher education but choose not to apply because of student finance issues.

To a degree, demography is masking a pattern there, although overall I am glad to see that many have not been deterred by the new student finance regime. None the less, it has had an impact on patterns of participation. In particular, more people are now choosing to study at local institutions. On one hand, that can be positive and advantageous: there are many good reasons for people choosing to study at a university closer to where they live. It could be that they have a particular commitment to family ties or place of worship. It could be that they have a job; they may be mature students and want to study part-time alongside their full-time work. It may be that, as students in sixth form they have been working part-time and would like to keep that job while studying at a local university.

For a potential student growing up in the capital city, as I did, there is really no problem at all, because you have the full breadth of higher education represented in London—traditional universities, modern universities, institutions that are small and specialist and excel in part-time provision. Those who grow up in London really are spoilt for choice, but there are across the country a series of higher education blackspots in terms of both the reach of local higher education institutions and problems and shortcomings that arise as patterns of course provision change. Amendment 28 would place a duty on the office for students to monitor the geographical distribution of higher education provision and encourage provision where there is a shortfall relative to local demand.

One of the unintended consequences of the marketisation of higher education is that, particularly with patterns of private provision, there is not necessarily the same public duty and public ethos that has traditionally existed in the higher education sector. As we heard in the oral evidence sessions, some courses are simply more expensive to provide, even if there is a clear public duty to do so. Some courses are more profitable than others, some less. I would dearly love a higher education framework that did not place such considerations at the forefront of university leaders and university finance directors' minds, but I fear that in this brave new world where the market reigns supreme, there are real risks, which the amendment seeks to mitigate.

I hope that I have clearly set out the intentions behind amendments 15, 20 and 28. I think that they are consistent with the principles that the Government set out in the White Paper and with the wider objectives of the Bill, and I hope that they receive a favourable hearing from the Minister.

Gordon Marsden: I congratulate my hon. Friend on bringing these amendments forward today. They are specific amendments but they touch on a much broader and more crucial aspect of the relationship between the Bill and the promotion of higher education skills. The Minister himself, on diverse occasions, not least in the

higher education White Paper, has rightly put enormous emphasis on the importance of high-level graduate skills. The statistics and projections quoted in the White Paper emphasised repeatedly that the driver for the changes in the Bill are that half of the job vacancies between now and 2022 are expected to be in occupations requiring high-level graduates. So the thrust of the higher education White Paper is very clear, but if you will the ends you also have to will the means. I think that what my hon. Friend touches on in his amendments, and certainly what we will touch on throughout consideration of the Bill, is the need to give the appropriate connectivity between the vocational and the academic sides of the Bill. That is what continues to concern and alarm me.

As my right hon. Friend the Member for Birmingham, Hodge Hill (Liam Byrne) asked in his Second Reading speech, does this include levels of technical, professional competence? I am bound to return to the point, to which I have not had a satisfactory response—indeed, since the machinery of government changes, these questions have become larger and louder, rather than quieter—of the link between what the Bill says about higher education and skills and what was said in the skills plan released by BIS in July. The need for cross-over between the skills plan and the Higher Education Bill is obvious, but I sat in the Chamber yesterday and heard the Secretary of State for Education's statement about the forthcoming Bill that will come from the Green Paper and none of these issues—I am not blaming her specifically: she was addressing a range of other issues—have so far been addressed by the Bill. We know that the Bill was previously supposed to reflect some aspects of the skills plan; we know nothing more about that since the change of Government. It is not appropriate for the Minister to say something more specific about that on this amendment today, I urge him to take another occasion to talk about what that connectivity is going to be, because the devil is in the detail.

No one doubts the Government's wish to take forward higher degree skills—they desperately need to do so in the post-Brexit climate and for all the other reasons that make this issue important—but if they do not have the mechanisms or the analysis to do it, it will not succeed. That is why I also welcome amendment 20 which provides for the OFS to co-operate with the Institute for Apprenticeships to develop a strategy for jointly registered higher education providers to increase provision of higher and degree level apprenticeship places.

I am bound to say to the Minister—perhaps he will convey this to the Minister of State, Department for Education, his right hon. Friend the Member for Harlow (Robert Halfon), who is of course the Minister for these matters, although I am sure he has heard it already—that we still have huge doubts about the capacity of the Institute for Apprenticeships to carry through the programme that the Government wish it to carry through, in particular in relation to higher skills. Again, that is not to doubt its bona fides—although its structure and appointments have been subject to some mishaps over the last 12 months as the Minister will be aware—but its capacity. The staffing levels in the Skills Funding Agency are down nearly 50% since 2011; there has been a continuing and accelerating decline in National Apprenticeship Service staffing; and the Government have effectively closed the UK Commission for Employment

[Gordon Marsden]

and Skills. All of those press very hard on the Minister's desire to see skills—and the delivery of skills includes degree apprenticeships—being effectively achieved. It means that Ministers will struggle to deliver the ambitious designs and targets that they laid out in “English Apprenticeships: Our 2020 Vision” and those include targets highly specific to this Bill and to what the Minister wants to see.

We know that under the previous Government funding arrangements were protected in the Department for Education but not in the Department for Business, Innovation and Skills. The consequences were the sort of cuts that I have described, not just in programmes but in staffing, that left me and a range of people—including Baroness Wolf, the EEF, the CBI and the Federation of Small Businesses—very doubtful about the Government's ability to achieve the sorts of targets they talked about in the White Paper and that they want to deliver with the assistance of the Bill. So it is important that the Minister addresses those issues and, again, if he is not able to do so in detail today, that he is in a position at some point—hopefully having consulting with the right hon. Member for Harlow—to say a little bit more about the connectivity.

I also want to touch on what my hon. Friend the Member for Ilford North said about amendment 28. He is right to draw attention to the changing patterns of participation and the need for that to be reflected in the objectives of the OFS. He is also right to talk about the issues with finance. I am the first to say that finance—and the incentives or disincentives for people to participate—is a complicated subject. At the risk of sounding like a Select Committee veteran, I sat on Select Committees in the mid-2000s where we heard lots of evidence and projections about what would happen to the participation of students if fees were increased to a certain level. Some older Committee Members may remember the strong evidence that Claire Callender gave from her participation surveys.

10.30 am

It is fair to say that some of those alarmist projections did not come to pass—or certainly not in the way in which they were originally put forward. Just because some things do not come to pass, though, does not mean that the pips will not squeak at some point under any future Government. That is our strong argument on the trebling of tuition fees, and other issues that we will deal with later. The pips have a habit of squeaking in different ways. To some extent, the pips have not squeaked for the traditional cohort between 18 and 22, but they have certainly squeaked for adult and part-time students and in lifelong learning provision.

My hon. Friend the Member for Ilford North also talked about the importance of the involvement of people who want to enter higher education and get degrees and qualifications locally. As I said on Second Reading, and will continue to say, further education colleges, which provide more than 10% of higher education, are crucial in this process. This comes back to what my hon. Friend said about the situation in London. It is true that in London students can access different types of courses, in different places in a relatively limited geographical area. Transport for London is now able to

do better-structured deals for people, though that does not affect the fact that cost and time are involved in that process.

Outside London—in my constituency and others—it is critical that people, whether young or adult, are able to get the courses they need in the cold spot areas. That is one of the reasons for the many concerns that mergers between colleges under the area review process are particularly harmful to the social fabric and social mobility of people in rural and suburban areas who wish to participate. That is not simply participating in FE courses, but in HE access courses at FE colleges and, increasingly, HE degree courses—the Bill gives powers to FE colleges in that respect. The area reviews, in turn, threaten to make those situations much worse.

It is also true that we cannot always predict the way in which people will want to take their higher education in the future. That is particularly true in the mature sector. When I was a course tutor for the Open University before 1997, the majority of my students were returning women in their thirties and forties on the particular courses I taught. That was the pattern in the Open University for older people. In recent years, not just with the Open University but with Birkbeck and other institutions, that demographic pattern has widened. We are now getting a lot of younger people in their late 20s and early 30s, sometimes in employment or having had a couple of jobs that did not work out, who want to go back on a part-time basis. It is important that everything that the Government's proposals encourage those people and give them flexible programmes, so that we do not have structures that cause the sort of problems I have described. My hon. Friend's amendments, although very specific—and no less potent for that—raise some much broader issues that I trust we will return to.

The Chair: Minister, would you like to read out your speech for our delectation?

Joseph Johnson: I will happily do so, Sir Edward.

These amendments recognise the importance of widening choice and opportunities to students from all backgrounds and all parts of the country. The Government wholeheartedly support that ambition, but it is crucial that we ensure that those choices are made alongside the available technical and vocational options. There will be opportunity to discuss that in more detail as we take forward both this Bill and the skills plan. However, the OFS's duties to have regard to the need to promote greater choice and competition already give it the responsibility to focus on those issues.

On amendment 15, widening access to higher education is a priority for the Government. Good progress has been made, and record numbers of young people from disadvantaged backgrounds are going into HE: the proportion has risen from 13.6% in 2009-10 to 18.5% in 2015-16, and provisional figures for 2016 indicate an entry rate of 19%. The hon. Member for Blackpool South acknowledged that the alarmist warnings about the impact of the tuition fee increases have not been borne out by events, and that the pips have not squeaked, at least in the traditional sector. We share his concerns about part-time study, and I will address in greater detail later exactly what we have done and will do to support it.

Gordon Marsden: For clarification, my remarks about the pips not squeaking in the traditional sector referred to the period up to 2010. After then, as the Minister is well aware, the tripling of tuition fees in 2011-12 had a dramatic effect on the traditional cohort—we can never demonstrate how many people were deterred from going forward in that process—and there was a dramatic fall in part-time and mature students, which can be closely correlated with the tripling of tuition fees.

Joseph Johnson: The office for students brings together the responsibilities of the Director of Fair Access and HEFCE for widening access and promoting the success of disadvantaged students. The Bill will rationalise those activities and ensure they are a key part of the OFS's remit. Placing a requirement in legislation to publish a strategy is restrictive and unnecessary, and setting a rigid three-year timetable in legislation may in fact limit, rather than encourage, regular review, as the focus would be on the timescale, rather than on when such a strategy might most be needed. Under clause 2, the Secretary of State can issue guidance to the OFS, and the OFS must have regard to the guidance. Such guidance, which provides greater flexibility, is a more appropriate vehicle for setting out expectations with regard to the broader strategy in connection with access and participation.

We are not complacent. We want to do more to continue opening up higher education to those from all backgrounds and ensure that they have successful outcomes, including by ensuring that those who go to university stay to complete their qualification.

On amendment 20, we too want to see an increase in apprenticeships, which are a powerful motor of social mobility and productivity growth. Our ambition is to reach 3 million apprenticeship starts by 2020. Higher and degree apprenticeships are widening access to skilled trades and professions, and are providing the higher level technical skills employers need to improve productivity, while giving young people a career route as equally valid as going to university.

The hon. Member for Blackpool South asked about the join-up between our HE and FE reforms. We are carrying out two reform programmes—in HE and technical education—at the same time. That gives us the best opportunity to ensure that they are complementary and that learners benefit from the changes as soon as possible. The reforms are not about diverting people from academic HE into technical education or vice versa. We want everyone who can benefit from the education they choose to have the chance to do so. Our reforms are focused on strengthening the whole education system, based on a common set of core principles improving the quality and value of learning and its relevance to learners' future choices; enabling learners to make well informed decisions about the value of their learning options; ensuring learners have the opportunity to move between academic and technical education if they feel their original choice no longer suits them; and giving learners the opportunities and choices that will help them to achieve their potential.

Gordon Marsden: No disrespect, but the Minister is reading out the boilerplate of the Government's aspirations for co-operation in this area, which we fully share. The question is: what is actually happening on the ground? Without diverting too much, what is happening on the

ground is that there are major concerns about apprenticeship levels, the numbers of apprenticeships, and the ability to deliver all this in the next 12 months.

I know apprenticeships are not the subject of the Bill, but with the Government saying that degree apprenticeships are so crucial, the Minister has a vested interest in the success of the apprenticeship programme. So far today, he has not given us any indication of the practical integration of discussions on these clauses by officials from his Department and the Institute of Apprenticeships. Nor has he given any indication of conversations he may have had with the Minister of State, Department for Education, the right hon. Member for Harlow, though I know the latter is relatively new in post.

Joseph Johnson: The hon. Gentleman asked about degree apprenticeships. I point him towards provisional figures, released in June, that show a dramatic increase in the number of people starting higher apprenticeships. The official figures show that there were more than 37,000 people participating in a higher apprenticeship between August 2015 and April 2016. The figures also show that there are more young people starting apprenticeships, with more than 108,000 starts by under-19s between 2015 and 2016.

We would not agree with the hon. Gentleman on his points about funding. The spending review was a good settlement for the skills and FE sector. We will double spending on apprenticeships by 2019-20 from 2010-11 cash terms, including through the new levy, and will protect the £1.5 billion funding for the core adult skills participation budget, in cash terms.

The combination of the levy, the protection of the adult education budget, the extension of loans and the introduction of the youth obligation mean that by the end of the Parliament, the cash value of core adult technical education funding to support participation will be at its highest ever. The total spending power of the FE sector to support participation will be £3.41 billion by 2019-20, which is a cash-terms increase of 40% compared with 2015-16, and 30% in real terms. The area review programme that the hon. Gentleman mentioned aims to put the FE college sector on a strong financial footing, so that it is better able to meet the educational and economic needs of local areas, including at higher levels.

To finish my comments about the links with the FE reforms under way elsewhere in the Department, led by my able colleague, the Minister of State, Department for Education, my right hon. Friend the Member for Harlow, with whom I have regular conversations, even though he is new to his post, I remind the hon. Member for Blackpool South of the support for the entirety of our package of reforms from the Association of Colleges, which said:

“Choice, access and quality are the welcome watchwords of the Government's long-awaited plans to open up higher education and to allow more colleges to award HE qualifications. This step change away from the country's traditional university system will empower more people than ever before to access HE in their local area through a college. It will also provide a wider choice of courses that are linked to employment.”

In response to the higher education White Paper, the AOC said:

“We welcome much of the Bill's content, as it has been one of AoC's key long-standing policy objectives to make it easier and quicker for high performing institutions, including colleges, to achieve their own awarding powers.”

Gordon Marsden: That is all very well; no one is doubting the intentions in that respect, and the AOC is right to talk about that, but if wishes were horses, beggars would ride. The truth is that the funding increase that the Minister talks about is entirely on the apprenticeship side. If he looks at the figures for adult funding over a four-year period, there has been a cut. My hon. Friend the Member for Ilford North and I talked about people having to travel 30 to 40 miles as a result of the area reviews, which are cost-cutting exercises, not simply reorganisation exercises. Those issues are very real and will affect the Minister's degree apprenticeships.

10.45 am

Joseph Johnson: To carry on, we are supporting growth in degree apprenticeships, including by making available an £8 million development fund. That will build on the rapid progress that we have been making over the past year. It will help universities and partners build capability and capacity among HE providers to meet employer demand.

I support the good intentions behind the amendment, and it will, of course, be essential for the OFS to work collaboratively with the Institute for Apprenticeships to increase the number, range and choice of degree-level apprenticeships on offer to students. However, the amendment is unnecessary to accomplish the hon. Gentleman's entirely laudable aim. There are already powers in the Bill that enable collaboration between the OFS and other bodies. Clause 58 empowers the OFS to collaborate, where appropriate, for the efficient performance of its functions, and requires it to do so if directed by the Secretary of State. The OFS can use that power to collaborate and share information with other organisations, such as the IFA.

The Secretary of State will also be able to ask the OFS to work with the IFA through guidance and, in doing so, will be able to set out which areas of activity should be prioritised at any given time. That is a more useful and flexible tool for delivering the kind of increase in degree apprenticeships that we all want. That will enable the OFS to respond to the changing needs of prospective students and the labour market. The amendment would lead to an overly prescriptive approach, and would limit the flexibility that we need to ensure that our education system remains responsive to changes in the labour market and the needs of our economy.

Finally, I turn to amendment 28. I again welcome the opportunity to discuss the important issue of the geographical distribution of higher education provision. HE providers play a significant role in their local economies by supporting and enabling local growth. Access to HE acts as a social mobility catalyst that can improve the life chances of young people in disadvantaged areas or help retrain people later in life. It is important that all areas of the country should be able to benefit from that. HE provision tends to be clustered in cities, with less provision in rural or coastal areas. HEFCE has undertaken valuable work in recent years on the issue of cold spots. I assure the Committee that it is our intention that the OFS should continue doing that important work. However, the amendment is not needed to enable that; it would risk forcing the OFS to take an over-prescriptive and interventionist approach.

The Bill already gives the OFS a duty to have regard to the need to promote greater choice and opportunities for students. That is a broad duty that includes matters

such as students having a choice about where to study. That means that the OFS will have a remit to be aware of cold spots, and to take action if necessary.

The amendment would also risk creating the expectation that the OFS would continually monitor the distribution of supply and demand for HE, perhaps in a bureaucratic and costly way. The OFS should be free to determine the extent of the monitoring needed, based on its market intelligence. The amendment would impose a legal requirement on the OFS to take action whenever there was unmet demand. I would be concerned about that, as it would be an over-interventionist approach for the regulator to take in every instance. In many cases, incidences of unmet demand could be addressed by the local area without any direct OFS action. The duty could therefore be inconsistent with the principle of taking regulatory action only when it is needed.

We have an active HE market that is well equipped to identify and respond to student demand with innovative and targeted provision. Our view is that local institutions and authorities are best placed to decide what is needed in their areas; that is in line with the spirit of institutional autonomy. For example, nearby providers and the local community can put plans in place for additional HE provision, perhaps through FE colleges or satellite campuses. The OFS can encourage and support that if necessary, but the decision should be for local areas, reflecting the principles of local devolution.

Our reforms will also support new institutions opening in cold spots where there is unmet demand. It will be quicker and easier for new high-quality HE providers to establish themselves. New universities can be agile and nimble, can respond to what students and the economy demand, and can equip students with the skills needed for the jobs of the future. I therefore ask the hon. Gentleman to withdraw the amendment.

Wes Streeting: I thank the Minister and the shadow Minister for their contributions. The Minister made a reasonable point about amendment 15 in relation to the prescription that the OFS should publish and review its strategy at least every three years. I agree with his general point that, where possible, legislation should not be unnecessarily prescriptive, and I am content to withdraw the amendment.

On amendments 20 and 28, I am not sure that I entirely follow the Minister's argument. In the Bill, there is a whole range of instances of the OFS being given specific duties that might otherwise have been captured under the much broader, sweeping clauses. This is a matter of consistency. We are talking about two key areas that the Minister has acknowledged are important. The provision of higher-level and degree-level apprenticeships is important, and there really ought to be a statutory duty on the office for students to co-operate with the Institute for Apprenticeships, and vice versa. The shadow Minister made a compelling case for making sure that the higher education and skills strategies are joined up, and amendment 20 would facilitate that.

On the issue of HE cold spots and amendment 28, I am not sure that my reading of the amendment is the same as the Minister's. He paints a picture of a bureaucratic nightmare in which the office for students is constantly monitoring supply and demand and frequently having to tinker with institutions and courses. The amendment is clear:

“The OfS must monitor the geographical distribution of higher education provision”.

We hope that it would do that, but there is no harm in making sure that it does. The amendment states that the OfS should

“introduce measures to encourage provision where the OfS considers there to be a shortfall in relation to local demand.”

There are two variables. One is the issue of measures, and it would be for the office for students to determine what, if any, measures are appropriate. Secondly, the OfS has discretion to determine where it

“considers there to be a shortfall in relation to local demand.”

That is important in ensuring fair access to higher education, particularly given that, as I described earlier, many people, particularly from backgrounds where there is less of a tradition of participation in higher education, choose to study locally. It is an area that the OfS needs to keep its eye on, so there is no harm in putting this measure in the Bill and making sure that OfS minds are concentrated on this challenge. I am therefore not minded to withdraw amendments 20 and 28; I wish to press them to a vote. However, I beg to ask leave to withdraw amendment 15.

Amendment, by leave, withdrawn.

The Chair: We will deal with amendment 28 later in the Bill.

Amendment proposed: 20, in clause 2, page 1, line 8, at end insert—

‘() The OfS must cooperate with the Institute for Apprenticeships to develop a strategy to encourage registered higher education providers and any institution authorised under section 40 of this Act to increase provision of higher and degree level apprenticeship places.’—(*Wes Streeting.*)

This amendment would place a duty on the OfS to work with the Institute for Apprenticeships to develop more higher and degree level apprenticeship places.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 11.

Division No. 2]

AYES

Blackman-Woods, Dr Roberta	Smith, Jeff
Blomfield, Paul	
Marsden, Gordon	Streeting, Wes

NOES

Argar, Edward	Kennedy, Seema
Chalk, Alex	Milling, Amanda
Churchill, Jo	Morton, Wendy
Evennett, rh David	Pawsey, Mark
Howlett, Ben	Warman, Matt
Johnson, Joseph	

Question accordingly negatived.

Gordon Marsden: I beg to move amendment 137, in clause 2, page 1, line 9, after “have”, insert “equal”.

This amendment would ensure that no one element of the OfS’s remit dominates, and that it is mandated to take consideration of all the listed elements in a balanced fashion.

The Chair: With this it will be convenient to discuss the following:

Amendment 138, in clause 2, page 1, line 14, after “education”, insert “only”.

Amendment 139, in clause 2, page 1, line 15, after “is”, insert “shown to be”.

This amendment would reduce emphasis on OfS duty to encourage competition.

Amendment 160, in clause 2, page 1, line 15, leave out “and employers,” and insert

“employers and the public interest”.

This amendment would mean that competition can be pursued in a way that will not adversely impact upon areas outside of the categorisation of ‘student and employer’.

Gordon Marsden: The amendments bring us on to a subject dear to the Government’s heart—indeed, so dear that sometimes in the White Paper it seems to be the only game in town. I make the point strongly that the amendments are motivated not simply by our concerns and views, but by the significant concern felt across the university sector by university groups and, as importantly, some of the people who work in our university sector.

In the White Paper, the Government assert that the main weaknesses of the higher education system in England are

“insufficient competition and a lack of informed choice.”

Incidentally, many people would argue that those are not the most important aspects of weakness in the system, but we will leave that for another day. The Bill seeks, from its outset—this is why we propose making these amendments to clause 2—to address that by introducing a duty on the new regulatory body, the office for students, to encourage competition between English higher education providers.

Let me be clear, because at diverse times and places Government spokespersons have misinterpreted the Opposition, either innocently or mischievously—I am afraid the Minister has been guilty of this from time to time—as saying that we do not believe that there is a place for competition in higher education. There is a place for it, and clearly universities have it at the moment. We have just had a round of admissions for universities in which much of the conversation was around the fact that fewer people from the traditional cohort are applying, so there has been competition among universities to attract them.

Let us therefore not have any of this nonsense about us not being in favour of competition. What matters is where competition is placed in the list of what we expect the OfS to do, and that is the question that fuels amendments 137 to 139. It is not that competition is not part of the process, but it is not the whole process. Indeed, there are circumstances in which competition in certain areas can be damaging to collaboration. That is an issue that universities, university groups and those who work in higher education are concerned to see addressed, particularly in this uncertain, pro-Brexit climate.

Universities UK, which has been measured in its comments on the Bill and on the OfS, is particularly concerned about this issue. Its evidence to us says:

“We think that some of these general duties should be amended to ensure that the regulatory approach taken by the OfS is appropriate and best able to ensure that the sector can fulfill its roles in society. In particular, we think that the reference to competition in paragraph 2(1)(b), with no reference to collaboration which can be beneficial to students, is too narrow. We also consider”—

[Gordon Marsden]

we entirely agree with this—

“that universities have responsibilities that extend beyond students and employers”.

We have just been talking about the issue of people studying at local institutions, some of which are post-1992 universities or further education facilities, for higher degrees. Although many other universities sit well and collaboratively within their geographic and social areas, those universities and institutions place a particular importance on collaboration. That is why UUK has said what it has said and has added that

“some reference to the interests of ‘wider society’ in this paragraph would be helpful in reflecting the broader societal role of universities.”

11 am

To be honest, I am not fussed about including the words “wider society”. I have spent long enough in this place to know that sometimes the more generic the words that are used, the more specific the actions that are excluded, but it is important that the broader concept is understood. It is not just coming from UUK. The University Alliance has put forward an amendment along those lines and says that

“collaboration is more likely to be in the interest of students... than competition”

in areas such as widening participation, which we have just talked about, asset sharing and working together on employability schemes.

There is a broader context that we need to remember. The Government, as far as I am aware—they have not said anything to the contrary—are still committed to the principles of localism and devolution of funding that were set out in the Heseltine paper, which the previous Government endorsed wholeheartedly. Much of that devolution of power to combined authorities and so on, including powers over skills and higher skills, will depend on co-operation, not competition, in geographical areas. There is a tension between those two processes. It needs to be a creative tension and we need to get the balance right.

The issue of insufficient competition, which tripped quite merrily off the tongues of Government scribes when they produced the White Paper, is one that might be regarded with a rather more jaundiced eye by some of the people who work in our university and HE sector. Therefore it is not surprising that the University and College Union also has grave concerns. It points to some of the issues with market-based reforms in the US and UK to date, which resulted in

“worse outcomes and value for students, employers and taxpayers”.

It also points to research that shows that market forces can change institutional priorities in ways that may not be beneficial to students—competition increases the pressure on providers to spend money on attracting students, rather than on front-line delivery.

Taking an example from the US, from which the Government are not shy of borrowing, competition between providers has led to an increased spend on marketing and recruitment, with for-profit institutions spending 22% of revenue in that area, 5% more than is spent on teaching. The pressure of competition has also led UK universities to invest increasingly in developing physical campuses, often through significant borrowing.

HEFCE and the National Audit Office have both warned that the decreasing liquidity and increasing borrowing in higher education that such competition provokes is unsustainable in the long term. The idea that competition is always and in all circumstances an unalloyed positive good is one that needs to be challenged by the facts and the evidence.

I do not want to dwell on those issues today because they will come up later when we talk about new providers, but the Minister will be well aware, not least because I reminded him of it on Second Reading, of the BPP problems in 2011, which exposed the limits of competition, and which led his older—I will not say on this occasion whether he is wiser—colleague David Willetts to abandon the Government’s proposals at that time. It is not just the Opposition, university groups and trade unions that are concerned. Learned people such as Baroness Wolf and others in the other House have raised those concerns. If the Minister does not address them today, he will find himself addressing them in considerable detail elsewhere.

Dr Blackman-Woods: Amendment 160, which falls within this group, seeks establish on the face of the Bill that one of the general duties of the OFS should be to have regard to the public interest when making its decisions. As we have already discussed this morning, the Bill has a strong focus on an explicitly pro-competition approach to the delivery of higher education, where students are seen as consumers. I fear that simply categorising the higher education sector as a consumption market fails to recognise the wider economic and societal benefits that the sector contributes. I have therefore tabled this amendment to recognise that the sector should not be seen just as an arena for transactions between student consumers and university providers, but also as a sector that acts in the public interest.

All universities in the UK are more than just places where students go to get a degree or a qualification. They are dedicated to research, innovation and the development both of ideas—they are perhaps not very fashionable at the moment but they are very necessary—and of students and academics, whose full potential universities seek to achieve. As the Minister said earlier, they also contribute not only to the local economy but to the national economy. They provide sporting opportunities and cultural facilities locally, and represent a very positive image of the UK internationally. The amendment seeks to ensure that that is recognised by the OFS.

This issue was picked up by a number of our witnesses when they were giving evidence to the Committee. Professor Simon Gaskell of Universities UK said:

“We certainly favour inclusion in the Bill of a clause that indicates that there is a responsibility for the public good of institutions that wish to call themselves universities”.—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 12, Q12.]

It is a bit odd, or a bit remiss, that there is nothing in the general duties of the OFS to reflect that wider public good. I would like to see that in the Bill, as I have said. If the public interest is not to be safeguarded through an amendment to clause 2, perhaps when the Minister responds to the points that I and my hon. Friend the Member for Blackpool South have made, he could indicate to the Committee where the public interest is safeguarded.

Joseph Johnson: Clause 2 sets out a series of important duties for the OFS, including

“the need to promote quality, and greater choice and opportunities for students...to encourage competition between English higher education providers...to promote value for money...to promote equality of opportunity in connection with access to and participation in higher education”,

and to use

“resources in an efficient, effective and economic way”.

Amendment 137, the first amendment in the group, would require the OFS to have regard to all of those statutory duties equally. While the Bill does not place any particular weighting on the general duties, I believe that the amendment would seriously inhibit the ability of the OFS to make effective decisions, so I resist it. In practice, it is akin to telling the organisation to give equal priority to all of its priorities. That does not reflect how any organisation operates in reality. In the design of the OFS, there are a series of matters which it needs to take into account when carrying out its functions. We are also giving it statutory independence to act impartially and objectively in delivering those statutory duties in the light of the relevant circumstances of the time. For us, that has the distinct advantage of giving the independent OFS clear statutory responsibility for deciding what is most important at any one time.

In its day-to-day operations, the OFS will need regularly to manage its different competing priorities, some of which will need to take greater importance than others depending on the issue at stake. The amendment would restrict that independence. If everything were equal and equally important, the OFS would be unable to make judgments about relative importance—the kind of judgment that HEFCE currently has to make every day.

Gordon Marsden: Again, the Minister is deliberately setting up a straw man. We are not suggesting that the OFS board, to put it at its crudest, would have to divide its time at a meeting between x, y and z. Anyone in any organisation with any sense whatsoever will prioritise one thing at one time and others at other times. Macmillan’s “Events, dear boy, events” only makes that more important. The idea that we are suggesting that that should be reflected in a day-to-day mathematical formula is ludicrous. We are looking for some indication from the Government that they do not regard competition as the be-all and end-all of the OFS’s duties.

Joseph Johnson: They are all important duties, which is why they are all on the face of the Bill. As I said, we would not want to give them on the face of the Bill an equal weighting, because that would restrict the flexibility of the OFS board to take into account the different circumstances it might face at any particular point in time.

Before I get into the detail of the amendments on competition duty, I want to touch on collaboration, which hon. Members have raised. We will talk about it more when we come to the next group of amendments, but we may as well start now. Members are concerned about the scope of the competition duty in part because they worry it might stifle collaboration. I want to make it clear that I see promoting collaboration as an important part of the OFS’s role. I do not see competition and collaboration as being inherently in tension with each other. Competition between businesses that are also

competitors is common practice in other sectors when there are mutual benefits to be gained from it. I want the OFS to support such collaboration where it is in the interest of students. The OFS will recognise the importance of collaboration between providers, especially, for example, where it might enable efficiencies.

The Bill does not prevent collaboration. The OFS does not need a separate duty on collaboration, as it has a general duty already to have regard to the student interest, and such collaboration would be in the student interest. Collaboration can take many forms, and we do not want to be prescriptive about what it should look like or create an expectation that the OFS should formally regulate this type of activity. That would be unnecessary. It is, however, part of the general overview of the sector and of the role of providers that we would expect the OFS to have, and we can make that clear in our guidance to the OFS.

Dr Blackman-Woods: I want to question the Minister a bit more about everything being in the interest of students. Ultimately, everything universities do will eventually help students, but they often act in the interests of a local community, wider society, the wider economy and how Britain is viewed internationally. It seems a bit strange that nothing in the general duties acknowledges the wider context in which decisions are made. Of course, we have something in the Bill about encouraging competition, but there is nothing at all in this clause about working in collaboration or acting in the public interest.

Joseph Johnson: We absolutely recognise the important role that universities play in society. As the hon. Lady says, as well as often being large local employers, HE providers need to be well connected with their local business community and other education providers. They often provide additional services and facilities that are important to local communities, but we do not want to be prescriptive about what that wider role should look like or create an expectation that the OFS should formally regulate this type of activity. That is unnecessary. It is part of the general overview of the sector and of the role of providers that we would expect the OFS to have, but we will make that clear in our guidance, if that is of any comfort to the hon. Lady.

The OFS’s general duty to have regard to encouraging competition recognises that higher education is a market and needs a regulator suited to dealing with that reality. The Competition and Markets Authority concluded in its report on competition in HE that aspects of the current system could be holding back competition among providers and needed to be addressed. Currently, as we heard in the evidence sittings, the sole option for providers new to the UK sector, or too small or specialist to gain their own degree-awarding powers, is to have their degree validated by an incumbent provider. Not only does that appear to frustrate competition, it stifles innovation and results in the entrenchment of the same model of higher education.

11.15 am

Gordon Marsden: I must challenge that statement, which has been repeated by the Minister. It was said in the evidence sessions, and has been said outside this

[Gordon Marsden]

place—and I have some sympathy with the view—that if, given the multitude of choices for validation from existing higher education institutions, those new providers cannot get anyone to validate them, they must be in a bad way. Only this week the Open University put itself forward, as the Minister will be well aware, as a potential validator of many new institutions and, indeed, some of the FE institutions that seek degree status. So let us have no more of the straw man—the argument that those poor small new institutions cannot be validated because there is a vested interest out there blocking them. If there was such a situation, it is rapidly being addressed, and what the Minister is arguing for is not needed.

Joseph Johnson: The hon. Gentleman should have listened more closely to the evidence that we heard last week from the likes of Alex Proudfoot, the chief executive of Independent Higher Education, formerly Study UK. He spoke powerfully about the flaws in the current system that we are seeking to address through our reforms. I remind the hon. Gentleman, who appears to have forgotten, that he said:

“Unfortunately, we find that, quite rightly within their own autonomous priorities and strategies, some institutions draw back from validation, leaving institutions and students high and dry. We see institutions blocking new courses from being validated because they compete with one of their own courses or, indeed, one of their own partner’s courses. Unfortunately, we see a very high cost and very limited transparency in the process across the sector—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 14, Q13.]

Gordon Marsden: I am sorry to come back at the Minister on that, but if he is going to trade quotes from the evidence sitting, Mr Proudfoot’s statements were entirely general. I think that the evidence will bear me out: he did not say anything in detail about numbers of organisations. Of course there will always be individual organisations that do as he said, but the general position is very clear. There is a host of institutions that can do validation and, as I have said, the Open University is now added to their numbers.

Joseph Johnson: Again, there was ample evidence in the sittings, with specific institutions that offer high-quality HE provision pointing to their problems in being validated. We heard, for example, from Angela Jones of Condé Nast College:

“We have just been through the whole process of finding a validating partner for our degree, and it was really difficult...For us, the idea of an office for students in a central place to go and be supported through that process is very helpful.”

Professor Philip Wilson said:

“We have seen a number of institutions pull the ladder up from colleges on validation powers with pretty much no notice, which has caused a number of issues—it filters down to the students and causes disruption.”—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 49, Q74.]

We could also point to the evidence from Paul Kirkham, chief executive of the Institute of Contemporary Music Performance, who told the Committee:

“There are significant risks to student and taxpayer of a very static, non-changing universe of providers and way too much emphasis on the three-year, on-campus degree.”—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 13, Q13.]

By placing a general duty on the office for students to have regard to encouraging competition between English HE providers we will foster a more competitive system and level the playing field for new providers, ensuring that regulation does not block new entrants from competing and providing the innovation the sector needs. The sector supports that ambition. As Roxanne Stockwell, the principal of Pearson College, put it:

“It is clear that the dominance of the one-size-fits-all model of university education is over. Fee rises have transformed students into more critical consumers and the government is right to recognise this in their reform package. Students are calling out for pioneering institutions offering alternative education models and an increased focus on skills that will prepare them for the careers of the future - with the mind-set and agility to fulfil roles that may not even exist yet. The government’s plans address this demand by making it easier for credible new organisations to enter to sector should be welcomed by all.”

Making it easier for high-quality providers to enter and expand will help to drive up teaching standards overall, enhance the life chances of students and drive economic growth, and will become a catalyst for social mobility.

The Bill makes explicit the fact that there is a general duty to encourage competition

“where that competition is in the interests of students and employers”.

In doing so, it emphasises that the student interest is at the heart of the OFS and recognises the wider public benefits associated with maximising choice and competition in the HE sector. Requiring the OFS to have regard to competition only where it is “shown to be” in the interests of students, employers and the wider public would be burdensome and inflexible. Amendment 139 appears to suggest that the OFS would in some way have to demonstrate that those various interests were met, placing an unnecessary evidential burden on the new regulator.

On the question of whether the OFS should have regard to encouraging competition where it is in the public interest as well as in the interests of students and employers, operating in the public interest is implicit in the role of the OFS. It will be a public body that is accountable to the Secretary of State and to Parliament. Moreover, there are general duties on the OFS to promote value for money, equality of opportunity and to operate “in an efficient, effective and economic way.”

There are also significant assurances built into the Bill to safeguard the public interest, including a requirement that the OFS, through the Secretary of State, provides an annual report to Parliament on the performance of its functions and finances. For those reasons, I respectfully ask the hon. Members who tabled the amendments not to press them.

Gordon Marsden: Because of the lateness of our proceedings I do not intend to respond in great detail, but I profoundly disagree with his cavalier interpretation of what one needs to do on validation. We can talk about bad examples across the board, but this will go from one situation to another. Individual organisations, whether Condé Nast or any other, will have to go through a proper process—that is the whole point of the thing. As we come to other aspects of the Bill we will see why the Government’s attitude toward new providers risks creating many problems for students. On this occasion, because the hour is late and we are about to conclude the session, I do not intend to press our

amendments to a vote, but I assure the Minister we will return to the issue in some detail elsewhere in the Bill. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned.
—(*David Evennett.*)

11.23 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

Sixth Sitting

Tuesday 13 September 2016

(Afternoon)

CONTENTS

CLAUSES 2 to 9 agreed to.

Adjourned till Thursday 15 September at half-past Eleven o'clock.

Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 17 September 2016

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The Committee consisted of the following Members:

Chairs: SIR EDWARD LEIGH, † MR DAVID HANSON

- | | |
|--|--|
| † Argar, Edward (<i>Charnwood</i>) (Con) | † Milling, Amanda (<i>Cannock Chase</i>) (Con) |
| † Blackman-Woods, Dr Roberta (<i>City of Durham</i>) (Lab) | † Monaghan, Carol (<i>Glasgow North West</i>) (SNP) |
| † Blomfield, Paul (<i>Sheffield Central</i>) (Lab) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| † Chalk, Alex (<i>Cheltenham</i>) (Con) | † Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP) |
| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Evennett, David (<i>Lord Commissioner of Her Majesty's Treasury</i>) | Rayner, Angela (<i>Ashton-under-Lyne</i>) (Lab) |
| † Howlett, Ben (<i>Bath</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Johnson, Joseph (<i>Minister for Universities, Science, Research and Innovation</i>) | † Streeting, Wes (<i>Ilford North</i>) (Lab) |
| † Kennedy, Seema (<i>South Ribble</i>) (Con) | Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Marsden, Gordon (<i>Blackpool South</i>) (Lab) | Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| | Katy Stout, Glenn McKee, <i>Committee Clerks</i> |
| | † attended the Committee |

Public Bill Committee

Tuesday 13 September 2016

(Afternoon)

[MR DAVID HANSON *in the Chair*]

Higher Education and Research Bill

Clause 2

GENERAL DUTIES

2 pm

Dr Roberta Blackman-Woods (City of Durham) (Lab): I beg to move amendment 159, in clause 2, page 1, line 20, at end insert—

“() the need to maintain confidence in the higher education sector, and in the awards which they collectively grant, among students, employers, and the wider public.”

This amendment will help to ensure that the OfS takes into account the need to maintain confidence in the UK's higher education sector.

The Chair: With this it will be convenient to discuss the following:

Amendment 136, in clause 2, page 2, line 6, at end insert—

“(g) the need to determine and promote the interests of students by consulting and working with student representatives.

() In this section “student representatives” means representatives with current experience of representing and promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers.”

This amendment would ensure that when higher education providers produce an Access and Participation Plan, they must consult with students and student representatives, including—but not limited to—the students' union at that higher education provider.

Amendment 140, in clause 2, page 2, line 6, at end insert—

“(g) the need to promote collaboration and innovation between English Higher Education Providers where this is in the best interest of students.”

This amendment would encourage collaboration and innovation between Higher Education Providers.

Amendment 141, in clause 2, page 2, line 6, at end insert—

“(h) the need to promote adult, part-time and lifelong learning”.

This amendment would ensure adult and part-time study was considered by the OfS.

Dr Blackman-Woods: Thank you, Mr Hanson. It is a pleasure to serve under your chairmanship again.

The amendment seeks to include a specific duty on the office for students in the Bill, to make it clear that maintaining confidence in the sector must be high up the OFS agenda. The UK's higher education sector has an extremely strong global reputation, and a degree from a university in the UK is generally of high value. The Bill must therefore protect the reputation of the

sector, especially in the context of an increasingly competitive global market and the possible negative ramifications of Brexit for our universities. If we do not mandate a body to look after the health of the entire sector, we risk losing that hard-earned status. The amendment, which would insert that duty in the Bill, therefore seeks to reassure the sector that the Government have its interests at heart, that they are listening to it and that they understand the need to promote and maintain confidence in it.

Amendment 136 is also sensible because it seeks to ensure that student interests are protected by including the need for consultation with students when putting an access and participation plan together. That is sensible, and I am not sure why someone would want to draw up a participation plan that is based on extending access to universities for additional students, but not to consult students—not to do so would seem nonsensical. I hope that the Minister will reassure us that students will be put at the heart of such plans and will be consulted when they are being drawn up.

Gordon Marsden (Blackpool South) (Lab): It is a pleasure to return to serving under your chairmanship, Mr Hanson. It is also a pleasure to speak in support of our amendments, and to back the amendment moved by my hon. Friend.

I will say no more on amendment 159—my hon. Friend the Member for City of Durham has put our case strongly—but amendment 136 is in line with the gist of what we have been arguing throughout consideration of the Bill so far: if we are to have an office for students, we need to involve students as often as possible in all its vital aspects. We are genuinely disappointed that, despite their warm words about the role of students, the Government still seem determined not to put anything in the Bill about it. Their vote against our amendment the other day underlined that.

Amendment 140 is the other side of the coin. I shall not detain the Committee for long with it, because in our extensive debate this morning the Minister took pains to make the point that he wanted to see collaboration and innovation. I do not want to suggest he should put his money where his mouth is; I merely invite him to insert a clause along the lines of our amendment. No doubt that would give some comfort to the groups that have been concerned about collaboration and innovation.

I have reserved most of my remarks on this group for amendment 141, which would ensure that the OFS takes on board

“the need to promote adult, part-time and lifelong learning”.

Again, many warm words have been said about such things during our consideration of the Bill, but we want to see specifics and so do people in the sector. The Open University has expressed its view:

“A prosperous part-time higher education market is essential, now more than ever, to address the challenges and opportunities which lie ahead to deliver economic growth and raise national productivity...and to increase social mobility.”

I see a strong argument for lifelong learning and part-time higher education based on their social value, but we also need to think hard about the economic and demographic circumstances. The figures are quite stark: only 13% of the 9.5 million in the UK who are considering higher education in the next five years are school leavers.

The majority are working adults. That cannot be said too often, because the phraseology of the White Paper and the Bill has made it look as if we are in a ghetto that extends between the ages of 18 and 22, which is not the case.

I pursue the point that the Minister was keen to make this morning: over the next 10 years, there will be 13 million vacancies but only 7 million school leavers to fill them. This is bread-and-butter stuff; it is not an appeal to the Government's better nature to give people second chances for the sake of it. If we do not empower people and we do not give those chances, the economy, our productivity and all sorts of other things will suffer.

There is a social dimension to the issue, underlined by the fact that one in five undergraduate entrants in England from low-participation neighbourhoods choose—or have no option, perhaps for financial reasons—to study part-time. Some 38% of all undergraduates from disadvantaged groups are mature students.

That is the need: what has the response been? Until relatively recently, I am afraid it has been what I can only describe as “poor”—I will not use the unfortunate alliterative word I was going to put in front of that. The situation that faces adult learners is bleak, both in further education and in higher education; lifelong learning in the UK has declined. I am sorry to take issue with the Minister's statistics again, but the 24% cut to sections of the adult skills budget in 2015-16, along with the further 3.9% reduction, created a new large gap in college budgets.

As funding for non-apprenticeship skills has dropped, so has the number of learners. The latest data from the Skills Funding Agency show that 1.3 million learners have been lost from learning—excluding apprenticeships, which of course are the Government's great get-out clause: they always say “Look at all the money we've lavished on apprenticeships”. They may have lavished money on apprenticeships—the end result is yet to be seen—but adult skills have been starved of funding in the process. That has not gone unnoticed by people in the sector. In its briefing to the Committee, Birkbeck said it was concerned that part-time students could be “seen as an add-on rather than an integral part of the work of the OFS. Birkbeck would like to seek assurances that part-time students are an integral part of the Government's thinking in the Bill.”

The Open University has made a number of similar points.

These issues do not affect only part-time and mature students; they affect the health of existing traditional universities that have found that by losing numbers of part-time and other students their funding and economic base has been chipped away at. They also, of course, affect some of the people in the workforces of those universities. That is why the trade union Unison, in submitting written evidence to the Committee, said:

“Opportunities for mature and non-traditional students should be increasing not decreasing.”

It points out that mature students accessing higher education via a part-time route, while often having caring responsibilities or employment issues, increases both their life chances and the life chances of their families. It is vital for workers who are retraining or reskilling themselves and the decline of this group is worrying for our future society when considering social mobility and providing access for those from social and economically deprived backgrounds.

Similar points have been made by the Workers Educational Association, union learning representatives and many in the trade union movement who are genuinely concerned about the impact of the dropping away of opportunities.

The Bill's equality analysis claimed that there had been a dramatic improvement in the participation rate of disadvantaged young people. There has been an improvement, albeit from a low base, but I make the point again that that has not been seen for mature students where numbers have declined sharply. These huge challenges to social inequality and promoting social mobility in higher education were underlined by the survey of students by National Education Opportunities Network and University and College Union two months ago. It said:

“Over 40% may be choosing different courses and institutions than they would ideally like to because of cost and restricting the range of institutions they apply to by living at home or close to home.”

It added:

“The majority of students who are participating in post-16 courses which can lead to HE are not choosing to progress to HE because of cost.”

That is a real tragedy, not least because of the following. Here I would like to pay tribute to one of the Minister's predecessors, the right hon. Member for South Holland and The Deepings (Mr Hayes). When we had the big debate about advanced learning loans early in the life of the coalition Government, there were expressions of concern that it would put people off if they had to take out a loan for HE access. The then coalition Government specifically gave ground on that issue. We welcomed their response to that campaign on behalf of the thousands, if not tens of thousands, of students doing HE access courses who found they did not then have to take out two sets of loans.

The benefit of that concession and of looking more holistically at the process will be undermined if the Government do not address the issues of what happens to those part-time or mature students when they eventually get into HE education. According to the NEON/UCU survey,

“Nearly 50% of students think they will undertake part-time working to afford to eat and live.”

The removal of grants, which the Government pressed hard on at the beginning of the year,

“will increase term-time working, especially for those from non-white backgrounds and those in receipt of free school meals”.

It is astonishing that in such a large Bill, the Government have not so far put centrally the importance of adult and part-time learning towards improving social mobility.

However, I am glad to say that although the Government may have been reticent or deficient in that respect, members of the other place have not, where only yesterday, there was a very significant and fruitful debate on lifelong learning. The points the participants made, a couple of which I will quote, bear repeating.

2.15 pm

The issues were strongly put by Lord Rees, the former president of the Royal Society. He said in his speech that we needed to have a revolution in the way in which we formalised things into,

“a system that more readily allows for transfers between institutions and between part-time and full-time study. The demand for

part-time and distance learning will grow, speeded of course by the high fees now imposed on students at traditional residential universities”.

He also said,

“there are huge opportunities but to exploit them for maximum benefit our system needs a more diverse ecology ... We need to remove the disincentives from mature students. We can exploit the benefits of IT to offer a better second chance to young people who have been unlucky in their earlier education”.

The Labour party needs no persuading of the importance of these issues, which is why I am glad that Lord Watson, in speaking for us yesterday talked about the importance of the WEAs Save Adult Education campaign. He is a former OU tutor, as am I, although for a relatively short period at the start of my career as a tutor. He made the point again that it is essential for our economy and society that we continue to provide high-quality education for adults. In order to do that, the Minister and his colleagues need to address the dichotomy between the funding that has gone into apprenticeships and the reduction of funding over the period until 2016 that has gone into those other areas. This is like the Titanic, we cannot turn round overnight a very significant decline in adult education. It needs the Government to move rapidly on some of these issues. Lord Watson said:

“The data and assumptions underpinning the Higher Education and Research Bill, currently in Committee in another place, focus primarily on young, full-time students, without taking into account the value of other flexible learning options, such as part-time ... It seems to have escaped the DfE’s notice that 38% of all undergraduate students from disadvantaged groups are mature, but it will need to take that statistic on board if it is to have any chance of delivering on the commitment to double the number of disadvantaged students entering higher education by 2020”.

I do not think that I can better what my colleague in the Lords said yesterday, except perhaps to pick up on another point that was made by Baroness Bakewell, the president of Birkbeck College, to which I have already referred. She said in the conclusion of her speech:

“What matters crucially now, not least for the Minister, is finance. It is difficult to finance these enterprises, but the Government have said that they support part-time maintenance loans. There is to be an official consultation on this, and I ask the Minister when that can begin. It cannot be too soon”.—[*Official Report, House of Lords*, 12 September 2016; Vol. 774, c. 1344-1366.]

I echo those sentiments and ask the Minister to think very carefully about them in his response. The amendment is a really important step in reminding the OFS when it comes into existence that the need to promote adult, part-time and lifelong learning is a crucial part of things. We all know the old saying, “What gets measured gets funded”. This needs to be measured and it also needs to be funded.

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): I hope the Committee will forgive me if I do not detain it long, but I want to make a couple of slightly different points on amendment 141. We have to recognise that all countries in the world face a particular challenge because of the changing nature of society, and that is going to impinge on educational challenges in particular. It was estimated that there were more researchers working in the last 25 years of the 20th century than in the entire prior history of the world. When that is put together with the processing power of new technology, the rate of change and the production of new ideas and research is accelerating apace. That itself feeds into real change

that has been happening in the labour market. For example, it was suggested some years ago that those entering the labour market in the UK around the year 2000 could expect on average to have between eight and 10 career changes in their working life. We have therefore moved away from a world where it is only at a younger age that people are prepared for their future professional lives. There has to be better regard for lifelong learning and for how technologies and education systems will change to meet the challenge of the modern world. In that slightly wider context, I support amendment 141.

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): First, let me say that I can see the principles that hon. Members are seeking to address here. I entirely agree that it is very important that the strong reputation of the English HE sector is maintained and that there is confidence in both the sector and the awards it collectively grants. The OFS has a key role to play in that. I also agree that the OFS will need to determine and promote the interests of students, that providers should continue to collaborate and innovate, and that studying part-time and later in life brings enormous benefits for individuals, the economy and employers. However, the OFS is already required under clause 2 to have regard to the need to promote quality and greater choice and opportunity for students.

Our higher education sector is indeed world class, and one of our greatest national assets. I entirely agree that it is crucial that this strong reputation is maintained and that there is confidence in both the sector and in the awards made by its providers. We have heard the same arguments about letting in poor providers at every period of great university expansion. The expansion of the sector over the decades has been the story of widening participation and access to the benefits of higher education. The concerns that we have heard at every wave of expansion have successively proved to have been manageable and, eventually, unfounded.

There is no specific current legislative provision that places a duty on the regulator to maintain confidence in the academic awards made by HE providers. However, the OFS is already required, under clause 2, to have regard to the need to promote quality, and good quality is the key ingredient that inspires confidence. As the Quality Assurance Agency recently noted, it is the Government’s intention that,

“no higher education provider will be given DAPs”

degree-awarding powers—

“without due diligence around quality assurance and this responsibility is expected to be carried out by the designated independent quality body.”

The QAA also said that,

“the transition to a more flexible, risk-based approach to awarding DAPs and university title...will help underpin the government’s policy objectives to open the sector to new high quality providers, encourage innovation and offer more choice to students”.

In particular, the power to award degrees will remain subject to specific criteria which all prospective providers must meet. The detail of those will be subject to consultation in due course, but I do not envisage the criteria themselves differing much from the existing criteria, and certainly not in a way where quality and therefore confidence is undermined.

The criteria for degree awarding powers are currently set out in detailed guidance. That will continue to be the case under the Bill. The current criteria and guidance for degree awarding powers run to 25 pages; all the criteria go towards ensuring quality and therefore confidence. Current guidance describes in some detail what is expected of providers with regard to key aspects concerning, for example, governance and academic management, academic standards and quality assurance, scholarship and pedagogical effectiveness, and the environment supporting delivery of taught HE programmes. We intend to consult on the detail of the future guidance, but will in all circumstances seek to assure quality. That level of detail cannot be captured in primary legislation.

Through our new regulatory framework, we are giving the OFS the powers to ensure that quality and standards are maintained. That will ensure that all parties, be they students, employers or the wider public, can have confidence that an English degree remains a high-quality degree and that it will continue to be something that has real value.

Let me deal with amendment 136. For the OFS to function effectively in the student interest, students should of course be represented, and that is our intention. Student interests are at the heart of our reforms, and we will continue to engage with our partners as the implementation plans are developed. As has been seen, from the Green Paper onwards we have sought the engagement and thoughts of all involved in the sector; we have engaged directly with students and their representatives, and I have had numerous meetings over the past year with student representative bodies including the NUS and the Union of Jewish Students, as well as many meetings with individual students. We will be embedding that culture of engagement within the OFS across all its duties, not just access and participation plans.

The Committee has heard from Universities UK, GuildHE and MillionPlus, all of which agreed that the general principle of student engagement was right, but that goes further than just representation. There needs to be a variety of mechanisms to enable student engagement, rather than just prescribing in legislation how that is to be achieved. The Office for Fair Access, for example, already requires providers to include a detailed statement on how they have consulted students in developing access agreements. The director of fair access has regard to that statement when deciding whether to approve an access plan.

Wes Streeting (Ilford North) (Lab): The Minister is right to point to the guidance from the Office for Fair Access, but may I just point out that what he describes has not always been the case? Although the current director of fair access may take the attitude that students ought to be involved, his predecessor did not always do the same.

Joseph Johnson: Under the current director of fair access, we have seen spectacular progress, as we all acknowledged in Thursday's sitting, and we would expect him and his successor to continue with the excellent model that he has put in place. That has seen these arrangements work well, and that is why we do not think it necessary to legislate.

Wes Streeting: I am grateful to the Minister for giving way a second time. He talks about the importance of engaging with students but, with respect, there is not a great deal of that engagement reflected in the Bill. Will the Minister reflect on that and perhaps some of our earlier debates on the issue?

Joseph Johnson: We obviously are thinking very carefully about the debates that we have at all stages of the Committee's proceedings, and I am reflecting on how best we ensure that we achieve all our intentions to ensure that students are better represented in the sector's systems and structures. We have put forward a proposal, which we discussed in great detail, in relation to the role of the OFS board in representing the student interest. We want to ensure that that is about more than representation and that the student interest genuinely is mainstreamed throughout everything that the OFS does.

That is why, for example, we absolutely recognise the need for access plans in particular to continue representing the student interest, and why in this Bill we are extending access plans to include participation and therefore looking at students and what happens for them right across their time in higher education. The hon. Member for Ilford North will appreciate that that goes far further than the plans introduced in 2004, which were limited to the point of access into higher education, rather than participation in and the benefits from higher education, to which we are seeking to extend them.

We will be embedding outreach activity to engage with students within the culture of the OFS, as part of its duty to promote quality and greater choice and opportunities for students. I would expect the OFS to use a range of ways to engage and consult with students, including social media, online consultation, and collaboration with partners, which has had wide reach in the past.

On amendment 140, the general duties of the OFS are absolutely consistent with the idea that providers should continue to collaborate and innovate in the new regulatory system, as we discussed extensively this morning. We are wholly supportive of collaboration where that is in the interests of students, and nothing in the Bill prevents it. Collaboration can take many forms, and we do not want to be prescriptive about what it should look like. I have listened carefully—

2.30 pm

Paul Blomfield (Sheffield Central) (Lab): I thank the Minister for giving way. I wonder if he could help me, because I am struggling to understand his point on this issue of collaboration. He says that he does not want to be prescriptive. He speaks highly of collaboration and of competition. Competition is on the face of the Bill. Can the Minister explain to me why he is prepared to be prescriptive in that context, but not in this one?

Joseph Johnson: We believe strongly that there is a need for competition to generate the driving forces that push up the quality of provision in the HE system and enable a more meaningful range of choices for students. We think that that would be in the student interest. Our overarching purpose is to make sure that the OFS operates in the student interest. We believe that that overriding goal captures many of the benefits that collaboration could achieve, and therefore putting

[Joseph Johnson]

collaboration on the face of the Bill would be redundant. When collaboration is in the interests of students it would already be covered by the OFS's overarching duty in clause 2.

I have listened carefully to the hon. Gentleman, and I can assure him that we will of course make clear in our guidance to the OFS that having regard to collaboration is part of its general role in having an overview of the sector and of the role of providers. We will make clear in the guidance that collaboration is compatible with competition when it is in the interests of students. The OFS does not need a separate duty to promote collaboration; it has a general duty to have regard to the student interest and can therefore support collaboration when it is in that student interest.

We know that there is a continuing entrenchment of the same model of higher education in this country. The share of undergraduate students in English higher education institutions doing typical full-time first degrees has increased from 65% in 2010-11 to 78% in 2014-15. It is important that the OFS has a focus on supporting a competitive and more innovative market. This will have the effect of making it easier for new providers to enter the market and expand, helping to drive up teaching standards overall, enhance the life chances of students, drive economic growth, and be a catalyst for social mobility. Competition will incentivise providers to raise their game, fostering innovation, which has been stifled for too long under the current system.

I concur with the hon. Gentleman about a lack of innovation. In my view, promoting innovation, like collaboration, does not require a separate duty. When it is in the student interest, the OFS will be fully able to support it, because the student interest is at the very heart of the OFS.

Wes Streeting: Can the Minister provide a specific example of where competition in higher education has been proven to raise standards? If he cannot provide a specific example in higher education, perhaps he can find an example across public service provision more generally.

Joseph Johnson: I think that it is generally recognised that competition is one of the great forces—

Wes Streeting: It is not.

Joseph Johnson: Monopolies and the absence of competition in almost any sector that the hon. Gentleman cares to examine have led to a decline in the standards of public services, a lack of choice and a lack of quality provision. Competition is generally recognised as one of the great drivers of the consumer interest and we want it to continue to be so.

I turn now to amendment 141. I have always been absolutely clear that fair and equal access to higher education is vital. Everyone with the potential to benefit from education in every form should be able to do so. Studying part time and later in life brings enormous benefits to individuals, the economy and employers. That is why we are introducing maintenance loans for part-time study and have enabled more people to re-study through the extension of the exemption for equivalent or lower qualifications.

We want to promote retraining and prepare people for the labour market of the future, which is why we are reviewing the gaps in support for lifetime learning, including flexible and part-time study. New providers can play an important role here: 59% of students at alternative providers are aged over 25, compared with just 23% of students at publicly funded institutions.

Gordon Marsden *rose*—

Joseph Johnson: I will give way, but we do need to make more progress.

Gordon Marsden: Indeed. We might make a bit more progress if the Minister were able to answer the question that I put, or rather the question from my colleague in the House of Lords that I echoed, about the part-time maintenance consultation, which is highly welcome but which, as was said, could not come too soon. Do we have a date for this yet?

Joseph Johnson: I will happily come back to the Committee with an intended date of consultation. We are moving full speed ahead with the introduction of the part-time maintenance loans, which will be an important feature of the new system. We are transforming the funding environment for part-time students and the consultation will take us one step towards our objective.

It is essential that the OFS works collaboratively with the Institute for Apprenticeships, which will play a significant part in accomplishing the agenda. Although I support the principles behind amendment 141, the changes sought by the hon. Members are more than adequately achieved by the current text. We would do well to keep the OFS's duties and responsibilities more open to future-proof the new body against unforeseeable economic challenges. For those reasons, the amendment is not necessary. We should avoid limiting flexibility. By doing so, we ensure that our education system remains responsive to change in the labour market and to the needs of our economy in the future. On that basis, although I understand the intentions of hon. Members, I respectfully ask that the amendment be withdrawn.

Dr Blackman-Woods: I thank the Minister for recognising that the excellent reputation of our higher education sector must be protected. However, promoting quality and maintaining confidence in the sector are not exactly the same thing. I will give a brief example. Let us say that 30 new providers are allowed to come into the sector as new universities, and that then there is a regulatory framework that says, "Oh, sorry, the bar wasn't set quite high enough to begin with and you're now going to be closed." That could damage the reputation of the sector hugely even though it was, in fact, "promoting quality".

I am not suggesting that we do not promote quality. I am suggesting that safeguards are needed in the Bill to ensure that the reputation of the sector is protected in addition to promoting quality. We may need to go away, look at the guidance that might be relevant to the issue, and return to it again once we have considered that in more detail. On that basis, I beg to ask leave to withdraw the amendment.

The Chair: Is it the Committee's wish that the amendment be withdrawn?

Hon. Members: Aye.

Gordon Marsden May I ask the Minister about amendment 141?

The Chair: Technically, the lead amendment has been withdrawn, but I will allow the hon. Gentleman to comment.

Gordon Marsden: Thank you, Mr Hanson. I would have indicated earlier had I realised that that would be the effect.

I thank the Minister for his rhetoric. I appreciate that it is not empty, but how he can say—when he reads *Hansard* he might reflect on his infelicity choice of words—that putting the issues of adult and part-time students on the face of the Bill would somehow limit flexibility for the future of the OFS, whereas apparently putting collaboration in the Bill does not limit flexibility, even though there have been recent circumstances in which competition turns into cartels, is absolutely beyond me.

The Minister might reflect on the fact that that dismissal hardly sends a positive message to the Open University, Birkbeck, the WEA and the hundreds of thousands of adults and part-time students who want to progress. I accept the Minister's assurances that the issue will be more central to the work of the Government and the OFS, but we want progress on the consultation and we will continue to come back to the process and hold him to that.

The Chair: Order. I gave the hon. Gentleman some leeway because he wished to comment, but he should have done so before Dr Blackman-Woods asked leave to withdraw the amendment. If the Minister wishes to respond, he may. He does not wish to do so.

Dr Blackman-Woods: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 28, in clause 2, page 2, line 6, at end insert—

“() The OfS must monitor the geographical distribution of higher education provision and introduce measures to encourage provision where the OfS considers there to be a shortfall in relation to local demand.”—(*Wes Streeting*.)

This amendment would place a duty on the OfS to monitor the geographical distribution of higher education provision and encourage provision where there is a shortfall relative to local demand.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 10.

Division No. 3]

AYES

Blackman-Woods, Dr Roberta	Smith, Jeff
Blomfield, Paul	
Marsden, Gordon	Streeting, Wes

NOES

Argar, Edward	Johnson, Joseph
Chalk, Alex	Kennedy, Seema
Churchill, Jo	Milling, Amanda
Evennett, rh David	Morton, Wendy
Howlett, Ben	Pawsey, Mark

Question accordingly negated.

Dr Blackman-Woods: I beg to move amendment 161, in clause 2, page 2, leave out lines 18 to 25.

This amendment would allow universities to innovate and respond to new and emerging markets and employer and student interest without Ministerial direction or interference.

The Chair: With this it will be convenient to discuss amendment 142, in clause 2, page 2, line 25, at end insert—

“(f) the creation of, or closure of, such courses, or

(g) the standards applied to such courses, or the systems or processes a provider of higher education has in place to ensure appropriate standards are applied.

(4C) In this section “standards” has the same meaning as in section 13(1)(a).

(4D) In determining whether any course of study satisfies the criteria set out in paragraphs (4)(a) or (b) the Secretary of State must have regard to any advice given to him by the OfS on this matter.”

This amendment would allow for course-specific guidance to be given.

Dr Blackman-Woods: With this amendment I want to test the Minister on how extensive he thinks the powers of the OFS and the Secretary of State should be. Large portions of clause 2 appear to have been transferred from the Further and Higher Education Act 1992, but of course the context and consequences of the powers are now very different. Under the 1992 Act the powers related specifically to conditions attached to grant funding, and successive Secretaries of State and Ministers, including the current ones, have been able to use the powers to advise the Higher Education Funding Council for England to support some elements of provision, but that guidance has not covered courses. Instead, grant letters from HEFCE have focused on strategically important or high-cost subjects or matters such as employer engagement.

The Bill proposes to include these powers in the OFS's general duties. Accordingly, the power provided to the Secretary of State by this clause no longer pertains to the direction of funds, which are in any case reducing, but is potentially focused on the decisions that institutions make on course provision. As it stands, the clause gives the Secretary of State extended powers to make decisions about course provision, including course opening and closure. That appears to completely undermine the autonomy of institutions and providers in course provision, which is one of the most successful outcomes of the 1992 Act because it allows universities to innovate and respond to new and emerging markets and to employer and student interest without ministerial direction or interference.

It is also difficult to see how those aspects of the clause align with the Government's pro-market approach to the sector, or indeed with what the Minister has said about not wishing to be prescriptive. This measure could be highly prescriptive about what individual institutions are able to do. Perhaps that is not the intention of the clause, but I wait to hear what the Minister has to say so that I can get a better feel for what he thinks are the powers of the Secretary of State.

Joseph Johnson: I am grateful for the opportunity to discuss this important issue, which has been raised by a number of Members and by people beyond this Committee. For 25 years the Government have issued guidance to HEFCE on what are high priority and strategically important subjects, such as STEM. The Bill enshrines that guidance in law while simultaneously creating new

[Joseph Johnson]

protections to safeguard providers' academic freedoms and institutional autonomy, which are, I believe we all agree, the cornerstones of our higher education system. In his evidence to this Committee last week, Sir Leszek Borysiewicz, vice-chancellor of Cambridge University, praised the protections we have included in the Bill, saying that he particularly liked

“the implicit and explicit recognition of autonomy, as originally proposed by Robbins and Dearing”.—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 23, Q32.]

2.45 pm

With a diminishing amount of grant funding available, the Secretary of State must be able to ensure that the OFS is fully aware of which subjects are of strategic importance to the nation. This is necessary to allow the OFS to provide top-up funding to high-cost subjects, such as STEM, in the way HEFCE does now. The key word here is “strategic”. The guidance will not be specific; for example, it cannot be used to target individual courses at individual higher education providers. Clause 2(5) makes that clear. We must remember that we are talking about guidance here: it can advise, perhaps strongly, but it cannot mandate.

Members may ask why this new, targeted power is needed when Government can and do already prioritise high-cost STEM subjects. We think that a more easily targeted power will be needed in the future to ensure that the limited government resources available can be targeted to where they will achieve the best value. For example, we talk about STEM subjects in general terms, but the recent review by Bill Wakeham found that there is as much variation between STEM subjects in terms of cost to deliver and student outcomes as there is between STEM and non-STEM subjects. As we consider what these differences mean, we want to ensure that in the future the Government have the power to direct incentives to courses in a more targeted way.

The two amendments take slightly different approaches. Amendment 142 adds additional restrictions on what the Secretary of State's guidance can include. In response to the first part of that amendment, I formally reassure the Committee that there is no intention for such guidance to relate to the creation or closure of specific courses. On the other concern being raised through amendment 142, I assure the Committee that the Government will have no role in prescribing course structure or content, or in providing guidance to the OFS to do so. It is, however, essential that the OFS is able to ensure that providers in the system are genuinely offering qualifications that are of a suitable standard to be considered higher education, and that the overall higher education system's quality is not undermined by providers offering substandard qualifications.

Gordon Marsden: I should have mentioned, although I am sure that members will have noticed it, that there is a typo in the explanatory statement, which says that the amendment “would allow” for course-specific guidance to be given, whereas, of course, we are arguing that it should not be. I am grateful to the Minister for making that very clear.

Joseph Johnson: Pam Tatlow, chief executive at MillionPlus, agreed in her evidence to the Committee that,

“we have got to protect quality and standards for our students. We have also got to maintain a system in which we can maintain confidence”.—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 12, Q11.]

As a result, the Bill makes explicit mention of standards in order to ensure there is no uncertainty about the ability of the OFS to provide these assurances.

Amendment 161 seeks to remove the Secretary of State's ability to refer to particular courses in her guidance to the OFS. There would be no ability for the OFS to have regard to the Government's overall priorities and strategy for higher education where this relates to specific subjects; the amendment would remove that ability from current and future Governments. This would deviate from current practice, whereby the Government continue to issue strategic guidance in this way. I therefore strongly resist such an amendment.

Further, the Bill sets clear limitations on the Government's powers to direct the OFS in order to protect academic freedoms and institutional autonomy. For the first time, it is made explicit that it cannot refer to parts of courses, their content, how they are taught, who teaches them or admissions arrangements for students. I hope that I have addressed the Committee's concerns on these points and that the amendment will be withdrawn.

Dr Blackman-Woods: I thank the Minister for that full response. I am reassured by what he has said. Providing that clauses 4 and 5 are implemented in the way he suggests, they should give enough reassurance to the sector that its autonomy is being protected. I beg to ask leave to withdraw the amendment.

Amendment, by leave withdrawn.

Clause 2 ordered to stand part of the Bill.

Clause 3

THE REGISTER

Gordon Marsden: I beg to move amendment 143, in clause 3, page 3, line 6, leave out “may” and insert “must, after a period of consultation”.

This amendment would help inform the nature of the choices made by the Secretary of State, and ensure that any changes must be set out to show that they benefit the sector.

The Chair: With this it will be convenient to discuss amendment 144, in clause 3, page 3, line 17, at end insert—

() The Secretary of State shall, on a quarterly basis, make that register available to Parliament and relevant Select Committees.”

This amendment would ensure the Register of Higher Education Providers is published to Parliament.

Gordon Marsden: These amendments are to seek some strong reassurance about what the role of the Secretary of State may be. I always feel—not absolutely as a principle—that in such Bills it is sometimes better to say “must” than “may” because “may”, with all due respect to our Prime Minister, is open to a number of interpretations, which lead us into judicial review and

other such matters. The purpose of amendment 143 is to help to inform the choices made by the Secretary of State and to ensure that any changes must—not may—be set out to show that they benefit the sector.

Amendment 144 is simply to emphasise the fact that the register will be a rolling register that will be updated regularly. I assume I am correct on this; if I am not, the Minister is welcome to intervene. While not expecting Parliament or the relevant Select Committees to receive a running commentary, we do feel it would be helpful to ensure that the register of higher education providers is published regularly. We have suggested a quarterly basis and that the register should be made available to Parliament and the relevant Select Committees—“Committees” is deliberately in the plural, Mr Hanson, because of this morning’s discussions about the cross-over between the two Departments.

Joseph Johnson: The higher education sector in England has undergone significant change over the last 30 years. The regulatory architecture we have today is out of date. As we have discussed, it was designed in the early 1990s for an era of limited university competition, student number controls and majority grant funding. As the funding that providers receive has passed from Government to students, so the basis for regulation has widened from the protection of the public purse to the protection of the student. At its heart, the system needs to have informed choice and competition among high-quality institutions. Competition between providers in higher education—indeed competition in any market—incen-tivises them to raise their game, offering consumers a choice of more innovative and better-quality products and services at lower cost. In order to deliver that competitive market, we need a single, simple regulatory system appropriate for all providers. We need to stop treating institutions differently based on incumbency or corporate form and instead create a level playing field with a single route to entry and a risk-based approach to regulation. The Bill will create just such a single regulatory system, underpinned, for the first time, by a single, comprehensive register of English HE providers.

Amendment 143 is intended to place a clear duty on the Secretary of State to lay regulations—and consult before doing so—on the information that must be included in an institution’s entry on the register. I accept that the nature of the information on the register is vital. It is through establishing and publishing the register that we will, for the first time, be able to give students consistent and comparable assurances about all registered higher education providers. I also accept that there is a need to set out the information that must be included in a provider’s entry to the register in regulations that will be laid before Parliament and subject to scrutiny. Although the current draft of the Bill suggests that the Secretary of State may make regulations, that is standard legislative drafting and is not meant to imply that the Secretary of State will not usually make regulations. I can assure Members that they will be made, and that they will be subject to the usual scrutiny process. However, I believe that consulting on each and every case may be going too far if we are making only minor changes.

Amendment 144 seeks to place a duty on the Secretary of State to make the register available on a quarterly basis to Parliament and Select Committees. Entry on the register is voluntary, but if the provider wishes to access the benefits of student support and official

recognition as an HE provider, it must be registered. The OFS register is a single, comprehensive record of those English HE providers. It gives students consistent and comparable assurances about all registered HE providers. It will be updated in real time, as and when changes are made to it, so it will be live. The register and the information within it will be publicly available, and will be hosted on the OFS website. There would be little value in placing a duty on the Secretary of State to make available information that will already automatically be in the public domain. On that basis, although I understand the intentions here and fully agree with the need to promote these important issues, I do not believe that the amendment is necessary; the Bill already makes the relevant provisions. I ask the hon. Gentleman to consider withdrawing the amendment.

Gordon Marsden: I am grateful to the Minister for his thoughtful, succinct and indeed positive response to the intentions behind the two amendments. I am content with his explanation on amendment 143. I hear what he says about the information being available all the time, but one of the paradoxes of the digital age is that things that are there all the time for people to look at never get looked at because they are there all the time. I am not going to oppose this and I will withdraw the amendment, but I would ask the Minister and his officials to give proper thought as to how things are promoted online, rather than simply put online. I hope that the Department will take that on board. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 3 ordered to stand part of the Bill.

Clause 4

REGISTRATION PROCEDURE

Gordon Marsden: I beg to move amendment 145, in clause 4, page 3, line 32, leave out “28” and insert “40”
This amendment would increase the notification period from 28 days to 40 days.

The Chair: With this it will be convenient to discuss the following:

Amendment 149, in clause 6, page 4, line 37, leave out “28” and insert “40”

This amendment would increase the notification period from 28 days to 40 days.

Amendment 173, in clause 17, page 10, line 25, leave out “28” and insert “40”

This amendment would extend the specified period from 28 days to 40 days.

Gordon Marsden: I rise to propose what appear to be slightly assorted amendments, but they have the common theme that has been raised during our consideration of the Bill. It is a purely pragmatic suggestion. There is no hidden agenda. We suggest that it would be more appropriate and reasonable to consider examining these matters on a 40-day basis, rather than a 28-day basis, given some of the issues that have to be discussed—notifications, registers, withdrawals and so on—and given the nature sometimes of higher education provider terms and other matters. We have taken that process

[Gordon Marsden]

through for the information of Members. Amendment 145 refers to the registration procedure. There we are saying that the specified period before refusing an application must be 40 days, rather than 28 days. In clause 6, on page 4, line 37, we suggest a similar period be made available for the specific ongoing registration conditions. The principle is well established and that is essentially what we are proposing to the Committee.

3 pm

Joseph Johnson: I start by thanking the hon. Gentleman for his helpful and pragmatic suggestions. Before I turn to his amendments, it might be helpful if I explained how we expect the OFS to operate this risk-based approach to regulation in practice.

The OFS will consult on, and then publish, the initial registration conditions that all providers will be required to meet before they are granted entry to the register. The conditions will relate to important matters such as quality, financial sustainability and standards of management and governance. Providers that cannot demonstrate that they meet these standards will not be registered. Additionally, if the OFS considers that an institution or an element of an institution, such as its financial sustainability, poses a particularly high risk, the OFS can add, change or tailor specific registration conditions to the risks posed by the provider.

Amendment 145 seeks to increase, from 28 to 40 days, the minimum time the OFS must allow for a provider to make further representations in the event of the OFS proposing to refuse a provider's application for entry on to the register. Amendment 149 has a similar theme: it would increase, from 28 to 40 days, the minimum time for a provider to make representation to the OFS if the OFS proposed introducing or varying a condition of registration. Finally, amendment 173 seeks to increase from 28 to 40 days the minimum period of time for a provider to make representations to the OFS if the OFS proposes to suspend the provider from the register.

Allowing providers an absolute minimum of 28 days to make additional representations to the OFS is not, in itself, ungenerous. The OFS is required to act in a transparent, accountable and proportionate manner. It is our firm expectation that if a provider has a good case for needing additional time to make a representation, the OFS would and will allow it. Members will note that the minimum period of 28 days has precedents. It is a frequently used time period for allowing appeals and representations, appearing, for example, in section 151A (5) and (6), "Power to impose monetary penalties", in the Apprenticeships, Skills, Children and Learning Act 2009.

We could have chosen to follow much tighter timescales for making representations, such as the 14-day warning notice period for sanctions imposed under the Financial Services and Markets Act 2000. We think a starting point of 28 days achieves the right balance between procedural fairness for the provider and an efficient, speedy outcome for others affected by the decisions, such as students.

Gordon Marsden: Yes, I hear what the Minister has to say, and although I have spoken against the omnipotence of precedent on previous occasions, I am not against precedent, and in the case that he mentioned, 14 days was perfectly reasonable. Entering into the spirit of

what the Minister said on new providers, some of them—we could refer to some of those who presented evidence to us—would probably start off in an entrepreneurial state, without the full administrative panoply to be able to respond practically in that period. The purpose of putting down 40 days was to recognise that under the Government's proposals, a number of much smaller institutions than we have had so far will want to gain approval.

Joseph Johnson: I take on board the hon. Gentleman's further clarification of his amendment, which we found helpful and constructive, as I said. I hope that the Government have explained their thinking. We feel we have a balanced and proportionate approach that gives providers a procedural chance to make representations, but that also takes into account the interests of other parties affected by such decisions.

For all three scenarios covered by the amendments, there is a clear process to follow: the OFS must notify providers of its intention. Furthermore, the particular characteristics of the higher education sector mean that proportionate regulation is needed to protect the interests of students, employers and taxpayers. Clause 2(1)(f) states that

"so far as relevant, the principles of best regulatory practice...should be...proportionate and...targeted only at cases in which action is needed."

On that basis, although I understand that the hon. Gentleman means well, and although I fully agree on the need to promote these important issues, I do not believe that his amendments are necessary. The Bill already makes the necessary provisions, so I ask him to withdraw his amendment.

Gordon Marsden: I am reassured by what the Minister says, not least because the provision is *de minimis* and the OFS will be able to vary the period. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 4 ordered to stand part of the Bill.

Clause 5

THE INITIAL AND GENERAL ONGOING REGISTRATION CONDITIONS

Paul Blomfield: I beg to move amendment 165, in clause 5, page 4, line 8, at end insert—

"(2A) Subject to subsection (2C), initial registration conditions of all providers under paragraph (1)(a) must include a requirement that every provider—

- (a) provides all eligible students with the opportunity to opt in to be added to the electoral register through the process of enrolling with that provider, and
- (b) enter into a data sharing agreement with the local electoral registration officer to add those students to the electoral register.

(2B) For the purposes of subsection (2A)—

- (a) a "data sharing agreement" is an agreement between the higher education provider and their local authority whereby the provider shares—
 - (i) the name,
 - (ii) address,
 - (iii) nationality,
 - (iv) date of birth, and
 - (v) national insurance data

of all eligible students enrolling and/or enrolled with the provider who opt in within the meaning of subsection (2A)(a);

(b) “eligible” means those persons who are—

- (i) entitled to vote in accordance with section 1 of the Representation of the People Act 1983, and
- (ii) a resident in the same local authority as the higher education provider.

(2C) Subsection (2A) does not apply to the Open University and other distance-learning institutions.”

This amendment would ensure that the OfS includes as a registration condition for higher education providers the integration of electoral registration into the student enrolment process. Distance-learning providers are exempt.

I am pleased to introduce amendment 165, because although it is in my name alone, I know it enjoys cross-party support. That is not surprising, because it seeks to introduce a requirement on universities in line with the Cabinet Office’s work on electoral registration. The Cabinet Office has endorsed my approach and has been encouraging.

The amendment simply requires universities to make a minor change to their student enrolment systems to provide new students who enrol with the opportunity to have their names added to the electoral register in a seamless process. Like the Cabinet Office, Universities UK has endorsed the system and has been encouraging. The issue is certainly topical; today, to the comfort or discomfort of hon. Members, new boundaries have been published based on an electoral register that we all agree could have significantly more people registered on it.

Let me put the amendment in context. Members will recognise that when individual electoral registration was introduced in 2014, it created a substantial culture change, not least for universities. Before IER, universities used their role as head of household to block-register students who lived in their accommodation—a practice that was well established throughout the sector. When IER removed that opportunity for universities, there was a real concern that hundreds of thousands of eligible students would disappear from the electoral register, and that proved to be the case.

As the Member of Parliament who represents more students than any other, I have been keenly focused on the issue. In anticipation of the problem, I worked with the University of Sheffield and the Sheffield electoral registration officer. We looked into developing a seamless system at the point at which the university collected the data that the electoral registration officer needed to put people on the register. We piloted the system for the 2014 entry, and it was extremely successful. It turned a negative into a positive, reaching out not only to those students who might otherwise have been registered by virtue of living in university accommodation, but to all students. We managed to achieve a registration level of 65% of eligible students.

The success of the pilot led to its endorsement by Universities UK and the Cabinet Office. A number of other universities followed up on it in the 2015 intake, by changing their student enrolment systems, with even greater success than Sheffield. I think that Cardiff hit over 70% registration, De Montfort’s level was approaching 90%, and there have been one or two other examples. However, the sector has been slow to take the pilot up, and it seemed that this Bill, provided an opportunity to

embed good practice across the sector, in terms of conditions for registration. That is what this amendment seeks to do.

Wes Streeting: It is a pleasure to serve under your chairmanship again, Mr Hanson. I will speak briefly in support of the amendment tabled by my hon. Friend the Member for Sheffield Central. There are genuine issues around the registration of students. As many hon. and right hon. Members will be aware, effectively students can choose to cast their vote in their traditional home constituency or in the constituency in which they are studying, if those two constituencies are different. There is a good reason for that rule. Students spend much of the year away from home, and often find themselves away from home during a general election, local election or indeed the occasional referendum.

There are real issues about the way that individual electoral registration has disfranchised significant numbers of students. It is regrettable that the principled motivations behind individual electoral registration got rid of common-sense measures, such as university vice-chancellors being able to block-register students in university-run accommodation. The vice-chancellors clearly know who the students are; they clearly know that the students are resident at the university; and with the law of unintended consequences being what it is, individual electoral registration has led to additional bureaucracy and people missing out on being able to make their voice heard.

The duty proposed by the amendment is common sense. It would be welcomed by the sector, including by students unions, and probably by lots of electoral registration officers in local authorities up and down the country, who could probably do with some assistance in getting people registered. In and of itself, it will not address the broader challenge, which is that once students are registered to vote, how on earth do we get them to turn out at the polling stations? It is a perennial frustration of mine, having run all sorts of student voter registration campaigns over the years, that students and young people generally do not cast their vote in the same numbers and proportions as older residents, which has an impact on public policy. This amendment would not solve that particular challenge, but it would at least help more people to engage in our democracy and to exercise their democratic right to vote. Surely that can only be a good thing. I hope that the Minister will give us a favourable response.

Gordon Marsden: I obviously rise to support strongly the amendment tabled by my hon. Friend the Member for Sheffield Central. He had his mind concentrated on this issue by the circumstances in his constituency, but we should all have our minds concentrated on it, given the importance of students in national life.

What has happened over the years—it has sort of been potentiated by the introduction of IER—has meant that we have had a lottery regarding who gets on the register and their ability to know about it. The modest proposals, on which I hope there is consensus, arising from the excellent pilot that my hon. Friend took forward give the Government an opportunity, in this part of the Bill, to take the pilot forward in a relatively straightforward way. There will always be issues about the capacity of higher education providers to do that—and, in some cases, about their proactiveness—but earlier in consideration

[Gordon Marsden]

of the Bill, we talked about the public interest of universities, as did my hon. Friend this morning. Surely it should be part of universities' public interest to ensure that their students, when at that university or higher education provider, participate in the electoral process. I strongly commend the amendment to the Government.

3.15 pm

Joseph Johnson: I thank the hon. Member for Sheffield Central for his amendment, which he was kind enough to flag to me last week. The Government fully share his aim of increasing the number of younger people registered to vote. Participating in elections at all levels is essential if we are to have a healthy democracy. Indeed, the Government have demonstrated their commitment to that aim by supporting and contributing financially to the pilot project of the University of Sheffield, which is in the constituency of the hon. Member for Sheffield Central, as he mentioned.

The pilot project sought to integrate electoral registration with student enrolment. I congratulate the University of Sheffield on its commitment to devising a workable solution to the problem. It achieved the successful outcome of integrating online electoral registration and university enrolment using the university's bespoke in-house enrolment software. The vice-chancellor should be commended as the driving force behind the successful pilot. However, this is not a case of one size fits all. Integrated registration is just one option that the Government will consider alongside others in determining how best to increase student registration. Those options will include working in partnership with student-facing organisations and local authorities.

The process should be voluntary. It would not be right to force all providers on the register to adopt such an arrangement. Administering such an arrangement will incur costs, which larger institutions such as the University of Sheffield may find easier to accommodate than smaller specialist providers. Moreover, it would not be appropriate to include such a condition in the Bill. The conditions of registration are primarily to provide proportionate safeguards for students and the taxpayer, and to take forward social mobility policies. Requiring providers to carry out electoral registration, particularly when there are other means of students enrolling on the electoral register, is not the best way forward.

In addition, the introduction of online electoral registration by the previous Government has made it simpler and easier than ever to register to vote. Since the introduction of individual electoral registration in June 2014, there have been more than 20 million applications to register. Some 78% of electors currently apply to register online, and that figure rises to 86% for the 18 to 24 age group. That demonstrates that the way in which electors engage with electoral registration is evolving.

The Government are looking at modernising and streamlining the annual registration canvass. Impacts on students from the current process will be picked up as part of the modernising electoral registration programme. We are looking at the lessons learned from enrolment pilot schemes, such as the one conducted successfully at the University of Sheffield, to see whether they have wider application. We are also considering other options

to increase student registration, including as part of the Government's democratic engagement strategy, and we expect to set that out early in 2017. Ahead of that, I ask that the amendment be withdrawn.

Paul Blomfield: I note the Minister's points and I am grateful for his acknowledgement of the role that the University of Sheffield has played. I endorse it and reiterate how grateful we were for the support, both in encouraging the pilot and getting it off the ground financially.

The Minister highlighted the fact that the University of Sheffield used the opportunity to tweak its bespoke software, which is right. In a sense, that makes it not easier, but more challenging, for the university, because the overwhelming majority of providers buy off-the-shelf software that is designed in partnership with user groups, and it is relatively easy to tweak that off-the-shelf software to minimise the cost for individual institutions.

The Minister said that the process should be voluntary. The important thing that should be voluntary in the process is students having the choice of whether to register. That is the important voluntary element, and that is what this system provides for. It simply draws students' attention, when they are enrolling, to the opportunity to register and explains a little bit about that. They tick one box, which leads to another stage of providing a national insurance number. The important principle of voluntary engagement with the democratic process is at the heart of this system. I do not think it is unreasonable to expect providers to make such a minor adjustment when we are all committed to the principle.

The Minister makes the very fair point that this is not central to the purposes of the Bill, but I reflect back to him that the Government—and previous Governments—have on occasion been known to bung stuff into a Bill that was not central to its purposes when there was a convenient opportunity to do something that we all wanted to do. This is something that we all want to do.

Notwithstanding those reservations, if the Minister would commit to meeting me and the relevant Cabinet Office Minister to talk a little about how we can move this forward, I am happy to withdraw the amendment.

Joseph Johnson: I am happy to discuss further with the hon. Gentleman how we can involve the Cabinet Office. We have already had quite detailed discussions with Cabinet Office Ministers who are sighted on the hon. Gentleman's amendment. They are aware of the status of our Bill, but I am happy to discuss this further outside the Committee.

Paul Blomfield: On the basis that we can meet with the Cabinet Office Minister responsible, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Gordon Marsden: I beg to move amendment 146, in clause 5, page 4, line 11, leave out "if it appears to it appropriate to do so"

The Chair: With this it will be convenient to discuss the following:

Amendment 147, in clause 5, page 4, line 13, after “providers”, insert “, staff and students”

This amendment would ensure consultation with bodies representing higher education staff and students.

Amendment 148, in clause 5, page 4, line 17, after “institution”, insert “and the students and/or student body of that institution”

This amendment would ensure students and their representatives are informed of changes to their institutions registration conditions.

Amendment 150, in clause 6, page 4, line 41, at end insert—

“() The OfS may also consider other representations from relevant stakeholders as the OfS considers appropriate.”

This amendment would allow for relevant stakeholders to be consulted if the OfS deems it necessary.

Gordon Marsden: I rise to speak to this miscellany of amendments which has a common theme. Clauses 5 and 6 are about the registration conditions. The Minister has quite rightly put emphasis on the innovation of having a central register and everything that goes with it. It is therefore incumbent on us to consider when registration conditions are made, that the OFS has considered the broadest range of recommendations about what will be very important decisions, either to allow a registration to go forward, or to revise it, sometimes in a minor way, but sometimes perhaps in a major way, or sometimes, of course, to refuse it. Because of that, the principle behind these amendments is that everybody who is involved in the life of that institution—insofar as practically possible—whether students, teachers, or the workforce that supports those institutions should have some input to that process.

Philosophically, that is a really important thing that the Bill and Ministers need to grasp. If we want to engage people more broadly in higher education, whether to work, to teach or to study in it, we have to give them a stake in the decisions that affect the institution where they are working. That is the principle behind the amendments.

Amendment 146 on the consultation of HE providers would omit, as far as the OFS is concerned, the phrase, “if it appears to it appropriate to do so”.

This terminology is more redolent of an absolutist monarchy such as Louis XIV, or the Sun King, or whoever, than of a new transparent organisation. The language is, to use the French, *de haut en bas*. The Minister has excellent French, so he will know what I mean. To be honest, it is daft to say

“if it appears to it appropriate to do so”.

Of course it is appropriate to consult higher education providers in such circumstances.

Amendment 147 is very specific, and it states that in clause 5, after the word “providers” we should insert for the avoidance of doubt, as the phrase has it, “staff and students”. The amendment would ensure that there is some consultation with bodies or informal groups representing higher education staff and students. I refer to informal groups because again I am conscious, not least because the Opposition do not want to be accused of stopping progress and innovation, that some of these new providers will be relatively small and may have relatively informal groupings. It is therefore not unimportant that the position of their staff and students is taken into account.

Amendment 148 is probably the most vital of the three proposed amendments to clause 5. If there are to be changes to an institution’s registration conditions, its students and student body should be informed. Members of the Committee might think that is unnecessary, as the students and the student body are bound to be informed, but as I have said previously, we should legislate for the worst scenarios and the worst employers and not for the best. There are recent examples or allegations relating to major changes to London Metropolitan University’s terms and conditions. I once sat on a Committee down the corridor that was talking about providers, and people from London Metropolitan were eloquent on this issue. It is essential that the OFS has a proper information process—the OFS needs to take responsibility for this—that ensures that students and their representatives are properly informed of changes to their institution’s registration conditions. That is crucial.

Finally, clause 6 addresses the specific ongoing registration conditions. Subsection (6) currently states:

“The OfS must have regard to any representations made by the governing body of the institution...in deciding whether to take the step in question.”

It is important that the OFS may also consider representations from other relevant stakeholders it considers appropriate. I hope the Minister will note that we are not advocating an absolute duty on the OFS to consult such people, but we would ask it to do so on a case-by-case basis. It is important to establish the principle in the Bill that stakeholders other than the governing body should be able to make representations to the OFS. Those other stakeholders are people who have invested two or three years of their time and money in studying. They are people whose livelihoods depend on the institutions in question. It is surely not too much to ask that the OFS should be prepared, where appropriate, to consider their representations, too.

Joseph Johnson: I thank the hon. Gentleman for his thoughtful suggestions.

To ensure a level playing field, the Bill will require the OFS to determine and make public the conditions that institutions must meet to gain entry to the register and to remain on it. The conditions of registration, both initial and ongoing, will form the formal basis of the regulatory requirements on higher education providers under the new system. Those conditions include provisions relating to quality assurance, widening participation and data and information requirements. It is clearly the case that students, as well as providers, need clarity on the tests that the OFS will have required providers to pass in order to gain entry to the register, and the ongoing conditions that are in place, so that they can be confident about what it means for a provider to remain on the register.

Amendments 146 and 147 seek to make it mandatory for the OFS to consult each and every time it revises the general, initial and ongoing registration conditions, and to widen the base of those it should consult before doing so from higher education providers to also include staff employed by those providers, and students.

3.30 pm

Amendment 148 seeks to place a duty on the OFS to notify students, as well as a provider’s governing body, if the OFS decides that a general ongoing registration

condition should not be applicable to a provider. These amendments may constrain the OFS from acting effectively and in the interests of students and the taxpayer.

We envisage that over time the OFS will need to change both the initial and the ongoing registration conditions, and some of those changes are likely to be minor and technical. Others may be needed urgently in the event that loopholes appear and providers seek to exploit them. Requiring the OFS to consult each and every time it needs to make changes to initial and ongoing conditions would be unhelpful. I expect the OFS to consult when it first determines what the initial and ongoing conditions should be, and also to consult on significant subsequent changes. Such consultations will involve a wide range of interested parties representing the interests of students and providers, and will also consult directly with students themselves. This will include detail of the various conditions providers will have to meet.

Gordon Marsden: I entirely accept what the Minister says about not wanting to have major consultations on minor changes. I do not want to prolong the exchange, but can I take it that he is going to place that in the guidance to the OFS, or possibly illustrate—although I know that illustrations can never be exhaustive—what sort of circumstances would require that sort of consultation?

Joseph Johnson: Yes, we expect to provide guidance to the OFS to give exactly those sorts of examples of the kinds of occasions on which it would be expected to consult widely on the changes to conditions required. In addition, more generally, the OFS will strongly encourage providers themselves to engage and consult with key stakeholders, including students, as a matter of good practice. Whether or not a general registration condition applies to a provider will be made clear on the OFS's publicly available register.

Amendment 150 seeks to enable the OFS to take into account, when it thinks fit, representations from students and other stakeholders, as well as the provider itself, if the OFS decides to impose or vary a provider's specific registration condition. The OFS does not need a power in the Bill to do this. It will always be able to listen to representations on various matters from various quarters if it thinks that doing so would add value. The effect of this clause in reality is likely to be to give representations made by other stakeholders and students an elevated status above representations made by any other party that may have a legitimate interest. That is because students and staff representations would be the only ones mentioned in the clause.

I am clear that, in certain circumstances, it will be in students' interests that they are informed of a particular change to a provider's registration conditions, and why that change has happened. The OFS already has the power, when it is appropriate, to compel a provider's governing body to make sure that students are promptly informed about changes to a provider's registration conditions. It is my clear expectation that the OFS will act in the interests of students, and will use its powers under clause 6 to make it a specific condition of registration that significant changes to a provider's registration conditions are communicated promptly and accurately to students. On this basis, while I understand the intentions here, and fully agree with the need to promote these

important issues, I do not believe the amendments are necessary as the Bill already makes relevant provisions for them. I therefore ask hon. Members to consider withdrawing their amendments.

Gordon Marsden: I thank the Minister again for his constructive approach to outlining some of the circumstances in which access to broader areas would be made available. The truth of the matter is that the proof of the pudding will be in the eating. The OFS is not yet constituted. In its first few months and years, people will watch carefully as to how things proceed. If the general duty proves not to be working as it should—there are sometimes high-profile cases that illustrate faults in legislation that no one had thought of—the Government of the time may wish to return to it, and there are mechanisms for doing that. For the moment, on the basis of what the Minister has said and based on the fact that clear guidance will be given to the OFS, I am content to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 5 ordered to stand part of the Bill.

Clause 6 ordered to stand part of the Bill.

Clause 7

PROPORTIONATE CONDITIONS

Gordon Marsden: I beg to move amendment 151, in clause 7, page 5, line 19, at end insert—

“(4) The OfS must ensure that the conditions applicable to an institution regarding registration requirements, costs and penalties are proportionate to the size, history, track-record and structure of that particular institution.”

This amendment would ensure that the application of certain procedures (and consequent subscription charges) within the Bill are applied fairly and proportionally and accommodate smaller providers of higher education such as colleges.

The amendment is supported by the Association of Colleges, which the Minister was keen to pray in aid of his arguments this morning. I hope he will be equally ready to listen to what the association has to say on this matter. It is not only about the Association of Colleges, though; the amendment and the thoughts behind it strike at the heart of whether the Government are serious about using further and higher education as parts of their mechanism to develop the skills, possibilities and targets that were discussed this morning.

Clause 7 is on proportionate conditions. It stipulates that the OFS ensures that the conditions applicable to an institution regarding registration requirements, costs and penalties are proportionate to the size and structure of that particular institution. For the avoidance of doubt, I shall be talking specifically about further and higher education, but there are of course alternative providers that might also benefit from such a proportionate condition.

There are many references in the Bill to the penalties, conditions, requirements and costs with which an institution may have to comply. There is a need to ensure that the application of certain procedures and consequent subscription charges in the Bill are applied fairly and proportionately, and accommodate smaller higher education providers, such as colleges. The purpose of the amendment is to place a counterbalancing duty on the OFS to ensure that its activities are proportionate.

The clause provides an opportunity to ensure that the Government do not simply apply a proportional response on registration, conditions and compliance in relation to perceived regulatory risk. They should also take into account an institution's size, structure and experience—its track record, one might say—and apply those requirements in a fair and proportionate manner in relation to the institution.

There are many issues at stake as to how the charges and compliance conditions affect smaller providers, such as colleges. If there is no mechanism in the Bill to ensure that an institution's size and structure are taken into account under the various conditions, smaller providers, which have little experience of some of the compliance requirements and do not have the same financial means to pay the same rates as large universities, could be adversely affected by a one-size-fits-all approach.

If I may do so without departing from the structure of the amendment, Mr Hanson, I will give the Minister an analogy that I began to pursue with his colleague, the then Aviation Minister, when I was shadow Aviation Minister, in relation to the regulation of smaller airports. As some Members here might know, smaller airports, including my own airport in Blackpool, have had mixed fortunes in recent years. One point that has been made constantly is about the disproportionate effect when an airport serving 250,000 passengers and one that serves 3 million must both pay the same charges. In the same way, by analogy, there are concerns of the nature outlined by the AOC.

The OFS will have far-reaching powers to collect data and place conditions on institutions. It will have the power to charge licence fees to cover its costs, which, according to the technical paper produced by the Government, are expected to be around £30 million a year. The impact assessment forecasts that around 500 providers will pay a flat rate of £60,000 a year.

There are multiple references to the compliance requirements and costs throughout the Bill. I will not go into the various clauses and what they include, but clause 13 in particular refers to the payment of a fee as a registration requirement. I have a couple of specific questions for the Minister. Is it to be a charge or a subscription? Will the price vary to take into account smaller providers of HE such as colleges, or will it be a blanket cost? If his officials are currently discussing those issues, it would be useful to have some sense of the direction of travel.

FE colleges that want to be HE providers believe at the moment that there are circumstances in which they are at a disadvantage compared with other providers. A university enrolling 10,000 students paying £9,000 a year, for example, will earn £90 million in teaching income, so a £60,000 licence fee would be less than 0.1% of its total teaching income. By comparison, a college that enrolls 250 students paying £6,000 a year would earn only £500,000 in teaching income, and the £60,000 licence fee would be 4%, or one twenty-fifth, of its total teaching income. I do not intend to tax the Committee with lots of mathematical examples, but I want to give some sense of the level of concern.

Colleges are currently charged approximately 20% validation and awarding fees by partner HEIs, which leaves around £5,000 of the tuition fee for actual course delivery costs. The licence fee could leave them with tight margins, seriously hindering their ability to deliver a quality HE course and forcing many to increase

their tuition fees against their access missions. In case the Minister is in any doubt about that direction of travel, I refer him to a piece that appeared last week in *The Times Educational Supplement* under the headline “Number of colleges with £9K tuition fees doubles”:

“The number of further education colleges charging the highest possible tuition fees for undergraduate degrees has doubled in a year...and more than a dozen institutions plan to raise their fees even higher next year.”

Various arguments are put forward by the various bodies concerned, and I will not veer off the subject by talking about them. I merely wanted to illustrate that this is not a hypothetical argument. The margins on which FE colleges act as HE providers, and perhaps their ability to continue to do so or that of new FE colleges to take on HE provision, can be affected by such financial burdens.

There is another aspect that we need to think about. The issue goes beyond licence fees. If the OFS is not careful, it could end up—I am not saying that this would be its intention—applying a risk-based approach that involves a light touch for large, well-established universities but a heavy hand for smaller colleges. Of course, in some cases, where there are problems or poor quality—in my view, that would have to be applied as rigorously to new providers delivering HE provision as to existing institutions such as FE colleges—a heavy hand is necessary from time to time. But there is a genuine risk that a regulator not observing that proportionality could drive high-quality niche providers out of the sector. Small providers and colleges that are not dedicated higher education providers might be penalised for not having the same structures as universities, which are more accustomed to the current set-up requirements, both financially and structurally.

3.45 pm

If the Minister doubts that this is a significant issue, I would like to conclude with one or two examples. There are around 250 colleges offering HE, 20 of which, including my own Blackpool and the Fylde College, have more than 1,000 students doing HE, but there are also 186 with fewer than 500 students.

The vast majority of college HE courses are priced at under £6,000 although, as I have just illustrated, there has been an increase in those charging above that threshold. The majority of those charging above it often do so because they provide high-cost technical subjects, such as engineering and construction, and niche courses, such as marine engineering. Incidentally, the Fleetwood Nautical Campus at Blackpool and the Fylde College do amazing work in that area, including very productive work with overseas students as well as domestic ones. There is competition in certain geographic areas, where research by colleges has indicated that applicants are perceiving lower quality with lower cost.

There is a variety of reasons and I am not suggesting—pace the *TES* article—that all of those issues around the steady escalation of tuition fees at colleges are related to the particular issue that we are describing of proportionality of costs. However, I do think that is an issue on which the Government would do well to ponder. OFS in particular needs to have that at the forefront of its mind as it moves forward, so that FE colleges are taken into account. That is the basis on which I am proposing the amendment.

The Chair: Before I call the Minister, the hon. Member for Blackpool South mentioned clause 13. We will reach that clause in approximately six clauses' time, so I would be grateful if the Minister refrained from commenting on those issues, otherwise we will digress from amendment 151.

Joseph Johnson: I again thank the hon. Gentleman for his thoughtful amendment on which we will reflect. I will begin start by saying that risk-based proportionate regulation is at the heart of how the OFS will operate. As I have said, we need a single regulatory system appropriate for all providers, and we must stop treating institutions differently based on incumbency and corporate form. Instead, we should ensure that regulation is tailored to fit their individual needs and demands.

Clause 7 specifies:

"The OfS must ensure that the initial registration conditions...and its ongoing registration conditions are proportionate to the OfS's assessment of the regulatory risk posed by the institution."

The OFS will also have a duty to keep the initial and ongoing conditions of registration that it applies to institutions under review. That means that, where and when the OFS considers it appropriate, it will adjust the level of regulation to which a provider is subject to reflect the level of risk it presents at a given time.

Accordingly, where the OFS considers that a provider is particularly low risk, the effect of the clause should be that the OFS will make appropriate changes to its conditions to reflect that and ease the burden of regulation. Similarly, where the OFS considers that a provider, through its performance and behaviour, starts to present a greater degree of risk, the clause should ensure that the OFS will increase the extent of regulation.

That approach will enable and incentivise high-performing, stable and reliable providers to start and grow, increasing student choice in high-quality higher education. It will mean that institutions that pose little risk to students or to the public purse can spend more time focusing on what they do best. Equally, institutions that present a higher risk will undergo more scrutiny and be subject to more measures to protect students, the public purse and English higher education.

Amendment 151 would place a duty on the OFS to take into account a provider's size, structure, history and track record when determining registration conditions, costs and monetary penalties. It will certainly be the case that track record and perhaps size will be determining factors for the OFS to consider when it imposes registration conditions, but only insofar as those factors might help to determine the size of risk to the taxpayer and students.

The Bill is built on the principle of risk-based regulation in all its forms, and it is unhelpful to identify a list of factors that might substitute for risk in its wider sense. Over time, it is likely that the OFS will adapt and change its approach to identifying and controlling risk as the higher education market evolves. For example, the OFS may identify particular risks that relate to the delivery of particular qualifications and awarding bodies, or courses delivered in particular locations, as with the rapid expansion of higher national courses in business in 2013-14 from approximately 20 London-based providers, which caused real concern about quality and value for money. It is important not to constrain the OFS's ability to react by weighing some risk factors above others.

On the subject of cost, it is worth noting that in the White Paper we committed to consulting the sector on the detail of the planned registration fees and charges. We will do that this autumn. Regulations will be laid before Parliament setting out the matters that the OFS must take into account when exercising its power to impose a monetary penalty.

Gordon Marsden: I hear what the Minister says, but I will make my response at the end of the debate. In connection with provision on "consulting the sector", there is a sense, which might be entirely unreasonable, in the FE sector, in particular those supplying HE institutions, that they are often an afterthought in the consultation process, so I would welcome an assurance from the Minister that as a group they will be treated equally with the traditional university sector.

Joseph Johnson: I am happy to give that assurance. We value exceptionally highly the contribution that FE providers make to the HE sector, as we discussed in a previous sitting. There are 159,000 HE students in FE colleges, which do a terrific job.

The registration fees consultation will seek the views of the entire sector on what would be seen as a proportionate approach to the setting of fees. We want to hear from FE colleges as important institutions delivering HE. On that basis, while I understand the intentions in Committee and fully agree with the need to promote such important issues, I do not believe that the amendments are necessary, because what they propose is already covered by provisions in the Bill. I therefore urge the hon. Member for Blackpool South to consider withdrawing the amendment.

Gordon Marsden: I am grateful to the Minister, first, for all the detail and explanation of the consultation and, secondly, for his general mood music, if I may put it that way. We have had a tussle over some things, but to put something in the Bill does not automatically, even in law, mean that other factors will be excluded. However, as I said, I am content with the broad thrust of his assurances and, on that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Dr Blackman-Woods: I have a few questions for the Minister and am seeking some reassurances from him. One possible reading of the clause is that it could lead to dumbing down of the higher education sector by allowing a lesser form of regulation for colleges of a particular type, , whether a small FE college, a private provider or a small university.

Given what the Minister said earlier, I am sure that he wants to uphold the excellent reputation of the sector, so he will not want to put in place a regulatory system that could expose the sector to accusations of the quality not being uniform across all the players. I cannot see anything in the clause as drafted that will guarantee an equally rigorous approach across all the different types of institution, regardless of their track record. For example, a college might be good for a couple of years, but then have a poor principal or adverse market

conditions, resulting in it being not such a good provider. I am not exactly sure how, if we are going on a particular track record in a particular period of time in terms of the regulatory system, that is going to be captured. These are really a series of questions that I am posing to the Minister. Perhaps some of the detail in the regulations will help us to understand better what the clause will do in practice, but I have huge anxieties about it as currently drafted. I hope that the Minister is able to address those and help me to feel better.

Joseph Johnson: Let me try to explain clause 7 and provide some of the clarity that the hon. Lady seeks. As we have said, risk-based, proportionate regulation is at the heart of how the OFS will operate. The particular characteristics of the higher education sector mean that proportionate regulation is needed to protect the interests of students, employers and taxpayers. We need a single regulatory system that is appropriate for all providers, and to stop treating institutions differently based on incumbency—how long they have been around—and corporate form, and instead ensure that the regulation is tailored to fit their individual needs and demands.

Mark Pawsey (Rugby) (Con): The Minister is talking about risk-based regulation, but we heard in our evidence sessions—forgive me, I cannot remember where the point came from—that if we always look at the bad, and if regulators do not look at the good, we will not be familiar with what good looks like. Is the Minister satisfied that the risk-based regulation means that that will be identified?

Joseph Johnson: Yes—helping to spread best practice throughout the sector will be at the heart of the OFS. That is why this system of proportionate regulation will enable all institutions to see the advantages that come from being a high-quality provider and the diminished regulatory burden that high-quality providers live with, and see all the advantages of moving up and enhancing the quality of their provision.

This clause underpins clauses 5 and 6, ensuring that the OFS operates a fair and flexible regulatory system. It specifies that the OFS must ensure that the initial and ongoing conditions of registration are proportionate to the OFS's assessment of the regulatory risk posed by the provider. The OFS will also have a duty to keep under review the initial and ongoing conditions of registration that it applies to institutions. That means that where and when the OFS considers it appropriate, it will adjust the level of regulation to which a provider is subject, to reflect the level of risk it presents at a given point in time. Accordingly, where the OFS considers that a provider is of particularly low risk, the effect of the clause should be that the OFS will make appropriate changes to their conditions to reflect that and to ease the burden of regulation. Similarly, where the OFS considers that a provider, through its performance and behaviour, starts to present a greater degree of risk, the clause should ensure that the OFS will increase the extent of regulation.

This approach will enable and incentivise high-performing, stable and reliable providers to start and grow, increasing student choice of high-quality higher education. It will mean that institutions that pose little risk to students or the public purse can spend more time focusing on doing what they do best. Equally, institutions

that present a higher risk will undergo more scrutiny and be subject to more measures to protect students, the public purse and English higher education. I move that this clause stand part of the Bill.

Dr Blackman-Woods: I am not sure that I am entirely reassured by the Minister, but I suspect that we will return to this particular issue.

Joseph Johnson: May I draw to the hon. Lady's attention, in case it has escaped her notice, the fact that I recently published a technical note that set out in some detail how quality will be built into the regulatory system at every stage, from the way we regulate new entrants to how we deal with poor-quality provision. It was quite a comprehensive note, to assist the Committee, and if she has not had a chance to read it I shall happily provide her with a copy later.

Dr Blackman-Woods: I think when we get to the detail of that technical matter it will be helpful. However, the issue is one that we will return to at a later stage in Committee and I will leave it there for the moment.

The Chair: I remind the hon. Lady that once we have agreed clause 7 we shall not return to it; now is the stage at which to discuss anything to do with clause 7, otherwise it will be gone.

Dr Blackman-Woods: For clarification, I did not mean that we would be dealing with the clause at a later stage of consideration in Committee; I meant that the issues raised in the clause come up again in other clauses, and that we might want to return to them.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clause 8

MANDATORY ONGOING REGISTRATION CONDITIONS FOR ALL PROVIDERS

4 pm

Wes Streeting: I beg to move amendment 1, in clause 8, page 5, line 23, at end insert—

- “(o) a condition that requires the governing body of a provider to develop, publish and adhere to a Code of Practice on Student Information that must include, but shall not be restricted to, information across different academic departments relating to—
- (i) the number of hours of contact time that students should expect on a weekly basis,
 - (ii) the processes and practices regarding marking and assessments, and
 - (iii) the learning facilities that are available to all students.
- (o) a condition that requires the governing body of a provider to monitor performance against the expectations set by the Code of Practice on Student Information and publish an annual report on its findings.”

This amendment would place a duty on governing bodies of all registered providers to develop, publish and adhere to a Code of Practice on Student Information and monitor and report on progress against expectations set by that Code of Practice.

With this and subsequent amendments to the clause I shall return to the theme of trying to make the Bill into a bill of rights for students, so I hope that the Committee

[*Wes Streeting*]

will indulge me for a moment as I set out some of the general context. I will then deal with the specifics.

It has been my concern, as I said early in the Committee's sittings, that for the past decade or more the burden placed on individual students and graduates to pay for a large proportion of their own higher education has substantially increased. However, there have not been rights and protections to go with that. My amendments are intended to address that key imbalance.

There are a number of reasons for our having reached the point at which students get a relatively raw deal, in spite of their making a significant investment. One is that for students, student unions and the National Union of Students, there has always been a tension between on the one hand a system increasingly driven by markets and competition, which has the potential to change the relationship between students and institutions from one of co-producers to one of consumers, and on the other hand the desire for students to be afforded better rights and protections.

It will come as no surprise to members of the Committee that student representatives—this was so during my time in the NUS but I think it is also fair to say it today—have concerns about a direction of travel towards students being seen as consumers rather than co-producers, and about putting market forces at the heart of the higher education system. That has led over the years to students not being nearly demanding enough about the degree of rights and protections that they should be afforded, and about to what degree they should be able to exercise greater muscle, whether as consumers or co-producers.

That is what is happening with the debate about the Government's current higher education reforms. It is a terrible mistake that delegates at the NUS conference decided that the best response to the teaching excellence framework and, in particular, its relationship to the fees regime, would be not to engage with the process. The only outcome of that decision is that students' voices are not heard. The Minister will not change his mind because the NUS does not have a seat at the table. He is more likely to engage and listen, as is Parliament, if students make their voice heard.

Similarly, the decision to try to sabotage the national student survey has no effect other than further to diminish the voice of students in the higher education system. Whether students see themselves as consumers or as co-producers, they should have the same goal—making sure that their voices are heard, that they are afforded basic rights and protections, and that they get the experience they sign up for.

Many members of the Committee will know that one of the key architects of the higher education funding system that we have today is Professor Nick Barr. I have had many arguments with Nick over the years about higher education funding. I have not changed my mind, he has not changed his, but I agree with him about the essential role that robust quality assurance, information and rights and protections have to play if competition is at the heart of the system. That is where we increasingly find ourselves. On the one hand, we could have more robust and intensive quality assurance, more inspections and more detailed inspections, but that hits two buffers, really. The first is the cost of the intensity of such an

inspections regime, and the second is the threat to institutional autonomy. The alternative, which is what my amendments look for, is making sure that we have well-informed students, consumers or co-producers—it really does not matter which term we choose.

Information is crucial in ensuring that we have informed applicants matching themselves to the right course for their interests and ambitions. It is also important to make sure that students know, from the point of application, what they will get in return for their fee and for their time at university. Amendment 1 to clause 8 would place a duty on governing bodies of all registered providers “to develop, publish and adhere to a Code of Practice”

on student information and to monitor and report on progress against expectations set out by that code of practice.

My amendment suggests a number of areas that the code of practice on student information would contain. The list is by no means exhaustive, because I tend to agree with the Minister that legislation should not be overly prescriptive, but I do not think it is unreasonable to expect that when a student applies to a course they should have some degree of understanding of what their contact time will be, of what they should expect every week, of the marking and assessment regime and of the kind of feedback they might expect from their assessment, as well as who might be in front of them—because universities can tend to put the star names in the prospectus and the PhD and masters students in the front of the lecture theatre. That would ensure that the students would understand the learning facilities that were available to all students, and would ensure that those expectations were not only well understood by students but well understood and adhered to by the institution.

I think that this could be a very powerful tool to make sure that students are not only well informed but can hold their institutions to account. That is the primary intention of the amendment and it is a theme I will refer to later. I hope that if the Minister cannot agree to the specific wording of this amendment he will at least agree with the principle, as well as to my assessment that there is much further to travel to ensure that students are well informed when they apply and when they are on their courses, and that they are better able to hold their institution to account, which will surely help to drive up standards for everyone across the system.

Joseph Johnson: I thank the hon. Gentleman for giving me the opportunity to set out the Government's vision for student information. I agree that the information set out in his amendment is important to students. The Government are committed to improving information and making it freely available to enable students to make informed choices on the best study option for them and their future employment opportunities. This will help students to fulfil their potential, regardless of their background. It is central to our aim to give students more informed choice and help ensure that their experience meets the expectations set out by their higher education institution. This was a strong theme in our White Paper and it runs throughout our reforms, which have received the support of important consumer bodies, such as Which?

I bring to the hon. Gentleman's attention a comment on our reforms from Alex Neill, director of policy and campaigns at Which?, who said:

"Our research has shown that students struggle to obtain the information they need to make informed decisions about university choices. We welcome measures to give students more insight into student experience, teaching standards and value for money. These proposals could not only drive up standards but could also empower students ahead of one of the biggest financial decision of their lives".

The need for such reforms was also made clear by Emran Mian, director of the Social Market Foundation and another expert commentator on the sector, who observed:

"Higher education is too much like a club where the rules are made for the benefit of universities. These reforms will begin to change that. Students will have access to more information when they're making application choices; and universities will be under more pressure to improve the quality of teaching."

Information has been a consistent theme in the Government's policy for several years. We introduced the key information set in September 2012 to ensure that students have information about the courses available, satisfaction ratings, and salary and employment outcomes, which students consistently tell us are the most important factors to them when choosing a course.

However, we are not complacent, and through the Bill and other measures we will put more comparable information in students' hands than ever before—information not just on institutions and courses but on teaching quality—through the teaching excellence framework, which the hon. Gentleman mentioned. Information on application, offer and acceptance rates, broken down by gender, ethnicity and disadvantage as a result of the transparency duty, will play an important part in that, as will robust information on employment and earnings from Her Majesty's Revenue and Customs as a result of the Government's wider reforms. Through those measures, together with the national student survey information on student satisfaction and information on institutions and their courses as well as improvements to the detailed course delivery information held on institutions' websites, we are putting more information in students' hands than ever before.

However, we do not think that a multitude of codes of practice is the best way to achieve that aim. We expect the office for students to develop guidance setting out the information that students should receive. That will incorporate existing Competition and Markets Authority guidance, so will help institutions to comply with consumer law. The Bill gives the OFS overall responsibility for determining what information needs to be published, when—it will be published at least annually—and in what form. The Bill asks the OFS to consider what information would be most helpful for prospective and current students and higher education providers, and consult periodically with interested parties—students, higher education providers and graduate employers—to ensure that the approach to information still meets their needs.

The hon. Gentleman and the Government essentially want the same thing: better information for students. The Bill already contains a duty to publish and consult on the information that students need. The OFS may issue guidance on that to institutions to ensure consistency of data collection, and consistent and comparable publication, among institutions. That guidance will likely

follow advice from the CMA on what information should be made available to students, including on course delivery and assessment and facilities. That will help institutions to comply with their obligations under consumer law.

The amendment would require each and every higher education institution to develop and deliver its own code of practice on student information. That would create disparate and unequal information for students—exactly what we are trying to avoid. It would mean that students would find that levels of information differed from one institution to another, making it harder to compare courses and institutions, and areas of information could be closed down if an institution's code deemed that to be appropriate. The amendment would also increase the burden on institutions to monitor and report on such codes.

We therefore do not think that it is necessary for each higher education institution to develop and run its own code of practice. The OFS will be better placed to consider and consult on the information that HE providers must provide for the benefit of students. That will ensure consistency and reduce the burden on HEIs. I therefore respectfully ask the hon. Gentleman to withdraw his amendment.

Wes Streeting: I am grateful to the Minister for his considered reply to the issues teased out by amendment 1. I will say a couple of things in response. First, he is right that the availability and transparency of information for applicants has been improving, and the Government are clearly determined to ensure that that information continues to improve and remains relevant to the key factors that will determine applicants' choices. I welcome that policy direction.

Secondly, I welcome what the Minister said about guidance from the Competition and Markets Authority, but I think there is further to go in ensuring that once students are signed up to a course, they have the power and muscle through different means effectively to hold institutions to account to ensure that they deliver against the expectations set out on application.

There are various means and routes for students to follow when things go wrong, such as course representation systems, students' unions and the office of the independent adjudicator for higher education, whose remit is relatively narrowly defined. However, I do not think that the representative structures are necessarily as good as they could be to give students a powerful voice. In that context, I hope that the Minister will reflect on our earlier discussions about representation and the OFS, where I think the composition will be crucial. With great respect to board members of HEFCE, which has played a great role over many years, if the new office for students is just the great and the good of the higher education sector and a range of vice-chancellors sat around the table, I do not think it will achieve the objectives he has set out. The composition, the consumer voice, consumer rights champions and the student voice will be really important to achieving that.

The Minister also needs to think about representation in the sector and in institutions, which we will address shortly in other amendments. Finally, he is right to point out the shortcomings of the amendment's wording and challenges that that might throw up. It was a probing amendment. I am glad to see the Minister is

[Wes Streeting]

considering the issues and hope we will be able to make further progress, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

4.15 pm

Wes Streeting: I beg to move amendment 5, in clause 8, page 5, line 23, at end insert—

- “(0) a condition that requires the governing body of the provider to appoint as additional members to that body at least two student representatives who—
- (i) are persons enrolled on a higher education course at the institution, and
 - (ii) are considered by the governing body to be able to represent, or promote the interests of, a broad range of students, where “course” means any graduate or postgraduate course.”

This amendment would require the governing body of any registered provider to include at least two student representatives.

The Chair: With this it will be convenient to discuss new clause 1—*Consultation*—

“(1) In exercising its functions the governing body of a registered higher education provider must have regard to any guidance given from time to time by the OfS about consultation with—

- (a) persons who are enrolled on a course at the institution,
- (b) persons who are likely to enrol on a course at the institution, or
- (c) employees of the institution,

in connection with the taking of any decisions affecting them.

(2) The governing body consults in accordance with subsection (1) if it consults a number of persons within a prescribed group that, taken together, appear to the governing body to represent, or promote the interests of, a broad and diverse range of persons within that group.

(3) Any guidance under this section about consultation with persons falling within paragraphs (1)(a) or (1)(b) must provide for the views of such a person to be considered in light of his or her age and understanding.

(4) For the purposes of subsection (1), “course” includes any graduate or postgraduate course.”

This new clause would place a duty on governing bodies of registered higher education providers to consult students, prospective students and employees in connection with the taking of any decisions that affect them.

Wes Streeting: Picking up the theme of student representation that I just alluded to, the amendment would require the governing body of any registered provider to include at least two student representatives on the board of its governing body. That is important. The Minister has talked about protecting the student interest, which he seeks to do primarily through the office for students. However, I am sure he would hope that all institutions are engaged in that through their governing bodies’ decisions. I would like to challenge him on the difference between protecting the student interest and ensuring that students have a voice.

The problem with the Bill as it stands is that it sets up many people around different tables to act as ventriloquists for students, to consider what they believe to be in students’ best interests. There is no substitute for complementing those members of a university governing body, who I hope will always have a concern for students’ interests, with students and their representatives.

There are countless examples from across the higher education sector where students on governing bodies have made a really important contribution not just to the development of institutional policy in relation to students, but often to higher education policy more generally. Indeed, many of the policy teams of higher education institutions and sector bodies are populated with people who were, once upon a time, student representatives. I think I speak for many of that pedigree of former student representatives when I say that higher education is an incredibly interesting area of policy, where expertise is developed. There is therefore a mutual benefit. In the evidence session it was striking that many of the university representatives and leaders welcomed and embraced student representation. That should be in the Bill.

I am keen that the amendment should find its way into the Bill for two reasons. First, student representation on the boards of governing bodies has previously been part of the code of practice issued by the Committee of University Chairs, but I think that code has been retired. It would be helpful to see that principle maintained through legislation. Secondly, with the prevalence of new providers, any provider, whether the most established ancient university or the newest private provider, should place the student voice at the heart of their governing bodies.

Finally, the Minister may wonder why I have been so prescriptive in the amendment as to include “at least two” student representatives. There are sometimes challenges in placing students—rather than students union officers on sabbatical—on a governing body where they are surrounded by people who often have a great deal more expertise in different areas and experience of sitting on governing bodies. Having more than one representative might mean that there is a better sense of support, and that people feel more confident to contribute and play an active role. I should flag up to the Minister the fact that although the amendment has been phrased very specifically, if he is not happy with the wording, there is nothing to prevent the Government from tabling their own amendment to ensure the same principle: that every institution should have students on its governing body.

Finally, new clause 1 sets out the principle of a duty to consult. The idea is not new in deliberations in this place. When he was the Higher Education Minister, Bill Rammell introduced a similar clause, which placed a duty on governing bodies in the further education sector to actively listen to and consult students. That is a good principle. I was sorry to see that legislation disappear under the previous Government, but there is no reason why we should not bring it back for the higher education sector. It would set the right direction and be a positive duty that institutions would surely want to embrace.

Joseph Johnson: The amendment and new clause both seek to establish a world in which the governing bodies of registered suppliers are required to involve and engage students. As I have said, students are at the heart of our reforms, and for the first time student interests are being represented through statute, but student representation in decision making and on boards is not the only way to ensure that students’ voices are heard. Many providers have excellent student engagement practices that involve engaging with more than one or two specified

individuals. Were we to legislate for precisely how providers operate their student engagement strategies, that would risk reducing their flexibility to engage students in a range of ways.

On amendment 5, the governing bodies of HE providers will also have criteria for recruiting members with the most appropriate range of relevant skills and breadth of experience to help them deliver and make decisions. We should not prescribe how they achieve that; otherwise, we risk limiting the opportunity to bring in a wide scope of relevant experience that will benefit students, employers and providers.

On new clause 1, I see the OFS taking a leading role in highlighting and promoting innovative ways in which students and institutions work together. I trust that providers will want to continue and improve their student engagement. That is a more effective way of embedding the student voice in the sector's structures and practices.

The hon. Gentleman and the Government are not at odds. Engaging students and listening to what matters to them is absolutely important to us. Holding providers' governing bodies to account, which is clause 2's intention, can be achieved administratively without such prescription. I therefore respectfully ask the hon. Gentleman to consider withdrawing the amendment.

Wes Streeting: I am grateful to the Minister for his reply, but I am still struggling to understand his reluctance to enshrine student representation in legislation and to guarantee students or their representatives a voice at the table. As he goes around speaking to institutions throughout the sector, as I know he does, he really should spend more time popping in to see the students union and talking to the elected officers and the professional staff. He should also talk to higher education sector leaders about their experience of student representation and the difference it can make.

I was a member of the governing body of the University of Cambridge. I was elected to that governing council separately from my role as president of the students union. During the year when I was a member, I would say that there were three key areas in which, as a student representative, I made a demonstrable impact, to the benefit both of students and of the institution more broadly. First, I helped with the design of the university's bursary scheme following the passage of the Higher Education Act 2004. We were able to target student support in the most effective way and, as part of that, think about some of the students who were being left behind by the national Government-funded student support system. That was an obvious area of student interest.

Secondly, there was an area of tension with the institution. Primarily for financial reasons and because of a fall in the research assessment exercise, the university proposed to close the architecture department which, although it had taken a knock in the RAE, happened to be, and remains today, one of the world's leading departments for the teaching of architecture. Thanks to the student voice on the governing council and the academic board and a very active student campaign—world renowned architects writing to *The Guardian* also helped—the university had second thoughts. Years later when I sat in my office in NUS, I received a bumper book from the university marketing and alumni department promoting its fantastic architecture department, outlining how

wonderfully it was doing in its research and teaching. The department is still there today and that would not be the case without the active engagement of students.

In another example, the university had a very thorny debate about intellectual property in which one of the world's leading security experts argued that the university's intellectual property policy would be to the detriment of academics such as him. On that occasion student representatives were able to act as honest brokers, again making a demonstrable impact on the policy. Ultimately, they sided with the university's leadership over academics who perhaps had legitimate, or ill-founded, depending on your perspective, concerns. Student representatives can make a positive impact and I do not understand the Minister's reluctance to accept the principle.

I will not press these amendments to a vote. They may well appear at a later stage of the Bill's passage, but I implore the Minister to consider the tangible difference that student representation is making in institutions today and ask himself why that experience at the majority of institutions should not be enjoyed by students at all institutions. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Wes Streeting: I beg to move amendment 9, in clause 8, page 5, line 23, at end insert—

“() a condition that requires the governing body of the provider to have regard to the Quality Code set out in section 24.”

See Explanatory Statement for amendment 7.

The Chair: With this it will be convenient to discuss the following:

Amendment 7, in clause 24, page 14, line 35, at end insert—

() The Quality Assessment Committee must develop, publish and maintain a Quality Code for all registered higher education providers.

() The Quality Code must set out the expectations that all registered higher education providers are required to meet.

() The Quality Code shall include, but shall not be restricted to, expectations to ensure—

- (a) that academic standards are set and maintained,
- (b) that appropriate and effective teaching, support, assessment and learning resources are provided for students,
- (c) the learning opportunities provided are monitored and that the provider considers how to improve such opportunities, and
- (d) that valid, reliable, useful and accessible information about the provider's provision is made available.”

Taken with amendments 8 and 9, this amendment would place a duty on the Quality Assessment Committee to develop, publish and maintain a Quality Code, to which all registered higher education providers must have regard.

Amendment 8, in clause 24, page 14, line 36, at end insert—

“() the function of keeping under review and promoting the Quality Code,”

See Explanatory Statement for amendment 7.

Wes Streeting: I thought I would have a break for a moment—

The Chair: Here for the rest of the wicket.

Wes Streeting: I will therefore come back on the quality code. At the moment there is a national quality code that the Quality Assurance Agency for Higher Education holds. That code serves a very important function well, but I have a concern, and this is really a probing amendment to get the Minister's thoughts and ascertain whether he sees the potential problem that I foresee. As it stands, the Quality Assurance Agency continues to be the designated quality provider and serves that function, but that will not necessarily always be the case. Were the Quality Assurance Agency to lose its contract as the designated quality provider, who would own the quality code? Would it be the Quality Assurance Agency, which would have every reason to pick up its bat and ball and its quality code and go somewhere else saying, to put it crudely, "Okay, fine. You do not want our business, so good luck developing a new quality code." Or is there a broader ownership of the sector? The amendments would provide ownership outwith the Quality Assurance Agency so that there is a principle that, whoever the designated quality provider is, there is a nationally agreed quality code that applies across the United Kingdom.

It is a shame that our colleagues from the Scottish National party are not here this afternoon because there are cross-border issues in relation to higher education, not just in England and Wales but in Scotland. It is disappointing that the voice of Scotland is not heard here this afternoon. I hope that the Minister can address that concern and provide some reassurance. If not, I hope he might think about how we can, in the Bill, mitigate the risks that I have described.

Joseph Johnson: Again, I thank the hon. Gentleman for tabling the amendments. I completely understand why he wants to recognise and ensure the importance of quality in higher education. Our HE system is internationally renowned, as Members have commented today. Underpinning this reputation is our internationally recognised system of quality assurance and assessment, which we are updating to meet future needs in an increasingly diverse HE system.

4.30 pm

The UK quality code is central to this quality system and has been for many years. I can reassure the Committee that the office for students will be able to continue using the expectations of the code as a key feature of its risk-based regulatory framework, as I set out in the technical note on market entry and quality that I published last week and which I mentioned a few minutes ago.

There is no need to legislate for this. The quality code, which has operated successfully for many years, is sector-owned and supported and managed by the Quality Assurance Agency. I believe that the hon. Gentleman is keen for this type of co-regulatory approach to continue, as are the Government.

Ownership of this code is also shared across the UK, as the hon. Gentleman mentioned, and the importance of this was highlighted in a cross-section of responses to the recent HEFCE quality consultation, with responses underlining that any fragmentation would affect the international reputation of UK higher education. The Quality Assessment Committee, which the hon. Gentleman proposed should take responsibility for the quality code, is an OFS committee that extends only to England. It does not have the cross-UK focus that is such an

important part of the current arrangements. That is why we envisage the OFS and the designated quality body working with sector and student representative bodies, as well as with the devolved Administrations, to convene a UK-wide standing committee that will be responsible for the future updating of the quality code to ensure it remains fit for purpose.

Let me reassure the Committee: both the sector and the Government want the quality code to continue as it has done successfully to date. I therefore feel that it is not necessary to legislate for this. Indeed, as with other amendments, any prescription could create unhelpful limitations. It is important that we maintain the flexibility to develop a sector-agreed set of expectations that reflect the changing quality needs of the UK higher education sector and do not undermine academic freedoms. Such a co-regulatory approach, a principle that the Select Committee on Business, Innovation and Skills endorsed and that I strongly support, is the right way to oversee and maintain the quality code. As such, while I understand the good intentions of the hon. Gentleman, I hope I have reassured him that his amendment is unnecessary and that he can consider withdrawing it.

Wes Streeting: I am reassured by the Minister. He is right that I favour the co-regulatory approach he has set out and I am reassured by the mechanisms. Though it would be great fun to insert these amendments, which would have a detrimental impact on Scotland, and then inform the people of Scotland that that happened because their representatives were not here, I am not sure that that is necessarily the best use of our time and so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Gordon Marsden: I beg to move amendment 166, in clause 8, page 5, line 34, at end insert

"and

(d) an access and participation plan condition, as defined in section 12."

This amendment would make access and participation plans mandatory for all higher education providers.

The Chair: With this it will be convenient to discuss amendment 167, in clause 12, page 7, leave out lines 23 to 33.

This amendment is consequential on amendment 166.

Gordon Marsden: I rise to discuss what I think is an important issue of principle. The Minister mentioned equal treatment of different institutions, whether they are new providers or long-established institutions.

Before I do so, I want to put this in the context of clause 8, which touches on the issues of mandatory ongoing registration conditions. The University and College Union has drawn attention to the fact that the Bill seeks to "subsume" the Office for Fair Access into the OFS. I hope that that will not be the process. The Office for Fair Access should play an equal part in widening participation access and social mobility. We have discussed that already and I have no doubt we will return to it in some shape or form later.

The reality is that

"The current access agreements will be replaced by access and participation plans as a condition of registration for providers wishing to charge tuition fees higher than the basic cap."

The Government are consulting on accelerated courses and enabling switching between different courses and

degrees. My hon. Friend the Member for City of Durham has tabled amendment 177 on that matter, although we may not reach it today.

In principle—and it is in principle—this is a straightforward proposal. If the sector is to expand significantly, whether via existing institutions—I have talked a lot about FE colleges and HE this afternoon—or via new providers, in principle, all those providers should produce an access and participation plan condition, as defined in clause 12.

We cannot have it both ways. On the one hand, we want to have two sorts of institutions, one being the long-established institutions, which are nice and big and crusty, if I can put it that way, and obviously have to be stimulated to activate their access and participation plans—that may be a distortion of that sector, but nevertheless that is the view that is sometimes expressed by bold free marketers. On the other hand, as the Minister has been saying, we want everybody to operate on a relatively level playing field. I and I think most rational people, if we stopped them on the street and managed to engage them in some of the complexities of the issue, would say that everyone should be treated the same. Therefore, it is important to include in the Bill the principle that an access and participation plan will be mandatory for all higher education providers. If we do not do that, we will be providing discriminatory conditions for different providers. We will be offering a free hit to a minority—I stress that it might be a minority—of would-be new providers that thought that they could enter the system without having to deal with issues such as access and participation plans. Of course, that would undermine much of the Government's thrust in the Bill.

The Government have lots of angles on the Bill, but two that are continually repeated are about competition and consumer rights. Competition has to go hand in hand with consumer rights. If a competitive market is going to be set up, with different groups jostling for HE status, they should all be judged by the same mechanism. I am anxious to increase the pool of new providers, but I am also anxious to ensure that, as we do so, providers bring to the table a proper sense of the responsibilities that they will have to meet. It is important that that is at the heart of the mission of the OFS.

There is the possibility of expansion and of acquiring degree status at different parts of the process. We will have some interesting conversations during later scrutiny of the Bill about the protections—or otherwise—that the Government have built into the new provider process in terms of degree awarding powers, so I am not going to touch on that now, but if the Government really want new providers to have some fairly radical abilities to operate in a quasi-university set-up from day one, it is important that they take on board some of the responsibilities in respect of access and participation.

This is not a non-binary option, to use a fashionable phrase. Providers need to accept responsibilities along with the new challenges and opportunities. That is why we are strongly proposing this amendment, which would ensure that all higher education providers have to engage with access and participation plans.

Joseph Johnson: Amendments 166 and 167 seek to require all providers on the register to have an access and participation plan, as the hon. Gentleman has said. It may be helpful if I set out our thinking and policy in

this area. Our clear intention is that fee-capped providers on the OFS register that are able to charge above the basic level of fees should be required to agree an access and participation plan with the director for fair access and participation, as he will be in the new world. That must be in place before they can charge fees at the higher level. It is consistent with the current approach to access plans, which has worked well since 2004.

In 2017-18, through access plans, universities expect to spend £833.5 million on measures to improve access and success for students from disadvantaged backgrounds. That is up significantly from £404 million in 2009. It is an increase of more than 10% in cash terms, compared with 2016-17 access agreements.

The amendments seek to require all providers, whether or not their students are accessing student support funding or they are charging fees at the higher level, to produce access and participation plans. That does not seem appropriate. We are introducing a regulatory framework that will ask providers to meet certain requirements based on how they participate in the HE system. It is right that the burden we place on providers should be proportionate. This would go too far, given that not all these providers want—or would be able—to charge fees at the higher level. We expect providers to devote a proportion of the higher-level fees towards access and participation in their plans.

Gordon Marsden: As always, the Minister is giving an accurate description of the situation. The point is that we are supposed to be entering a new era. We are supposed to be entering a settlement that is going to last 20 to 25 years, I would think. That is how long it is since the last major HE Bill. It is useful to explore the fundamental underlying principles. Does he assume that, simply because an organisation is small—there was some discussion of this with the new providers that came before the Committee and I am not sure we took the same view of their answers—a small provider should be able to duck out of access and participation?

Joseph Johnson: Let me develop our thinking a bit further. I have not quite reached the end of the explanation of how the system will work with respect to all providers. As I was saying, we expect providers to devote a proportion of the higher-level fees towards access and participation in their plans. It is worth noting that currently designated alternative providers whose students qualify for student support funding but that do not themselves receive HEFCE grant funding, on the whole have a good record in attracting students from disadvantaged backgrounds.

On the hon. Gentleman's point that this is not a binary situation, we intend to go further than the current arrangements in our reforms. For the first time, we are proposing that those providers that want their students to be able to access tuition fee loans up to the basic level of £6,000 should have to set out how they intend to promote widening access and participation in a public statement.

Our plans stop short of there being a requirement for these providers to agree a plan with the director for fair access and participation. That is entirely sensible in my view. We think there should be light-touch arrangements for these providers. Their students will only be eligible for student support at the basic fee limit.

Gordon Marsden: It is important to get some clarification. Essentially, the Minister is proposing—forgive me if I have missed this, but this is news to me today—a compromise between the status quo and the full-fat version that we suggest in our amendment. He mentioned that the director of OFFA would not be involved in that. Has there been consultation with the director and what is his view on that?

Joseph Johnson: This should not be news to the hon. Gentleman; it featured prominently in our White Paper and has been a central feature of our approach to widening participation in the system. We have discussed the entirety of our widening participation and access reforms with the director of fair access and participation, Leslie Ebdon.

4.45 pm

Paul Blomfield: The Minister will recognise that the director of fair access said in his evidence to us that his ability to sign off loans was a critical transformative element. Given our welcome of the impact he has had, is it not inconsistent of us to not give him the same power in relation to providers, who will, through the student support mechanism, be able to access substantial public funds?

Joseph Johnson: No, the intention is that these are statements that the providers accessing the basic amount of fee loans support for their students put up on their own initiative. They will be required to have them, but they will not be signed off by the director for fair access and participation. We do not think that that would be a proportionate requirement.

Through our planned transparency duty, we intend that these providers will, through these statements, be required to publish data on student application, offer and drop-out rates. These statements are to be broken down by the ethnicity, gender and socio-economic background of the student bodies. The publication of more data will help the sector to support everybody in fulfilling their potential, regardless of their background. It is our intention that the OFS will look at requiring this access and participation statement as part of the conditions of registration.

I expect the OFS to consult when it determines for the first time what the initial and ongoing conditions should be, and a wide range of interested parties representing the interests of students and providers is to have the opportunity to feed in their views through this consultation. This would include details of the various conditions that providers would have to meet, including on access and participation. Widening access and participation are central to our reforms, and I believe that the requirements we are laying on providers in that respect, including the innovation of access and participation statements, are balanced and fair. I ask the hon. Member for Blackpool South to consider withdrawing amendment 166.

Gordon Marsden: I have listened carefully and some of what the Minister said is very welcome, but it still does not address the fundamental question that I put at the beginning. We are entering a new era, and signalling that some people do not have the same responsibilities as others is not a satisfactory outcome. For those reasons, I will press the amendment to a vote.

Question put, that the amendment be made.

The Committee divided: Ayes 5, Noes 10.

Division No. 4]

AYES

Blackman-Woods, Dr Roberta	Smith, Jeff
Blomfield, Paul	
Marsden, Gordon	Streeting, Wes

NOES

Argar, Edward	Johnson, Joseph
Chalk, Alex	Kennedy, Seema
Churchill, Jo	Milling, Amanda
Evennett, rh David	Morton, Wendy
Howlett, Ben	Pawsey, Mark

Question accordingly negated.

Wes Streeting: I beg to move amendment 19, in clause 8, page 5, line 34, at end insert—

“() A condition that requires the governing body of a registered higher education provider to publish on the institution’s website and in its prospectus its policy in relation to contextual admissions, including but not restricted to—

- (a) school performance data,
- (b) socio-economic markers, and
- (c) care background.”

This amendment would require the governing body of a registered higher education provider to publish its policy in relation to contextual admissions on its website and in its prospectus.

The Chair: With this it will be convenient to discuss the following:

Amendment 21, in clause 9, page 5, line 39, leave out “of a prescribed description”

This amendment would require all registered higher education providers to have a transparency condition as an ongoing registration condition.

Amendment 22, in clause 9, page 5, line 40, at end insert—

“() A provider fulfils a transparency condition if it satisfies conditions A and B.”

This amendment is consequential to amendment 24.

Amendment 23, in clause 9, page 6, line 1, leave out

“A transparency condition is a condition that”

and insert “Condition A”

This amendment is consequential to amendment 24.

Amendment 153, in clause 9, page 6, line 9, after “background”, insert

“by area and family income”

This amendment would clarify that the socio-economic data published by HE institutions includes both family background and area.

Amendment 155, in clause 9, page 6, line 9, at end insert—

- (iv) age band,
- (ii) people with disabilities, and
- (iii) care leavers.”

This amendment would include the people with disabilities and care leavers, as well as the age of applicants, in the published number of applications.

Amendment 154, in clause 9, page 6, line 11, after “applications”, insert

“disaggregated by the criteria mentioned in sub-paragraph (2)(b)”

This amendment would ensure that data related to the number of offers is broken down by gender, ethnicity and both socio-economic indicators.

Amendment 24, in clause 9, page 6, line 14, at end insert—

() Condition B requires the governing body of a registered higher education provider to publish at an appropriate time each academic year information for each academic department in relation to—

- (a) retention rate,
- (b) the standards attained by students completing a higher education course, where “standards” has the same meaning as in section 13, and
- (c) graduate destinations.”

This amendment would extend the transparency condition to include retention rates, standards obtained and graduate destinations and require that the information be published for each academic department.

Amendment 152, in clause 9, page 6, line 14, at end insert—

() If the OfS receives information under subsection (2), the OfS must notify Parliament of such information and send it to the relevant Select Committees.”

This amendment requires transparency information on HE admissions to be published to Parliament.

Amendment 176, in clause 9, page 6, line 14, at end insert—

- “(f) the number of students who accepted those offers who did not begin their course with the provider;
- (g) the number of students who accepted those offers who did not complete their course with the provider;
- (h) the number of students who accepted those offers and completed their courses for each different level of attainment;

() For the purposes of paragraph (h), “different level of attainment” means the relevant different classifications of attainment for the different qualifications awarded by a higher education provider.

() All information specified under subsection (2) shall be provided according to the course being applied to or undertaken.”

Requires institutions to provide the OfS with, and to publish, a number of additional figures relating to the participation of students and their attainment.

Amendment 164, in clause 9, page 6, line 16, at end insert—

(4) Information provided to the OfS and published in accordance with the transparency condition shall be passed to UCAS for publication.”

This amendment would enable data being published by universities to be collated and available in one place.

Wes Streeting: Mindful of time, I will introduce the amendments by simply pointing out that they reinforce one of the goals of the Bill by bringing some welcome transparency in a number of key areas.

First, there is the proposed requirement for the governing body of a registered higher education provider to publish its policy in relation to contextual admissions, including school performance data, socio-economic markers and care background, on its website and in its prospectus, so that applicants can be aware of how they will be judged and the measures that any institution is taking to ensure that it is giving appropriate regard to ensuring fair access to students from all backgrounds on the basis of talent, and recognising the particular hurdles that talented students may have had to overcome to reach the point of accessing higher education.

The amendments would also extend the transparency condition to include retention rates, standards obtained and graduate destinations, and require that the information is published for each academic department. One of my key frustrations is that some universities that have further to go in ensuring fair access to higher education are sometimes reluctant to go the extra mile to ensure that their doors are truly open on the basis of merit. Another group of institutions is equally frustrating: those which claim to be widening participation success stories because, to put it crudely, they get bums on seats from under-represented backgrounds, but which, when their retention and graduate destination data are examined, fall significantly short of what students, families and those who care about them would expect when they enter a higher education course.

Institutions cannot keep on claiming to be adding value if all they are doing is adding debt to students from under-represented, often indebted and impoverished backgrounds, leaving them with only a partial experience of higher education or work in a job that they would not have imagined when embarking and choosing to get themselves into tens of thousands of pounds of debt. We need greater transparency of information for students and applicants and greater accountability for institutions. I hope these amendments will help to serve that purpose.

Gordon Marsden: I support the amendment. I will also speak to amendments 153, 155, 154 and 152, which stand in my name. These amendments are supported and promoted by the National Education Opportunities Network, whose research in this area, published jointly with UCU under the aegis of their highly effective chief executive Graeme Atherton, I referred to earlier. What they say on this area is important and mirrors what my hon. Friend has just said.

The transparency duty is to be welcomed but there is a serious oversight in restricting the categories that HEIs have to publish information on participation to the ones in subsection (2)(b)(i) to (iii). There is no valid reason why data on students with disabilities and the age profile of students should not also be included. That is reflected specifically in amendment 155, where we ask for the insertion of data on students with disabilities, the age profile and care leavers. The issue of care leavers has recently come up in other aspects of Government policy. Ministers in the Department for Education have been strong on supporting care leavers and we think that category would be an important addition to the list, even though it is a relatively small and modest group.

If the transparency duty is to have any impact, it needs to include as many different dimensions of participation by social background as possible. The Sutton Trust, too, believes that the Bill does not go far enough in that area. It says that transparency is fundamental, but continues:

“evidence suggests many universities are favouring more privileged candidates even when levels of attainment are taken into account... The Bill should be amended to require universities to publish their contextual admission policies clearly on their websites to encourage applications from students from disadvantaged backgrounds.”

It is in that context that we tabled amendment 155. We urge the Minister not just to consider the addition of those categories, but also the arguments that NEON,

[Gordon Marsden]

the Sutton Trust and others have put forward for greater disclosure and greater requirement to disclose from HE providers.

Dr Blackman-Woods: I support the amendments in the name of my hon. Friends and my own amendment 164. This is a straightforward amendment to clause 9 which, in the first instance, seeks clarity from the Minister. I am not sure whether under subsection (2) the OFS will have to publish the information provided to it by higher education providers, or whether it is simply the institutions themselves that will have to do so. If it is the institutions themselves, it would be helpful if all the information was collated in one place. UCAS seems to be the obvious place to do that, if it is not the OFS. The point of the amendment is to ensure that somewhere, either through the OFS or UCAS, all the information is provided in one place. That would be much easier for the sector at large and for prospective students, rather than people having to trawl through every higher education provider's publication.

Paul Blomfield: Amendment 176, which stands in my name, seeks granular information to assist the Government's own ambitions in relation to the achievement of both applicants and those who are at different stages of the process through higher education. In the past, so much of our debate has been focused simply on getting people to university. The Government are right, in their ambitions for widening participation, to be looking not only at that but at how people achieve and are supported through their time at university. In that context we are looking for a requirement to publish further information, not just on those who have accepted offers, but those who accepted an offer and then did not begin their course; accepted an offer but did not complete their course; or accepted an offer and completed their course but with different levels of attainment. I expect the Minister agrees that that sort of information will help the pursuit of our shared objectives in relation to widening participation, so I hope he feels able to accept the amendment.

Joseph Johnson: This Government are serious about social mobility and improving the life chances of the most disadvantaged. We want a country that works for everyone. Following our decision to remove student number caps, we have seen entry rates for BME students at record levels, with participation rates up across all groups, including those from disadvantaged backgrounds.

Universities are already playing their part and they are expected to spend £833 million on access agreements in the 2017-18 academic year, as I have mentioned, but we recognise that there is more to do, which is why we have a transparency duty in the Bill. We believe that transparency is one of the best tools we have at our disposal. Institutions will be expected to publish application, offer and drop-out rates for students broken down by ethnicity, gender and socio-economic background. The duty will allow us to shine a spotlight on institutions that need to go further.

Amendment 19 would require the publication of contextual data. It is not easy to set out what weight is attached to that sort of information against a personal

statement or an interview, in what are typically holistic assessments of an individual's application. Amendment 21 relates to the transparency condition applying to all registered providers. Throughout the Bill we have tried to take a proportionate approach. We think that the condition should apply only to providers whose students benefit from access to public funds. We know that diversity in admissions is largely an issue at the most selective institutions. The requirement is already captured by the condition in the Bill that applies to providers whose students can claim tuition fees.

5 pm

Amendment 22, 23 and 24 are about reporting on retention, standards and graduate destinations at departmental level. I agree that making that type of information available is incredibly important. Many of the data are either already available in the public domain or will be made available in the future through our planned reforms. Subsection (2)(e), for example, requires providers to report on retention rates. Providers already send the Higher Education Statistics Agency information on the level of student achievement, and that is published annually. Information on graduate destinations and retention is already included in HEFCE's Unistats' key information sets, through the destination of leavers from higher education survey—the DLHE as it is known—which provides information at subject level on the rates of employment of students six months after graduation.

More generally, the teaching excellence framework—TEF—will make clear to prospective students the quality of teaching they are likely to receive and their potential career prospects. We have incorporated retention and the DLHE as core metrics in the teaching excellence framework. Discipline-level assessments in year 3 will provide more relevant information on faculties and departments. We are working with HEFCE to decide how the TEF data can be collected and published. That will ensure that the TEF framework encourages higher education providers to focus on helping their students into employment and on meeting their employment, as well as their education-related, goals.

Turning to amendments 153, 154, 155 and 176, individually there are good cases for various additional categories, but we must ensure that the data are available and robust and that the information, when presented to prospective students, is digestible. The transparency condition requires each provider to publish, at a minimum, application, offer and completion rates broken down by gender, ethnicity and socioeconomic background. That is not an exhaustive list; providers can choose to publish information on additional categories if they wish. It is also important to remember that some applicants might choose not to disclose their disability or care leaver status or their family income, for example. Those are personal matters and the data, being self-declared, might not be wholly reliable. Let us not lose sight of the fact that these are minimum requirements; universities may go further. There will be flexibility to do more in the future, and I will reflect on the comments made by members of the Committee.

Moving on to amendment 152, it is right that Parliament should have access to the information, and it will. For example, the information will be made publicly available via institutions' own websites. On amendment 164, UCAS can choose to publish transparency information once the OFS and the institutions have done so. However,

the Government cannot rely on UCAS fulfilling that important function, which is why we are requiring institutions to make the information available themselves.

For all those reasons I ask that the amendment be withdrawn.

Dr Blackman-Woods: Why can the Minister not ask institutions to forward the data to UCAS, which would make it much easier for it to then collate and publish them?

Joseph Johnson: We can certainly consider that, but as things stand we could not rely on UCAS publishing the information, which is why we are requiring universities to do so.

Wes Streeting: I am grateful for the Minister's response and the assurance that he will consider the issues raised more fully, both in the context of the Bill and of broader Government policy. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 8 ordered to stand part of the Bill.

Clause 9

MANDATORY TRANSPARENCY CONDITION FOR CERTAIN PROVIDERS

Wes Streeting: I beg to move amendment 6, in clause 9, page 6, line 14, at end insert—

() The OFS must ensure that the ongoing registration conditions of each private registered higher education provider include a condition that a student's union be established, where "student's union" has the same meaning as in section 20 of the Education Act 1994."

This amendment would extend the provisions of the 1994 Education Act to require private providers to have a student's union as an ongoing condition of registration.

Amendment 6 would extend to private providers the provision of the Education Act 1994 that requires institutions to have a students union. Since their inception, students unions have played a powerful role in providing real value to the student experience in various ways. They have a representative function, which we have alluded to in discussions about student representation in other parts of the Bill. They also offer broader welfare provision and support for individual students. They run campaigns on a variety of issues, whether physical health, mental health, academic wellbeing or study skills. A huge amount of volunteering takes place in students unions. All those things enrich the institution and individual students unions.

Alex Chalk (Cheltenham) (Con): The hon. Gentleman is making a powerful case on the role of students unions, which do valuable work, but should it not be a matter for students to decide whether they wish to constitute themselves, rather than that being imposed by diktat?

Wes Streeting: That is an interesting thought. Perhaps the Government might consider arrangements that would make it easy to set up a students union. My understanding is that the definition of a students union in the 1994 Act is so broad that it favours students. Simply coming together and having some degree of representative function

or, indeed, an institution setting up a representative function might constitute a students union as defined by the Act. It is not clear, however, whether that provision would extend to private providers.

For example, if a new university of Ilford North were set up—it would have to pick the right bit of Ilford North, so that it did not find itself in a different constituency—and I enrolled as a student, I might want to join a students union and find that there was not one. I then approach the institution to set one up, but the answer is fairly negative. Perhaps the new provider does not want to provide a block grant for a students union or the time and space in the governing body agenda to constitute a students union. There could be myriad reasons why providers might object.

I think that students unions are part and parcel of the higher education student experience. That is not just the stereotypical student experience of full-time undergraduate students of a certain age; there are many examples of student representative bodies that have constituted themselves and played an effective role through a range of modes of delivery. The Open University Students Association, for example, is not a traditional students union in the sense of a campus, because the Open University is not a traditional university in that sense, but it has an active and effective students union that is able to represent and advocate for its members. Other part-time institutions, such as Birkbeck, are in the same position.

I would like to ensure that students unions, which are a central part of the student experience, are a central part of every student experience at every institution. They benefit not only individual students, but institutions. We should celebrate the role of students unions and enshrine them in the private part of the higher education sector through the mechanism of this amendment.

Joseph Johnson: Amendment 6 would mean that private higher education providers must have a students union to remain on the OFS register. There is nothing in the Bill or current legislation to prevent an HE provider, private or otherwise, from having a students union, and no higher education provider is currently required to have a students union.

As the hon. Gentleman made clear, students unions provide valuable welfare services to their members, but a students union, as defined in the Education Act 1994, is not the only way in which students can be supported by their higher education institution or be engaged in decision making. Alex Proudfoot of Independent Higher Education, formerly Study UK, told the Committee during the evidence sessions:

"Students at alternative providers tend not to engage in formal students unions; they tend often to be professionals or mature students or to have responsibilities outside their studies. For that reason, it is difficult to require representation, but it should be encouraged."—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 7, Q2.]

Paul Blomfield: Does the Minister agree that Mr Proudfoot's description of the sort of students who are likely to be attracted to alternative providers describes exactly students at the Open University? Does he agree that the Open University Students Association enriches the experience of its students and the work of the Open University?

Joseph Johnson: Students at the Open University have, over time, made the choice to form a students union that represents their interests, but it is horses for courses. We want the current system, which is liberal and permissive, to continue because it is working well. Where students unions can organise themselves and demonstrate that they are adding value to student body, by all means they should come into existence. The current legal framework allows them easily to do so.

Gordon Marsden: I do not think that all Opposition members of the Committee would accept the Minister's claim that it is usually working well. There are lots of smaller institutions where students feel very excluded from the policies and practices of the providers.

Joseph Johnson: For that reason, where there are issues, students will welcome the provisions in the Bill which put their interests at the heart of the system and make sure that their voices are better represented in all the system's structures.

Although these representative structures often do not mean or necessarily entail a formally constituted union, they reflect the different culture and constituents in different student bodies. For example, it may be a group of representatives from across different classes and courses led or chaired by a student president.

The "Higher Education Review (Alternative Providers)" is the QAA's principal review method for alternative providers. As part of the higher education review, an independent provider must provide evidence of how it is meeting the QAA's expectations on student engagement. The UK quality code focuses specifically on student engagement, so the provider must evidence how it is meeting the QAA's expectations in that respect. The code states that through the "Higher Education Review (Alternative Providers)" process, higher education providers must demonstrate how they

"take deliberate steps to engage all students, individually and collectively, as partners in the assurance and enhancement of their educational experience."

Providers must also work with students to produce an action plan on how to respond to HER recommendations. QAA-reviewed independent providers will have student representatives on their various committees, including some, but not all, at board level.

The amendment would impose a mandatory condition on private providers. The Bill does not impose a similar mandatory registration condition on institutions receiving public funding. The amendment would not only impose a new regulatory burden on alternative providers but would run contrary to our aim of levelling the playing field between traditional institutions and alternative providers.

Wes Streeting: If the Minister's objection is that the amendment is too prescriptive, would he be inclined to support a more permissive amendment that simply extends the definitions and provisions of the Education Act 1994 to private providers, namely that students organise themselves as defined under the 1994 Act and that a students union would need to be constituted?

Joseph Johnson: As I said earlier, there is nothing in this Bill or current legislation to prevent a higher education provider, private or otherwise, from having a students

union. We want this to be voluntary, not mandated by diktat, as my hon. Friend the Member for Cheltenham said.

I welcome the eagerness of the hon. Member for Ilford North to ensure that all students unions are covered by the governance and transparency arrangements set out in the Education Act 1994. I welcome the positive, important role that students unions can play, but I reassure him that the power already exists in the 1994 Act to extend the provisions to students unions in private providers and I therefore urge him to consider withdrawing his amendment.

Wes Streeting: I have listened to what the Minister has said but I am not minded to withdraw the amendment. I think that this is an important principle and while I have some sympathy with his point about prescription, the Education Act 1994 gives any student the ability to opt out of a students union, so it would not be compulsory for individual students to be members of a students union. I think he underestimates the difficulty facing any group of students in establishing a students union from scratch in circumstances where the institution is not minded to host a students union. I think the prejudices of private providers were demonstrated by Mr Proudfoot's evidence to the Committee and the assumption that because people have jobs, because they are mature students or because they have caring responsibilities, they would therefore not be interested in being involved in a students union, but if we look at institutions such as Birkbeck and the Open University that has not been the case.

Students with a full-time job who are studying around their work or who have caring responsibilities are often among the most demanding, or most in need of higher education institutions delivering what they say they do, and would benefit from effective student representation. I am not minded to withdraw the amendment and I think that the Government should think about introducing a more permissive amendment to make it easy to extend to private providers the principles and the practice of students unions, and the responsibilities on students unions that come with the Education Act 1994.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 10.

Division No. 5]

AYES

Blackman-Woods, Dr Roberta	Smith, Jeff
Blomfield, Paul	
Marsden, Gordon	Streeting, Wes

NOES

Argar, Edward	Johnson, Joseph
Chalk, Alex	Kennedy, Seema
Churchill, Jo	Milling, Amanda
Evennett, rh David	Morton, Wendy
Howlett, Ben	Pawsey, Mark

Question accordingly negatived.

Clause 9 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—(David Evennett.)

5.18 pm

Adjourned till Thursday 15 September at half-past Eleven o'clock.

Written evidence reported to the House

HERB 32 The British Academy for the humanities and social sciences

HERB 33 University and College Union

HERB 34 UNISON

HERB 35 University English and the English Association

HERB 36 Sean Wallis, University College London, and Dr Lee Jones, Queen Mary University of London

HERB 37 Wellcome Trust

HERB 38 Warwick Students' Union

HERB 39 defenddigitalme

HERB 40 Shirley-Anne Somerville MSP, Minister for Further Education, Higher Education and Science, Scottish Government

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

Seventh Sitting

Thursday 15 September 2016

(Morning)

CONTENTS

CLAUSE 10 agreed to, with amendments.

SCHEDULE 2 agreed to.

CLAUSES 11 and 12 agreed to.

CLAUSE 13 under consideration when the Committee adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 19 September 2016

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The Committee consisted of the following Members:

Chairs: SIR EDWARD LEIGH, † MR DAVID HANSON

- | | |
|--|--|
| † Argar, Edward (<i>Charnwood</i>) (Con) | † Milling, Amanda (<i>Cannock Chase</i>) (Con) |
| † Blackman-Woods, Dr Roberta (<i>City of Durham</i>) (Lab) | † Monaghan, Carol (<i>Glasgow North West</i>) (SNP) |
| † Blomfield, Paul (<i>Sheffield Central</i>) (Lab) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| † Chalk, Alex (<i>Cheltenham</i>) (Con) | Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP) |
| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Evennett, David (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Rayner, Angela (<i>Ashton-under-Lyne</i>) (Lab) |
| † Howlett, Ben (<i>Bath</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Johnson, Joseph (<i>Minister for Universities, Science, Research and Innovation</i>) | † Streeting, Wes (<i>Ilford North</i>) (Lab) |
| † Kennedy, Seema (<i>South Ribble</i>) (Con) | † Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Marsden, Gordon (<i>Blackpool South</i>) (Lab) | † Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| | Katy Stout, Glenn McKee, <i>Committee Clerks</i> |
| | † attended the Committee |

Public Bill Committee

Thursday 15 September 2016

(Morning)

[MR DAVID HANSON *in the Chair*]

Higher Education and Research Bill

11.30 am

The Chair: Before we commence proceedings this morning, let me say that I am aware that this room varies between warm and very warm. We are trying our best to find the most accommodating solution to make it cool and reasonable for all of us, but we may not succeed. In the meantime, please be aware that I am having discussions about how we can resolve that.

Gordon Marsden (Blackpool South) (Lab): On a point of order, Mr Hanson. In previous sittings the Minister made reference to a document that he thought members of the Committee were aware of. In fact, the colleague in question was not aware of it and nor were most of the rest of us, because the document was not placed in evidence before the Committee. It is a convention—perhaps you will guide me on this—that when Public Bill Committees are sitting, any documents, new statements or important letters that the Minister or his officials may put out in matters to do with the Bill are made available to the members of the Committee as soon as they are ready. They should also be made available at the table for the relevant Committee sittings. I know the Minister is a naturally courteous man, so I am sure this is an oversight, but could this be made clear for future reference?

The Chair: I thank the hon. Gentleman for his point of order. It is normal practice for Ministers to table documents in advance of their being spoken to in Committee. In normal circumstances, I would expect all documents to be circulated to Members prior to the sittings in which they may be referred to. I am not aware from memory whether the document that Mr Marsden refers to has been tabled. Perhaps the Minister will respond to that point.

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): I am happy to do so, Mr Hanson. I appreciate there is a lot of material that Committee members have been sent in preparation, so I understand why the document might have slipped the hon. Gentleman's attention.

Gordon Marsden *rose*—

The Chair: Order. Please allow the Minister to complete his comments.

Joseph Johnson: We did send the technical note to which I referred: "A technical note on market and quality assurance". It was sent to the Committee on

5 September, along with my welcome letter. I recirculated it yesterday, along with a new information note that we are publishing to assist the Committee on a topic that we will be discussing shortly in relation to student protection plans. Both notes are available on the table in the corner of the room; they are also in the Library and online. As a matter of courtesy, should we publish further information notes in future, we will follow exactly the same practice and ensure the Committee has them in advance of debating them.

The Chair: I am grateful to the Minister for his explanation. It appears that in this case, among the myriad information sent, this document was sent.

Dr Roberta Blackman-Woods (City of Durham) (Lab): Further to that point of order, Mr Hanson. I found the document on the Department for Education's website, but it was quite difficult to locate. I checked and rechecked and I certainly did not receive it via email. However, the clarification this morning has been incredibly helpful and I am sure we will be able to access documents more readily in future.

The Chair: I am grateful to the hon. Lady. Whether Members received the document or not, the Minister's intention was to send it. As explained, the normal practice is to give advance notice of any documents that are referred to in Committee. We can leave it at that if Members are content.

Clause 10

MANDATORY FEE LIMIT CONDITION FOR CERTAIN PROVIDERS

Dr Blackman-Woods: I beg to move amendment 177, in clause 10, page 6, line 28, at end insert—

"(c) in respect of condensed courses or innovative methods of delivery, where the number of applicable years of a course is reduced from normal three year period."

This amendment would allow fees for a 3 year degree to be charged over 2 years to allow for greater funding flexibility.

It is a pleasure to serve under your chairmanship again, Mr Hanson. We might be in for another hot day in more ways than one. I stress at the outset that this is very much a probing amendment. The Minister will be aware that we received some evidence, particularly from private providers but also from others, that universities have not been as innovative as they could be, particularly with regard to course structures and methods of delivery. One of the reasons MillionPlus and the University Alliance gave for the lack of innovation was that the fees and loans structure is too rigid and does not allow universities the flexibility they need to be able to offer, for example, a three-year course over two years. Does the Minister think that is an accurate assessment of the current fees and loans regime? If it is, what does he think can be done to make the regime much more flexible, to enable universities who want to encourage more part-time and mature students with different modes of delivery to provide that?

Joseph Johnson: I thank the hon. Lady for tabling the amendment, because it gives me a chance to express our support for her underlying intention to encourage more innovation and a wider variety of provision in the sector. As I have indicated, the Government are wholly in agreement on the need for that and we are actively encouraging it in all our reforms of the higher education system. We do want to encourage more accelerated and flexible provision—in fact, that was a specific manifesto commitment at the 2015 election.

The Bill, as we have discussed before, will help us towards our goals by levelling the playing field for high-quality new entrants, making it easier for new specialist and innovative providers to enter the sector. Accelerated degrees are a particular strength of new and alternative providers, and they will help us to ensure that students can access learning in the form that suits them. I can give a few examples: Buckingham, BPP, Condé Nast College of Fashion & Design—it gave evidence before us—and Greenwich School of Management are all the kinds of newer institutions that offer students the opportunity to complete an honours degree over two years, meaning that the student incurs less debt and can enter the workforce more speedily having completed the same amount of study.

We are determined to do more to support flexible provision and that is exactly why we issued a call for evidence earlier in the summer, seeking views from providers, students and others. That resulted in more than 4,000 responses, the vast majority of which, as the hon. Lady may expect, came from individual students. We were delighted to see that level of engagement. Many of the students expressed an interest in exploring the idea of pursuing an accelerated degree, so, as she identified, this is clearly an important issue.

We certainly sympathise with the underlying intention of the amendment. We believe the Bill will help ensure more students are able to choose to apply for accelerated courses. We are currently analysing the full range of the many responses we received to our call for evidence. I assure the hon. Lady that we expect to come forward with further proposals to incentivise the take-up of accelerated provision by the end of the year. On that basis, I ask her to consider withdrawing her amendment.

Dr Blackman-Woods: That was a very positive response from the Minister, although he did not clarify whether we might get something at later stages of the Bill or whether it will come after the Bill has completed its passage through Parliament. I am reassured that the Government are looking to see what they can do to help not just new entrants, but all universities to deliver their courses more flexibly. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Joseph Johnson: I beg to move amendment 29, in clause 10, page 6, line 36, after “means a” insert “higher education”.

This amendment and amendments 30 and 31 ensure that the courses which can be subject to the fee limit registration condition in clause 10 are confined to higher education courses - but excluding postgraduate courses which are not courses of initial teacher training. “Higher education course” is defined in clause 75(1) as a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

The Chair: With this it will be convenient to discuss Government amendments 30 and 31.

Joseph Johnson: These three small amendments clarify that only higher education courses can be subject to a fee limit registration condition under clause 10. The definition of a higher education course is in clause 75(1), which sets out various definitions for the purposes of part 1 of the Bill. Clause 10 already provides that, for the purposes of fee limits, a “course” and, as a result of these amendments, a “higher education course”, does not include any postgraduate course other than one of initial teacher training. The changes simply clarify that the scope of the clause is confined to higher education courses.

Amendment 29 agreed to.

Amendments made: 30, in clause 10, page 6, line 37, after “of” insert “higher education”.

See the explanatory statement for amendment 29.

Amendment 31, in clause 10, page 7, line 2, leave out “course” and insert “higher education course”.—(*Joseph Johnson.*)

See the explanatory statement for amendment 29.

Clause 10, as amended, ordered to stand part of the Bill.

Schedule 2

THE FEE LIMIT

Question proposed, That the schedule be the Second schedule to the Bill.

Gordon Marsden: I used the phrase “Hamlet without the prince” in an earlier session. I find it quite astonishing that the Minister is either so supremely confident in the clarity of schedule 2, or so contemptuous of the need for it to be debated, that he did not speak to it. This may not be Hamlet without the prince, but there is an issue that dare not speak its name, certainly in the context of the Bill: the relationship of fees to quality. It is not exactly the issue that dare not speak its name, because although clause 25, which we will debate later, does not in any shape or form contain the dread phrase “teaching excellence framework,” it contains a form of words that might, if one were lucky, lead one to the conclusion that it has some connection with that, in the same way as it might have enabled my hon. Friend the Member for City of Durham to find the thing that she was trying to find on the Department for Education website.

11.45 am

Unfortunately, the Minister and the Department have form here. The devil is always in the detail, but the devil is also always in procedure. By not putting the teaching excellence framework in the Bill in any shape or form other than the rather oblique way it is dealt with in clause 25, they have done their best to truncate any broad discussion of its merits or demerits or any attempt to address any of the significant concerns that have already been expressed.

It is all very well for the Minister to shake his head, but he had the opportunity to stand up and make some form of statement on schedule 2 and he did not. If he wishes to intervene and tell me why the schedule does

not refer in any shape or form to the teaching excellence framework despite talking about high quality ratings, which is one of the elements of the teaching excellence framework and was one of the bases for putting that forward so strongly in the White Paper, I am more than happy to give way.

Joseph Johnson: The hon. Gentleman is kind to invite an intervention. We are extremely committed to the teaching excellence framework, which was a manifesto commitment and the centrepiece of our Green Paper and White Paper, and which we discussed extensively in the evidence sessions. The framework is described clearly in clause 25 as a system for providing ratings to English higher education providers. I am looking forward to discussing it extensively whenever he wishes.

Gordon Marsden: Well, I hope that the Minister might wish to discuss the framework in terms of schedule 2, because that certainly has implications for it. Schedule 2 introduces the whole area of the fee limit and fee regime and deals with high level quality ratings and circumstances in which the provider has no access and participation plan. There is a mass of stuff that we could talk about.

Tucked away right at the end of this rather dry schedule is a section on procedure, which of course deals with the procedures for increasing tuition fees. If hon. Members wish to turn their attention to the dry page in question, it is page 70, line 30 onwards. The schedule deals there with fee increases and the basis on which those will take place in relation to paragraph 2, which deals with ways in which fee limits can be set and all the rest of it. That is all the detail of the thing.

It is curious that the schedule goes into all that detail, because the Minister announced major increases in tuition fees for 2017-18 in a written statement that was published on the last day before the summer recess along with 29 other written statements, which in the view of the press—these are not my words—were “smuggled out”. That was a matter of some debate on the last day of term, and suggests that he is very tentative about discussing this issue.

Joseph Johnson: I want to pick up on the hon. Gentleman’s use of the term “major increases”. Does he acknowledge that we are in fact simply allowing the real-terms value to be maintained? There is no real-terms increase. Does he understand that?

Gordon Marsden: When I referred to a major increase, I was not commenting on the specifics of the percentage; I was talking about the fact that it will affect all students. Neither the Minister nor, as far as I am aware, anyone from his Department has seen fit to comment on the issue, but over the summer a number of universities have taken the confirmation in the written statement as a green light to put up fees not simply for those who enrol in 2017-18, but for those who already have a loan. There was some discussion in the media—again, I do not think the Minister took part in it—about whether, for example, a reference to the potential for fees to go up on the University of Exeter’s website constituted a good enough broadcasting of the issue. This will have a retrospective impact on students at a number of universities, and it has come about on the back of the way in which the Minister chose to announce the process.

If I remember correctly, when the Minister and his colleagues were pressed on the process, they said that they were doing it in accordance with the requirements of previous legislation. It is curious—I put it no more strongly than that—that when it suits him to smuggle a measure out in a statement on the last day of term, he prays in aid legislation that is more than a decade old, but when it comes to this thing, it is referenced in the context of the main Bill but without our being told anything more about the teaching excellence framework that will enable fees to go up.

Dr Blackman-Woods: My hon. Friend is making a very important and powerful point. Does he agree that the situation is becoming even more complicated because now, we understand, there will be a link between fee increases and the TEF results, but the Government are not being clear about what the uplift in fees can cover? One would assume, as there is a link between the TEF and the fee level, that it would be to support the quality of provision within institutions, but we understand that that uplift in fees might be used to fund secondary school education, requiring students to fund not only their own education but that of secondary school students.

Gordon Marsden: My hon. Friend, indefatigable as ever, makes an excellent point. I will not dwell on the issue to which she refers. It was part of the substance of the Prime Minister’s speech, and a lot of it was in the statement made by the Secretary of State for Education the other day, so I will not go into any detail on it other than to observe that my hon. Friend is absolutely right: if universities are to take on a significant, major role—there can be lots of discussions about how that is done, the value of it and all the rest—inevitably that is another element that will call upon their resources.

Jo Churchill (Bury St Edmunds) (Con): I would like to try to understand where the Labour party is on this matter. If we are not allowed to build in for inflation, what do we do? For example, I believe fees have now dropped back to £8,500 in real terms. We are merely building in inflation proofing, so that universities can think about how they invest in relation to the teaching excellence framework and invest for students by delivering courses of quality. What do we hear from the Opposition? At the general election, the then Leader of the Opposition was talking about taking fees down to £6,000, and I think that the latest policy is for university education to be free. We have to pay for excellence and quality.

Gordon Marsden: I thank the hon. Lady for her extremely eloquent intervention. Perhaps it will set a trend for Government Members to speak on some of these very important clauses. I am sure that their constituents would like to know that the hours that they spend in the Committee Room, which inevitably are taken from other things, are rewarded by their saying something about the Bill. So far, we have not heard much from them.

The hon. Lady’s intervention enables me to make two points. First, I remind her gently that she is a Member of the Government party, and it is the Government who are advancing these proposals. It is not a question of what the Labour party may or may not have promised.

The Lord Commissioner of Her Majesty's Treasury (David Evennett): That's a bit feeble.

Gordon Marsden: I remind the Whip that, constitutionally, the point of an Opposition is to hold the Government to account for their legislation, not simply to engage in a running commentary. Government Members have been pricked by our pointing out that the Minister is trying to introduce these measures without proper discussion.

Alex Chalk (Cheltenham) (Con): Of course it is the Opposition's job to oppose, but the public want to know whether they are being hypocritical while they do it. The fact is that it was Labour that enshrined the power to uprate tuition fees. This measure is about ensuring that students get value for money.

The Chair: Order. Before we continue, I remind colleagues, first, that Members are not hypocritical in any way, shape or form, and secondly that we are debating schedule 2. Within schedule 2, there are references to clause 25, but we will get to clause 25 in due course, so we should restrain our comments to the mechanisms in schedule 2. That is a gentle reminder to colleagues.

Gordon Marsden: I am grateful to you, Mr Hanson. Although schedule 2 and clause 25 are closely enmeshed, I will do my best to observe your strictures.

Both the Conservative Members who intervened—maybe we can get everybody up before the end of the sitting—are missing the point. I am talking about the procedure—about the dichotomy between the procedure that the Minister is proposing today, but that he has not wanted to talk about, and the procedure that he and his colleagues employed before the summer recess to get the inflation-based element through.

Without straying into clause 25, I remind the Minister and his colleagues of what they said in the past and the basis on which the TEF was presented to this House. I am not saying the Minister did not have lots of discussions. He listened to the university sector, which was absolutely manic about the idea that it would have to produce lots of stuff for the first year of the TEF's operation, and he said, "We'll do it on the basis that you—the universities and higher education institutions—are essentially given a clean bill of health, which will enable you to implement an inflation-rated scheme". That is what we are talking about: the dichotomy between those two things.

Joseph Johnson: The hon. Gentleman seems a bit baffled by procedure. I remind him that we are using the same provision that the Labour Government introduced in 2004 so that universities do not suffer an annual erosion in real terms of their income.

Gordon Marsden: The Minister is desperately trying to set up a whole series of straw people in order to get away from the essential elements of the arguments in the case. He is praying in aid what was set in legislation in 2004, when tuition fees were not £12,000; they are now set to increase from £9,000 to £12,000, possibly by the end of this Parliament. I am merely drawing attention to the dichotomy, which the Minister is clearly uncomfortable with, between the careful way in which he now wishes to place this proposal into legislation and the fact that he has had to rely on that mechanism.

My other point—I do not want to stray outside the schedule, but it is relevant—is that only two days before that statement, we had the Second Reading debate on the Bill. Even the most pedantic and pernickety of Ministers might have thought it was useful, in the context of the Bill, to talk about the teaching excellence framework, the impact it would have on fees and, in that process, to say, "Of course, I refer the House to the increase that I suggested might happen," but at which point he had not moved.

12 noon

Joseph Johnson: I remind the hon. Gentleman, as the contents of the White Paper seem to have eluded him on other occasions, in particular in respect to the widening participation statement we discussed on Tuesday, that the White Paper clearly set out that our policy for maintaining fees would be that they could increase with inflation. This was not a secret. We had announced it prominently in our White Paper.

Gordon Marsden: The question of what is or is not a secret is a matter for a lot of discussion, no doubt. What is not a matter for discussion is the fact the Government did not put the mechanism for this increase in the Bill until the last day before the summer recess started. In my view, they did that quite deliberately in the hope it would be smothered in public interest by the other 28 statements that went round. It is a common practice of Governments to do that, but it is reprehensible. It is particularly reprehensible when we now know that the consequences of it are that a number of universities have implemented it for existing students, and not simply for students enrolling from 2017-18.

As this subject is clearly irritating and frustrating the Minister quite a lot, I will move on to talk about the issues that affect the relationship between teaching quality and fees. We are going to talk about the detail of the TEF in regards to clause 25, so again I will comment in more general terms. The National Union of Students has made it clear that it firmly opposes statutory links between teaching quality and the level of fees being charged for that teaching. My hon. Friends and I made that clear on Second Reading. I remind colleagues of what I said in the summer Adjournment debate, when I came to inform the House that this had been done in what I regarded as an irregular manner. I said:

"I think that the way the Government have dealt with this matter is thoroughly reprehensible... We engaged in a vigorous discussion"

on the Bill, as to

"whether it was right to link fees to the Teaching Excellence Framework, but at no time during that process did Ministers take the opportunity to say anything about the issue."—[*Official Report*, 21 July 2016; Vol. 613, c. 1056.]

I am saying that today because I want it to be put on record that we are talking about the discrepancy in procedures.

It is a question not just of increasing the fees, but of increasing the loans by 2.8% to match that increase in fees. That will have all the knock-on effects on students from disadvantaged backgrounds. Apart from the principled point that the NUS is making, as the Minister knows there is at least a degree of scepticism about the outcome for universities of linking the TEF with tuition fees, and

[Gordon Marsden]

scepticism on the part of one or two or them about linking it. Inevitably, however, students are on the hard end of this and they want to know what the evidence is for the measure.

The NUS rightly says:

“Since tuition fees were trebled in 2012, there is no evidence” as a direct result of that process “to suggest that there was a consequential improvement in teaching quality.”

It goes on to say that, broadly,

“There has been no change in student satisfaction with the teaching on their course, while institutions have instead been shown to spend”

in many cases

“additional income from the fees rise on increased marketing materials rather than on efforts to improve course quality.”

We will want to return the question of what this money will be used for when we talk about the obligations laid on new providers. Of course, if they sign up for the full-fat version of the fees, they will have to abide by the teaching excellence framework as well.

Mark Pawsey (Rugby) (Con): Does the hon. Gentleman accept that the ability to increase fees based on improving excellence is a massive incentive for institutions to do exactly that, by putting on better courses?

Gordon Marsden: There we have it—the consumer-obsessed view of Government Members. That is not to say the consumer element is not an important part of the Bill—it is—but they are obsessed with the idea that consumerism and competition are the be-all and end-all of the way in which these fees will be raised and judged by university students. Actually, there is a very strong case for saying—a number of universities have already said it in their evidence—that linking the TEF with fee increases is pernicious because there is no evidence base that it will improve quality and because of its controversial nature. Certainly this year the Government have allowed an inflation-rated increase of 2.8% that is not linked in any meaningful form—this is no criticism of higher education institutions—with any major evidence of teaching quality improvement.

I think back to the general election of 1918, when Lloyd George famously issued a coupon to candidates to say that they were bona fide and to be voted for. The way in which the Government have tried to take this forward reminds me of that.

The Chair: Order. May I remind the Committee gently that we are debating schedule 2? While a range of issues are linked to it, we are debating the words on pages 68, 69 and 70 of the Bill. I would be grateful if Members could focus on schedule 2, because other issues will arise in the course of the debate on later clauses.

Gordon Marsden: Thank you, Mr Hanson. I merely remark that there are a whole range of other issues around what the teaching excellence framework needs to do for students and institutions, and no doubt we will have the ability to discuss those further when the Minister speaks eloquently on clause 25.

Joseph Johnson: The hon. Gentleman seems to have forgotten that he was once fully committed to the principle of funding on the basis of quality. May I remind him of what he said in 2001, when he was younger and wiser?

David Evennett: Not as long ago as 1918!

Joseph Johnson: The hon. Gentleman said very clearly:

“We must reassess the balance between teaching and research... The HEFC should seriously consider incorporating a teaching quality assessment exercise in the RAE”.—[*Official Report*, 8 November 2001; Vol. 374, c. 170WH.]

That implies we fund teaching on the basis of quality just as we fund research on the basis of quality, which is precisely what we are doing.

Gordon Marsden: That is clutching at straws, but I stand by what I said in 2001. If the Minister will permit a mild compliment, I compliment the Government on grasping the nettle of increasing the way in which teaching, as a principle, is judged in relation to research. Many Labour Members have been banging on about that for years.

The Minister wants to go into history. When I was on the Education Committee in the 2000s, we questioned the then Labour Government vigorously about the research assessment exercise changes, and many of us on that Committee made the point that teaching excellence needs to be recognised and funded. There is no argument about us being in support of placing greater emphasis on teaching excellence. The argument is about whether we can save the Government from the consequences of their own folly. If the Government are not careful, they will taint the whole exercise through the cynical way in which they are using this simply as a coupon—I repeat the reference. That is precisely why a number of higher education institutions, including the University of Cambridge, have said that, and it is precisely why a number of Russell Group vice-chancellors—we will come on to this in clause 25—have shown themselves very lukewarm and sceptical about signing up to the TEF in the first place.

Ben Howlett (Bath) (Con): It sounds as though the hon. Gentleman is listening to other evidence than what we heard. He talks about evidence from the vice-chancellors, so let me quote one of the vice-chancellors who has given evidence. Ed Peck of Nottingham Trent University says:

“Linking increases in student fees to performance under the TEF is a further safeguard for students, one that has now been largely accepted by the sector.”

Is the hon. Gentleman calling the vice-chancellor of Nottingham Trent University cynical?

Gordon Marsden: No, I am not calling any of the vice-chancellors cynical. Obviously they will welcome any mechanism that will bring forth additional fee funding. The people I am calling cynical—is cynical an appropriate parliamentary expression, Mr Hanson? I mean no disrespect.

The Chair: I think it can be for today. [Laughter.]

Gordon Marsden: The people I am calling misguided certainly, and possibly cynical, are the Minister and his—[*Interruption.*]

Joseph Johnson: I am extremely concerned that the vice-chancellor of Cambridge has been misrepresented in the hon. Gentleman's comments. We heard in the evidence session, and he said very clearly in his evidence, that the way the Government was recognising teaching through the TEF was, in his words, "really good".

Gordon Marsden: The Minister is being very selective, of course. It depends on how we interpret the phrase, "the way". All I can tell the Minister—I will sift through the mountain of papers here—is that we have ample evidence in the written material given to the Committee and submitted before Second Reading from the University of Cambridge on that matter. [*Interruption.*] I will give way in a moment, but if I may just quote from what I said in the Second Reading debate, to refresh the Minister's memory:

"Long-established institutions such as Cambridge University have said quite straightforwardly that they do not support the link between the TEF and fees. Cambridge University states: 'it is bound to affect'"—[*Official Report*, 19 July 2016; Vol. 613, c. 718.] [*Interruption.*] I am sorry the Minister does not like it. It was the university's written evidence that was given to us all when we debated the Bill on 19 July—[*Interruption.*]

The Chair: Order. I know these issues do raise strong passions, but we have to have a debate where only one person speaks at once and that goes for heckling on both sides. If anybody is going to heckle, it is me. In the meantime, I call the hon. Member for Blackpool South.

Gordon Marsden: Right. I will continue. So that the Minister is in no doubt, Cambridge University stated in its written evidence to the Committee, in specific response to questioning on the link between the TEF and fees, that

"it is bound to affect student decision-making adversely, and in particular it may deter students from low income families from applying to the best universities".

All the passion and enthusiasm that the Minister quite rightly generates for improving access for students from low-income families is in danger of being torpedoed, according to the vice-chancellor of the University of Cambridge, because of the pernicious link that the Government have chosen to introduce between the TEF and the fee increase. If there is an argument for fee increases, let that argument be made separately.

Joseph Johnson: Will the hon. Gentleman give way?

Gordon Marsden: I will give way in a moment. Do not try and justify fee increases by referring to and using the teaching excellence framework in a way that, if we are not careful, will taint the whole process thereafter.

Joseph Johnson: I rise to bring to the hon. Gentleman's attention that there are many in the sector who can see that this will do exactly what he wants: it will enable universities to reinvest in teaching methods. I want to

draw to his attention the words of Professor Steve Smith, the highly respected vice-chancellor of Exeter University who said:

"At a time when our institutions face significant cost pressures the TEF presents us with an opportunity to invest in our students' futures and the long-term economic success of our country, and to be recognised for outstanding teaching at the same time."

12.15 pm

Gordon Marsden: Absolutely. Who is going to argue with that? No one is arguing against that. With all due respect to the Minister, I have known Steve Smith a great deal longer than he has. I have known Steve Smith for about 15 years and he has always been a doughty defender of all of these aspects. Yet again, the quote the Minister gives is simply about the principle of the teaching excellence framework. That I think is the point my hon. Friend wishes to intervene on.

Paul Blomfield (Sheffield Central) (Lab): I thank my hon. Friend for giving me the opportunity to intervene. My intervention is sharpened by the Minister's comments. Does my hon. Friend recognise that Professor Smith was actually saying that this gives us an opportunity to draw additional income to invest in teaching, in effect because it is the only show in town? Does he also recognise that when the Select Committee on Business, Innovation and Skills took evidence from the university sector on the point of the TEF and the link, there was uniform opposition to the link at that stage?

Gordon Marsden: My hon. Friend is absolutely right. I pay tribute to the work of the Select Committee in that respect. Of course university vice-chancellors are pragmatic people; they have to be. It is rather like when the late lamented Chancellor of the Exchequer said there could be any form of new structure for combined authorities as long as there were mayors.

Joseph Johnson: I am extremely concerned at the misrepresentation. These examples I am giving of individual vice-chancellors supporting the TEF and the fee link are not unrepresentative of the sector. That is why I am going to read to the hon. Gentleman the submission from Universities UK.

The Chair: Order. With respect, the Minister will have opportunities to make those points when he responds to the debate. Reading them into the record now would be quite a long intervention. I appreciate his points. If Gordon Marsden wishes to let the Minister intervene again, he can do so.

Gordon Marsden: I am more than happy to let the Minister intervene again when he gets his quotes right.

Amanda Milling (Cannock Chase) (Con): With reference to the Select Committee, I want to pick up one point from its conclusions. The Select Committee said:

"We agree with the Government that no university should be allowed to increase its tuition fees without being able to demonstrate that the quality of its teaching meets minimum standards."

Gordon Marsden: That is a perfectly reasonable and sagacious thing for the Select Committee to say, and it is to be expected. The Select Committee did not endorse this specific mechanism introduced in this specific way. [*Interruption.*] I am sorry, but we are going to have to

[Gordon Marsden]

disagree, though I am fairly sure that the record will bear me out on that. If the Minister wishes to demonstrate otherwise, he is able to do so.

I will move on as I am conscious of time, and we need to get some movement. I will talk about one or two other areas related to the linkage between TEF and fees. We will reserve the concerns of Cambridge and other universities about TEF for a later stage. We should also consider where this proposal will take a university's position with regard to the students it wants to attract.

I want to quote Professor David Phoenix, chair of MillionPlus and the vice-chancellor—since we are quoting vice-chancellors this morning—of London South Bank University. When the Government's Green Paper was produced, he rightly said:

“A focus on quality, continuous improvement and the incentivisation of excellent teaching is at the centre of every university's ambitions for its students.”

He welcomed the Green Paper and, for the avoidance of doubt, the opportunity to highlight the many strengths and benefits of UK universities and their teaching, but he said this:

“Linking fee increases with a Teaching Excellence Framework...based on metrics that are proxies for teaching quality”—that is the hub of the discussion, debate and aeration on the Minister's part this morning: the automatic assumption that teaching quality equals his TEF—

“is unlikely to provide students or employers with an accurate picture of the rich and varied teaching and learning environments that universities provide. This risks damaging the reputation of the higher education sector in the UK and is why we recommend that the government defer the introduction of a multi-level TEF in 2018 until further work has been completed to determine the best way to promote teaching excellence.”

Since that Green Paper was published, there has been a lot of iteration and discussion, and I return to what I said at the beginning: I understand why the Minister has listened to the sector and not introduced the TEF in all its glory—if that is what it is to be—with the implications he wants for fees. Fees could go down, although I think it is unlikely. They are far more likely to go up, but that does not cancel out the points we have made all along.

We are not the only ones with concerns on these issues. We will talk about the cost of the teaching framework at another time, but the University and College Union, Unison and a range of other organisations oppose the Government's plans to raise tuition fees and link variable rises to a rating system. That is precisely because they are concerned that those plans will further alienate young people, particularly those from disadvantaged backgrounds, and put them off going to those universities. In the process, that will affect those groups' members. It will affect their members' ability to have jobs, whether those are teaching jobs or all the other jobs done by the people needed to make universities work.

One of the things that depresses me most about the Government's approach to the Bill thus far, certainly in Committee, is that they seem to have a blind spot about anything other than the mechanics of producing the legislation to do these things. Every time we table an amendment that would include students and members of the workforce, they fight shy of putting it in the Bill. I will leave that point there.

I need to touch what the situation will be if leading universities opt out of the TEF, which was the subject of an article in *Times Higher Education* at the beginning of September. Reference was made to various issues, including Russell Group universities perhaps not wanting to take part because:

“They fear that taking part in the TEF will become such an administratively burdensome activity that the cost of participation will become so expensive that it will outweigh the value of an inflationary increase in tuition fees.”

We should be concerned about that not only because it is causing Russell Group vice-chancellors to agonise but because it threatens both the future of the TEF—I repeat, we want to see a proper TEF succeed—and future access for the sorts of students whom every member of the Committee, no matter whether they are Government or Opposition, wants to see at university. We all want to improve access to participation.

It is extremely important that process in this matter is not a repetition of the precedent from before the summer recess. The issues are extremely important. People are so frustrated about the teaching excellence framework not being debated on the Floor of the House and in the context of the Bill, because that will enable the Government to evade detailed scrutiny of all the issues and of that process subsequently.

We have already seen how the Government did not choose to address the 2.8% increase in fees on Second Reading. We seek an assurance that if there are any major issues related to the TEF, including what the Government wish to do or not to do on fees, it will not simply be left to ministerial guidance or, with all due respect, shuffled down to a Delegated Legislation Committee, which will not allow all Members of this House to engage with the important and potentially very beneficial development of properly recognising teaching in our universities and higher education institutions.

Paul Blomfield: As ever, it is a pleasure to serve under your chairmanship, Mr Hanson. I rise to make some relatively brief remarks on the principle of the fees link. The Minister is understandably but deliberately confusing the issues of teaching excellence and fee increases. The inquiry by the Select Committee on Business, Innovation and Skills received a considerable amount of evidence on this issue. When the Government were still thinking about the issue, the overwhelming bulk of evidence from universities was that, while they celebrated the Government's intention to put teaching quality at the heart of the agenda—the Minister has quoted the evidence that they did so—and welcomed the opportunity provided by a teaching excellence framework, the measure would be wrong, could have perverse outcomes and certainly would not assist the Government's objective of linking the teaching excellence framework to fee increases.

Many Opposition Members disagree with the current funding regime in our universities and want to see different approaches that adequately fund our universities so they can continue to be among the best in the world without some of the other consequences of the current regime.

Amanda Milling: As a fellow Select Committee member, the hon. Gentleman will recall that at the time there was a lot of discussion about the TEF and the metrics. A lot of progress has been made. The discussion about the

metrics and the link with fees created some of that debate. Does he agree that the Government and the Minister have been listening and that a lot of progress has been made on developing the TEF and the metrics, both qualitative and quantitative, that will be included?

Paul Blomfield: The hon. Lady and I have spent many happy hours debating these issues in the Select Committee. I agree that the Government have been listening on the metrics, and we will have an opportunity to debate those metrics more fully at a later stage. My point is simply that, even once the Government have got it right, and they are not quite there yet—we will debate that later—linking the measurement of teaching quality with fees is fundamentally wrong. That was the overwhelming evidence that our inquiry received from across the sector.

Wes Streeting (Ilford North) (Lab): Why does my hon. Friend think the Government have chosen to serve provider interests through this mechanism, by allowing institutions to increase fees as part of quality enhancement, rather than serving the students' interests? At every stage in Committee they have resisted any measure to improve student representation, the student voice and the consumer, user and student demand side of quality enhancement.

Paul Blomfield: My hon. Friend highlights an interesting contradiction. The hon. Member for Cannock Chase has pointed out that the Government are in listening mode, and I had hoped that we might have some more positive statements during our proceedings on student representation—if not accepting the amendment, at least giving greater clarity on the role that the student voice will have in the system.

We are asked in schedule 2 to endorse the principle of linking fees to a quality system, which we have not yet debated. There are still major reservations about it, and there is scant information about it in the Bill. The Select Committee agreed that the Government's proposed metrics are flawed. I appreciate that we are coming to that debate, but it is worth highlighting those concerns briefly.

12.30 pm

Amanda Milling: I am not sure I entirely agree that we said the metrics were flawed. I recall that we could see a role for them and for other metrics, too. We said that there was a need to develop the metrics over time. The Government—again, in listening mode—talked about the phasing in of the TEF in recognition of that.

Paul Blomfield: I thank the hon. Lady for her intervention, which helps us clarify what the Select Committee agreed. The report goes through the metrics, expressing reservations about employment. It is concerned that a narrow focus on employment will not demonstrate teaching quality. The truth is that if someone goes to the right public school and Oxbridge, however good the teaching quality at Oxbridge, they will get a good job because they know the right people and have got the right contacts. In itself, employment is no measure of teaching quality, and nor is retention.

I appreciate the Government's initiative to improve retention as part of the widening participation agenda. It is positive, but the retention metric is open to university

gaming: the best way of getting a good retention metric is by not taking students who are likely to struggle in university. It runs counter to the Government's objectives, and there are similar concerns about the crudeness of the national student survey as a metric in itself.

The hon. Lady is right. We expressed those reservations and recognised that the Government were listening and were trying to move on them, but the Select Committee said very clearly that we wanted metrics with a proven link to teaching quality. The Government have not got those metrics yet. We will have that debate later.

The second point of concern in relation to the fees link is that the Government are rightly moving in the further stages of the TEF to subject-based assessment. Now, subject-based assessment is a good step because universities are large institutions within which there is a huge range of subjects and a great diversity of teaching quality, but to link a fee with an institutional assessment masks that range of teaching quality. People studying in a department where the teaching quality is not as good as in others will be paying higher fees. This flawed proposal does not enhance the Government's objective and should be rejected.

Joseph Johnson: This has been a more heated debate than those that preceded it. I anticipated that it would be, and I hope we can move on to more consensual areas of the Bill shortly so that we can recover our composure. I am glad we are having this crucial debate, because this issue is clearly of huge concern to many Members. It highlights the big differences between what the Government are trying to achieve and what the Opposition would have us do.

Schedule 2 is crucial, in that it provides the mechanism for the setting of fee caps, which are central to fair and sustainable higher education funding. It replicates the provisions put in place by the Labour Government more than a decade ago with one difference, which I will come to later. First, I want to set out why the current funding system not only works for the sector but is crucial to its continued competitiveness.

The system we have established and are updating through the Bill, building on the measures put in place by the previous Labour Government, will ensure the sustainability of the HE sector and drive up the value to students by linking quality with fees. Our approach has been recognised by the OECD, which praised England as one of the few countries to have figured out a sustainable approach to higher education finance.

Paul Blomfield: The Minister will acknowledge that the quotes that is giving—he may have reservations about them—are in relation to the fee system. The OECD has made no comment on the fees link.

Joseph Johnson: The OECD has made its comments and it is of the view that we have the most sustainable funding system of any country in the world. We are developing it further with our teaching excellence framework.

Despite what the Labour party said at the time, students have not been deterred from going into higher education and young people from disadvantaged backgrounds have not been put off from going to university. We now have entry rates, as I have said, at

[Joseph Johnson]

record levels of 18.5% in 2015, up from 13.6% in 2009-10. In fact, individuals from disadvantaged backgrounds are now 36% more likely to go to university than they were when the Conservatives came into office in 2010. Our student funding system is fair and sustainable. It removes financial barriers to anyone hoping to study, and is backed by the taxpayer, with outstanding debt written off after 30 years. That is a deliberate, conscious decision by Government to invest in the skills base of the country.

Gordon Marsden: The Minister repeats his and his colleagues' familiar statement about fee movement and extra participation, and all the rest of it; but I will also repeat what I have said: there comes a sticking point, and just because some of the more pessimistic assumptions about fee rises that were made in the late 2000s have not come to pass, that does not mean to say that there have not been casualties along the way.

Joseph Johnson: Our funding model, which we are continuing to develop and make more contingent on the delivery of quality, is a great strength of our system, and it is acknowledged as such by education experts such as the OECD. As a result of it, we have been able to lift the cap on student numbers. Labour was never able to do that with its model of funding. As a result, we have lifted the cap on aspiration and today we are enabling more people than ever before to benefit from higher education.

I do not believe that Labour's proposals for funding higher education are remotely realistic, even if they were intelligible, and I am not the only person to think that. The hon. Member for Blackpool South mentioned *Times Higher Education* in his remarks. He might have read, in this week's edition, an interesting interview with Lord Mandelson, former Secretary of State for Business, Enterprise and Regulatory Reform. On the question of how Labour will fund the removal of tuition fees he said:

"By spending less on health or housing? Or by raising general taxation, the burden of which would inevitably fall on middle-income families?"

He said that Labour was not being honest about its promises on tuition fees. Pledging to remove them was not

"an honest promise to make".

Does the hon. Gentleman agree with Lord Mandelson?

Gordon Marsden: At the risk of sounding like Old Father Time, I will say that I have known Peter Mandelson far longer than the Minister, and I know one of his traits over the years has been to challenge and prick, and all the rest. What the Minister has said is not good enough. We are here to examine the Government's record with students. The truth is that, since fees trebled, the figures for part-time students have gone down. There is no guarantee that the figures for other students will not go down as well.

The Chair: Order. On all those issues, it is helpful for the Chair if Members occasionally say the words "schedule 2". If the Minister could focus our attention back on to the schedule that would be helpful.

Joseph Johnson: Thank you, Mr Hanson. I shall come directly to schedule 2. I could have invoked a large number of other senior Labour party figures who agree with Lord Mandelson, such as Ed Balls, who said exactly the same thing. The hon. Gentleman may not agree with one wing of the Labour party; but he does not agree with the other, either.

Wes Streeting: Will the Minister give way?

Joseph Johnson: I have been invited to carry on and speak about schedule 2, so I will press on for a minute. I will give way once I have made a bit more progress, if I can.

Tuition fees have been frozen since 2012 at £9,000 a year. That means that the fees have already fallen in real terms to £8,500 as things stand today. If we leave them unchanged they will be worth £8,000 in those terms by the end of the Parliament. It is not right or realistic to expect providers to continue to deliver high-quality teaching year in, year out with continually decreasing resources. The Committee heard that point made clearly by Chris Husbands, vice-chancellor of Sheffield Hallam University, which is close to the constituency of the hon. Member for Sheffield Central, when he gave evidence. He said clearly that it would be completely inappropriate for the university sector still to be stuck on £9,000 in 20 or 30 years' time because no Government had the guts to allow fees to rise with inflation. That is precisely what we are doing.

Paul Blomfield: I welcome the Minister's coming to the core issue of schedule 2, but his quote from the vice-chancellor of Sheffield Hallam University referred to the case for a fees increase. Schedule 2 is about linking it to the teaching excellence framework. The Minister has yet to make the case, or even mention that link. Will he do so now?

Joseph Johnson: Happily. The hon. Gentleman is deluding himself if he thinks that the chair of the teaching excellent framework does not understand the fee link that he himself is implementing. He does his fellow Sheffielder something of a disservice in casting that sort of aspersion on him.

What we are doing in schedule 2 for the first time is ensuring that only those providers who can demonstrate high-quality provision can maintain their fees in line with inflation. The ability to raise fees with inflation was provided for by the last Labour Government in 2004, but without any reference at all to quality or the student experience. Through schedule 2, we are doing better than that. The TEF fee link, in particular, as Government Members have already noted, was endorsed earlier this year by the Select Committee on Business, Innovation and Skills, which said that

"we support the principle of a more sophisticated link...between teaching quality and fee level".

Gordon Marsden: I do not want this to turn into an argument about semantics, but the reality is as my hon. Friend mentioned earlier: in this schedule, we are being asked to buy a pig in a poke. We do not know what the shape of it is. When the Select Committee said that, it

was about the principle and the concept, not about the detail, which the Minister is either not in a position or not willing to tell us about.

Joseph Johnson: We can discuss the TEF in much greater detail at a later stage—I am looking forward to it—but we have consulted on it on several occasions now. The TEF is in shape. It is up and running, and it could not remotely be described in the way that the hon. Gentleman did.

Wes Streeting: Will the Minister give way?

Joseph Johnson: No, I want to make progress. The sector is familiar with the principle of linking funding to quality, which was introduced by the Conservative Government in the 1980s, when they introduced the research assessment exercise. Over successive iterations, the research excellence framework has undoubtedly driven up the quality of our research endeavour as a country, keeping us at the forefront of global science.

Gordon Marsden: On that point, will the Minister give way?

Joseph Johnson: No, I am going to make some progress. We are now extending this principle to teaching quality. Schedule 2 provides the mechanism for the setting of fee limits, allowing providers to charge fees up to an inflation-linked cap according to ratings of teaching quality established through the teaching excellence framework, which is mentioned under clause 25, as the hon. Gentleman said earlier.

Gordon Marsden: I am grateful to the Minister for giving way, as I appreciate that he must get through his points. I will be brief. The teaching excellence framework, notwithstanding the fact that it is a one-size-fits-all judgment for the first year, is at the moment scheduled to come to fruition over only three or four years. The Minister knows very well that the conversion of the research assessment exercise into the research excellence framework took six years. Why, therefore, is he so confident that the Government will get it right in a short period of time?

Joseph Johnson: The hon. Gentleman cannot have it both ways. He cannot criticise us for taking time to get it right and then wish it were in place sooner. We are developing the TEF in a phased, careful way. We are listening to the sector. That is why it is being piloted and trialled in its first two years.

Wes Streeting: Will the Minister give way?

Joseph Johnson: No—well, okay. The hon. Gentleman has been asking persistently.

Wes Streeting: The Government have a laudable target to double the percentage of students from low-participation areas by 2020. Can the Minister explain how linking the TEF to tuition fee rises will enable students from the most under-represented backgrounds to access the courses with the best quality teaching?

Joseph Johnson: In order to participate in the TEF, all institutions will need to have an access and participation plan, and those access and participation plans and widening participation statements will be demanding. We have given strong guidance to Les Ebdon and, as the hon. Gentleman said, we have set the sector a demanding overall goal of doubling participation by 2020 of people from disadvantaged backgrounds from the levels we inherited back in 2009.

We are now extending the principle that we introduced for the funding of research to how we fund teaching, which is something the hon. Member for Blackpool South was himself suggesting that the Government should do back in 2002. Schedule 2 provides the mechanism for the setting of fee limits and allows providers to charge fees up to an inflation-linked fee cap according to its rating for teaching quality, which we will make possible through the TEF. The TEF, which was a manifesto commitment, will enable the impartial assessment of different aspects of teaching, including student experience and the job prospects of graduates. It will put teaching on a par with our country's world-leading research so that we not only get more students into higher education, but ensure it is worthwhile when they get there.

Increasing fee limits in line with inflation is nothing new. It has been made possible since the Higher Education Act 2004 put in place by Labour, and it was routinely applied between 2007—by the last Labour Government—and 2012. Linking fee limits to teaching performance is new. It recognises and rewards excellence and will drive up quality in the system.

12.45 pm

Dr Blackman-Woods: There is nothing in schedule 2 to suggest that as there is now a link between teaching quality and fees the additional fee income will be used to further enhance teaching quality. Will the Minister deal with that point?

Joseph Johnson: Such incentives will play a powerful role in rebalancing universities so that they focus more on teaching than ever before. We do not have marginal funding allocated towards teaching in our funding system for universities at the moment and this will be a powerful driver of change in that respect.

It is right that only providers that demonstrate high-quality teaching will be able to access tuition fees up to an inflation-linked maximum fee cap. We expect the TEF to deliver additional income for the sector of £16 billion by 2025 and it will also allow providers to reinvest in teaching methods that work. As the Sutton Trust said,

“we need to shake the university sector out of its complacency and open it up to a transparency that has been alien to them for far too long. It is good that they are judged on impact in the research excellence framework, and that the teaching excellence framework will force them to think more about how they impart knowledge to those paying them £9000 a year in fees.”

The fee link has been welcomed not just by individual vice-chancellors but by the sector. The hon. Member for Sheffield Central challenged me to reference a body representative of the sector and I am very happy to do so. Universities UK said:

[Joseph Johnson]

“Allowing universities to increase fees in line with inflation, on the condition of being able to demonstrate high-quality teaching through an effective TEF, is a balanced and sustainable response to these two objectives.”

Let me reassure the Committee that, as I set out in the White Paper, our proposed changes to the fee limits accessible to those participating in the TEF will at most be in line with inflation—fee caps will be kept flat in real terms. Let me also reassure the Committee that, should the upper or lower limits be increased by more than inflation, which is certainly not our intention, it will require regulations subject to the affirmative procedure, which require the approval of Parliament. That is in line with the current legislative approach to raising fee caps and we have no desire to depart from those important safeguards, so Parliament will therefore continue retain strong controls over fees.

Gordon Marsden: Will the hon. Gentleman give way?

Joseph Johnson: No, I will not.

Gordon Marsden: On that very specific point—

The Chair: Order. It is for the Minister to determine whether he wishes to give way or not.

Joseph Johnson: To summarise, the Government are committed to a progressive approach to higher education funding and to ensuring the financial sustainability of the sector. Schedule 2 establishes a direct link between fees and the quality of teaching—a principle supported by the Select Committee on Business, Innovation and Skills and the wider sector—along with a clear framework of control for Parliament. The provisions ensure that we can meet our manifesto commitment to deliver TEF under the Bill by ensuring that well-performing providers are rewarded so that they can continue to invest in excellent teaching.

Gordon Marsden: I would like to speak briefly to propose that we vote on stand part. I am disappointed with the Minister’s response. He has on a number of occasions evaded our direct questions about the link between TEF and the fees. He has tried to subsume it into a broader argument about TEF. I repeat, so that no one is in any doubt, we support anything that will improve teaching quality and incentivise it. To be asked to buy a pig in a poke, which is how I have already described the measure, and for the Minister then to tell us that any further iterations would simply go down the corridor—that is precisely what happened with the grants and maintenance loans, and we had to drag the Government to the Floor of the House to have a debate—is indicative of how defensive the Government feel about the arguments. That is why we wish to vote against the schedule.

Question put, That the schedule be the Second schedule to the Bill.

The Committee divided: Ayes 11, Noes 7.

Division No. 6]

AYES

Argar, Edward	Evennett, rh David
Chalk, Alex	Howlett, Ben
Churchill, Jo	Johnson, Joseph

Kennedy, Seema
Milling, Amanda
Morton, Wendy

Pawsey, Mark
Warman, Matt

NOES

Blackman-Woods, Dr Roberta	Smith, Jeff
Blomfield, Paul	Streeting, Wes
Marsden, Gordon	Vaz, Valerie
Rayner, Angela	

Question accordingly agreed to.

Schedule 2 agreed to.

Clauses 11 and 12 ordered to stand part of the Bill.

Clause 13

OTHER INITIAL AND ONGOING REGISTRATION CONDITIONS

Gordon Marsden: I beg to move amendment 168, in clause 13, page 8, line 12, at end insert

“and which must include information about how students will be protected from any reasonable financial loss if an event specified by the OfS were to occur, in particular the closure of a course or a higher education provider.”

This amendment would ensure that students are protected from reasonable financial loss if their provider or course closes.

In the interests of allowing a little light as opposed to heat into the proceedings, and given the nature of the hour, I do not intend to speak at great length to the amendment, although I will raise some broader issues when we debate a subsequent one. Again, I draw on what my hon. Friend the Member for Ilford North said in the previous debate about the challenge to the Government to recognise the interests and concerns of students, which is what the amendment is designed to do. So that Members are in no doubt, clause 13 relates to initial and ongoing registration conditions, and the amendment would insert a very important additional condition.

We have heard a lot about transparency in the Bill, and about how things can be put forward and on the record, and early in Committee we had some debate about the nature of documents and all the rest of it. However, that does not relate to one of the most crucial things that students will want to know, in particular those who are attending new providers—a subject for further debate. There is nothing wrong with being new, and on Second Reading the Minister scratched very hard for precedents going back to the 1820s and 1830s and talked about cockney universities that are now world-beaters, such as University College London and King’s College London. He was right and, as an historian, I praise him for referring to historical precedent. Sometimes, however, it can be stretched a little too far, and on that occasion I think either he or his team did so.

Nevertheless, new providers have to show their bona fides and students must have confidence in them. My amendment is designed to make it easier for them to have that confidence. Student representatives are extremely concerned about the lack of detail of what would happen if things went wrong—and in life things do go wrong. Things might not go wrong in the Conservative manifesto, but they go wrong in life, and then have to be addressed. In this modest amendment, I am suggesting

that the clause should include some information about how students will be protected from any reasonable loss if an event specified by the OFS were to occur, in particular the closure of a course or a higher education provider. That is the more difficult and detailed stuff, not the principle or the fine-sounding words that can roll off the Minister's tongue.

This is a probing amendment and I am not asking for it to be included in the Bill, but we want to hear a lot more detail from the Minister throughout our deliberations if we are to be convinced that his safeguards for students are adequate.

Dr Blackman-Woods: I merely want to emphasise to the Minister the extent of NUS concern about this issue. I met NUS representatives recently, and they understood that the Bill allows for new entrants into the sector and creates a registration system, which means that in future some institutions might fall foul of that system. The NUS does not have an issue with that, but with what protection there would be for students if a course closes or if the institution itself closes.

As my hon. Friend the Member for Blackpool South said, this is a modest amendment, but it seeks to put something on the face of the Bill to include information about how students will be recompensed if their course or institution closes. Furthermore, NUS anxiety is based on experience of course closures, in which it has taken a long time for students to get their particular issues sorted out, such as transfer to another institution or on to another course. What reassurances can the Minister give to students who are really worried about that matter?

Joseph Johnson: I am happy that we are back on more consensual aspects of the Bill, and we share all the hon. Members' interests and concerns in that respect. I am extremely keen to use this opportunity to set out our intentions for student protection plans. I hope that the Committee members found it helpful to read the explanatory note that we put out yesterday, although I appreciate that they will not have had much time to look at it. It is, however, available for their further perusal.

Student protection plans are not a new concept, and some providers already have them. The current approach across the HE system, however, is entirely voluntary, and coverage is far from consistent across the sector. What the Bill does, importantly, is give the office for students the power to require registered providers to

put student protection plans in place. All approved providers and approved fee cap providers in receipt of public funds will be expected, regardless of size, to have a student protection plan approved by the OFS. That is new, and the measure has been welcomed by the NUS in its written evidence to the Committee. I have met the NUS on a number of occasions. If it has continuing concerns, following our publication of this preliminary clarifying material, I would be happy to meet again to discuss how we can go further, if necessary.

The plans as we have set them out will ensure that students know from the outset what kind of support would be offered to them if a course, campus or institution was at risk of closure, or if some other material change at their provider left them unable to continue their studies. Providers will be expected to make contingency plans to guard against the risk that courses cannot be delivered to students as agreed. Those plans will be proportionate and in line with the risk profile of the provider. We expect the OFS to require student protection plans to be implemented before a provider's financial position becomes unsustainable. They will be triggered by material changes, to be specified by the OFS in guidance. The guidance will also provide further details on what the OFS expects to be covered in a plan and we expect that that will be subject to full consultation by the OFS. As a result, the Bill rightly does not prescribe the type of events or mitigations that should be included.

I can reassure Members that we fully intend for student protection plans to set out information, options and any remedial actions students can expect in any event where a material change occurs that could affect their continued participation in study. That is an important step forwards in the protection of the student interest in higher education. I therefore respectfully ask the hon. Gentleman to consider withdrawing his amendment.

Gordon Marsden: I listened very carefully to what the Minister said. He laid out principles, and I am sure that all members of the Committee will want to study the document in some detail. We will no doubt have another opportunity to discuss it during our consideration of the Bill. On the basis of the progress in principle, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned.
—(*David Evennett.*)

1.2 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

Eighth Sitting

Thursday 15 September 2016

(Afternoon)

CONTENTS

CLAUSES 13 to 15 agreed to, one with an amendment.
SCHEDULE 3 agreed to, with an amendment.
CLAUSES 16 to 24 agreed to, some with an amendment.
Adjourned till Tuesday 11 October at twenty-five minutes past
Nine o'clock.
Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 19 September 2016

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The Committee consisted of the following Members:

Chairs: † SIR EDWARD LEIGH, MR DAVID HANSON

- | | |
|--|--|
| † Argar, Edward (<i>Charnwood</i>) (Con) | † Milling, Amanda (<i>Cannock Chase</i>) (Con) |
| † Blackman-Woods, Dr Roberta (<i>City of Durham</i>) (Lab) | † Monaghan, Carol (<i>Glasgow North West</i>) (SNP) |
| † Blomfield, Paul (<i>Sheffield Central</i>) (Lab) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| Chalk, Alex (<i>Cheltenham</i>) (Con) | Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP) |
| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Evennett, David (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Rayner, Angela (<i>Ashton-under-Lyne</i>) (Lab) |
| † Howlett, Ben (<i>Bath</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Johnson, Joseph (<i>Minister for Universities, Science, Research and Innovation</i>) | † Streeting, Wes (<i>Ilford North</i>) (Lab) |
| † Kennedy, Seema (<i>South Ribble</i>) (Con) | Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Marsden, Gordon (<i>Blackpool South</i>) (Lab) | † Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| | Katy Stout, Glenn McKee, <i>Committee Clerks</i> |
| | † attended the Committee |

Public Bill Committee

Thursday 15 September 2016

(Afternoon)

[SIR EDWARD LEIGH *in the Chair*]

Higher Education and Research Bill

2 pm

The Chair: I must interrupt the negotiations between the Whip and the Opposition spokesman. I can see that they are proceeding in an extremely amicable way, as always. I am sure we can look forward to some expeditious business, because colleagues will be anxious to leave for their constituencies. Meanwhile, we are going to enjoy ourselves.

Clause 13

OTHER INITIAL AND ONGOING REGISTRATION
CONDITIONS

Dr Roberta Blackman-Woods (City of Durham) (Lab): I beg to move amendment 178, in clause 13, page 8, line 17, at end insert—

- “(f) a condition relating to the provision of access to a range of cultural activities including, but not restricted to, the opportunity to undertake sport and recreation and access to a range of student societies and organisations;
- (g) a condition relating to the provision of student support and wellbeing services including specialist learning support;
- (h) a condition relating to the provision of volunteering and exchange opportunities;
- (i) a condition relating to the opportunity to join a students’ union.”

This amendment ensures that all aspects of a positive student experience are considered relevant to the inclusion of a Higher Education institution on the register.

It is a pleasure to serve under your chairmanship, Sir Edward. This amendment takes us back to the thorny issue of what a university is and how we ensure that the measures in the Bill do not allow for or enable the dumbing down of the sector as a whole. I want to pose a series of questions to the Minister about why clause 13 does not provide a list of the sorts of service and the range of amenities that the Minister might expect a university to have in order to be deemed a university. The amendment sets out a whole range of conditions that should be included in the clause, so that something called a university actually is a university. I will be interested to hear why the Minister thinks that is not important.

As we all know, students do not only go to university to get a degree. Of course they go to university to get a degree, but along the way, they join lots of clubs and societies. They take part in cultural events. They might have a drama club. They often, as in the case of Durham University, have a theatre and put on performances—really good ones—that local people go along to. That is an incredibly important aspect of the cultural activities at

Durham. At the weekend, we often go along to watch the university teams compete against other universities or in local leagues. It is incredibly important that students, particularly those who have done so at school, can take up sport at university.

Students join a whole range of clubs and societies that enhance not only their wellbeing but that of the wider community. In that respect, I point out the particular importance of providing volunteering opportunities for students, which can often help them with future employment and give back massively to the local community through community service. Indeed, I was at a luncheon club in my constituency just a couple of weeks ago that had been started up by students in a disadvantaged area of Durham. They have a volunteering rota to keep the club up and running.

We would normally equate those sorts of activity with the university experience, along with being able to join the students union, which I will not mention again because we discussed it a couple of days ago, but that is clearly a very important aspect of what students can do when they go to university.

Paul Blomfield (Sheffield Central) (Lab): Does my hon. Friend agree that the thrust of the Government’s policy here is enhancing the learning experience, and that the sorts of activities that she describes are not simply important in giving students the widest opportunities in their lives, but provide them with opportunities to learn team and leadership skills, and are very much part of that broader learning experience?

Dr Blackman-Woods: Absolutely. My hon. Friend makes an excellent point about the way in which the wider experience of university contributes to the overall student experience. Indeed, a necessary part of that student experience is universities ensuring that there is adequate student support and a range of wellbeing services, and that specialist learning or special needs are met through the university learning support system. It seems a little odd, to put it mildly, that in the list of “other initial and ongoing registration conditions” in clause 13, there is absolutely nothing about the range of services that an institution should provide; it is all about regulation. It is important that the sector is properly regulated, but that is not sufficient.

A few months ago, I was standing where my hon. Friend the Member for Blackpool South is sitting now, questioning the Housing Minister about starter homes. I made the point to him—this is directly relevant—that a starter home was not affordable housing just because the Government legislated for it to be affordable housing or thought that it was affordable housing. Clearly, a £450,000 house in London, or a £250,000 house outside London, is simply not affordable. Alas, that Minister did not take my advice and went ahead with legislation that said that such houses were affordable, when clearly they are not. Now, of course, the Government are having to revisit that legislation and what they are doing on starter homes, because it was absolutely obvious that they could not simply legislate for something to be what it is not. I fear that the same will happen with the Bill, and the Government will say about a college or specialist provider, “It is a university if it meets these regulation conditions,” when in any other context it would be considered not a university but a specialist provider.

I am trying to help the Minister to avoid falling into the same trap of legislating for something that clearly is not what the Government try to make it out to be by suggesting that it would help us all in our deliberations—indeed, it would help some of us to negotiate our way through the clauses dealing with registration conditions—if the Minister clarified what he thought a university should be and the range of services that an institution should provide before it is able to use “university” in its title. We really do not want students to think that an institution provides a certain range of services when it clearly does not and has no intention of ever providing the range of services or opportunities that one would normally associate with a university.

It would be helpful to hear what the Minister thinks a university is and what range of services he would like to see universities normally provide. Can he reassure us that no institution will be able to call itself a university when it clearly is not one?

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): It is a pleasure to be back under your chairmanship, Sir Edward. I do not want to delay the Committee for long with what might risk turning into an abstract and philosophical conversation about what a university is. After all, that question has occupied theoreticians of education through many books and learned articles. At its most literal, a university can be described as a provider of predominantly higher education that has got degree-awarding powers and has been given the right to use the university title. That is the most limited and literal sense. If we want a broader definition, we can say that a university is also expected to be an institution that brings together a body of scholars to form a cohesive and self-critical academic community that provides excellent learning opportunities for people, the majority of whom are studying to degree level or above. We expect teaching at such an institution to be informed by a combination of research, scholarship and professional practice. To distinguish it from what we conventionally understand the school’s role to be, we can say that a university is a place where students are developing higher analytical capacities—critical thinking, curiosity about the world and higher levels of abstract capacity in their thinking. In brief, that is my answer to what a university is.

Let me turn to the nitty-gritty of the hon. Lady’s amendment and her suggestions for how we can improve the registration conditions. Her amendment highlights the breadth of opportunities offered by participation in an HE course, and it is welcome in doing so. However, I do not believe that putting that into legislation would be desirable. There are many excellent examples of extracurricular activities and experiences offered by higher education institutions—sporting groups, arts groups, associations of all kinds and exchange opportunities. I agree that, in many cases, those activities contribute greatly to a student’s learning and personal and professional development. As the hon. Lady said, they can be as much a part of a student’s education as traditional lectures.

When a student is deciding which institution to study at, their decision is based on many factors, including the qualification they will receive, the cultural and social opportunities presented to them, the student organisations they can join and the support available. Higher education

institutions think very carefully about the range of extracurricular activities they offer and the additional opportunities for students on or around campus. They are tailored to the specific characteristics and needs of their particular student bodies. One size does not necessarily fit all, and student populations vary hugely in their requirements. As independent and autonomous organisations, higher education institutions are best placed to decide what experiences to offer without prescription from the Government.

Dr Blackman-Woods: In our deliberations, we have heard, particularly from the possible new entrants into the sector, that they wish to have a level playing field. Part of the point of this amendment is to genuinely make it a level playing field. We do not want to take diversity out of the sector; we just want to ensure that all institutions that could become a university provide a basic level of services.

Joseph Johnson: There may be high-quality institutions based in, for example, urban locations that cannot offer the broad range of services that campus-based, big institutions can. That does not mean they are lesser institutions; it just means that their student populations have their own purposes in coming to that particular institution and want their needs to be met in a way that is relevant to their institution. For those reasons, I do not believe that a one-size-fits-all, prescriptive approach is the best way to achieve the hon. Lady’s goals.

The Chair: I am sure we are all grateful for the Minister’s definition of a university. He said it is about high levels of abstract thinking—I learned a lot about that in the union bar.

Dr Blackman-Woods: The Minister is being characteristically generous about what universities do. I am bitterly disappointed by his response because this is a really serious point. The higher education sector in the UK has an excellent national and international reputation and we meddle with it at our peril. It is incumbent on the Government to uphold and promote the quality and excellence of the sector, which means ensuring that, if something is to call itself a university, or to have “university” somewhere in its title, the common understanding is that it provides a range of opportunities for students. Otherwise, it can stay as it is at the moment as simply a specialist provider.

2.15 pm

If institutions want to join a specific club, they should take on all the obligations and responsibilities that go with that membership. Simply allowing specialist institutions with a very narrow range of courses and opportunities for students to be considered in the same way as other institutions does not seem to be very helpful, either to the institutions themselves, quite frankly, or to potential or current students. I urge the Minister to take the amendment away, look at it and then see if he can include something in the Bill to reassure both prospective students and the sector at large that the Bill will not dumb down what a university might be and what our excellent higher education experience is. I am sure that that is not his intention at all. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Gordon Marsden (Blackpool South) (Lab): I beg to move amendment 190, in clause 13, page 8, line 17, at end insert—

“() The OfS may strengthen the registration conditions for new providers depending on the assessment of that new provider’s previous track record and future sustainability.”.

This amendment would enable the OfS to set stricter entry requirements for new providers by considering previous history and future forecasts.

It remains a pleasure to serve under your chairmanship, Sir Edward, even under these heated circumstances. There appears to be a little more of a draft coming through; if we dissipate some of our hot air it may become even greater.

I thank my hon. Friend the Member for City of Durham for what she said because it is germane to this amendment, which is in the name of my hon. Friend the Member for Ashton-under-Lyne and myself. The amendment tries to define what new providers that might wish to become a university have to do, and I think it is incumbent on us to think a little harder than is perhaps sometimes the case about a new provider’s “previous track record and future sustainability.”

The Minister was quite right not to engage in a “philosophical discussion”—I suspect if he had not said that, the Lord Commissioner of Her Majesty’s Treasury, the right hon. Member for Bexleyheath and Crayford would have perfectly reasonably bashed him on the head—but there is a balance between that and simply saying, “This is what a university does.” That is particularly true when talking about new providers. In earlier exchanges, the Minister referred to Lord Mandelson, whose grandfather, Herbert Morrison, when asked what the definition of socialism was, famously replied:

“Socialism is what a Labour Government does.”

That is a reductionist argument with which I am sure the Minister would not agree, but we need to ask some serious questions about what guarantees and provisions we would require from new providers.

As I said on Second Reading, the Bill

“places immense faith in the magic of the market”—[*Official Report*, 19 July 2016; Vol. 613, c. 720.]

to produce new providers and to take them on board. It is philosophically consistent, if I may be so grand, with the paean to competition and the markets in the White Paper, which says:

“With greater diversity in the sector...our primary goal is to raise the overall level of quality. But we must accept that there may be some providers who do not rise to the challenge, and who therefore...choose to close some or all of their courses, or to exit the market completely. The possibility of exit is a natural part of a healthy, competitive, well-functioning market and the Government will not, as a matter of policy, seek to prevent this from happening. The Government should not be in the business of rescuing failing institutions—decisions about restructuring, sustainability, and possible closure are for those institutions’ leaders and governing bodies.”

That is all very well as a paean to free-market Friedmanism, and perhaps those who had drafted it had had a good lunch at the time, but the truth of the matter is that it is not the people who draft such things who have to deal with the consequences, but the people on the receiving end, who are not just students—although students are a key part of that process—but everyone who works with, is sponsored by or supplies those new providers. Therefore, it is important that we talk about

that—we will do so in more detail when we reach clause 40, which deals with some of the issues to do with awarding powers, so I will be careful not to step into that territory.

Cutting corners in the process of becoming a higher education provider can pose a serious risk to staff and students, and it can increase the risk of public money being misused. If we are in any doubt about that, I would refer to the Public Accounts Committee report on alternative providers published in February 2015. The Committee was fair about the potential benefits of alternative providers, but hard on some of the things that had happened in the preceding period. It stated:

“The Department pressed ahead with the expansion of the alternative provider sector without a robust legislative framework to protect public money...and... failed to identify and act quickly on known risks associated with the rapid introduction of schemes to widen access to learning...The Department does not know how much public money may have been wasted...and...should report back to us urgently with an assessment of how much public money is at risk of being wasted”.

and so on. I appreciate that the Minister was not in place at the time, but the report was a fairly comprehensive slap on the wrist for the Department for Education about how the matter had been treated.

No doubt the Minister will come back and say, “Ah, but that was then, and this is now. We have done lots of other new things”, but the trouble is that that argument does not solve the problem. As a result the University and College Union, among other organisations, submitted a detailed paper to Committee members, including a number of specific examples of where things had gone wrong. It argued that to allow commercial providers a quick, low-quality route into establishing universities and awarding degrees would mean that those studying and working in the sector were seriously vulnerable to the threat of for-profit organisations moving into the market for financial gain, rather than from any desire to provide students with a high-quality education or teaching experience.

The University and College Union also quoted figures from the Department for Business, Innovation and Skills: between 2010 and 2014-15 the number of alternative providers rose from 94 to 122. Furthermore, the matter is one that concerns the public purse, as well as the protection of students, because student support for those alternative providers rose from £43 million to more than £600 million. Also, in 2014 the National Audit Office reported concerns about abuses of the student loan system by for-profit providers. It mentioned that drop-out rates at nine of them had been higher than 20% in 2012-13, compared with 4% across the sector in general.

As I have mentioned, the Public Accounts Committee published its report in February 2015. If the Minister therefore says, “Ah, well, we don’t want to put more obstacles in the way of potential new providers. We don’t want to make it overly onerous for them”, all I can say is that we have to look at the track record up until now. That is not to disparage any of the new providers who might come forward or the evidence that was given in our sessions. It is merely to say that the precautionary principle is often a wise one to proceed on. It is not often I quote President Reagan with approval. He was famously asked, during SALT negotiations with the Soviets, whether he trusted them. He said he worked on

the principle of “trust but verify”. Trusting but verifying is the thrust of the amendments.

In case the Minister is tempted to say that we are digging up old history, it is not that old. Since he referred to something I said in 2002, I think I am being generous in only digging up recent history. Only this year the West London Vocational Training College had its designation for student support funding revoked following a QAA report that said that it had failed to establish the authenticity of applicants’ academic qualifications, admitted some students who were demonstrably not qualified to enter their course, included some students who had not met the English language proficiency requirement and admitted some students after qualifications awarding body Pearson—which is for profit and has been there for a long time—had blocked it from registering new entrants.

Before the Minister either personally or corporately allows some of his officials to write more paeans to the benefits of the market and competition, perhaps he would indulge us by considering the amendment. It is important that the registration conditions for new providers consider previous track record and future sustainability. Of course, not all new providers will have a track record and I think one of the witnesses mentioned that at the evidence session. If that is the case, the presumption should be to look more stringently at their future sustainability.

The proposal is not that they must have both but they certainly must have one. It is on that basis that I put the amendment forward for consideration.

Joseph Johnson: I start by reassuring the hon. Gentleman that there will be no cutting of corners to allow an easy route into the sector for providers who would not pass our exceptionally robust thresholds in terms of financial sustainability, management, governance and quality. The single gateway into the sector that we are putting into place through the Bill and the robustness of its processes are of key importance to the success of our reforms. The hon. Gentleman and the Government are at one on that question.

I explained when debating earlier clauses and amendments that risk-based and proportionate regulation is the basis on which the office for students will operate. “Trust but verify”, as the hon. Gentleman put it, might be a good way to describe it. It will protect the interests of students and the taxpayer while providing a regulatory system appropriate for all providers.

Clause 5 requires the OFS to consult on and publish initial and ongoing registration conditions. Different conditions will be applied to different categories of providers. Although it is for the OFS to determine those conditions, we expect that they will reflect those first set out in the Green Paper and subsequently confirmed in the White Paper. We expect they will include academic track record, as demonstrated by meeting stringent quality standards, checks on financial sustainability, including requiring financial forecasts from providers, and other important issues, such as the provider’s management and governance arrangements.

In addition, clause 6 provides the OFS with the power to apply specific ongoing registration conditions based on the OFS’s assessment of the degree of regulatory risk that each provider represents.

Gordon Marsden: I appreciate that there is a delicate balance to be struck in trying to set up all the details of the OFS in Committee. I welcome the Minister’s view on the importance of track records. Obviously, that will be weighed up by everybody else in considering the Bill. Does the Minister have any indication at the moment for how long a new provider should have been involved in an area of activity before making these applications?

2.30 pm

Joseph Johnson: As set out in our technical note on market entry and quality assurance, which was sent to the Committee, although not necessarily successfully received by some Members, we have given a clear indication that OFS will be consulting representative bodies in the sector to establish answers to that sort of question. I encourage the hon. Gentleman to feed into that consultation when it is under way.

Clause 6 provides the OFS with the power to apply specific ongoing registration conditions, based on the OFS’s assessment of the regulatory risk that each provider represents. Where the OFS determines that a new provider represents a higher level risk it may, under the powers already included in the Bill, apply more stringent conditions. Moreover, the OFS may also adjust the level of regulation at any time, should there be a change in a provider’s circumstances or performance. That may be appropriate if a provider’s financial forecasts, as supplied when the provider first applied to join the register, eventually prove perhaps to be have been over-optimistic.

While I understand fully the reasons for the amendments and agree with the need for the OFS to take such matters into account, I believe that the Bill already provides the OFS with the powers necessary to take a wide range of issues into account.

Gordon Marsden: Before the Minister sits down, I would say that all of that is welcome. The paper to which he refers and the student protection plan, which I have now looked at, are welcome. The student protection plan is strong in direction of travel but weak on detail and we can come to that on another occasion. The Minister is perfectly reasonably laying a number of onerous requirements on the OFS, particularly as regards the forecasts that his Department has produced on the potential for new providers to want to take on charges, university title and licence. Is the Minister at all concerned about what resources the OFS will have to carry out this process? If there is going to be a rush of new providers there will be substantial requirements of it, given what the Minister has just said.

Joseph Johnson: The hon. Gentleman will have read the impact assessment, which goes into some detail about the future cost projections for the OFS. That will give him and the Committee a sense of the OFS’s resources to deal with the anticipated new providers in the sector. In addition, the Higher Education Funding Council for England is a very competent funding council and we want to maintain all the excellent capabilities that it has, including the people who undertake the important roles relating to quality in the system.

As I was saying, although I agree with the reasons for the amendments, I believe they are unnecessary, given the provisions we are making in the Bill in respect of

[Joseph Johnson]

safeguards for quality in the system and, therefore, I ask the hon. Gentleman to consider withdrawing his amendment.

Gordon Marsden: I have heard what the Minister has to say and am reassured by his commitments. As always, the devil will be in the detail and we will want to probe further but at this point I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 13 ordered to stand part of the Bill.

Clause 14

PUBLIC INTEREST GOVERNANCE CONDITION

Wes Streeting (Ilford North) (Lab): I beg to move amendment 25, in clause 14, page 8, line 27, after “documents” insert “and practices”

This amendment is consequential to amendment 26.

The Chair: With this it will be convenient to discuss the following:

Amendment 27, in clause 14, page 9, line 2, at end insert—

“() The list (as originally determined and as revised) must include the principle that the governing body of a higher education provider publish the ratio of pay of the highest paid employee at the institution to the pay of—

- (a) the average, and
- (b) the lowest

paid employee at that institution.”

This amendment would require, as a public interest governance condition, the governing body of a higher education provider to publish the ratio of pay between the highest, average and lowest paid employees at the institution.

Amendment 26, in clause 14, page 9, line 2, at end insert—

“() The list (as originally determined and as revised) must include the principle that the governing body of a higher education provider appoint as members of any committee established to consider remuneration of the institution’s employees representatives of—

- (a) persons employed at the institution, and
- (b) persons enrolled at the institution.”

This amendment would require, as a public interest governance condition, the governing body of a registered higher education provider to include staff and student representatives on any remuneration committee.

Wes Streeting: It is a pleasure to serve again under your chairmanship, Sir Edward. I hope we will have the opportunity to hear more about your mind-expanding experiences at university. That was highly enlightening.

Britain has one of the best higher education systems in the world, educating millions of students from this country and around the world. Behind that success are hundreds of thousands of dedicated staff, ranging from university leaders and those who educate students on a daily basis to the many staff who perform essential support functions, from processing admissions to keeping our campuses clean.

Like any good employer, universities should invest in their staff and ensure that they are paid fairly. My motivation for tabling these amendments is to tackle two things. One is excessive high pay at the top of our universities, and the other is some of the remaining poverty rates that continue to be paid to staff working in and around higher education, particularly those working for university contractors.

I will begin with high pay. It is important to say that as leaders of universities, vice-chancellors carry serious responsibilities for a large number of staff, manage huge budgets and have to consider a wide range of activities, from research and innovation to educating students. It is right that we pay vice-chancellors at a rate that enables us to recruit and retain the very best leadership from this country and around the world. I certainly do not begrudge vice-chancellors appropriate payment for the work they do or, indeed, use the ludicrous benchmark that appears from time to time of comparing vice-chancellors’ salaries with the Prime Minister’s.

I have been concerned, however, about excessive rates of pay rises in recent years, particularly at a time of restraint in public spending and with students paying more than ever for their higher education. I do not use terms such as fat cat lightly, but vice-chancellors who have decent and appropriate salaries have been receiving fat-cat pay rises with little justification and certainly inappropriate scrutiny from institutional remuneration bodies.

I know that the Minister is concerned about that. In the HEFCE grant letter for this year, the Minister and the former Secretary of State for Business, Innovation and Skills, the right hon. Member for Bromsgrove (Sajid Javid), included a specific reference to excessive high pay at the top and urged universities to show greater restraint— incidentally, not only in terms of pay and pay rises, but in awards made to vice-chancellors on exit. I hope that the Minister will see the amendments as friendly ones that would help to pursue the issue that he and the former Secretary of State raised in the grant letter and could really make a difference.

Ben Howlett (Bath) (Con): The hon. Gentleman makes a very good case for open and transparent processes in relation to vice-chancellors’ pay. I have a lot of sympathy with him about that. However, is he aware that this Government have already introduced gender pay gap reporting? For the institutions he mentions, the amendment would simply mean a duplication of legislation. We should look at enhancing the current legislation.

Wes Streeting: The hon. Gentleman is right to refer to the gender pay gap in higher education. There is something like an £8,000 difference in the pay awarded to male and female academic staff. My amendments do not deal specifically with the gender pay gap, but instead address the inequality between pay at the top and at the bottom.

The amendments would address those issues in two ways. The first is to require universities to publish the pay ratio between the highest-paid staff and the lowest-paid staff and the median rate of pay. That would get remuneration committees to think hard, when telling front-line staff that they cannot afford pay rises, about whether they are applying the same principle to staff at the top. According to the *Times* higher education survey,

one in 10 universities paid their leaders 10% more in 2014-15 than the previous year, while average staff pay rose by just 2%. It is incredibly demoralising for university staff, academic staff and support staff when they feel they are exercising pay restraint but see university leaders not leading by example.

Publishing the pay ratio would bring about greater equity and a greater focus on low pay. I do not see any good reason why any university in this country should not be an accredited living wage employer. I hope that one outcome of the amendments would be to reinforce many of the campaigns led by students unions and trade unions to persuade universities to become accredited living wage employers.

As well as proposing publishing information to push for transparency, the amendments would strengthen accountability by including staff and student representatives on remuneration committees. That is important for two reasons. One is that staff representatives, through the University and College Union and other trade unions, and student representatives, through their students unions, bring a degree of independence from the process. They have a legitimate interest in ensuring fair pay from a staff perspective and also from a student perspective, in terms of ensuring that their fees are well spent.

There is also a broader point, which ties into the interesting exchange earlier about the idea of a university being, as well as all the things that the Minister set out in his response to my hon. Friend the Member for City of Durham, a community. An important part of a university is the academic community in the university. It is not made up just of university leaders and staff; students are also part of it, and I think that it is important to include them in the decision-making process.

I therefore hope that the Minister looks favourably on the amendments. They would reinforce the signal that he has already sent through the HEFCE grant letter. They would help to concentrate more effectively the minds of remuneration committees, as well as bringing about a wider range of perspectives to ensure that they are reaching the right conclusion, to the benefit of students, staff and the taxpayer. I hope that the Minister supports the amendments.

Joseph Johnson: I thank the hon. Member for Ilford North for his amendments, to which we are giving some thought. However, I emphasise that the public interest governance condition that the clause contains is a vital component of the new regulatory framework and is designed to ensure that providers are governed appropriately, as he wants them to be. That is in recognition that some providers' governing documents—in particular, those of providers accessing Government grant funding—are of public interest.

Let me first explain how we envisage the public interest governance condition working. Clause 14 explains what the condition allowed for by clause 13 is. It will be a condition requiring certain providers' governing documents to be consistent with a set of principles relating to governance. The principles will be those that the OFS thinks will help ensure that the relevant higher education provider has suitable governance arrangements in place. That is not new. Legislation currently requires the governing documents of certain providers—broadly, those that have been in receipt of HEFCE funding—to be subject to Privy Council oversight. That is the backdrop.

Let me deal with the amendments. I do not believe that amendment 25 is necessary, and it could be confusing. The arrangements are already set out and designed for the primary purpose of ensuring that appropriate governance arrangements are in place and that best practice is observed. The introduction of the term “practices” through the amendment would risk changing the scope of the public interest governance condition to give it a much wider and more subjective application and imposing a significant and ambiguous regulatory burden on the OFS. That would stray outside our stated policy objective and beyond the OFS's regulatory remit.

The suggestion in amendments 26 and 27 is to include principles relating to transparency of remuneration as being helpful for potential inclusion within the consultation process. We resist those also. We do not think that it would be helpful at this stage to make them mandatory components in clause 14. That is because, as I am sure the hon. Gentleman will appreciate, higher education institutions are autonomous institutions and the Government cannot lightly dictate what autonomous institutions pay their staff. As the hon. Gentleman said, we have already as a Government recently expressed concern about what appears to be an upward drift in senior salaries. The previous Secretary of State in the Department for Business, Innovation and Skills and I put this explicitly, as the hon. Gentleman said, in our most recent HEFCE grant letter. We clearly stated that we want to see sector leaders show greater restraint. The hon. Gentleman will also know, as a seasoned veteran of the HE sector, that higher education institutions are now obliged to publish the salaries of their vice-chancellors anyway, but as I said, we are watching this issue very closely and doing everything we can to urge the sector to exercise restraint, without crossing the line and interfering in the practices of autonomous institutions.

Ben Howlett: Will my hon. Friend give assurances, however—I agree this should not be put in the Bill—that he will work with the new OFS to ask them to look at remuneration, and also make sure that transparency is at the very heart of the OFS in relation to remuneration?

2.45 pm

Joseph Johnson: Yes, I can certainly give my hon. Friend that assurance. Transparency is a big feature of the reforms in other respects and it is important we continue to ensure that the OFS is attentive to the issues around remuneration in the future, as we have asked HEFCE to be in our last grant letter.

To make sure we get this list of principles absolutely right, clause 14 requires the OFS to consult on its contents. This is because we wish to ensure a transparent and full re-evaluation of the current and any subsequent lists, and to provide all interested parties with a full opportunity to make their own representations and help shape the terms of the list in a positive way. For those reasons, I respectfully ask the hon. Member for Ilford North to consider withdrawing his amendment.

Wes Streeting: I am grateful to the Minister for his reply, particularly his initial remark that these amendments are on issues that the Government are carefully considering. I hope that the Minister will take the exchange we have had this afternoon on board and think about more

[*Wes Streeting*]

precise amendments. I note that he made a technical objection to amendment 25, and hope that he will therefore reflect on whether a better form of wording would achieve the objectives.

There are a couple of issues I want to pick up, in terms of the Minister's principal objections. He talked about university autonomy and of course that is an important principle, but he has also conceded that universities are already required to publish the pay of the highest paid members of staff in an institution. The amendments propose a very simple and relatively minor extension to make sure there is transparency about the lowest paid. There are issues within institutions where some staff, particularly support staff, are paid at frankly unacceptable levels—in particular if they are contractor staff. I do not think it would be a gross intrusion into university autonomy to proceed with the principles outlined in the amendments. There is certainly not the threat to university autonomy that universities have been audibly whingeing about in the last few days. I hope the Minister will go away and think carefully about that.

Having said that, the Minister has raised a particular technical concern and I am mindful of the crack hand of the Whip—even when he is not in his place he is very effective at marshalling the troops—so conscious of the numbers, and the practical issues the Minister has put forward, I am content and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: We are making cracking progress when the Whip is not here.

Gordon Marsden: I beg to move amendment 169, in clause 14, page 8, line 34, leave out “English higher education providers” and insert “Higher education providers in England”.

This amendment would ensure higher education providers which operate in other UK nations are not excluded.

The Whip returns just as I am moving an amendment that, if he did not look at it carefully, he might think was a piece of pure pedantry—

The Lord Commissioner of Her Majesty's Treasury (David Evenett): Perish the thought.

Gordon Marsden: But it is not, and I will explain why. Clause 14 deals with a public interest governance condition. The need, or concern, for the amendment has been brought to my attention, and possibly to the attention of other members of the Committee, by the Open University because it is alert—as the Minister and I always are—to the unintended consequences of legislation. I am also alert to the fact—as I hope the Minister will be, because he will want the successful completion of the Bill, if not on his tombstone, on his CV—that Bills like this one do not come along that often. Therefore, we need to try, without having a crystal ball, to look at where higher education is going in the next 20 years. The Open University, of course, is particularly concerned because it also operates, as the explanatory notes say, in

other UK nations. It is therefore important that the Open University is not unintentionally removed from those provisions.

The Open University has been going for more than 40 years, but other potential providers, groups and conglomerates will increasingly want to operate across other UK nations through different mechanisms and in different media. We therefore have to try to future-proof the Bill for the development of online and other sorts of learning, as well as for the traditional campus-based learning that we all know and love—that is true in your case, Sir Edward, and possibly in other people's cases, too.

I do not want to labour the point, but new forms of teaching are rapidly developing, such as massive open online courses. The Open University has come together with a number of other organisations on the FutureLearn programme. Groups of organisations that have not historically put their material out for formal or informal learning, particularly in the arts and cultural sector, might see the potential to do so and to produce largely online degrees that are quite specific to the stuff they put out, which is welcome. I do not know whether we will quite reach the nirvana on which the Minister mused. If he has been misquoted, I will let him correct me, but I think at one stage he speculated as to whether Google or Facebook might want to enter from the wings.

As for today, this is principally and specifically something about which the Open University is concerned. I am sure that the devolved Administrations will also be concerned, because they do not want to have different levels of regulation for institutions that operate across the United Kingdom, let alone across other jurisdictions outside the United Kingdom.

This is a probing amendment in the sense that I am presenting the Minister with a difficulty. If, by any chance, what I have suggested is technically inadequate, I would be more than happy for him to propose an alternative.

Joseph Johnson: I thank the hon. Gentleman for tabling the amendment, which we have carefully examined. The amendment would change a reference in clause 14 from “English higher education providers” to “Higher education providers in England”. The term “English higher education provider” is defined in clause 75 as one “whose activities are carried on, or principally carried on, in England”.

In practice, that means any higher education provider that carries out the majority of its activities in England. In that sense it replicates the definition in the Further and Higher Education Act 1992. It is important to note that that wording is capable of including a provider that carries out activities outside England. The only proviso is that the provider must carry out most of its activities in England.

Clause 14 relates to the public interest governance condition that can be set as an initial or an ongoing condition of registration of any registered higher education provider. A provider that has such a condition will be required to ensure that its governing documents are consistent with a set of principles relating to governance. We intend that the OFS will monitor compliance with

those principles upon a provider's registration and as part of its annual monitoring of a provider's governing documents.

The public interest governance condition is an essential aspect of the new regulatory framework. It is right that the condition should be applied to all registered higher education providers but that it should not apply more widely. To apply the public interest governance condition to any institution that happens to provide some HE in England would extend the OFS's regulatory reach beyond that which is appropriate and would expose some HE institutions to double regulation.

Gordon Marsden: Will the Minister give way?

Joseph Johnson: I will press on because this is a complicated set of arguments.

Such double regulation does not seem right, and it would not respect existing devolution arrangements in cases where an institution is already providing higher education across the nations of the UK. To make it a bit less abstract, let me give an example of HEFCE and the Higher Education Funding Council for Wales. At present HEFCE regulates all HEFCE funded providers who carry on activities wholly or principally in England. Likewise, HEFCW regulates providers whose activities are wholly or principally in Wales. HEFCE regulates activities outside English borders—for example, the Welsh activities of a provider that principally operates in England—and HEFCW regulates the English activities of a provider that principally operates in Wales. Those arrangements ensure that there is neither a regulatory gap, nor double regulation, across the UK.

Giving the OFS the ability to regulate providers involved in providing any HE in England at all, no matter how limited, would upset the current balanced devolution arrangements. Even if the amendment of the hon. Member for Blackpool South were applied only to the public interest governance condition, it would expose Welsh, Scottish and Northern Irish providers, which might have only a minimal presence in England, to additional regulation from the OFS for their activities in England.

Gordon Marsden: I appreciate that it is a complicated situation—I often use the example of a Rubik's cube—and this is obviously part and parcel of that process. The Minister prayed in aid the arrangements made in the 1992 Act. There is a world of difference between the way people operate in higher education in 2016 and how they operated in 1992, hence the various references I made to online providers and all the rest of it. I am concerned to capture in the legislation what the situation would be for people who operate as an online provider, as the Open University increasingly does. How can the structure the Minister describes, which was principally set up for an analogue world, cope with a digital one?

Joseph Johnson: The Bill is designed to cope with the growth of online HE providers. Providers of distance learning or online HE courses will be covered by the definition in clause 75 if the majority of their activities take place in England. If that is not the case, they can bring themselves into scope by setting up their presence in England as a separate institution and meeting the

OFS's registration conditions. Considerable thought has been given to the future-proofing of the legislation to take into account the growth of online and distance provision.

The hon. Gentleman asked about foreign institutions wanting to set up in England. Providers of HE courses will be covered by the definition in clause 75 if the majority of their activities take place in England. If a foreign university wished to set up base here, to appear on the register, and to hold English degree-awarding powers and a university title, it would need to set up its presence in England as a separate institution and meet the OFS's registration conditions.

The hon. Gentleman specifically mentioned the Open University. I reassure him that we believe that the Open University will count as an English HE provider. According to published data from July 2015, the majority of its students are in England, and most of its income is from English sources. Like the hon. Gentleman, I recognise that the Open University plays a valuable role in HE provision right across the four nations of the UK and it is rightly proud of its status as a four-nation university. Its status as an English HE provider under the Bill should not be seen to detract from that in any sense. I hope that I have reassured the hon. Gentleman and I ask him to withdraw his amendment.

Gordon Marsden: I am reassured by the Minister's explanation. It was important to have that exchange, because what he said and the implications of it for future-proofing are important. It is important to get it on the record at this stage. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

3 pm

Gordon Marsden: I beg to move amendment 170, in clause 14, page 8, line 40, after "law", insert "including from Government and other stakeholders"

This amendment would ensure that academic staff are not constrained on academic freedom by Government or other relevant stakeholders.

The Chair: With this it will be convenient to discuss the following: amendment 171, in clause 14, page 9, line 5, at end insert—

- "() relevant student bodies and/or their representatives,
- () academic workforce and/or their representatives,"

This amendment would ensure the OfS must consult with students/academic staff before revision of the list.

Gordon Marsden: I always bow to the Clerks' superior knowledge, but I confess I was slightly mystified about why amendments 170 and 171 are yoked because they cover different issues. I will have to keep them within the scope of the one clause.

My hon. Friend the Member for Ilford North asked the Minister about definitions of "university" and wisely constrained himself to talking in fairly straightforward terms and did not become too philosophical. I will try to do the same in the context of this amendment.

We had a debate about what should and should not be in the Bill. Clause 14, to my surprise when I first saw the Bill, refers to

"the principle that academic staff at an English higher education provider have freedom within the law".

[Gordon Marsden]

In my judgment, it is unusual to see that in a Bill and I was so bold as to table the amendment because the one group of people the academic staff did not seem to be protected from were Government or other relevant stakeholders. It talks about ways in which they might be protected against, presumably—perhaps the Minister will amplify this—being affected by their provider. One can think of all sorts of situations without naming individual universities. Hypothetically, for example, a university might depend heavily on funding or support from companies promoting genetically modified foods and so on.

I will not mention a particular university although I will mention a particular controversy. In future, a university might, for example, receive funding from the proponents of fracking and find that a member of its staff who was not keen on fracking had all sorts of legitimate academic arguments against it. Such examples, which I believe will be covered by the clause, are well understood. The amendment is about how the Government or other relevant stakeholders might also constrain that because that will arise in any Government. I think back to when Baroness Thatcher was deprived of an honorary degree from Oxford because of the views of the congregation at that time—not that she was moved to be punitive or, as far as I am aware, to be terribly concerned about the matter. Nevertheless, circumstances may arise in which a university might put itself against the view of a Government Department, Minister or something else.

If we are going to have all these others things in the Bill, the amendment would not be a bad idea, although it is a probing amendment, obviously. I tabled it partly from curiosity because I want to tease out why these specific things have been put in the Bill when in other circumstances I would expect them to be in guidance or whatever.

My only other point relates more to the whole of clause 14 and putting forward new ideas and controversial and unpopular opinions. I do not want to set a hare running, but there is a fine line between controversial or unpopular opinions, or sometimes perceived opinions, and things we now take for granted should not come under the purview of the academics promoting them. Some may remember the furore around Professor Eysenck and his supposed research about the abilities of certain races to perform better at sports, for example. Some will remember a time when university academics pontificated about the origins of homosexuality and so on. These are not hypothetical issues. Getting the balance right between being allowed to put forward

“ideas and controversial or unpopular opinions”

and those things that we in an evolving society now regard as unacceptable is always difficult. That is why I was curious to see this proposal in the Bill. I urge the Minister to think about the issues in terms of the Government and other stakeholders and to respond.

I will turn to the entirely separate matter of amendment 171, which is more straightforward and far less philosophical. In line with everything the Opposition have said and will continue to say—and on which my hon. Friend the Member for Ilford North sallied forth today—this concerns the position of students. Surely it

makes sense to require the OFS to consult students, the academic workforce or their representatives before revision of the list.

Again, that would need to be proportionate. We had this argument on an earlier clause but I am not suggesting that every small item of detail that requires a revision of the list should be consulted on. Fundamentals that perhaps change the pattern of work in a university or the closing of a campus should surely require students and academic staff to be consulted and to put forward their opinions to the OFS. That is the basis of amendment 171.

Joseph Johnson: The governance condition is a vital component of the new regulatory framework. It is designed to ensure providers are governed appropriately. Taking amendment 170 first, academic freedom is one of the fundamental strengths of our system and I want to reassure the Committee that the Government are fully committed to protecting it. We absolutely agree that academic staff must be able to teach and research without interference.

The OFS is obliged to consult on a list of principles that can make up this governance condition. The Bill, therefore, rightly does not prescribe what should be included in that list, with the one notable exception that the hon. Gentleman has identified, which is the principle of freedom for academic staff

“(a) to question and test received wisdom, and

(b) to put forward new ideas and controversial...opinions”

without losing their jobs or privileges. The amendment relates directly to that wording, which has been highlighted in consultation with the sector as being of great importance. That is why clause 14 ensures that that important principle remains included in legislation for the future.

The hon. Gentleman asked where the exact wording comes from. It is from the Education Reform Act 1988, which now cross-references to freedom of speech and academic freedom provisions in the Counter-Terrorism and Security Act 2015, in relation to actions of governing bodies in preventing people being drawn into terrorism. The wording is also the same as specified in the Committee of University Chairs’ higher education code of governance. This is a tried and tested definition of academic freedom, widely valued and understood by the sector.

The Bill includes a comprehensive range of protections for academic freedom, of which this is just one. It defines for the first time all the ways in which the Secretary of State may influence the OFS by issuing guidance, in terms of setting conditions of grant and giving specific directions to the OFS. In each case, the Bill places an explicit and specific statutory duty on the Secretary of State to have regard to the need to protect academic freedom, and it lists the areas in which the Secretary of State may not interfere.

While I can reassure hon. Members of our commitment to academic freedom, I do not believe that the amendment adds anything to what are already extensive protections from Government interference in academic freedom, specified in multiple places in the Bill. As I mentioned earlier, the OFS will need to consult prior to determining and publishing a new list of these public interest conditions.

I turn to amendment 171 and the issue of who the OFS needs to consult, on which I am glad to be able to provide some reassurance. I fully believe that the list of

principles on which the governance condition will be based should be as proportionate as possible and consulted on widely. I therefore welcome and sympathise with the suggestion that student bodies and academic staff should be included. In fact, I firmly expect those groups to be covered under subsection (8)(c), which states:

“such other persons as the OfS considers appropriate”.

It would be inappropriate, however, to attempt to list all parties the OFS needs to consult on the face of the Bill. That approach would risk drawing up what could be seen as an exhaustive list, thus excluding anyone else from such an important consultation.

I assure hon. Members that I firmly expect the OFS to conduct a fully open consultation, inviting the views of anyone with an interest, including students and staff. The Bill as drafted fully allows for that to happen. In the light of all those assurances, I ask the hon. Gentleman to withdraw his amendment.

Gordon Marsden: Taking amendment 171 first, I entirely accept and am reassured by what the Minister said, which will be welcomed. There is always an argument about not wanting to list everything under the sun because we might miss something, and that is fair.

I will not press the amendment to a vote, which the Minister will be pleased to hear. Without us spending half an hour going through the various bits and pieces of statute—we are obviously not going to resolve it this afternoon—if we stopped people in the street and asked, “What is one of the most important things that a new office for students, preserving academic freedom, would want to do?” I would not be surprised if they said something like, “Well, Government shouldn’t be allowed to interfere.”

These are not hypothetical issues; they are real ones—for example, universities or colleges that get support in the area of fracking. Those are real issues, but we are saying, “Oh, well, it’s all covered somewhere else.” I am not knocking the specific examples on the face of the Bill, but I do not understand why things like questioning and testing received wisdom and new ideas need to go on the face of the Bill but something as fundamental as saying, “You can’t be done for challenging Government policy or Government Ministers” is not.

Joseph Johnson: I will continue to reflect on the points raised by the hon. Gentleman. He makes some interesting suggestions, and we will take them away and have a think.

Gordon Marsden: On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 14 ordered to stand part of the Bill.

Clause 15

POWER TO IMPOSE MONETARY PENALTIES

The Chair: I am delighted to call the Member who represents Durham University, which is where I went to university and learned everything I know—when I was concentrating, which I shall now do for the hon. Lady’s speech.

Dr Blackman-Woods: I beg to move amendment 194, in clause 15, page 9, line 11, leave out “if it appears” and insert

“where evidence has been provided”.

This amendment would require the OfS to have evidence about the behaviour of a higher education provider before taking action against them.

The Chair: With this it will be convenient to discuss the following:

Amendment 195, in clause 16, page 9, line 24, leave out “if it appears” and insert

“where evidence has been provided”.

See explanatory statement for amendment 194.

Amendment 196, in clause 18, page 11, line 17, leave out “it appears” and insert “evidence has been provided”.

See explanatory statement for amendment 194.

Amendment 197, in clause 21, page 13, line 1, leave out “it appears” and insert “evidence has been provided”.

See explanatory statement for amendment 194.

Dr Blackman-Woods: Given the breadth and depth of your knowledge, Sir Edward, Durham University obviously did a simply brilliant job.

Amendments 194 to 197 all deal with the same issue. The OFS has a wide range of powers outlined in the Bill, including the ability to impose sanctions on institutions. Clause 15, to which amendment 194 relates, gives the OFS the power to impose a monetary penalty on a higher education provider. Clause 16, to which amendment 195 relates, gives it the power to suspend a registered provider. Clause 18, to which amendment 196 relates, allows it to deregister a higher education provider completely, and clause 21, to which amendment 197 relates, gives it the power to refuse to renew an institution’s access and participation plan.

3.15 pm

Each of those sanctions could have a significant impact, both for the university in question and its reputation and, perhaps more important, for the students studying at that institution and the staff who work there. It could also ultimately lead to students not being able to graduate from their degree. However, I do not have a particular issue with the range of sanctions that the OFS will have in its arsenal. Members of the Committee know I have grave concerns about the laxity of the system that will allow new entrants into the sector, so I am actually very pleased that there are some sanctions for new entrants that breach the registration conditions. My question is: how will the OFS know those new entrants are in breach of the registration conditions?

Each of those clauses use the words “it appears”. For example, in clause 15:

“The OfS may impose a monetary penalty on a registered higher education provider if it appears to the OfS that there is or has been a breach of one of its ongoing...conditions.”

Clauses 16, 18 and 21 use similar forms of words to determine whether a sanction should be applied. What does “it appears” mean, and what evidence will be needed to demonstrate the appearance of breaching a registration condition? Schedule 3 sets out in more detail how the OFS will go about imposing penalties on higher education institutions but it does not set out

what evidence will be sufficient for the OFS to take action and enforce sanctions. Schedule 3 says only that in the notice to providers the OFS must specify its “reasons for proposing... the penalty”.

Again, the language is rather inadequate, but I will leave that point until we scrutinise schedule 3. What does “it appears” mean? What evidence base is going to be applied by the OFS and where do we learn what that evidence base is? Is it going to be set out in regulations or is it going to be up to whoever happens to presiding over that section of OFS?

It is a serious point because, for example, a disgruntled student could take to the airwaves and criticise an institution and say it is in breach of a registration condition, when in fact that might not be the case. Is that sufficient evidence? Is that, as “it appears”, a breach of a condition? The lack of clarity is my concern and I look forward to the Minister’s response.

Joseph Johnson: I thank the hon. Lady for tabling her amendments. They would require that evidence must first be provided to the OFS that a provider has breached its registration conditions before a sanction may be imposed, such as a monetary penalty or removal from the register, or a suspension placed on the provider’s registration.

The Bill as drafted states that the OFS may take such actions if it appears to the OFS that a breach of conditions has occurred. The test of “it appears” needs to be read alongside the rest of the clause and schedule 3. Regulations will set out the factors to which the OFS must or must not have regard when deciding whether to impose a monetary penalty. They will be subject to consultation and targeted at ensuring that the OFS can impose a monetary penalty only when there is good reason to do so. In addition, the hon. Lady will be aware that the OFS, as a public body, must act reasonably and proportionately in accordance with general public law principles.

I recognise the spirit in which the amendments were tabled. Although I understand and respect the intentions behind them, the OFS will be a public body acting in accordance with public law. It is clearly the case that “if it appears to the OFS”

requires the OFS to make a judgment and take responsibility for its decisions, which seems to me to be the right approach. If we accepted the amendment, the changed wording

“where evidence is provided”

would be more passive, almost implying that, provided the OFS has received some evidence, it could trigger the sanction without applying a rigorous approach. We surely want a more engaged OFS than that, applying its judgment flexibly, sensibly and proportionately.

Clause 2 is clear on that point, too, making it clear that the OFS must follow the principles of best regulatory practice, including that its regulatory activities should be transparent, accountable, proportionate and consistent, and targeted only at cases in which action is needed. The hon. Lady might take further assurance from the fact that any intention to impose a suspension or monetary penalty or to remove a provider from the register must have clear processes, described in the Bill, that allow for a minimum period of 28 days for providers to make representations to the OFS. The only exception to that

rule is where the OFS considers that a suspension should take effect immediately because of an urgent need to protect public money. Those provisions create important safeguards for providers. I am clear that any compliance action proposed by the OFS must be based on well founded concerns, and I am confident that the Bill as drafted makes the necessary provisions.

I add that clause 2 requires that the OFS, when performing its functions and duties, must have regard to guidance given to it by the Secretary of State. I assure Members that if the OFS is not acting in a reasonable and proportionate manner in respect of the issues raised by the amendments, such guidance will be given. On that basis, I ask that the hon. Lady withdraw the amendment.

Dr Blackman-Woods: I have listened carefully to the Minister’s response. If I have got it right, although “appears to” might be rather loose language, subsection (3) means that regulations will set out the types of evidence that the OFS might consider. In addition, if the regulations are not considered to be sufficient or have not been adopted properly by the OFS, additional guidance will be given by the Secretary of State to assist the OFS in its decision making. With that in mind, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Joseph Johnson: I beg to move amendment 32, in clause 15, page 9, line 22, after “interest” insert “, and

(d) the retention of sums received”.

This amendment is consequential on amendment 33.

The Chair: With this it will be convenient to discuss Government amendments 33, 102 and 103.

Joseph Johnson: The Bill grants the office for students the necessary powers to impose penalties on higher education providers and recover costs and interest related to unpaid penalties and costs. As drafted, the Bill provides only that those sums will be paid into the consolidated fund. On reflection, that is too blunt an approach and is not in line with best practice elsewhere. We think it should be possible for the OFS to retain some of these costs, but only in certain cases in which the Secretary of State agrees to it with the explicit consent of the Treasury. We are clear that the OFS should be allowed to retain income only when it relates to its costs, not when it is imposed as a penalty or deterrent.

For the avoidance of doubt, Government amendments 32, 33, 102 and 103 align the legislation with standard Treasury guidance. They make it clear that OFS income is to be remitted to the Secretary of State unless the Secretary of State, with the consent of the Treasury, directs otherwise.

Gordon Marsden: I have no wish to detain the Committee over Government amendments that seem to me entirely sensible and proportionate. However, I have a question for the Minister that is not merely hypothetical, because significant sums of money that were extracted under the previous Government, for example in LIBOR fines,

found their way into curious parts of the Consolidated Fund, enabling the Chancellor to stand up and produce rabbits out of hats in the various Budgets. That is another matter and we will not go into it, but it leads me to my point, which is that I am entirely happy and relaxed for the money to go to the OFS or even to the Secretary of State, but I would be rather less relaxed if I thought it would disappear into the Treasury without trace. Will the Minister give me an assurance that this money will be ring-fenced for the Department and will not simply go back into the Treasury?

Joseph Johnson: I thank the hon. Gentleman for that further line of questioning, which I will reflect on. I cannot give him that assurance now, but I will reflect and hopefully provide some further assurance in due course. In the meantime, I reiterate that the amendments are to bring the treatment of OFS income in line with best practice by allowing the OFS to retain some of its income, but only where the Secretary of State so directs, with the explicit consent of the Treasury.

Amendment 32 agreed to.

Clause 15, as amended, ordered to stand part of the Bill.

Schedule 3

MONETARY PENALTIES: PROCEDURE, APPEALS AND RECOVERY

Amendment made: 33, page 72, line 34, leave out sub-paragraph (5) and insert—

“Retention of sums received

5 The OfS must pay the sums received by it by way of a penalty under section 15 or interest under paragraph 4 to the Secretary of State.”—(*Joseph Johnson.*)

Schedule 3, as amended, agreed to.

Clause 16

SUSPENSION OF REGISTRATION

Joseph Johnson: I beg to move amendment 34, in clause 16, page 10, line 11, after “ends” insert

“otherwise than when the provider is removed from the register”.

This amendment provides that the OfS’s duty to enter the date on which a provider’s suspension ends in the register does not apply where it ends with the provider’s removal from the register.

The amendment removes the requirement for the OFS to enter the date of the end of the suspension of a provider in instances when the provider has been removed from the register. Given that, in the event of deregistration, there will no longer be any entry in the register to enter a date against, it is a sensible clarification of the OFS’s duties in such cases.

Amendment 34 agreed to.

Gordon Marsden: I beg to move amendment 172, in clause 16, page 10, line 12, at end insert—

“(10) A suspension must not exceed 365 days.”.

This amendment would ensure suspension of a provider’s registration cannot exceed more than one year.

The Chair: With this it will be convenient to discuss amendment 174, in clause 17, page 10, line 36, at end insert—

“(e) specify what happens to existing students during the suspension period as documented in an institution’s student protection plan.”.

This amendment would ensure clarity as to the safeguards for students at a suspended institution.

Gordon Marsden: We return to a subject that we have already begun to touch on and will touch on further: the issue of what happens when things go wrong for whatever reason. I will deal with amendment 172 first, which is a probing amendment. As in the discussion that we had earlier on the issue of 28 days and 40 days, the figure is not entirely arbitrary, but it is a figure that could be played with.

3.30 pm

The amendment concerns suspension and would create a sunset clause. Our concern is about natural justice for the provider that has been suspended, but equally we want to make sure that all the people affected by the suspension—we come back to our familiar mantra of workforce, students and so on—are not left in some infernal limbo for an unreasonable period of time. I will not refer to specific examples, but will draw on my own experience of having been on the Select Committee before 2010 when two or three major cases came up, which the Select Committee looked at and which the Quality Assurance Agency for Higher Education was involved in. There were lengthy proceedings, which in some cases took two to three years to resolve. That was detrimental not only to the provider under investigation, but to all those associated and, by extension, caused problems for the reputation of the sector as a whole. I bear that in mind with this amendment.

After all, if a provider is suspended, there are presumably two outcomes. They are either told, “Go away and put your house in order and we will lift the suspension”, or the provider withdraws from the market or possibly goes and does things and they are then told, “Sorry, this is not going to work”, and then there is a market exit of some sort. But suspension needs to be done in a reasonable and timely fashion. The Minister has the advantage of the rest of us because he has a phalanx of civil servants who can go back and look at previous examples of how long some of these things have taken, and who can consider whether it is not unreasonable to put some form of sunset clause in the Bill. That is the reason for amendment 172.

On the broader and more substantial issues, which again we have touched on to some degree and which I am sure we will touch on again when we come to clauses 40 to 48—I will not engage with the issue of the relevance or otherwise of probationary powers—amendment 174 is about what safeguards there are for students at a suspended institution. We want more meat and potatoes in the Bill to say what is actually going to happen. That is why the amendment would specify what happens to existing students during the suspension period—leave aside the issues for future or indeed past students who might study their degree certificates more nervously than previously, considering the amount of money they have spent to get them—as documented in an institution’s student protection plan.

At this point I want to refer to the paper that the Minister has given us. It is the paper on student protection plans that we discussed this morning. I have speed-read it. I might have said earlier that I think the broad range of intentions are good and perhaps one should not expect to see more than the broad range of intentions, but there are lots of specific points. Before I press the Minister a little further on a couple of points about market exit, it is important to lay out the context, which we touched on to some degree this morning when I talked about the evidence produced in the Government's White Paper on the expansion of alternative providers up to, I think, 2014 and on the number of institutions that have closed. I will not go over that ground again, but I will say something that I did not have the opportunity to say this morning on the nature of students at alternative providers.

I alluded this morning to the other part of the IFF Research report—commissioned by the Department for Business, Innovation and Skills, which was then in charge of higher education—which emphasises the proportionally large number of people from ethnic minorities or from disadvantaged circumstances who study at alternative providers. The Minister will remember our evidence session with a couple of the alternative providers and the discussion that followed with Mr Proudfoot, who represents a range of such providers. Mr Proudfoot specifically emphasised, and wanted us to support, the proportionally large number of people from disadvantaged backgrounds who study at alternative providers. From what the Minister and others have said, we can assume that the Government wish to see an expansion of alternative provision precisely to address some, although we believe by no means all, of the access and participation issues.

Alternative providers are, as it were, the other side of the coin, which is why we feel it is important to press this point. The figures from the survey suggest that 46% of learners at alternative providers are significantly more likely to be from an ethnic minority—46% of respondents were non-white, compared with 10% in the publicly funded sector. There is also some indication that those studying at alternative providers tend to be older, with only 23% aged under 20 at the time of entry, compared with 37% aged over 20 at the time of entry in the publicly funded sector.

I come back to what I said this morning, and have said on other occasions, about the importance of all forms of providers addressing the need for lifelong learning, because people want to come back to reskill and retrain. All of that is good. Concomitantly, when and if alternative providers stumble or fall, there are greater consequences for people who either would have felt wary of coming into higher education—perhaps because no one in their family had been there before or because higher education is not seen as a great strength by their particular ethnic grouping, or for whatever reason—and for people who went into higher education at a later stage. Again, I draw on my experience as an Open University tutor. People who enter higher education at a later stage are often in their middle years and are predominantly women. Often they go to alternative providers because they do shorter-term courses or ones that can be fitted in with a complicated work-life balance. People who were chary about going into the system in the first place, or people who went into the system

knowing that they would have to juggle things quite a lot to do so, will be far more dramatically affected than others, it might be argued, by a collapse in the alternative sector. For all those reasons, we believe it is important to get this right as soon as possible.

I am sorry to have to come back to this, but this is not a question of something that cannot happen, has not happened or, indeed, is not happening. I referred previously to the issues in 2011, when concerns around BPP and the Apollo group caused the previous Secretary of State to pause a major extension in this area. *Research Fortnight* argued in May—I am sure the Minister will not agree—that

“The government's proposed reforms are being billed as bold and innovative but in fact they are no such thing.”

It said that the wording

“proportionate for the Bill's regulatory aspects”

is “code for light touch” and that

“the UK government has instead decided to emulate a model from which many in the rest of the world want to escape.”

We may not share all the conclusions that might come from that, but we are well aware that those other problems exist elsewhere and have affected students. Indeed, a six-country study that was requested by BIS and published by the Centre for Global Higher Education at University College London's Institute of Education warned of some of these risks. It said that

“relative to the public sector, the quality of provision...is often found wanting, while tuition fees are usually higher.”

The six countries concerned were the US, Australia, Germany, Poland, Japan and Chile. The study went on to say:

“This suggests the need for much tighter regulations in the UK for all private providers, and not just those receiving government funding”—

—I appreciate that today we are dealing specifically with the ones in that category.

I want to press the Minister on these points. When it comes down to the practical, a student at a university that is suspended and has problems will ask, “Who is going to pick up the pieces if it all goes wrong?” We are talking about several different sorts of pieces—how do I continue my degree? What happens about the money I have spent already? What happens if the problems are not picked up until halfway through my course? Apart from financial compensation, the other issue is: if I want to continue with this course, where do I go? That is a huge issue for the Government and the OFS to address.

We are not going to solve this today, but to put the amendment on the face of the Bill would at least suggest that there needs to be a direction of travel. At the moment, the way the Government have set out the provisions is too laissez-faire and assumes that everything will be fine. I will go back to the example I quoted this morning of a question raised in the House of Lords about the West London Vocational Training College. I think that the question was posed—*Hansard* will or will not bear this out—by the noble Baroness Wolf, and the report in the *Times Higher Education* tells me that it was the noble Baroness Evans of Bowes Park who responded for the Government. In her answer, published on 1 July, she said:

“The Government has revoked West London Vocational Training College's designation... Affected students will be supported so they can continue their studies with as limited disruption as possible.”

May I ask the Minister how—this is germane to illustrating the need for amendment 174—those students are being supported? That answer was on 1 July; it is now 15 September. If the Minister cannot respond today, perhaps he will be good enough to update us on precisely how they have been supported. Have they been supported financially? Have they gone to other institutions? I use that example to demonstrate that just saying, “Well, they will be supported,” begs a range of other questions.

I have a whole list of other colleges that have been in similar circumstances recently. I would be interested to know about those, too, although I will not trouble the Committee. Perhaps those colleges will be a subject for written questions that might pop on to the Minister’s desk at some point.

These are not hypothetical issues. In its evidence to the Committee, the National Union of Students—having said what it said about the changes to degree-awarding powers—said that there should be a requirement, under clause 13, for all student protection plans to specify

“how students will be protected from any reasonable financial loss”.

It also says, “Should a student’s institution collapse or close their course while they are still studying, through no fault of their own, the student may be at risk of losing course costs, accommodation costs, moving costs and other costs that they would not have incurred had they not gone to that university, and it would be grossly unfair to put a student in a position where they stood to suffer financially for reasons totally beyond their control.”

3.45 pm

I think that submission from the National Union of Students is particularly valuable because it lays out the range of issues to be dealt with. It is a question not simply of tuition fees but of all the knock-on effects on people’s accommodation commitments. The cost of accommodation for students, particularly in London, has become a key issue, as I was told when I visited the new University of the Arts London campus in January. If there are failures of that sort—I am not suggesting that in respect of UAL but I am using UAL as an example of how important accommodation costs are in places such as London—there needs to be a clear set of plans for dealing with it.

It is interesting that Carl Lygo, the vice-chancellor of the for-profit BPP University said that the report showed that, while the alternative sector was

“doing a great job at attracting students that would not otherwise go into higher education”,

there was

“quite a lot of instability in the sector”.

He said:

“It is a sector that really does need a track record before progressing on to full degree-awarding powers”.

That is the thrust of much of what the amendment is trying to get at. We do not expect to get much more detail today, although we may press for it in due course. However, we expect to get some sense from the Minister as to how it will be taken forward.

This morning, the Minister prayed in aid, as a good—an unalloyed good—the power to take the cap off the number of students who could go into the sector. He slightly had a go at us for somehow being dog in the

manger about it, but it is not just the Opposition who are questioning the rush for alternative providers. The noble Baroness Wolf, to whom I already referred, has drawn sharply to the Government’s attentions some circumstances that have taken place in Australia as a result of the expansion of private providers, possibly without the necessary precautions.

I am sure that it is no part of the Minister’s wish that if we do not get the regulation and protections right, two or three years after his Bill appears on the statute book, there will be a series of scandals that cause real problems for the reputation of the whole alternative provider sector. I strongly urge him not simply to say, “Oh, well, we have adequate protections already”, or, “Putting this on the face of the Bill is otiose.” The tens of thousands of students who are at alternative providers or, indeed, at existing providers—we are talking not just about alternative providers, but about protecting people at existing longstanding institutions or new people who might be tempted into the market—would not regard these matters as unsuitable for the Bill. If we make this amendment to the Bill, it would give a great deal more reassurance—and direction, which is also important—to the OFS to ensure that this information is available.

Joseph Johnson: I thank the hon. Gentleman for raising these issues, which I agree are important, and that is why we have given them very careful thought at every stage in the development of our reform proposals.

The Bill provides important enforcement tools for the OFS, including a power to suspend a provider’s registration if it appears to the OFS that there has been a breach of the provider’s registration conditions. This imposes a powerful incentive for providers to adhere to the OFS’s conditions, and is therefore critical to safeguarding the quality and reputation of our HE sector, and to protecting students.

Amendment 172 seeks to ensure that any suspension imposed on a provider’s registration cannot exceed a period of more than 365 days. Imposing a limit of that nature to a provider’s suspension seems arbitrary and may be unhelpful, for example, when a suspension has been imposed in cases where a provider is “teaching out” students during a period that could exceed 365 days. I hope that gives the hon. Gentleman just one very quick example of why we would not want to have a limit of that kind.

Clause 17 puts in place a clear process for dealing with suspension, including setting out to providers the reasons for imposing a suspension and any remedial actions that may be required of them. We envisage that such remedial action requirements will not only state clearly what needs to be done but set out clearly the date by which such actions need to be taken.

The OFS will treat any breach of conditions as a serious matter and will require providers to put matters right promptly. Indeed, clause 18 allows the OFS to deregister a provider if its powers to suspend are insufficient to deal with a breach of a provider’s conditions. That will provide a clear safeguard for students, as it will avoid unnecessarily lengthy—even unduly protracted—periods of suspension.

I turn to amendment 174. The Committee has already discussed student protection plans, which the OFS can impose under clause 13. As the Committee has heard, we want the basic principles for having a student protection

[Joseph Johnson]

plan to be applied to any and every situation where a material change may potentially affect students' continued participation on a course or at an institution. Such situations could include an event where a provider's registration has been suspended.

We would expect providers to set out to students clear arrangements as to how student protection plans would handle material changes that might occur, including suspension. Information to students should include a clear process and provide clarity about options and mitigating actions, and the objective is to minimise any potential negative impact on students. The Bill also gives the OFS the ability to specify what transitional financial support students may receive if they are at a provider that has been deregistered by the OFS, resulting in designation for student support being removed.

On that basis, therefore, although I fully agree with the hon. Gentleman's concern about the importance of having a robust regulatory framework and tough threshold conditions for entry for high-quality providers, I do not believe that the amendment is necessary as I strongly believe that the Bill already contains the necessary provisions to safeguard students' interests.

Gordon Marsden: The Minister has quoted chapter and verse as to what the OFS might or might not be able to do, but what he has not been able to do is address the specific circumstances that I have listed, and I press him on this point about the differences between accommodation and all the rest of it. If he does not want to make this particular change to the Bill, how does he intend to ensure that the OFS considers all of those matters?

Joseph Johnson: We published an explanatory guide to the student protection plans, which was made available to the Committee yesterday, and that was an early provision of information to assist the Committee. Of course, the OFS will properly consult relevant bodies when it comes to drawing up the finer detail of how student protection plans should work.

Members of the Committee will have seen the kinds of measures that we expect student protection plans to include to assist students in those circumstances, such as suspension. We have listed four examples. The plans should include:

“provision to teach out a course for existing students; offering students an alternative course at the same institution”—

if it is just a programme or a department that is closing—

“making arrangements for affected students to switch to a different provider without having to start their course from scratch; measures to compensate affected students financially”.

Those are the kinds of things that we expect the consultation to flush out.

Gordon Marsden: I know the Minister is trying to be helpful. As I have said before, I am not dissing, to use a colloquialism, the student protection plans paper that has come forward, but it is very much a first stab at this. In particular, I want to ask him about the section on market exit at the end. Paragraph 35 states:

“Instances of a provider suddenly and without warning exiting the market completely are likely to remain extremely rare.”

I am sorry, but that is not historically accurate. We have had examples where providers have collapsed. The paragraph also states that

“the OFS will be able to work with students who want to transfer to alternative institutions”.

Say an institution was teaching law in a confined area and it was suddenly suspended for whatever reason and it had 1,000 students. Can the Minister tell me what alternative institutions would be available to pick up that tab and that group of students at that point? Just as importantly, what support—

The Chair: Mr Marsden, I can allow you to intervene as many times as you like—I am very easy-going on that—but we have to keep interventions brief, otherwise it is not fair on other people.

Joseph Johnson: Again, Sir Edward, I respond to the hon. Gentleman by reminding him that student protection plans are an existing feature of our higher education system, but the problem is that they are patchy and not systematic. The Bill will ensure that the OFS has the power to request student information plans systematically from categories of provider so that more students can benefit from the kinds of protections that are currently available only on a piecemeal basis. Those protections have helped institutions cope with the closure of courses or programmes, and we want to make systematic the existing best practice framework in the sector. That is our objective.

The hon. Gentleman is trying to conjure up this image of a sector that will suddenly be confronting the need to develop student protection plans, but they exist already. We are making them more widespread and on that basis, having given way a couple of times, I ask him to withdraw the amendment and agree that we are defending the student interest with this provision and putting in place something that the NUS has welcomed.

Gordon Marsden: Right—okay. I hear what the Minister has said. It is not my interpretation of what the NUS has said, which is why I am quoting chapter and verse from it, but the NUS can speak for itself. The problem with what the Minister has said—I accept his bona fides, his intentions and the rest of it, and I can see his frustration that I am not prepared to accept the broad assurances, but that is what they are—is that they are broad assurances that do not address some practical issues.

I go back to this point: the Minister cannot put a paper out to the Committee and not expect to be questioned on it in the course of the consideration of an amendment. I take him back to paragraph 35, which says that

“the OFS will be able to work with students who want to transfer to alternative institutions, with the aim”—

this is the additional thing—

“of their having banked credit for study already completed.”

The Minister knows as well as me, because he has made a big thing of the fact that he wants to do more about it in the future, that that situation of being able to transfer banked credit for study already completed does not exist in many institutions. That is one of the things that needs to be changed, but he wants to introduce a system that will make market exit much easier.

The Minister is blithely saying in the paper, “Of course they will be able to transfer to an alternative institution”, but he cannot give me any idea of what would happen in the particular example I gave him, or where the inducements would be. The paper also talks about the aim of students transferring with banked credit for study already completed, but the Minister knows perfectly well that is very fragmentary and very uncertain in the process that we currently have. Particularly in a crisis, hundreds of students could be transferred from one institution to another. Who will fund them? Will the Government stump up money? Will the university that takes them on board automatically have all those courses?

4 pm

I know that these are matters of detail and not in the Bill. I do not expect them to be, but I do expect us, when we table an amendment that says that the OFS needs to think about all these things in great detail, not simply to be palmed off with the idea that it is all in the paper and everything will be fine, because everything will not be fine. There are many recent history examples of that.

That is why I am profoundly unhappy and concerned at the Minister’s approach at this moment. I hope that he will reflect on this exchange and the issues that we are raising. When we come to consider some of the specific issues in clauses 40 to 48, we will want to see far more meat on the bone than we have been given here this afternoon. I am mindful of the time and the heat of the day and that it is Thursday afternoon and hon. Members want to get back to their constituencies. For those reasons, whereas on other occasions I would have pressed this amendment to a vote, I will not press it today, but I will expect to hear about more progress on this issue from the Minister in the future. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 16, as amended, ordered to stand part of the Bill.

Clause 17

SUSPENSION: PROCEDURE

Joseph Johnson: I beg to move amendment 35, in clause 17, page 10, line 42, at end insert—

“() section 85 in the exercise of UKRI’s power under that section to give financial support, or”.

Clause 17(8) provides for an expedited suspension procedure where there is an urgent need to protect public money. This amendment adds financial support given by or on behalf of UKRI in the exercise of its power under clause 85 to the list of examples of public money for the purposes of that provision.

Subsection (8) provides the OFS with the power to suspend a provider with immediate effect where the OFS considers that there is an urgent need to protect public money. The clause lists particular examples of payments in the HE field that the OFS may want to protect and the amendment simply adds to that list payments made by UK Research and Innovation using the powers given to it by the Bill. The amendment provides a clear signal that the OFS will specifically take into account the need to protect UKRI funding when considering the suspension of a provider.

Amendment 35 agreed to.

Clause 17, as amended, ordered to stand part of the Bill.

Clause 18

DE-REGISTRATION BY THE OFS

Joseph Johnson: I beg to move amendment 36, in clause 18, page 11, leave out line 26 and insert

“breach (whether or not they have been, are being or are to be, exercised in relation to it).”

This amendment clarifies that the requirement in one of the pre-conditions for de-registration of a provider that the OfS’s powers to impose monetary penalties or suspend registration are insufficient to deal with the breach does not prevent those powers being exercised in relation to the breach.

Clause 18 sets out two types of case in which the OFS must deregister a provider. The first is when a provider, having previously been suspended or fined for breach of an ongoing registration condition, breaches the same condition or another of its conditions. The second case is when the breach of an ongoing registration condition is so serious that neither the imposition of a monetary penalty nor a suspension will be sufficient to deal with it. The amendment simply makes it clear that the OFS can come to a view that a fine or suspension would be insufficient to deal with a breach and then move to deregistration without first having had to take any action to impose those sanctions. That allows for appropriately speedy action in particularly serious cases—for example, cases of large-scale fraud. Of course, it will always be the case that the OFS could take such an approach only if the facts of the case justified it.

Amendment 36 agreed to.

Gordon Marsden: I beg to move amendment 175, in clause 18, page 11, line 37, at end insert—

“(8) The OfS must submit any list produced under subsection (7) to the Secretary of State who shall lay it before Parliament.”

This amendment would ensure the list of providers removed from the register is laid before Parliament.

The Chair: With this it will be convenient to discuss new clause 5—*De-registration: notification of students*—

“(1) The governing body of a higher education provider must inform all students enrolled on a course if it—

- (a) is notified by the OfS of its intention to suspend the provider’s registration under section 17(1),
- (b) is notified by the OfS of its intention to remove it from the register under section 19(1),
- (c) is notified by the OfS that it will refuse to approve a new access and participation plan under section 21(2), or
- (d) has applied to be removed from the register under section 22(1),

(2) The governing body of an institution must notify students under subsection (1) by the date on which—

- (a) the suspension takes effect,
 - (b) the de-registration takes effect, whether enforced or voluntary, or
 - (c) the expiry date of any existing access and participation plan that will not be renewed and the period of time for which approval of a new plan will be refused,
- whichever is applicable.”

This amendment would require that any students still undertaking courses at that provider are notified if the provider becomes deregistered.

Gordon Marsden: This amendment, again, is in line with transparency before Parliament, particularly transparency in serious cases. That is what it would be, in our opinion, if a provider were removed from the register. We had a run-around on this subject in another context on Tuesday. The Minister said to me then, perfectly reasonably, that the register would be done in real time, that it was an ongoing process and so on. I observed that things done on a rolling basis day by day are often things that people do not pick up on.

After all, if a provider is to be removed from the register, there must be substantial reasons for doing so, and it is in the public interest, let alone the interests of students and other stakeholders, that that should be made clear. They should not be constrained to look on a website every day to see whether their institution has not made the grade in some way. As a *de minimis* process, it should be the case that the OFS must submit, according to the terms of the amendment,

“any list produced under subsection (7) to the Secretary of State who shall lay it before Parliament.”

That is not onerous—indeed, one might say that stronger things could have been put into the Bill. However, it is important for the sake of transparency and confidence in the sector, particularly if we are going to be dealing with a significant number of new and alternative providers over the next 10 years, that the public and students have confidence, and that the communities in which those new providers provide higher education have confidence. That is why we tabled amendment 175 as a probing amendment. I hope that the Minister will understand the difference between simply putting something on a register in real time and having a fixed period in which to lay it before Parliament.

Dr Blackman-Woods: I will speak to new clause 5. The clause continues the argument set out by my hon. Friend the Member for Blackpool South that in the event of deregistration, the interests of students must be paramount. In particular, students and their degrees must be protected, and they must be able to prepare and decide what to do if their institution is deregistered or their course is removed.

The purpose of new clause 5 is to ensure that something is put on the face of the Bill about how and when students will be informed that there is a problem with their institution. It will ensure that the governing body of a higher education provider informs students enrolled on one of its courses if it is notified by the OFS of its intention to suspend the registration of the institution or remove it from the register, or if it refuses to approve the new access and participation plan, which would have the effect of removing it from the register. It stresses that the governing body must notify students if a suspension or deregistration is to take place, when it will take effect, whether it is enforced or voluntary and, critically, whether there is an expiry date for any existing access and participation plan.

The new clause is straightforward: it simply seeks to set out in the Bill some basic protections for students to ensure that they are informed well in advance. Although the new clause does not say this, students should be notified before something inaccurate gets into the media that might alarm them. They should be informed well in advance of anything leaking out and be given clear information about whether there is going to be a suspension

or deregulation, and when. Critically—this was the purpose of the amendment of my hon. Friend the Member for Blackpool South—students must be enabled to take relevant and appropriate action early enough to safeguard their current and future studies. I look forward to hearing what the Minister has to say.

The Chair: That is your cue, Minister.

Joseph Johnson: I do not want expectations to rise too high.

I welcome this opportunity to discuss the deregistration of providers. The OFS list of deregistered providers will be a single, comprehensive record of English HE providers that have been removed from the register. As such, it will be updated in real time as and when additions are made to it. The list and the information in it will be publicly available and hosted on the OFS website. In that sense, there appears to be little value in placing a duty on the Secretary of State to make available information that the OFS will place in the public domain. The OFS will take steps to ensure that the register and the list of deregistered providers is well publicised.

On new clause 5, the powers that the OFS is given in the Bill to impose sanctions, suspend a provider's registration and, ultimately, to deregister a provider are a powerful incentive for providers to adhere to their registration conditions. When the OFS proposes to suspend or deregister a provider, or to refuse to renew a provider's access and participation plan, this is primarily a compliance measure to ensure that providers take necessary steps to comply with the conditions of registration that have been placed upon them. Providers are given time either to take corrective action or to make further representations to the OFS before any sanctions are imposed.

I understand the reasons for the new clause, but it would not be right for there to be widespread publicity when the OFS has yet to decide to take action, and when discussions, representations and evidence gathering may still be ongoing. Such publicity may cause reputational damage that would not easily be repaired, even if the provider addresses the OFS's concerns and no action is ultimately taken. It may also dissuade those giving evidence from doing so and lead to the provider not being fully co-operative. That is not desirable, given that our aim is, whenever possible, to work with providers to improve their performance, and for them to continue to provide high-quality higher education.

Let me be clear: when a decision has been taken, if the OFS considers it appropriate that students should be informed of the actions taken, it already has the power when appropriate to compel a provider's governing body to ensure that students are properly and promptly informed.

Gordon Marsden: The Minister is being characteristically generous in giving way. We have already expressed our concern about the phrase “if the OFS considers it to be appropriate”. I am sure that my hon. Friend the Member for City of Durham does not want to place huge burdens on the OFS, but I do not think “if the OFS considers it to be appropriate” is the right phrase. If an institution is in that situation, it should not be a question of whether the OFS considers it appropriate to notify students; it must do so. If I were the new chief executive

of the OFS, I would consider it a dereliction of my duty not to do so. I see no reason, therefore, why we are not talking about “must”, rather than whether it is appropriate.

Joseph Johnson: I understand the hon. Gentleman’s point but, as I have said on previous occasions, the OFS will be a public body that has to respect general public law principles and will need to act reasonably and proportionately in everything it does. I assure him that it is certainly our expectation that the OFS will act in the interests of students and will consider making it a specific condition of registration that a provider’s governing body advises students promptly and accurately of OFS proposals to take action against it. Where a provider applies to the OFS to be voluntarily removed from the register and students are still on such a provider’s courses, they will be notified through actions set out in the provider’s student protection plan. On this basis, I ask the hon. Gentleman to consider withdrawing the amendment.

4.15 pm

Gordon Marsden: I thank the Minister for his response. It is clear that, if not a philosophical, there might be a slight ideological division for us on whether it should be “must”, or “considers it to be appropriate”. He will be relieved to know I will not go down that route again. I accept the thrust of his arguments and am glad that he has been induced, if I may put it that way, to speak as passionately on the subject as he has, because that will enable a much clearer steer to go to the OFS. I think that steer is important, as I have said before, with any new institution, notwithstanding the wisdom of the Secretary of State in appointing whoever she does to those particular posts. On that basis, for my own part—my hon. Friend the Member for City of Durham must speak for herself—I am prepared to withdraw amendment 175.

Dr Blackman-Woods: I listened carefully to what the Minister said. I think that he was assuring us that the protection plan will contain clear guidance about how students are to be informed in the event of an impending deregistration or suspension. If that was indeed what the Minister was saying, that suffices for the moment and I will not press new clause 5.

Gordon Marsden: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 18, as amended, ordered to stand part of the Bill.

Clauses 19 and 20 ordered to stand part of the Bill.

Clause 21

REFUSAL TO RENEW AN ACCESS AND PARTICIPATION PLAN

Question proposed, That the clause stand part of the Bill.

Gordon Marsden: I rise to put a couple of particular questions to the Minister about this process. Obviously the refusal to renew an access and participation plan

would be of significant concern. The whole idea of access and participation plans is to take forward the process of widening participation that the Minister and all of us have committed to, so refusing to renew one is actually quite a significant step. In the text the Minister has provided, there is a lot of detail about the circumstances in which that might take place. The Bill talks about the OFS notifying

“the governing body of the provider”

about this. I was not quite clear about the implications of this particular phrase, so I would be grateful if the Minister were to expand on it, but subsection (3) says:

“The Secretary of State may by regulations make provision about... matters to which the OfS must, or must not, have regard in exercising its powers under subsection (2);”.

I would welcome some clarification, however brief, on that. That is the first point.

My second point touches on our earlier discussions. What would the position and the relationship of the director for fair access and participation be in this process? At what stage, for example, would his recommendations be reviewed? Would he have a veto—that is perhaps the wrong word—or the sole power to make that decision, which the OFS board would just rubber-stamp, or does the Minister envisage a conversation between the OFS board and the director before refusals were made clear? As I have said, this is not a power that should be used lightly. It is not a light issue for the students who will be affected by no longer having access to an access and participation plan nor for the provider who will have its plan removed and for whom it will potentially appear as a black mark on its corporate reputation.

Joseph Johnson: I am grateful to the hon. Member for Blackpool South for giving me a chance to provide some clarification. The Government believe that anyone with the talent and potential to benefit from higher education should have an opportunity to go to one of our great institutions. In the new world, the OFS will take on responsibility for agreeing access and participation plans, so that even more people can have that chance. However, it is important that the OFS has a backstop power to refuse to agree a new plan where there have been concerns with previous performance, which would be used only in circumstances where it appears that a higher education provider has failed to deliver on commitments in its access and participation plan or has exceeded the specified limits for course fees.

The process that the OFS would follow in those circumstances will be set out in regulations. The regulations will cover the matters that the office for students should or should not take into account in deciding whether to refuse to renew an access and participation plan, the procedure it should follow when giving notice of the refusal to renew a plan, the impact of a notice of refusal and provisions enabling providers to apply for a review before a decision to refuse to renew a plan becomes final. Such detailed arrangements, covering the whole process of agreeing, renewing and enforcing plans, have been set out in regulations since 2004. The hon. Gentleman asked about clause 21(3). Those provisions replicate the provisions in the Higher Education Act 2004.

The Director of Fair Access has not used his powers to enforce compliance with access agreements under the current system. However, we want to ensure that the

[Joseph Johnson]

office for students has the necessary teeth to act where there are concerns. Such a power underlines the priority that we place on widening participation and the key role the OFS will have in ensuring that continued progress is made in that area. I recommend that this clause stands part of the Bill.

Gordon Marsden: It is extremely helpful of the Minister to lay that out. I asked a very specific question about at what point in the process the director for fair access and participation would be involved and whether he would have full say. I accept that those are issues that can be dealt with when further guidance is put forward. They are important issues. As the Minister has just said, the current director has not yet had to use his powers in this area. If we are looking at a situation where there is going to be a significant expansion of providers over the next 10 years, which the Government's own technical document makes very clear, we cannot assume that this process will not happen in the future. It would therefore be helpful for the Government and the OFS if some further thought were given to the relationship between the OFS and the director of fair access and participation on the important decision to refuse an access and participation plan as envisaged in clause 21.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clause 22

VOLUNTARY DE-REGISTRATION

Gordon Marsden: I beg to move amendment 191, in clause 22, page 14, line 5, leave out "may" and insert "must".

This amendment would ensure transitional measures were put in place by the OFS if a provider is removed from the register.

People might say that voluntary deregistration is not as important as a compulsory one. Nevertheless, even a voluntary deregistration has consequences. Therefore, with this probing amendment, we are asking the Minister to consider requiring the transitional measures to be put in place, rather being left as "may". I leave that for the Minister to consider in context, but it is important for us not simply to have a situation of voluntary deregistration.

Joseph Johnson: The amendment would require the OFS to put in place transitional measures when a provider has applied to be removed from the register, even if it were the case that all students had completed their studies. We expect that, in the overwhelming majority of cases, transitional measures will be appropriate and that they will be made by the OFS. It is important, however, for the OFS to retain discretion to act when necessary, rather than being forced to take action that, in some circumstances, may not be appropriate, in particular when a provider is making an orderly exit from the HE sector.

There is little value in the OFS being required to make transitional arrangements when a provider has acted reasonably, responsibly, and has remained on the register until such time as the students have completed their studies. I understand the hon. Gentleman's intentions

in moving the amendment and fully agree with the need to promote such important issues, but it is not necessary, because the Bill already makes appropriate provision. I ask him to withdraw the amendment.

Gordon Marsden: I hear what the Minister has to say. I am grateful for his explanation and, on that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 22 ordered to stand part of the Bill.

Clause 23

ASSESSING THE QUALITY AND STANDARDS OF HIGHER EDUCATION

Question proposed, That the clause stand part of the Bill.

Dr Blackman-Woods: I do not wish to detain the Committee unduly, but the Minister will be well aware that Universities UK has, in its written evidence to the Committee and, I am sure, in person with him, expressed some real concerns about how the concepts of quality and standards are being applied in this legislation.

In the written evidence, Universities UK pointed out to the Committee that the way in which standards should be assessed is not being set out clearly enough, nor has enough clarity been given to the difference between what is meant by "quality" and "standards" throughout the Bill. Universities UK states:

"The quality of higher education provided is clearly a key consideration in the regulation of the sector, although at present the bill makes the relevant condition one which may be applied rather than one which is a mandatory condition of any institution seeking to be included on the register of higher education providers." It points out that all the clauses subsequent to clause 13 that deal with assessing quality and standards should make the distinction between "quality" and "standards" much clearer.

On that point, clause 23(3) as drafted states:

"Standards' has the same meaning as in section 13(1)(a)."

Clause 13(1)(a) states that

"a condition relating to the quality of, or the standards applied to, the higher education provided by the provider (including requiring the quality to be of a particular level or particular standards to be applied);".

That does not seem to be a particularly helpful or clear definition.

Will the Minister, from clause 13 onwards and in clauses 23, 25 and 27, assist the Committee in its deliberations by agreeing to put more clarity in the Bill or in regulations?

Paul Blomfield: My hon. Friend makes an important point, which is shared by the Russell Group in its evidence. It is concerned that the definition as it stands would require the OFS to be involved in decisions about appropriate standards that are properly for universities themselves to make as autonomous institutions? There is widespread concern, which the Government need to address.

Dr Blackman-Woods: I thank my hon. Friend for making that important point. The Minister has had many representations on this issue. I have not yet heard from him how he will address those concerns, but I am sure I am about to.

Joseph Johnson: Yes, indeed. There have been representations and plenty of discussion about why the Government felt it necessary to make explicit reference to standards here. The words “quality” and “standards” have distinct meanings within the higher education sector, even though both are encapsulated within what a layperson might consider to be the quality of a degree. While we consider that HEFCE currently has a role in assessing standards as part of its current quality duty, the lack of an explicit mention for standards has created some uncertainty and that requires correction.

Quality refers primarily to processes, such as whether a provider has suitable academic staff or is providing appropriate levels of assessment and feedback. Standards, on the other hand, refer to the level that a student is required to meet to attain a degree or other qualification. The common expectation of standards is set out in the “Frameworks for Higher Education Qualifications”, which has the support of the sector.

It is essential that the Office for Students is able to ensure that providers are genuinely offering qualifications that are of a suitable standard to be considered higher education. Otherwise, we could be powerless to prevent a provider offering a qualification in, for example, mathematics which might require students to achieve no higher standards than a C at GCSE, while potentially passing it off as a degree and collecting student support from the taxpayer. This would clearly be unacceptable.

Let me be absolutely clear for the hon. Member for City of Durham and others. This is not about undermining the prerogative of providers in determining standards. It is essential that the office for students is able to ensure that providers are genuinely offering qualifications that are of a suitable standard to be considered higher education, otherwise we might be powerless to prevent a provider offering a qualification in, say, mathematics, which might require students to achieve no higher standard than a C at GCSE, perhaps while passing it off as a degree and collecting student support from the taxpayer. That would clearly be unacceptable.

Let me be absolutely clear for the hon. Member for City of Durham and others: this is not about undermining the prerogative of providers in determining standards. This is about ensuring that all providers in the system are meeting the threshold standards set out in the “Frameworks for Higher Education Qualifications”, a document endorsed and agreed by the sector.

We are clear that the Government have no role in prescribing course content or structure and that institutional autonomy, as well as the consequential diversity of content and teaching styles across the sector, are crucial to the reputation and vibrancy of UK HE. However, it is important that we can ensure that the overall quality of HE in this country is not undermined by providers offering substandard qualifications, thus ensuring that students get what they pay for and that the taxpayer receives value for money.

As we heard from Pam Tatlow of MillionPlus during the evidence sessions,

“we have got to protect quality and standards for our students. We have also got to maintain a system in which we can maintain confidence.”—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 12, Q11.]

Together with our wider reforms set out in the Bill, clause 23 is a key element of our approach to maintaining a high and rigorous bar for entry into the system and providing effective oversight—goals that I know hon. Members share—while reducing the burden of inspection on those providers that are performing well.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 24 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—(*David Evennett.*)

4.34 pm

Adjourned till Tuesday 11 October at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

HERB 42 Brunel University London

HERB 41 Royal Academy of Engineering