Written evidence submitted by the National Union of Students (HERB 08)

Higher Education and Research Bill: Public Bill Committee

1. About NUS

The National Union of Students (NUS) is a confederation of more than 600 students’ unions, representing over 95 per cent of all higher education and further education unions in the UK. Through our member students’ unions, NUS represents the interests of more than seven million students. NUS represents students and students’ unions to ensure that education is transformative, skills and learning are accessible and every student in the UK is empowered to achieve their potential.

2. Introduction

This evidence submission has been compiled for the consideration of the Public Bill Committee of the Higher Education and Research Bill by the National Union of Students.

This submission outlines the amendments to the Bill that NUS believes are necessary in order for the Bill to come close to meeting its stated aims of promoting social mobility, ensuring high quality teaching, and placing students’ interests and opportunities at the centre of the higher education sector.

NUS has welcomed some of the steps introduced in the Bill: the creation of Access and Participation Plans; the requirement to have Student Protection Plans; the establishment of a Sharia-compliant alternative student loan; and, the ambition for a ‘transparency revolution’. However, there is much in the Bill that we, and students across the country, believe will be detrimental to the UK’s higher education system and the wellbeing and security of students within it.

NUS has expressed its significant concerns that this is the wrong time to be pursuing such wholesale higher education reform, given the ramifications that the UK’s EU referendum result will have for the stability of the higher education sector and in the wake of substantial governmental changes following the transfer of responsibility for higher education from the Department for Business, Innovation and Skills to the Department for Education.

Whilst NUS believes that it is in the clear interest of students and the wider sector for the passage of this Bill to be halted, we also acknowledge the determination of the government to proceed with a manifesto commitment and therefore recognise the urgent need to represent the student voice as this Bill progresses through parliament. It is in that capacity that we have completed this evidence submission.

3. Executive Summary

The amendments that we are proposing below fall within the four clear priority areas for this Bill that NUS has identified as being in the interest of higher education students across the UK. These four areas are: student representation; access and participation; protecting students from market risks; and, teaching excellence and tuition fees.

The summary of our recommendations for the Public Bill Committee is as follows:

a) Student representation:

NUS passionately believes that students are best placed to determine their own interests and have the right to be involved in decisions about them and that affect them.
NUS has identified various clauses within the Bill where we believe requirements for student representation should be embedded within governing and decision making structures in legislation – not least on the board of the Office for Students, that bears their name – and has a number of recommendations for how the Bill could go even further in empowering students to shape their education, their institution and the society around them. These specific amendments are outlined below.

b) Access and participation:

NUS recognises and commends the ambitions that the government has outlined to widen access to and participation at university for the most disadvantaged students. However, we believe that the Bill can and should do more to demonstrate a meaningful commitment to improving access, participation and social mobility.

NUS believes that the ‘special reports’ on access and participation (enabled by clause 36) should be an annual requirement, and that this report should be required to analyse the data published under the new ‘transparency duties’ within the Bill and to make recommendations directly to the government about how to widen access and participation further.

NUS also believes that the data required from universities (in clause 9) should be expanded to cover student outcomes – including drop-out rates and attainment – to more fully be able to identify gaps in participation and success.

c) Protecting students from market risks

The higher education sector has become increasingly marketised over a number of years, and this Bill will extend this even further by facilitating the establishment of new providers.

NUS has concerns about the position and security of students in such a system and believes that the Bill must do much more to give students the reassurances and rights that they deserve, whichever type of institution they are studying at. Details of our recommendations are outlined below.

d) Teaching excellence and tuition fees

The quality of teaching is and will always be a primary concern for students and we have welcomed the attention that the government have chosen to give to it. However, the Bill and the accompanying white paper propose a number of extremely concerning reforms that NUS believes would not improve teaching quality and would, in fact, jeopardise the quality of the student experience.

NUS firmly opposes any further fee increases, given tuition fees were trebled only four years ago, and we firmly oppose any link between tuition fees and the proposed Teaching Excellence Framework (TEF), given there is no evidence that there is a relationship between the quality of a course and the fees for that course. NUS therefore supports the removal of Schedule 2 from the Bill.

4. Student representation

Amendment proposal 1: Require Office for Students to work with students

Part 1, 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.”

Explanatory note:
This amendment would amend the general duties of the Office for Students to ensure that it must specifically consult and work with students in order to determine and promote their interests.

Further evidence:
Without this amendment, there is no direct obligation on the Office for Students to engage with students in performing its functions, despite being nominally set up to promote students’ interests.

There is a statutory duty in clause 2(1)(b) for the Office for Students to have regard to ‘the interests of students’, but it is **vital** to note that this is in specific reference to ‘encouraging competition’ where it is in the interest of students – this is **not** a duty to promote the interests of students, in and of itself.

This proposed amendment would commit the Office for Students to working with students themselves to ensure that its work has a genuine regard to the interest of students and, crucially, would oblige it to involve students in determining what those interests are.

Amendment proposal 2: Guaranteeing student representation on the Office for Students

Schedule 1, Paragraph 2, page 63, line 18, at end insert –

“(*) at least one of the ordinary members 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.”

Explanatory note:
Schedule 1 lists the membership of the Office for Students. This amendment will ensure that at least one of the members must be a student representative.

Further evidence:
The Office for Students is being established as the regulator for the higher education sector so that, in the words of the Education Secretary, it “will put students’ interests at the heart of regulation” (Hansard, 19 July 2016, Vol. 613, Col. 707). NUS believes that it is only logical that at least one of the members of the governing structure of the Office for Students should specifically represent students.

Whilst Schedule 1, paragraph 2(2) will place a responsibility to ensure that the ‘ordinary members’ of the OfS, between them, have experience of representing students, NUS believes that this is an insufficient guarantee that the voice of students will be heard in the Office that bears their name. As it stands this clause would not require there to be a **current** student representative at the Office for Students; and, by only requiring this experience to be demonstrated ‘between’ the OfS members, this collective duty risks the dilution of the responsibility to represent students to the extent that other responsibilities and interests are prioritised to the detriment of the student body.

NUS is of the firm belief that if the Office for Students is to be in any way a body that can justify its name, it must reserve a place in its governance structures for an current student representative.

Amendment proposal 3: Requiring higher education providers to produce a Student Partnership Agreement

Part 1, Clause 13, page 8, line 17, at end insert –
“ (f) a condition relating to the provider having a student partnership agreement which has the OfS’s approval (including requiring the provider to have such a plan);

(*) For the purposes of subsection 1(f), “a student partnership agreement” is an agreement to promote and develop interaction between students and staff at an institution to improve quality at that institution.”

Explanatory note:
This amendment would enable the OfS to require that a higher education provider has agreed a ‘Student Partnership Agreement’ with students that undertake its higher education courses.

Further evidence:
Student Partnership Agreements are increasingly common amongst higher education providers. This followed a recommendation by the Scottish Government in 2012, and this amendment would encourage their widespread adoption across the UK. These are agreements that outline the responsibilities that institutions have to their students in engaging them in decision-making, and that students and students’ unions have to their institution in helping to enhance the quality of education at that institution. They establish institutions and students as partners in learning.

The Bill presents an opportunity to enshrine this best practice in primary legislation – which will be particularly important in the future to ensure that new providers work with their students to shape their educational experiences.

Amendment proposal 4: Ensuring student representation on the Quality Assessment Committee

Part 1, Clause 24, page 15, line 8, at end insert –
“ (*) At least one member of the Committee must be currently engaged at the time of their appointment in the representation or promotion of the interests of individual students, or students generally, on higher education courses provided by higher education providers.”

Explanatory note:
This amendment would ensure that there would be student representation on the Committee that is established by the Office for Students to assess the quality and standards of higher education.

Further evidence:
Students have a central role to play in their institutions. They do not only attend university to receive education, but can help improve it. The QAC will be mandated by the OfS to assess an institution’s teaching quality which students – as the recipients of that education – are uniquely positioned to express opinions on.

In the same vein as our amendment proposal 2 – we believe that the Bill should not miss any opportunity to enshrine students in the structures and bodies that are being created to make decisions that affect them.

Amendment proposal 5: Guaranteeing student representation in assessment of quality

Schedule 4, Paragraph 4, page 74, line 30, at end insert “and students”

Schedule 4, Paragraph 4, page 74, line 32, after “providers” insert “and students”

Explanatory note:
The Bill enables the Office for Students to recommend a body to the Secretary of State to undertake assessments of quality in higher education. These amendments would ensure that the designated body would only be deemed appropriate if they represent a broad range of students (as well as
higher education providers) and if they command the confidence of students (as well as higher education providers).

**Further evidence:**
Without this amendment, the body will only need to represent and consider higher education providers, removing the voice of students from the process of recognising quality education. As above in amendment proposals 2 and 4, NUS believes that it is unacceptable to omit students from structures and bodies being established to make decisions about them and their education. It has been standard practice for many years to ensure that students are represented in the oversight of quality assessment. The UK has been a global leader in championing the importance of this, and NUS feels it would be detrimental to both the quality assessment process and the reputation of UK higher education not to provide for student representation in this way.

**Amendment proposal 6: Requiring higher education providers to consult with students to create their Access and Participation Plan**

Part 1, Clause 28, page 17, line 16, at end insert –
"(*) The OfS must, in deciding whether to approve a plan, have regard to whether the governing body of an institution has consulted with relevant student representatives in producing its plan.

(*) In this section “relevant student representatives” means representatives who may be deemed to represent students on higher education courses provided by the institution including, but not limited to, persons or bodies as described by Part 2 of the Education Act 1994.”

**Explanatory note:**
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.

**Further evidence:**
Access and Participation Plans are a very welcome provision within this Bill and NUS supports the shifting emphasis to include participation rather than access alone. We believe that this is an invaluable opportunity to enshrine the right for student representatives to contribute to these Plans.

This would give student representatives the chance to express their opinions and concerns about access and participation in their institution directly to their higher education provider at the point that their provider is deciding what its commitments and measures for improving access and participation will look like.

It has been a required expectation for many years that a provider has consulted on their Access Agreement with their student body. This practice has resulted in many excellent programmes of work and provides assurances to the regulator that plans are in the best interests of students. NUS wishes to protect and extend this practice.

**Amendment proposal 7: Requiring higher education providers to facilitate the democratic participation of their students**

After Part 1, Clause 12, page 8, line 2, insert the following New Clause –
"Duty to promote democratic participation of students

(*) The OfS must ensure that the ongoing registration conditions of each registered higher education provider of a prescribed description include a duty to promote the participation of their students in elections held in the United Kingdom."
The promotion of the participation of students in elections held in the United Kingdom means the implementation of measures that facilitate the registration of students undertaking higher education courses at a registered higher education provider to vote in elections, compliant with the provisions within the Election Registration and Administration Act 2013.

The OfS must produce guidance that outline such measures, to which registered higher education providers must have regard in fulfilling the duty established in this section.

“Prescribed” means prescribed by regulations made by the Secretary of State for the purposes of this section.

Explanatory note:
This amendment would place a duty on higher education providers to facilitate students to register to vote.

Further evidence:
Individual electoral registration was introduced across the United Kingdom in 2014. Prior to this, universities were able to ‘block register’ students living within university-provided accommodation, which was an effective way to ensure that students were on the electoral register.

This change has presented challenges in ensuring students are registered to vote in elections: as the Electoral Commission’s recent report, The December 2015 electoral registers in Great Britain (July 2016), observes, after the transition to IER “there have been statistically significant drops in completeness [registration] among younger age groups and socio-demographic groups more associated with the young such as private renters and recent home movers”.

However, universities have begun to develop innovative systems that comply with the individual element of IER whilst enabling them to utilise their influence over and responsibility for substantial numbers of young people. In particular, the University of Sheffield has developed a model of integrating voter registration with academic enrolment. This ‘Sheffield model’ has seen drastic results in the numbers of students that are added to the electoral register, achieving registration of around three-quarters of its students, and it has received endorsement from Universities UK, the City Council, the Cabinet Office and many other relevant bodies.

NUS believes that the idea of student representation in this Bill should not be limited to empowering students to influence their own educational environment. Students can, should and want to play a big role in shaping the society around them and facilitating their ability to register to vote is a clear way to enable them to represent their interests nationally.

We firmly believe that this presents a legislative opportunity to encourage the national roll-out of the ‘Sheffield model’.

5. Access and participation

Amendment proposal 8: Requirement to produce an Annual Access and Participation report

Clause 36, page 20, Remove line 10 to the end of line 15, and insert –

“The Secretary of State must, by direction, require the OfS to report to the Secretary of State in its annual report under paragraph 13 of Schedule 1 on such matters relating to equality of opportunity as may be specified in the direction.

1 http://www.ureports.dept.shef.ac.uk/SROC/2016/3.1.pdf
(*) The Secretary of State may, by direction, require the OfS to report to the Secretary of State in a special report on such matters relating to equality of opportunity as may be specified in the direction, in addition to the annual report in subsection (1).

(*) The direction for the reports in this section must include a requirement to compile, publish and analyse the information provided to the OfS under the powers outlined in section 9.

(*) A report produced under this section may make recommendations for the purpose of promoting equality of opportunity in connection with access to and participation in higher education, to which the Secretary of State shall have regard.”

Explanatory note:
Paragraph 13 of Schedule 1 requires the OfS to produce an annual report on only its performance and its accounts. The Bill also includes provisions in clause 36 that enable the Secretary of State to require that annual report, or an additional ‘special report’, to report specifically on access and participation. This amendment would require that every annual report from the OfS reports on access and participation, and would require it to publish an analysis of the data it collects on higher education providers as part of the ‘transparency duty’.

Further evidence:
A commitment to widen access and participation runs throughout the government’s ambitions with higher education reform. The duties that the Bill places on individual institutions to publish ‘transparency data’ are a positive step that will help identify where improvements need to be made, and the provisions for a ‘special report’ on access and participation at a national level has the potential to advance this further.

However, NUS believes that to truly deliver on a commitment to transparency, making this access and participation report an annual requirement is an essential amendment. Without a national-level, aggregate report that analyses individual institutions’ transparency data and makes recommendations on how to improve access and participation nationally, it will be difficult to ensure sufficient transparency and accountability on a vital part of the government’s agenda.

Amendment proposal 9: Additional transparency data to be provided to the Office for Students

Part 1, Clause 9, page 6, line 14, at end insert –
“(*) the number of students who accepted those offers who did not begin their course with the provider
(*) the number of students who accepted those offers who did not complete their course with the provider
(*) the number of students who accepted those offers and completed their courses for each different level of attainment

(*) “Different level of attainment” means the relevant different classifications of attainment for the different qualifications awarded by a higher education provider.

(*) All such information specified by subsection (2) shall be provided according to the course being applied to or undertaken.”

Explanatory note:
This amendment adds a number of additional figures relating to the participation of students that a higher education provider must provide to the Office for Students, to be broken down by gender, ethnicity and socio-economic background.

Further evidence:
The transparency duty introduced for universities by clause 9 is a welcome step in ensuring universities make data about who they are offering places to, and how many of those students are taking those places up. However, there is more data that will be integral to determining an institution’s performance in widening access and participation – namely, by measuring outcomes.

This amendment would compel universities to provide crucial evidence to identify and tackle any attainment gaps between students with different backgrounds or characteristics.

### 6. Protecting students from market risks

#### Amendment proposal 10: Mandatory condition for higher education providers to demonstrate working in the student interest

Part 1, Clause 8, page 5, line 34, at end insert –

“(d) a condition that requires the governing body of the provider to provide the OfS with information that demonstrates how it ensures and promotes the interests of students in its provision of higher education.”

**Explanatory note:**

This amendment would ensure that, in order to join the ‘register of higher education providers’ (which will be maintained by the Office for Students), a higher education provider must provide the OfS with information that accounts for how it ensures that it operates in the interest of the students that it exists to educate.

**Further evidence:**

Students are, by definition, integral to the education provided by a higher education provider. It is reasonable for them to expect their provider to operate in their interest, delivering an education that is relevant to and built around them.

By requiring providers to demonstrate to the OfS how they ensure this, the Bill could create a legislative expectation that an ethos of working with and for students is instilled throughout every university that wants to join the register.

NUS believes that this amendment would be beneficial in the context of current higher education provision, where it would encourage an even swifter adoption of best practice, whilst also being a fundamental protection in the context of an expanding sector, where new, private and potentially for-profit providers would be able to obtain university status and award degrees.

This clause would ensure that, whichever provider a student attended, they could be assured that there would be a ‘level playing field’ and that every provider would be legally obliged to consider, and operate in, their interests.

#### Amendment proposal 11: Obligation to notify students of deregistration

After Clause 22, page 14, line 15, insert the following new clause –

**“Notifications: removal from register**

(1) The OfS must ensure that students who are undertaking a higher education course at a higher education provider that is removed from the register under the OfS’s powers in sections 18 to 20, section 21 and section 22 are notified of the removal of that provider from the register.

(2) The notification of the removal of a provider from the register that is provided to students must specify whether the provider was removed under the OfS’s powers in sections 18 to 20, section 21 or section 22.
(3) The notification of the removal of a provider from the register that is provided to students must be given by the date on which the removal takes effect.”

Explanatory note:
The Office for Students will be able to remove providers from the register for a number of acts of misconduct, including the breach of conditions of registration (sections 18 to 20), failure to comply with the conditions of an Access and Participation Plan (section 21), and in the event that the provider requests to be removed from the register (section 22). This Amendment would require that any students still undertaking courses at that provider are notified if the provider becomes deregistered.

Further evidence:
NUS has welcomed the processes and provisions for disciplinary procedures and sanctions if a provider breaks the terms of their registration as a ‘registered higher education provider’. The power to remove a provider from the register (and thus to remove any ‘benefits’ that provider receives for being registered) is also a welcome, and integral, power for a regulator.

NUS, however, notes that under the current plans, there would be no need for any students who were still at that provider to ever be told that their university had been sanctioned or removed for a failure to comply with its terms of registration.

Given that a provider that is sanctioned so strongly by the OfS must surely be engaging in serious misconduct, NUS would consider it a priority that students were told about what their university had been doing.

Amendment proposal 12: Clarifying the position of students in a provider, or on a course, that closes

Part 1, Clause 13, page 8, line 23, at end insert –
“(a) A mandatory requirement of every student protection plan approved by the OfS must include information about how students will be protected from any reasonable financial loss if an event specified by the OfS were to occur (for example, the closure of a course or a higher education provider).”

Explanatory note:
This amendment is proposed as a probing amendment to seek urgent clarification that students will be protected from reasonable financial loss if their provider or course closes.

Further evidence:
A central reform within the government’s proposal to open the higher education market to new providers is to enable higher education providers to ‘exit the market’.

Student Protection Plans will provide an institution-specific framework to guide students and institutions through this period, and it will be vital that each institution’s plan is tailored to each institution’s circumstances.

However, there are fundamental principles that must be clearly established and that must apply across the playing field: namely that students, in all providers, must be protected against reasonable loss in the event that their provider closes their course of study. Our particular concerns on this lie in the lack of clarity concerning what current legal protections exist and how they apply to students. It is NUS’ experience from supporting students through many past course closures, that whilst many providers are proactive in ensuring a fair and reasonable settlement is made with individual students is made, this is not always the case. If students wish to reclaim money they feel is owed to them, they then need to embark on an often lengthy and often expensive process challenging the provider. NUS feels a requirement to specifically outlining how each provider intends
to protect students against reasonable financial loss would go a long way to redressing this imbalance in power. We are also open to other solutions that achieve this aim.

This amendment is intended to probe for assurances that such vital and explicit safeguards will be built into the system and implemented via new Student Protection Plans.

**Amendment proposal 13: Facilitating independent structures for democratic student representation**

Part 1, Clause 13, page 8, line 17, at end insert –

“(*) a condition requiring the facilitation of independent structures for democratic student representation.

(*) For the purposes of subsection (1)(*), “independent structures for democratic student representation” means a democratic structure or body by which students of a higher education provider may be deemed to be represented, and that –

(a) shall have the principal purposes of –

(i) promoting the general interests of the students of a higher education provider; and,

(ii) representing the generality of students at the higher education provider in academic, disciplinary or other matters relating to the government of the provider; and,

(b) may be but is not limited to a body such as that specified in Part II of the Education Act 1994 (students’ unions).”

**Explanatory note:**
This amendment would require all registered providers to facilitate structures through which students could represent themselves and pursue and promote their own interests. This may be (but would not be limited to being) through facilitating a students’ union.

**Further evidence:**
Part II of the Education Act 1994 establishes an important principle of enabling students to form an association or representative body to promote their own interests and represent them in discussions and negotiations with their university: a students’ union. It does not require a university to have a students’ union, but obliges a university to support a students’ union of its students, where one may exist.

NUS believes that students’ unions are fundamental bodies through which students can advance, and defend, their own interests. In the higher education system established by the government’s reforms, it should be heavily encouraged that any and all new providers must facilitate the structures for students to advance and defend their interests; this would be a vital protection for students in a higher education system that is becoming increasingly marketised and uncertain.

NUS acknowledges that current legislation does not require all universities to have a students’ union and therefore this amendment is drafted so as to not create that explicit requirement. However, it is a fundamental concern that any higher education provider – whether already established or yet to be created – should take every effort to ensure that students, through some collective body should have the right to representation.

**Amendment proposal 14: Guaranteeing students the freedoms that are given to academic staff to explore new, challenging ideas**

Part 1, Clause 14, page 8, line 39, after “staff”, insert “and students”

Part 1, Clause 14, page 9, line 1, delete “or privileges” and insert “, privileges or course places”

**Explanatory note:**
Clause 14 outlines the list of freedoms that academic staff must be entitled to at an institution to “question and test received wisdom” and to “put forward new ideas and controversial or unpopular
opinions”, without risk of losing their jobs. This amendment would entitle students at that institution to the same freedoms, without risk of losing their place on a course.

Further evidence:
NUS notes that the recent report of the Joint Committee on Human Rights urged the government to ensure “legal certainty” around freedom of speech issues in the context of universities. We believe that steps towards this will be taken by building on the Bill’s current provisions to enshrine academic staff’s legislative right to question and test received wisdom and extending this right to students within university contexts too.

Amendment proposal 15: Degree awarding powers

Part 1, clause 40, page 22, line 24
After line 24 insert –

“(*) The OfS may not authorise a provider under subsection (1)a or (1)b unless –
(a) the OfS is assured that the provider is able to maintain the required standards of a UK degree for the duration of the authorisation.
(b) the OfS is assured that the provider operates in students’ and the public interests.”

Explanatory note:
This amendment is proposed as a probing amendment to seek urgent clarification on the legislative requirements to become a degree awarding power in the UK.

Further evidence:
The Higher Education White Paper: Success in a Knowledge Economy and the supporting explanatory notes to this Bill both discuss explicit changes to the requirements to gaining degree awarding powers and the introduction of probationary degree awarding powers. It appears unclear how these powers are to be implemented. NUS has significant concerns about the risks to the reputation of UK higher education and to students as a result of these changes to degree awarding powers.

Amendment proposal 16: Reforming student loan repayment arrangements

After clause 82, page 51, line 18, insert the following new clause –

"*Student loans

* Terms of a student loan agreement

(*) A loan made by the Secretary of State to eligible students in connection with their undertaking a higher education course or further education course under the Teaching and Higher Education Act 1998 shall –
(a) not be subject to changes in repayment conditions retroactively without agreement from both Houses of Parliament;
(b) not be subject to changes in repayment conditions in the event of the loan being sold to private concerns, unless these changes are made to all loans, in the manner prescribed above;
(c) be subject to beneficial changes, principally to the repayment threshold, in line with average earnings.

(*) In section 8 of the Sale of Student Loans Act 2008, remove subsection (1) and insert –

“(1) Loans made in accordance with regulations under section 22 of the Teaching and Higher Education Act 1998 (c. 30) are to be regulated by the Consumer Credit Act 1974 (c. 39)."
**Explanatory note:**
This amendment is proposed as a probing amendment to highlight the concerns NUS has with the current ability for student loans repayments terms to be retroactively changed, unlike any other loan.

**Further Evidence:**

Last year, the Government announced it would to freeze the repayment threshold for student loans for post-2012 students from 2016 until at least 2021. This was despite a promise from the then Coalition Government to increase the threshold by the same rate as average earnings from 2016 onwards. This change applied to all post-2012 borrowers and not only those who started in 2016 or later. It highlighted the ability of Government to change the terms and conditions on student loans with relative ease, even retroactively.

The ability of government to change terms and conditions should be curtailed for a number of reasons. The first is basic fairness: Martin Lewis runs the consumer rights website MoneySavingExpert.com, and chaired the independent taskforce on student finance information when the 2012 changes were brought in. He has argued he feels misled by ministers who asked him to help explain the system, and that such a change in policy is not one which commercial providers of credit would be able to make. Moreover, the freeze in repayment thresholds will have the greatest impact on women, black and minority ethnic and disabled borrowers, according to the Government’s own analysis.

If prospective students perceive that student finance is ‘risky’ – that the terms they are signing up to are subject to change without Parliamentary scrutiny – confidence in the system risks being undermined and may deter individuals from taking up study. Furthermore, the intention to sell off the student loan book adds additional uncertainty to the system for students.

NUS urges the Public Bill Committee to ensure that it requires a vote by both Houses to change terms and conditions. Offering greater security to borrowers will help protect the public’s trust in student finance and in politics.

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### 7. Teaching excellence and tuition fees

**Amendment proposal 16: Removing Schedule 2 from the Bill**

Schedule 2, Page 68, line 20, remove Schedule 2.

**Explanatory note:**
This amendment would remove the ability to allow different institutions to charge different tuition fees according to their quality assessment mark, and the ability to increase tuition fees by the rate of inflation, from the Bill.

**Further evidence:**

The debate about how to ensure quality teaching in higher education is one of the most important for students. It is encouraging – and absolutely right – that teaching excellence has been made such a high priority by the Government’s reforms. However, NUS has monumental concerns about the ways in which this Bill – and the wider reform agenda – sets out to achieve this.

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The Bill enables the Office for Students to create a framework for assessing and rating quality – the Teaching Excellence Framework (TEF) (clause 25). The Bill also enables higher education institutions that achieve a ‘high level rating’ under this framework to increase their fees (Schedule 2), as well as creating an ability for the differentiation of tuition fees i.e. institutions will have different limits on how much they can charge for tuition fees, dependent on their quality rating.

The fees rise: NUS strongly opposes any further increase in fees. We are astounded by the suggestion that, to ensure quality teaching, fees must rise even further when fees were trebled only four years ago with the same promise that it would improve quality.

A link between quality and fees: NUS also firmly opposes any statutory link between teaching quality and the level of fees being charged for that teaching. It is clear that there is no direct relationship between quality and fees, and therefore this Bill should not attempt to create one.

Since tuition fees were trebled in 2012, there is no evidence to suggest that there was a consequential improvement in teaching quality. There has been no change in student satisfaction with the teaching on their course,⁴ while institutions have instead been shown to spend additional income from the fees rise on increased marketing materials rather than on efforts to improve course quality.⁵

Where teaching is high quality, it is clear that this quality is at a departmental level, or even a course level – rather than an institutional level. Fees, conversely, are the same for all courses in an institution. Creating a system that assesses the quality of a whole institution and allows that whole institution to raise the fees of every course based on that assessment, when the quality of teaching will vary – potentially drastically – for every student at that institution, is therefore fundamentally unworkable. It risks creating a framework within which students will be studying courses that are not high quality at an institution that was judged to provide ‘generally’ high quality and, unfairly, being charged higher fees for poor quality degrees.

Additionally, as the market for international students – where tuition fees are uncapped – demonstrates, higher fees are not necessarily charged for higher quality courses. Instead, an institution’s reputation, brand power and market position are the factors that enable them to charge higher fees.

It is wrong to suggest that higher fees are either indicators of higher quality, or that they are drivers of higher quality. The recent report of the Business, Innovation and Skills Select Committee made clear that the Government had a lot of clarifications to provide before proceeding with its plans.⁶

NUS urges the Public Bill Committee to oppose the fees rise and the link between TEF and fees, and supports the total removal of Schedule 2 from the Bill.

August 2016

⁴ http://www.hefce.ac.uk/lt/nss/results/
⁵ https://www.timeshighereducation.com/news/university-student-marketing-spend-up-22/2001356.article