Dear Gordon

In our discussion of Clause 58 of the Higher Education and Research Bill, on Thursday 13th October, Committee members asked whether the powers of the Office for Students (OfS) to share information would change any of the current practices around the provision and commercial use of information. I offered to write to the Committee with further details.

The Government is keen to ensure that the OfS has sufficient freedom to co-operate and share information with other organisations, in order to carry out its functions in the most effective and efficient way. Collaborative working of this nature is a key part of HEFCE’s current role, and we would expect the OfS to maintain strong working relationships with other organisations operating in the education landscape.

The Further and Higher Education Act 1992, which established HEFCE, contains some express information sharing powers. The Higher Education and Research Bill explicitly gives the OfS the power to share information, and makes clear that in doing so it does not breach any obligation of confidence or other restriction. However the Bill also places a safeguard on the OfS’s ability to do so by stating that the OfS may only share information with another body if it is appropriate for the efficient performance of either the OfS or the other body’s functions.

This Bill therefore puts in place a new regime for sharing information which has not existed on the face of legislation previously. This strikes a balance between the need for an efficient flow of information between the OfS and other bodies, and the need to ensure information is shared only for appropriate purposes. The Bill also makes clear that the Data Protection Act 1998 applies, so the OfS will be bound by that Act in any matter involving personal information, as is HEFCE currently.

On the specific question about the potential for commercial use of the information, the OfS will be a Non-Departmental Public Body and as such its primary role is not to undertake commercial activity, nor is this part of its functions in the Bill. If another body wants the OfS to provide information under these powers which that body would use for its own commercial functions, both the body and the functions for which the information can be used must be specified in regulations laid in Parliament by the Secretary of State, before any information can be shared.
Therefore Parliament will have the opportunity to scrutinise the proposed nature of the information sharing.

I hope this information is useful for the committee and look forward to our remaining debate on the rest of the Bill.

I am copying this letter to the Chairs and members of the Bill Committee.

Yours sincerely,

JO JOHNSON MP