Dear Colleague

We are writing following the introduction of the Higher Education and Research Bill into the House of Lords on 22 November, ahead of its Second Reading on Tuesday 6 December. We want to take this opportunity to set out why this Bill is needed, and how it has changed in the House of Commons, as well as drawing your attention to further information on the Bill. Viscount Younger will be leading on the Bill in the Lords, with Baroness Neville-Rolfe speaking on Part Three which relates to Research and Innovation.

**Why is the Bill needed?**

Our Higher Education system enjoys a world-class reputation, both for teaching and cutting-edge research and innovation. As international competition has grown, we have remained a recognised world leader, with four universities in the global top 10 and 30 in the top 200. But we must be ready for the challenges of the future, and make sure the Higher Education sector flourishes and brings maximum benefits to students, taxpayers and the wider economy.

The Bill follows extensive dialogue and consultation, including a Green Paper in Autumn 2015 and a White Paper in May 2016. We have drawn upon the proposals of sector experts – for instance the Gaskell Report published by University UK in 2015 which proposed the creation of a register of Higher Education providers, and Sir Paul Nurse’s report which recommended bringing the Research Councils into a single body that could be ‘more than the sum of its parts’.

This Bill implements a number of commitments in the 2015 Conservative Manifesto. It will deliver greater competition and choice that will promote social mobility, boost productivity in the economy and ensure students and taxpayers receive value for money from their investment in higher education, while safeguarding institutional autonomy and academic freedom.
It will help ensure that everyone with the potential to benefit from higher study can access relevant information to help them make the right choices from a wide range of high-quality universities and benefit from excellent teaching that supports their future productivity. It will also strengthen the UK’s world-class capabilities in research and innovation.

**Bringing the regulatory system up to date**

Our regulatory system is out of date – higher education is no longer limited to the academic elite within a small and primarily Government-funded set of institutions. The Higher Education Funding Council for England (HEFCE), created through the 1992 Further and Higher Education Act, was created primarily as a funding body at a time when the majority of funding for Higher Education providers was from government grant. Following the student finance changes of 2012, the majority of funding now flows through student fees supported by government-backed student loans, and so HEFCE’s ability to regulate effectively by attaching conditions to grants is weakened. We are therefore setting up a new market regulator, the Office for Students (OfS). This will have choice and opportunity for students at its heart.

The Bill will enable the OfS to regulate the system through a single register of providers as proposed in the Gaskell Report. The introduction of a new risk-based regulatory framework will enable the regulator to focus its monitoring and resources on the providers that need it most, and ensure that the administrative overheads are proportionate.

**Excellent teaching**

Our higher education is internationally competitive and backed by a strong quality assessment system. However, there is significant variation in quality and outcomes between providers, with students’ perception of value for money continuing to fall. Just 37% of respondents to a 2016 survey by the Higher Education Policy Institute felt they receive good value for money, compared to 40% in 2015, and 53% in 2012.

All students, regardless of their background, deserve excellent teaching that helps them fulfil their potential. The 2015 Conservative manifesto committed to “introduce a framework to recognise universities offering the highest teaching quality”. This will provide the financial and reputational incentives for providers to prioritise teaching excellence and student outcomes. For the first time, funding for teaching, like research, will be linked to quality rather than just quantity.

The TEF is designed with maximum respect for the diversity and autonomy of providers. We do not intend it to dictate what or how a provider teaches, but rather for it to focus on whether that teaching achieves good outcomes, and TEF rating decisions will be taken by an independent peer review panel. Like the REF, our development of the TEF will be iterative. There will also be a trial year, a lessons learned exercise and we will be piloting how TEF can work at individual subject level. This will ensure that the TEF’s final implementation is robust.

**Student Choice**

The UK Competition and Markets Authority 2015 report on competition in the Higher Education sector concluded that aspects of the current Higher Education system could be holding back greater competition and needed to be addressed.

The Bill will increase the information available to students, so their choices can be better informed. According to the Higher Education Policy Institute, a third of students would have chosen a different course if they knew before applying what they know now. Through this Bill and the policies in our White Paper, we will level the playing field for high quality new entrants,
making it simpler and quicker for innovative and specialist providers to set up and award
degrees.

This will promote innovation, diversity and productivity, and foster better quality provision. While
we will make the process quicker and more efficient, we will not compromise on quality. Under
our plans providers will have to meet tough quality and financial sustainability and good
governance criteria, and undergo a rigorous scrutiny process that will test their ability to
maintain the quality of academic provision. We have published more details in our factsheet:
which can be found here: https://www.gov.uk/government/publications/higher-education-and-
research-bill-market-entry-and-quality

Social mobility

The Bill will promote social mobility and the ability of those from disadvantaged background to
participate in higher education. This builds on progress we have already seen with the
proportion of young people from disadvantaged backgrounds going into higher education up
from 13.6% in 2009/10 to 18.5% in 2015/16 and entry rates for all ethnic groups now at their
highest recorded levels.

Where responsibility for social mobility is currently split between HEFCE and OFFA, the Bill will
bring these functions together in the new Office for Students, which will consider equality of
opportunity in connection with access to and participation in higher education across its
functions. The new Director for Fair Access and Participation, sitting within the Office for
Students, will be appointed by the Secretary of State. They will consider not only access but
also retention and the success of disadvantaged students throughout their time in higher
education.

The Bill will also enable us to introduce an alternative student finance product, consistent with
the principle of Islamic finance, for the first time - helping to ensure participation is open to all.

The Transparency Duty proposed by the Bill will require providers to publish data about
applications, admissions and acceptances broken down by gender, ethnicity and socio-
-economic background. And through the Teaching Excellence Framework, students will have
more information about the quality of teaching at different providers than ever before, so they
are equipped to make the best decisions about their future.

World-leading research and innovation

The United Kingdom is a world leader in research and innovation, and the Bill will cement this
position, making it simpler for researchers to collaborate on multi- and inter- disciplinary
research, and boosting support for business-led innovation.

We are taking forward the recommendation of Sir Paul Nurse to bring together the seven
Research Councils into a single organisation. Innovate UK and the quality-related block
research funding currently distributed by HEFCE will also be brought into the new organisation,
UK Research and Innovation (UKRI), to provide a strong, unified voice for UK research and
innovation nationally and internationally.

Innovate UK will retain its distinctly business-facing mission, but it will be in a stronger position
to help business identify possible research partners and mean research outputs are better
aligned with business needs. Researchers will also benefit from greater exposure to business
and commercialisation expertise.
As announced at the Autumn Statement, by the end of this Parliament, the Government will invest an additional £2 billion a year in research and innovation, including through a new Industrial Strategy Challenge Fund that will be led by UKRI through Innovate UK and the Research Councils. This is the largest single uplift in research and innovation spending in decades and is clear testament to how UKRI can help deliver outcomes for the research and innovation communities, and for the UK as a whole.

Further information and changes made in the Commons

Attached to this letter are two Annexes: Annex A identifies where further information can be found on the Bill and Annex B sets out how the Bill has changed through scrutiny in the House of Commons. We hope these are useful to you, and would be very happy to discuss any of the issues in the Bill further.

Yours sincerely,

JO JOHNSON MP

VISCOUNT YOUNGER
Annex A: further information

We have provided a package of additional information in order to facilitate your scrutiny of the Bill, including a series of fact sheets. As well as a summary factsheet for the Bill as a whole, there are factsheets on market entry and quality; on student protection plans; on UK research and innovation; and on joint working between OfS and UKRI. We will continue to publish further factsheets to set out Government policy and inform debate in the House of Lords. The factsheets and other information can be found on the Bill webpage: https://www.gov.uk/government/collections/higher-education-and-research-bill

My officials will be available for factual briefings ahead of Committee stages of the Bill to provide any necessary clarification or further detail. We, along with Baroness Neville-Rolfe, would also be very happy to discuss any questions you have regarding the Bill.

Below are links to key Government and external publications.

Government publications

Additional reports and publications
Annex B: changes made to the Bill in the Commons

The Bill as we introduced it represented the outcome of considerable consultation and discussion with the sector. The Bill also benefits from Parliamentary scrutiny, which enables legislation to be improved and for the Government to respond to legitimate concerns. We would like to take this opportunity to set out how the Bill has been amended since introduction into the House of Commons in response to scrutiny and comments from Parliamentarians and the sector. The annex to this letter details these changes.

In response to discussions with stakeholders and issues raised at Committee, we made the following amendments

1. An amendment to require a dedicated Board member of the OfS who has experience of representing or promoting the interests of students;

2. An amendment to require providers to publish student protection plans and bring them to students’ attention;

3. Introduction of a new clause to give the OfS a new duty related to monitoring the financial sustainability of the sector, and report to the Secretary of State;

4. Amendments to restrict the ability of the Secretary of State to frame guidance, directions and terms and conditions of grant in relation to particular course of study that would lead to the OfS to perform a function in a way which prohibits or requires the provision of a particular course of study;

5. An amendment requiring the Secretary of State to have regard to the desirability of members having cross-UK experience in appointing the UKRI Board; and

6. An amendment to include postgraduate training explicitly in the list of UKRI’s functions.

Additionally to these we made essential technical amendments to improve the drafting of the Bill and clarify it or bring it into line with the policy intent set out in the White Paper.