Dear Richard,

Thank you for taking the time to write to me with regards to the Higher Education and Research Bill. I am happy to provide clarification on the points you raised.

As explained in my letter of 11 January 2017 I want to clarify that the Government does not seek to remove safeguards relating to university governance through the Bill. There are three main legislative routes for English higher education providers to obtain University Title. Two of these require consent of the Privy Council; the other requires consent of the Secretary of State under the Companies Act.

Whilst the criteria are the same for all routes, this creates a complex and inconsistent situation that is seen as prejudiced against new providers. We want the Office for Students (OfS) to be able to grant University Title to all high quality providers, helping to create a level playing field that will drive up competition and student choice. Clauses 52 and 53 achieve this by making changes to the two Privy Council routes; by transferring the responsibility for consenting to the use of University Title to the OfS. Providers will also only be eligible for University Title after they have held full Degree Awarding Powers for three years, and passed a review.

We are not planning to change the independent decision-making and scrutiny that currently takes place. Under our plans, decisions on University Title will continue to be made by an arm’s-length body, based on departmental guidance that has been subject to consultation as and when appropriate. We will continue to ensure that only the highest quality providers can call themselves a university.

In addition, the OfS will continue to ensure the highest standards in the governance arrangements of higher education providers through transfer of oversight of the public interest principles from the Privy Council to the OfS. These principles currently operate in tandem with the sector-owned Committee of University Chairs (CUC) code, and we envisage a similar arrangement in future.
The OfS is obliged to consult on the possible contents of the new public interest principles which will be part of the conditions of registration with the OfS. The Bill therefore does not prescribe what should be included in that list. There is one notable exception, and that is the principle of freedom for academic staff to question and test received wisdom, and put forward new ideas and controversial opinions without risking losing their jobs or privileges.

The exact wording is that taken from the Education Reform Act 1988, is referred to in the CUC guidance, and is currently used by the Privy Council as part of their monitoring of providers’ governing documents against the public interest principles.

In terms of higher education (HE) teaching it is a fundamental principle of the HE system that universities and other HE providers are independent, autonomous bodies. As such they are solely responsible for management of their own affairs, including course provision and the qualifications they expect from their staff.

Where Government has taken a stance, we have been deliberately mindful of the risk of creating perverse consequences. For example, the Government has introduced the Teaching Excellence Framework (TEF), which will provide prospective students with robust, comparable information on teaching quality. We have chosen to start this Framework without including a metric assessing the contractual status of staff. However, we asked the Higher Education Funding Council in the 2016/17 grant letter, to carry out some further research into the issue of contractual status of teaching staff and how it could be measured and potentially feed into TEF assessments for future years.

I understand the intention behind Lord Stevenson’s amendment 368 but as I said in Committee, we are not seeking to determine on the face of the Bill exactly which data must be collected or exactly who must be consulted. The designated data body needs to retain sufficient flexibility to adapt to changes; however the body will have duties to plan data publication in conjunction with the full range of interested parties. We expect that the views of higher education staff will be considered as part of the voice of the sector institutions.

I hope the above clarifications provide you with reassurances. I am also placing a copy of this letter in the House library.

Yours ever,

James

VISCOUNT YOUNGER OF LECKIE