Dear Colleague,

Higher Education and Research Bill: Lords Report Stage - Government Amendments

We are writing to inform you that we have, today, tabled a number of amendments to the Higher Education and Research Bill, in response to the scrutiny that this important piece of legislation received during House of Lords' Committee Stage. These amendments will help to ensure that our world-class higher education sector remains amongst our greatest national assets and delivers for everyone, and will provide for a research and innovation system which is more agile and able to respond strategically to future challenges and needs.

The Government has engaged widely with the higher education, research, and innovation communities, and listened intently to views expressed in debates in both Houses of Parliament. We would like to express our thanks to all those Peers who provided expert opinion and scrutiny throughout this process. In the debates on higher education and the Office for Students ("OfS"), Lord Kerslake, Viscount Hanworth, Lord Stevenson, Lord Winston and others spoke passionately about the importance of protecting institutional autonomy and academic freedom in legislation. Baroness Brown, Baroness Wolf, Lord Willetts and Baroness Warwick raised concerns about quality and standards. Lord Lisvane, Baroness O’Neill, Lord Judge and Lord Watson voiced concerns about the powers of the OfS in relation to revocation of degree awarding powers ("DAPS") and university title. Baroness Deech also made a strong case for freedom of speech.

With regards to choice and opportunity for students, Baroness Garden and Lord Storey emphasised the need to promote greater student choice promoting a diverse range of higher education provision, including part time provision. Lord Willis raised the important issue of student transfer; and Lord Wallace of Tankerness and Lord Lucas spoke about the importance of transparency which will allow for greater social mobility.

In the debate on Research and Innovation, Lord Patel, Lord Cameron and Lord Krebs highlighted the importance of the Haldane principle and maintaining the autonomy of the Councils within UK Research and Innovation ("UKRI"), and Lord Mendelsohn made valuable suggestions to improve the governance of UKRI. Lord Mackay conveyed the virtues of joint working between UKRI and the OFS. The Earl of Selborne, Lord Mair and Lord Broers also underlined a need to maintain and strengthen Innovate UK’s business focus within UKRI.
The amendments we have tabled today respond to these suggestions and concerns.

We have attached at Annex A a fact sheet which sets out the amendments in further detail which we will publish today on gov.uk. We have also attached at Annex B the text of the amendments as tabled.

Higher Education
This Bill will deliver greater diversity, innovation 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. The amendments we have today tabled will help ensure that everyone with the potential to benefit from higher education can access relevant information to help them make the right choices from a wide range of high-quality providers and benefit from excellent teaching that supports their future productivity. We are also pleased that the Education Select Committee has endorsed the Government’s preferred candidate of Sir Michael Barber as the OfS Chair, who will champion these reforms.

1. There was strong support for enshrining institutional autonomy in legislation and we agreed to reflect on this, with a view to returning to the issue at Report Stage. This is why we are delighted to support Lord Stevenson’s amendments to ensure that the Secretary of State and OfS should be required to have regard to “institutional autonomy” when exercising their functions under the Bill, whilst at the same time ensuring that Government retains the ability to control and manage public money properly. Subject to the will of Parliament, this will be the first time that such protections have been enshrined in law.

2. We heard concerns that the Bill, as drafted, could undermine the sector’s role in relation to standards. As we stated at Committee, this is not the policy intent, and we agreed to reflect on this issue further. As a result, we have now tabled amendments to clauses 14, 24, 26, 27, 79, 81 that clarify our policy intention that the standards against which providers are assessed are the standards that are recognised by, and command the confidence of, the higher education sector (where such standards exist).

3. In response to concerns about the OfS’s powers to grant DAPS, we have tabled amendments to clauses 27, 28, 41, 43, 44, Schedule 4 and a new clause to require the OfS to seek advice on quality and standards of a higher education provider when considering whether to grant, vary DAPs. These amendments will also specify that this advice must be informed by the views of persons with a range of relevant experience, including UKRI on Research DAPs.

4. Peers voiced concerns about the powers of the OfS in relation to revocation of DAPs and university title. We agree there must be protections, which is why we have tabled amendments to clauses 43, 44 and 54 which specify which circumstances the OfS can revoke DAPs and university title, and enshrine our policy position that this is a ‘last resort’ power.

5. At Second Reading, many Peers raised concerns in relation to revocation of institutional Royal Charters. Amendments to clauses 112 and 115 ensure that the power to make consequential provision in the Bill may not be used to revoke an institution’s Royal Charter in its entirety.
6. The importance of collaboration between higher education providers, was underlined by Peers, and how this can benefit students and employers. We agree that collaboration has an integral role to play in the mission of higher education and the way it benefits wider society. We have therefore tabled an amendment to clause 3 to ensure that the duty for the OfS to have regard to encouraging competition between higher education providers does not have the effect of inhibiting or discouraging collaboration among such providers, provided that it is in the interests of students and employers.

7. We believe that the higher education sector should remain a vital place for discussing and debating lawful ideas, whilst also ensuring that providers are not burdened by excessive legislation. That is why we have tabled amendments to Schedule 11 to extend the freedom of speech duty to all registered higher education providers, in recognition of the importance of this duty.

8. We recognise that it is not only the diversity of the types of provider or course subjects that is key in supporting student choice; it is also the diversity of provision as regards the format of study options available. We have therefore tabled an amendment to clause 3 to make explicit that part of the OfS’s duty to have regard to the need to promote greater student choice when performing its functions should also include promoting a diverse range of higher education provision, including part time provision.

9. A number of Peers called for more to be done to encourage universities to offer more two-year courses. We agree, and so in order to remove barriers to more flexible provision and increase student choice, we have tabled amendments to Schedule 2 and clause 115 to enable the Secretary of State to set a higher annual fee limit in respect only of accelerated degrees. This will require secondary legislation and Parliamentary scrutiny.

10. On the important issue of student transfer, we have tabled a new clause and amendments to clause 79 to place a duty on the OfS to monitor and report on the provision of arrangements for student transfer, and to confer a power on the OfS to facilitate, encourage, or promote awareness of arrangements for student transfer. This will increase the choice and opportunity available to students.

11. A number of Peers also spoke to the importance of publishing data that will inform the higher education sector and allow for greater social mobility. Having reflected on this further, we have tabled an amendment to the transparency duty in clause 10 to require providers to publish information on levels of attainment alongside application, offer, acceptance and completion rates, broken down by gender, ethnicity and socioeconomic background.

We heard a wide range of views on the Teaching Excellence Framework during Committee Stage but we were pleased to hear support from right across the House for the principle of teaching excellence and a renewed focus on driving up teaching quality in our universities. However we also heard concerns about the pace of implementation and the need to get this right. We would like to confirm our commitment to a genuine lessons learned exercise following Year 2 of TEF, which will include review of the metrics and the ratings.

We have also been thinking carefully about how quickly to move to subject-level TEF. It is clear that this will be a complex task, the challenge of which is equalled only by the importance of getting this right for students. We are therefore pleased to inform you that we have decided to extend the pilot phase of subject-level TEF by an additional year, putting
back the first subject-level TEF assessments to spring 2020 (TEF year 5). This is in line with the best practice demonstrated in the development of the REF. These will be genuine pilots, involving a small number of volunteer institutions, with no public release of individual results and no impact on fees or reputation.

Research and Innovation

The 2015 Conservative Party manifesto committed to “ensure that the United Kingdom continues to support world-leading science, and invests public money in the best possible way”. This Bill fulfils this commitment by establishing a single strategic research and innovation funding body – UKRI. The following amendments will strengthen UKRI and ensure that the UK is equipped to carry out more multi-disciplinary research and to translate our world-class knowledge into world-beating innovations.

12. In response to concerns for safeguarding the Haldane principle and Council autonomy, we have tabled a package of amendments to ensure that the autonomy of UKRI and its Councils’ operational decisions are recognised more explicitly on the face of the Bill. This includes:
   a. An amendment to clause 99 to introduce the Haldane principle into legislation. This complements Lord Willetts’ 2010 definition of Haldane, which will continue to be a touchstone for our understanding of the nuances of this important principle.
   b. Amendments to Schedule 9 to confirm our commitment to an Executive Committee for UKRI;
   c. Amendments to clause 91 to include ‘advancing knowledge’ as a key purpose for research activities and the breadth of economic benefit to which Research Councils contribute;
   d. An amendment to clause 91 to clarify that specialist employees includes all technical staff required for the research endeavour.
   e. Amendments to clause 97 to make clear that separate funding allocations to individual councils will still be made and published as per current practice.

13. In response to a number of concerns about the governance of UKRI, we have tabled:
   a. An amendment to Schedule 9 to increase the maximum size of UKRI Councils from nine to 12 in addition to the Executive Chair;
   b. Amendments to Schedule 9 to include experience of the charitable research sector as desirable in appointments to the UKRI Board;
   c. An amendment to Schedule 9 to require the SoS to consult with the UKRI Chair before appointing a member of a Council.

14. In response to cross party concerns regarding the role of Innovate UK within UKRI, we have tabled an amendment to the Bill to make clear that Innovate UK will retain its clear business focus and separate funding stream. This includes:
   a. An amendment to clause 92 to clarify Innovate UK’s business-facing focus.
   b. Amendments to Schedule 9 to make clearer that Innovate UK (and Councils) can with permission borrow money, enter into joint ventures and other financial arrangements.

15. In response to concerns raised by Peers and stakeholders, we have also tabled amendments to clauses 89 and 91 to require consultation with stakeholders in developing any proposal to change the names or fields of activity of the Research Councils.
16. A number of Peers expressed concern about how the OfS and UKRI would work together. We have therefore tabled amendments to Schedules 1 and 9 to ensure that both the OfS and UKRI include a section in their respective annual reports that states how they have cooperated with each other over the course of the reporting period.

We hope you welcome these amendments and we look forward to further discussion at House of Lords Report Stage.

We are placing a copy of this letter in the Libraries of both Houses.

Yours sincerely,

Viscount Younger of Leckie

Jo Johnson MP
Higher Education and Research Bill
Amendments Tabled Ahead of Lords Report Stage

February 2017
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Introduction

The Higher Education and Research Bill will deliver greater diversity, innovation and choice in our world-class system. It 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.

The sector has long acknowledged that the current regulatory framework is simply not fit for purpose. We must do more to ensure that young people from all backgrounds are given the opportunity to fulfil their potential and the information they need to make good choices about where and what to study. The Bill provides stability and puts in place the robust regulatory framework that the sector itself agrees is needed.

The Bill 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 other higher education providers, and benefit from excellent teaching that supports their future productivity. It will also strengthen the UK’s world-class capabilities in research and innovation.

The Bill was introduced in to the House of Commons on 19 May 2016 and was subsequently introduced into the House of Lords on 22 November 2016.

The Government has engaged widely with the higher education, research, and innovation communities, and listened intently to views expressed in both Houses of Parliament. The Government tabled amendments ahead of Commons Report Stage (November 2016) and Lords Committee Stage (January 2017), as a result of the views expressed.

We have continued to listen carefully during the Bill’s passage through the House of Lords. We are grateful for the thoughtful and expert scrutiny and consideration that Peers and stakeholders have provided.

As a result of this important scrutiny, we have tabled a number of amendments ahead of Lords Report Stage that seek to address many of the points raised, and ensure the Bill delivers on the objectives of the White Paper, ‘Success as a Knowledge Economy’, published on 16 May 2016. Subject to Parliament, this Bill, including the proposed amendments outlined in this document, will ensure that our higher education sector remains amongst our greatest national assets, and provides for a research and innovation system which is more agile and able to respond strategically to future challenges and needs.

This factsheet explains these amendments.
Amendments: Higher education providers and the Office for Students

1. Institutional Autonomy

Institutional autonomy and academic freedom are cornerstones of the success of our higher education (HE) sector.

In this Bill, we have sought to recognise the importance of institutional autonomy and academic freedom by considerably strengthening the protections for them, compared to the current legislative framework for the regulation of the HE sector. These protections apply to key powers that the Bill gives to the Secretary of State to influence the new regulatory body, the Office for Students (OfS). The Bill achieves this by ensuring that the Secretary of State must have regard to academic freedom when using guidance, directions or conditions of grant funding to influence the OfS. At House of Commons Report Stage, the Government strengthened these protections by moving amendments which prevent the Secretary of State from issuing guidance with a view to requiring the OfS to act in a way which either prohibits or requires the provision of a particular course of study.

During Lords Committee, we heard clearly the strength of feeling on this totemic issue – and further strong evidence for its fundamental role in the achievements of our HE sector to date. We committed to consider how we could further strengthen protections for academic freedom and institutional autonomy.

This is why we have supported amendments which will place an explicit duty on the OfS in performing its functions, and the Secretary of State in issuing guidance and directions and determining terms and conditions of grants, to have regard to the need to protect the institutional autonomy of English higher education providers.

These amendments apply across all the OfS’s functions, and will ensure that the OfS considers institutional autonomy in everything it does. It therefore provides an explicit and wide ranging protection, which, subject to Parliament, will be enshrined in law for the first time.

These amendments provide a full and clear definition of institutional autonomy, making clear that English higher education providers have freedoms in relation to day to day management, decisions on course content and structure, selection and dismissal of academic staff, and admission of students. They also specify the freedoms of academic staff to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions. Together this collection of amendments provides the most robust protection for institutional autonomy that has ever existed in our modern higher education system.
2. Standards

We have heard representations from Peers and stakeholders that the Bill, as drafted, could undermine the sector’s role in regard to standards. **We have, therefore, tabled amendments which are designed principally to clarify, amongst other things, that the standards against which providers are assessed, and to which registration conditions can refer are the standards that are recognised by, and command the confidence of, the higher education sector (where such standards exist).** Where sector recognised standards exist but do not cover a particular matter the OfS cannot apply its own standard in respect of that matter.

Amongst other things, they also:

- amend clause 27 so that where a body has been designated to carry out the assessment functions, those functions cease to be exercisable by the OfS to the extent that they relate to standards. This means that the designated quality body would have exclusive responsibility for assessing standards;
- ensure that the OfS, when giving general directions to the designated quality body, must have regard to the need to protect the body’s ability to carry out an impartial assessment.
- delete the previous definition of standards for the purposes of the Bill. This deletion brings standards in line with “quality”, which is not defined in the bill, so as not to undermine the principle that the sector is responsible for defining standards.
- amend clause 27 so that, where a body has been designated to carry out the assessment functions (a quality body), those functions cease to be exercisable by the OfS to the extent that they relate to standards. The OfS will retain ultimate responsibility for assessing quality, and for setting registration conditions relating to quality and standards.
- We have also amended Schedule 4 to ensure that the OfS, when giving general directions to the designated quality body, must have regard to the need to protect the body’s ability to carry out an impartial assessment. This is in addition to the existing requirement for the OfS to have regard to the need to protect the body’s expertise.

Some concerns were raised by the sector that the Secretary of State could give guidance to the OfS regarding the standards at an individual institution. The restrictions already contained within clause 3 of the bill prevents this. The Secretary of State can only give guidance that relates to English higher education providers generally, or to a description of such providers, and must not relate to the manner in which courses of study are taught, supervised or assessed.
3. Expert advice when granting, varying or revoking Degree Awarding Powers

The measures in this Bill will make it simpler for new high quality providers to start-up, achieve Degree Awarding Powers (DAPs) and secure university status. New providers can drive more diversity and innovation, more choice for students, competitive pressure to drive up quality, and will mean that all students with the potential can access a high quality university place. These reforms will help ensure employers are provided with enough of the right graduates; that there are enough flexible study options on offer to meet students' diverse needs; and that more is done to support social mobility.

In order to become eligible for DAPs, any provider must register and pass rigorous entry requirements. We expect them to meet tough quality, financial sustainability and good governance criteria, and to undergo a rigorous scrutiny process to test the ability of a provider to maintain the quality of academic provision. It is a high bar, which only high quality providers will be able to meet. Further information on our market entry reforms can be found in a series of published factsheets, published in January 2017.¹

At Lords Committee Stage we confirmed that we would expect a committee comprised of independent members to play a vital role in the scrutiny of applications, bringing to bear its unique and expert perspective on the process, and enabling the OfS to draw on its expertise. We agree that the important decision of awarding DAPs must be based on objective and independent advice, including from a relevant range of experts. That is why we have now tabled an amendment to ensure that the OfS will have to seek expert advice ahead of awarding DAPs to a HE provider. This advice should come from the Designated Quality Body or, if no body is designated, from a committee of the OfS.

This advice must be informed by the views of persons with a range of relevant experience. We envisage that there will be strong representation from persons who have experience of granting degrees, but it will also include persons whose expertise lie in the education provided by institutions without DAPs – so the would be challenger institutions and further education providers. Persons with experience of employing graduates, and persons representing the interests of students, will also be represented.

¹ https://www.gov.uk/government/publications/higher-education-and-research-bill-market-entry-reforms
4. Degree Awarding Powers and University Title – revocation

This Bill will replace an outdated system with a new, risk-based regulatory framework that concentrates regulation where it is needed in order to protect the overall quality of the sector while reducing burdens on the best performing providers.

The express powers to vary or revoke DAPs and revoke University Title (UT) contained in the Bill are a part of the suite of tools that will be available to the OfS under the new regulatory framework. We have long recognised that in order to be able to regulate the sector effectively, express powers to remove DAPs and UT in serious cases are vital. This is because they illustrate to providers what is at stake and are important levers for the OfS to be able to protect students, value for money and the overall reputation of English higher education.

We have always been clear that powers to revoke are last resort powers, to be used only in very serious circumstances, and where other interventions have failed to produce the necessary results. To clarify this, we have tabled an amendment that will state on the face of the Bill the specific conditions that would need to be met before the OfS can revoke a provider’s DAPs or UT.

For DAPs these include serious concerns about quality or standards, where variation of DAPs is insufficient to address the concerns. The amendments also include provisions enabling University Title to be revoked if DAPs are lost, and for the option to revoke both DAPs and UT following changes in circumstances, i.e. DAPs could be revoked if there were serious concerns regarding quality or standards following a sale or merger.

We have also been clear that this Bill does not take away the Royal Charters of any of HE institutions. Through the measures in the Bill, the OfS will have a power, as a last resort, to remove an institution’s ability to award degrees or call itself a university. If these are contained in a Royal Charter, the Secretary of State may amend the Charter to reflect the changes. This would require Parliamentary scrutiny, and would be subject to the affirmative procedure. We have tabled an amendment to clarify that the powers in the Bill may not be used to revoke a HE provider’s Royal Charter in full.

5. Collaboration

It is important for the OfS to have a focus on supporting a competitive market. It means that it must regulate proportionately and fairly, allowing all providers to operate under a common set of rules and avoiding unjustifiable barriers to entry. And the centrality of increasing choice and competition within our reforms – including the general duty to consider the need to encourage competition between higher education providers “where that competition is in the interests of students and employers” – has not been ignorant to the benefits of collaboration.

The Government recognises the importance of collaboration between providers within the HE sector and we have heard strong representations about the importance of
collaboration, and how this can be of great benefit to students and employers. Whether manifested through outreach activity, employability schemes, shared infrastructure or other means, collaboration has an integral role to play in the mission of higher education and its benefits to wider society. **We have therefore tabled an amendment which, as part of the OfS’s general duty relating to the need to encourage competition, also requires the OfS to have regard to the benefits for students and employers resulting from collaboration between higher education providers.**

6. Freedom of speech

Our reforms to the HE landscape are intended to deliver a single, risk-based regulatory system for all providers. We believe they will create a level playing field, with a single route to entry underpinned for the first time by a single, comprehensive register of English HE providers. This will provide students with consistent and comparable assurances about all higher education providers that have chosen to register with the OfS.

There is an existing duty placed on those concerned in the government of certain higher education providers to take reasonably practicable steps to ensure that freedom of speech within the law is secured for students, staff and visiting speakers. These providers must also have a code of practice setting out procedures to be followed in connection with meetings and activities taking place on their premises, and take reasonable steps to ensure that it is complied with. That duty is set out in the Education (No.2) Act 1986, and applies to a range of institutions in the HE sector, in particular universities, higher education corporations, higher education institutions that have been designated as eligible to receive HEFCE funding, and higher education institutions that are maintained by local authorities.

Freedom of speech within the law is a value that is central to all of our higher education providers, just as it is to our society at large. Being exposed to a wide range of ideas and opinions, and learning the skills to debate and challenge them effectively, is key to the experience of being a student in the UK. HE providers take this duty very seriously and we agree that this is absolutely right for them to do so. We believe that the duty strikes a critical and practical balance between ensuring that the HE sector remains a vital place for discussing and debating lawful ideas and simultaneously ensuring that providers aren’t burdened by excessive legislation.

As we deliver, through this Bill, the regulatory system that the sector needs, we must ensure that the coverage of this important duty is appropriate for the sector as it evolves. Consequently, we have tabled an amendment that will require all registered providers, regardless of where on the OfS register they sit, to be subject to the freedom of speech duty as set out in the Education (No 2) Act 1986.
Amendments: Choice and opportunity for students

7. Diversity of choice

One of the great strengths of our higher education system is its diversity. Our reforms are designed to ensure a globally competitive market that supports that diversity and student choice, where anyone who demonstrates that they have the potential to offer excellent teaching and clears our high quality bar can compete on a level playing field.

A diverse range of higher education provision can include, for example, specialist institutions and providers with distinctive characteristics, such as those of a denominational character. Diversity of provision can also equally apply to course subjects and the format of study options available, such as part-time education, distance learning and accelerated courses.

Diverse forms of provision bring enormous benefits to individuals, the economy and employers, and so we expect the OfS to have regard to these different forms of study when carrying out its duties.

We have therefore tabled an amendment to clause 3 of the Bill to specify that the OfS’s duty in relation to greater student choice includes – but is not limited to - choice amongst a diverse range of types of provider, higher education courses, and means by which they are provided (for example, full-time or part-time study, distance learning or accelerated courses).

8. Accelerated courses

Student choice is a key feature of our reforms to the HE sector. We will encourage more flexible forms of provision to meet students’ diverse needs, foster the innovation required to respond to the changing demands of the economy and enhance the life chances of students.

The 2015 Conservative Manifesto set out a commitment to encourage universities to offer more two-year courses. In order to understand the need for greater flexible learning opportunities and the ways in which the Government could best support HE providers to meet that need, we published a Call for Evidence on “Accelerated Courses and Switching University or Degree” in May 2016 and a high level summary of the evidence received in December 2016. The Call for Evidence, along with our stakeholder engagement and independent research, has demonstrated that the main barrier to accelerated courses is the lack of a higher fee cap for accelerated provision. In addition to the responses to our consultation, amendments tabled by MPs and Peers during the passage of the Bill and the related debate have demonstrated the strength of feeling on this issue.
A number of providers currently offer accelerated courses at the same high standards as traditional courses, while losing important income. For example, for a course accelerated from three years to two years, where the summer period is used for additional teaching, a provider can only charge a student for two years' tuition at the current maximum fee cap, even though the student is receiving three years' worth of tuition condensed over two years. The provider misses out on the final year's tuition and absorbs the increased cost of condensed tuition.

We know that accelerated courses appeal to mature students who want to retrain and enter the workplace faster than a traditional full-time three-year degree would permit. We have therefore tabled an enabling amendment to deliver on our Manifesto commitment, further support our lifetime learning agenda and help drive economic productivity.

This amendment would enable the Secretary of State to set an annual fee limit in respect of an accelerated course that is higher than the fee cap for the standard equivalent version of that course. Subject to the will of Parliament, we intend to consult on the detail of how to deliver higher annual fee limits for accelerated courses ahead of tabling secondary legislation.

The setting of any new fee cap for an accelerated course would, if it is higher than the annual fee cap for its standard equivalent, be subject to Parliamentary scrutiny via the affirmative resolution procedure.

To ensure that only genuine accelerated courses can benefit from a higher fee cap the Bill limits the new fee cap to an accelerated course as defined by the Bill in the following way that: “An “accelerated course” means a higher education course where the number of academic years applicable to the course is at least one fewer than would normally be the case for that course or a course of equivalent content leading to the grant of the same or an equivalent academic award.”

Our clear intention is that accelerated courses will cost students less than an equivalent course, and we anticipate students will claim less overall in maintenance loans too. This means the costs should be lower for Government.

We will seek to stimulate the market for accelerated courses by setting a fee cap that provides adequate funding for providers while offering the student and the taxpayer a fair and good deal.

9. Credit transfer

The ability for students to transfer between courses or institutions while having their existing learning recognised (thus not needing to ‘start from scratch’) is an important element of student choice and flexible learning options. We sought views on credit transfer through our Call for Evidence on “Accelerated Courses and Switching University or Degree”, referred to above. The responses provided valuable data and insight into the barriers that students experience and how the Government could best support innovative
and flexible course delivery. In particular, the findings highlighted a lack of awareness of
the option to transfer and the way in which such transfers could take place.

The Government wants to support student transfer, provided it is not to the detriment of
institutional autonomy, nor to greater choice, diversity and vibrancy of provision in the HE
sector. The ability to transfer can provide flexibility for the balance of work, life and study,
and can offer new opportunities for part-time and mature learners. We have considered
carefully the amendments that were tabled on this issue at earlier stages of the Bill’s
passage and the associated debate, and have weighed up the evidence, and the
desirability of having flexible provision to address this issue now and in the future. We
have tabled amendments which would place a duty on the OfS to monitor and
report on the provision of arrangements for student transfer and their take-up; and
which would confer a power on the OfS to facilitate, encourage, or promote
awareness of, arrangements for student transfer.

10. Transparency duty

As set out in the White Paper, ‘Success as a Knowledge Economy’, the purpose of the
Transparency Duty in clause 10 of the Bill is to shine a spotlight on individual institutions’
records on widening participation. The duty requires each provider to publish, at a
minimum, application, offer, acceptance and completion rates broken down by gender,
etnicity and socioeconomic background. That is not an exhaustive list; and we have
always been clear that providers can choose to publish information on additional
categories if they wish.

The Transparency Duty will help make transparent individual institutions’ records in the
areas listed and spur action by institutions in areas where it is needed. As part of this, we
recognise a key issue is understanding how students achieve and how they are
supported during their time in higher education. The importance of this is reflected in the
fact that, for example, there is a difference between the proportion of white students and
BME students obtaining a degree award of a first or a 2:1, which cannot be explained by
factors such as prior educational attainment. This is why we asked the Director of Fair
Access to look at unexplained differences in degree attainment in our most recent
guidance.

We have reflected on this further, and have tabled an amendment to require
providers to publish information on levels of attainment, in addition to application,
offer, acceptance and completion rates, broken down by gender, ethnicity and
socio-economic background. This will enable a fuller picture of the whole student
lifecycle.
Amendments: Research & Innovation

Part 3 of the Higher Education and Research Bill will implement Sir Paul Nurse’s recommendations and establish a single strategic research and innovation funding body – UK Research and Innovation (UKRI). We are putting the UK’s strengths in research and innovation at the heart of our industrial strategy, backing them with a further £4.7 billion by 2021 in R&D funding – the largest increase by any government since 1979. This will enable us to make the most of the opportunity UKRI presents to deliver a joined up and strategic approach to research and innovation investment, to deliver economic impact, jobs and growth across the country. The amendments we have tabled respond to invaluable feedback received from the research and innovation communities as well as Parliamentarians, and further support these aims.

11. The Haldane Principle & Autonomy

In addition to institutional autonomy and academic freedom, the Government recognises the importance of autonomy in discipline-specific decision making within UKRI, and remains committed to the Haldane Principle – namely, that decisions on individual research proposals are best taken following an evaluation of the quality and likely impact of the proposals (e.g. a peer review process). Subject to Parliament, the amendment that we have tabled will, for the first time in history, enshrine the Haldane Principle in law.

This Bill will also protect the dual support funding system through legislation. To further strengthen this, the Government has already moved amendments during House of Commons Committee Stage to make clear that the Secretary of State cannot attach terms and conditions, or issue directions, regarding particular courses of study or programmes of research to grants issued to Research England.

In addition, we have tabled a number of amendments for debate at House of Lords Report Stage which seek to reinforce autonomy, including:

- A requirement for the Secretary of State, or UKRI on their behalf, to consult with stakeholders before making any changes to the fields of activities or names of the Councils. This is in addition to an existing requirement for an affirmative resolution in Parliament before any such changes are made;
- A duty on the Secretary of State to make each Council’s separate budget allocation clear when issuing grants to UKRI, thereby ensuring transparency of the allocation process;
- Clarification that specialist employees includes all technical staff required for the research endeavour.

These amendments build on existing provisions in the Bill, including that UKRI will be established at arm’s-length from Government, that it will be required to devolve functions
to its constituent Councils within their fields of activity, and that the Councils will retain their right to use their names, brands and insignia.

Box 1: Haldane Principle amendments

**Clause 99**

- Page 64, line 7, at end insert—
  "the Haldane principle, where the grant or direction mentioned in subsection (1) is in respect of functions exercisable by one or more of the Councils mentioned in section 91(1) pursuant to arrangements under that section."

- Page 64, line 8, after "principle" insert "in any case"

- Page 64, line 10, at end insert—
  "The "Haldane principle" is the principle that decisions on individual research proposals are best taken following an evaluation of the quality and likely impact of the proposals (such as a peer review process)."

12. **UKRI Governance & Functions**

Having reflected on debates in both the House of Commons and House of Lords regarding the structure, purpose and experience of UKRI and its Councils, we have **tabled a number of amendments for debate at Lords Report Stage which relate to the governance and functions of UKRI.**

This includes an amendment **placing the Executive Committee within UKRI’s legal framework.** This committee will include the Executive Chairs of each Council, Innovate UK and Research England, the UKRI Chief Executive and Chief Financial Officer, and will be a critical forum within UKRI’s governance structure.

We have also tabled an amendment to **increase the upper limit for ordinary Council members from 9 to 12,** thereby allowing greater flexibility in managing the breadth of activity required by each Council. Building on the existing provision for the Secretary of State to appoint one member of the Council (e.g. the Innovation Champion), another amendment will require the Secretary of State to consult with the UKRI Chair before doing so. Subject to Parliament, these amendments will ensure our intended practice is explicitly set out in law.

A further amendment adds **experience of the charitable sector** to the list of criteria to which the Secretary of State must have regard when making appointments to the UKRI Board. This recognises the importance of the charitable sector to research in the UK, and will facilitate further engagement and partnership working with this vital sector.

Regarding the functions of UKRI, we have tabled an amendment to **explicitly recognise on the face of the Bill that the advancement of knowledge is an objective of the**
Research Councils. This supplements previous amendments moved to clarify that the functions of UKRI include: the development and exploitation of advancements in humanities; the power to encourage and support the provision of postgraduate training; and knowledge exchange – including a specific role for Research England in supporting knowledge exchange within higher education providers.

13. Innovate UK

Incorporating Innovate UK into UKRI will bring benefits to businesses, researchers and to the UK as a whole. We agree with those stakeholders and Parliamentarians who have expressed the view that to realise these benefits it is crucial that Innovate UK maintains its business-facing focus. As such, this Bill, for the first time ever, gives Innovate UK’s functions legislative protection, as well as preventing changes to its status and name. We have tabled a number of amendments for debate at House of Lords Report Stage that further ensure that Innovate UK’s business-facing focus is maintained.

We are reinforcing our description of Innovate UK’s business-facing focus to capture the key aspects of its mission. Subject to Parliament, Innovate UK’s duty to support people engaged in business activities in the UK will be strengthened, and an additional duty added to promote innovation by this community.

We have also tabled an amendment which will clarify the basis by which UKRI, including Innovate UK, can enter into specific financial arrangements (listed in Schedule 9 16(3)), within the framework of Managing Public Money which sets out the requirements for all public bodies in relation to their expenditure. Specifically, it establishes that permissions, subject to terms and conditions, will be set out periodically by the Secretary of State. This is in accordance with current practice.

The amendment we have tabled setting out each Council’s budget allocation is also relevant here, as it places in legislation a commitment to Innovate UK’s separate budget, issued through a grant from the Secretary of State to UKRI.
14. Joint-working between OfS and UKRI

Details on how the OfS and UKRI will work together, including areas where collaboration will be expected, were set out in a factsheet published in November 2016. To ensure transparency and accountability, amendments have been tabled for debate at House of Lords Report Stage which, subject to Parliament, would require both UKRI and the OfS to report on cooperation with the other organisation in their annual reports.

We recognise that the OfS’ role in relation to Research Degree Awarding Powers (RDAPs) is an important and specific area where the OfS can benefit greatly from UKRI’s expertise. Therefore, our amendment relating to provision of expert advice in awarding Degree Awarding Powers specifies that UKRI’s views must inform the advice that’s required to be given by the relevant body to the OfS on the grant, variation or revocation of Research Degree Awarding Powers.

15. Working with the Devolved Administrations

UKRI will be a UK-wide organisation, and we will continue to work closely with the devolved nations as it is established to ensure the UK’s research and innovation base remains one of the most productive in the world. During the passage of the Bill we have moved a number of amendments to bolster UKRI’s relationship with Scotland, Wales and Northern Ireland.

In particular, at House of Commons Report Stage an amendment was moved to require the Secretary of State, when appointing members to UKRI’s Board, to consider their experience of the Devolved Administrations. Specifically, the Secretary of State must

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have regard to the desirability of including at least one person with relevant experience in relation to at least one of Wales, Scotland and Northern Ireland. No such duty is currently in place regarding the existing bodies with UK wide remits.

We recognise that Research England, operating within UKRI with an England-only remit, will have a unique relationship with the devolved administrations. As such, we added a new clause to the Bill at House of Commons Committee Stage to explicitly enable joint-working between Research England and its devolved counterparts. This was complemented by another new clause, which enables UKRI to provide advice to the relevant Northern Irish Departments regarding higher education research.

Furthermore, the amendment tabled placing a duty on the Secretary of State to make each Council's separate budget allocations clear will ensure transparency regarding Research England's budget, separate from UK wide functions.
Government amendments: Accepting recommendations of the Delegated Powers and Regulatory Reform Committee

The Delegated Powers and Regulatory Reform Committee published its report on the Higher Education and Research Bill on 20 December 2016. We are tabling amendments that accept three of its recommendations.

1. Schedule 2: the first set of regulations setting the higher, basic and floor amounts for establishing the fee limits for providers based on their Teaching Excellence Framework (TEF) rating should be subject to the affirmative procedure (not the negative procedure as previously proposed in the Bill). This would replicate the current position under the Higher Education Act 2004 (the existing legislation concerned with specifying the higher and basic amounts).

2. Clause 38: the regulations prescribing the higher education providers that are eligible for OfS funding in the form of grants, loans or other payments should be subject to the affirmative procedure (they are currently subject to the negative procedure under the Bill).

3. Clause 10: the regulations that specify those providers to whom a transparency condition applies (which are currently subject to the negative procedure under the Bill) should be subject to the affirmative procedure. We have been very clear in our White Paper that a transparency condition should apply to approved and approved fee cap providers.
AMENDMENTS
TO BE MOVED
ON REPORT

Clause 3

VISCOUNT YOUNGER OF LECKIE

1 Page 2, line 12, at end insert “while also having regard to the benefits for students and employers resulting from collaboration between such providers,”

Clause 3

VISCOUNT YOUNGER OF LECKIE
BARONESS GARDEN OF FROGNAL

2 Page 2, line 23, at end insert—

“( ) The reference in subsection (1)(a) to choice in the provision of higher education by English higher education providers includes choice amongst a diverse range of—
(a) types of provider,
(b) higher education courses, and
(c) means by which they are provided (for example, full-time or part-time study, distance learning or accelerated courses).”

Clause 3

VISCOUNT YOUNGER OF LECKIE

3 Page 2, line 36, after “but” insert “, whether or not the guidance is framed in that way,”

Clause 10

VISCOUNT YOUNGER OF LECKIE

4 Page 6, line 33, at end insert—
“( ) the number of students who attained a particular degree or other academic award, or a particular level of such an award, on completion of their course with the provider.”

Clause 14

VISCOUNT YOUNGER OF LECKIE

5 Page 9, line 4, leave out subsection (2)

6 Page 9, line 6, at end insert—

“(2A) Where there are one or more sector-recognised standards, the condition mentioned in subsection (1)(a), so far as relating to standards—

(a) may relate only to the standards applied in respect of matters for which there are sector-recognised standards, and

(b) may require the application of sector-recognised standards only in respect of those matters.

(2B) In this Part, “sector-recognised standards” means standards that apply to higher education and accord with guidance which—

(a) is determined by persons representing a broad range of registered higher education providers, and

(b) commands the confidence of registered higher education providers.”

Clause 24

VISCOUNT YOUNGER OF LECKIE

7 Page 15, line 27, at end insert—

“( ) Where there are one or more sector-recognised standards, an assessment under this section of the standards applied—

(a) must relate only to the standards applied in respect of matters for which there are sector-recognised standards, and

(b) must assess those standards against sector-recognised standards only.”

8 Page 15, line 28, leave out subsection (3)

Clause 26

VISCOUNT YOUNGER OF LECKIE

9 Page 16, line 43, leave out subsection (5)

10 Page 16, line 44, leave out subsection (6)

Clause 27

VISCOUNT YOUNGER OF LECKIE

11 Page 17, line 14, after “are” insert “—
Page 17, line 14, at end insert as, and

(b) the functions of the relevant body under section (Grant, variation or revocation of authorisation: advice on quality etc) (advice on quality etc to the OfS when granting degree awarding powers etc)."

Page 17, line 16, after “the functions” insert “under section 24”

Page 17, line 16, leave out “do not cease to be exercisable by the OfS” and insert “—

(a) so far as they relate to the assessment of the standards applied to higher education provided by a provider, cease to be exercisable by the OfS, and

(b) otherwise do not cease to be exercisable by the OfS.”

Page 17, line 19, after “performance of” insert “any of”

Clause 28

VISCOUNT YOUNGER OF LECKIE

Page 17, line 34, leave out from “body” to “may” in line 35

Page 17, line 38, after “standards)” insert “, or section (Grant, variation or revocation of authorisation: advice on quality etc) (advice on quality etc to the OfS when granting degree awarding powers etc).”

Page 18, line 8, after “section 24(1)” insert “or (Grant, variation or revocation of authorisation: advice on quality etc)”

Page 18, line 12, leave out “section 24(1)” and insert “sections 24(1) and (Grant, variation or revocation of authorisation: advice on quality etc)”

Clause 31

VISCOUNT YOUNGER OF LECKIE

Page 19, line 26, leave out “applicable”

Page 19, line 28, leave out “applicable”

Page 19, line 28, leave out “in relation to an institution”

Page 19, line 30, leave out “applicable to that institution”

After Clause 37

VISCOUNT YOUNGER OF LECKIE

Insert the following new Clause—

“Duty to monitor etc the provision of arrangements for student transfers

(1) The OfS—

(a) must monitor the availability of schemes or other arrangements provided by registered higher education providers for student
transfers and the extent to which those arrangements are utilised by students generally or students of a particular description,

(b) must include in its annual report a summary of conclusions drawn by it, for the financial year to which the report relates, from its monitoring under paragraph (a), and

(c) may facilitate, encourage, or promote awareness of, the provision of arrangements by registered higher education providers for student transfers.

(2) For the purposes of this section, “a student transfer” is where—

(a) a student transfers from a higher education course (“course X”) provided by a UK higher education provider (“the transferring provider”) to a different higher education course (“course Y”) provided by the same or a different UK higher education provider (“the receiving provider”),

(b) the receiving provider recognises, or takes account of, the study undertaken, or a level of achievement attained, by the student—

(i) on course X, or

(ii) on another higher education course provided by the transferring provider,

when the receiving provider is determining the study to be undertaken, or the level of achievement attained, by the student on course Y, and

(c) either the transferring provider or the receiving provider is a registered higher education provider, or both are registered higher education providers.

(3) For the purposes of subsection (2), there may be an interval between the student ceasing to undertake course X and starting to undertake course Y.

(4) The duty under subsection (1)(a) may be discharged by the OfS monitoring as described in that provision—

(a) arrangements for student transfers provided by all registered higher education providers or a particular description of such provider;

(b) all such arrangements for student transfers or a particular description of such arrangement or student transfer.

(5) In this section—

“annual report” means the annual report under paragraph 13 of Schedule 1;

“financial year” has the same meaning as in that Schedule (see paragraph 12(6));

“higher education course”—

(a) in the case of a provider in England or Wales, has the meaning given in section 79(1);

(b) in the case of a provider in Scotland, means a course falling within section 38 of the Further and Higher Education (Scotland) Act 1992;

(c) in the case of a provider in Northern Ireland, means a course of any description mentioned in Schedule 1 to the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15));
“UK higher education provider” means an English higher education provider or a higher education provider in Wales, Scotland or Northern Ireland.

(6) For the purposes of applying the definition of “higher education provider” in section 79(1) to the reference in the definition of “UK higher education provider” in subsection (5) to a higher education provider in Wales, Scotland or Northern Ireland, the reference to “higher education” in the definition of “higher education provider” in section 79(1)—

(a) in the case of an institution in Wales, has the meaning given in section 79(1);
(b) in the case of an institution in Scotland, has the same meaning as in section 38 of the Further and Higher Education (Scotland) Act 1992;
(c) in the case of an institution in Northern Ireland, has the same meaning as in Article 2(2) of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15))."

Clause 38

VISCOUNT YOUNGER OF LECKIE

25 Page 22, line 11, leave out “or by another eligible higher education provider”

26 Page 22, line 14, leave out “or by another eligible higher education provider,”

Clause 41

VISCOUNT YOUNGER OF LECKIE

27 Page 25, line 2, at end insert—

“( ) See sections 42, 43 and (Grant, variation or revocation of authorisation: advice on quality etc) which make further provision about orders under subsection (1).”

Clause 43

VISCOUNT YOUNGER OF LECKIE

28 Page 25, line 30, at end insert—

“( ) The OfS may make such an order revoking an authorisation given to a provider only if condition A, B or C is satisfied.”

29 Page 25, line 31, leave out from beginning to “if” and insert “Condition A is satisfied”

30 Page 25, line 32, at end insert—

“(4) Condition B is satisfied if—

(a) the OfS has concerns regarding the quality of, or the standards applied to, higher education which has been or is being provided by the provider, and

(b) it appears to the OfS that those concerns are so serious that—

(i) its powers by a further order under section 41(1) to vary the authorisation are insufficient to deal with the concerns
(whether or not they have been exercised in relation to the provider), and
(ii) it is appropriate to revoke the authorisation.

(5) Condition C is satisfied if—
(a) due to a change in circumstances since the authorisation was given, the OfS has concerns regarding the quality of, or the standards applied to, higher education which will be provided by the provider, and
(b) it appears to the OfS that those concerns are so serious that—
   (i) its powers by a further order under section 41(1) to vary the authorisation are insufficient to deal with the concerns (whether or not they have been exercised in relation to the provider), and
   (ii) it is appropriate to revoke the authorisation.

(6) Where there are one or more sector-recognised standards, for the purposes of subsections (4)(a) and (5)(a)—
(a) the OfS’s concerns regarding the standards applied must be concerns regarding the standards applied in respect of matters for which there are sector-recognised standards, and
(b) those concerns must be regarding those standards as assessed against sector-recognised standards.”

31 Page 25, line 32, at end insert—

“( ) See sections (Grant, variation or revocation of authorisation: advice on quality etc) and 45 which make further provision about further orders under section 41(1).”

Clause 44

VISCOUNT YOUNGER OF LECKIE

32 Page 25, line 35, leave out “or an English further education provider”

33 Page 26, line 8, at end insert—

“( ) The OfS may make an order under subsection (1) revoking an authorisation given to a provider only if condition A, B or C is satisfied.”

34 Page 26, line 9, leave out from beginning to “if” in line 10 and insert “Condition A is satisfied”

35 Page 26, line 10, at end insert—

“(5A) Condition B is satisfied if—
(a) the OfS has concerns regarding the quality of, or the standards applied to, higher education which has been or is being provided by the provider, and
(b) it appears to the OfS that those concerns are so serious that—
   (i) its powers by an order under subsection (1) to vary the authorisation are insufficient to deal with the concerns (whether or not they have been exercised in relation to the provider), and
   (ii) it is appropriate to revoke the authorisation.
(5B) Condition C is satisfied if—
   (a) due to a change in circumstances since the authorisation was given, the OfS has concerns regarding the quality of, or the standards applied to, higher education which will be provided by the provider, and
   (b) it appears to the OfS that those concerns are so serious that—
       (i) its powers by an order under subsection (1) to vary the authorisation are insufficient to deal with the concerns (whether or not they have been exercised in relation to the provider), and
       (ii) it is appropriate to revoke the authorisation.

(5C) Where there are one or more sector-recognised standards, for the purposes of subsections (5A)(a) and (5B)(a)—
   (a) the OfS's concerns regarding the standards applied must be concerns regarding the standards applied in respect of matters for which there are sector-recognised standards, and
   (b) those concerns must be regarding those standards as assessed against sector-recognised standards.”

Page 26, line 18, at end insert—

“( ) See sections (Grant, variation or revocation of authorisation: advice on quality etc) and 45 which make further provision about orders under subsection (1).”

After Clause 44

VICOUNT YOUNGER OF LECKIE

Insert the following new Clause—

“Grant, variation or revocation of authorisation: advice on quality etc

(1) The OfS must request advice from the relevant body regarding the quality of, or the standards applied to, higher education provided by a provider before making—
   (a) an order under section 41(1) authorising the provider to grant taught awards or research awards,
   (b) a further order under section 41(1)—
       (i) varying an authorisation given to the provider by a previous order under section 41(1), or
       (ii) revoking such an authorisation on the ground that condition B in section 43(4) is satisfied, or
   (c) an order under section 44(1)—
       (i) varying an authorisation given to the provider, as described in that provision, to grant taught awards or research awards, or
       (ii) revoking such an authorisation on the ground that condition B in section 44(5A) is satisfied.

(2) In this section “the relevant body” means—
   (a) the designated assessment body, or
(b) if there is no such body, a committee which the OfS must establish under paragraph 8 of Schedule 1 for the purpose of performing the functions of the relevant body under this section.

(3) Where the OfS requests advice under subsection (1), the relevant body must provide it.

(4) The advice provided by the relevant body must be informed by the views of persons who (between them) have experience of—

(a) providing higher education on behalf of, or being responsible for the provision of higher education by—

(i) an English higher education provider which is neither authorised to grant taught awards nor authorised to grant research awards,

(ii) an English further education provider, and

(iii) an English higher education provider which is within neither sub-paragraph (i) nor sub-paragraph (ii),

(b) representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers,

(c) employing graduates of higher education courses provided by higher education providers,

(d) research into science, technology, humanities or new ideas, and

(e) encouraging competition in industry or another sector of society.

(5) Where the order authorises the provider to grant research awards or varies or revokes such an authorisation, the advice provided by the relevant body must also be informed by the views of UKRI.

(6) Subsections (4) and (5) do not prevent the advice given by the relevant body also being informed by the views of others.

(7) The OfS must have regard to advice provided to it by the relevant body under subsection (3) in deciding whether to make the order.

(8) But that does not prevent the OfS having regard to advice from others regarding quality or standards.

(9) Where the order varies or revokes an authorisation, the advice under subsection (1) may be requested before or after the governing body of the provider is notified under section 45 of the OfS's intention to make the order.

(10) Where there are one or more sector-recognised standards, for the purposes subsections (1) and (8)—

(a) the advice regarding the standards applied must be advice regarding the standards applied in respect of matters for which there are sector-recognised standards, and

(b) that advice must be regarding those standards as assessed against sector-recognised standards.

(11) In this section—

"designated assessment body" means a body for the time being designated under Schedule 4;

"humanities" and "science" have the same meaning as in Part 3 (see section 107)."
Clause 54

VISCOUNT YOUNGER OF LECKIE

38 Page 34, line 34, at end insert—

“( ) The OfS may make an order under subsection (1) only if condition A, B or C is satisfied.”

39 Page 34, leave out line 35 and insert—

“( ) Condition A is satisfied if—”

40 Page 34, line 41, at end insert—

“( ) Condition B is satisfied if, disregarding any transitional or saving provision made by an order under section 41(1) or 44(1)—

(a) the institution is neither authorised to grant taught awards nor authorised to grant research awards, or

(b) foundation degrees are the only degrees which the institution is authorised to grant.

( ) Condition C is satisfied if, due to a change in circumstances since the authorisation, consent or other approval was given, it appears to the OfS to be no longer appropriate for the institution to include the word “university” in its name.”

Clause 73

VISCOUNT YOUNGER OF LECKIE

41 Page 46, line 41, after “but” insert “, whether or not the directions are framed in that way,”

Clause 79

VISCOUNT YOUNGER OF LECKIE

42 Page 49, line 38, after “see” insert “—

(a) ”

43 Page 49, line 39, leave out “and (6)”

44 Page 49, line 39, after “education)” insert “, and

(b) section (Duty to monitor etc the provision of arrangements for student transfers)(5) and (6) (duty to monitor etc the provision of arrangements for student transfers).”

Clause 81

VISCOUNT YOUNGER OF LECKIE

45 Page 51, line 1, at end insert—

“‘sector-recognised standards’ has the meaning given by section 14(2B);”
Clause 85

VISCOUNT YOUNGER OF LECKIE

46 Page 57, line 17, leave out from “insert” to the end of line 18 and insert “,” and includes an institution which is treated as continuing to be a qualifying institution for the purposes of Part 2 of that Act (see section 20A(2) of that Act)”

47 Page 57, line 22, leave out “paragraph (da)” and insert “paragraphs (da) and (ea)”

Clause 88

LORD PRIOR OF BRAMPTON

48 Page 58, line 12, at end insert—

“(4) Before making regulations under subsection (2), the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(5) UKRI must, if requested to do so by the Secretary of State, carry out such a consultation, on behalf of the Secretary of State, of such persons.

(6) In such a case, UKRI must carry out the consultation in accordance with such directions as the Secretary of State may give.”

Clause 91

LORD PRIOR OF BRAMPTON

49 Page 60, line 12, leave out subsection (3) and insert—

“(3) A “relevant specialist employee”, in relation to a Council, means—

(a) a researcher or scientist employed by UKRI to work in the Council’s field of activity (see the table in subsection (1)), or

(b) a person who has knowledge, experience or specialist skills which is or are relevant to the Council’s field of activity and is employed by UKRI to work in that field of activity.”

50 Page 60, line 18, after “contributing” insert “(whether directly or indirectly)”

51 Page 60, line 18, after “growth” insert “, or an economic benefit,”

52 Page 60, line 18, after “Kingdom,” insert—

“( ) advancing knowledge (whether in the United Kingdom or elsewhere and whether directly or indirectly) in, or in connection with, science, technology, humanities or new ideas,”

53 Page 60, line 24, at end insert—

“(6) Before making regulations under subsection (5), the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(7) UKRI must, if requested to do so by the Secretary of State, carry out such a consultation, on behalf of the Secretary of State, of such persons.

(8) In such a case, UKRI must carry out the consultation in accordance with such directions as the Secretary of State may give.”
Clause 92

LORD PRIOR OF BRAMPTON

Page 60, line 31, leave out subsection (3) and insert—

“(3)  Arrangements under this section must require Innovate UK, when exercising any function to which the arrangements relate, to have regard to—

(a)  the need to support (directly or indirectly) persons engaged in business activities in the United Kingdom,
(b)  the need to promote innovation by persons carrying on business in the United Kingdom, and
(c)  the desirability of improving quality of life in the United Kingdom.”

Clause 97

LORD PRIOR OF BRAMPTON

Page 62, line 39, after “subsection (1)” insert “in respect of those functions”

Page 63, line 9, after “subsection (1)” insert “in respect of those functions”

Page 63, line 15, at end insert—

“( ) provide for the allocation of the whole or a part of the grant to a particular Council and for subsequent changes in that allocation,”

Page 63, line 22, at end insert—

“( ) Where the Secretary of State makes a grant to UKRI under subsection (1), the Secretary of State must publish—

(a)  the amount of the grant, and
(b)  if the terms and conditions of the grant allocate the whole or a part of that amount to a particular Council—
   (i)  the name of the Council, and
   (ii)  the amount of the grant which is so allocated to it.”

Clause 99

LORD PRIOR OF BRAMPTON

Page 64, line 7, at end insert—

“(za)  the Haldane principle, where the grant or direction mentioned in subsection (1) is in respect of functions exercisable by one or more of the Councils mentioned in section 91(1) pursuant to arrangements under that section,”

Page 64, line 8, after “principle” insert “, in any case”

Page 64, line 10, at end insert—

“(2A)  The “Haldane principle” is the principle that decisions on individual research proposals are best taken following an evaluation of the quality and likely impact of the proposals (such as a peer review process).”
Clause 112

VISCOUNT YOUNGER OF LECKIE

62 Page 69, line 9, leave out “subsection (3)” and insert “subsections (3) and (4)”

63 Page 69, line 14, at end insert—

“(4) Provision made under subsection (1) by virtue of subsection (2)(b) may not revoke a Royal Charter in its entirety.”

Clause 115

VISCOUNT YOUNGER OF LECKIE

64 Page 70, line 11, at end insert—

“( ) regulations under section 10(1) (prescribed description of providers for whom a transparency condition is mandatory);”

65 Page 70, line 16, at end insert—

“( ) regulations under section 38(3) (prescribed description of providers eligible for financial support);”

66 Page 70, line 24, after “or” insert “of”

67 Page 70, line 27, at end insert “any of the following provisions of that Schedule applies—

(a) paragraph 4(1A) (first regulations prescribing the higher, basic and floor amounts);
(b) "

68 Page 70, line 29, leave out “applies”

69 Page 70, line 29, at end insert—

“( ) paragraph 5 (accelerated courses).”

Clause 120

VISCOUNT YOUNGER OF LECKIE

70 Page 72, line 8, leave out subsection (1) and insert—

“(1) The following provisions of this Part come into force on the day on which this Act is passed—

(a) sections 111 to 113;
(b) sections 115 to 117;
(c) section 119;
(d) this section;
(e) section 121.”

Schedule 1

VISCOUNT YOUNGER OF LECKIE

71 Page 78, line 29, at end insert—
“( ) The report must include a statement regarding how the OfS has cooperated with UKRI during that year.”

Schedule 2

VISCOUNT YOUNGER OF LECKIE

72 Page 80, line 14, after “in” insert “the case of each provider and each qualifying course”

73 Page 80, line 26, leave out “applicable”

74 Page 80, line 36, leave out “this paragraph” and insert “sub-paragraph (2)(a)”

75 Page 80, line 37, leave out sub-paragraph (6) and insert—

“(6) “The sub-level amount” means such amount as may be determined by the Secretary of State for the purposes of sub-paragraph (2)(b)—

(a) as the sub-level amount in respect of the higher amount, or

(b) where different amounts are prescribed as the higher amount for different cases or purposes by virtue of section 115(5)(a), as the sub-level amount in respect of each higher amount.

(6A) Different amounts may be determined under sub-paragraph (6) for different descriptions of provider.”

76 Page 80, line 40, after “descriptions” insert “of provider”

77 Page 81, line 9, leave out “as the floor amount” and insert “—

(a) as the floor amount in respect of the higher amount, or

(b) where different amounts are prescribed as the higher amount for different cases or purposes by virtue of section 115(5)(a), as the floor amount in respect of each higher amount.

( ) Where different amounts are prescribed as the higher amount for different cases or purposes by virtue of section 115(5)(a)—

(a) the reference in sub-paragraph (8)(a) to the higher amount is to the higher amount in respect of which the sub-level amount is determined, and

(b) the reference in sub-paragraph (8)(b) to the floor amount is to the floor amount prescribed under sub-paragraph (9) in respect of that higher amount.”

78 Page 81, line 10, leave out sub-paragraph (10)

79 Page 81, line 21, leave out “applicable”

80 Page 81, line 25, leave out “this paragraph” and insert “sub-paragraph (2)(a)”

81 Page 81, line 26, leave out sub-paragraph (5) and insert—

“(5) “The sub-level amount” means such amount as may be determined by the Secretary of State for the purposes of sub-paragraph (2)(b)—

(a) as the sub-level amount in respect of the basic amount, or

(b) where different amounts are prescribed as the basic amount for different cases or purposes by virtue of section 115(5)(a), as the sub-level amount in respect of each basic amount.
(5A) Different amounts may be determined under sub-paragraph (5) for different descriptions of provider.”

82 Page 81, line 29, after “descriptions” insert “of provider”

83 Page 81, line 38, leave out “as the floor amount” and insert “—
(a) as the floor amount in respect of the basic amount, or
(b) where different amounts are prescribed as the basic amount for different cases or purposes by virtue of section 115(5)(a), as the floor amount in respect of each basic amount.

() Where different amounts are prescribed as the basic amount for different cases or purposes by virtue of section 115(5)(a)—
(a) the reference in sub-paragraph (7)(a) to the basic amount is to the basic amount in respect of which the sub-level amount is determined, and
(b) the reference in sub-paragraph (7)(b) to the floor amount is to the floor amount prescribed under sub-paragraph (8) in respect of that basic amount.”

84 Page 81, line 39, leave out sub-paragraph (9)

85 Page 82, line 11, at end insert—
“(1A) The Secretary of State may not make any of the following—
(a) the first regulations under paragraph 2 prescribing the higher amount;
(b) the first regulations under that paragraph prescribing the floor amount;
(c) the first regulations under paragraph 3 prescribing the basic amount;
(d) the first regulations under that paragraph prescribing the floor amount,
unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

86 Page 82, line 36, at end insert—
“(6) Sub-paragraphs (2) to (4) do not apply to regulations where—
(a) the higher amount, basic amount or floor amount in question is in the case of an accelerated course, and
(b) paragraph 5 applies to the regulations.

(7) “Accelerated course” in sub-paragraph (6)(a) has the same meaning as in paragraph 5.

5 (1) No regulations may be made under paragraph 2 prescribing—
(a) the higher amount in the case of an accelerated course at a level which is higher than what would be the higher amount in the case of that course if it were not an accelerated course, or
(b) the floor amount in the case of an accelerated course at a level which is higher than what would be the floor amount in the case of that course if it were not an accelerated course,
unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(2) No regulations may be made under paragraph 3 prescribing—
(a) the basic amount in the case of an accelerated course at a level which is higher than what would be the basic amount in the case of that course if it were not an accelerated course, or
(b) the floor amount in the case of an accelerated course at a level which is higher than what would be the floor amount in the case of that course if it were not an accelerated course, unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(3) An “accelerated course” means a higher education course where the number of academic years applicable to the course is at least one fewer than would normally be the case for that course or a course of equivalent content leading to the grant of the same or an equivalent academic award.”

Schedule 4

VISCOUNT YOUNGER OF LECKIE

87 Page 86, line 32, at end insert—
   "(c) the Secretary of State is satisfied that the designated body is failing to perform in an effective manner its functions under section (Grant, variation or revocation of authorisation: advice on quality etc), or"

88 Page 88, line 13, after “protect” insert “—
   (a) ”

89 Page 88, line 14, at end insert “, and
   (b) the designated body’s ability to make, or make arrangements for, an impartial assessment of the quality of, and the standards applied to, higher education provided by a provider.”

90 Page 88, leave out line 37

Schedule 8

VISCOUNT YOUNGER OF LECKIE

91 Page 104, line 6, at end insert—
   “23A(1) Section 78 (financial years of higher education corporations) is amended as follows.
   (2) In the heading, at the end insert “: Wales”.
   (3) In subsection (1), after “higher education corporations” insert “in Wales”.
   (4) After subsection (2) insert—
   “(3) In this section “higher education corporation in Wales” means a higher education corporation established to conduct an institution whose activities are carried on, or principally carried on, in Wales.”"
Schedule 9

LORD PRIOR OF BRAMPTON

Page 104, line 38, after “matters” insert “, the charitable sector”

Page 105, line 9, after “matters” insert “, the charitable sector”

Page 105, line 15, leave out “nine” and insert “twelve”

Page 105, line 20, after “Council” insert “after consulting the chair of UKRI”

Page 107, line 11, at end insert—

“Executive Committee

8A (1) UKRI must establish a committee called “the Executive Committee”.

(2) The Executive Committee is to consist of—

(a) the CEO, who is to be its chair,

(b) the CFO,

(c) the executive chair of each of the Councils, and

(d) such other members as the CEO may appoint.

(3) Those appointed under sub-paragraph (2)(d)—

(a) must be employees of UKRI, and

(b) if they cease to be such employees, may not continue as members

appointed under that provision.

(4) The Executive Committee may establish sub-committees, and a sub-

committee so established is referred to in this Schedule as an “Executive

sub-committee”.

(5) An Executive sub-committee may include persons who are not members

of UKRI, Council members or employees of UKRI.

(6) UKRI must pay such allowances as the Secretary of State may determine

to any person who—

(a) is a member of an Executive sub-committee, but

(b) is not a member of UKRI, a Council member or an employee of

UKRI.”

Page 107, line 13, after “Councils” insert “and the Executive Committee”

Page 107, line 33, leave out sub-paragraphs (1) and (2) and insert—

“(1) UKRI, a Council and the Executive Committee may each determine their

own procedure and the procedure of any relevant committee.

(1A) “Relevant committee” means—

(a) in the case of UKRI, a general committee,

(b) in the case of a Council, a Council sub-committee established by it, and

(c) in the case of the Executive Committee, an Executive sub-

committee.

(2) But sub-paragraph (1) is subject to the rest of this paragraph.”

Page 108, line 16, after “general committee,” insert “or of the Executive Committee
or any Executive sub-committee,"

100 Page 109, line 8, at end insert—

"( ) The report must include a statement regarding how UKRI has cooperated with the OIS during that year."

101 Page 109, line 31, leave out from beginning to third “the” and insert “But UKRI may do any of the following only in accordance with terms and conditions specified from time to time by”

102 Page 110, line 14, leave out “paragraph” and insert “paragraphs 8A and”

103 Page 110, line 23, leave out “paragraph” and insert “paragraphs 8A and”

Schedule 11

VISCOUNT YOUNGER OF LECKIE

104 Page 112, line 35, leave out “in receipt of remuneration”

105 Page 113, line 6, at end insert—

"Education (No. 2) Act 1986

4A (1) Section 43 of the Education (No. 2) Act 1986 (freedom of speech in universities etc) is amended as follows.

(2) After subsection (4) insert—

"(4A) The establishments in England to which this section applies are—

(a) any registered higher education provider;
(b) any establishment of higher or further education which is maintained by a local authority;
(c) any institution within the further education sector."

(3) In subsection (5), after “The establishments” insert “in Wales”.

(4) In subsection (6), in the definition of “governing body”, for “in relation to any university” substitute “—

(a) in relation to a registered higher education provider, has the meaning given by section 81(1) of the Higher Education and Research Act 2017;
(b) in relation to a university in Wales,”.

(5) In subsection (6), after the definition of “governing body” insert—

“‘registered higher education provider’ has the meaning given by section 4(10) of the Higher Education and Research Act 2017;”.

(6) After subsection (6) insert—

"(6A) For the purposes of this section—

(a) an establishment is taken to be in England if its activities are carried on, or principally carried on, in England;
(b) an establishment is taken to be in Wales if its activities are carried on, or principally carried on, in Wales.”

(7) In subsection (7)(a), after "subsection" insert "(4A)(b) or".

106 Page 117, line 25, at end insert—

"29A(1) The Education Act 2005 is amended as follows.

(2) In section 92 (joint exercise of functions)—

(a) in subsection (2), for "Higher Education Funding Council for England" substitute "Office for Students", and

(b) omit subsection (5)."

107 Page 117, line 26, leave out "to the Education Act 2005".
AMENDMENTS
TO BE MOVED
ON REPORT

Clause 3

LORD STEVENSON OF BALMACARA
VICOUNT YOUNGER OF LECKIE

Page 2, line 6, at end insert—
“(za) the need to protect the institutional autonomy of English higher education providers,”

Page 2, line 27, leave out from “protect” to end of line 34 and insert “the institutional autonomy of English higher education providers.”

Page 3, line 3, at end insert—
“(7) In this Part, “the institutional autonomy of English higher education providers” means—

(a) the freedom of English higher education providers within the law to conduct their day to day management in an effective and competent way,

(b) the freedom of English higher education providers—
(i) to determine the content of particular courses and the manner in which they are taught, supervised and assessed,
(ii) to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and
(iii) to determine the criteria for the admission of students and apply those criteria in particular cases, and
(c) the freedom within the law of academic staff at English higher education providers—
(i) to question and test received wisdom, and
(ii) to put forward new ideas and controversial or unpopular opinions,

without placing themselves in jeopardy of losing their jobs or privileges they may have at the providers.”
Clause 36

LORD STEVENSON OF BALMACARA
VISCOUNT YOUNGER OF LECKIE

Page 21, line 32, at end insert—
“( ) In performing those functions, subsection (1) applies instead of section 3(1)(za) (duty of OfS to have regard to the need to protect institutional autonomy) in relation to the freedoms mentioned in subsection (7)(b) and (c) of that section.”

Clause 70

LORD STEVENSON OF BALMACARA
VISCOUNT YOUNGER OF LECKIE

Page 44, line 19, leave out from “protect” to end of line 26 and insert “the institutional autonomy of English higher education providers.”

Page 44, line 27, leave out “So”

Clause 73

LORD STEVENSON OF BALMACARA
VISCOUNT YOUNGER OF LECKIE

Page 46, line 32, leave out from “protect” to end of line 39 and insert “the institutional autonomy of English higher education providers.”

Clause 81

LORD STEVENSON OF BALMACARA
VISCOUNT YOUNGER OF LECKIE

Page 50, line 42, at end insert—
““the institutional autonomy of English higher education providers” has the meaning given by section 3(7);”
AMENDMENTS
TO BE MOVED
ON REPORT

23 February 2017