Dear Colleagues,

Higher Education and Research Bill: Lords Report Stage

Following Lords Report of the Higher Education and Research Bill, we are writing to offer clarification on the questions that were raised by Peers during the debate on Part 3 of the Bill at Lords Report, on 15 March 2017.

Firstly on issues raised by Lord Wallace pertaining to the scope of reserved matters relating to research. Lord Wallace asked for the Minister to comment on the reference to "new ideas" and the view that this drafting has the effect of extending the research council reservation in Section C12 of Part II, Schedule 5 of the Scotland Act 1998.

The Government’s view is that research councils are a matter of reserved policy. This applies both to the research councils that have existed both before and after 1998 which have been formed under the Science & Technology Act 1965 (the STA) and the Arts and Humanities Research Council formed under the Higher Education Act 2004 (HEA).

This reservation does not apply to research funding in Scotland outside the auspices of the research councils. Indeed, it is clear from s. 56 (1)(a) of the Scotland Act 1998 (SA) that the ministerial funding power pursuant to s.5 of the STA is shared between UK and Scottish Ministers. The Higher Education and Research Bill (HERB) does not alter this.

It is also the Government’s view that inserting UKRI into Section C12 does not alter the devolved arrangements regarding research and innovation. Like the current research councils, UKRI will provide grant funding on a project-by-project basis. That grant funding may be spent both in and outside the UK (clause 89(2) of HERB). The ability for UKRI to
provide grant funding does not in any way alter the Scottish Government’s ability to fund either research or innovation under s.5 of the STA.

At Report you invited us to consider further the incorporation of “new ideas” within UKRI’s functions. We would like to assure you that the incorporation of the term in the HERB is not intended to extend the Section C12 reservation but to continue established Government policy which we believe has already benefitted – and will continue to benefit – the UK as a whole.

“New ideas” has been incorporated into the HERB following a review of the research councils’ Royal Charters. In the charter of the Technology Strategy Board¹ (now known as Innovate UK) “new ideas” are part of Innovate’s objects in 2 (2) (a), (b), (c), (d) and (e). It is important and established language which expresses and enables Innovate’s mission. This mission will be continued within UKRI.

Innovate UK was formed pursuant to s. 1(1)(c) of the STA. It is clear from the Order² (2007/280) which established Innovate UK as the Technology Strategy Board that “new ideas” within its Charter was within the scope of the research councils formed under the STA which were a reserved policy matter under Section C12. This is apparent from paragraph 1 of the Order which states:

1. The Technology Strategy Board, whose objects are specified in the Schedule to this Order, is established as a Research Council for the purposes of the Science and Technology Act 1965.

As such, we do hope that this explanation provides reassurance that the Government is not seeking to alter or affect the devolution settlement by inserting UKRI into Section C12.

We also promised to write to Lord Sharkey as a number of issues were raised during debate concerning research council freedoms to enter partnerships, and their spending flexibilities.

On the former we hope our statements in the House were helpful: there will be no substantive change in the areas of oversight that Councils will be subject to within their disciplines following establishment of UKRI. In most cases the formation of partnership will be a matter of routine, carried out by the Council concerned, operating within pre-established frameworks. In more significant cases, approval would ultimately be required from Treasury and the parent department. This mirrors the current arrangements. Oversight would be concerned with the appropriate use of public money, and the quality of individual business cases.

On the latter issue of financial flexibilities, the questions consisted of two parts. Firstly, regarding how financial flexibilities set out at the March 2015 Budget would apply following the formation of UKRI. As we stated during Report, these flexibilities, which apply to specific institutes, will not be affected by the creation of UKRI. We fully expect there to be

¹ Full charter at Annex A
further discussion with HMT about financial flexibility of UKRI as it comes into being and its portfolio develops.

Lord Sharkey also raised concerns from the Natural Environment Research Council (NERC) regarding the operation of two of these flexibilities.

Regarding the terms and conditions of key staff in institutes, even before March 2015, the Councils were able to pay staff up to the Prime Minister’s salary without recourse to government. The 2015 flexibility package went further and exempted scientific staff in research establishments from the 1% pay cap common across the public sector. For this group, Councils were given freedom to manage salaries from within their budgets according to their own priorities, with proposals cleared by ministers as part of the annual pay remit process. In 2016-17, staff in research establishments represented by three organisations benefitted from this flexibility. Managing levels of pay is not a new responsibility for NERC but the 2015 arrangements gives them additional flexibility that they may choose to deploy.

On the rollover of non-grant income, the flexibilities granted at Budget 2015 gave Councils access to accumulated reserves of commercial income, subject to a cap. The precise details for how this would operate took some time to develop, which had knock-on consequences for income rollover in the first financial year of operation. However, future years’ operation should now proceed much more smoothly.

If further clarification is required on the matters raised in this letter, our offices would be happy to put you in touch with the responsible officials in the Department.

We will place a copy of this letter in the House library.

[Signatures]

LORD PRIOR OF BRAMPTON

VISCOUNT YOUNGER OF LECKIE