

## Higher Education and Research Bill – Summary

<https://hansard.parliament.uk/lords/2016-12-06/debates/634C59C0-373F-4F91-B169-D8AFAE2F8C02/HigherEducationAndResearchBill>

Government higher education spokesperson Viscount Younger of Leckie opened the second reading of the Higher Education and Research Bill by saying it had been carefully developed through extensive consultation and with input from experts, reviews and independent reports such as the Gaskell report.

The UK's higher education and research sector was one of the nation's greatest assets he said, explaining that universities provided the knowledge, skills and expertise that to fuel the economy and be "the foundation of our cultural and intellectual success".

He said the Bill sought to preserve the principles of institutional autonomy and academic freedom, whilst explaining that the Bill was necessary due to the current regulatory system as outlined in the legislative reforms of 1992 was complex, fragmented and out of date.

To deal with this, the Bill established the Office for Students (OfS) to be new the sector regulator and be a "champion of choice, opportunity, quality and value for money". The new body would also have a statutory duty on it to consider equality of opportunity across the whole higher education sector, given there was still work to be done on equality of access, he explained.

He referred to the Competition and Markets Authority report from 2015 which found the current system of regulation could be holding back competition, stating the need for greater diversity and innovation within the sector, including through increasing the number of two-year courses.

Part of increasing competition was streamlining the process for new providers to enter the market he said whilst strongly stating that this did not amount to a lowering of standards. "To enter the market, become eligible to award its own degrees and ultimately call itself a university, a provider must register, pass rigorous entry requirements and undergo tough scrutiny", he added.

The teaching excellence framework (TEF) would be operated by the OfS, encouraging institutions to prioritise student teaching, and producing robust, comparable information on teaching quality for students. It also linked teaching quality to tuition fee increases, which was essential according to the vice-chancellor of Exeter University, he said.

Turning to the research aspect of the Bill, he outlined the ways in which the Government had already committed to significant investment in the country's research base, including through a new Industrial Strategy Challenge Fund, and explained why Paul Nurse's recommendation about bringing the seven research councils together had been take up by the Government.

Innovate UK would retain its own individual funding stream, and grow its support for business-led technology and innovation, he confirmed.

Finally, he acknowledged Peers' concerns about the timing of the Bill given the vote to leave the EU, whilst stressing how important the reforms were for the sector. "We need to secure our knowledge economy so that it continues to be a driver of economic growth, creating jobs and boosting productivity to take the UK from strength to strength", he added.

Responding for the opposition, education spokesperson Lord Stevenson of Balmacara stated that the since 2012 the higher education system had been transformed by regulations and orders by not by primary legislation.

He criticised many of these reforms as being too heavily based on “putting faith in the unregulated free market as the most efficient allocator of resources”, and specifically mentioned the cost of undergraduate degrees and the collapse of part-time provision as issues.

The gap in public finances was also a major concern he said, giving Education Policy Institute figures that the contribution of student loans to net government debt was forecast to rise from around four per cent of GDP today to over 11 per cent in the 2040s.

He summed up his major concern that the main focus of the Bill was “not on promoting scholarship, encouraging research or concern for truth; rather it has the goal of turning the UK’s higher education system into an even more competitive market-driven one”.

The new regulatory framework in the form of the OfS did not simplify the system and did not work he thought, especially as the new body would not only regulate the sector but also confer degree-awarding powers. He also had concerns about the conditions for market entry, and the risk of devaluing the UK’s higher education sector, and in doing so putting off international students.

The statutory link between teaching quality and the level of fees being charged was of concern he said, and had further worries about the potential for the Home Office to use the TEF as a quality measure to restrict the number of tier 4 visas it would authorise.

On part 3 of the Bill, Lord Stevenson thought there should be a stronger requirement for co-operation between the Office for Students and UK Research and Innovation and greater clarity around oversight of the combined education and research portfolio, including postgraduate provision.

On what the Bill omitted, he questioned why there was nothing substantial on degree-level apprenticeships, credit accumulation and transfer, link to the FE sector and flexible provision of degree courses.

Liberal Democrat education spokesperson Lord Storey highlighted real concern among the university sector about its independence, and the move to transfer oversight from the Privy Council to the Office for Students.

He also had significant concerns about the metrics used for the TEF, explaining why destinations data and student satisfaction were not reliable or accurate measures of teaching quality.

On new entrants to the market, he said an influx of new, possibly low-quality providers would negatively affect existing universities and local communications as “private providers make no money by providing anything surplus to profit: no community outreach, no research, no public engagement, no work with local schools and colleges, no adult education, no student unions, often no libraries, and often with staff employed on insecure and low-wage contracts”.

Lord Sutherland of Houndwood (CB) focused his contribution on how teaching quality would be measured, giving his view one metric could not be devised that could be applied across the system.

The Lord Bishop of Winchester was largely positive about the Bill, believing it put students at the heart of the system and encouraged a more interdisciplinary approach to research. He also thought the Bill alongside the apprenticeship levy constituted a great whole-system approach.

Former universities minister Lord Willetts (Con) thought the Bill’s shift to an open and transparent regulatory model for higher education was a “logical consequence of a process that started under

the Blair Government and carried on under the coalition of rebalancing the funding of our universities away from HEFCE grants to fees and loans”.

He had not at first supported the creation of UKRI as he believed the current structure of research councils worked well, but said that both Brexit and the “exceptionally good financial settlement for science and research in the Autumn Statement” had changed his mind.

Lord Mandelson (Lab) stressed the undesirability of a two-tiered visa system for international students, believing the Government’s rhetoric around this to be snobbish. He also thought caution should be exercised around Ministers’ powers within the Bill as “accountability is not the same as doing what you are told”.

Lord Williams of Baglan (CB) proposed the Bill be amended to inset a general duty on the OfS to maintain diversity in the sector as well as public confidence and integrity. He also wanted a specific duty to ensure the provision of strategic but vulnerable subjects such as strategic languages.

Having designed the previous system of research councils, Lord Waldegrave of North Hill (Con) said he had tried to persuade Sir Paul Nurse not to go down the road of what was effectively a single research council with sub-committees. He said untidiness and pluralism in research often produced the most creativity.

Baroness Blackstone (Lab) said she did not object to the new providers per se, but questioned why helping them entry to the market was the central purpose of the Bill when there was already a huge amount of completion and choice in the UK higher education sector.

Baroness Deech (CB) agreed about the wide range of provision already available, and urged that one criterion to be included when granting institutions university-status was whether the university supports free speech whilst also applying the Prevent guidance as required.

Lord Gidens (Lab), a professor at the University of Cambridge, said the Bill was deeply flawed as it “embraces sweeping privatisation at a time when such an approach has become widely discredited”. Expanding on this, he thought the Bill was a strange mix of overreliance on the free market in some ways, and overregulation in others.

Lord Smith of Finsbury (Non-Afl) said-

“The Bill makes various perfunctory references to academic freedom, but it goes nowhere near far enough. It should make much clearer the difference between threshold standards for students—rightly the purview of government—and academic standards beyond that, which must be the province of the university to determine”.

Lord Lingfield (Con) spoke on learning disabilities and special educational needs referring to education, health and care plans, he sought reassurances from the minister that universities had the specialist knowledge to support young people with special educational needs.

President of Birkbeck University Baroness Bakewell (Lab) thought the Bill was limited and could be doing more to transform lives by education, she emphasised the impact of part-time study and highlighted the unintended consequence of the 2011 funding changes which resulted in a drop in number.

In her maiden speech Baroness Sugg (Con) discussed widening participation in higher education and driving aspiration from all backgrounds she said “Our country will be stronger if we give everyone the chance to contribute their full potential.”

Lord Liddle (Lab), pro-chancellor of Lancaster University, began his statement by saying “higher education is one of the jewels in the British crown”.

He spoke of the contributions the university sector made to both the British economy, and the UK’s soft power. He then called for the Bill; to safeguard autonomy for the Office for Students, to clearly protect the balanced funding principle for research and to very carefully approach increased competition.

Baroness Chakrabarti (Lab) felt the Bill “combine[d] both unnecessary authoritarianism with dangerous degrees of deregulation”.

She raised concerns about marketising higher education and the consequences of treating students like customers and prioritising competition over collaboration.

Lord Renfrew of Kaimsthorn (Con) told the house there was “clearly a place” for the new teaching excellence framework, but acknowledged that establishing the criteria by which teaching excellence can be measured is a far less easy task.

He argued that the metrics so far put forward were not persuasive and therefore this issue should be discussed further in Committee.

Turning to powers exercised by the Office for Students, he raised concerns about its ability – under Clause 43 - to deny long-standing universities the capacity to award higher degrees.

Lord Triesman (Lab) commented on the creation of UKRI under the Bill. He said UKRI would need to understand that not all research could or should be directed at supporting business. He felt that the business focus of UKRI could dissuade international students and researchers from coming to the UK.

Lord Kakkar (Cross Bench) also concentrated his remarks on UKRI as well as the question of the continued provision of dual support for research in universities.

He noted that research was a remarkable success story for the UK and therefore any undertakings in the Bill should not undermine this.

He was particularly worried about the potential loss of autonomy for the research councils as a result of the creation of UKRI. He was surprised that the Bill did not establish a statutory basis for the Haldane principle, but instead proposed that decisions by UKRI would be subjected to some form of direction from the Secretary of State.

Lord Kakkar also expressed concerns about dual support. He sought reassurance from the Government that dual support was protected once Research England was brought under the umbrella of UK Research and Innovation, alongside the research councils and Innovate UK.

Baroness Warwick of Undercliffe (Lab), felt that in light of tuition fees it was important that students could be confident they are making a safe and well-informed choice about where to study. Consequentially, she said the Bill would ensure the new Director for Fair Access would retain the power to approve or refuse an access and participation plan.

She went on to raise concerns about awarding the “university” title and degree awarding powers to private providers. “Students need to be protected by maintaining a high bar when it comes to granting titles and degree-awarding powers” she said.

Lord Sharkey (Lib Dem) spoke about means of providing sharia-compliant ways of financing students. He noted that at present orthodox Muslim students could not accept student loans because they bore interest.

He explained in 2014 BIS had launched a consultation on the matter, and the Government had said it was unlikely an Alternative Finance product would be available before academic year 2016/17.

He asked the minister to explain when Muslim students would be able to benefit from the new provisions.

Baroness Eccles of Moulton (Con) told the House the importance of institutional autonomy and academic freedom were recognised in the Bill and safeguards were in place to protect them.

She addressed postgraduates, noting that they too would be affected by the changes proposed in the Bill. "It is proposed that the OfS will be responsible for protecting the interests of all postgraduate students and the quality of all regulated provision, working with the designated quality body" she said.

Lord Mair (Cross Bench) addressed the role of Innovate UK under the proposed new structure. He said that in creating UKRI it was essential that Innovate UK's unique business-facing focus and links to its customer base were not put at risk.

He continued by stating that UKRI would have to be explicitly comfortable with risk if it was to support Innovate UK in promoting high-risk and disruptive innovation and asked if this would be the case.

"As a minimum, the Government must ensure that three key features of Innovate UK are protected: its autonomy, its funding and its business-facing focus" he added.

Baroness Dean of Thornton-le-Fylde (Lab) emphasised that the university sector was crucial to the UK economy as a whole. "We are debating a Higher Education and Research Bill but it permeates through all our lives in Britain" she said.

She addressed what she felt to be the particularly "damaging" parts of the Bill including the awarding of probationary degrees.

Baroness Dean called for the Bill to include reference to part-time university degrees.

Lord Judd (Lab) made a point about the language used in the Bill. He said "The way in which "customer" has crept into the system is utterly demeaning. It undermines the whole concept of higher education and scholarship."

He said the Bill should be considered against the fundamentals of; ensuring originality, integrity, a wholesome caution about an overdependence on sponsorship in research, vision, and challenge amongst the university sector.

Baroness Neville-Jones (Con) said she did not feel the timing of the Bill was good, given the uncertainties caused by Brexit for Higher Education institutions.

She called upon the Government to be very responsive to signs of unwanted and unintended side-effects and to take early corrective action if necessary once the legislation came into operation.

Turning to the Teaching Excellence Framework she said the important issue was how quality would be measured. She did not feel the “bronze, silver and gold” awards were appropriate, and said this could be confusing for foreign students.

Baroness Finlay of Llandaff (Cross Bench) also addressed the Teaching Excellence Framework. She argued that teaching excellence needed to be captured at course level, not across an institution.

She also felt that “game-playing” could occur, as had happened with the Research Excellence Framework.

Baroness Finlay went on to speak about the new “super-research council”, UKRI. She was concerned that few individuals would be in charge of a great amount of funding, noting that UKRI’s chair and chief executive would oversee the near-totality of publicly funded research in the UK.

Lord Macdonald of River Glaven (Lib Dem) raised concerns about the new powers given to the Office for Students, in particular the right to revoke degree-awarding powers and a university title of a higher education institution.

He felt these powers had the potential to impact on the independence of universities to the extent of their abolition through the removal of rights granted by royal charter or an Act of Parliament. He called on the Government to revise these critical powers of the Office for Students once again.

Viscount Hanworth (Lab) said government interventions to further the marketisation of higher education had led to some damaging effects. He gave the example of lifting of anonymity for external examiners, combined with the increased competition between institutions, which meant this system no longer worked effectively.

Speaking on the new grading system, he said the Bill “makes it clear that the Government are not concerned with preserving uniformity of teaching quality and of standards of accreditation throughout the university sector.”

He added the effect of being classified as a third-class or bronze-star university was likely to be “unjust and disastrous” as it would drive away applicants and lead to the bankruptcy of the institution.

Turning to the proposal that a new Office for Students ought to be responsible for granting or withdrawing degree-awarding powers, he was critical of the idea that start-up institutions might be awarded these powers at their inception rather than remaining under the tutelage of an existing institution before receiving these powers.

He said this was because there was a view that there might be conflicts of interest between the start-up institution and the sponsoring university, with which it was envisaged to be in competition and said this was another example of competition obstructing co-operation.

Lord Hannay of Chiswick (CB) criticised the Bill for not addressing the consequences of the decision to leave the EU, such as securing research resources when EU funding was discontinued, how to retain the networks of co-operation with other European universities and research centres, and how universities were to be protected from the negative consequences of tighter immigration controls.

He called for the Bill to entrench the autonomy of universities, which he said was “one reason why our universities are widely regarded and recognised as world class”.

The Duke of Wellington (Con) disagreed with the secretary of state's assertion in the Commons that the Bill would contribute to the Government's deregulatory agenda, as he felt it did the exact opposite by creating a new super-regulator.

He raised concerns over the teaching excellence framework, noting universities such as UCL and the LSE would be classed as bronze: "to attempt to raise the quality by reducing the reputation and classification of the leading universities in this country seems to me misguided."

Lord Kerslake (CB) thought the OfS have greater responsibilities to the sector as well as to the student, in particular that it should not just monitor the financial health of the sector but assure it.

He wanted the role of UKRI to be limited to the administration of its two funding streams, as he thought the balance between these streams should be determined by the Government.

He suggested it did not make sense to impose restrictions on fee setting and linking it to TEF, or to sponsoring an academy school as competition in the sector would increase naturally in the coming years though demographic changes.

"We should let the choices of students, informed by greater transparency, drive improvement, not bureaucratic imposition" he argued.

Baroness Vere of Norbiton (Con) said the current system of regulation of higher education was not fit for purpose as different institutions were subject to different regulations by different regulators, with HEFCE regulating only some of them and the Government regulating others directly through processes that had been described "work arounds".

"I do not feel that "work arounds" should exist in any system seeking long-term security. It must change" she insisted, welcoming the proposed introduction of a single, independent and arm's-length regulator in the OfS.

She welcomed measures to increase diversity in the sector, arguing "we must not allow the current system of an almost "closed shop" to continue and shut out new providers, assuming that they are all somehow dodgy."

Lord Winston (Lab) said a "major fault" in the Bill was that it did nothing about aspiration, with no connection between the school and university systems.

The Earl of Listowel (CB) said in Committee he would look at access for disadvantaged and BME children, particularly care leavers and asked for the latest figures on care leavers' access to higher education.

Baroness Royall of Blaisdon (Lab) said she would seek to amend the Bill to require universities to introduce the integrated student enrolment system with voter registration to improve the level of voter registration among students.

She felt the Bill did not do enough to address the fall in part-time student numbers and called for it to better encourage lifelong learning.

Lord Lisvane (CB) criticised some of the proposed powers, such as in subsections (2) to (6) of Clause 2, as they were extensive and had no parliamentary check.

"The powers proposed to be given to the OfS and the degree of discretion which the OfS is to have in exercising those powers are concerning, to say the least" he said.

He highlighted Clause 43 would empower it to make secondary legislation “amending or even repealing primary legislation without ministerial consent and without any parliamentary scrutiny.”

Lord Lucas (Con) said he would like the Government to have the right to communicate with every overseas student at every higher education institution.

He called for a provision to require universities and government to collaborate in producing accurate immigration and emigration statistics for students, stating:

“We ought, as a nation, to be developing a lifelong relationship of mutual support with people who have been to university here. We need to promote collaboration between universities on the presentation of British education overseas, and to enable us to focus on that, we need good information.”

He suggested bringing the Student Loans Company into the Bill as he felt there were measures that could be taken to make it easier for the company to reclaim the debts of people who had gone to work overseas.

He wanted it act as a channel of information between the Government and students who were paying off their loans to get better information from people who had been to university about what they thought their courses were like, which he thought was “the real measure of quality.”

Baroness Young of Old Scone (Lab) praised the work of Innovate UK, including as “a strong influence for good in the commercialisation of university research”, its “great track record in working with the research councils” and its work fostering early-stage development.

“Although expanding support to the universities for the commercialisation of its research is important, this must not mean that Innovate UK within the UKRI simply just becomes the creature that is there to commercialise the work of the research councils” she warned.

She explained she was not against the principles of UKRI, recognising a need for the promotion of cross-cutting research and for having a strategic capability to review the research agenda in the UK, to have more weight for research in the industrial strategy, and to have a united and strong voice for research in the face of Brexit.

However, she wanted the Government to honour its commitment to enshrine Innovate UK’s business-facing focus in the Bill, contending the current wording in Clause 90 was “inadequate” and calling for a new clause that briefly listed all the terms of reference of Innovate UK.

Lord Hunt of Chesterton (Lab) said there was a gap in the UK in the lack of arrangements for students to visit other universities and experience advanced courses in several universities, which was an aspect of continental education. He felt such arrangements should also be available to specialists in industry and business.

A number of Peers rose to discuss Part 3 of the Bill and concerns over the architecture of research funding, particularly for scientific research.

Opposition Education spokesperson Lord Watson of Invergowrie said “our university sector is hugely successful, but it would appear that that is not widely accepted enough in government circles.”

He felt the Bill should have concentrated “on celebrating that success and building on it” rather than “attempting to solve problems that do not really exist.”

He highlighted the lack of provision for older and part-time learners and looked to address this in Committee.

He said the diversity of the sector was a strength and warned it was “important to avoid a narrative that only the “top” universities matter to the Government, which would be very damaging for both the sector and its students.”

He said the Opposition took the view that the Bill would not be enhanced with the Haldane principle written into law.

Government Spokesperson for Higher Education Viscount Younger of Leckie said the Bill addressed social mobility by bringing together the activity divided between OFFA and HEFCE together into the new OfS, which would be required as one of its core responsibilities to consider the need to promote equality of opportunity throughout students’ time in higher education.

On adult learners and lifelong learning, he said “our clear intention is that the OfS will give responsibility to DFAP for fair access and participation activities...including agreeing the access and participation plan on a day-to-day basis.”

He added the OfS would assist in improving part-time provision by focusing on student choice as well as “providing a level playing field for new, innovative providers.”

Moving to concerns raised about the impact of the TEF on the reputation of the sector, he said the OECD had identified a clear international trend towards regimes with characteristics similar to those of the UK.

“We are, once again, world- leading by tackling the challenge of assessing teaching excellence and expect that, like the REF, the TEF will only enhance, not detract from, our international reputation” he argued.

He underlined the costs to universities of administering the TEF would be less than one-quarter of those of the REF.

The minister went on to argue that the competition elements of the Bill did not prevent collaboration and said the OfS would recognise its importance where it enables efficiencies in the interests of students.

He clarified that the Bill would not remove royal charters from universities.

He reiterated the Government’s support for the Haldane principle.

Moving on to international students and immigration, he said the Government would shortly be seeking views on the study immigration route and the Department for Education and the Home Office were working closely together “to ensure that any changes maintain the prestigious reputation and high quality of the UK’s higher education sector.”

*Bill read a second time and committed to a Committee of the Whole House.*