

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

Fifth Sitting

Tuesday 13 September 2016

(Morning)

CONTENTS

SCHEDULE 1 agreed to.

CLAUSE 2 under consideration when the Committee adjourned till this day
at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 17 September 2016

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The Committee consisted of the following Members:

Chairs: † SIR EDWARD LEIGH, MR DAVID HANSON

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|--|--|
| † Argar, Edward (<i>Charnwood</i>) (Con) | † Milling, Amanda (<i>Cannock Chase</i>) (Con) |
| † Blackman-Woods, Dr Roberta (<i>City of Durham</i>) (Lab) | † Monaghan, Carol (<i>Glasgow North West</i>) (SNP) |
| † Blomfield, Paul (<i>Sheffield Central</i>) (Lab) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| † Chalk, Alex (<i>Cheltenham</i>) (Con) | † Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP) |
| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Evennett, David (<i>Lord Commissioner of Her Majesty's Treasury</i>) | Rayner, Angela (<i>Ashton-under-Lyne</i>) (Lab) |
| † Howlett, Ben (<i>Bath</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Johnson, Joseph (<i>Minister for Universities, Science, Research and Innovation</i>) | † Streeting, Wes (<i>Ilford North</i>) (Lab) |
| † Kennedy, Seema (<i>South Ribble</i>) (Con) | Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Marsden, Gordon (<i>Blackpool South</i>) (Lab) | † Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| | Katy Stout, Glenn McKee, <i>Committee Clerks</i> |
| | † attended the Committee |

Public Bill Committee

Tuesday 13 September 2016

(Morning)

[SIR EDWARD LEIGH *in the Chair*]

Higher Education and Research Bill

9.25 am

The Chair: Good morning, everybody. It is a very beautiful morning; it is sunny and we are all in a happy mood.

Schedule 1

THE OFFICE FOR STUDENTS

Gordon Marsden (Blackpool South) (Lab): I beg to move amendment 131, in schedule 1, page 65, line 3, at end insert—

“() Remuneration, allowances and expenses as determined under subsection (1) must be made publicly available.”

This amendment would ensure transparency of OfS members costs.

The Chair: With this it will be convenient to discuss amendment 132, in schedule 1, page 65, line 10, at end insert—

“(4) Compensation as determined under subsection (3) must be made publicly available.”

This amendment would ensure transparency of OfS members costs.

Gordon Marsden: It is indeed a sunny morning, Sir Edward; it is also a rather airless one, so I am happy to see that the window is open. That leads me, reasonably effortlessly, on to the subject of transparency, covered by the amendments.

Without straying outside the narrow confines of the amendments I would just pause to reflect that when any new organisation is set up in government, it should reflect the mores of the time. The mores of our time are those of transparency. Transparency is an interesting word. When I was growing up it had a slightly different meaning. If someone was said to be transparent it meant they were trying to conceal something—or one might say “His arguments are transparent.” Now the English language takes it to mean, “Let a thousand flowers of information bloom.” That is an interesting development in the language.

Today the specific focus is on the office for students as a new organisation. We now conduct our proceedings in this place with transparency, and we believe in public transparency in the matter of remuneration, allowances and expenses. I do not need to remind you, Sir Edward, that we had our own trenchant discussions of transparency in Members’ expenses some time ago. That revealed much about what the general public thought about the lack of transparency on those issues in this place. I do not see why new Government bodies should be exempt, and I think transparency would strengthen the image of the OFS.

Similarly, with respect to amendment 132, there should be transparency on compensation. The other day we had a debate about the reasons why the Secretary of State might think it reasonable to discharge a member of the OFS. There are perfectly reasonable circumstances in which people might leave or settlements might be reached, or in which there might be no particular reason for the Secretary of State to have a person continue in their post. In those circumstances, subject to the civil service code, among other things, it might be perfectly reasonable for some forms of compensation to be made available. However, again, the same principle should apply: subject, obviously, to there not being undue private intrusion, the details of the compensation and what it is for should be made publicly available.

That is an important principle for the Minister to effect. If he agrees with the amendments but considers them defective and tells us that he will present something later, we will accept that. If not, we would like to hear some strong reasons—other than the usual “Well, it is inconvenient”—why there should not be transparency in the two key areas I have outlined for a newly appointed public body.

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): It is indeed a beautiful day. However, it is tinged with some poignancy and sadness because the former Prime Minister, my right hon. Friend the Member for Witney (Mr Cameron), was a great supporter of transparency in everything he did in his last role. He was also a great supporter of this Bill. It was presented by the then Secretary of State and supported by the former Prime Minister and the current Prime Minister, reflecting the commitment across the two Administrations that have followed the general election to push forward these reforms and to transparency as a great driver of quality and choice in our higher education system.

Amendments 131 and 132 relate to the disclosure of the remuneration and compensation of OFS board members. I welcome transparency, which is a vital element in the effective functioning of the sector, and the Bill champions transparency from universities by requiring them to publish information on their records. Although we do not oppose the intention behind the amendments, we do not accept them on the grounds that such specification is unnecessary in the Bill.

I can confirm to the hon. Member for Blackpool South that once they are appointed, and in the usual way, the OFS chair and chief executive’s salary will be included on a list of senior civil servants and senior officials in Departments, agencies and non-departmental public bodies that is made publicly available on an annual basis.

On the transparency of expenses, allowances and compensation, ultimately the chair and chief executive will be responsible for accounting for OFS expenditure and the finer details of their approach to transparency will be for them to determine. However, the Government are committed to greater transparency, and we expect that, in their annual reporting, NDPBs will publish data on board member remuneration, allowances, expenses and other payments, such as compensation, in line with guidance in the Treasury’s financial reporting manual. I fully expect that the OFS will follow this practice.

Therefore, as the amendments refer to approaches to transparency that are already common practice among NDPBs through successful delivery of the Government's transparency agenda, the provisions are unnecessary and would restrict future flexibility. If legislation starts to stipulate specific provisions of this type for public bodies, they will inevitably soon become out of date as the transparency agenda progresses. That may then require further primary legislation to deal with any inconsistencies or anomalies that arise. The Government therefore do not propose to accept the amendment and I respectfully ask the hon. Gentleman to withdraw it.

Gordon Marsden: I thank the Minister for responding in the spirit of the amendment, even if he did not feel able to respond in the letter. It is a pity that we cannot have the provision in the Bill to send out the message I have talked about, but I accept the Minister's points. It is important that agreements in the terms of the chief executive and chair are made public in a public fashion, if I can put it that way, and not just tucked away at the end of a list of things that might not attract the attention of Members of Parliament on an off day. I accept the Minister's assurance.

When I hear Ministers or civil servants talking about flexibility, I sometimes feel that I should reach for my revolver, because flexibility can cover a multitude of sins. On this occasion, not least because the Minister has made it very clear on the record—that will obviously form part of these proceedings—and because I welcome and respect his commitment to transparency, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Roberta Blackman-Woods (City of Durham) (Lab): I beg to move amendment 158, in schedule 1, page 65, line 31, at end insert—

“(1A) A joint committee shall be established by UKRI and OfS, which must—

- (a) consist of representatives of both UKRI and OfS, and
- (b) produce an annual report containing details on—
 - (i) the health of the higher education sector,
 - (ii) work relating to equality of opportunity,
 - (iii) the health of different academic disciplines,
 - (iv) research funding,
 - (v) the awarding of research degrees,
 - (vi) post-graduate training,
 - (vii) shared facilities,
 - (viii) knowledge exchange,
 - (ix) skills development, and
 - (x) maintaining the public interest.

(1B) The report must be sent to the Secretary of State who shall lay it before Parliament.”

This amendment would ensure that the two major bodies, UKRI and OfS, do not work in silos and that the work of each organisation is complementary to the other.

It is a pleasure to serve under your chairmanship again, Sir Edward. It is a beautiful day, but I can assure you that for someone from northern climes, these temperatures present quite a challenge.

Amendment 158 is a probing amendment that will hopefully elicit from the Minister some more information about how oversight of the whole sector will work, particularly with regard to the OFS and UK Research

and Innovation. As the Committee knows, a great many witnesses, including MillionPlus, the University Alliance and almost all of the research bodies that gave evidence, were concerned about how the OFS and UKRI will work together. It is essential that there is overarching oversight to guarantee the continuing success of the sector. This amendment would require the OFS and UKRI to establish a joint committee that would produce an annual report each year about the higher education sector in its totality, which would be reported to the Secretary of State and be put before Parliament. The amendment would add an additional layer of scrutiny and give parliamentary oversight to the whole sector.

When Pam Tatlow from MillionPlus gave evidence to the Committee, she said:

“I think we should be looking at the Bill in a holistic way. There is a real risk that we look at the Bill in terms of a silo—the office for students, and then UK Research and Innovation. What we have got at the moment through the Higher Education Funding Council for England is some holistic oversight over the whole of the sector”.—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 9, Q6.]

That is the point that people are making. There is additional concern that the separation of responsibilities for research and teaching could mean that the interests of postgraduate research students, in particular, are lost.

I would like the Minister to reassure us about where PGR will sit, and about some of the other issues on the list, including the health of the sector, work relating to equality of opportunity, research funding, shared facilities, knowledge exchange, skills development and maintaining the public interest. Where will those issues sit, and how will they be reported on?

As I said, this is largely a probing amendment. I look forward to hearing what the Minister has to say.

Carol Monaghan (Glasgow North West) (SNP): We support this amendment in principle but, because the research element of the Bill has implications for Scotland, a copy of any report that is produced should also be made available to the Scottish Government. More generally, any report produced as a result of this Bill should also be made available to the Scottish Government.

Gordon Marsden: I rise to support the amendment tabled by my hon. Friend the Member for City of Durham, and I commend her for her argument. I would spare her blushes, but as chair of the all-party universities group she is in an admirable position to take soundings from across the sector on this matter, which are of considerable concern. Before I address some of them, I endorse what the hon. Member for Glasgow North West just said about the Scottish dimension. When we debate part 4 of the Bill, we will discuss the new structure of research, about which there was rightly some sharp questioning in the evidence sessions. Given what I called in the evidence session the variable geometry of the Bill in relation to UKRI, the OFS and the research councils, it is essential that there is co-operation to ensure confidence and good relations between the devolved Administrations and the Westminster Government. I entirely endorse what the hon. Lady and her colleague, the hon. Member for Kirkcaldy and Cowdenbeath, have said.

On committees, again they can be set up to be what we want them to be: a token, a sop, or something that does some useful good. In the modest but nevertheless

[Gordon Marsden]

substantial way in which my hon. Friend the Member for City of Durham has phrased her amendment, she has struck the right balance.

I will not be outwith the subject of the Bill when I refer to the situation that occurred in 2007, because it is relevant. I will not get into the issues relating to the machinery of government today, because we will debate them properly under part 4—the implications for this and the issues to do with research in connection with the new Department for Business, Energy and Industrial Strategy, as opposed to the Department for Education, are complex, and we will want to discuss them later.

To go back to the machinery of government changes that took place in 2007, before what became BIS and the Department for Education were set up, I was on the Select Committee that questioned David Bell—Sir David Bell, as he is now—the chief executive officer about the relationship between the two organisations was to be. He said that he would continue as chief executive of DFE, Ian Watmore would continue as chief executive of BIS and they would have regular discussions. I said that sounded as if they would have two or three pleasant but meaningful lunches during the year to chat about things, and they would get on very well.

The crucial thing, however, is what happens lower down the food chain, if I may put it that way. Unless there is co-operation and collaboration between the people who do the day-to-day work in the two Departments, the co-operation will not work properly. That is directly relevant to my hon. Friend's amendment. If the committee is established, it is important that it is not simply two or three agreeable lunches between the high-ups, but a meaningful, continuing and regular communication between UKRI and the OFS.

As I have said, the views of what I might describe as the higher education fraternity and sorority are pretty strong. My hon. Friend has already referred to the evidence given by Pam Tatlow of MillionPlus. Cambridge University, in its written evidence to the Committee, stated:

“The Bill in its current form gives some recognition to the relationship between teaching and research”,

and this is the other broad issue, apart from the desirability of getting the new research structures right and in co-operation; it is also important to get the relationship between teaching and research right.

Cambridge University's evidence went on to state that

“the Office for Students...and UK Research and Innovation...must work together if required to do so by the Secretary of State, and must also share information”,

with an important caveat:

“However, this provides no burden of responsibility for collaboration outside of any specific request from the Secretary of State. There is also little indication of how oversight will be given to the entire university...portfolio... This risks creating an artificial separation of functions”.

As my hon. Friend also touched on, the university declared that it had

“a particular concern regarding oversight of postgraduate students. Although there have been some assurances from Government that UKRI will have responsibility for funding and OFS will be responsible for their regulation, this is unclear in the legislation.”

Universities UK has offered similar concerns in its note to Committee members and, more widely, on 25 August, when it stated that there was a “substantial need” for collaboration between the OFS and UKRI, and that there was a “lack of clarity” as to which one would lead on cross-cutting institution or sector-wide issues, such as knowledge exchange. Also, since science and education are in separate Departments for the first time—this goes back to the point I made about the machinery of government changes—there is particular need for strong planning. The document that Universities UK circulated expands on that further.

Other organisations have also commented. It is particularly important to look at what some of the key research bodies have said. The Wellcome Trust expressed its concern that the separation of the functions of the Higher Education Funding Council for England, which is what will happen in the process of setting up UKRI and the OFS, could break the links between teaching and research if not well handled. There is no suggestion that that is the deliberate policy of the Government—why would it be?—but you and I, Sir Edward, have been in this place for long enough to know the perils of unintended consequences. When new structures are set up with lots of grand words and gestures, the peril of the unintended consequence is not putting in place the safeguards and the detail that would allow the two newish departments to co-operate. We are trying to be helpful to the Government by flagging up the concerns from the various bodies that have written to us all.

Whatever the Minister says about the specifics of the amendment, I hope that he will go into some detail—if not today, perhaps in future weeks with a letter to members of the Committee—spelling out what he has said today and reassuring all those who want the new structure of UKRI and the OFS to work. We will talk about the broader issues with the research structure in part 4, but we would like some reassurance now that the image of the two agreeable lunches and not much else happening further down the food chain, which I evoked in 2007, will not be replicated in the relationship between the OFS and UKRI.

9.45 am

Joseph Johnson: I thank the hon. Member for City of Durham for allowing me this opportunity to explain further how the office for students and UK Research and Innovation will work together on a range of issues relating to their respective remits. Clause 103 proposes safeguards to ensure joint working, co-operation and the sharing of information between the OFS and UKRI, which reflects the Government's commitment to the continued integration of teaching and research within the HE system, and the clause goes far beyond the image that the hon. Member for Blackpool South conjures up of two or three meaningful lunches between the high-ups, agreeable though that sounds in some respects—I hope I might receive an invitation to one of them.

Both organisations also have a statutory duty to use their resources in an efficient and effective way, which means that they will look for all opportunities to collaborate and share information. As the new organisations are created, we will develop appropriate governance arrangements that embed joint working principles and practice in the framework documents for both organisations and in the informal agreements between them, such as a

memorandum of understanding. Those framework documents will provide the hon. Member for Blackpool South with the clarity that he is looking for and will set out the working arrangements between the two bodies, which are highly likely to include regular senior level meetings that could be akin to a committee.

Gordon Marsden: I thank the Minister for his response thus far, which is encouraging. On the subject of the framework documents, we know that the process of merging HEFCE into the OFS, the Quality Assurance Agency for Higher Education and so on will be a complex one that will probably take two or three years. Where does the Minister envisage those framework documents coming in that process, as that will be crucial? It would be helpful if he could give us some timeframe for that.

Joseph Johnson: We envisage publishing the framework documents once the Bill has received Royal Assent, but I intend to write to the Committee to provide more detail about the co-operation arrangements that we envisage coming into existence as a result of the co-operation and information-sharing provisions in clause 103. For that reason, I believe it is undesirable and unnecessary to be prescriptive in the Bill. As I have said in relation to other amendments, the legislation must remain sufficiently flexible for the Government and organisations to be able to respond to the circumstances of the time. We would not want to restrict the areas in which the OFS and UKRI should work together, and the list proposed by the hon. Member for City of Durham of the important areas raised by the community is not actually comprehensive now, and nor is it likely to be at points in the future.

Let me turn to some of the points raised by hon. Members, the first of which was about postgraduate students. As now, the councils, through UKRI, will fund doctoral students, while the OFS will be the funder for masters courses, providing, for example, top-up teaching grant for high-cost subjects only. The OFS will be the regulator for all students, including all postgraduate students. As I have said, the Bill proposes safeguards to protect joint working, co-operation and the sharing of information between those two bodies, reflecting the integration of teaching and research at all levels.

Each organisation will be required to produce an annual report detailing its activities that will be laid before Parliament. To ask them to produce an additional annual report would, I believe, be duplicative and unnecessary. The Secretary of State also has powers to request any further information from those organisations if such reporting does become necessary.

Let me turn to the changes to the organisation of HEFCE and to the machinery of government. The OFS and UKRI will have distinct missions and it would not be workable to create one large body responsible for all the regulatory functions, as well as a specific focus on the student interest, while simultaneously acting as a funding body for the full range of research funding. The research funding role that HEFCE played now sits better with UKRI, a body explicitly tasked with bringing a coherent approach to funding research, than it would with the OFS, an economic regulator for the student interest.

Higher education and research policies are no strangers to changes in the machinery of government. Prior to 2007 they were also in separate Departments, with

higher education in the Department for Education and Skills and research and science in the Department of Trade and Industry. Our partner organisations are already adept at working across departmental boundaries. For example, HEFCE has effective relationships with the Department for Education's own National College for Teaching and Leadership and Health Education England as well as with the devolved Administrations. The OFS and UKRI will be no different.

Turning to the devolved Administrations, the White Paper is clear that it is our policy intent to ensure that Research England, as part of UKRI, can work jointly with devolved funders. That will mirror the effective working relationship HEFCE currently has in respect of the operation of the research excellence framework, for example, which it runs on behalf of the devolved funding bodies.

Research councils and Innovate UK will continue to operate throughout the UK. We will work closely with the devolved nations as UKRI is established to ensure that the UK's research and innovation base remains one of the most productive in the world. I welcome the opportunity to provide assurances on joint working. I will write to the Committee to provide further detail ahead of the publication of the important framework documents that will formally govern those relationships. In advance of that, I call on the hon. Lady to withdraw her amendment.

Dr Blackman-Woods: I thank the Minister for his response. I would point out that clause 103 states that the OFS and UKRI "may co-operate"; it does not actually direct them to do so. I heard what the Minister said about providing the Committee with more information about the nature of the framework and what might underpin an MOU.

There is one other point that I want to make to the Minister. I do not see any reason why UKRI or the OFS cannot work together to produce a single report that would really help the sector at large to understand what is happening across the whole of it. It would be helpful if he could consider that when putting the framework together. On the basis of what I have heard, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Gordon Marsden: I beg to move amendment 133, in schedule 1, page 66, leave out lines 9 and 10.

This amendment would prevent the Secretary of State's representative from taking part in any deliberations of meetings of the OfS or any of its committees.

I have already spoken this morning about setting out guidelines and principles for the OFS. I know that the Minister is keen for the OFS to be seen as having independence under broad direction from the Secretary of State. If it is to function effectively and correctly, it is extremely important that it is seen as independent—after all, it is an arm's length body. It is worth looking at this in context, because there is a section on procedure on page 66. It states:

"A representative of the Secretary of State is entitled...to attend any meeting of the OfS or of any OfS committee".

The practicalities of that and how it would work out are obviously a matter for the parties concerned, so I have no problem with someone attending a meeting.

[Gordon Marsden]

However, parts of meetings fall into different categories, as they do in Select Committees when we have a public session and a private session. I am not sure about the representative of the Secretary of State taking part in OFS deliberations, even though there will be a veto over the decision. I do not know whether this Government are fans of nudge theory—we have not heard the new Prime Minister pronounce upon it yet—but the previous Government and the coalition Government were greatly in favour of the principle of nudge. They believed that people should be nudged towards things rather than legislating on matters. I have observed on occasions that there is nudge and nudge, and sometimes there is iron nudge.

I would not want it to appear, either for the Secretary of State's reputation or for the subsequent independence of the OFS, that a functionary of a Secretary of State—if I may be so crude as to put it that way—sitting there quietly in the best traditions of Whitehall and observing the deliberations of the committee might cast aspersions on its ability to make judgments independently. I am genuinely curious to know why the Minister feels it would be necessary for a representative of the Secretary of State to take part in deliberations. I think that it would be wholly otiose and that it would send out the wrong signals. Therefore, in the spirit of transparency that we talked about earlier, and the need not to apply undue pressure to the new body, I hope that he will be able to give us a favourable response.

Joseph Johnson: The amendment seeks to remove the ability of the Secretary of State's representative to take part in OFS board meetings. I understand the hon. Gentleman's desire to ensure—

Gordon Marsden: I am sorry to interrupt the Minister, but this needs clarification. We have not sought to stop either the deliberations of the board or having the representative at a board meeting. We have said—this applies to other committees and organisations—that when the board is deliberating on things as opposed to receiving reports and so on, the Secretary of State's representative should not be present. I beg the Minister not to misinterpret or to allow officials to misinterpret the situation and set up a straw man by saying that we do not expect the representative to be in any shape or form at the board meeting. That is not the case.

Joseph Johnson: I understand that difference, although it does not change the substance of what I am saying. Although I understand the hon. Gentleman's desire to ensure the independence of the OFS board, I do not believe that his amendment, well intentioned though it is, is the right way to achieve that, because it would effectively make the representative a silent observer of the deliberations. It takes us a step back from the arrangements that have worked successfully for the HEFCE board for more than a quarter of a century and it risks the OFS not having access to the Government's latest policy thinking when it considers how it should act.

10 am

Schedule 1 to the Further and Higher Education Act 1992 allows the Secretary of State to send a representative to take part in meetings of the council—in practice, that

is the HEFCE board. The arrangement has worked well. It has allowed the HEFCE board to discuss, normally with a senior civil servant, the Government's latest policy direction. Those discussions have routinely been two-way, with the HEFCE board able to feed its operational expertise into ministerial thinking. During all of this time, no one has seriously questioned the HEFCE board's independence or suggested that it is in any way inhibited by the Secretary of State's representative taking part in its meetings. That is because the existing legislative framework gives the Secretary of State's representative no voting powers or formal influencing right over HEFCE board decisions. The Bill replicates those arrangements for the OFS board. There is absolutely nothing in our approach that will inhibit the OFS board's independence or stop it from taking impartial, objective decisions.

The amendment risks damaging the quality of the OFS's decision making. It would deprive the OFS board of access to the Government's latest thinking on HE at the very time it needs it most: when it considers how to act. In short, the amendment would unpick arrangements that have worked well for a long time, would add nothing demonstrable to the OFS's independence and would put the efficacy of its decision making at risk. While I appreciate the hon. Gentleman's good intention in tabling the amendment, I do not believe it would achieve the policy outcomes he desires. I therefore ask him to withdraw it.

Gordon Marsden: I am disappointed by the Minister's response, not so much for the detailed and no doubt carefully looked-up examples of precedents from the 1992 Act, which he used in support of his position, but—if I can say this without being rude—for the slightly naive view he takes of the ways in which people can be influenced. I do not wish to stray outwith the amendment, but I can think of numerous occasions in bygone years—not so bygone in some cases—when Government pressure was allegedly applied on HEFCE, so I do not share the rosy view of the Minister or his officials. It is always dangerous to assume that everything in the past was perfect and that we should continue with that. That is an issue for all Administrations, whatever their political shade, and since 1992 we have had both sides of political shade. I am not impressed with that argument.

I am sorely tempted to put the amendment to a vote because I do not think we have had satisfactory reassurance. I hope that the Minister will reflect on the concerns and on the potential reputational damage to the OFS. I have said before and I will say again that we legislate here not for the best circumstances in the affairs of the body but for the worst and to put in safeguards for those circumstances. That is why we tabled the amendment. I will not press it to the vote, but I do not think the Minister has heard the end of this issue. It will probably reappear in other forums. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Gordon Marsden: I beg to move amendment 135, in schedule 1, page 67, leave out line 31.

This amendment would prevent the OfS from accepting gifts of money, land or other property.

I move from a part of the schedule that caused me some bafflement to one that causes me substantial bafflement. The Minister was talking about good lunches earlier, so in that vein I was surprised to see on page 67, line 31, the list of things the OFS may do. It may do anything except borrow money, but, slightly curiously in that context, we are told that it can acquire and dispose of land and other property, enter into contracts and invest sums. I assume that the Minister will elaborate on some of those examples so that we can be clear that the OFS will not go into offshore investments or anything similar. The serious provision concerns the acceptance of

“gifts of money, land or other property.”

I am by training a historian. We talk about Henry VIII clauses in this place, and when I read this I had an idea of the Tudor way of doing things and of getting things done. The idea that the OFS, which is supposed to be a reputable and even-handed body, would be accepting

“gifts of money, land or other property”

without some aspersions—or nasturtiums, to use the old phrase—being cast on the motives for those acceptances is one that I fail to understand. I look to the Minister to reassure me as to why paragraph 15(2)(d) is included. What sort of gifts of money, land or other property is it envisaged would be accepted? Is he concerned that they would inhibit or influence future decisions, which at that stage the OFS might not be able to foresee, involving the people who had given the gifts? I will simply conclude—going back to our lunch analogy earlier—by reminding the Minister of the saying “there ain’t no such thing as a free lunch”, or in this case, free

“gifts of money, land or other property”

and I look forward to his further explanation.

Joseph Johnson: I am very happy to explain the provision. The amendment would remove the OFS’s ability to receive

“gifts of money, land or property”.

Although I think I understand the motivation behind it and even though we can sympathise to some extent with the hon. Gentleman’s underlying concern, we will resist the amendment. In practice, it would remove from the OFS an ability HEFCE has always had—an ability that would allow the OFS to manage any issues raised by the public ownership of some of the land and property of some existing HE institutions if those institutions merged or ceased to operate, and to ensure that the assets were managed effectively. I accept that it may seem odd for any public body—particularly an independent regulator—to be empowered to accept gifts, but there is a specific reason for the existence of this ability in the current legislative framework, and for why we need the OFS to continue to have it.

HEFCE was created at a time when a Conservative Government were implementing substantial reform to the HE sector. Central to that was allowing our polytechnics to become full universities—the single biggest institutional expansion of the sector ever. Before this, as the hon. Gentleman knows well, polytechnics had been owned by local education authorities. Some of the property and land used by some of these institutions was owned by the local authority, meaning that it was public property,

so the Further and Higher Education Act 1992 gave HEFCE powers to accept this public property to ensure that if any of the institutions failed or merged into new forms, then HEFCE would have the powers to manage these changes effectively.

As we now know, the former polytechnics have thrived as universities and made a huge contribution to our sector as a whole over the intervening decades, and no one is suggesting that any of them are at any sort of risk of collapsing or even merging, but the fact remains that the public retains some ownership rights of some of the land and property that these institutions use, and no responsible Government can simply give those rights away—indeed, Government need to retain the ability to manage these assets effectively should that ever prove necessary, and the most effective way to do this is to give the OFS the power to accept those assets on behalf of Government.

Gordon Marsden: I thank the Minister for his explanation, which I assume he has not concluded. I entirely understand the context of HEFCE and the 1992 legislation. We could have an interesting discussion about whether HEFCE and the OFS are ultimately the same sort of beast, but I do not intend to pursue that argument. I merely say that I do not think that the analogy between what HEFCE did and what the OFS will do is entirely accurate. The OFS will be doing all sorts of things that HEFCE did not do, but we will let that pass.

If I heard the Minister correctly, this is essentially what one might describe as a reserved power, to be exercised in the limited circumstances that he has described—and he described them very accurately in the context of what needed to be there post-1992. I understand the context of making the provision, but I remain concerned that the terms of reference are extraordinarily wide. If I am not to press the amendment I would therefore urge the Minister to put his explanation in writing to all the members of the Committee, so that everybody—not just those here today—can clearly understand the circumstances in which the Department intends that the OFS should use this power, so that there is no doubt that it could not be used for, for the sake of argument, a group of people who wanted to set up a new organisation—

The Chair: Is this an intervention? It is very long.

Gordon Marsden: It is very long, Sir Edward, and I will shut up at this point.

Joseph Johnson: I got the gist of the hon. Gentleman’s point. I would like to provide him with some additional reassurance on one of the other aspects of his earlier remarks in relation to individuals within the OFS taking gifts or money, and that sort of concern. This power only enables the OFS as an organisation to accept gifts. It will obviously be for the OFS to set the terms and conditions of employment for its staff, but we see absolutely no reason why these would not include the standard public sector rules on gifts and hospitality, which set out that a public servant may only accept gifts or hospitality of a purely nominal value. I hope that that provides some reassurance about the seemingly wide scope of this provision. Of course I am happy to

[Joseph Johnson]

set out in writing many of the points I have just made if that would provide reassurance, and I commit to doing that now.

To sum up, in these respects the Bill replicates the arrangements in the existing legislative framework for precisely the same reasons as those arrangements were first put in place. As I said, the amendment would unpick those arrangements. If at some point in the future, for example, one of the former polytechnics were to want to merge, or if it faced a collapse—obviously we hope that would not happen—the OFS would be unable to accept any part of the assets that the institution held over which the public had any ownership rights. This is a failsafe power. We do not anticipate that it will be used frequently, if ever, but it is an important power because in its absence there is a risk of loss to the public purse. For that reason we resist this amendment, and I respectfully ask the hon. Gentleman to withdraw it.

Gordon Marsden: On the basis of the Minister's extended explanation of the circumstances and his promise to put this in writing for the members of the Committee, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 1 agreed to.

Clause 2

GENERAL DUTIES

10.15 am

Wes Streeting (Ilford North) (Lab): I beg to move amendment 15, in clause 2, page 1, line 8, at end insert—

“() Within six months of its establishment the OFS must publish its strategy to ensure fair access and promote wider participation in higher education, which must be reviewed and updated at least every three years.”

This amendment would place a statutory duty on the OfS to ensure fair access and promote wider participation in higher education.

The Chair: With this it will be convenient to discuss the following:

Amendment 20, in clause 2, page 1, line 8, at end insert—

“() The OfS must co-operate with the Institute for Apprenticeships to develop a strategy to encourage registered higher education providers and any institution authorised under section 40 of this Act to increase provision of higher and degree level apprenticeship places.”

This amendment would place a duty on the OfS to work with the Institute for Apprenticeships to develop more higher and degree level apprenticeship places.

Amendment 28, in clause 2, page 2, line 6, at end insert—

“() The OFS must monitor the geographical distribution of higher education provision and introduce measures to encourage provision where the OfS considers there to be a shortfall in relation to local demand.”

This amendment would place a duty on the OfS to monitor the geographical distribution of higher education provision and encourage provision where there is a shortfall relative to local demand.

Wes Streeting: It is a pleasure to serve under your chairmanship again, Sir Edward.

Amendments 15, 20 and 28 all deal with the responsibilities and duties of the proposed office for students in relation to access and participation. We all know that there have been significant strides to widen participation in higher education and ensure fair access to our most selective universities, but much more progress is needed in both respects. Amendment 15 would place a statutory duty on the office for students to ensure fair access and to promote wider participation by publishing its strategy to ensure both aims. That strategy would be reviewed and updated at least every three years and would enable the sector, the wider public and Parliament to engage actively in the debate about how best the OFS can fulfil its duties. I hope that the amendment is uncontroversial and that the Government will be able to accept it.

Amendment 20 would place a duty on the office for students to work with the Institute for Apprenticeships to develop more higher and degree-level apprenticeship places. That would address two issues. While it is right to ensure wider participation in higher education and fair access to our most selective universities, there is a degree of public cynicism and scepticism. With the effort to get more people, particularly younger people, into higher education and to enable them to go, sometimes there is pressure on people to go to university when other, better routes might be available to them.

I welcome the extent to which apprenticeships feature more heavily in parliamentary debate. The debate between the Government and the Opposition seems to be about how to create more and better apprenticeship places and how to fund them effectively, rather than whether we should do that, and that is to be welcomed. However, the higher education sector can do more to engage with the debate about apprenticeships, particularly on higher level and degree-level places. In that respect, the amendment would help to shift the public debate on life chances and opportunities and where and how people should participate in higher education and higher level skills in a positive direction, but it would also deal with the reality of Britain's changing economy.

The fact is that however Britain voted in the recent referendum, Britain's future in this century is all about high-level skills and ensuring that we are competing effectively in the global race to provide better job opportunities. In the light of the referendum, there could be a reverse pressure to have deregulation of employment rights, a race to the bottom, more casualised labour and lower pay, and I do not think anyone would want that future for themselves or their children. By placing a greater emphasis on higher and degree-level apprenticeships, we can ensure that appropriate routes and genuine choice are available to every talented person growing up in Britain today and, indeed, to an older generation that will increasingly have to retrain and reskill to move into different employment paths. Those routes should not just be the conventional full-time higher education degree course that has traditionally been embraced by 18 to 22-year-olds, but more part-time higher education provision and, as the amendment alludes to, more higher and degree-level apprenticeship places.

Amendment 28 deals with another challenge that has been thrown up by public policy in recent years: the changing patterns of participation in higher education

among people of all ages. There is a degree of complacency about the extent to which the new fees and funding regime and the student finance regime have impacted on participation. There are still real concerns about part-time participation and mature student participation. Not enough evidence has been gathered about those who have the ability and the grades to participate in higher education but choose not to apply because of student finance issues.

To a degree, demography is masking a pattern there, although overall I am glad to see that many have not been deterred by the new student finance regime. None the less, it has had an impact on patterns of participation. In particular, more people are now choosing to study at local institutions. On one hand, that can be positive and advantageous: there are many good reasons for people choosing to study at a university closer to where they live. It could be that they have a particular commitment to family ties or place of worship. It could be that they have a job; they may be mature students and want to study part-time alongside their full-time work. It may be that, as students in sixth form they have been working part-time and would like to keep that job while studying at a local university.

For a potential student growing up in the capital city, as I did, there is really no problem at all, because you have the full breadth of higher education represented in London—traditional universities, modern universities, institutions that are small and specialist and excel in part-time provision. Those who grow up in London really are spoilt for choice, but there are across the country a series of higher education blackspots in terms of both the reach of local higher education institutions and problems and shortcomings that arise as patterns of course provision change. Amendment 28 would place a duty on the office for students to monitor the geographical distribution of higher education provision and encourage provision where there is a shortfall relative to local demand.

One of the unintended consequences of the marketisation of higher education is that, particularly with patterns of private provision, there is not necessarily the same public duty and public ethos that has traditionally existed in the higher education sector. As we heard in the oral evidence sessions, some courses are simply more expensive to provide, even if there is a clear public duty to do so. Some courses are more profitable than others, some less. I would dearly love a higher education framework that did not place such considerations at the forefront of university leaders and university finance directors' minds, but I fear that in this brave new world where the market reigns supreme, there are real risks, which the amendment seeks to mitigate.

I hope that I have clearly set out the intentions behind amendments 15, 20 and 28. I think that they are consistent with the principles that the Government set out in the White Paper and with the wider objectives of the Bill, and I hope that they receive a favourable hearing from the Minister.

Gordon Marsden: I congratulate my hon. Friend on bringing these amendments forward today. They are specific amendments but they touch on a much broader and more crucial aspect of the relationship between the Bill and the promotion of higher education skills. The Minister himself, on diverse occasions, not least in the

higher education White Paper, has rightly put enormous emphasis on the importance of high-level graduate skills. The statistics and projections quoted in the White Paper emphasised repeatedly that the driver for the changes in the Bill are that half of the job vacancies between now and 2022 are expected to be in occupations requiring high-level graduates. So the thrust of the higher education White Paper is very clear, but if you will the ends you also have to will the means. I think that what my hon. Friend touches on in his amendments, and certainly what we will touch on throughout consideration of the Bill, is the need to give the appropriate connectivity between the vocational and the academic sides of the Bill. That is what continues to concern and alarm me.

As my right hon. Friend the Member for Birmingham, Hodge Hill (Liam Byrne) asked in his Second Reading speech, does this include levels of technical, professional competence? I am bound to return to the point, to which I have not had a satisfactory response—indeed, since the machinery of government changes, these questions have become larger and louder, rather than quieter—of the link between what the Bill says about higher education and skills and what was said in the skills plan released by BIS in July. The need for cross-over between the skills plan and the Higher Education Bill is obvious, but I sat in the Chamber yesterday and heard the Secretary of State for Education's statement about the forthcoming Bill that will come from the Green Paper and none of these issues—I am not blaming her specifically: she was addressing a range of other issues—have so far been addressed by the Bill. We know that the Bill was previously supposed to reflect some aspects of the skills plan; we know nothing more about that since the change of Government. It is not appropriate for the Minister to say something more specific about that on this amendment today, I urge him to take another occasion to talk about what that connectivity is going to be, because the devil is in the detail.

No one doubts the Government's wish to take forward higher degree skills—they desperately need to do so in the post-Brexit climate and for all the other reasons that make this issue important—but if they do not have the mechanisms or the analysis to do it, it will not succeed. That is why I also welcome amendment 20 which provides for the OFS to co-operate with the Institute for Apprenticeships to develop a strategy for jointly registered higher education providers to increase provision of higher and degree level apprenticeship places.

I am bound to say to the Minister—perhaps he will convey this to the Minister of State, Department for Education, his right hon. Friend the Member for Harlow (Robert Halfon), who is of course the Minister for these matters, although I am sure he has heard it already—that we still have huge doubts about the capacity of the Institute for Apprenticeships to carry through the programme that the Government wish it to carry through, in particular in relation to higher skills. Again, that is not to doubt its bona fides—although its structure and appointments have been subject to some mishaps over the last 12 months as the Minister will be aware—but its capacity. The staffing levels in the Skills Funding Agency are down nearly 50% since 2011; there has been a continuing and accelerating decline in National Apprenticeship Service staffing; and the Government have effectively closed the UK Commission for Employment

[Gordon Marsden]

and Skills. All of those press very hard on the Minister's desire to see skills—and the delivery of skills includes degree apprenticeships—being effectively achieved. It means that Ministers will struggle to deliver the ambitious designs and targets that they laid out in “English Apprenticeships: Our 2020 Vision” and those include targets highly specific to this Bill and to what the Minister wants to see.

We know that under the previous Government funding arrangements were protected in the Department for Education but not in the Department for Business, Innovation and Skills. The consequences were the sort of cuts that I have described, not just in programmes but in staffing, that left me and a range of people—including Baroness Wolf, the EEF, the CBI and the Federation of Small Businesses—very doubtful about the Government's ability to achieve the sorts of targets they talked about in the White Paper and that they want to deliver with the assistance of the Bill. So it is important that the Minister addresses those issues and, again, if he is not able to do so in detail today, that he is in a position at some point—hopefully having consulting with the right hon. Member for Harlow—to say a little bit more about the connectivity.

I also want to touch on what my hon. Friend the Member for Ilford North said about amendment 28. He is right to draw attention to the changing patterns of participation and the need for that to be reflected in the objectives of the OFS. He is also right to talk about the issues with finance. I am the first to say that finance—and the incentives or disincentives for people to participate—is a complicated subject. At the risk of sounding like a Select Committee veteran, I sat on Select Committees in the mid-2000s where we heard lots of evidence and projections about what would happen to the participation of students if fees were increased to a certain level. Some older Committee Members may remember the strong evidence that Claire Callender gave from her participation surveys.

10.30 am

It is fair to say that some of those alarmist projections did not come to pass—or certainly not in the way in which they were originally put forward. Just because some things do not come to pass, though, does not mean that the pips will not squeak at some point under any future Government. That is our strong argument on the trebling of tuition fees, and other issues that we will deal with later. The pips have a habit of squeaking in different ways. To some extent, the pips have not squeaked for the traditional cohort between 18 and 22, but they have certainly squeaked for adult and part-time students and in lifelong learning provision.

My hon. Friend the Member for Ilford North also talked about the importance of the involvement of people who want to enter higher education and get degrees and qualifications locally. As I said on Second Reading, and will continue to say, further education colleges, which provide more than 10% of higher education, are crucial in this process. This comes back to what my hon. Friend said about the situation in London. It is true that in London students can access different types of courses, in different places in a relatively limited geographical area. Transport for London is now able to

do better structured deals for people, though that does not affect the fact that cost and time are involved in that process.

Outside London—in my constituency and others—it is critical that people, whether young or adult, are able to get the courses they need in the cold spot areas. That is one of the reasons for the many concerns that mergers between colleges under the area review process are particularly harmful to the social fabric and social mobility of people in rural and suburban areas who wish to participate. That is not simply participating in FE courses, but in HE access courses at FE colleges and, increasingly, HE degree courses—the Bill gives powers to FE colleges in that respect. The area reviews, in turn, threaten to make those situations much worse.

It is also true that we cannot always predict the way in which people will want to take their higher education in the future. That is particularly true in the mature sector. When I was a course tutor for the Open University before 1997, the majority of my students were returning women in their thirties and forties on the particular courses I taught. That was the pattern in the Open University for older people. In recent years, not just with the Open University but with Birkbeck and other institutions, that demographic pattern has widened. We are now getting a lot of younger people in their late 20s and early 30s, sometimes in employment or having had a couple of jobs that did not work out, who want to go back on a part-time basis. It is important that everything that the Government's proposals encourage those people and give them flexible programmes, so that we do not have structures that cause the sort of problems I have described. My hon. Friend's amendments, although very specific—and no less potent for that—raise some much broader issues that I trust we will return to.

The Chair: Minister, would you like to read out your speech for our delectation?

Joseph Johnson: I will happily do so, Sir Edward.

These amendments recognise the importance of widening choice and opportunities to students from all backgrounds and all parts of the country. The Government wholeheartedly support that ambition, but it is crucial that we ensure that those choices are made alongside the available technical and vocational options. There will be opportunity to discuss that in more detail as we take forward both this Bill and the skills plan. However, the OFS's duties to have regard to the need to promote greater choice and competition already give it the responsibility to focus on those issues.

On amendment 15, widening access to higher education is a priority for the Government. Good progress has been made, and record numbers of young people from disadvantaged backgrounds are going into HE: the proportion has risen from 13.6% in 2009-10 to 18.5% in 2015-16, and provisional figures for 2016 indicate an entry rate of 19%. The hon. Member for Blackpool South acknowledged that the alarmist warnings about the impact of the tuition fee increases have not been borne out by events, and that the pips have not squeaked, at least in the traditional sector. We share his concerns about part-time study, and I will address in greater detail later exactly what we have done and will do to support it.

Gordon Marsden: For clarification, my remarks about the pips not squeaking in the traditional sector referred to the period up to 2010. After then, as the Minister is well aware, the tripling of tuition fees in 2011-12 had a dramatic effect on the traditional cohort—we can never demonstrate how many people were deterred from going forward in that process—and there was a dramatic fall in part-time and mature students, which can be closely correlated with the tripling of tuition fees.

Joseph Johnson: The office for students brings together the responsibilities of the Director of Fair Access and HEFCE for widening access and promoting the success of disadvantaged students. The Bill will rationalise those activities and ensure they are a key part of the OFS's remit. Placing a requirement in legislation to publish a strategy is restrictive and unnecessary, and setting a rigid three-year timetable in legislation may in fact limit, rather than encourage, regular review, as the focus would be on the timescale, rather than on when such a strategy might most be needed. Under clause 2, the Secretary of State can issue guidance to the OFS, and the OFS must have regard to the guidance. Such guidance, which provides greater flexibility, is a more appropriate vehicle for setting out expectations with regard to the broader strategy in connection with access and participation.

We are not complacent. We want to do more to continue opening up higher education to those from all backgrounds and ensure that they have successful outcomes, including by ensuring that those who go to university stay to complete their qualification.

On amendment 20, we too want to see an increase in apprenticeships, which are a powerful motor of social mobility and productivity growth. Our ambition is to reach 3 million apprenticeship starts by 2020. Higher and degree apprenticeships are widening access to skilled trades and professions, and are providing the higher level technical skills employers need to improve productivity, while giving young people a career route as equally valid as going to university.

The hon. Member for Blackpool South asked about the join-up between our HE and FE reforms. We are carrying out two reform programmes—in HE and technical education—at the same time. That gives us the best opportunity to ensure that they are complementary and that learners benefit from the changes as soon as possible. The reforms are not about diverting people from academic HE into technical education or vice versa. We want everyone who can benefit from the education they choose to have the chance to do so. Our reforms are focused on strengthening the whole education system, based on a common set of core principles improving the quality and value of learning and its relevance to learners' future choices; enabling learners to make well informed decisions about the value of their learning options; ensuring learners have the opportunity to move between academic and technical education if they feel their original choice no longer suits them; and giving learners the opportunities and choices that will help them to achieve their potential.

Gordon Marsden: No disrespect, but the Minister is reading out the boilerplate of the Government's aspirations for co-operation in this area, which we fully share. The question is: what is actually happening on the ground? Without diverting too much, what is happening on the

ground is that there are major concerns about apprenticeship levels, the numbers of apprenticeships, and the ability to deliver all this in the next 12 months.

I know apprenticeships are not the subject of the Bill, but with the Government saying that degree apprenticeships are so crucial, the Minister has a vested interest in the success of the apprenticeship programme. So far today, he has not given us any indication of the practical integration of discussions on these clauses by officials from his Department and the Institute of Apprenticeships. Nor has he given any indication of conversations he may have had with the Minister of State, Department for Education, the right hon. Member for Harlow, though I know the latter is relatively new in post.

Joseph Johnson: The hon. Gentleman asked about degree apprenticeships. I point him towards provisional figures, released in June, that show a dramatic increase in the number of people starting higher apprenticeships. The official figures show that there were more than 37,000 people participating in a higher apprenticeship between August 2015 and April 2016. The figures also show that there are more young people starting apprenticeships, with more than 108,000 starts by under-19s between 2015 and 2016.

We do not agree with the hon. Gentleman on his points about funding. The spending review was a good settlement for the skills and FE sector. We will double spending on apprenticeships by 2019-20 from 2010-11 cash terms, including through the new levy, and will protect the £1.5 billion funding for the core adult skills participation budget, in cash terms.

The combination of the levy, the protection of the adult education budget, the extension of loans and the introduction of the youth obligation mean that by the end of the Parliament, the cash value of core adult technical education funding to support participation will be at its highest ever. The total spending power of the FE sector to support participation will be £3.41 billion by 2019-20, which is a cash-terms increase of 40% compared with 2015-16, and 30% in real terms. The area review programme that the hon. Gentleman mentioned aims to put the FE college sector on a strong financial footing, so that it is better able to meet the educational and economic needs of local areas, including at higher levels.

To finish my comments about the links with the FE reforms under way elsewhere in the Department, led by my able colleague, the Minister of State, Department for Education, my right hon. Friend the Member for Harlow, with whom I have regular conversations, even though he is new to his post, I remind the hon. Member for Blackpool South of the support for the entirety of our package of reforms from the Association of Colleges, which said:

“Choice, access and quality are the welcome watchwords of the Government's long-awaited plans to open up higher education and to allow more colleges to award HE qualifications. This step change away from the country's traditional university system will empower more people than ever before to access HE in their local area through a college. It will also provide a wider choice of courses that are linked to employment.”

In response to the higher education White Paper, the AOC said:

“We welcome much of the Bill's content, as it has been one of AoC's key long-standing policy objectives to make it easier and quicker for high performing institutions, including colleges, to achieve their own awarding powers.”

Gordon Marsden: That is all very well; no one is doubting the intentions in that respect, and the AOC is right to talk about that, but if wishes were horses, beggars would ride. The truth is that the funding increase that the Minister talks about is entirely on the apprenticeship side. If he looks at the figures for adult funding over a four-year period, there has been a cut. My hon. Friend the Member for Ilford North and I talked about people having to travel 30 to 40 miles as a result of the area reviews, which are cost-cutting exercises, not simply reorganisation exercises. Those issues are very real and will affect the Minister's degree apprenticeships.

10.45 am

Joseph Johnson: To carry on, we are supporting growth in degree apprenticeships, including by making available an £8 million development fund. That will build on the rapid progress that we have been making over the past year. It will help universities and partners build capability and capacity among HE providers to meet employer demand.

I support the good intentions behind the amendment, and it will, of course, be essential for the OFS to work collaboratively with the Institute for Apprenticeships to increase the number, range and choice of degree-level apprenticeships on offer to students. However, the amendment is unnecessary to accomplish the hon. Gentleman's entirely laudable aim. There are already powers in the Bill that enable collaboration between the OFS and other bodies. Clause 58 empowers the OFS to collaborate, where appropriate, for the efficient performance of its functions, and requires it to do so if directed by the Secretary of State. The OFS can use that power to collaborate and share information with other organisations, such as the IFA.

The Secretary of State will also be able to ask the OFS to work with the IFA through guidance and, in doing so, will be able to set out which areas of activity should be prioritised at any given time. That is a more useful and flexible tool for delivering the kind of increase in degree apprenticeships that we all want. That will enable the OFS to respond to the changing needs of prospective students and the labour market. The amendment would lead to an overly prescriptive approach, and would limit the flexibility that we need to ensure that our education system remains responsive to changes in the labour market and the needs of our economy.

Finally, I turn to amendment 28. I again welcome the opportunity to discuss the important issue of the geographical distribution of higher education provision. HE providers play a significant role in their local economies by supporting and enabling local growth. Access to HE acts as a social mobility catalyst that can improve the life chances of young people in disadvantaged areas or help retrain people later in life. It is important that all areas of the country should be able to benefit from that. HE provision tends to be clustered in cities, with less provision in rural or coastal areas. HEFCE has undertaken valuable work in recent years on the issue of cold spots. I assure the Committee that it is our intention that the OFS should continue doing that important work. However, the amendment is not needed to enable that; it would risk forcing the OFS to take an over-prescriptive and interventionist approach.

The Bill already gives the OFS a duty to have regard to the need to promote greater choice and opportunities for students. That is a broad duty that includes matters

such as students having a choice about where to study. That means that the OFS will have a remit to be aware of cold spots, and to take action if necessary.

The amendment would also risk creating the expectation that the OFS would continually monitor the distribution of supply and demand for HE, perhaps in a bureaucratic and costly way. The OFS should be free to determine the extent of the monitoring needed, based on its market intelligence. The amendment would impose a legal requirement on the OFS to take action whenever there was unmet demand. I would be concerned about that, as it would be an over-interventionist approach for the regulator to take in every instance. In many cases, incidences of unmet demand could be addressed by the local area without any direct OFS action. The duty could therefore be inconsistent with the principle of taking regulatory action only when it is needed.

We have an active HE market that is well equipped to identify and respond to student demand with innovative and targeted provision. Our view is that local institutions and authorities are best placed to decide what is needed in their areas; that is in line with the spirit of institutional autonomy. For example, nearby providers and the local community can put plans in place for additional HE provision, perhaps through FE colleges or satellite campuses. The OFS can encourage and support that if necessary, but the decision should be for local areas, reflecting the principles of local devolution.

Our reforms will also support new institutions opening in cold spots where there is unmet demand. It will be quicker and easier for new high-quality HE providers to establish themselves. New universities can be agile and nimble, can respond to what students and the economy demand, and can equip students with the skills needed for the jobs of the future. I therefore ask the hon. Gentleman to withdraw the amendment.

Wes Streeting: I thank the Minister and the shadow Minister for their contributions. The Minister made a reasonable point about amendment 15 in relation to the prescription that the OFS should publish and review its strategy at least every three years. I agree with his general point that, where possible, legislation should not be unnecessarily prescriptive, and I am content to withdraw the amendment.

On amendments 20 and 28, I am not sure that I entirely follow the Minister's argument. In the Bill, there is a whole range of instances of the OFS being given specific duties that might otherwise have been captured under the much broader, sweeping clauses. This is a matter of consistency. We are talking about two key areas that the Minister has acknowledged are important. The provision of higher-level and degree-level apprenticeships is important, and there really ought to be a statutory duty on the office for students to co-operate with the Institute for Apprenticeships, and vice versa. The shadow Minister made a compelling case for making sure that the higher education and skills strategies are joined up, and amendment 20 would facilitate that.

On the issue of HE cold spots and amendment 28, I am not sure that my reading of the amendment is the same as the Minister's. He paints a picture of a bureaucratic nightmare in which the office for students is constantly monitoring supply and demand and frequently having to tinker with institutions and courses. The amendment is clear:

“The OfS must monitor the geographical distribution of higher education provision”.

We hope that it would do that, but there is no harm in making sure that it does. The amendment states that the OfS should

“introduce measures to encourage provision where the OfS considers there to be a shortfall in relation to local demand.”

There are two variables. One is the issue of measures, and it would be for the office for students to determine what, if any, measures are appropriate. Secondly, the OfS has discretion to determine where it

“considers there to be a shortfall in relation to local demand.”

That is important in ensuring fair access to higher education, particularly given that, as I described earlier, many people, particularly from backgrounds where there is less of a tradition of participation in higher education, choose to study locally. It is an area that the OfS needs to keep its eye on, so there is no harm in putting this measure in the Bill and making sure that OfS minds are concentrated on this challenge. I am therefore not minded to withdraw amendments 20 and 28; I wish to press them to a vote. However, I beg to ask leave to withdraw amendment 15.

Amendment, by leave, withdrawn.

The Chair: We will deal with amendment 28 later in the Bill.

Amendment proposed: 20, in clause 2, page 1, line 8, at end insert—

‘() The OfS must cooperate with the Institute for Apprenticeships to develop a strategy to encourage registered higher education providers and any institution authorised under section 40 of this Act to increase provision of higher and degree level apprenticeship places.’—(*Wes Streeting.*)

This amendment would place a duty on the OfS to work with the Institute for Apprenticeships to develop more higher and degree level apprenticeship places.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 11.

Division No. 2]

AYES

Blackman-Woods, Dr Roberta	Smith, Jeff
Blomfield, Paul	
Marsden, Gordon	Streeting, Wes

NOES

Argar, Edward	Kennedy, Seema
Chalk, Alex	Milling, Amanda
Churchill, Jo	Morton, Wendy
Evennett, rh David	Pawsey, Mark
Howlett, Ben	Warman, Matt
Johnson, Joseph	

Question accordingly negatived.

Gordon Marsden: I beg to move amendment 137, in clause 2, page 1, line 9, after “have”, insert “equal”.

This amendment would ensure that no one element of the OfS's remit dominates, and that it is mandated to take consideration of all the listed elements in a balanced fashion.

The Chair: With this it will be convenient to discuss the following:

Amendment 138, in clause 2, page 1, line 14, after “education”, insert “only”.

Amendment 139, in clause 2, page 1, line 15, after “is”, insert “shown to be”.

This amendment would reduce emphasis on OfS duty to encourage competition.

Amendment 160, in clause 2, page 1, line 15, leave out “and employers,” and insert

“employers and the public interest”.

This amendment would mean that competition can be pursued in a way that will not adversely impact upon areas outside of the categorisation of ‘student and employer’.

Gordon Marsden: The amendments bring us on to a subject dear to the Government’s heart—indeed, so dear that sometimes in the White Paper it seems to be the only game in town. I make the point strongly that the amendments are motivated not simply by our concerns and views, but by the significant concern felt across the university sector by university groups and, as importantly, some of the people who work in our university sector.

In the White Paper, the Government assert that the main weaknesses of the higher education system in England are

“insufficient competition and a lack of informed choice.”

Incidentally, many people would argue that those are not the most important aspects of weakness in the system, but we will leave that for another day. The Bill seeks, from its outset—this is why we propose making these amendments to clause 2—to address that by introducing a duty on the new regulatory body, the office for students, to encourage competition between English higher education providers.

Let me be clear, because at diverse times and places Government spokespersons have misinterpreted the Opposition, either innocently or mischievously—I am afraid the Minister has been guilty of this from time to time—as saying that we do not believe that there is a place for competition in higher education. There is a place for it, and clearly universities have it at the moment. We have just had a round of admissions for universities in which much of the conversation was around the fact that fewer people from the traditional cohort are applying, so there has been competition among universities to attract them.

Let us therefore not have any of this nonsense about us not being in favour of competition. What matters is where competition is placed in the list of what we expect the OfS to do, and that is the question that fuels amendments 137 to 139. It is not that competition is not part of the process, but it is not the whole process. Indeed, there are circumstances in which competition in certain areas can be damaging to collaboration. That is an issue that universities, university groups and those who work in higher education are concerned to see addressed, particularly in this uncertain, pro-Brexit climate.

Universities UK, which has been measured in its comments on the Bill and on the OfS, is particularly concerned about this issue. Its evidence to us says:

“We think that some of these general duties should be amended to ensure that the regulatory approach taken by the OfS is appropriate and best able to ensure that the sector can fulfill its roles in society. In particular, we think that the reference to competition in paragraph 2(1)(b), with no reference to collaboration which can be beneficial to students, is too narrow. We also consider”—

[Gordon Marsden]

we entirely agree with this—

“that universities have responsibilities that extend beyond students and employers”.

We have just been talking about the issue of people studying at local institutions, some of which are post-1992 universities or further education facilities, for higher degrees. Although many other universities sit well and collaboratively within their geographic and social areas, those universities and institutions place a particular importance on collaboration. That is why UUK has said what it has said and has added that

“some reference to the interests of ‘wider society’ in this paragraph would be helpful in reflecting the broader societal role of universities.”

11 am

To be honest, I am not fussed about including the words “wider society”. I have spent long enough in this place to know that sometimes the more generic the words that are used, the more specific the actions that are excluded, but it is important that the broader concept is understood. It is not just coming from UUK. The University Alliance has put forward an amendment along those lines and says that

“collaboration is more likely to be in the interest of students... than competition”

in areas such as widening participation, which we have just talked about, asset sharing and working together on employability schemes.

There is a broader context that we need to remember. The Government, as far as I am aware—they have not said anything to the contrary—are still committed to the principles of localism and devolution of funding that were set out in the Heseltine paper, which the previous Government endorsed wholeheartedly. Much of that devolution of power to combined authorities and so on, including powers over skills and higher skills, will depend on co-operation, not competition, in geographical areas. There is a tension between those two processes. It needs to be a creative tension and we need to get the balance right.

The issue of insufficient competition, which tripped quite merrily off the tongues of Government scribes when they produced the White Paper, is one that might be regarded with a rather more jaundiced eye by some of the people who work in our university and HE sector. Therefore it is not surprising that the University and College Union also has grave concerns. It points to some of the issues with market-based reforms in the US and UK to date, which resulted in

“worse outcomes and value for students, employers and taxpayers”.

It also points to research that shows that market forces can change institutional priorities in ways that may not be beneficial to students—competition increases the pressure on providers to spend money on attracting students, rather than on front-line delivery.

Taking an example from the US, from which the Government are not shy of borrowing, competition between providers has led to an increased spend on marketing and recruitment, with for-profit institutions spending 22% of revenue in that area, 5% more than is spent on teaching. The pressure of competition has also led UK universities to invest increasingly in developing physical campuses, often through significant borrowing.

HEFCE and the National Audit Office have both warned that the decreasing liquidity and increasing borrowing in higher education that such competition provokes is unsustainable in the long term. The idea that competition is always and in all circumstances an unalloyed positive good is one that needs to be challenged by the facts and the evidence.

I do not want to dwell on those issues today because they will come up later when we talk about new providers, but the Minister will be well aware, not least because I reminded him of it on Second Reading, of the BPP problems in 2011, which exposed the limits of competition, and which led his older—I will not say on this occasion whether he is wiser—colleague David Willetts to abandon the Government’s proposals at that time. It is not just the Opposition, university groups and trade unions that are concerned. Learned people such as Baroness Wolf and others in the other House have raised those concerns. If the Minister does not address them today, he will find himself addressing them in considerable detail elsewhere.

Dr Blackman-Woods: Amendment 160, which falls within this group, seeks to establish on the face of the Bill that one of the general duties of the OFS should be to have regard to the public interest when making its decisions. As we have already discussed this morning, the Bill has a strong focus on an explicitly pro-competition approach to the delivery of higher education, where students are seen as consumers. I fear that simply categorising the higher education sector as a consumption market fails to recognise the wider economic and societal benefits that the sector contributes. I have therefore tabled this amendment to recognise that the sector should not be seen just as an arena for transactions between student consumers and university providers, but also as a sector that acts in the public interest.

All universities in the UK are more than just places where students go to get a degree or a qualification. They are dedicated to research, innovation and the development both of ideas—they are perhaps not very fashionable at the moment but they are very necessary—and of students and academics, whose full potential universities seek to achieve. As the Minister said earlier, they also contribute not only to the local economy but to the national economy. They provide sporting opportunities and cultural facilities locally, and represent a very positive image of the UK internationally. The amendment seeks to ensure that that is recognised by the OFS.

This issue was picked up by a number of our witnesses when they were giving evidence to the Committee. Professor Simon Gaskell of Universities UK said:

“We certainly favour inclusion in the Bill of a clause that indicates that there is a responsibility for the public good of institutions that wish to call themselves universities”.—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 12, Q12.]

It is a bit odd, or a bit remiss, that there is nothing in the general duties of the OFS to reflect that wider public good. I would like to see that in the Bill, as I have said. If the public interest is not to be safeguarded through an amendment to clause 2, perhaps when the Minister responds to the points that I and my hon. Friend the Member for Blackpool South have made, he could indicate to the Committee where the public interest is safeguarded.

Joseph Johnson: Clause 2 sets out a series of important duties for the OFS, including

“the need to promote quality, and greater choice and opportunities for students...to encourage competition between English higher education providers...to promote value for money...to promote equality of opportunity in connection with access to and participation in higher education”,

and to use

“resources in an efficient, effective and economic way”.

Amendment 137, the first amendment in the group, would require the OFS to have regard to all of those statutory duties equally. While the Bill does not place any particular weighting on the general duties, I believe that the amendment would seriously inhibit the ability of the OFS to make effective decisions, so I resist it. In practice, it is akin to telling the organisation to give equal priority to all of its priorities. That does not reflect how any organisation operates in reality. In the design of the OFS, there are a series of matters which it needs to take into account when carrying out its functions. We are also giving it statutory independence to act impartially and objectively in delivering those statutory duties in the light of the relevant circumstances of the time. For us, that has the distinct advantage of giving the independent OFS clear statutory responsibility for deciding what is most important at any one time.

In its day-to-day operations, the OFS will need regularly to manage its different competing priorities, some of which will need to take greater importance than others depending on the issue at stake. The amendment would restrict that independence. If everything were equal and equally important, the OFS would be unable to make judgments about relative importance—the kind of judgment that HEFCE currently has to make every day.

Gordon Marsden: Again, the Minister is deliberately setting up a straw man. We are not suggesting that the OFS board, to put it at its crudest, would have to divide its time at a meeting between x, y and z. Anyone in any organisation with any sense whatsoever will prioritise one thing at one time and others at other times. Macmillan’s “Events, dear boy, events” only makes that more important. The idea that we are suggesting that that should be reflected in a day-to-day mathematical formula is ludicrous. We are looking for some indication from the Government that they do not regard competition as the be-all and end-all of the OFS’s duties.

Joseph Johnson: They are all important duties, which is why they are all on the face of the Bill. As I said, we would not want to give them on the face of the Bill an equal weighting, because that would restrict the flexibility of the OFS board to take into account the different circumstances it might face at any particular point in time.

Before I get into the detail of the amendments on competition duty, I want to touch on collaboration, which hon. Members have raised. We will talk about it more when we come to the next group of amendments, but we may as well start now. Members are concerned about the scope of the competition duty in part because they worry it might stifle collaboration. I want to make it clear that I see promoting collaboration as an important part of the OFS’s role. I do not see competition and collaboration as being inherently in tension with each other. Competition between businesses that are also

competitors is common practice in other sectors when there are mutual benefits to be gained from it. I want the OFS to support such collaboration where it is in the interest of students. The OFS will recognise the importance of collaboration between providers, especially, for example, where it might enable efficiencies.

The Bill does not prevent collaboration. The OFS does not need a separate duty on collaboration, as it has a general duty already to have regard to the student interest, and such collaboration would be in the student interest. Collaboration can take many forms, and we do not want to be prescriptive about what it should look like or create an expectation that the OFS should formally regulate this type of activity. That would be unnecessary. It is, however, part of the general overview of the sector and of the role of providers that we would expect the OFS to have, and we can make that clear in our guidance to the OFS.

Dr Blackman-Woods: I want to question the Minister a bit more about everything being in the interest of students. Ultimately, everything universities do will eventually help students, but they often act in the interests of a local community, wider society, the wider economy and how Britain is viewed internationally. It seems a bit strange that nothing in the general duties acknowledges the wider context in which decisions are made. Of course, we have something in the Bill about encouraging competition, but there is nothing at all in this clause about working in collaboration or acting in the public interest.

Joseph Johnson: We absolutely recognise the important role that universities play in society. As the hon. Lady says, as well as often being large local employers, HE providers need to be well connected with their local business community and other education providers. They often provide additional services and facilities that are important to local communities, but we do not want to be prescriptive about what that wider role should look like or create an expectation that the OFS should formally regulate this type of activity. That is unnecessary. It is part of the general overview of the sector and of the role of providers that we would expect the OFS to have, but we will make that clear in our guidance, if that is of any comfort to the hon. Lady.

The OFS’s general duty to have regard to encouraging competition recognises that higher education is a market and needs a regulator suited to dealing with that reality. The Competition and Markets Authority concluded in its report on competition in HE that aspects of the current system could be holding back competition among providers and needed to be addressed. Currently, as we heard in the evidence sittings, the sole option for providers new to the UK sector, or too small or specialist to gain their own degree-awarding powers, is to have their degree validated by an incumbent provider. Not only does that appear to frustrate competition, it stifles innovation and results in the entrenchment of the same model of higher education.

11.15 am

Gordon Marsden: I must challenge that statement, which has been repeated by the Minister. It was said in the evidence sessions, and has been said outside this

[Gordon Marsden]

place—and I have some sympathy with the view—that if, given the multitude of choices for validation from existing higher education institutions, those new providers cannot get anyone to validate them, they must be in a bad way. Only this week the Open University put itself forward, as the Minister will be well aware, as a potential validator of many new institutions and, indeed, some of the FE institutions that seek degree status. So let us have no more of the straw man—the argument that those poor small new institutions cannot be validated because there is a vested interest out there blocking them. If there was such a situation, it is rapidly being addressed, and what the Minister is arguing for is not needed.

Joseph Johnson: The hon. Gentleman should have listened more closely to the evidence that we heard last week from the likes of Alex Proudfoot, the chief executive of Independent Higher Education, formerly Study UK. He spoke powerfully about the flaws in the current system that we are seeking to address through our reforms. I remind the hon. Gentleman, who appears to have forgotten, that he said:

“Unfortunately, we find that, quite rightly within their own autonomous priorities and strategies, some institutions draw back from validation, leaving institutions and students high and dry. We see institutions blocking new courses from being validated because they compete with one of their own courses or, indeed, one of their own partner’s courses. Unfortunately, we see a very high cost and very limited transparency in the process across the sector—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 14, Q13.]

Gordon Marsden: I am sorry to come back at the Minister on that, but if he is going to trade quotes from the evidence sitting, Mr Proudfoot’s statements were entirely general. I think that the evidence will bear me out: he did not say anything in detail about numbers of organisations. Of course there will always be individual organisations that do as he said, but the general position is very clear. There is a host of institutions that can do validation and, as I have said, the Open University is now added to their numbers.

Joseph Johnson: Again, there was ample evidence in the sittings, with specific institutions that offer high-quality HE provision pointing to their problems in being validated. We heard, for example, from Angela Jones of Condé Nast College:

“We have just been through the whole process of finding a validating partner for our degree, and it was really difficult...For us, the idea of an office for students in a central place to go and be supported through that process is very helpful.”

Professor Philip Wilson said:

“We have seen a number of institutions pull the ladder up from colleges on validation powers with pretty much no notice, which has caused a number of issues—it filters down to the students and causes disruption.”—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 49, Q74.]

We could also point to the evidence from Paul Kirkham, chief executive of the Institute of Contemporary Music Performance, who told the Committee:

“There are significant risks to student and taxpayer of a very static, non-changing universe of providers and way too much emphasis on the three-year, on-campus degree.”—[*Official Report, Higher Education and Research Public Bill Committee*, 6 September 2016; c. 13, Q13.]

By placing a general duty on the office for students to have regard to encouraging competition between English HE providers we will foster a more competitive system and level the playing field for new providers, ensuring that regulation does not block new entrants from competing and providing the innovation the sector needs. The sector supports that ambition. As Roxanne Stockwell, the principal of Pearson College, put it:

“It is clear that the dominance of the one-size-fits-all model of university education is over. Fee rises have transformed students into more critical consumers and the government is right to recognise this in their reform package. Students are calling out for pioneering institutions offering alternative education models and an increased focus on skills that will prepare them for the careers of the future - with the mind-set and agility to fulfil roles that may not even exist yet. The government’s plans address this demand by making it easier for credible new organisations to enter to sector should be welcomed by all.”

Making it easier for high-quality providers to enter and expand will help to drive up teaching standards overall, enhance the life chances of students and drive economic growth, and will become a catalyst for social mobility.

The Bill makes explicit the fact that there is a general duty to encourage competition

“where that competition is in the interests of students and employers”.

In doing so, it emphasises that the student interest is at the heart of the OFS and recognises the wider public benefits associated with maximising choice and competition in the HE sector. Requiring the OFS to have regard to competition only where it is “shown to be” in the interests of students, employers and the wider public would be burdensome and inflexible. Amendment 139 appears to suggest that the OFS would in some way have to demonstrate that those various interests were met, placing an unnecessary evidential burden on the new regulator.

On the question of whether the OFS should have regard to encouraging competition where it is in the public interest as well as in the interests of students and employers, operating in the public interest is implicit in the role of the OFS. It will be a public body that is accountable to the Secretary of State and to Parliament. Moreover, there are general duties on the OFS to promote value for money, equality of opportunity and to operate “in an efficient, effective and economic way.”

There are also significant assurances built into the Bill to safeguard the public interest, including a requirement that the OFS, through the Secretary of State, provides an annual report to Parliament on the performance of its functions and finances. For those reasons, I respectfully ask the hon. Members who tabled the amendments not to press them.

Gordon Marsden: Because of the lateness of our proceedings I do not intend to respond in great detail, but I profoundly disagree with the Minister’s cavalier interpretation of what one needs to do on validation. We can talk about bad examples across the board, but this will go from one situation to another. Individual organisations, whether Condé Nast or any other, will have to go through a proper process—that is the whole point of the thing. As we come to other aspects of the Bill we will see why the Government’s attitude toward new providers risks creating many problems for students. On this occasion, because the hour is late and we are about to conclude the session, I do not intend to press

our amendments to a vote, but I assure the Minister we will return to the issue in some detail elsewhere in the Bill. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned.
—(*David Evennett.*)

11.23 am

Adjourned till this day at Two o'clock.

