PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

Tenth Sitting

Tuesday 11 October 2016

(Afternoon)

CONTENTS

SCHEDULE 4 agreed to, with amendments.
CLAUSES 27 to 55 agreed to, some with amendments.
Adjourned till Thursday 13 October at half-past Eleven o'clock.
Written evidence reported to the House.

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 15 October 2016

The Committee consisted of the following Members:

Chairs: Mr Christopher Chope, Sir Edward Leigh, Sir Alan Meale, † Mr David Hanson

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

Katy Stout, Glenn McKee, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 11 October 2016

(Afternoon)

[Mr David Hanson *in the Chair*]

Higher Education and Research Bill

Schedule 4

Assessing higher education: designated body

Amendment proposed (this day): 232, in schedule 4, page 74, line 30, at end insert "and students".—*(Dr Blackman-Woods.)*

This amendment and amendment 233 would ensure that the OfS consults students before body suitable to carry out assessment functions is designated.

2 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following:

Amendment 233, in schedule 4, page 74, line 32, after "providers" insert "and students".

See amendment 232.

Amendment 4, in schedule 4, page 74, line 39, at end insert—

"*Bodies suitable to perform quality assessment functions: student representatives*

4A (1) A body is suitable to perform the quality assessment function under section 23 if, in addition to meeting conditions A to D, at least two of the persons who determine the strategic priorities of the body are currently enrolled on a course at a higher education provider.

(2) For the purposes of sub-paragraph (1), 'course' means any graduate or postgraduate course."

This amendment would require the board of any body designated to perform the quality assessment function under section 23 to include at least two student representatives.

Dr Roberta Blackman-Woods (City of Durham) (Lab): It is a pleasure to serve under your chairmanship again, Mr Hanson. I think the Minister will be relieved to know that I had come to the end of my comments. In great anticipation that he will go away and look at how to improve student representation on the assessment body, I will withdraw the amendment.

Wes Streeting (Ilford North) (Lab): It is a pleasure to serve under your chairmanship again, Mr Hanson. I am sure that people have waited with bated breath over lunch to find out whether I will press amendment 4 to a vote, but it is not my intention to do so at this stage.

Dr Blackman-Woods: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendments made: 56, in schedule 4, page 75, line 1, after "include" insert "the".

This amendment clarifies that when the Secretary of State provides a notice all of the reasons for the decision are given.

Amendment 57, in schedule 4, page 75, line 6, leave out "and standards of" and insert

"of, and the standards applied to,".

See the explanatory statement for amendment 46.

Amendment 58, in schedule 4, page 75, line 30, leave out "an assessment function" and insert "the assessment functions".

See the explanatory statement for amendment 44.

Amendment 59, in schedule 4, page 75, line 33, leave out "designated function" and insert "assessment functions".

This amendment is consequential on amendment 43.

Amendment 60, in schedule 4, page 75, line 37, leave out "designated function" and insert "assessment functions".

This amendment is consequential on amendment 43.

Amendment 61, in schedule 4, page 76, line 4, leave out second "designated" and insert "assessment".

This amendment is consequential on amendment 43.

Amendment 62, in schedule 4, page 76, line 25, at end insert—

"*Power of the OfS to give directions*

9A (1) The OfS may give the designated body general directions about the performance of any of the assessment functions.

(2) In giving such directions, the OfS must have regard to the need to protect the expertise of the designated body.

(3) Such directions must relate to—

(a) English higher education providers or registered higher education providers generally, or

(b) a description of such providers.

(4) The designated body must comply with any directions given under this paragraph."

This amendment allows the OfS to give the designated body directions regarding the exercise of the assessment functions. In using this power, the OfS must have regard to the need to protect the expertise of the body.

Amendment 63, in schedule 4, page 76, line 29, leave out "designated function" and insert "assessment functions".

This amendment is consequential on amendment 43.

Amendment 64, in schedule 4, page 76, line 30, leave out "that function" and insert "those functions".

This amendment is consequential on amendment 43.

Amendment 65, in schedule 4, page 76, line 40, after "provided" insert "in England".

This amendment clarifies that in Schedule 4 a "graduate" means a graduate of a higher education course provided in England.

Amendment 66, in schedule 4, page 77, line 1, leave out "an assessment function" and insert "the assessment functions".—*(Joseph Johnson.)*

See the explanatory statement for amendment 44.

Schedule 4, as amended, agreed to.

Clause 27

Power of designated body to charge fees

Amendments made: 67, in clause 27, page 16, line 15, leave out subsection (3).

This amendment is consequential on amendment 43.

Amendment 68, in clause 27, page 16, line 20, leave out "or (3)".

This amendment is consequential on amendment 43.

Amendment 69, in clause 27, page 16, line 21, leave out from "provider" to "by reference to" in line 22 and insert "—

(a) may be calculated,".

This amendment is consequential on amendment 43.

Amendment 70, in clause 27, page 16, line 25, leave out from "functions;" to "may" in line 29 and insert "and

(b) "

This amendment is consequential on amendment 43.

Amendment 71, in clause 27, page 16, line 32, leave out "or (3)".

This amendment is consequential on amendment 43.

Amendment 72, in clause 27, page 16, line 34, leave out

"in the case of subsection (2)(a),".

This amendment is consequential on amendment 43.

Amendment 73, in clause 27, page 16, line 37, leave out paragraph (b).—*(Joseph Johnson.)*

This amendment is consequential on amendment 43.

Clause 27, as amended, ordered to stand part of the Bill.

Clause 28

Power to approve an access and participation plan

Gordon Marsden (Blackpool South) (Lab): I beg to move amendment 200, in clause 28, page 17, line 12, at end insert?

"(1A) The OfS must appoint an independent Director for Fair Access and Participation responsible for approving access and participation plans."

This amendment would strengthen the powers of the proposed Director for Fair Access and Participation in line with the current powers of the Director and those proposed in the Higher Education Green Paper.

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

Amendment 201, in clause 28, page 17, line 14, leave out "OfS may, if it" and insert

"Director for Fair Access and Participation may, if the Director".

This amendment and amendment 204 would ensure that decisions on the approval or rejection of participation plans rest with the Director, not the head of the Office for Students.

Amendment 202, in clause 28, page 17, line 14, at end insert—

"(3A) The Director for Fair Access and Participation may make recommendations to the OfS on the matters to which the OfS should include in guidance that the Director will have regard in deciding whether to approve plans."

This amendment would ensure that the Director can make recommendations to the OfS on the matters to be included in guidance that the Director will have regard in deciding whether to approve plans.

Amendment 203, in clause 28, page 17, line 15, after first "OfS" insert

"having considered any recommendations made by the Director for Fair Access and Participation and having consulted the Director,".

This amendment would ensure that the OfS considered any recommendations made by the Director for Fair Access and Participation and where a matter was not covered by a recommendation the OfS consulted the Director.

Amendment 204, in clause 28, page 17, line 15, leave out second "OfS" and insert

"the Director for Fair Access and Participation".

See amendment 201.

Amendment 205, in clause 28, page 17, line 16, at end insert—

"(4A) Where the Director for Fair Access and Participation considers that there is significant risk to widening participation or that access targets will not be achieved, the Director may issue to a provider or class of providers, which have similar and identifiable characteristics affecting the satisfying of an access and participation plan condition—

(a) guidance setting out additional matters to have regard to in connection to approving the plan; and

(b) a warning."

This amendment would ensure that the Director could issue formal guidance and warnings to certain providers that are not widening access or meeting access targets.

Amendment 206, in clause 28, page 17, line 19, leave out "OfS" and insert

"Director for Fair Access and Participation".

This amendment would ensure that the Secretary of State's regulation-making powers specifying the matters to be taken into account in determining whether or not a plan is to be approved apply to the Director for Fair Access and Participation not the head of the Office for Students.

Gordon Marsden: I hope that you had a restorative recess, Mr Hanson. It is a great pleasure to serve under your chairmanship. I rise to speak to this group of amendments, which are in my name and that of my colleague, the shadow Secretary of State, and are all about the Office for Fair Access. Hon. Members will be relieved to hear that I will speak not to each amendment but to the broad thrust of them all.

We have discussed OFFA previously, but these amendments focus specifically on the powers to approve an access and participation plan. We will hear more about access and participation plans later this afternoon when we debate further amendments, but as far as we are concerned, at the heart of such plans is what the Office for Fair Access was set up for and what the director of fair access is tasked with doing. I know that the Minister and I have a high opinion of the current holder of that office, and nothing that I will say refers to a particular individual. As I have said previously, we are legislating for a period of up to 15 or 20 years, so we have to consider the evolution of the office for students and the nature of the different individuals who might occupy that office. I therefore think it reasonable to try to bring the relationships involving the director for fair access and participation in line with the current powers and those proposed in the higher education Green Paper.

The Minister clearly thinks that has been done, and he has perfectly reasonably prayed in aid various comments from the current director. But there is a continuing nagging concern—not just with us, but with many people in the HE sector—that under these reforms the director could be seen as subordinate to the head of the office for students. That body will have significant funding from universities—we wait to hear further how much that will be, although some figures have already been put out—which might make the OFS less inclined to challenge institutions on access. Even if it does not, the Minister will be familiar with the phrase, "Caesar's wife should be above suspicion." I am not correlating Les Ebdon with Caesar's wife, but the Minister will understand my point: there is a danger, if that is the position institutionally, in what people might think.

The report that lays out the business case for the office for students states that

"day to day responsibility for operations and decisions relating to the OfS' Access and Participation functions"

[Gordon Marsden]

should sit with the director, but that is not currently underpinned in the Bill. The Sutton Trust and various other organisations have concerns about that point, as does the director of fair access himself, as I believe he said when he gave evidence to the Committee.

It is crucial that the director for fair access and participation has the independence to challenge universities robustly, so that universities that dislike access rulings designed to help able young people from low-income homes are not able to appeal to the head of the OFS. That is why we believe that the Bill should be amended—so that it is clear that the director has a direct line into the Secretary of State and is not simply reporting to the members of the OFS board and the OFS chief executive, although he may want to consult them quite substantially.

In various responses to the White Paper, the director of fair access identified at least two possible areas where the Bill could be strengthened, one of which was this one. He was told that the power to approve access and participation plans will sit with the OFS corporately, not with the new director. Nothing in the Bill requires the OFS to exercise those powers through the director, although that would be sensible in the light of schedule 1. Paragraph 3 of schedule 1 merely requires the director to report on the exercise of functions, which is a narrative exercise. He or she is not even accountable for the exercise of those functions. The director will fulfil that obligation by delivering an accurate report, and whether that report describes a good or bad situation will not be his or her concern under the provisions in the Bill. At present, whether the director will have the functions required will depend on the scheme of delegation adopted by the OFS.

The purpose of the amendments is to put flesh on the bones of those intentions. Those bones include the power to negotiate with institutions and ultimately to approve or refuse an access and participation plan. The amendments would both strengthen that position and ensure that the director had the ability to do so.

In case people think that these issues are hypothetical, dry or technical, it might be worth reflecting on what happened during the 2016-17 access agreements, which were a positive thing for both the Government and the director. The director's negotiations led to improved targets at 94 institutions, and 28 of those increased their predicted spend. That secured an estimated additional £11.4 million for fair access and participation.

If the director for fair access and participation could be bypassed or overruled by the OFS chief executive or the board, that could undermine his or her ability to negotiate directly with vice-chancellors and to offer robust challenge. That in turn would be likely to lead to a significant scaling down of ambition by some institutions. We need the powers in question to be clearly stated on the face of the Bill. I accept that the Minister might say that they will be intrinsic guidance, but this is what one Minister can say in 2016, and we do not know what another Minister might say in 2021 or 2022. That is why we need the amendments.

We know already that the portfolio of skills that a director of the Office for Fair Access needs to possess is complex. They need to be able to get on with Government, and they need to be well positioned to make nuanced judgements about what is reasonable and achievable in setting up access agreements. Above all, as in any negotiations, they need to have flexibility—if I can put it this way, they need to have a few other cards up their sleeve. Far from being a distraction or causing problems within the OFS, making those points clear in the framework set out in the Bill would improve and settle the relationship—that is not to say that it would bad in the first place—between the office for students, its members, its board and the director. The issue would not have to be teased out over a period of what might be creative tension over various issues. I have sat in enough Select Committee meetings to know that problems in one particular area can throw up conceptual difficulties in relationships between offices, and that the amendments are therefore advisable. If the director does not have responsibility for access agreements, it risks sending a message to the sector that fair access and participation have been deprioritised.

The Government are keen to meet their goal of doubling the rate of young people from disadvantaged backgrounds entering higher education by 2020. In order for them to do that—this is not a criticism, just an observation—there will need to be some acceleration of progress. If the director does not retain the authority to approve or refuse an access and participation plan, or if that power can be delegated to others and decisions can be overturned, that could a significant period of to-ing and fro-ing within the OFS in which the Secretary of State or the Minister would have to intervene. That would not help anybody, and there is a real risk that the position of the director would be seen as being weakened. That could send a message that fair access had been deprioritised and would likely lead to a scaling down of ambition by institutions. Such a message could also be seen as contrary to the Government's fair life chances and social mobility agenda. All of us in the House, whatever position we take on a particular aspect of the Bill, fervently want to see that social mobility. I again urge the Minister to think hard about some of the nuances I have talked about. Let us see what he has to say.

2.15 pm

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): It is a pleasure to see you in the Chair once again, Mr Hanson, although we have not made as much progress in your absence as you might have hoped. It is also a pleasure to see the hon. Member for Blackpool South in his place on time to start the proceedings. I am glad that he did not have to scapegoat Network Rail for his late arrival.

Gordon Marsden: I know that the hon. Gentleman wishes to defend the Government in all shapes and forms, but that does not necessarily involve defending Network Rail. If he carries on in that vein I might have to examine his record of interests to see whether he has shares in the company.

The Chair: Order. Members will have to fill me in on that at a later time. In the meantime, I call the Minister.

Joseph Johnson: If the hon. Gentleman wants to lodge his time of arrival at Victoria, we can verify his claim with the operator and get to the bottom of his late arrival.

I am grateful to hon. Members for tabling the amendments. They touch on points that we discussed extensively at an earlier stage in our proceedings, and they are intended to clarify the role and responsibilities of the director for fair access and participation in relation to access and participation plans.

We are giving amendment 200 careful thought. There is obviously agreement on both sides of the House that social mobility is a huge priority, and all the more so now for the current Government. Widening access and participation in higher education is one of the key drivers of that. The OFS will have a duty to consider the quality of opportunity in connection with access to and participation in higher education across all its functions, so widening access for and participation of students from disadvantaged backgrounds will be at its very core. It will be the responsibility of the OFS to ensure that it is fulfilling that function. As I have said before, it continues to be our clear intention that the OFS will give the DFAP responsibility for activities in that area. We envisage that, in practice, that will mean that the other OFS members will agree a broad remit with the DFAP, and that the DFAP will report back to them on those activities. As such, the DFAP will have responsibility for the important access and participation activities in question, including agreeing access and participation plans on a day-to-day basis.

We do not accept that the reforms will undermine the ability for stretching access plans to be agreed and strengthened. Indeed, the OFS as a whole will have responsibility for promoting equality of opportunity, which, as I have said, means that it will have access to the full suite of OFS sanctions. I will come on to describe what those could be.

Amendment 205 is intended to ensure that the DFAP can issue guidance and warnings when a provider does not meet their targets. In future, we expect that the OFS will continue to monitor a provider's progress against its plan and agree targets with it, as the director of fair access does now. Concerns about progress would be raised directly with the provider. That has proved to be an effective system, with the current director of fair access's interventions having led to an improvement in targets at 94 institutions and increased expenditure at 37 for 2017-18. Where it was considered appropriate, a range of OFS sanctions would be available, including the power to refuse an access and participation plan. I therefore ask the hon. Gentleman to withdraw the amendment.

Gordon Marsden: I welcome what the Minister has said, which is consonant with what he has said on previous occasions. I repeat our view that it would be beneficial to make the amendments, for the reasons that I have given, but I accept the Minister's assurance that he is giving them careful thought. There will be a number of opportunities to develop them at other stages of the Bill's passage, and on that basis I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Blackman-Woods: I beg to move amendment 179, in clause 28, page 17, line 16, at end insert—

'( ) The OfS must, in deciding whether to approve a plan, have regard to whether the governing body of an institution has consulted with relevant student representatives in producing its plan.

( ) In this section "relevant student representatives" means representatives who may be deemed to represent students on higher education courses provided by the institution including, but not limited to, persons or bodies as described by Part 2 of the Education Act 1994."

This amendment would ensure that when higher education providers produce an Access and Participation Plan, they must consult with students and student representatives, including – but not limited to – the students' union at that higher education provider.

This amendment would add a new subsection to clause 28, to ensure that before a participation and access plan is approved, the institution in question can demonstrate that students have been consulted in the drawing up of that plan. It is a positive step forward that, through measures in the Bill, institutions will be required to produce participation and access plans. I know that a number of organisations, including the National Union of Students, welcome and support those provisions. However, as the Minister will be aware, much of the excellent access and outreach work at universities is done by students, often co-ordinated by their students unions. The amendment would therefore recognise the work of students and ensure that they are involved when their university produces the access and participation plan. The amendment would give student representatives the chance to discuss their views on their university's plan and ensure that it reflects the interest of current and future students.

We had a long discussion in this morning's session about student representation, but I hope that the Minister can be a bit more forthcoming about student involvement in the plan. Frankly, it is hard to envisage how a plan for widening access and participation could be drawn up without speaking to current students and involving them in what that plan ultimately looks like. I look forward to hearing what the Minister has to say.

Joseph Johnson: The hon. Lady has again raised the important issue of student representation and involvement, this time in the development of access and participation plans. I am pleased to have been given the opportunity to set out how students are already involved in the development and monitoring of access agreements, including through students unions or associations.

The Office for Fair Access expects providers to include a detailed statement on how they have involved and consulted students in the development of their plan. For example, providers are encouraged to set out where students have been involved in the design and implementation of financial support packages. Some students unions run information, advice and guidance sessions to explain the support packages, to ensure maximum take-up from eligible students. That approach, which has been in place for over a decade, has been successful. All providers produce statements on consultations with their students, and the director of fair access has had regard to those when deciding whether to approve a plan. Over time, the quality of engagement with students has improved. Some providers include text written by their student representatives as part of their access agreements, and some student groups send in their own separate submissions. Although that approach has worked well, we will reflect on the hon. Lady's comments and consider how best to ensure that students can continue to be engaged in this area in the future. On that basis, I ask her to withdraw the amendment.

Dr Blackman-Woods: I suggest to the Minister that it is one thing to encourage institutions to involve students in the drawing up of their plans and quite another to insist that they do it. We are saying that best practice suggests that they really must do that. I have heard what the Minister has said and will and look at the matter again, to see whether it can be dealt with more effectively, perhaps somewhere in regulations. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 28 ordered to stand part of the Bill.

Clauses 29 and 30 ordered to stand part of the Bill.

Clause 31

CONTENT OF A PLAN: EQUALITY OF OPPORTUNITY

Wes Streeting: I beg to move amendment 16, in clause 31, page 18, line 22, at end insert—

'(1A) The regulations made under sub-section (1)(a) shall include goals for ensuring fair access and widening participation, to which a provider will be considered in agreement to achieving once a plan has been approved under section 28."

This amendment would require an access and participation plan to include specific goals for ensuring fair access and wider participation.

The Chair: With this, it will be convenient to discuss the following: amendment 17, in clause 31, page 18, line 25, leave out "subsection (1)" and insert "subsections (1) and (1A)".

This amendment is consequential to amendment 16.

Amendment 18, in clause 32, page 19, line 12, at end insert—

'( ) The regulations may include a designation of power to the Director of Fair Access and Participation to set specific targets for a higher education provider where the Secretary of State is of the view that the provider is failing to meet the fair access and widening participation goals under section 31(1A).

( ) Where such powers are exercised, the specific targets for a provider set by the Director of Fair Access and Participation shall be considered a general provision of the plan for the purposes of section 21 (refusal to renew an access and participation plan)."

This amendment would enable the Secretary of State to give power to the Director of Fair Access and Participation to set specific targets when it has been deemed that the institution is failing to meet the goals relating to fair access and wider participation set out in its access and participation plan (see amendment 16). The second subsection would enable the OfS to refuse to renew a plan if a provider fails to meet the targets set by the Director of Fair Access and Participation."

Wes Streeting: Thank you, Mr Hanson, for calling me to speak, and I am glad that we are moving at a slightly faster pace this afternoon than we did this morning.

Further to the discussion that we have just had, these amendments seek to require access and participation plans to include specific goals for ensuring fair access to and wider participation in higher education. The reason for setting that out is that—further to the point made by my hon. Friend the Member for Blackpool South, the shadow Minister, and my hon. Friend the Member for City of Durham—the role of the director of fair access has been, by and large, successful since its inception. However, in light of the wider changes that are being made to the Office for Fair Access itself and by its inclusion as part of the office for students, it is important to make sure that the director for fair access and participation has the necessary powers to ensure that institutions include specific goals in their access and participation plans as well as the power to set specific targets, when it is deemed that an institution is failing to meet the goals relating to fair access and wider participation that it has set out in its access and participation plans. Amendment 18 would ensure that the OFS has the power to refuse to renew a plan if a provider fails to meet the target set out by the director for fair access and participation.

All these amendments seek to do is to make sure that the director for fair access and participation has the teeth, or the muscle, or whichever euphemism people wish to use to describe the director's powers. However, the danger with the way that the director of fair access is being treated in the rest of the Bill is that they will lack sufficient independence and power to hold institutions to account.

That goes back to the point I made at the outset of the discussion of the Bill, on Second Reading. In the higher education sector, there are still too many institutions that are socially elitist rather than simply academically elite, and there are too many institutions that proclaim to be success stories in widening participation while presiding over retention rates and graduate destination data that ought to make their vice-chancellors blush.

In that context, it is right and proper to have an independent voice and an independent role that can hold institutions to account if they fall short of the expectations set by Parliament and the Secretary of State and, of course, the expectations of students who enrol on courses. These amendments would give the director for fair access and participation beefed-up powers, within the auspices of the OFS, which would give the public and students assurance that we take these issues seriously and that institutions will be held to account if they fail in this regard.

I commend these amendments to the Minister and I look forward to hearing his reply.

2.30 pm

Joseph Johnson: I am grateful to the hon. Member for giving us the opportunity to discuss this important matter.

Currently, the director of fair access agrees targets proposed by providers as part of their access agreements. The DFA's powers do not enable him or her to impose targets at present. This approach was founded on the desire to protect an institution's autonomy over admissions and its academic freedom. Those are fundamental principles, on which our higher education system is based and on which it has flourished. This group of amendments seeks to change that approach to agreeing access and participation plans and introduce greater prescription in this area.

We asked for views on this precise question in our Green Paper consultation, including whether the OFS should have a power to set targets, should an institution fail to make progress. Importantly, OFFA did not agree and said that the OFS should not have a power to set targets. Its response highlighted the importance of providers owning their targets. If targets are set externally, they can become both resource-intensive and a blunt instrument. This can make it difficult to hold institutions to account when progress is slow. Effort becomes focused on the

process rather than broader improvements in access and participation. That is why we did not take these proposals forward.

The Bill includes arrangements to call providers to account where they are considered to be failing to meet their access and participation plans. Where it is considered appropriate, there would be access to a range of OFS sanctions. As I said in answer to an earlier amendment, these include the power to refuse an access and participation plan, to impose monetary penalties and, in extreme cases, to suspend or even de-register providers.

I hope I have therefore reassured the hon. Member that the Bill contains sufficient safeguards to tackle under-performance and I ask him to withdraw Amendment 16.

Wes Streeting: I am grateful to the Minister for his reply and for outlining the range of sanctions that apply within the scope of the legislation. I think that is in part reassuring. My point is more a message for institutions rather than for the Minister per se, and it is that institutional autonomy is often used as a convenient cover to avoid and escape accountability. Institutions have largely gone along with the direction of travel of higher education policy, both for funding arrangements and the regulatory environment. It seems to me they want all the benefits of having a more marketised consumer-led system without the downsides of accountability and responsibility to—in the most crude and reductive sense—consumers. That is not the language I tend to use, but none the less the brave new world of the marketisation of higher education speaks increasingly of consumers.

I think it is unacceptable and harder questions ought to be asked of institutions. It was my intention that these powers would be used only in extreme circumstances, or in cases of particular failure, because it is not desirable to have external targets set, for the reasons outlined by the Office for Fair Access in its submission. I thought the vice-chancellor of the University of Cambridge was rather coy in the evidence session before the Committee. The recent example of the University of Cambridge, where it tried to row back from the previous commitment it had made to access and participation targets, was a good example of the Office for Fair Access working, where robust dialogue behind the scenes and a respectful relationship with institutions can lead to the right outcome.

As we travel further down this system, I think we will encounter further difficulties. It is right and proper that there should be powers for the office for students to hold institutions to account. I am grateful to the Minister for outlining the powers in the Bill and I beg to ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Gordon Marsden: I beg to move amendment 207, in clause 31, page 18, line 43, at end insert?

"(g) for details of individual Higher Education providers, their policies for part-time and mature students."

This amendment would require universities and other higher education providers to include a policy in regard to part-time and mature students in their access and participation plan.

The Chair: With this it will be convenient to discuss amendment 287, in clause 36, page 20, line 15, at end insert

"to include access to and participation in part-time study"

This amendment requires the OfS to report on access to and participation in part-time study in its report(s) to the Secretary of State.

Gordon Marsden: Amendment 207 picks up on a theme that we discussed earlier, which is the essential need to strengthen the access and participation of part-time and mature students, particularly given the decline in their numbers in recent years.

The amendment requires universities and other higher education providers to include a policy for part-time and mature students in their access and participation plan. It would also require the office for students to consider appointing a director for part-time and mature students to its board. The amendment was suggested by the Sutton Trust, but a large body of opinion in the lifelong learning area believes that it is important—as we have said in relation to other groups—that when the office for students is established, the importance of part-time and mature students is recognised, particularly in access and participation plans.

The discussions that we have had so far have included many references to the Open University. That is not surprising: the Open University is a huge success story for the UK; it is an international institution based in Britain and it has the largest number of adult students and so on. But several other institutions, of greater longevity than the Open University, also have concerns in these areas. For example, Birkbeck College of the University of London has made a couple of points about this. When the Minister was talking about cockney universities, I cannot remember if Birkbeck was one of them, but it is of the same vintage. It was founded in 1823 as the London Mechanics' Institute with the express remit to open up higher and university education to working people.

Birkbeck has a teaching model with a flexible course structure, allowing students to complete a degree in the same length of time as regular students studying in the daytime at other universities. Some Members here may even have members of their staff who have done exactly that sort of thing at Birkbeck. It is a very broad-based and world class research-intensive institution and has very good statistics in that respect. But Birkbeck is concerned about a number of issues in the Bill, not in terms of commission but of omission. It says:

"The vast majority of our students are aged over 21, most choose evening study because they work full-time or have family commitments during the daytime. Provision for part-time and mature learners is important for social mobility. Part-time study is frequently the route into higher education for most non-traditional and mature students. Part-time study is also, by definition, local. In 2015-16 one in five undergraduate entrants in England from low participation neighbourhoods chose or have no option but to study part-time, while 38% of all undergraduate students from disadvantaged groups are mature. Part-time study also cannot be ignored if we want to see economic growth. In 2011-12, there were nearly half a million people in the UK studying part-time at undergraduate level, but the decision to withdraw funding from universities in England and introduce a student loans system led to the tuition fee increase that we know about and to the very significant and dramatic downturn in part-time student numbers."

The Minister will no doubt be relieved to know that I do not intend to bash the Government over the head any further on the matter at this point in time, but merely to make the observation that whatever the circumstances, we are where we are with those numbers.

[Gordon Marsden]

The Government have taken a number of relatively modest steps to try to address the issue, but that will not happen overnight. That strengthens the need to include the emphasis on the issue as part of the remit of the OFS on the face of the Bill. That is why Birkbeck and others believe that it is important that the duties of the proposed office for students are expanded explicitly to promote adult, part-time and lifelong learning. They have already said that they would like to see a clearer commitment to part-time provision through a requirement—not a "hope" or a "we'll see about it"—that the OFS board includes expertise in part-time learning among its members, and to think also about the diversity of the UK student body as a whole.

The Minister will be familiar with this argument because he has employed it himself. If we are to succeed and prosper economically and socially, and if we are to fulfil people's life chances, we are going to need to focus more and more on mature students, many of whom will be part time. The reasons for that are clear and demographic, and are repeated in the Government's White Paper. I do not intend to repeat them further today, but they sharpen the focus on why we need this provision in the Bill.

Paul Blomfield (Sheffield Central) (Lab): It is a pleasure to speak to my amendment 287 with you in the chair, Mr Hanson. The amendment complements the amendment moved by my hon. Friend the Member for Blackpool South by adding a responsibility on the OFS to report on access to and participation in part-time study.

I echo some of my hon. Friend's points. One of the many things that distinguishes our great higher education system in this country is the large number of part-time students, which is something like 40% at postgraduate level and 20% at undergraduate level. Many of them are of course studying in the Open University, to which my hon. Friend has rightly drawn attention as a great success story of British higher education.

We need to focus on the issue of part-time students in the context of the Government's ambition for higher education and for social mobility within higher education. I think the Government's own vision is that we need to move away from conventional models of higher education, and that is partly behind some of the thinking—that the Opposition do not fully agree with—on some of the new sorts of providers that the Government have in mind.

The vision of a higher education system that moves beyond the conventional route of leave school, go to university, study full time for a number of years, come out with a degree and then leave it behind, is no longer relevant in the challenges that people face in today's economy. We need to talk confidently about a system of lifelong learning in which part-time study has an increasingly important role, which will not simply be provided for by the new providers that the Minister has spoken of in the past. We should be deeply concerned that, following the introduction of the new fees structure through to 2014, part-time student numbers dropped by 50%. The Social Mobility and Child Poverty Commission described that as

"an astonishing and deeply worrying trend".

It is one that we should really look to address.

In the case of part-time study, funding is key. The Minister spoke eloquently earlier about the number of students still applying to higher education from disadvantaged backgrounds, despite the funding changes, and I accept those figures, although the changes have had an impact on choice in higher education and work is needed on how some students from disadvantaged backgrounds have limited their choices by going to universities closer to home to keep their costs down. Nevertheless, we know that for part-time students, funding is key and we know that partly because the Labour Government made mistakes on that. The introduction of equivalent or lower qualifications, and limiting options for people to take second and subsequent degrees based on earlier qualifications, led to a significant reduction in part-time students in the past. I welcome the fact that the Government have learned from those lessons and are changing their position on ELQs.

Wes Streeting: I am grateful to my hon. Friend for highlighting this important issue. He is right to draw on some of the shortcomings of policy under the last Labour Government on ELQs. Does he also agree with me that aspects of the coalition Government's student finance reforms should have been beneficial for part-time students, but did not necessarily lead to the increase in participation that was intended? Because of the complexity governing part-time students, and the law of unintended consequences, it is even more important to have a specific focus on part-time students in the report to the Secretary of State from the director of fair access and the OFS.

2.45 pm

Paul Blomfield: I thank my hon. Friend for his intervention. He is absolutely right. In fact, the changes in the coalition Government's proposals that he cites were used by some in the Government to celebrate the progressive nature of those proposals—we would not wholly agree with that. We need to understand, though, the difference between the impact of funding changes on school students, who may well have been—and certainly seem to be—willing to take on debt, compared with those who are in mid-career or later in life.

Ben Howlett (Bath) (Con): We have been doing some work on this in the Women and Equalities Committee. One thing that is clear is the lack of data. Many hypothetical scenarios have been analysed, but does the hon. Gentleman agree that there is an opportunity here to get to the nitty-gritty of the argument and find out the data behind the reasons why participation levels are falling among part-time students, particularly for older workers? In some instances, it might be the fact that there are other options available to them, such as apprenticeships and all the other Government schemes. In other instances it might be the provision of finance. We need an assurance from the Minister about what proposals he has to create more data, to analyse the subject more.

Paul Blomfield: I thank the hon. Gentleman for his intervention and, indeed, for the work we do together on the all-party parliamentary group on students. That is a fair point. I was concentrating on some of the funding factors. For older students, the fact that they

have mortgages and families, or that they are at albeit modest salary levels that trigger immediate repayment, are apparent disincentives. Matching the introduction of the new funding regime and the cliff-edge drop in the numbers of part-time students would suggest that there is a relationship. He is absolutely right that we should be looking at all the data and doing research properly to understand what is happening. I agree with him, and that is at the heart of my amendment: the OFS should have the responsibility to think deeply about part-time participation and draw up recommendations to address that.

Gordon Marsden: My hon. Friend is making a powerful case for his amendment. Does he—and, indeed, the hon. Member for Bath—agree that we do have indications of how the process affects older people in particular, though it is not exactly anecdotal? We have those indications from what has happened with the take-up at 24-plus of advanced learning loans, which are designed for students at level 3 and above. That was presaged, in my mind, by the discussions I had on that process; I talked to many women who said that they would not have progressed if they had had to take out loans at that juncture rather than having grants.

Paul Blomfield: My hon. Friend makes an important point to which we should pay attention, and he is absolutely right. Earlier, he cited Birkbeck's important role in creating opportunities for social mobility through modes of part-time learning over many years. He—and, I hope, the Minister—may have seen the Gresham lecture given earlier this year by the long-time Master of Birkbeck, Baroness Blackstone, in which she focused on some of these exact issues with funding and proposed radical solutions, which at least deserve attention. For example, recognising the strategic importance of part-time learning, in the same way as we recognise the strategic importance of science, technology, engineering and mathematics subjects, she argued that perhaps we need to look again at the funding model to provide support for the delivery of part-time education, which in many ways is more expensive for universities than conventional learning. For example, she argued that maybe we could look at incentives through adjustments to the national insurance system.

A number of interventions made today deserve serious consideration, but I simply propose my amendment in the spirit of the comments made by the hon. Member for Bath. We need to do much more work on this issue, which should be a central responsibility of the OFS.

Joseph Johnson: I am sympathetic to the aims of the amendments and grateful again for the chance to discuss them. I have always been clear that fair and equal access to HE is vital. Everyone with the potential to benefit from education in every form should be able to do so. Studying part-time and later in life brings enormous benefits for individuals, employers and the economy, so let me reassure the Committee that the Government are acting to support part-time students and part-time provision. Funding, as the hon. Member for Sheffield Central said, is obviously important. Over the course of the past few years, the Government and the predecessor coalition Government have taken significant steps to transform the funding available for part-time study. Going back to moves made in 2012-13, we started to offer tuition fee loans for part-time students so that how learners of all ages choose to study does not affect the tuition support available. Looking forward to 2018-19, we will, for the first time ever, provide financial support to part-time students, comparable to the maintenance support we give to full-time students with the introduction of part-time maintenance loans.

As the hon. Gentleman said, other factors are also an important part of the picture of what is happening in part-time provision. He was gracious enough to allude to the Labour party's introduction of the equivalent and lower qualification restriction, which has undoubtedly also been a contributory factor to the decline in numbers. We have started to lift this restriction, principally by providing financial support from Government for a second degree if people wishing to study retrain part time in a STEM subject from September next year. This will allow more people of all ages to retrain in key STEM subjects.

Amendment 207 relates to providers including part-time and mature students' provision in access and participation plans. Let me reassure the Committee that we agree that a focus on part-time and mature students in access and participation plans is important. That is why our recent guidance letter to the director of fair access in February this year asked him to provide a renewed focus on part-time study in his guidance to institutions on their access agreements for 2017-18. This should be of particular benefit to mature learners.

I am pleased to be able to tell the Committee that mature learner numbers, which dipped following the change in the fee regime in the middle of the last Parliament, have now recovered significantly and were at record levels at around 83,000 in 2015—compared with the previous high of 81,000 that they touched in 2009 and the 2006 levels of about 56,000 to 57,000—so they are now moving back in the right direction.

The Bill will help further by giving the OFS the flexibility to ask providers to focus on key areas that are important to widening participation and social mobility, in the same way that the Secretary of State's guidance to the director of fair access currently allows. Clause 31 covers the general provisions that might be required by regulations. These arrangements provide flexibility in access and participation agreements so that they can focus on widening participation for different groups of students. I therefore believe that the Bill already delivers the aim of this amendment.

I turn to the amendment on the OFS's duty to report on part-time higher education provision. The OFS has a duty requiring it to consider the need to promote greater choice and opportunities for students in the provision of HE in England, and a duty to cover equality of opportunity. It must prepare a report on the performance of its functions during each financial year, which will be laid before Parliament. The Bill also contains powers under clause 36(1)(b) for the Secretary of State to direct the OFS to report specifically on matters relating to equality of opportunity. That could of course include part-time learners.

Paul Blomfield: I welcome the direction of travel of the Minister's comments. Could he share with the Committee whether he would expect the OFS specifically to look in that work at the issue of part-time students as an early priority?

Joseph Johnson: Yes, that was the purpose of our guidance to the director of fair access back in February, to signal that we wanted to see further progress on institutions making part-time study a core feature of their offer. So, yes, I would imagine that this would be priority focus of the OFS. In conclusion, I do not believe the amendment is necessary. There are sufficient provisions in the Bill to ensure that part-time and mature study are priorities for the OFS and the director of fair access within it. I would therefore ask the hon. Member for Sheffield Central to withdraw his amendment.

Gordon Marsden: I have heard what the Minister has to say. The direction of travel, as my hon. Friend the Member for Sheffield Central says, is extremely welcome as are, indeed, the figures that the Minister quoted, but I would gently remind him that, for all the demographic reasons that I have spoken about, we need to speed up that expansion of participation. However, I hear what he has to say, will look forward to further discussions on it in this Bill and possibly subsequently and, with that, I am content to withdraw our amendment.

Paul Blomfield: Equally, I welcome the statement made by the Minister, particularly in relation to his expectations of the OFS, and specifically in relation to part-time study and I will not press my amendment to a vote.

Gordon Marsden: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: 74, in clause 31, page 19, line 7, after "include" insert

"education provided by means of".—*(Joseph Johnson.)*

This amendment makes the language used in clause 31(5)(b) (the definition of references to "higher education" in that clause) consistent with that used in the definition of "higher education" in clause 75(1).

Clause 31, as amended, ordered to stand part of the Bill.

Clauses 32 and 33 ordered to stand part of the Bill.

Clause 34

ADVICE ON GOOD PRACTICE

Gordon Marsden: I beg to move amendment 209, in clause 34, page 19, line 31, leave out "may" and insert "should".

This amendment would require the OfS to identify good practice on the promotion of equality of opportunity and to disseminate advice about good practice.

This is a small but meaningful amendment that relates obviously to the clause on good practice. We could have a pedagogical debate on what good practice is but the Committee will be relieved to know that I do not intend to go down that route, except to observe that "may" is, of course, a word much in vogue with the Conservative party at the moment, but "may" is also a word that is often in vogue in the drafting of Bills when a minimum rather than a maximum of things is expected. In this particular instance, given that the Government are saying, quite rightly, that good practice is key to the promotion of equality of opportunity and that they need to give advice about such practice to registered higher education providers, it would do no harm whatsoever to strengthen that guidance to the OFS. It is not micromanagement, it is strengthening the advice. That is why, Mr Hanson, we have suggested that on this occasion rather than having the word "may", we should have the word "should".

Joseph Johnson: We believe that the Bill as drafted delivers the policy intent behind the amendment. Spreading good practice in widening participation is currently a key part of the director of fair access's role. We want the office for students to continue to undertake this role.

The Office for Fair Access currently undertakes a programme of evaluation, research and analysis. This aims to improve understanding and inform improvements in practice by identifying and disseminating good practice. Universities expect to spend £833.5 million through access agreements in 2017-18 on measures to improve access and success for students from disadvantaged backgrounds. It is important that this money is used effectively on the basis of evidence of what works best.

Higher education providers use the outcomes of OFFA's research and good practice so that they can develop their own initiatives and policies, based on the latest evidence. It is important that the office for students continues to build this bank of evidence and best practice on widening participation, so that performance continues to develop and improve.

Through the Bill, the OFS may provide advice on good practice in relation to access and participation, so we are clear that the Bill as drafted enables that to continue in the future. I therefore ask the hon. Gentleman to withdraw the amendment.

3 pm

Gordon Marsden: I will not resile from what I said about people using the word "may" rather than "should", but I do not intend to dance on the head of a pin over it. I therefore beg to ask leave withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 34 ordered to stand part of the Bill.

Clause 35 ordered to stand part of the Bill.

Clause 36

POWER OF SECRETARY OF STATE TO REQUIRE A REPORT

Gordon Marsden: I beg to move amendment 210, in clause 36, page 20, line 10, leave out

"Secretary of State may, by direction, require the OfS to"

and insert "OfS must".

This amendment would ensure the OfS must report to the Secretary of State its annual report, or special reports, on matters relating to equality of opportunity.

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

Amendment 211, in clause 36, page 20, line 11, at end insert

"and to the relevant select committee (or committees) of the House of Commons".

See amendment 212.

Amendment 212, in clause 36, page 20, line 19, at end insert—

"(5) "Relevant select committee" is the departmental select committee (or committees) appointed by the House of Commons to examine the expenditure, administration and policy

of the principal government department or departments and associated public bodies with responsibilities for higher education in England."

Amendments 211 and 212 would ensure the OfS must report to the relevant select committee(s) its annual report, or special reports, on matters relating to equality of opportunity.

Gordon Marsden: This trio of amendments is designed to strengthen and reinforce our concern that the operation of the OFS, like that of any major new public institution of that nature, should receive adequate and sufficient scrutiny, not simply on the Floor of the House but in various Committees, and certainly in at least one relevant Select Committee. I remain unclear about whether any aspects of the Bill will be covered by the Department for Business, Energy and Industrial Strategy in any shape or form. The Minister himself may still be groping towards some of these answers, so I will not press him on that. That is why the amendment say "committees" rather than "committee".

The principle is very important. I have spoken previously about the value of pre-legislative scrutiny and my regret that it was not applied in the case of this Bill, which is complex. The other important role that Select Committees can play is monitoring and taking things forward. The Government propose and pass Bills, but Select Committees are, on the whole, relatively non-partisan and relatively positive in the suggestions they make. I think it would be valuable for the various things coming forward from the OFS to be reported fairly crisply and usefully to the relevant Select Committee. That accounts for amendment 211.

It is also important—there are precedents for this in the case of Ofsted and other aspects of education policy—that the OFS has a duty to report to the relevant Select Committees with its annual report or special reports, particularly on matters relating to equality of opportunity. Again, I am not suggesting that there would be any innate reluctance on the part of the OFS to do that, but we do not know who the board and chief executives will be. When we set up new bodies, rather than do as we have sometimes done in the past—engage in a tussle between the Executive and the legislature, which often generates a lot of heat, but not much light—I think it is important that we ensure the OFS has a responsibility to examine expenditure, administration and policy in that respect. That is the reason for amendment 212.

Finally, to say that the OFS must report to the Secretary of State in its annual report or in special reports on matters relating to equality of opportunity is of paramount importance, not least for all the reasons that my hon. Friend and I have discussed under previous amendments. Again, that simply strengthens the argument we made in relation to amendment 209.

Joseph Johnson: We believe that the Bill as drafted will deliver the policy intent that the hon. Gentleman wants. The OFS will be required by schedule 1 to provide an annual report covering all its functions. Reporting on access and participation matters will sit with the OFS, which will also have a new duty requiring it to consider equality of opportunity in connection with access and participation plans across all its functions. The OFS's work on access and participation should be reported to Parliament as part of its overall accountability requirements. It would not be consistent with integrating the role into the OFS for the DFAP to report separately.

Clause 36 supplements the requirement for an annual report and allows the Secretary of State to direct the OFS to report on widening participation issues—either in its annual report or in a special report. That replicates an existing provision, in place since 2004, which has never been used. We agree this is important and have retained the requirement, so that if there are specific concerns about access and participation at a particular time there is a mechanism for the Secretary of State to request action. The Bill requires that the OFS annual report and any special reports on access and participation be laid in Parliament. As that will ensure that any such reports are publicly available, open to scrutiny and accessible to all appropriate House of Commons Committees, we do not think it necessary to specify the requirement in greater detail in legislation, and I ask the hon. Gentleman to withdraw the amendment.

Gordon Marsden: Obviously the Minister has a slightly more expansive view of what the Bill allows or expects to do than perhaps we do, but we hear what he has to say. He has put the importance of these issues and conditions straightforwardly on the record and on that basis I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Paul Blomfield: I beg to move amendment 288, in clause 36, page 20, line 18, at end insert—

'(3A) The Secretary of State may require a report under subsection (1) on the establishment of a national credit rating and transfer service as a means of improving access to and participation in higher education."

This amendment would allow the Secretary of State to require the OfS to look into establishing a national credit rating and transfer service for recognition of prior learning to encourage student mobility.

The amendment may deal with another matter on which we are very much on the same page as the Government: using the opportunity to develop more innovative approaches to both study and routes through higher education through the development of more effective systems of credit accumulation and transfer. Those in higher education have talked about doing this for many years. I remember a period about 20 years ago when many universities were restructuring the way they delivered their courses, moving away from an October to June programme to look at semesterised and modularised structures. The underlying objective of that restructuring was to facilitate more effective credit accumulation and transfer, but the development did not progress, often because of resistance on the part of some universities to recognising properly the value of taught modules in other institutions. If we are to move forward, we need a more effective strategy driven by Government.

I recognise, as I am sure the Minister is about to remind me, that the Government launched a consultation earlier this year that concluded in July. The objectives of that consultation were described in the summary:

"We're interested in how switching university or degree course can be made easier".

That is precisely what the amendment is about. I appreciate that the Government have not had the opportunity to consider the results of the consultation, or perhaps the Minister will surprise us by sharing some thoughts that have come out of it.

Such a system would be important at different levels. First, it would give us an opportunity to move beyond a conventional approach to pursuing a course in university.

[Paul Blomfield]

It would enable people to build up in different ways a programme of study leading to a degree. Crucially, it would give people the opportunity, which I am sure the Minister would welcome, to switch between workplace-based learning and institution-based learning and to consider a range of higher education opportunities in accumulating a degree.

The Minister cited earlier the report published last year by the Higher Education Policy Institute and the Higher Education Academy, which said—he will correct me if I have got the number wrong—that something like 30% of students currently on courses in universities would have opted for a different programme of study if they had known then what they know now. That is a hugely significant statistic. Currently, our system of higher education militates against students being able to fulfil their ambitions. A properly developed system of credit accumulation and transfer would enable them, at the point when they think, "Perhaps my study is heading in the wrong direction," to realign it, put together a different programme of modules and move between universities.

A second reason that we ought to look at this system relates to market failure, as we discussed previously. If the Government move in the direction they wish to with the Bill, it is important to look at how we protect students from market failure. Financial compensation is only one part of that. Students who have invested time and energy and accumulated credits through study at an institution can have the rug pulled from under their feet. If we had a properly developed system of credit accumulation and transfer, it would be possible for people to use the learning they have already achieved to move to another institution—not in the way that has sometimes happened in the past, where the Government or the Higher Education Funding Council for England have had to step in to barter and negotiate between institutions, but in a recognised way. Students could then say, "I have these credits. I want to progress my learning in this way at this different institution." There may be a way of linking that with student protection plans.

This is a probing amendment, to see where the Government are moving on this issue and to see if we cannot use the opportunity of the Bill to kick-start attempts made in the past to create a more innovative approach to people's learning programmes through a properly recognised and organised system of credit accumulation and transfer.

3.15 pm

Gordon Marsden: It is a great pleasure to speak in support of my hon. Friend's amendment. In his speech, he has encapsulated one of the most important and exciting developments in 21st-century learning that the Bill could achieve.

My hon. Friend referred to market failure and he was right to do so. It is interesting that about a week ago the Jisc parliamentary briefing for the Bill specifically talks about this in terms of the Government's proposals to deregulate parts of the higher education market. I understand that Jisc is sponsored as the UK's expert body for digital technology by the Department. It says that there needs to be a mechanism for recognising and communicating the credits students have gained for modules already studied. It is essential that well managed credit accumulation and transfer scheme arrangements are in place to support students who are affected by market exit. Jisc also talks about the need for a mechanism for recognising and securely storing the credits students have gained for modules already studied, so that these credits can then be transferred to a student's next institution. It makes the obvious point that disorderly wind-down or abrupt closure where the data are lost would have serious implications for affected students and potentially for the reputation of the sector. I think that reinforces my hon. Friend's argument.

I also want to make the point that credit transfer is very important for people who want to move from one institution to another, not least in the circumstances that have been described, but it is also vital in terms of the new flexibilities that the work, life and study balance will require in the 21st century. I will not repeat what I have said on a number of occasions and in a number of places about this, except to emphasise the very strong belief that I and many others hold that the world of further education, higher education and online learning are morphing into each other, sometimes much more rapidly than conventional universities or even conventional policy makers realise, and that process will continue. The question for us in this country is not whether it will happen or not. It will happen. The question is whether it will be our institutions—those higher education and lifelong learning institutions for which we are famous—that take the advantage of this, or whether we will be colonised, if I can use that word, from outside. I think those are really important issues for the Minister to consider, not least in the context of the response to the call for evidence from May.

My hon. Friend the Member for Sheffield Central has said that these ideas have been floating around for years. Of course, I am duty bound both to him and to Sir Bernard Crick, who is no longer with us, to praise the initiative of my noble Friend Lord Blunkett, who published "The Learning Age" in 1999 with Bernard Crick, which put forward some very innovative ideas in that area. We know what the problems were at the time with individual learning accounts. I was one of the people who sat on the Select Committee that looked at that. There were obviously difficulties, but the principle of having accounts that enabled a credit-based system and banking of credits is a very important one. We are unlikely to achieve huge success unless we take a fundamental look at some of the broader issues of funding, but that is for another day and another time and certainly does not fall within the relatively narrow scope of the amendment. I only make the point because I think the two things have to be considered in tandem.

The truth of the matter is that we have systems in the UK at the moment which recognise previous learning. In Scotland there is the Scottish credit qualifications framework, which integrates work-based and lifelong learning. We could learn a lot of things from lots of different places. If the Government are really keen to make progress and to support the sort of ideas that I, my hon. Friend and many other people have discussed, they could do far worse than go back to the major work produced in 2009 for the National Institute of Adult Continuing Education by Tom Schuller and David Watson, "Learning through Life", which has some very innovative and important things to say in that area.

This is an area where there is still fruitful work going on. The Learning and Work Institute has produced ideas for a new citizen skills entitlement, which merits further consideration. Ofsted has talked about how well providers prepare learners for successful life in modern Britain. Ruth Spellman, the chief executive officer of the Workers' Educational Association, said when its report on this matter was launched just before the recess:

"An Education Savings Account...would enable individuals to save for their future Education... This could also encourage and attract employer contributions, particularly if government were to allow tax relief...this would create longer-term and more stable funding streams".

That is on the funding side; the other part of the equation is the credit accumulation.

As the Minister knows, I spent nearly 20 years as an Open University course tutor. What I learnt from that process, apart from the immense sacrifices and dedication of the students, is that the ability to engage in study programmes that coped with things that happened in life—perhaps students had to care for an elderly relative, or had family issues, or were simply ill—and the ability to take years out but not to lose all of that credit are absolutely key to where we need to go in the 21st century.

This is a probing amendment, but it is a pointed probe in the sense that the Government have an opportunity to do significant things in this area that would attract a lot of support. We want them to do those things. They are overdue.

Joseph Johnson: I thank the hon. Member for Sheffield Central for tabling the amendment. It touches on a subject to which we are giving much careful thought, as I indicated when we discussed it briefly earlier in our proceedings.

Supporting students who wish to switch to another higher education institution or degree is an important part of our reforms. It is vital that we make faster progress in this area, and I share the general sentiment expressed by the hon. Gentleman. It is disappointing that we have not managed to put in place an effective mechanism of the sort proposed up until this point. The sector can do more to offer flexible study options to meet students' diverse needs, and it can do more to support social mobility by doing so.

There is an obvious link between withdrawal rates and students not being able to transfer between providers. The amendment refers to a credit rating service. Although we want to enable credit transfer, we want to do so in a context of institutional autonomy, which is crucial to the reputation and vibrancy of UK higher education. We want to avoid a universal approach that undermines that by inadvertently homogenising or standardising provision, which would risk the loss of the great diversity that is one of the key strengths of our sector.

As the hon. Gentleman mentioned, the Government called for evidence on credit transfer and accelerated degrees. We were pleased to receive more than 4,500 responses and we are in the process of analysing all of those carefully. There are a number of issues that we need to consider before moving forward, including the extent of student demand and awareness of the issue, the funding implications that the hon. Gentleman touched on, and external regulatory requirements. We expect to come forward by the end of the year with our response to the results of the call for evidence that we have conducted.

Carol Monaghan (Glasgow North West) (SNP): I can see another issue if we use student retention as one of the metrics of the teaching excellence framework. If students change institutions, will that be taken into account? Will leeway be given to institutions that allow students to transfer credit?

Joseph Johnson: That is an important point that the TEF panel assessors will take into account. It has been factored into the development of the teaching excellence framework metric, but that is obviously an important point to bear in mind.

Although I understand the reason for the amendment, there are powers already in the Bill that allow the Secretary of State to require the office for students to report on matters relating to equality of opportunity in either its annual report or the special report that I mentioned before, and any such report would have to be laid before Parliament, so there is no need explicitly to require reporting on the establishment of a national credit rating and transfer service as a means of improving access to and participation in higher education. The measures in the Bill support our ambitions on widening participation in general. As I said, we are giving the call for evidence responses very careful thought. In the meantime, I ask the hon. Gentleman to withdraw his amendment.

Paul Blomfield: I thank the Minister for his remarks. I think we share a similar ambition. Although I understand it, I am a little anxious about his caution about what he described as homogenising. I do not think anyone wants that. People celebrate the diversity of the sector and would not want in any way to undermine it, but we need to find some way in which universities that may be reluctant to embrace a system such as the one we are discussing are enabled and encouraged to do so more actively than they have been in the past. The enormous energy that went into modularising and semesterising programmes, with the objective of encouraging CATS, failed precisely because of that issue. I hope that when the Minister has had the opportunity to look at the impressive number of responses to the consultation, he will be willing to think radically about how we can embed that sort of system within our higher education terrain. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 36 ordered to stand part of the Bill.

Clause 37

FINANCIAL SUPPORT FOR REGISTERED HIGHER EDUCATION PROVIDERS

Amendment made: 241, in clause 37, page 21, line 7, at end insert—

"but also includes a 16 to 19 Academy (as defined in section 1B(3) of the Academies Act 2010)."—*(Joseph Johnson.)*

This amendment ensures that the definition of "school" used in clause 37 of the Bill includes 16 to 19 Academies.

Clause 37, as amended, ordered to stand part of the Bill.

Clauses 38 and 39 ordered to stand part of the Bill.

Clause 40

AUTHORISATION TO GRANT DEGREES ETC

Gordon Marsden: I beg to move amendment 213, in clause 40, page 22, line 4, leave out "or research awards or both"

See amendment 214.

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

Amendment 214, in clause 40, page 22, line 6, at end insert—

'(1A) The OfS may by order in conjunction with UKRI authorise a registered higher education provider to grant research awards."

Amendments 213 and 214 would give the OfS the power to authorise higher education providers to grant both taught and research degrees but the OfS should be required to do this in conjunction with UK Research and Innovation (UKRI).

Amendment 235, in clause 40, page 23, line 21, at end insert—

'(13) The OfS must consult with UKRI, including Research England, and the appropriate National Academies and learned societies before authorising any provider to grant research awards."

This amendment ensures that OfS consults UKRI, including Research England, before issuing authorisation to grant research awards.

Gordon Marsden: I am pleased to move this amendment and to support the similar amendment tabled by my hon. Friend the Member for City of Durham. The amendments reflect not only our concern but that of a large number of organisations and HE providers about what the relationship will be between the OFS and the new UK Research and Innovation body. Obviously, we will have far more discussion about that in the context of part 3 of the Bill. At this stage, we want to flag up the strong concerns that there should be right from the beginning, not exactly a symbiotic relationship, but a very close relationship between the OFS and UKRI. These probing amendments intend to tease out some of that discussion.

3.30 pm

Amendments 213 and 214 would give the OFS the power to authorise higher education providers to grant both taught and research degrees, but require them to do that in conjunction with UKRI. We are not being prescriptive or suggesting what that requirement on working in conjunction has to be. Rather, we are signalling very strongly that, right from the beginning, the OFS and UKRI and their personnel should understand that in the critical areas of authorising providers to grant both taught and research degrees, it is important that they have not only close formal but close informal relationships, so that we do not get into the situation that sometimes occurs when a new institution is set up—or two, as in this case—where they spend a lot of time marking out their own territories. Territories are important, especially for good governance, but so are co-operation and collaboration. That is what the amendments are intended to do.

Dr Blackman-Woods: I shall continue in the same vein as my hon. Friend. Amendment 235 queries whether the OFS should have the sole power and control over who can grant research awards. Giving the OFS the sole power would mean that it would not have to work with any research funding bodies, or indeed any other relevant agencies, in coming to a decision about whether to grant an institution research degree-awarding powers. There are two significant problems with that. First, the OFS granting research degree-awarding powers without reference to other bodies diminishes the level of expertise going into the decision-making process about whether a specific institution should have those degree-awarding powers. In addition, given that UKRI, Research England and the national academies and learned societies also have responsibilities for providing research funding, it seems to be a major error not to consider what role they would have in the granting of research degree awarding powers. Apart from anything else, it could affect funding decisions that those bodies make.

Consulting UKRI and Research England, among others, on whether to grant research degree-awarding powers would allow for a variety of opinions to be aired and would ensure that the OFS is not acting in isolation. It is really important that the Minister looks at that. He helpfully produced a paper, which we got a couple of days ago—I am not sure when it was produced—which talks about how UKRI should work in partnership with other bodies. Unless I have missed it, though, we do not seem to have had a similar exercise on who the OFS needs to work with.

Particularly with regard to research degree-awarding powers, it would be helpful if the Minister gave some thought to the full range of institutions that need to be involved, not least because this is the second really important point. As the system stands and is described in the Bill, it lacks oversight and checks and balances from the research sector. There is nothing to be gained from the OFS working alone, but a lot to be gained from it working in collaboration. I look forward to the Minister's response.

Joseph Johnson: I am grateful that hon. Members have raised the role of UKRI in the authorisation of the granting of degrees. Our reforms are designed as a single, integrated system that reduces complexity, eliminates barriers to close working and delivers clear responsibilities, especially for the protection of the interests of students. To deliver that integration and close co-operation, it is vital that the OFS and UKRI are empowered to work together. For that reason, clause 103 makes provision to ensure that they do that in a way that enables them to carry out their functions effectively and efficiently.

One key area in which the OFS and UKRI should work in close co-operation is the assessment of applications for research degree-awarding powers, and the provisions in clause 103 will facilitate that. I am satisfied that the provision for co-operation between the OFS and UKRI will address the concern that the hon. Gentleman rightly touches on in his amendment.

The Secretary of State will have powers to require that co-operation to take place if it does not do so of its own accord. We intend to make it explicit in the Government guidance on degree-awarding powers, which we plan to publish, that we expect the OFS to work with UKRI in that way. On that basis, it is not necessary to capture that point in clause 40 as well, so I ask the hon. Gentleman to withdraw the amendment.

Gordon Marsden: The Minister will understand that I can speak only to the Labour Front Benchers' two amendments. It is encouraging to hear that he has made provision for co-operation between UKRI and the OFS. He mentioned clause 103, so no doubt we will have another opportunity to discuss the issue when we examine that part of the Bill. On that basis, I will be content to withdraw the amendment.

Dr Blackman-Woods: I am afraid that I am not quite so easily repleted—*[Laughter.]* Clause 103 states:

"The OfS and UKRI may cooperate with one another".

I accept that subsection (2) gives the Secretary of State an ability to make them co-operate, but the clause does not really capture what we are trying to achieve with our amendments, which is to ensure that the research community is included when research degree-awarding powers are given. The provision might include UKRI, but it does not include the national academies and other learned societies.

I am sure that, having heard my point again, the Minister will want to go away and look into it. Perhaps he will give us an indication of what might be in the guidance or regulations that would assist the OFS in coming to its decisions on research degree awarding powers.

Gordon Marsden: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Gordon Marsden: I beg to move amendment 219, in clause 40, page 22, line 6, after "grant" insert "taught awards and".

This amendment would make clear that qualifying further education providers will have access to taught awards and foundation degrees and also be able to provide degrees, diplomas, certificates or other appropriate courses of study, as defined by the bill.

The amendment is designed to deal with a particular situation in respect of further education colleges that offer higher education courses. Hon. Members will be aware that at a number of points during the passage of the Bill—on Second Reading and in Committee—I have commented on the importance of higher education delivered by the further education sector, and on the need for the Government to focus significantly on that. The amendment deals with some practical problems that do occur. Without mentioning individuals, I can say that at least a couple of cases have been brought to my constituency advice surgery, and other hon. Members may have faced similar issues.

About 250 colleges offer higher education. Twenty of them, including my local college, Blackpool and the Fylde College, have more than 1,000 HE students, and 186 have fewer than 500. The vast majority of college HE courses have been priced at under £6,000, although there has been an increase in those charging above the threshold since the trebling of the tuition fee ceiling in 2012.

The purpose of the amendment is to change the situation whereby colleges that offer foundation degrees are unable also to provide a certificate of higher education, to provide a flexible qualification option for students. Colleges with foundation degree-awarding powers can issue only one award and can consequently issue only a 240-credit foundation degree. A certificate of higher education is 120 credits; the AOC believes, and we agree, that colleges should be able to deliver that as well. Employers often want only a 120-credit certificate of higher education, rather than the full 240-credit foundation degree, because many roles require only level 4. For example, many technician jobs in manufacturing, engineering, construction and accountancy do not require degree-level entry. In addition, many higher apprenticeships include the higher national certificate, which, again, is below degree level.

If I can say so without going outwith clause 40, this issue is highly relevant to what we have said more broadly about the Government's skills plan. The Sainsbury review particularly singled out the importance of boosting our technical skills, and the Minister and other Ministers concurred with its conclusions. The amendment offers a practical way of assisting that process.

In some cases, a one-year course is an exit destination in its own right. The Bill provides a timely opportunity to address that. The recent OECD report "Skills beyond School", which echoes the Sainsbury review, states:

"Nearly two-thirds of overall employment growth in the European Union…is forecast to be in the 'technicians and associate professionals' category".

In a 2014 report, the UK Commission for Employment and Skills—which, sadly, the Government have now withdrawn support from, but which has nevertheless produced valuable reports for the Government—found that

"questions remain about the UK's intermediate skills base. This remains smaller than in many other advanced economies."

It stated that

"skills shortages are acute, and persistent, in middle-skill skilled trades—declining in number, but demanding to recruit".

Allowing colleges to offer certificates of higher education would mean that they could meet local labour market needs better, because nationally developed qualifications are often too generic. It would allow colleges to develop learning modules locally to meet specific industry and business needs. It would also prevent time loss, because the college would not have to go to a university to develop such a qualification; it would be able to work immediately with an employer to deliver the necessary training. I say to the Minister in passing that moving in that direction seems entirely appropriate and in accordance with what the Government have already done in the Bill to simplify and improve further education colleges' ability to award their own separate degrees. Giving colleges the ability to accredit individuals with a certificate of higher education would also be a big step in the right direction towards the much-needed national higher education system that we have been discussing.

The amendment also underlines the point that, in this area at least, further education and higher education are facing and addressing the same sorts of issues. It would promote part-time learning and could allow students to reduce debt more sensibly. Given the recommendations in the skills plan, a certificate of higher education issued by colleges could help to bridge credit-bearing programmes introduced to facilitate transfer or progression between academic and technical routes.

I appreciate that there is a lot of what I might describe as "techie business" in what I have just said, and I do not necessarily expect the Minister to sign up to the amendment, but I ask him and his officials to go

[Gordon Marsden]

away and look carefully at the points I have made. They are not partisan points; the amendment would actually facilitate some of the work the Government are doing in the Bill. Also, in the context of devolution, which we have not talked about much in relation to the Bill, it would make it much easier for some of the new combined authorities, and indeed some of the mayors taking on skills powers, to deliver flexibly some of the improvements that are not just desirable but necessary if we are to boost our productivity and achieve the targets that we will need to achieve in the 2020s.

3.45 pm

Joseph Johnson: I am glad to have the opportunity to discuss FE institutions, many of which are colleges, and degree-awarding powers. Institutions in the FE sector can currently apply for and obtain taught degree-awarding powers so long as they provide higher education and meet the relevant criteria. Indeed, in June of this year, Newcastle College Group became the first FE college to be granted taught degree-awarding powers, and other colleges are in the process of applying.

Any institutions that obtain taught degree-awarding powers, including FE Colleges, are already authorised to grant certificates and other awards as well as degrees. Institutions in the FE sector will continue to be able to apply for and obtain taught degree-awarding powers under the reforms in the Bill. The proviso is that they must be a registered higher education provider and, like other registered higher education providers, meet the relevant criteria. We intend to consult on the detailed criteria following Royal Assent and before the new regulatory framework takes effect. There is therefore no intention to prevent FE colleges from accessing taught degree-awarding powers through the Bill.

As happens now, institutions in the FE sector will also be able to apply for foundation degree-awarding powers only—with the proviso that, in addition to being registered and meeting other criteria, they provide a satisfactory statement of progression setting out what the provider intends to do to enable students to progress on to courses of more advanced study. Again, that is in line with the current arrangements for FE colleges that wish to apply for foundation degree-awarding powers. I therefore believe that the amendment is unnecessary.

Gordon Marsden: Whether the amendment is unnecessary or not—obviously guidance has been given that means we might want to discuss the matter further—does the Minister agree that the ability for colleges to accredit individuals with a certificate for higher education would be a big step in the right direction? That is essentially what the Association of Colleges is asking for.

Joseph Johnson: We will obviously look very carefully at the submission from the Association of Colleges, and officials have heard the hon. Gentleman's comments. We will go away, have a further look at the issue and reassure ourselves that the approach that we are taking is the correct one, but for the time being, we believe that the Bill covers his intentions, and I ask him to withdraw the amendment.

Gordon Marsden: I thank the Minister for that reply. We look forward to the further rumination, if I can put it that way, on the particulars of the issue, and on that basis I am content to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Gordon Marsden: I beg to move amendment 216, in clause 40, page 22, line 28, at end insert

"(c) the provider operates in the interest of students and the public."

This amendment would ensure any new provider must be operating with the public and student interests as a priority.

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

Amendment 217, in clause 40, page 22, line 28, at end insert

"(d) the provider shows evidence of satisfactory and consistent higher education delivery for a minimum of three years, which period may be extended, as part of a partnership with a validating provider."

This amendment would ensure a further education provider can demonstrate that it can meet the requirements to exercise degree-awarding powers.

Amendment 218, in clause 40, page 22, line 28, at end insert

"(e) there is reasonable assurance that a provider is able to maintain the required standards for the duration of whatever authorisation period is set by the OfS."

This amendment would ensure that any provider authorised to grant degrees must be able meet the required standards set for the full period of time they are authorised for.

Amendment 234, in clause 40, page 22, line 28, at end insert—

"(c) the OfS is assured that the provider is able to maintain the required standards of a UK degree for the duration of the authorisation; and

(d) the OfS is assured that the provider operates in students' and the public interests."

This amendment requires the OfS to be assured about the maintenance of standards and about students' and the public interest before issuing authorisation to grant degrees.

Amendment 220, in clause 40, page 23, line 9, at end insert

"(9A) In making any orders under this section, and sections 41, 42 and 43, the OfS must have due regard to the need to maintain confidence in the higher education sector, and in the awards which they collectively grant, among students, employers, and the wider public."

This amendment would ensure that the granting and removal of degree awarding powers would be linked to a need to maintain confidence in the sector, and with a view to preserving its excellent reputation.

New clause 9—*Automatic review of authorisation—*

"(1) The OfS must review an authorisation given by a previous order under section 40(1) if—

(a) the ownership of the registered provider is transferred to another legal person; or

(b) the owner of the registered provider has had restrictions placed on its degree-awarding powers in another jurisdiction, or

(c) for any other reason it would be in the student or public interest to do so.

(2) In this section "review" means consider whether to vary or revoke authorisation within the meaning of section 42."

This new Clause would ensure that a review of a provider's degree awarding power would be triggered if the ownership of a provider changes, if the owner of the registered provider faces restrictions to its degree awarding powers in another jurisdiction or if the OfS deems a review necessary to protect students or the wider public interest.

Gordon Marsden: We come to one of the most significant and contentious elements of the Bill—the Government's proposals to enable new providers. Clearly, the amendments cover a wide area of subjects. Often on these occasions it is difficult to know whether one is delivering a clause stand part speech as opposed to a speech on each amendment or group of amendments, but I will do my best to do the latter.

The Chair: If the hon. Gentleman wishes to refer to any or all of the amendments in the context of the clause, I will be happy to accept that. We can determine later whether we have a clause stand part debate, depending on the level of discussion at this time.

Gordon Marsden: That is very helpful, Mr Hanson. I am grateful for your guidance.

For the convenience of the Committee, I will make clear the context in which we tabled the amendments. Amendment 216 would ensure that providers operate in the interest of students and the public, which we believe is very important. It is not simply a question of competitiveness. Amendment 217 is about providers showing evidence of satisfactory and consistent higher education delivery. I will talk more specifically about the rationale for that timeframe. Amendment 218 states that any provider authorised to grant degrees should be able to meet the required standards set for the full period of time they are authorised for. Amendment 220 states that the OFS must have due regard to the need to maintain confidence in the higher education sector and the awards they collectively grant among students, employers and the wider public.

The amendments deal with specific parts of the process of authorising the granting of degrees proposed by the Government. However, they appear in the context of our grave concerns about the mechanisms and the process that the Government are preparing to take forward. It is not only our grave concerns; most, if not all of the large university and HE provider organisations, including Universities UK and the University and College Union, have the same concerns.

We said on Second Reading that we were concerned about where the rapid expansion of what the Government call challenger institutions is taking us. I said I was concerned that giving providers the option from day one to build up that process would potentially be very dangerous, with students in effect taking a gamble on probationary degrees from probationary providers. I asked, rhetorically, who would pick up all the pieces if those things went wrong.

The amendments are designed to mitigate—I am afraid they would not entirely obliterate—the problems that might arise from the way the framework has been put forward. I want to repeat, to avoid any doubt, that we do not in principle oppose the expansion of the sector, competition in the sector or new providers. However, we believe strongly that without a strong regulatory framework that makes viable easier access for new providers to the higher education sector, we could have major crises, difficulties and scandals that would affect not only the institutions and the students—who are crucial—but this country's whole reputation for delivering higher education provision.

If the Minister is in any doubt about that, he need only look at the some of the questions raised in the United States about the activities of private providers; at some of the criticisms that Baroness Wolf has levelled at a similar process in Australia; or, as I said on Second Reading, at the issues involving BPP and the Apollo Group some three to four years ago, which caused his predecessor to take a deep breath and pause on these areas. I am not suggesting to him that these things should be set in stone just because the Government got it wrong four years ago and were forced to retreat; I am suggesting that, as I have said previously, the rather gung-ho and raw free-market rhetoric of the White Paper should be tested against some very specific issues and safeguards, which is what we are trying to do with these amendments.

I repeat what has been said by the UCU, which

"acknowledges that private colleges and universities have been a feature of our HE system for a long time. However we are strongly of the opinion that higher education providers should be not-for-profit bodies because these pose a far lower risk to the sector. Accelerating the rate at which for-profit organisations can award degrees or become universities exposes the sector to greater risk from those motivated to move into the market predominantly for financial gain."

The UCU also expressed concern about the issues surrounding university title, which we will address in due course.

When we consider new clause 6—this will also come up when we consider amendment 221 to clause 43—it might be worth noting that existing universities have grave concerns about the right to revoke degree-awarding powers by order. All the people who would be affected by the failure of a new provider, such as the people who clean, who maintain the buildings or who cook the food—all the people who keep higher education providers going—deserve a say and protection in this area, as well as the students and the academics who will teach at these new institutions, which is why Unison has expressed its strong concerns about the proposal.

The risks of market exit were discussed in the detailed impact assessment produced by the Department for Business, Innovation and Skills, which assumed that volatility and the risk to students of course or institution closure could be managed with protection plans. Those assumptions, which I have looked at two or three times, still seem to be extremely cavalier. The impact assessment states that there is a

"risk to students attending HEPs that fall outside the scope... Internal BIS forecasts estimate that the number of providers operating outside of the system…will decrease from 655 to 460 by 2027/28."

There will still be people outside the system.

MillionPlus has expressed similar concerns, and I will put this squarely in the Brexit context. As I said earlier, the eyes of the world will be focused on us, for good or ill, over the next two to three years. I would be surprised if anyone who has been abroad anywhere in the past couple of months has not been asked, "What do you think about Brexit?" For good or ill, that is what loads of people now think about the UK, and it shines a light on the importance of ensuring that the obvious ups and downs of the Brexit process do not cause irrevocable damage to one of this country's most precious worldwide brands, the UK higher education brand. If we enter a process that does not have sufficient guarantees and protections, apart from the things that we should be doing on a social and a citizen basis to protect the people who work in such areas—this is a pragmatic

[Gordon Marsden]

point—we will commit an act of great folly from which, as I said this morning, we will find it difficult to recover.

Our proposals are designed to mitigate that process. *Research Fortnight* argued in May that

"the title of university needs to be seen as a privilege…not an automatic entitlement".

I agree with that. One of my concerns about the Government's approach—I said this right at the beginning, and others have said the same—is the way in which they have not rowed back on the proposal that, from almost the first day of operation, these applicant providers will have the ability to operate and recruit people for degree processes.

4 pm

My hon. Friend the Member for City of Durham referred to papers coming out from the Government and this was one of the subjects we discussed shortly before the recess, so I have taken the opportunity of the recess to look in some detail at the technical note that the Government produced on market entry and quality assurance. I want to pose a number of specific questions related to that paper to the Minister.

Page 5 of the technical note talks about the importance of facilitating new entrants into the system. It says:

"One example will be the introduction of single-subject DAPs"—

degree-awarding powers—

"facilitating new entrants to the system, but only allowing them to award degrees in their specialisms."

I assume that whoever wrote that thought it was a plus point for those of us who worry that new entrants might spread their net too widely and therefore be at risk of market failure, but it does not reassure me. What it says to me is that it is likely to attract institutions, or potential institutions, that are not interested in offering the broad range of courses that higher education has traditionally wanted to do or in the traditional practices of a university, but that are—although this may be a minority—simply interested in making a quick buck from whatever is the flavour of the month. Even if they are not interested in that, the fact that they are so narrowly based, with rapid expansion, would make them more at risk of early market exit. The Minister might like to tell me what analysis he has made of the success or failure of single-subject DAPs elsewhere.

In the seventh paragraph on page 5—this is something we welcome—the new proposals suggest annual reviews, as opposed to the six-yearly reviews that were originally suggested. Frankly, that was one of the most ludicrous aspects of the original proposals, so it is welcome that the Government have realised they need to do that.

Under the heading "Maintaining a co-regulatory approach", the Minister—and the paper—has placed great faith in the ability of the OFS to monitor this process. It says:

"The OfS and designated quality body will maintain the existing co-regulatory approach to determining the baseline requirements for quality and standards,"

but we have to ask where the scrutiny will come from. We know that

"Current HEFCE powers will transfer to the OfS and will be strengthened to ensure that OfS has the necessary powers to intervene quickly…For example OfS will be given new powers and could: require an action plan to address areas of weakness; impose student number controls; charge fines; not-renew…or, as a last resort, remove DAPs and remove university title".

That sounds like an impressive collection of powers for the new office for students, but where will the scrutiny of what they do come from? Where will the resources for what they do come from? What will the implication of those increased resources be for mainstream existing HE providers that may have to bear the brunt of those costs? There is nothing about that in this technical paper.

Paragraph 3 talks about the OFS's judgment on a provider's readiness, but there seems to be no outside judgment on a provider's readiness to meet registration conditions. On financial projections, a provider will be asked for just a minimum of three years of financial projections; that is just enough for one degree cycle. If a provider wants to access student loans or public funding, it has to meet baseline quality requirements. These include

"sufficiently experienced teaching staff and faculty… appropriate curriculum and course materials"

and

"appropriate teaching and learning facilities".

We know sadly that in a minority—it is a small minority—of existing HE providers, experienced teaching staff and appropriate curriculum and course materials are, from time to time, found wanting. We know that some institutions go down the route of offering low or zero hours, and we need robust mechanisms to assess that. How can those things be accurately assessed if, for the sake of argument—this goes back to what we discussed earlier—no student or faculty members are required on the office for students board?

On page 11 of the technical paper, the requirement for a track record in delivering HE has changed from four years to three. We could argue whether the status quo should remain. UCU has suggested it would be content with three years. The crucial thing is that the track record should be looked at with very great care. There is no evidence in the rest of the suggestions in the technical paper that there will be an increase in robustness; rather, the opposite. That is shown on page 12 and it is probably worth me reading a small section from that page:

"The probationary DAPs test would test a self-evaluation from the provider setting out the proposed…management of academic standards and the plans, preparations and procedures in place to enable expectations to be met. This would be based broadly on the current DAPs criteria…This test would assess the provider's understanding of what holding DAPs entails."

The fact is that a key component of the probationary DAPs test is a self-evaluation of readiness by a provider. I do not think most people in the outside world, let alone in the university and higher education area, would feel entirely comfortable or happy with that. It is not surprising therefore that severe criticisms of the Government's process have come from all quarters. I have mentioned the range of university organisations and those who represent people employed in the sector that are concerned. The effect on students is potentially multifarious. We have examples. I will not repeat the ones I mentioned when we touched on issues with private providers in the first half of the Bill, but I noted on that occasion that the Minister had no answer, or chose not to give any answer, to whether the case studies

of recent criticisms of private providers—by recent, I mean within the past 12 months—had any bearing whatever on the White Paper or the proposals in the Bill. My reading is that those criticisms and those of the NAO and the Public Accounts Committee might as well not have existed according to the paean to competition and expansion in the White Paper.

These are important issues. If we get this wrong, loads of people will suffer. We discussed the risks of market exit. Let us take one example of a provider. Let us not even say that the provider went in with the intention, to use a colloquialism, of making a fast buck and getting out. Let us say that after two years, the financiers of the provider were overstretched. They might have filed for bankruptcy or simply gone bust. How will the students who enrolled in that institution be protected? The Minister put a lot of emphasis on financial compensation, but as we have heard, that is only part of it. What do we do with an adult, in their 30s or 40s, who has done 18 months on a degree? We know that a significant number of new providers—this is a point in their favour—cater for mature and part-time students. But people who enrolled with those new providers would need to be even more assured that their degrees would not turn belly up, that they would not be left with useless qualifications and that they would be able to continue their studies in some other shape or form. The Government have given no satisfactory responses or explanations about how that process, beyond financial compensation, would work. Those are the things we are rightly concerned about.

It is not simply the Labour party or universities that are making those criticisms; it is aspiring Conservative members. I draw attention to the *Financial Times* article of 2 September, written by Martin Wolf, which said that—*[Interruption]*. As far as I am aware he has not crossed the Floor to us.

The Chair: Order.

Gordon Marsden: Martin Wolf said:

"The reform of Britain's universities is a betrayal"—

Joseph Johnson: Will the hon. Gentleman give way?

Gordon Marsden: No I will not. I am just about to finish the quote. Then the Minister can intervene.

"The reform of Britain's universities is a betrayal of Conservative principles".

So there we have concerns across the sector, even in the Minister's own party.

Joseph Johnson: Is the hon. Gentleman suggesting that Martin Wolf is an aspiring Conservative member, as he put it?

Gordon Marsden: No. I said that Martin Wolf was not about to cross the Floor to join the Labour party and that is exactly the case. *[Interruption.]* If Mr Wolf wanted to put things on record I am sure he could do so, but that is the point I am making. The Bill is causing concern among the Conservative party's own traditional supporters and representatives, and elsewhere. That is the important issue to be addressed here.

The Bill, as the Council for the Defence of British Universities has said,

"is designed to give encouragement to 'new providers' but has few safeguards to protect students from for-profit organisations… Experience in this country, and particularly in the US, suggests extreme caution is needed to protect the reputation of British universities".

Those are some of the issues that we have tried to mitigate in our amendments. I have asked the Minister a range of specific questions regarding the TEF paper, and I invite him to respond to them.

Dr Blackman-Woods: Given the gung-ho attitude that the Minister has displayed in wanting to open up the sector to alternative providers, I am not sure I will get anywhere with amendment 234, but I will try, because as my hon. Friend the Member for Blackpool South has outlined, there is considerable concern across the higher education sector that not enough regulation and requirement is being put on to new institutions before they are allowed to have degree-awarding powers.

The amendment would put a few additional requirements into clause 40(4). The OFS would have to assure itself that the provider was able to maintain the required standards of a UK degree for a period of perhaps three to five years—the length of time we would expect a degree to last—to ensure that it was properly bedded in. The reason for that, as my hon. Friend outlined clearly, is to prevent students from undertaking courses and degrees with new providers that have not been adequately tested and where there are not enough safeguards in place. If a course falls, students have to transfer or be compensated in some way, so the amendment is an attempt to put a few more safeguards in the system.

The amendment asks that

"the provider operates in the interest of students and the public."

That is important because, as my hon. Friend said, we are all genuinely worried that some providers could operate simply in the interests of their shareholders, without sufficient regard to the needs of students.

We have rehearsed a whole set of arguments, which I will not go through again, about the way in which institutions should demonstrate a public interest. They should have a civic role and be judged in exactly the same way as all other universities. The Minister has not really given us an adequate explanation as to why he has adopted a gung-ho approach with so little regulation and requirements being placed on alternative providers, and he has not mentioned what he will do if students end up losing out. The Committee has not sufficiently added requirements to the Bill to ensure that students' interests, and indeed the public interest, are safeguarded.

4.15 pm

Paul Blomfield: I rise to speak to new clause 9, fairly briefly. I do not want to repeat the concerns that have been ably outlined by my hon. Friends, but I want discuss one particular problem. The Minister is deeply conscious of the risks presented by some potential new providers. We have discussed those risks outside of the Committee, and he recognises the importance of having a robust regulatory framework.

New clause 9 would deal with a specific problem of which the Minister will be aware in relation to some private providers in this country and, in particular, in

[Paul Blomfield]

the United States, where the terrain is similar to the one that he is, arguably, trying to create through the Bill. One problem in the United States—this is also true in Australia to a significant degree, as the Minister knows, because he has looked at the system there—is that a business model has developed for some avaricious companies that see the opportunity to milk the public funds that are available to support students through loans.

Those companies are less concerned than others with the quality of the offer they make, and they have no long-term commitment to students. Theirs is a model in which companies offer a product, and students are then attracted by aggressive marketing, draw down a loan, are let down by the quality of provision, end up with a degree with questionable value, and face enormous debts to repay. It is a model that neither I nor the Minister want, but it has been encouraged, in some cases, by the transfer of ownership once degree-awarding powers have been given. My hon. Friend the Member for Blackpool South mentioned BPP and Apollo, but the Minister is also aware of the problem in the United States.

The new clause would ensure that the regulatory portal for entry to degree-awarding powers will be triggered if an institution changes ownership, because the culture, commitment and quality of provision can change substantially when that happens. Likewise, if restrictions have been imposed in another jurisdiction on the owner of an institution with degree-awarding powers—we know that many companies in the sector operate across countries—that should be a sufficient signal to us to be worried and to review any decision on degree-awarding powers for that owner in our jurisdiction. In those two respects, the new clause would simply provide a trigger to re-open the decision to give degree-awarding powers, which I would have thought the Minister would agree with. I hope he will either support the amendment or reassure me about how he intends to address the issue.

Joseph Johnson: I am still reeling from the hilarious image that the hon. Member for Blackpool South conjured up of Martin Wolf as an aspiring Conservative Member of Parliament. I worked with Martin for 13 years at the *Financial Times* and I have no doubt that that characterisation of his career plans is very wide of the mark. Judging by some of his contributions to the debate over the future of HE in this country, he might be more likely to seek to become master of an Oxford college. But a Conservative MP? I think not.

The Chair: Order. He is also not on the face of the Bill, so stick to the argument—or lack of it.

Joseph Johnson: We are justifiably proud of our HE sector, and our country is renowned as the home of many world-class institutions, but that does not mean that we should be satisfied with the status quo. As I have said before, the current system is too heavily weighted in favour of existing incumbents, which is stifling innovation in the sector. As Emran Mian, director of the Social Market Foundation, has said:

"Higher education is too much like a club where the rules are made for the benefit of universities. These reforms will begin to change that.

Students will have access to more information when they're making application choices; and universities will be under more pressure to improve the quality of teaching."

Under the current regime, new and innovative providers have to wait until they have developed a track record that lasts several years before they can operate as degree-awarding bodies in their own right, no matter how good their offer or how much academic expertise they bring to bear. To develop that track record, they typically have to rely on other institutions to validate their provision in some way, which can be a huge obstacle. The onus is on the new entrant to find a willing incumbent and to negotiate a validation agreement. Such agreements can be one-sided and in some cases prohibitively expensive, as we heard in evidence given to the Committee.

Our reforms will ensure that students can choose from a wider range of high-quality institutions and will remove any impression that, as John Gill, the esteemed editor of *Times Higher Education*, put it, existing universities can

"act like bouncers, deciding who should and should not be let in."

If a higher education institute can demonstrate its ability to deliver high-quality provision, we want to make it easier for it to start awarding its own degrees—not harder, as the hon. Member for Blackpool South would like—rather than needing to have its courses awarded by a competing incumbent. Earlier in this sitting, the hon. Gentleman said that the whole point was that it should be difficult. We fundamentally disagree. If there are high-quality providers out there that want to come in and provide high-quality education, we want to make that easier for them, not more difficult.

Gordon Marsden: Again, the Minister is trying to set up a straw man. "Difficult" does not mean "impossible". It means that, because literally hundreds and in the future possibly thousands of people will be relying on the decision that is made, there should be due process—a significant process. The trouble with what the Minister suggests is that he is not just making it easier, he is making it far too easy.

Joseph Johnson: I ask the hon. Gentleman to look back at the transcript of our earlier discussions and reread his comments. He said that the whole point was that it should be difficult. That is a fundamental point of difference between us. We believe it should be easy for high-quality providers to get into the system and offer high-value-for-money higher education.

We know how important universities can be to their local economies. Recent research by the London School of Economics has demonstrated the strong link between universities opening and significantly increased economic growth. Doubling the number of universities per capita is associated with more than 4% higher GDP per capita. However, the sector has built up over time to be serving only parts of the country. It is not providing employers with enough of the right graduates, especially STEM graduates. It can do more, as we discussed earlier, to offer flexible study options to meet students' diverse needs, and it can do far more to support social mobility. Most OECD competitor countries have a higher proportion of the population entering higher education than the UK. We have about a 51% first-time entry rate, compared with an OECD average of about 60%.

Dr Blackman-Woods: Would the Minister accept that, if the Government are serious about wanting more people to have an experience of higher education, that can be done through expanding the current institutions or in a more measured way of bringing alternative providers into the system? My anxiety has grown over the afternoon, because making it easy for alternative providers will not necessarily guarantee sufficient safeguards for students or the public.

Joseph Johnson: Of course we want high-quality provision to expand, whether through the entry of new institutions or the expansion of existing institutions that do well in the quality assurance frameworks that we have in our system—the research excellence framework and the TEF that we are introducing for teaching. They will get more resources and will be able to expand high-quality research and teaching activities. That is how we see the market developing in this country.

The system needs to have informed student choice and competition among high-quality institutions at its heart. Competition between providers in higher education—indeed, in any market—incentivises them to raise their game, offering consumers a greater choice of more innovative and better-quality products and services. The Competition and Markets Authority concluded in its recent report on competition in the HE sector that aspects of the current system could be holding back competition among providers, which needed to be addressed. That is what we are doing with the provisions in this and later clauses, including those covering validation.

Paul Blomfield: I would be grateful if the Minister could share with us the work that the Department has done on comparing the impact of private providers in other countries with developed higher education systems. My understanding is that there is very limited evidence to suggest that increased competition has contributed to innovation, higher quality or lower prices within the countries that the Department has looked at. Could he share the evidence?

Joseph Johnson: First, I would encourage the hon. Gentleman not to try to compare apples and pears by talking about the US experience. Many of the parallels that he is attempting to draw with the so-called private sector in the US are not really relevant to our environment here in the UK. US private providers are subject to little state control. We have a strong, and increasingly strong, regulatory framework in place to ensure appropriate oversight. I again encourage Opposition Members not to disparage institutions that they describe as for-profit or private providers. Let us remember first that all higher education institutions are private to begin with—every single one of them. Let us try to get that straight in our minds right away.

Gordon Marsden *rose—*

Joseph Johnson: No, I am going to make this point, because the hon. Gentleman has already intervened. Let us also remember that there are exceptionally good providers in the sector delivering high-quality education sector, for example Norland College, the University of Law or BPP University. For-profit providers have among the highest levels of student satisfaction in the system, demonstrated for example by the University of Law coming joint first in overall satisfaction in the most recent national students' survey. I find it sad and disappointing that the hon. Member for Blackpool South wants to disparage such institutions and those who choose to study at them.

Gordon Marsden: I am not disparaging those institutions. They have reached that position precisely through the rigorous system that we currently have, which the Minister is proposing to dismantle. He has failed to address some of the questions I put to him. For example, does he seriously believe that the introduction of single-subject DAPs is a good thing for students?

4.30 pm

Joseph Johnson: I will shortly come on to the single-subject degree-awarding powers measures that we are proposing, and yes, I obviously believe that specialist provision is to the advantage of the higher-education system, because it will help us address many of the skills shortages that the country faces. We can point, for example, to the New Model in Technology and Engineering institution in Hereford, which will be a specialist STEM provider in an HE cold spot. That is precisely the kind of new entry that we want to encourage into the system.

Competition expands the market and widens choice to the benefit of students. That is generally, although not universally, accepted. It is certainly accepted by the sector itself.

Paul Blomfield: Will the Minister give way?

Joseph Johnson: I am going to make some progress, because I have got a fair amount to get through.

Universities UK, the representative body, has said it welcomes the Government's intention to allow new providers in the system to secure greater choice for students and to ensure appropriate competition in the higher education sector. Paul Kirkham pointed out in a speech earlier this year that

"there are many reputable APs out there, providing specialist, bespoke education and training to students who, lest we forget, consciously choose such an alternative."

The story of those new entrants and of diversity and provision has been one of widening participation. We want them to be able to compete on a level playing field.

As we discussed earlier, the world is changing fast, and the higher education sector needs to change too if it is to meet the needs of 21st-century learners, yet in a 2015 survey of vice-chancellors and university leavers 70% of respondents said that they expected higher education to look the same in 2030 as it does now—largely focused around the full-time three-year degree. The risk is that, given their position, that will become a self-fulfilling prophecy. We know, for example, that the share of undergraduate students in English higher education institutions studying full-time first-year degrees—the traditional model—has increased from 65% in 2010-11 to 78% in 2014-15. Allowing the vested interests of incumbents to continue to protect what is effectively a one-product system that promotes only the three-year, full-time, on-campus undergraduate university course as the gold standard comes with considerable risk. It is a high-cost and inflexible approach, and given that in excess of 50% of the population wish to engage in

[Joseph Johnson]

higher education, it cannot be the only solution. That system of validation is curbing innovation and entrenching the same model of higher education.

As Paul Kirkham said in evidence to 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, Q15.]

As Roxanne Stockwell, the principal of Pearson College, said in her submission:

"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."

We must not be constrained by our historical successes.

Carol Monaghan: I do not recognise the picture of higher education that the Minister is painting. It has changed greatly, even in the past 10 to 20 years. There is a massive focus on skills, and students are now leaving university with much greater abilities, and the problem-solving, business and employability skills that are required. I simply do not recognise the picture of traditional HE that the Minister paints.

Joseph Johnson: I urge the hon. Lady to recognise that huge value has been added to the sector by the arrival of new entrants. New providers have tapped into unmet demand, and that is why they are springing up. They are surviving the test of the marketplace and meeting a need that is not presently being met. That is why they are coming into existence; they are providing value and succeeding and thriving in the marketplace. We should welcome what they bring rather than denigrate it.

As a report on international experience by the Centre for Global Higher Education found, private providers can

"swiftly provide courses to meet unmet demand, and deliver them in convenient ways, such as online or in the evening and over the weekend."

We also know that they offer greater flexibility to potential students by having different course start dates throughout the year. Alternative providers are already supporting greater diversity in the sector, which we should all welcome. Some 56% of students at alternative providers are aged 25-plus—I know that the hon. Member for Blackpool South cares greatly about mature students—compared with only 23% of students at publicly funded institutions. They have higher numbers of black and minority ethnic students, with 59% of undergraduate students at alternative providers coming from BME ethnic groups compared with 21% at higher education institutions overall.

Gordon Marsden: All the statistics that the Minister has just reeled off, which we recognise, underline precisely why we need rigorous—not blocking—regulation. The sorts of people who are going to the providers he talks about are those who will suffer most greatly if those providers go belly up. That is why we need rigour in that area, and that is why the best alternative providers have succeeded and are coming through at the moment. He is constantly setting up straw men.

Joseph Johnson: We are in agreement. There will be robust quality gateways, financial management tests and governance tests in the system.

Gordon Marsden: They are not robust.

Joseph Johnson: They are as robust as they need to be, and they will ensure that only high-quality, well managed, stable institutions that deliver high-quality higher education enter our system.

As I have set out, current would-be new entrants typically rely on competitors for a foothold in the sector. It is hard to think of another sector—including those involving major once-in-a-lifetime decisions, such as mortgage or pension providers—where one provider is beholden to another for market entry in that manner.

Inevitably, the nature of our validation requirements has a moulding effect on entry into the system. New providers may feel forced to adopt practices, habits and mentalities of incumbents in a way that can stifle innovation or even cede some of the new entrants' competitive advantage. For example, we can read in the evidence provided by Le Cordon Bleu how that can happen. It chose not to offer a UK degree via the validation process, as it felt it would be required to hand over its recipes, techniques and individual culinary style to another institution in order to have its courses validated.

Carol Monaghan: Will the Minister give way?

Joseph Johnson: I will make some progress, if the hon. Lady will let me.

In the case of Le Cordon Bleu, the intellectual property of its course would be free for the validating institution to redistribute as it saw fit. We have heard a fair amount from Opposition Members about for-profit providers, and the idea that for-profit institutions would not act in the interests of students. That is simply not true.

Gordon Marsden: We did not say that—we said they might.

Joseph Johnson: The insinuation was certain.

Gordon Marsden: You're the one who's insinuating.

The Chair: Order. Will the hon. Gentleman refrain from heckling? He has the opportunity to speak, and he can respond in due course.

Joseph Johnson: The insinuation that followed the persistent tropes denigrating private providers, new providers or alternative providers was very clear: the hon. Gentleman sees for-profit providers as fly-by-night operators out to exploit naive students at the expense of taxpayers. The whole riff he has been developing over weeks before this Committee is unmistakeable, and it is simply not true.

We need a diverse, competitive higher education sector that can offer different types of higher education, giving students the ability to choose between a wide range of providers. We must not constrain entrepreneurial activity and stifle innovative provision at students' expense. New ventures are driven by a range of motives, not just

by wealth creation, such as the desire to innovate and create new products, the desire to prove themselves better and smarter and a desire to create a personal legacy. It also seems strange that on the one hand making a profit is deemed distasteful, whereas on the other hand to fail to make a profit would be judged as a sign of financial unsustainability. There is an inherent contradiction in the hon. Gentleman's approach to this question.

Turning to the specifics of amendments 216, 217, 218, 220 and 234, I hope—although I may not be successful—that I can still assure hon. Members that the reforms we are proposing will ensure that both the interests of students and the wider public are well served. In recognising the need for the changes that I have just set out, we also recognise the great importance of sustaining and improving quality and standards. Our plans are designed to ensure that quality is maintained, and that only those providers that can prove they can meet the high standards associated with the values and reputation of the English HE system can obtain degree-awarding powers. We intend that the assessment of whether a provider meets the criteria to hold degree-awarding powers would rest with the designated quality body; this mirrors current arrangements.

In order to become eligible for degree-awarding powers, providers will have to register with the OFS. We expect them to register in either the approved or approved fee cap categories. This would ensure that applicants for degree-awarding powers meet high market entry and ongoing registration conditions, which we expect to include quality and financial sustainability, management and governance criteria. As now, degree-awarding powers will either be granted on a time-limited or an indefinite basis. Degree-awarding powers being awarded on a time-limited and renewable basis in this way is critically not new: alternative providers and further education providers are already granted these powers on a six-yearly renewable basis. We intend to level up the playing field and raise the quality threshold so degree-awarding powers are granted on a time-limited basis to all in the first instance, with the opportunity for all to progress to indefinite degree-awarding powers subject to satisfactory performance.

What we do intend to do is change the requirement that new high-quality providers have to build up a track record and be reliant on incumbent institutions to validate their provision. However, as we set out in the factsheet on market entry and quality assurance that we published and sent to the Committee, we plan that in order to be able to access time-limited probationary degree-awarding powers, providers will also need to pass a new and specific test for probationary degree-awarding powers. Under this test, we expect applicants to be required to demonstrate that they have the potential to meet the full degree-awarding powers criteria by the end of the three-year probationary period and we fully expect probationary degree-awarding powers to be subject to appropriate restrictions and strict oversight by the OFS in order to safeguard quality. We expect this oversight to be similar to the support of a validating body, except that new providers will not need to ask a competitor to do this.

Gordon Marsden: The Minister is now beginning to address the specific points I made, although he has still not commented on the rationale for allowing single-subject DAPs. That is not the same as STEM ones, Minister, because those cover a much broader range of things. May I ask the Minister specifically whether he considers the inclusion of self-evaluation as a key element in deciding whether people should have these degree-awarding powers sufficient and adequate?

Joseph Johnson: As he has pressed on this first, let me come to the hon. Gentleman's point about single-subject degree-awarding powers. We want the scope of degree-awarding powers to be more flexible, so that both probationary and full degree-awarding power holders would be able to offer degrees in specific subjects or with greater choice of levels. This would enable them to start awarding degrees while developing their provision and capacity, to assume increased levels of powers and enable the removal of restrictions over time. Holders of single-subject DAPs will, if granted validation powers, be able to validate in that subject only, and we intend that they will be eligible for university title. There are many specialist providers that I believe would benefit from this. For example, Norland College has been delivering specialist education since the 1860s and could be one of the providers that seeks to benefit from these provisions. It has a solid reputation for the quality of its provision.

Turning to the hon. Gentleman's more recent point about self-evaluation, we intend self-evaluation to be only one part of a thorough and robust process to assess readiness for probationary degree-awarding powers. Understanding what it means to uphold academic standards is essential for any provider and should be tested, and we intend to consult on detailed criteria that we plan to publish in guidance.

4.45 pm

I conclude by bringing to the Committee's attention some remarks from two bodies that have assessed our overall package and concluded that we have struck the right balance in our approach. Maddalaine Ansell, chief executive of the University Alliance, said:

"The right regime for higher education and research is essential for building the knowledge economy of the future. These plans strike a healthy balance between protecting the quality and global reputation of our country's universities, whilst also encouraging innovation."

We welcome the support of the Quality Assurance Agency for Higher Education, which said:

"The government has struck a balance between encouraging competition and rigorous protection of UK higher education's world class reputation, including independent quality assurance and the requirement of new providers to meet the expectations of the UK Quality Code. QAA supports measures to protect student interests and the new flexible routes to achieve degree awarding powers at Bachelors and subject level, which will allow new providers to develop their capacity over time."

We plan for the detailed criteria and processes, as under the current system, to be set out in Government guidance. My Department intends to consult on the detail of the guidance before publication, which will enable all stakeholders to have the opportunity to feed in their views.

On new clause 9, our current policy is that degree-awarding powers cannot be transferred and we do not see that changing. If a holder of degree-awarding powers were involved in a change of ownership, they would be expected to inform the OFS, and to demonstrate that they remained the same cohesive academic community and continued to meet the criteria. We need to maintain

flexibility to adapt to changing circumstances. Therefore, it is appropriate that these matters are covered through guidance in the same way in which the process currently operates. We intend to consult on the guidance before the new regulatory regime is operational. I therefore ask the hon. Member for Blackpool South to withdraw the amendment.

Gordon Marsden: I listened carefully to the Minister, as I have throughout our proceedings. At least he is now addressing some of the meat of the issues, rather than going off and misrepresenting Labour's position, which I warned him not to do at the beginning because we have made our position clear.

The Minister attempts to smear the Opposition by saying that we are not in favour of for-profit institutions. We did not say that. We said that for for-profit institutions to be absorbing significant amounts of public money and support—the implication of his proposals—we need rigorous inspection and process. I do not believe that he has demonstrated that today by offering a system of, "We'll do it this way and that way with guidance."

Where is the evidence? The Minister has produced no evidence for the so-called stifling of all the private institutions that are just springing up. We heard evidence from private sector alternative providers, including Condé Nast. Those providers were not—dare I say—typical of the sort of providers that we will get during this great revolution that the Minister is talking about. If he looked beyond his obsession and besottedness with his competition gurus to the possible implications if his proposals went wrong, he will see that we are not crying about things that will not happen. These are real risks and it is incumbent on us as policy makers and Members of Parliament to look not just to the utopian view but to a realistic view. Public money going into this expansion needs guarantees for the students and for the people who work in the institutions. If they do not get those guarantees, not only will a great deal of public money be lost but the public reputation of our higher education system will be at risk.

It is clear that the Minister is not going to move on these amendments. We will not press the amendments to a vote at this point and will make a decision on clause 40 when we have completed the further deliberations on the clause.

Dr Blackman-Woods: I want to say briefly to the Minister that I do not think that it should be easy to get degree-awarding powers in this country. If we are really serious about upholding the quality and excellence of higher education, there should be a rigorous system and, because of the Minister's remarks and the lack of safeguards for students and the public, I wish to press amendment 234 to a vote.

Paul Blomfield: I am sorry that the Minister sought to characterise our concerns in the way that he did. There are good examples in many countries across a diverse range of higher education providers, but he will also recognise that there are examples of unscrupulous operators who have caused real problems, not just in the United States—also in Australia. In the US, it has led the federal authorities to take legal action on behalf of students against some of the providers. All we are seeking to do is to ensure that a robust framework is in place to protect us from that situation in this country.

On new clause 9, I was reassured to some degree by the Minister's comments on change of ownership, but I would welcome clarification on whether the review process that he would expect would be as robust as the initial regulatory entry. He did not address my concerns on the restrictions being imposed on providers in other jurisdictions, which is the second part of new clause 9, and whether that would also trigger the sort of review I am seeking through the new clause.

Joseph Johnson: I thank the hon. Gentleman for his reasoned approach. The approach that the OFS would take would depend on the circumstances of any transfer of ownership. The whole philosophy of the OFS is that it is a risk-based regulator that seeks to act in a proportionate, reasonable way. Given that core approach to the way that it will regulate the sector, we would not expect it to have a one-size-fits-all policy response to every particular circumstance that might arise. I think the answer is that the OFS would evaluate the situation in light of all its duties and take a decision on how to proceed on that basis. That would include circumstances such as those covered by the other part of the new clause relating to other jurisdictions and legal environments outside this country. The OFS would evaluate it and take a view.

Paul Blomfield: I will not press the new clause to a vote at this stage but I will seek future assurances, particularly in relation to that second part about action in other jurisdictions. Does the Minister not agree that if we are considering circumstances in which providers are known to have transgressed in other countries we would expect a significant review of their operation in this country?

The Chair: We must now reach a conclusion on amendment 216.

Gordon Marsden: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 234, in clause 40, page 22, line 28, at end insert—

"(c) the OfS is assured that the provider is able to maintain the required standards of a UK degree for the duration of the authorisation; and

(d) the OfS is assured that the provider operates in students' and the public interests."—*(Dr Blackman-Woods.)*

This amendment requires the OfS to be assured about the maintenance of standards and about students' and the public interest before issuing authorisation to grant degrees.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 11.

Division No. 9]

AYES

Blackman-Woods, Dr Roberta	Rayner, Angela
Blomfield, Paul	Smith, Jeff
Marsden, Gordon	
Monaghan, Carol	Streeting, Wes

NOES

Argar, Edward	Evennett, rh David
Chalk, Alex	Howlett, Ben
Churchill, Jo	Johnson, Joseph

Kennedy, Seema	Pawsey, Mark
Milling, Amanda	
Morton, Wendy	Warman, Matt

Question accordingly negatived.

Gordon Marsden: I beg to move amendment 215, in clause 40, page 23, line 11, after "instrument" insert

"approved and made by the Privy Council as an Order in Council".

This amendment would ensure scrutiny by the Privy Council of the power to grant awards.

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

Amendment 224, in clause 51, page 30, line 15, leave out "(instead of the Privy Council)" and insert "and the Privy Council".

This amendment would ensure the Privy Council retained the right of oversight for the award and revocation of university title.

Amendment 225, in clause 52, page 31, line 7, leave out "Office for Students" and insert "Privy Council".

This amendment would ensure the Privy Council retained the right of oversight for the award and revocation of university title.

Amendment 226, in clause 52, page 31, line 18, leave out lines 18 to 21.

This amendment would ensure the Privy Council retained the right of oversight for the award and revocation of university title.

Amendment 227, in clause 52, page 31, line 22, leave out lines 22 to 25.

This amendment would ensure the Privy Council retained the right of oversight for the award and revocation of university title.

Amendment 228, in clause 52, page 31, line 26, leave out "Office for Students" and insert

"the Office for Students and the Privy Council".

This amendment would ensure the Privy Council retained the right of oversight for the award and revocation of university title.

Amendment 229, in clause 53, page 32, line 5, leave out "OfS" and insert

"the Office for Students and the Privy Council".

This amendment would ensure the Privy Council retained the right of oversight for the award and revocation of university title.

Gordon Marsden: The group of amendments was tabled not in the expectation that there would be problems with the development of the office for students but in response to the concerns of a number of organisations, including universities, that there should be an existing backstop to the process. It is curious, perhaps, that we should propose to preserve an institution that the Government propose to destroy, but that is what the effect of the changes would be, with the Privy Council being removed from the entire process.

I do not want to speak in great depth or detail, except to repeat what I have said previously, which is that we are entering a period of great difficulty in how our higher education might be perceived overseas. I will not repeat the arguments I made this morning about UK plc and Brexit, but I think they are extremely valid. There is the old saying, of course: if it ain't broke don't fix it. The Minister, full of his competition zeal for all the poor providers that have been blocked out for years and years by the Privy Council and all the other archaic institutions, wants to remove them from the process. We do not suggest that the Privy Council remain the prime mover in the process. However, particularly in the first few years, when the office for students is setting itself up and finding its feet, there should be circumstances in which the powers that the Privy Council currently exercises in the oversight of the award and revocation of university title should be there as a backstop.

5 pm

There are many parallels in government and, indeed, in this place. One that might seem slightly arcane but nevertheless is similar is the process that this House devised in the late 1920s, when the Church of England wanted autonomy and did not want Parliament to debate all matters of dogma; in this case, it was a prayer book. The Church of England was allowed by an Act of Parliament to establish itself as a synodical process with its own parliament in the Synod. There remains in this House the Ecclesiastical Committee, which is an interesting institution composed of Members of both Houses. It is the job of that Committee to act as a backstop—that is how it was once described to me by a senior Whip, using a cricketing metaphor—so that proposals have the potential to be vetted and scrutinised and we can say, "Go back and think again."

I hesitate to mention Martin Wolf, since I have already mentioned him in his capacity as an eminence and a guru to the Minister, although his thoughts on what the sorcerer's apprentice has done subsequently remain to be seen. However, there is a strong body of opinion that, at least for the time being, there would be merit in the Privy Council retaining the right of oversight for the award and revocation of university title. Revocation of university title could, after all, be applied in extremis not simply to new providers but to any provider at this moment. That is why we have tabled this series of amendments to various elements of the Bill where it is entirely the prerogative of the office for students.

The Minister talked about the colocation and co-working of various institutions. It would not be going too far to include the Privy Council in that process. I leave it for the Minister to explain why he or his officials wish completely to airbrush out of the picture an institution and university title conferred by the Crown that has not only served us reasonably well for a long period but also acts as a kitemark or a brand for the outside world, and why he thinks that simply launching the new shiny office for students will have the same beneficial effect.

Joseph Johnson: In our reforms, we have deliberately taken out the function of the Privy Council in the granting of degree-awarding powers and university title in order to streamline the processes and transfer responsibility for those functions to the office for students. At the moment, as the hon. Gentleman knows, for degree-awarding powers the QAA advises HEFCE. HEFCE advises the Department, and the Department then advises the Privy Council. There is a similar process for university title. That is unduly complex and time-consuming to little or no additional advantage.

On the whole, there was no opposition to these changes in the responses we had to the Green Paper. This response to our Green Paper consultation from a provider that has only recently gone through this process illustrates the point:

"Removing the role of the Privy Council in making decisions about DAPs and University Title seems prudent. Our experience of the process suggests that this stage does not have added value and merely extends the time taken to complete the process."

[Joseph Johnson]

In fact, we checked back through recent history and there were no examples of the Privy Council not following the Department's advice on granting degree-awarding powers and university title—not one.

Under our new system, the office for students, as the independent sector regulator, will be best placed to take decisions on degree-awarding powers and university title. That will cut out some of the process and lead to a more streamlined system. I know the hon. Member for Blackpool South wants to make things more difficult for providers, but we want to make things simpler. This is one of the ways in which we envisage reducing the bureaucracy and burdens that prevent high-quality new providers from entering the sector.

Gordon Marsden: May I intervene on the Minister?

The Chair: That is up to the Minister.

Joseph Johnson: I am going to make some progress.

In its evidence to the Committee, Independent Higher Education supported this view:

"The transfer of this authority to the OfS, a modern regulator, away from the outwardly archaic and opaque mechanism of approval by the Privy Council, will be more appropriate for a dynamic and diverse sector which includes industry-led provision and overseas providers bringing their extensive experience to the UK".

However, I recognise that the amendments are probably born of a desire to ensure proper independent decision making, with a view to protecting the quality and prestige of these awards, as well as students in the system. Let me therefore be clear that I fully agree with that intention and have designed a system that will do just that.

Let me explain how the future processes will work. With regards to degree-awarding powers, we have every intention of keeping the processes, which have worked well to date, broadly as they are. We expect the process to remain broadly peer review-based and we envisage that the OFS will seek information from the quality body, with involvement from an appropriately independent committee. On university title, again, we are not planning to change the independent decision making and scrutiny. For both areas, we want decisions to continue to be made by an arm's length body, based on departmental guidance that has been subject to consultation as and when appropriate. That also applies to variation and revocation of degree-awarding powers and revocation of university title. Additionally, those processes will be supported by a right of appeal, as set out in clauses 45 and 55.

Although I thank Opposition Members for giving me the opportunity to talk about these important matters, we have designed the new system with the right safeguards in place. Reinserting a role for the Privy Council would therefore add nothing except unnecessary process, so I ask the hon. Member for Blackpool South to withdraw his amendment.

Gordon Marsden: Well, I am reassured that the Minister thinks he has managed to produce a brand-new system that is going to work absolutely perfectly; that is what people always say when they produce brand-new systems. For the avoidance of doubt, we were not suggesting retaining the Privy Council in its existing position, and nor were the people who supported our proposal. It was a backstop, and I hope the Minister understands that—I have tried to make it as clear as possible.

The Minister has given various assurances today; we will see how they pan out in practice. I maintain that it is a risk to create a new brand on the international HE stage without a backstop, when we are going to be in such difficult circumstances over the next two or three years. However, we are not going to agree, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss new clause 6—*Committee on Degree Awarding Powers and University Title—*

"(1) The OfS must establish a committee called the 'Committee on Degree Awarding Powers and University Title'.

(2) The function of the Committee is to provide advice to the OfS on—

(a) the general exercise of its functions under sections 40, 42, 43 and 53 of this Act, and section 77 of the Further and Higher Education Act 1992;

(b) particular uses of its powers under section 40(1) of this Act; and

(c) particular uses of its powers under section 77 of the Further and Higher Education Act 1992.

(3) The OfS must seek the advice of the Committee before—

(a) authorising a registered higher education provider or qualifying further education provider to grant taught awards, research awards or foundation degrees under section 40(1) of this Act;

(b) varying any authorisation made under section 40(1) of this Act so as to authorise a registered higher education provider or qualifying further education provider to grant a category of award or degree that, prior to the variation of the authorisation, it was not authorised to grant; and

(c) providing consent under section 77 of the Further and Higher Education Act 1992 for an education institution or body corporate to change its names so as to include the word "university" in the name of the institution or body corporate.

(4) The OfS must also seek the advice of UKRI before authorising a registered higher education provider or qualifying further education provider to grant research awards under section 40(1) of this Act.

(5) The OfS does not need to seek the advice of the Committee before—

(a) revoking an authorisation to grant taught awards, research awards or foundation degrees; or

(b) varying any authorisation to grant taught awards, research awards, or foundation degrees so as to revoke the authorisation of a registered higher education provider or qualifying further education provider to grant a category of award that, prior to the variation of the authorisation, it was authorised to grant.

(6) Subsection (4) applies whether the authorisation being revoked or varied was given—

(a) by an order made under section 40(1) of this Act;

(b) by or under any Act of Parliament, other than under section 40(1) of this Act; or

(c) by Royal Charter.

(7) In providing its advice to the OfS, the Committee must in particular consider the need for students, employers and the public to have confidence in the higher education system and the awards which are granted by it.

(8) The OfS must have regard to the advice given to it by the Committee on both the general exercise of its functions referred to in subsection 2 and any particular uses of its powers referred to in subsection 3.

(9) The majority of the members of the Committee must be individuals who appear to the OfS to have experience of providing higher education on behalf of an English higher education provider or being responsible for the provision of higher education by such a provider.

(10) In appointing members of the Committee who meet these criteria, the OfS must have regard to the desirability of their being currently engaged at the time of their appointment in the provision of higher education or in being responsible for such provision.

(11) The majority of the members of the Committee must be individuals who are not members of the OfS.

(12) Schedule 1 applies to the Committee on Degree Awarding Powers and University Title as it applies to committees established under paragraph 8 of that Schedule."

This new clause would create a committee of the OfS which fulfils much the same functions as the current Advisory Committee on Degree Awarding Powers.

Gordon Marsden: In the interest of time, I will try to be concise. Perhaps because we are coming to the end of the afternoon, the Minister was more constructive in his last comments than he had been previously. He talked about outside inspection and I hope that is a harbinger of his looking favourably on new clause 6.

New clause 6 attempts to answer the famous question posed by Cicero, which always bedevils any Government or organisation: "Who governs the governors?" I will not quote it in Latin; I will leave that to the Minister's brother.

Alex Chalk (Cheltenham) (Con): Quis custodiet ipsos custodes?

Gordon Marsden: Indeed. Give that man a gold star.

Before we get into ridiculous territory, the serious point is that if we are to have confidence in the system that the Minister is proposing, it is important to have a body that can advise. That is the intention behind the new clause. The idea was put to us by MillionPlus but the view is shared by a large number of other organisations, including UUK, which the Minister quoted earlier.

MillionPlus believes that

"strong safeguards need to be put in place to ensure that any body that is awarded degree awarding powers or university title has met the criteria to do so, and will not put student interest at risk, or potentially damage the hard earned reputation of the entire higher education sector in the UK."

Those are all things that we have been praying in aid this afternoon.

The new clause would go a long way to meeting that requirement. Subsection (2)(a) would provide for a committee to advise the OFS in general as to how it is fulfilling its functions. Subsections (2)(b) and (c) would allow for that committee to advise the OFS on the particular uses of its power to grant degree-awarding powers or university title.

The new clause allows the OFS to revoke degree-awarding powers or university title without consulting the committee, which means that any argument against it on the grounds that it might create problematic delays if urgent action were required would be mitigated. In fulfilling its role, we would expect the committee to seek advice from the designated quality body.

The current arrangements—and the Minister has made great play of praying in aid the current arrangements—for conferring degree-awarding powers and university title on an institution require, in England, the Higher Education Funding Council for England to seek the advice of the Quality Assurance Agency for Higher Education. That is not required in the Further and Higher Education Act 1992, but it clearly sets a precedent where appropriate expertise is sought prior to any decision making. It is therefore vital that the OFS continue to seek advice from the designated quality body prior to any conferring of degree-awarding powers and/or university title—*[Interruption.]* I hope the Minister is listening. There is, therefore, a strong argument for introducing the new clause further to reflect that obligation.

Joseph Johnson: We have debated clause 40 extensively, so I will turn straight to new clause 6. I thank the hon. Gentleman for raising the important issue of safeguarding quality and ensuring that only high-quality providers can access degree-awarding powers and university title. We are taking that very seriously. I hope that that came through adequately in the technical note that we published a few weeks ago before the party conference recess.

I am interested that hon. Members have proposed the establishment of a committee with similar responsibilities to the current Advisory Committee on Degree Awarding Powers. I assure this Committee that we have every intention of keeping the processes around the scrutiny of applications for degree-awarding powers, which have worked well—including those around scrutiny of applications for university title—broadly as they are. That includes retaining an element of independent peer review, most likely in the form of a committee of independent members. As now, we would expect that committee to play a vital role in the scrutiny of applications, bringing to bear its unique and expert perspective on the process, and enabling the OFS to draw on its expertise in coming to a decision.

5.15 pm

I note that hon. Members have also proposed in the new clause that the OFS must seek the advice of the UKRI before authorising the granting of research awards. We have discussed this point and I hope that I have reassured hon. Members that we absolutely expect the OFS and the UKRI to work in close co-operation in this respect. We envisage that the OFS will make its decisions on degree-awarding powers and university titles in much the same way as the Privy Council now, based on criteria set out in Government guidance, and after seeking relevant information and advice.

We intend that the precise details of the processes will be set out in Government guidance on which we intend to consult. We strongly believe that this process will ensure that robust judgments are made and that quality will be protected. Although I agree with the principle of involving a committee in decisions on degree-awarding powers, I am not convinced that exact relationship should be provided for in primary legislation. It is unnecessary and I therefore ask hon. Members to withdraw the new clause.

Gordon Marsden: I too will be brief on the substance of clause 40. I welcome what the Minister said about new clause 6. Again, the devil is in the detail and we wait to see that detail in due course, but he has outlined a reasonable process. Unfortunately, however, given the detail of the argument that has been put on clause 40, and in particular the response to our modest and reasonable amendments to mitigate the substantial dangers that we believe are posed by the way in which the Government are proceeding, we do not feel that the Minister has convinced us. We therefore wish to vote against clause 40.

Question put, That the clause stand part of the Bill.

The Committee divided: Ayes 10, Noes 7.

Division No. 10]

AYES

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

NOES

Blackman-Woods, Dr Roberta	Rayner, Angela
Blomfield, Paul	Smith, Jeff
Marsden, Gordon	
Monaghan, Carol	Streeting, Wes

Question accordingly agreed to.

Clause 40 ordered to stand part of the Bill.

Clauses 41 and 42 ordered stand part of Bill.

Clause 43

VARIATION OR REVOCATION OF OTHER AUTHORISATIONS TO GRANT DEGREES ETC

Gordon Marsden: I beg to move amendment 221, in clause 43, page 24, line 32, leave out subsection (3) and insert?

"(5) No order shall be made under subsection (1) unless a draft of the order has been laid before and approved by a resolution of both Houses of Parliament."

This amendment would ensure the OfS' power to vary or revoke authorisation given to an English Higher Education provider, or an English further education provider, must be scrutinised and approved by both Houses of Parliament.

The Chair: With this it will be convenient to discuss amendment 222, in clause 44, page 25, line 14, after "provider" insert "and other relevant organisation".

This amendment would ensure full representations and be made to, and considered by, the OfS before steps are taken to revoke authorisation.

Gordon Marsden: The amendment reflects the concerns we have discussed about the revoking of powers. It also reflects the concerns of a number of bodies, not least Cambridge University, which has expressed real concern about that being done simply by statutory instrument. Cambridge University said in its evidence:

"The Bill must include measures to guarantee appropriate parliamentary scrutiny over the OfS's discharge of its enforcement powers and imposition of penalties, including the revocation of Degree Awarding Powers and University Title. This is to ensure that any decision that may impinge on institutional autonomy is properly considered and good reason for doing so needs to be established."

In this case, that means provisions must be scrutinised and approved by both Houses of Parliament. We accept that these occasions are likely to be rare, which is precisely why we think the matter should be reserved for both Houses of Parliament.

Joseph Johnson: The amendments relate to the power to revoke or vary degree-awarding powers, which is one part of the suite of tools available to the OFS under the new regulatory framework. We have long recognised that in order for the sector to be regulated effectively, refined and express powers to vary or remove degree-awarding powers in serious cases are vital. That makes it clear to providers what is at stake if quality drops to unacceptable levels. It does not mean we are interfering with the autonomy of providers.

We intend that the OFS and the new quality body will work with providers to address any emerging problems early on. The OFS would use the power to revoke degree-awarding powers only when other interventions had failed to produce the necessary results. However, I recognise the significance of these refined, express powers and the need to put the right safeguards in place. That is what clauses 44 and 45 are designed to do.

On amendment 222, I hope I can provide some reassurance. I fully agree that when making a decision on whether to vary or revoke a provider's degree-awarding powers, the OFS should be able to draw on all relevant information. That may include information provided by other organisations such as students unions, other providers or the local community. Of course, we also plan for the OFS to make decisions having received information from the designated quality body and UKRI. The provisions in clause 58 already enable the OFS to co-operate and share information with other bodies in order to perform its functions. We expect the detail of how that should work to be set out in departmental guidance, and we plan to consult on the detail of the guidance prior to publication.

I turn to amendment 221 and the actual process of variation and revocation. Clauses 44 and 45 set out in detail what that process will look like, and we intend them to be supported by more detailed guidance. A significant safeguard in the right to appeal to the first-tier tribunal is contained in clause 45. Having a structured appeals process is vital to ensuring that providers have a clear voice and that the system can hold the trust of students and taxpayers and maintain the world-class reputation of the sector. That is a very strong protection in the Bill and means that the powers of the OFS can be checked by the judiciary.

A decision by the OFS cannot take effect before the routes of appeal are exhausted, and any order by the OFS to vary or revoke degree-awarding powers would be a statutory instrument. That would mean it could be published, thus ensuring appropriate transparency. Together, those are strong safeguards, and the amendments are therefore unnecessary. On that basis, I ask the hon. Gentleman to withdraw his amendment.

Gordon Marsden: I thank the Minister for his response and particularly for his assurance in respect of amendment 222 that there will be consultation with

other organisations. I must ask the vice-chancellor of Cambridge University and various others whether they will be content with this simply being a matter for statutory instrument. We will see how the process works out, but I am content with the Minister's assurances. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 43 ordered to stand part of the Bill.

Clauses 44 and 45 ordered to stand part of the Bill.

Clause 46

VALIDATION BY AUTHORISED PROVIDERS

Joseph Johnson: I beg to move amendment 75, in clause 46, page 26, line 5, leave out

"authorised taught awards and foundation degrees"

and insert

"taught awards and foundation degrees that the provider is authorised to grant".

This amendment is technical and is needed because clause 46(5) defines "authorised" by reference to a registered higher education provider rather than a taught award or foundation degree.

The clause enables the OFS to commission registered degree-awarding bodies to extend their validation services to other registered providers, if, for example, there is a mismatch between supply and demand. The OFS can commission providers to extend their validation services only if that is allowed by the provider's degree-awarding powers. The OFS cannot bestow new powers on degree-awarding bodies via the commissioning ability. However, the current language in this clause, which refers to

"authorised taught awards and foundation degrees",

is a little unclear. The amendment seeks to clarify what we mean by an "authorised" award by using clearer, simpler language. It puts it beyond doubt that the OFS can commission a provider to validate only the taught awards and foundation degrees that the provider is authorised to grant. This is a technical amendment and does not change the scope, purpose or effect of the clause.

Amendment 75 agreed to.

Dr Blackman-Woods: I beg to move amendment 236, in clause 46, page 26, line 9, at end insert—

"(2A) Such commissioning arrangements shall include commissioning the Open University as a validator of last resort.".

This amendment ensures that the Open University rather than the OfS itself is the validator of last resort.

This is a probing amendment to test the Minister's easy-going, laissez-faire attitude about which courses can be validated and by whom. It is far from clear in clauses 46 and 47 what sort of institution the Minister has in mind for the OFS to use as a validator and, in particular, a validator of last resort. The Opposition are a little bit worried that new providers—or indeed existing providers—could be touting their degrees around different institutions just waiting for one that will validate them, and that the OFS will support that. *[Interruption.]*

The Chair: Order. I had a strange situation there. I had the hon. Lady speaking, the Opposition Front-Bench spokesman trying to speak to the Minister, the Minister trying to speak to the Opposition Front-Bench spokesman and the Whip trying to speak to me. I am listening intently to the hon. Member for City of Durham, who is the most important person speaking, because she has the floor at the moment. If she would continue, I can refocus.

Dr Blackman-Woods: I was saying to the Minister, who is now talking to the Whip—*[Laughter.]*

The Lord Commissioner of Her Majesty's Treasury (David Evennett): We need a cup of tea!

Dr Blackman-Woods: We absolutely do. I will try to be brief.

It is far from clear who the Minister expects the OFS to have in mind as the validator of last resort. The amendment refers to the Open University as it is well known to be a high-quality validator, but that does not mean that the OFS would have to use the Open University. We hope that the Minister will reassure us that the validator of last resort would be an institution that is as highly valued and respected as the Open University, and not just whoever the OFS thinks will validate a particular course in mind so that an institution is able to run something that perhaps should not be run if proper arrangements were put in place.

5.30 pm

Joseph Johnson: It is essential that along with the direct entry route to the market, which we discussed earlier in relation to clause 40, new providers should be able to choose to access first-class validation services if they feel that would be the right choice for them. We know from the Green Paper consultation responses that validation arrangements can be mutually beneficial for new providers and incumbents alike. They can enable new providers to draw on the knowledge, skills and expertise of more well established providers in the design and delivery of their awards, while building up their own track record of performance. For incumbent providers, validation can serve as an additional revenue stream and enable them to offer complementary HE provision to their own students. However, validation arrangements can also be one-sided, as the power to enter into, and charge for, a validation agreement lies with the validating body. In the extreme, as we have heard, that could lead to incumbent providers essentially locking new providers out of the system indefinitely, or making it prohibitively or unreasonably expensive.

I welcome the opportunity to acknowledge the important role that the Open University already plays in providing validation services, and I also welcome its general support for the need for the provisions in the clause. Furthermore, I thank the Open University for the way it is already engaging with the QAA and Independent HE to consider how to improve validation services and remove some of the barriers that new providers currently experience. However, I do not think it is right or necessary to include a role for the OU in legislation, as the amendment would have us do.

I would expect the OFS to need to adopt a purely voluntary, open, fair and transparent approach to any commissioning arrangements, so that all providers understand how they can get involved and what would be expected of them. The OFS must be able to set out the terms of the commissioning arrangements and choose the most appropriate registered higher education provider

[Joseph Johnson]

at the time, to ensure that it can continue to stimulate the development and reach of good-quality validation services. If the OU wanted to enter into commissioning arrangements to offer validation services with the OFS, the Bill would not prevent that from happening, but it would not be appropriate to prescribe a role for one registered higher education provider over another in legislation.

Turning to the intent underlying the amendment, we of course expect the parties with which the OFS enters into validating arrangements to be of similar stature to the Open University and to offer the same kind of high-quality provision. I therefore ask the hon. Member for City of Durham to withdraw the amendment.

Dr Blackman-Woods: I think it would help us if the Minister provided some further clarity on the guidance or regulations that will underpin commissioning arrangements, so that we can be absolutely certain that a high-quality provider will ultimately be commissioned as the validator of last resort. Will the Minister reflect on that and bring some further reassurances back to us? I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 46, as amended, ordered to stand part of the Bill.

Clause 47

Validation by the OfS

Joseph Johnson: I beg to move amendment 76, in clause 47, page 26, line 42, after "authorise" insert "authorised".

This amendment and amendment 77 limit the power of the Secretary of State to make regulations allowing the OfS to authorise registered higher education providers to enter into validation arrangements on its behalf. The providers are required to be "authorised" (defined in the new subsection (6A) added by amendment 78), both to grant the taught awards or foundation degrees to which the arrangements relate, and to enter into the validation arrangements to which the arrangements relate.

The Chair: With this it will be convenient to discuss Government amendments 77 and 78.

Joseph Johnson: The Government's higher education reforms will allow providers to choose which model of HE provision best suits their needs, removing any unnecessary barriers to market entry for high-quality providers and promoting institutional competition and student choice. To achieve that, it is essential that along with a direct entry route to market, HE providers that can meet relevant quality thresholds and have a degree they want to introduce into the higher education market should be able to access first-class validation services, if they feel that would be the right choice for them.

Clause 47 enables the Secretary of State to authorise the OFS to act as a validator of last resort if he or she deems it necessary or expedient. It also states that the powers set out in regulations may allow the OFS to authorise registered HE providers to validate taught awards and foundation degrees on its behalf. We intend to give the OFS the ability to validate only if there are serious circumstances that warrant it, for example if serious or intractable validation failures exist. It is vital, though, that we set the right parameters for use, which is why it will be for the Secretary of State to authorise the OFS to act as a validator of last resort should he or she deem it necessary or expedient, having taken the OFS's advice.

The Secretary of State would then need to lay secondary regulations before Parliament, which I would expect to set out the terms and conditions of any OFS validation activity. They would provide Parliament with the opportunity to see those conditions, and Parliament would retain the power of veto. In addition, the OFS should authorise only HE providers that have the necessary degree-awarding powers to validate taught and foundation degrees on its behalf. The clause does not make that explicit, so my amendments ensure that the Secretary of State's powers are explicitly limited in that way. That important limitation safeguards academic standards and quality, to protect student interests, and I therefore ask hon. Members to allow the amendments to be made.

Amendment 76 agreed to.

Amendments made: 77, in clause 47, page 27, line 2, at end insert—

"(4A) But regulations under subsection (1) may not include power for the OfS to authorise a provider to enter on its behalf into validation arrangements which are—

(a) arrangements in respect of taught awards or foundation degrees that the provider is not authorised to grant, or

(b) arrangements that the provider is not authorised to enter into."

See the explanatory statement for amendment 76.

Amendment 78, in clause 47, page 27, line 11, at end insert—

"(6A) In this section, 'authorised', in relation to a registered higher education provider, means authorised to grant taught awards or foundation degrees, and to enter into validation arrangements, by—

(a) an authorisation given—

(i) under section40(1),

(ii) by or under any other provision of an Act of Parliament, or

(iii) by Royal Charter, or

(b) an authorisation varied under section43(1)."—*(Joseph Johnson.)*

This amendment defines "authorised" for the purposes of clause 47, using the same definition as is used in clause 46.

Question proposed, That the clause, as amended, stand part of the Bill.

Gordon Marsden: Because of the lateness of the hour I will try to be as brief as possible, even though the Opposition believe that it is fundamentally important that the clause be deleted. I have listened to the Minister and I appreciate the modifications made by his amendments—that is why we did not oppose them—but the fact remains that there is something very strange indeed about setting out powers that could ultimately make the OFS both the regulator of the market and a participant in it. I am rather surprised to hear the Minister, with his emphasis on competitive zeal, proposing a closed shop, which is what it would be. It is not just we who think that; UUK, most of the existing groups and other contributors have said the same.

If the Government want people to trust the OFS to represent student interests properly and protect the quality of HE, it must have a vested interest in those things and in nothing else. For the Government to be producing legislation that could eventually allow the OFS to compete with other providers to validate degrees—it might one day have to be judge and jury—risks tainting the reputation of the OFS from the start, and at the very least placing it in an invidious position. That is why UUK has said that it has grave concerns about the powers in the clause. It says:

"We cannot foresee any circumstances which would justify the creation of such a clear conflict of interest in the position of the OfS, and therefore do not think the bill should grant the OfS this power regardless of any protections through parliamentary scrutiny or governmental oversight. We recommend that clause 47 is removed from the bill."

We agree with UUK, for the reasons I have just explained, and we will oppose clause 47 standing part of the Bill.

Joseph Johnson: It is essential that along with a direct entry route into the market, new providers can choose to access first-class validation services if they feel that would be right choice for them. We need to consider how these arrangements would work in the context of the new single regulatory framework and market entry reforms, rather than the existing system. For new providers without their own degree-awarding powers that do not want to choose the direct route to market entry, their ability to find a validating partner and to negotiate a good value-for-money validation agreement with them is vital in order to become degree-level providers and to generate good-quality, innovative provision.

We only need to look at recent events at Teesside University. Following a change of leadership, Teesside University said in March this year that it would be ending its validation of higher education programmes in the wider college network outside the Tees valley in 2017—a decision that will affect 10 FE colleges. Teesside admitted that the decision was made

"purely on the university's strategic direction of travel and not as a reflection on the quality of the provision"

it had been validating. Martin Doel, chief executive of the Association of Colleges, said that the announcement had come as a "very unwelcome surprise" to colleges, and that it would create

"significant problems and additional work and cost"

for them as they try to seek new validating partners.

Ensuring that new high-quality providers are not locked out of the market via their preferred entry route is essential to ensuring that students are able to access the right type of higher education for them. I therefore want to ensure that the OFS has all the necessary tools at its disposal and is properly empowered to recognise and reward good practice or to quickly intervene and correct any serious systemic failures that might occur. If the OFS finds that there are insufficient providers with the capacity or appetite to enter into direct validation agreements with other providers or into commissioning arrangements with the OFS, or if those fail to correct the problem, the OFS will need to find another way to promote competition and choice.

Without these further powers, the OFS could be forced to stand by and watch while good-quality providers that do not want to seek their own degree-awarding powers remain locked out of degree-level provision indefinitely. That would be especially problematic if severe or stubborn intractable validation failures emerge. Jonathan Simons, head of education at the Policy Exchange think-tank, said that the Teesside case was a good example of why institutions should not be forced to rely on incumbents to validate their degrees. As he put it,

"Being dependent on a university for validation puts colleges in a subservient position and at the mercy of universities making decisions about withdrawing partnerships, not least when universities and colleges are competing for the same students…This is exactly why either colleges should be able to have awarding powers themselves, or there should be some sort of degree awarding council."

Clause 47 enables the Secretary of State to authorise the OFS to act as a validator of last resort should he or she deem that necessary or expedient, having taken OFS advice. We expect the OFS board to have experience of providing HE, so its members will be well placed to understand if there is a systematic problem with validation services across the sector. I also expect OFS advice to be informed by consultation with the sector, so that it has a better understanding of the root causes of any problems and how providers and stakeholders think those can be best fixed. I envisage that the consultation would culminate in the OFS presenting the Secretary of State with a compelling, evidence-based argument that clearly demonstrates the scale, nature and severity of the validation problem and why giving it powers to validate through secondary regulation is the right solution to address that.

Such a power would also allow the OFS to delegate this role to other registered providers that can be authorised to validate awards on its behalf, as we have discussed. For example, I envisage that the OFS could choose to contract in people with the right skills and practical experience of higher education so that the validation service has access to the cohesive academic community it needs to perform this function effectively. In doing so, I expect the OFS to assure itself of the quality of any potential contracting partners, including by obtaining information from the designated quality body.

I am aware that some providers and stakeholders have raised concerns about the potential for the clause to create a conflict of interest—in other words, if the OFS is operating in the market it is regulating, as the hon. Member for Blackpool South put it. I would like to provide reassurance that that option is intended to be used only in extreme circumstances, after other measures have been tried and failed. As I have already said, regulations giving the OFS that power will be put before Parliament. If made, that secondary regulation would essentially allow the OFS to unblock any unnecessary and intractable barriers to degree-level market entry, essentially fixing a market failure.

5.45 pm

Dr Blackman-Woods: Would not the Minister question why no other validating body is validating those courses? There is not a body of evidence out there—even at the moment—of lots of high-quality courses not being able to be validated, so I struggle to envisage a set of circumstances in which a course had gone to lots of validating panels and had not been validated and the OFS would think, "Oh yes, it's great: I've got to commission something just to validate this course." In what circumstances?

Joseph Johnson: We see this power as coherent with our overall vision for the sector of encouraging a competitive market. We see it as a backstop power that will address effectively what would be a market failure in the absence of providers able to validate high-quality provision in a certain area or subject. I urge the hon. Lady to reread the evidence the Committee was given from parties who had had difficulty securing validation agreements or who could attest to the difficulty that others had had in securing validation agreements. They are high-quality providers who had needlessly been made to run an obstacle course in pursuit of validation arrangements.

As I said, I want to provide reassurance that this option is intended to be used only in extreme circumstances after other measures have been tried and failed. It will come before Parliament in the form of secondary regulations. If made, it will allow the OFS to unblock any unnecessary and intractable barriers to degree-level market entry, enable new providers to introduce a more diverse range of innovative degree programmes to students and enable students to achieve an OFS-validated degree award.

I would expect the OFS, as the regulator of HE quality and standards and champion of student interests, to be best in class in demonstrating that its validation services abide by best practice validation principles and deliver to the highest standards. I would also expect the OFS to put in place appropriate governance arrangements that ensure that an appropriate level of independent scrutiny is applied to the validating arm of the organisation and safeguards to protect student interests.

Question put, That the clause, as amended, stand part of the Bill.

The Committee divided: Ayes 11, Noes 6.

Division No. 11]

AYES

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

NOES

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

Question accordingly agreed to.

Clause 47, as amended, ordered to stand part of the Bill.

Clause 48 ordered to stand part of the Bill.

Clause 49

UNRECOGNISED DEGREES

Joseph Johnson: I beg to move amendment 79, in clause 49, page 28, line 18, at end insert—

"( ) In subsection (10)(a)—

(a) for "means" substitute "—

(i) means", and

(b) after "outside the United Kingdom" insert ", and

(ii) includes the Office for Students"."

This amendment extends the definition of "United Kingdom institution" in section 214 of the Education Reform Act 1988 to include the OfS and so ensures that the offence in that section relating to offering unrecognised awards granted by such an institution also covers awards granted by the OfS.

The Chair: With this it will be convenient to discuss Government amendments 80 to 88.

Joseph Johnson: The amendments will make some clarifications to clauses 49 and 50, which amend the unrecognised degree provisions in the Education Reform Act 1988.

Amendment 79 will ensure that we take a consistent approach to the offence of providing unrecognised degrees. Degree awards made by the OFS and by persons wrongly purporting to be the OFS will also fall within the scope of the provisions concerning unrecognised degrees.

Amendments 80 to 83 and 85 to 87 will ensure that when an English body is included in a recognised body order, it will not be presumed able to grant any or all degrees if its powers have been granted under the Bill. To see what degrees it can grant, it will be necessary to refer to the order that gives or varies its powers to grant degrees. Such orders and regulations will be statutory instruments and should be published accordingly. These provisions are part of the steps that we are taking to ensure, for example, that an English provider that is given only the power to grant bachelor degrees can be caught by the unrecognised degree offence if it grants a masters degree.

Amendment 84 is corrective in nature. It reflects that providers with degree-awarding powers that enable them to validate are free to enter into validating agreements with other bodies without needing further authorisation under the Bill to approve a course. Any validation agreements whereby courses are approved will still need to be in accordance with that body's academic governance arrangements.

Amendment 88 makes it clear that existing orders relating to degree-awarding bodies remain valid. The status of providers listed on those orders will only be affected if the OFS subsequently varies or revokes their degree-awarding powers.

Amendment 79 agreed to.

Clause 49, as amended, ordered to stand part of the Bill.

Clause 50

UNRECOGNISED DEGREES: SUPPLEMENTARY

Amendments made: 80, in clause 50, page 28, line 36, at end insert—

"( ) For subsection (1) substitute—

(1) The appropriate authority may by order designate each body which appears to the authority to be a recognised body within subsection (4)(a), (b) or (c).

(1A) For the purposes of sections 214 and 215, any body for the time being designated by an order under subsection (1) as a recognised body within subsection (4)(c) is conclusively presumed to be such a body.".

This amendment and amendment 86 amend the power of the OfS, the Welsh Ministers and the Scottish Ministers under section 216(1) of the Education Reform Act 1988 to designate those bodies which appear to them to be authorised to grant degrees or other awards. In the case of bodies authorised under the Bill to grant awards (i.e. English higher or

further education providers or the OfS) or bodies permitted to act on behalf of such bodies to grant awards, designation does not result in a conclusive presumption that they have power to do so. Whether an award granted by such a designated body is a "recognised award" and so exempt from the offence under section 214 of the 1988 Act will depend upon whether the body is authorised to grant the award in question.

Amendment 81, in clause 50, page 28, line 37, leave out "subsections (1) and" and insert "subsection".

This amendment is consequential on amendment 80.

Amendment 82, in clause 50, page 29, line 13, leave out

"falling within paragraph (za) or (zb) of section 214(2)"

and insert

"within subsection (4)(a) or (b)".

This amendment is consequential on amendment 80.

Amendment 83, in clause 50, page 29, line 16, leave out "that paragraph" and insert "subsection (4)(a)".

This amendment is consequential on amendment 80.

Amendment 84, in clause 50, page 29, line 18, leave out from "body" to end of line 19.

This amendment amends one of the new requirements which clause 50 adds to section 216(3) of the Education Reform Act 1988 for being a body listed under subsection (2) of that section. The new requirement enables a body to be listed where it provides a course in preparation for a degree to be granted by a recognised body with degree awarding powers under the Bill. The course must be approved by the recognised body. The amendment removes the requirement that the approval has to be authorised by the recognised body's degree awarding powers.

Amendment 85, in clause 50, page 29, line 20, leave out

"falling within paragraph (a) or (b) of section 214(2)"

and insert "within subsection (4)(c)".

This amendment is consequential on amendment 80.

Amendment 86, in clause 50, page 29, line 22, leave out from "subsection (4)," to the end and insert

"after 'means' insert

'—(a) a body which is authorised to grant awards by—

(i) an authorisation given under section40(1) of the Higher Education and Research Act 2016 ("the 2016 Act"),

(ii) an authorisation varied under section43(1) of the 2016 Act, or

(iii) regulations under section47(1) of the 2016 Act,

(b) a body for the time being permitted by a body within paragraph (a) to act on its behalf in the granting of awards where the grant of the awards by that other body on its behalf is authorised by the authorisation or regulations mentioned in paragraph (a), or

(c) '."

See the explanatory statement for amendment 80.

Amendment 87, in clause 50, page 29, line 22, at end insert—

"( ) In the heading, after 'awards' insert 'etc'.".

This amendment is consequential on amendment 80.

Amendment 88, in clause 50, page 29, line 33, leave out

"by the Secretary of State".—*(Joseph Johnson.)*

This amendment is consequential on amendment 80 and makes clear that no orders made under section 216 of the Education Reform Act 1988, whether by the Secretary of State, the Welsh Ministers or the Scottish Ministers, before the coming into force of clause 50 are affected by the amendments made by that clause.

Clause 50, as amended, ordered to stand part of the Bill.

Clause 51

USE OF "UNIVERSITY" IN TITLE OF INSTITUTION

Dr Blackman-Woods: I beg to move amendment 237, in clause 51, page 30, line 16, at end insert—

"(2A) The power may be exercised as to include the word university in the name of the institution only when it can demonstrate that—

(a) it offers access to a range of cultural activities including, but not restricted to, the opportunity to undertake sport and recreation and access to a range of student societies and organisations;

(b) it provides students support and wellbeing services including specialist learning support;

(c) it provides opportunities for volunteering;

(d) it provides the opportunity to join a students' union; and

(e) it plays a positive civic role."

This amendment ensures that a broad range of activities and opportunities are available to students before allowing a higher education institute to use the title of 'university'.

The Committee has already gone round the houses on this issue, but the amendment specifically addresses what sort of institution can use "university" in its title. We previously discussed whether something that was not a university could be called one. The amendment would ensure that if something has "university" in its title, it is actually a university, not an institution that is delivering either a single subject—as appeared to be the case in the Minister's earlier example—or a range of subjects but with nothing else that would enable any of us to recognise it as a university.

Our universities have an excellent reputation not only for providing high-quality education but for delivering all sorts of other things alongside it, such as access to a range of cultural activities, sporting and other recreational activities, good-quality student support, access to health and wellbeing services, specialist support where necessary, opportunities for volunteering and the opportunity to join a student union. The institution itself plays a positive civic role. From clause 51, it appears that absolutely none of that will be necessary in the future for an institution to be called a university. If that is not massively dumbing down our university system, I do not know what is.

I see no justification for allowing an institution to use university in its title when it is clearly not a university and does not provide the range of services associated with a university. I look forward to hearing what the Minister has to say to assure us that he will uphold the quality and excellence of our higher education sector and ensure that all students get not only a chance to have those higher level skills, but an opportunity for personal development and sporting development in a place where their specialist educational needs are supported by the institution.

Joseph Johnson: We return to the criteria that we expect providers to meet in order to obtain a university title, which we discussed quite extensively at an earlier stage in the proceedings. As I have said before, we only want providers with full degree-awarding powers to be eligible for a university title. That process tests, among other things, academic standards and whether there is a cohesive academic community. It is a high bar that only high-quality providers will be able to meet. We are clear that we want to maintain that high bar in the future.

[Joseph Johnson]

The amendment highlights the breadth of opportunities offered by participation in a higher education course. I welcome the idea behind it, but I do not believe such a prescription is desirable in legislation. There are many examples of extracurricular activities and experiences offered by higher education institutions, such as sporting groups, the arts, associations and exchange opportunities, and many providers play an important role in their local communities in that respect. I agree that in many cases these activities contribute greatly to a student's learning and personal and professional development and can be as much a part of their education as traditional lectures. When a student is deciding where to study, they are making a decision based on many factors, for example, the qualification they will receive, the cultural and social opportunities, the student organisations they could join and what support is available to them. One size does not fit all and student populations vary hugely in their requirements, as we discussed before. As independent and autonomous organisations, higher education institutions are themselves best placed to decide what experiences they may offer to students and what relationships they have with other local organisations, without prescription from central Government.

Paul Blomfield: In response to an earlier remark I made, the Minister said that he expected all universities to provide services to support students' mental health. Does he stand by that remark in this context?

Joseph Johnson: That is their duty under the Equality Act 2010—they have to ensure that students are not discriminated against if they have mental health issues and so on—and also their duty of care. That is an important part of what universities do in supporting students, who they have autonomously admitted, through their studies. Having taken that decision, it is important that universities make sure that those students have the academic and the counselling support to enable them to get through their courses of study.

As now, we intend to set out in guidance the detailed criteria and processes for gaining university title, and we plan to consult on the detail before publication. The OFS will then make decisions having regard to that guidance. I therefore ask the hon. Lady to withdraw the amendment.

Dr Blackman-Woods: I have listened carefully to the Minister's comments. Allowing the possibility of university title being granted to a single-course institution with no supporting services or extracurricular activity is not setting a high bar; it is setting an extremely low bar. The reality of clause 51 is that an institution—a single-course institution—could become a university with no additional services or offers whatever to students.

I heard what the Minister said about guidance and I assume that that guidance will address the specific concerns that I raised previously in Committee and this afternoon. On the basis of the fact that the Minister will produce guidance and, presumably, will let us have some idea of what is going to be in that guidance before we finish our deliberations on the Bill, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 51 ordered to stand part of the Bill.

Clauses 52 to 55 ordered to stand part of the Bill.

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

6.2 pm

Adjourned till Thursday 13 October at half-past Eleven o'clock.

Written evidence reported to the House

HERB 43 Office of the Independent Adjudicator for Higher Education

HERB 44 British & Irish Modern Music Institute

HERB 45 University and College Union branch at Birmingham City University

HERB 46 Political Studies Association

HERB 47 Stuart Lawson, PhD Student, Birkbeck, University of London

HERB 48 The Who Cares? Trust

HERB 49 Lancaster University

HERB 50 Gordon Sweeney, Head of Education, Point Blank Music School

HERB 51 Nottingham Trent University

HERB 52 Birkbeck, University of London

HERB 53 Royal Statistical Society

HERB 54 Prospect

HERB 55 Kent Union

HERB 56 Independent Higher Education