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Public Bill Committee

HIGHER EDUCATION AND RESEARCH BILL

Twelfth Sitting

Thursday 13 October 2016

(Afternoon)

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Monday 17 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

Thursday 13 October 2016

(Afternoon)

[Sir Edward Leigh *in the Chair*]

Higher Education and Research Bill

Clause 66

Grants from the Secretary of State

Amendment proposed (this day): 299, in clause 66, page 39, line 26, after "have" insert "particular".—*(Gordon Marsden.)*

This amendment would strengthen the regard for academic freedom requirements.

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 301, in clause 69, page 41, line 36, after "have" insert "particular".

See explanatory statement for amendment 299.

Amendment 162, in clause 77, page 46, line 5, at end insert—

"academic freedom' has the same meaning as is given in section 43 of the Education (No.2) Act 1986."

The 1986 Act provides a robust definition which should be referenced in the Bill.

Dr Roberta Blackman-Woods (City of Durham) (Lab): I rise to speak to amendment 162. One interesting thing about the Bill is that in a number of provisions—clauses 2, 35, 66 and 69 and schedule 1—it seeks to include some protection for academic freedom. It says that

"the Secretary of State must have regard to the need to protect academic freedom, including, in particular, the freedom of English higher education providers…to determine the content of particular courses and the manner in which they are taught, supervised and assessed…to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and…to determine the criteria for the admission of students and apply those criteria in particular cases."

That is all very well, but this set of circumstances is interesting in that it is very limited and therefore does not embrace the whole of academic activity.

The reason why I have tabled the amendment, which is actually to clause 77, is to ensure that there is a definition of what the Government mean by "academic freedom" in the Bill. It may be that the Minister thinks that that is clear enough or it has been dealt with elsewhere. I am suggesting with the amendment that academic freedom could be defined by using section 43 of the Education (No. 2 Act) 1986, because it says:

"(1) Every individual and body of persons concerned in the government of any establishment to which this section applies"—

that includes universities—

"shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.

(2) The duty imposed by subsection (1) above includes…the duty to ensure, so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with—

(a) the beliefs or views of that individual or of any member of that body; or

(b) the policy or objectives of that body."

The Minister may not like that definition, but I am very open to his bringing forward other definitions. The point that I am trying to make is that the set of circumstances described in the Bill is too narrow to give sufficient reassurance to all academics and visiting lecturers that they will have some protection for academic freedom.

I appreciate that this is a difficult area, and it is becoming more and more difficult because universities have to balance protecting academic freedom with ensuring that there is no incitement to hatred on any of the grounds that are unlawful. I appreciate that it is not easy, but when we are talking about academic freedom in primary legislation, we must all be clear about what we mean by academic freedom and the totality of the circumstances to which it will be applied.

I also say to the Minister that many academics, particularly from European countries, are feeling very anxious. They are particularly concerned at the moment that their activities will be subject to a level of scrutiny that perhaps will not apply to others and that it might be grounds for asking them to leave. They are just feeling very insecure, so anything that the Minister can do to help them to feel more secure, to balance the very difficult situation that I have identified and to put something helpful in the Bill, would be very much welcomed.

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): Academic freedom is one of the fundamental strengths of our higher education system. I understand the desire of the hon. Member for Blackpool South to find the best way of protecting it, and I sympathise with the motivation behind amendments 299 and 301, which seek to enhance the protections for academic freedom already in the Bill.

The language used in the Bill is based on the protections in the Further and Higher Education Act 1992, which have successfully ensured for nearly a quarter of a century that HE institutions can develop and teach entirely free from political interference. That approach has proved to be robust over time and, in our view, it is the best way of ensuring that academic freedom is protected in the future. The Bill preserves academic freedom as a broad general principle, with specific areas of protection explicitly and unequivocally set out. By contrast, defining academic freedom too tightly would risk limiting its meaning and, by extension, limiting the Bill's protections.

The Bill imposes the first statutory duty on the Secretary of State to

"have regard to the need to protect academic freedom"

whenever he or she issues guidance, conditions of grant or directions to the office for students. It introduces a set of protections for academic freedom that apply comprehensively to the ways in which the Government can influence how the OFS operates. It refreshes and reinforces the current protections for academic freedom, ensuring that they are fit for our HE system today and

are sufficiently robust to last for decades into the future. Although I completely agree with the intention behind the amendments, I do not think that they add anything practical to the Bill's thorough and comprehensive approach to protecting academic freedom.

The hon. Member for Blackpool South raised the question of staff. The Bill supports the academic freedom of staff at HE institutions by giving the OFS the power to impose a public interest governance condition on registered providers, as we discussed when we debated clause 14. Providers subject to such a condition will have to ensure that their governing documents include the principle that academic staff have freedom within the law to question received wisdom and to put forward new ideas and controversial opinions without fear of losing their job or their privileges. As the hon. Gentleman said, that is a vital principle, which is exactly why the Government have ensured that it must be included as a component of the condition set out in clause 14.

Amendment 162 would define academic freedom differently, by referencing section 43 of the Education (No. 2) Act 1986, which is a provision about freedom of speech and in particular about the obligation of certain HE institutions to

"take…steps…to ensure that freedom of speech…is secured for…students and employees…and for visiting speakers."

Defining academic freedom in that way would introduce a lack of clarity and would not adequately capture what the Bill seeks to protect.

Our approach in the Bill is absolutely clear that academic freedom must be protected. It also sets out comprehensively the areas in which the Government must not interfere:

"the content of particular courses and the manner in which they are taught, supervised and assessed…the criteria for the selection, appointment and dismissal of…staff…the criteria for the admission of students"

and the application of those criteria in particular cases.

I remind the Committee what Professor Sir Leszek Borysiewicz, vice-chancellor of Cambridge, stated in his evidence on this point:

"I also particularly like the implicit and explicit recognition of autonomy".—[*Official Report, Higher Education and Research Public Bill Committee,* 6 September 2016; c. 22-23, Q32.]

Amendment 162—inadvertently, I am sure—would actually weaken the protection the Bill provides for academic freedom. I ask the hon. Member for Blackpool South to withdraw his amendment.

Gordon Marsden (Blackpool South) (Lab): I thank the Minister for his considered and measured response to amendment 299. It was helpful of him to elaborate some of those key issues in the way he did. As I have said previously, I am mindful of the fact that these things are extremely difficult to define comprehensively on the face of a Bill, but I welcome the direction of travel in respect of the issue we have raised. My hon. Friend the Member for City of Durham can speak for herself, but the Minister is right to say that she has raised a separate issue. As I am satisfied with the Minister's response to my amendments, I am content to withdraw them.

Dr Blackman-Woods: I listened to what the Minister had to say. I am not particularly allied to that specific form of words, but, as the Bill mentions academic freedom so much, there should be something in it about what it encompasses. I leave the Minister to reflect on that.

I have one further question. The clauses that refer to academic freedom mention the courses and

"the manner in which they are taught, supervised or assessed".

If they are taught in part through a programme of visiting lecturers, does freedom of speech apply to those lectures? The point of my question was to ascertain whether the Bill should to go beyond academic freedom to include freedom of speech. If the intention was to limit that because of other legislation, which is absolutely right and fair, there should be some clarity from the Government on that.

Joseph Johnson: I assure the hon. Lady that, yes, the Bill would cover the circumstances she described.

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

Amendment, by leave, withdrawn.

Amendment made: 104, in clause 66, page 39, line 29, leave out "or" and insert "and".—*(Joseph Johnson.)*

This amendment and amendment 106 make the language used in clauses 66(3)(a) and 69(2)(a) consistent with that used in equivalent provision in clauses 2(3)(a) and 35(1)(a) and make clear that they cover the manner in which courses are taught, the manner in which they are supervised and the manner in which they are assessed.

Clause 66, as amended, ordered to stand part of the Bill.

Clause 67

REGULATORY FRAMEWORK

Gordon Marsden: I beg to move amendment 300, in clause 67, page 40, line 44, at end insert—

"(c) bodies representing the interests of higher education staff, and".

This amendment would ensure consultation with bodies representing higher education staff.

The amendment is a continuation of the theme on which we have previously pressed the Minister and, indeed, that we have just touched on in the much broader context of academic freedom: representing the interests of higher education staff at all levels. Regulatory frameworks may appear dry and all the rest of it, but they set the tone for how the new office for students will deal with possibly challenging, difficult and controversial situations that arise in higher education institutions—situations such as conflicts within the workforce; conflicts between the workforce and, if I may use an old-fashioned term, the management; or any one of a variety of other circumstances.

The Bill says that

"the OfS must consult…bodies representing the interests of…higher education providers"

and

"bodies representing the interests of students on higher education courses provided by…higher education providers".

However, the Bill does not contain any requirement, in any shape or form, to consult the staff. I think that is an omission. I share the Minister's reticence to put everything in black and white on the face of the Bill. This Bill, if I may be positive about it for a moment, is quite useful in

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moving away from some of the box Bills we have had in the past which conferred Henry VIII-type powers on various Ministers at various stages in the future.

2.15 pm

The Bill has been quite specific in various areas and that is useful. Because of that, it seems curious to have a specific reference to providers and to students but not to the staff. The issue affects those who represent staff and there is concern out there. It may be a false concern or it may not come to pass. Only time will tell, but there is concern in certain quarters that the Office for Students risks becoming a Government-led body rather than one that reflects the interests of students and staff.

If the Government wish to address that concern, I suggest that one way is to signal in the legislation, particularly where they have chosen to specify other groups within those higher education institutions, that there is a role for staff. That is why the University and College Union said that it thought the absence of detailed information in the Bill—and, for that matter, in the White Paper on the governance structure—was concerning. It said:

"It is crucial in our view that the principle of keeping bodies like the OfS independent from day-to-day political and governmental interference which has served higher education well"—

the Minister has just talked about that in the context of academic freedoms—

"should not now be abandoned.

There should be proper student and staff representation on the main governing body"—

we have been over that ground—

"and increased consultation with the higher education workforce on key elements of the regulatory framework.

There are also opportunities with the creation of a new body for an increased emphasis on important workforce issues like insecure contracts"

and students. The Minister may wish to reflect that his new Prime Minister has spoken eloquently in this respect about workers' rights and the position of people who only just get by. Of course, a number of people in universities fit both elements.

It would be helpful—I say no more than that—if the Government were prepared to put this in the Bill. To be fair—I say this with some personal knowledge, having served on Select Committees when some of these issues came before us—it cannot be said that in the past 10 or 15 years the Higher Education Funding Council for England has always had a good record in analysing and addressing some of these issues. There has been significant improvement in recent years but we should aim in legislation to plan for the worst case scenario, not the best.

I will conclude with those remarks. If the Minister is not happy with the amendment's wording he may want to table another, but will he give serious attention to the concerns that have been raised and to the prospect of going a considerable way to allaying those concerns if the Government accepted the proposal?

Joseph Johnson: The amendment raises issues that we have previously debated in broad principle, so my arguments will not be unfamiliar to the hon. Gentleman. The clause sets out how the OFS must prepare and publish a regulatory framework, which in turn details how it will regulate higher education providers. I am grateful to the hon. Gentleman for raising the importance of ensuring that the OFS consults appropriate groups before publishing such a key document. The requirement to consult will help to ensure that the way the OFS intends to regulate and carry out its functions is transparent, proportionate and risk based.

Clause 67 already places a requirement on the OFS to consult bodies representing the interests of providers and of students on higher education courses and

"such other persons as it considers appropriate"

before publishing its regulatory framework. Although it will be for the OFS to decide who to consult and for representative bodies to decide how to respond, we expect the interests of providers—as I said in an earlier response—to encompass the interests of the staff at those providers. In addition, as clause 67 already provides for the OFS to consult any other persons as it considers appropriate, it is already drafted in such a way as to give the OFS discretion to consult HE staff. Given the wide range of issues that the OFS's regulatory framework will cover and the requirement already in the Bill for the OFS to consult anyone it considers appropriate, I do not believe that the amendment is necessary and I ask the hon. Member for Blackpool South to withdraw it.

Gordon Marsden: The Minister said that since we had already been around this track, the arguments that he was going to put would not be unfamiliar to me, and he will not be unfamiliar with my response. It is a great shame, as the amendment would strengthen, rather than diminish, the Government's position and credibility with those groups. Clearly, we are not going to agree. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: 105, in clause 67, page 41, line 4, leave out subsection (10).—*(Joseph Johnson.)*

This amendment removes clause 67(10) which contains a definition of a term which is not used in clause 67 and is therefore unnecessary.

Clause 67, as amended, ordered to stand part of the Bill.

The Chair: As the hon. Member for Glasgow North West has now returned, I should say that, after taking advice on the point of order she made, I confirm and make clear that all hon. Members can speak and vote on any part of the Bill.

Clause 68 ordered to stand part of the Bill.

Clause 69

SECRETARY OF STATE'S POWER TO GIVE DIRECTIONS

Amendment made: 106, in clause 69, page 41, line 40, leave out "or" and insert "and".—*(Joseph Johnson.)*

See the explanatory statement for amendment 104.

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

Gordon Marsden: My question is fairly straightforward and simple. I refer the Minister to subsections (5), (6) and (7). I am assuming that those provisions give powers to the Secretary of State to restrict direct funding that

would come, under normal circumstances, to a provider from the Secretary of State via the OFS, rather than supplying further money in any circumstances. Is that correct?

Joseph Johnson: The clause effectively replicates the powers that the Secretary of State has in relation to HEFCE at the moment under section 81 of the Further and Higher Education Act 1992, but with an important difference that I want to flag. The clause applies the same protection to issuing directions as clause 66 does in relation to conditions of grant, that is to say, in issuing general directions, Ministers must have regard for the need to protect academic freedom and cannot set directions in terms of course content, teaching methods, who HE providers employ or who they admit as students. That is a new and additional protection, compared with current legislation. As with section 81 of the 1992 Act, directions under this clause are subject to parliamentary oversight via the negative procedure. To give the hon. Gentleman a feel of how we intend use these powers, we expect they would be deployed in the most exceptional circumstances. In fact, the equivalent powers in the 1992 Act have never been used.

Those exceptional circumstances might, for example, include the OFS's refusal to follow Ministers' injunctions where a particular provider was involved in financial mismanagement. We believe the clause to be necessary if we are to ensure that such a situation does not arise.

Gordon Marsden: So the purpose of the clause, in those exceptional circumstances to which the Minister referred, is to stop the provision of further financial support.

Joseph Johnson: Yes, indeed. That is certainly the intention.

Question put and agreed to.

Clause 69, as amended, accordingly ordered to stand part of the Bill.

Clause 70

Power to require information or advice from the OfS

Gordon Marsden: I beg to move amendment 302, in clause 70, page 42, line 32, at end insert—

'( ) Any information received by the Secretary of State under subsection (1) must be made publicly available."

This amendment would require the Secretary of State to publish any information it receives from the OfS under section 70.

My hon. Friend the Member for City of Durham, who also put her name to this, may wish to add to my contribution. I do not want to detain the Committee for long. The amendment expresses again our sense that we need to make it clear in the Bill that there will be greater transparency and scrutiny of the sector by stakeholders and parliamentarians. I say that in support of the establishment of the office for students and its bona fides in the wider world rather than to undermine it. Any new organisation, certainly in its first years, should be as transparent as possible.

I think it was Edmund Burke who famously said that eternal vigilance is the price of liberty. The price of new institutions in the 21st century, to have credibility and be acceptable, is eternal transparency. This would be a good place to start. That is why we propose that the Bill should include the requirement that the Secretary of State publish any information received from the OFS under clause 70.

Joseph Johnson: I sympathise with the amendment's intention; that is, the desire for greater openness in the policy-making process. However, I fear that, instead of promoting openness, the amendment risks inadvertently creating a more closed, less honest decision-making process, and may have further unintended consequences.

The Government will request information from the OFS to help reach policy decisions. Those decisions will inevitably require difficult judgments about how to prioritise funding. As an independent regulator, the OFS needs to have the confidence to be able to speak freely and frankly to Ministers. It will not be able to do that if all those conversations have to happen in public through this publication requirement.

Requiring all information received under this provision to be made public risks inhibiting how the OFS responds to requests for information. I believe that would have damaging consequences for how the OFS interacts with Government, making that interaction guarded and less than wholly frank. It also risks damaging the policy-making process, with decisions made on partial rather than comprehensive information.

There are parallels here with the Freedom of Information Act, which provides exemptions to ensure free and frank discussions during the policy-making process. Let me assure the Committee that the OFS, as a public authority, will be subject to the Freedom of Information Act, just as the Government are now, allowing individuals to request information subject to the statutory exemptions.

In addition, some of the information the OFS will give to Government may be sensitive, for example, relating to its own staff or to the financial affairs of HE providers. Publishing that information may infringe people's privacy or put a provider at a competitive disadvantage.

Clause 59 places a statutory duty on the OFS or an appropriately designated body to publish information and requires the OFS to consult students and other stakeholders about what information it should publish, when and how. We believe that that provision will ensure that all the information that students and others need will be in the public domain.

I understand and sympathise with the motivation of the hon. Member for Blackpool South in tabling the amendment, but I none the less ask him to withdraw it in the light of the explanations that I have given.

2.30 pm

Gordon Marsden: I thank the Minister for his response. He gave a measured and balanced analysis of the eternal argument about the amount of real-time disclosure that there should be as opposed to other issues. I say again that perhaps staying in this place for a longish time increases one's scepticism about the arguments for commercial sensitivity. If many of us had £1 for every time we did not get a response from a Department on the grounds of commercial sensitivity, we would be rich, but there we are. I understand the Minister's points. I am not entirely sure that I agree that the

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balance is right, particularly in the first years of a new body, but it is a fine judgment and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 70 ordered to stand part of the Bill.

Clause 71

POWER TO REQUIRE APPLICATION-TO-ACCEPTANCE DATA

Joseph Johnson: I beg to move amendment 107, in clause 71, page 42, line 38, leave out "in" and insert "for".

This amendment clarifies the language in relation to qualifying research.

The amendment is minor and technical. It ensures that the language in the clause reflects the clear intention to use application-to-acceptance data for the purpose of qualifying research as defined in subsection (4). That is consistent with our stated policy intention.

Amendment 107 agreed to.

Dr Blackman-Woods: I beg to move amendment 306, in clause 71, page 43, line 13, after "Secretary of State" insert

"providing that it demonstrates a potential public benefit."

This amendment means that the Secretary of State can only require a body to provide research if is in the public interest to do so.

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

Amendment 307, in clause 71, page 43, line 14, after "may" insert

", so far as is reasonable having regard to the frequency of requests, the availability of information from other sources, the form in which the information is held by the body and the volume of the information requested,".

This amendment ensures that any information requests made to bodies must be reasonable in terms of the time given and the requested form/manner.

Amendment 308, in clause 71, page 43, line 16, at end insert—

"(5A) Unless otherwise specified, the body shall provide the information by way of a single annual submission to either the Secretary of State and/or an approved body."

This amendment sets out the way in which bodies required by the Secretary of State to provide research should do so unless otherwise specified.

Dr Blackman-Woods: The amendments deal with the requirements and responsibilities that may be placed on a body providing services to one or more English higher education providers relating to applications for admission to higher education courses, as described in subsection (2). The amendments seek to ensure that safeguards are put in place so that the burdens placed on UCAS—the clause primarily affects UCAS at the moment—will not interfere with its wider responsibilities for processing student applications.

I have a couple of concerns on which I would welcome reassurance from the Minister. The first is that the requirements in the clause would put too great a burden on UCAS. Secondly, I am concerned about what the data supplied will be used for and how not only UCAS's workload but its reputation may be impacted if for some reason it is not able to provide that data in a sufficiently timely manner.

I will address first the issue of the clause being burdensome on UCAS. If it is required by the Secretary of State to provide data to approved persons other than those who use the Administrative Data Research Network—ADRN—UCAS may have to re-engineer systems and even employ additional staff. That would clearly be financially punitive for UCAS unless it was able somehow to recover those additional costs. It is therefore important that the clause is amended, or at least that some reassurances are given to UCAS that only reasonable requests will be made of it and it will not be prevented from carrying out its other responsibilities to the best of its ability by having to deal with a large volume of complex requests for information in new and differing formats.

At this point in time, as the Minister will know given that he heard UCAS give us the evidence, UCAS does not have the capacity, resources or infrastructure to offer a service providing that information. Also, UCAS does not want the quality of the service it provides to students, which is its primary function, to be impeded by its duties to provide information.

I know that UCAS will provide an annual set of application-to-acceptance data, to quote the ADRN and the Government, and for much of the research that bodies want to carry out, the data they need will already be provided to the ADRN. So, the point UCAS makes is that the information is already there; it is there in a particular format. Provided that people accept it in that format, that should be okay; however, if people do not, there is a problem.

Amendments 307 and 308 would simply ensure that researchers use the existing means of gathering data rather than burdening UCAS. They would also ensure that when researchers need to go to UCAS, their requests are not unmanageable and that they will not put too much strain on UCAS. The Minister may say to me that Government amendment 107 deals with that particular matter, because it is qualifying research, but again I would like some reassurance.

The second concern about clause 71 is that it allows for the opening up of student data and that it will possibly take the data outside current research protocols. We need to ensure that this issue is addressed in a way that will protect students, so that UCAS can provide reassurances to them that their data are being used only for the public good and not just being given to any body that says it is undertaking research, without there being any thought for the consequences.

Mary Curnock Cook, the CEO of UCAS, referred to that issue in her oral evidence to the Committee, saying that

"the Bill gives powers to the Secretary of State to provide those data from us or organisations like us to other parties, and we are very keen that that is done in a way that offers the same protections to students, particularly over their personal data."—[*Official Report, Higher Education and Research Public Bill Committee,* 16 September 2016; c.24.]

I completely agree with Mary on this issue. We should be able to guarantee to students that personally identifiable data are protected and that research can only be carried out if there is a clear public benefit.

I look forward to hearing what the Minister has to say.

Gordon Marsden: I rise to support my hon. Friend's amendment, and to try to draw out from the Minister any other comments he might wish to make specifically on the impact of clauses 71 and 72. Again, I am not implying that there are any sinister motives involved; it is the law of unintended consequences that needs to be guarded against, once again.

My hon. Friend obviously referred to the "capacity" of UCAS to deal with the implications of the two clauses, and it is not for me to comment on that. However, I will pick up on the point she made about data protection, because I have received representations from various parties. The gist of them seems to be that without some clarification of or change to these two clauses, there is a danger—I put it no more strongly than that—that these clauses would give the state access to all university applicants' full data in perpetuity, for users who would only be defined as "researchers" and without "research" being defined at all; that might be capable of being changed under the direction of the Secretary of State.

Therefore, there are significant concerns that the safeguards need to be stronger to ensure that the clauses are not misused by others and that scope changes are not made in the future. One example that has been given to me is the suggestion that if this database is opened up, and subsequently shared via proposals in the Digital Economy Bill, there is a possibility that the entire nation's education data from the age of two to 19 could be joined to university data, which of course is then joined to Her Majesty's Revenue and Customs. Alternatively, it could be joined to HMRC and the Department for Work and Pensions afterwards, without there being sufficient safeguards or oversight for other uses designated by the Secretary of State.

I accept that this is a complex and difficult area and we are in real time here—the Digital Economy Bill is moving ahead. But in the context of what my hon. Friend the Member for City of Durham has said, could the Minister reflect on this? He or his officials might wish to have discussions with his colleague taking forward the Digital Economy Bill, because there is genuine concern out there. I am not necessarily saying the nightmare vision of everybody from two to 19 having all their data exposed to anybody in the way described will come to pass, but if there are genuine, legitimate concerns—my hon. Friend is very knowledgeable in these areas and has already referred to them—the precautionary principle might apply.

I would welcome any further reassurance the Minister can give; if he does not wish, or is not able, to give that reassurance today, perhaps he will be able to give more information before the end of Committee stage, or shortly subsequent to it.

Joseph Johnson: I am grateful for the opportunity to discuss these amendments to clause 71. As I have said before, the Government attach great importance to widening participation in higher education as a means of improving social mobility. Access to application-to-acceptance data, and a better understanding of those data, is vital if we are to have more effective policies, as commentators such as the Social Mobility and Child Poverty Commission have stated. Indeed, the director of research at the Sutton Trust has said that

"there is much more we can learn about the choices that disadvantaged young people make on higher education with better data. The Ucas database can do a lot to improve what we know about that decision-making process."

Taking amendment 306 first, I stress that public interest is at the heart of the clause and that is why it is in the Bill. I assure the Committee that any research undertaken using the data made available under clause 71 would be into topics in the public interest, such as equality of opportunity and what drives social mobility. An example might be longitudinal studies looking at the impact of choices made during school years, through higher education, to employment outcomes. The Social Mobility and Child Poverty Commission said that the availability of UCAS data is essential to help us refine our policies to advance social mobility, which is a goal all members of this Committee share.

These data will help us build a richer picture of the impact of decisions made by prospective students, with a view to refining and improving Government policy. If merged with other datasets in the future, it will provide a broader view than we have at present. For example, we may be able to calculate more clearly the economic benefits of being a graduate. In addition, clause 72(2)(c) prohibits the publication of any report that includes information that may be regarded as commercially sensitive, and clause 72(2)(b) prevents the publication of any report that may lead to the disclosure of an individual's identity. So there are clear constraints as to what can and cannot be published following the data being made available for research purposes. Given that, we believe the amendment is not necessary.

Turning to amendments 307 and 308, I assure the Committee that the information we are seeking to share is already routinely collected and held by bodies such as UCAS in carrying out its admissions functions. So this should not cause a significant extra burden, and restricting the Government's ability to request data could limit the development of social mobility policies unacceptably.

However, in drafting legislation we need to consider both current developments and possible changes in the future. Although we anticipate requesting these data on only an annual basis, in standard formats, in a way that broadly reflects current admissions cycles, we already know that some parts of the sector are moving away from the annual admissions cycle, as discussed in earlier debates, towards a more flexible process with multiple admissions dates—a move I know is very much welcomed by all hon. Members.

2.45 pm

It is precisely because we cannot predict the future that we should avoid being prescriptive in this legislation. While we clearly wish to minimise the burden placed on organisations such as UCAS, the legislation must be flexible enough to accommodate future changes. For reasons I have described, access to these data will help to ensure we are able to achieve our goal of social mobility. We consulted on this issue in our Green Paper, and it was clear that correspondents felt better data would help to drive improved social mobility, which is so important to us all.

The hon. Members for Blackpool South and for City of Durham asked about safeguards, in terms of who would have access to these data. Only named and approved individual researchers within Government and

from approved bodies will have access to the data. All data will be de-identified before being received by these accredited researchers. We will publish guidance on the factors to be taken into account when deciding whether to approve a body or an individual researcher.

In terms of safeguards to ensure that shared data are protected, information security is key to people having confidence in the system, and data will be safeguarded by a number of means. As I said, data will be de-identified before being shared with individual approved researchers and will only be made available to those qualified to handle data in Government. Those will be named and approved specialist researchers. The data will be encrypted to ensure they are stored and shared safely via secure electronic file transfer systems, in line with best practice.

The sharing of this information will comply with restrictions set out in the relevant legislation and regulations, including the Data Protection Act 1998. That will include ensuring that the data shared must be obtained for a specific, specified or lawful process; that the data shared are adequate, relevant and not excessive; and that the data are accurate.

I hope I have given Opposition Members sufficient assurance that this process will help us to deliver better policies to promote social mobility, with all the safeguards for students that they rightly want and expect.

Dr Blackman-Woods: I started off being a little bit concerned about this, and now I am getting quite anxious. We all want better use of data. We want the best use possible to be made of UCAS data to inform any policies on social mobility or widening access to universities and to understand what leads students to apply to one institution and not another. That is all very useful information. As the Minister said, it might also help us understand the economic benefit attached to a higher education experience. However, all the examples that he gave were easily understandable as being in the public interest, so I cannot understand why the Government will not make that more explicit on the face of the Bill. That would give a lot of reassurance to people who are very concerned about how the data might be used and for what purposes.

I do not think anybody is against more flexible use of the data or them being passed over to researchers more frequently than annually, but the point UCAS has made is that it is not resourced to do this. Its primary function is to get students admitted to university and the course they want to study. This is an add-on. If we keep adding things to the information that UCAS has to pass on, there will be a resource issue. The Government have to address that, one way or another.

The other point I would like the Minister to concentrate on is that there is already a body that covers people wanting to use these sorts of data: the Administrative Data Research Network. People have to sign up to be a member of that network and agree to protocols. I suppose my question is, why not just make it a requirement? If he does not want researchers to have to join that network, at least we would be clear about the sorts of protocols to which people would have to sign up to ensure that they use the data correctly and that there will be a clear public benefit.

We are moving to a world of greater marketisation of higher education and there is no longer any guarantee that people might request that information simply for the public benefit. In fact, it is likely that a number of bodies will want it for a whole variety of commercial reasons that might not be in the student interest at all and that might not sufficiently protect individual data and individual information. I hope the Minister will take this away and have another look to see whether sufficient safeguards are in place.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 71, as amended, ordered to stand part of the Bill.

Clause 72 ordered to stand part of the Bill.

Clause 73

HIGHER EDUCATION FUNDING COUNCIL FOR ENGLAND

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

Gordon Marsden: The Minister will be relieved to know that I do not rise to oppose the principle that the Higher Education Funding Council for England should cease to exist, as that would blow a large hole in the Bill—I am sure he would not wish that to happen, and I would not necessarily wish it to happen, either—but I want to tease out some of the implications of that process.

I refer all members of the Committee back to the original White Paper, which was produced in May. Chapter 3 was intriguingly titled "Architecture"—whether it is classical or brutalist I leave for future generations to judge—and the chapter summary included a rather arresting phrase:

"The Higher Education Funding Council for England (HEFCE) and the Office for Fair Access (OFFA)"—

the Committee will be relieved to know that I am not going to talk about the Office for Fair Access—

"will be dissolved following creation of the OfS."

Leaving aside the image of mad scientists and test tubes created by the dissolution, I want to raise a serious and practical point in the context of what the White Paper said at an earlier point, on page 51, about the teaching excellence framework.

What are the implications of what I can only describe as the interesting ménage à trois, which will continue for some time, between HEFCE, the QAA and the OFS—with OFFA being a peeping Tom, if we want to continue the metaphor? What will that mean in practical terms for the administration of these important processes?

This is for illustration—let us not reopen the debate about the TEF—but paragraph 20 states:

"In Year One, where the TEF does not involve a separate assessment process, the Government will publish a list of…eligible providers who have had a successful QA assessment and therefore have achieved a rating of Meets Expectations."

Of course, that has now been changed. Paragraph 20 continues:

"From Year Two onwards, TEF will be delivered by HEFCE working in collaboration with QAA, until such time as the OfS is established. After this point, the OfS will deliver TEF."

It is the process over those three years and what the relationship between all these various bodies will be in practical terms that concerns me most. The process would concern me in any case, whatever the broader

political context—I am sorry if the Minister inwardly groans when I refer to Brexit again—but I am concerned about that two-and-a-half or three-year period. I assume, although he might wish to correct me, that it is expected that the OFS will deliver TEF from 2019. That is how it looks at the moment but, as has already been discussed—most people, whatever their views, recognise this—those two or three years will be a period of considerable turmoil for our institutions and the way they are regarded in the outside world in the context of the Brexit negotiations, which may very well mirror that period.

I am deeply concerned, as are others—this has been mentioned to me by numerous vice-chancellors and other people who are concerned—that if we do not have a bit more clarity about how the relationship between HEFCE and the OFS is going to work in the transition period and where the QAA stands in all of this, that will not be good for the reputation of our universities internationally or for establishing the OFS on a clear footing. I appreciate that the Minister does not want to give a long exegesis on this today, but would be helpful if he gave at least some indication of how he sees those bodies interacting in that period and, in particular, what the implications are for the staffing and the resources of those different organisations, given the conversations and discussions we had earlier.

Joseph Johnson: I thank the hon. Gentleman for raising those issues. We are obviously giving considerable and careful thought to the transition from HEFCE to the OFS, and we have been doing so since the start of our reform process, with the Green Paper last November and the White Paper, to which the hon. Gentleman referred.

In the White Paper, we say clearly that the OFS will be established in 2018-19, and that it will deliver the teaching excellence framework from that date. That perhaps gives the impression that it is going to be an abrupt movement of people and resources, but there will be significant continuity from HEFCE, which has excellent capabilities in many respects. We want to preserve all the quality people who are doing good work at HEFCE, so I hope that the transition will be fluid and that there will not be discontinuities that will disrupt the operation of the TEF under HEFCE and the operation of the TEF under the OFS. To a great extent, the very same people will be involved.

On the transition more generally, we are looking to transfer responsibilities from HEFCE and OFFA to the OFS in a clear and transparent manner during that period. We hope that the transition will avoid any duplication of roles, enabling us to dissolve HEFCE and OFFA quickly after the OFS formally comes into existence. In the White Paper, we say that we anticipate that happening in April 2018.

Clause 73 allows for the Higher Education Funding Council for England to cease to exist, and enables the transition of responsibilities to take place. It is quite a significant clause, because we are putting to bed a funding council model of regulation that has been in place for a very significant period. I formally want to put on the record the Government's recognition of the extraordinarily good work it has done over the period of its existence. I also want to restate our belief that it is time, as we have discussed previously in this Committee, to put in place a new model of regulation that will keep us at the cutting edge of higher education for decades to come.

Gordon Marsden: I wish to associate myself with the Minister's comments about HEFCE. I talked earlier about the rocky road at an earlier period in its history, but I agree with his overall assessment. May I press him slightly on the issue of the Quality Assurance Agency for Higher Education?

Joseph Johnson: What aspect of it?

Gordon Marsden: The relationship that the QAA currently has with the TEF and how that will operate during the process of dissolution we are discussing.

3 pm

Joseph Johnson: As we set out in the Bill, one of the very first things that the OFS will do when comes into existence will be to consult on a new regulatory framework. It will then put in place a process that will lead to the designation of a quality body, which could be any body that is capable of representing the broad and diverse universe of providers in the HE sector and that can provide the high-level quality assurance processes that the QAA offers on behalf of the sector. Those are the qualities that the OFS will look for in recommending any quality body to the Secretary of State for approval as the quality body described in the Bill. That body could be the QAA, but the Bill is not prescriptive about that; it just sets out the general intention.

Question put and agreed to.

Clause 73 accordingly ordered to stand part of the Bill.

Clause 74 ordered to stand part of the Bill.

Clause 75

Meaning of "English higher education provider" etc

Amendment made: 108, in clause 75, page 45, line 3, at end insert—

"( ) Subsection (1) is subject to express provision to the contrary, see section 25(1C) and (3) (rating the quality of, and standards applied to, higher education)."—*(Joseph Johnson.)*

This amendment is consequential on amendments 40 and 41.

Clause 75, as amended, ordered to stand part of the Bill.

Clauses 76 and 77 ordered to stand part of the Bill.

Clause 78

Power to make alternative payments

Joseph Johnson: I beg to move amendment 242, in clause 78, page 47, line 19, at end insert—

"(ca) in the case of alternative payments in connection with a higher education course, for the cancellation of the entitlement of an AP recipient to receive a sum as part of an alternative payment in such circumstances as may be prescribed by, or determined by the person making the regulations under, the regulations, where the payment of the sum has been suspended;".

This amendment and amendments 244 and 245 make clear that regulations under section 22 of the Teaching and Higher Education Act 1998 may make provision for payments to students and others in respect of alternative payments, grants and loans in respect of higher education courses to be cancelled, where the payments have previously been suspended under the regulations.

The Chair: With this it will be convenient to discuss Government amendments 243 to 245, 282 and 118.

Joseph Johnson: The amendments will allow approval to receive student funding to be linked to OFS registration within the new regulatory framework. They also allow Ministers to cancel suspended student support payments where it is necessary to do so—for example, in cases of fraud. I am pleased to say that, following a request from the Welsh Government, we have ensured that the provisions apply to Wales and have set out the procedure for the commencement of the clauses.

Amendment 242 agreed to.

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

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

New clause 8—*Revocation of the Education (Student Support) (Amendment) Regulations 2015—*

"The Education (Student Support) (Amendment) Regulations 2015 (Statutory Instrument no. 1951/ 2015) are revoked."

This new clause would revoke the Education (Student Support) (Amendment) Regulations 2015, which moved support for students from a system of maintenance grants to loans.

New clause 10—*Impact of changes to financial support for students on access and participation—*

"(1) The OfS must, within six months of the day on which this Act is passed, report to the Secretary of State an assessment of the impact of changes to student financial support arrangements made within the previous twenty-four months on access and participation, and make recommendations.

(2) The OfS may, in making the assessment of such changes as specified in section (1), make recommendations to the Secretary of State about further necessary changes to student support to enhance or mitigate the impact of that change on access and participation.

(3) The OfS must, within twelve months of any change to student financial support arrangements coming into force and after two twelve month periods thereafter, report to the Secretary of State an assessment of the impact of the change on access and participation and make recommendations.

(4) The OfS may, in making the assessment of such changes as specified in section (3), make recommendations to the Secretary of State about further necessary changes to student support to enhance or mitigate the impact of that change on access and participation.

(5) The Secretary of State must lay the reports specified in subsections (1) and (3) before both Houses of Parliament."

This new Clause would require the OfS to report to the Secretary of State on the impact of changes to student funding on access and participation.

New clause 11—*Access to support for modular study—*

"The Secretary of State must, within six months of the day on which this Act is passed, set out arrangements in regulations made under sections 22 and 42 of the Teaching and Higher Education Act 1998, as amended, to provide support for students studying for institutional credits, as distinct from working towards a full qualification."

This new Clause would require the Secretary of State to provide for module-specific loans, rather than requiring people to be working towards a full qualification to qualify for access to financial support.

New clause 13—*Student support: restricted modification of repayment terms—*

"(1) Section 22 of the Teaching and Higher Education Act 1998 (power to give financial support to students) is amended in accordance with subsections (2) to (4).

(2) In subsection (2)(g) at the beginning insert "Subject to subsections (3)(A) and (3)(B),".

(3) In subsection (2)(g) leave out from "section" to the end of subsection (2)(g).

(4) After subsection (3) insert—

"(3A) Other than in accordance with subsection (3B), no provision may be made under subsection (2)(g) relating to the repayment of a loan that has been made available under this section once the parties to that loan (including the borrower) have agreed the terms and conditions of repayment, including during—

(a) the period of enrolment on a course specified under subsection (1)(a) or (1)(b), and

(b) the period of repayment.

(3B) Any modification to any requirement or other provision relating to the repayment of a loan made available under this section and during the periods specified in subsection (3A) shall only be made if approved by an independent panel.

(3C) The independent panel shall approve modifications under subsection (3B) if such modifications meet conditions to be determined by the panel.

(3D) The approval conditions under subsection (3C) must include that—

(a) the modification is subject to consultation with representatives of the borrowers,

(b) the majority of the representative group consider the modification to be favourable to the majority of students and graduates who have entered loans, and

(c) there is evidence that those on low incomes will be protected.

(3E) The independent panel shall consist of three people appointed by the Secretary of State, who (between them) must have experience of—

(a) consumer protection,

(b) loan modification and mediation,

(c) the higher education sector, and

(d) student finance."

New clause 14—*Student loans: regulation—*

"(1) Any loan granted under section 22(1) of the Teaching and Higher Education Act 1998, ("student loans") irrespective of the date on which the loan was granted, shall be regulated by the Financial Conduct Authority.

(2) Any person responsible for arranging, administering or managing, or offering or agreeing to manage, student loans shall be regulated by the Financial Conduct Authority."

New clause 15—*Higher Education loans: restrictions on modification of repayment conditions—*

"(1) A loan made by the Secretary of State to eligible students in connection with their undertaking a higher education course or further education course under the Teaching and Higher Education Act 1998 shall—

(a) not be subject to changes in repayment conditions retroactively without agreement from both Houses of Parliament;

(b) not be subject to changes in repayment conditions in the event of the loan being sold to private concerns, unless these changes are made to all loans, in the manner prescribed above;

(c) be subject to beneficial changes, principally to the repayment threshold, in line with average earnings.

(2) In section 8 of the Sale of Student Loans Act 2008, for subsection (1) substitute—

"(1) Loans made in accordance with regulations under section 22 of the Teaching and Higher Education Act 1998 (c. 30) are to be regulated by the Consumer Credit Act 1974 (c. 39).""

This new clause would ensure no retroactive changes could be made to student loan repayment conditions without agreement from both Houses of Parliament.

Angela Rayner (Ashton-under-Lyne) (Lab): It is a pleasure, as always, to serve under your chairmanship, Sir Edward. I rise to speak because I think that we have

a chance to right a wrong. I hope that the whole Committee will indulge me and vote for our new clauses. I will speak to new clauses 8 and 15, and support new clauses 10, 11, 13 and 14, in the names of my hon. Friends the Members for Sheffield Central and for Ilford North, who will I am sure speak with their usual expertise and eloquence in due course.

New clause 8 would revoke the regulations that made the change from maintenance grants to maintenance loans, and would ensure that students from low and middle-income backgrounds can receive the maintenance grant again. The policy was first announced in the autumn statement by the then Chancellor, and was pushed through in a statutory instrument without the proper scrutiny of the whole House. It is right that we have the chance to scrutinise it here today. The power is in the Committee's hands.

Far too many students feel that they have been ripped off by this Government—a feeling that, sadly, this Bill seems unlikely to change in its current form. First, the coalition Government trebled tuition fees, leaving students with some of the highest levels of debt in the developed world. They then froze the threshold at which students repay those debts, meaning that those on lower incomes will lose out yet again. Then, in one of the former Chancellor's last great failures before leaving office, he abolished maintenance grants, replacing them with yet more loans and burdening young people with even more debt.

Gordon Marsden: My hon. Friend states our case strongly. Does she share my sense of regret that, despite the inadequate consideration by the Joint Committee on Statutory Instruments and despite our request that the Government bring the matter to the Floor of the House, it took an Opposition day motion to have the change debated? The Government's majority in that Opposition day debate—from memory, I believe it was 16—was one of the lowest they had in that Parliament.

Angela Rayner: I absolutely agree with my hon. Friend. The Minister and his hon. Friends have an opportunity to right that wrong today, so I hope they are all listening and are willing to work collaboratively with us.

New clause 15 would introduce much-needed restrictions on the Government's ability retrospectively to change the terms of student loan agreements. It would make such a change subject to the approval of both Houses of Parliament, which is exactly how things should be conducted in this place. Although the practical steps we propose are slightly different, new clause 15 has much the same goals as new clauses 13 and 14, tabled by my hon. Friends the Members for Sheffield Central and for Ilford North. Either approach would have our full support.

When we talk about students feeling ripped off by the Government, there can be no better example than the retrospective changes made to student loan agreements. The decision to freeze the repayment threshold so that graduates begin to repay their loans when they earn £21,000 a year, instead of allowing it to rise with inflation as initially promised, shows a brazen disrespect for students and destroyed any remaining trust they had in the Government. Fortunately for the Minister, he has the chance to restore that trust today by supporting new clause 15.

I am sure the Minister agrees that the Government have a great deal of work to do to ensure that all students, regardless of background, can access the education they need. After all, he was the one who said that the fall in the number of students from disadvantaged backgrounds at our elite universities showed

"a worrying lack of progress"

towards widening participation. We agree; that is why we tabled the new clause. He also said that our top universities must

"redouble their efforts…to boost social mobility".

Our new clause gives him the chance to do that.

I know these Committee debates can feel a little dry, but if the Minister and his party vote with us, we can all leave this Committee Room knowing that we have done something exciting and worthwhile to boost social mobility. I, for one, would love to go back to my constituency tonight and sing it from the rooftops. It would be such a progressive step, but if the Minister cannot accept it, perhaps he can tell us what new steps the Government will take in the Bill to reverse the worrying free fall in the number of state-educated students going on to university.

More than half a million students were able to benefit from the maintenance grants policy and receive the support they needed to meet their living costs. The Government have said that the Bill

"will support the Government's mission to boost social mobility, life chances and opportunity for all",

but the Committee has spent a long time scrutinising it and the Government have come forward with no substantive proposals for doing any of those things; if anything, they have made them less likely to occur. Instead, they have offered us an office for students with no students in it, and access and participation plans that will take no substantive steps to improve either access or participation. Although the Government claim that their goal is to increase social mobility, there appears to be nothing in the Bill that shows that they are taking that challenge seriously.

Our new clauses give the Government an excellent chance to meet the goals that they have set themselves in the Bill. The Government have said that they want to boost social mobility. They can do just that by voting for new clause 8 and offering much-needed support to students from low and middle-income backgrounds. The Government have said that they want to improve life chances. What better way of doing that than by giving everyone the opportunity to access higher education if they want to? The Government have said that they want to improve opportunity for all. The Minister will be able to do just that by accepting the new clause. Is he willing to walk the walk of improving social mobility, or is he just talking the talk?

I understand that we are asking the Minister to carry out the dreaded U-turn. After all, he previously said that the abolition of the maintenance grant and the introduction of a new loan helps to balance the need to ensure that affordability is not a barrier to higher education with ensuring that higher education is funded in a fair and sustainable way. It is clear, however, that that will not be the case. After all, figures from his own Department show that since the trebling of tuition fees, there has been a sharp and continuous fall in the number of state-educated students going on to higher education. Perhaps he can tell us today how increasing the burden of debt on students by replacing maintenance grants with loans will improve matters.

[Angela Rayner]

The changes that the Government made retrospectively have made the problem even worse, but fundamentally this is not just about the principle of retrospective action; it is about trust. The Government having the power to change loans retrospectively means that every single student in further and higher education will be writing a blank cheque to the Government and, worse than that, they will be writing a blank cheque to a Government that they know they cannot trust—a Government that have already retrospectively changed the terms of their loans once, which, as the independent Institute for Fiscal Studies has shown, will cost the average student £6,000.

The Minister said that the funding for student finance would be fair and sustainable, but this is nothing more than a trick of accounting. The change from maintenance grants to loans appears to reduce the spending on universities, but all it really does is defer the cost. As has been shown by the independent Office for Budget Responsibility—an institution set up by his party's Government—the change from maintenance grants to maintenance loans will, over the medium term, increase public sector debt by more than 2% of GDP. That is the result of the Government making loans when they know that most students will not be able to repay them. Moving to loans may be a good accountant's trick to reduce the deficit, but it does nothing for our public finance or for the wellbeing of those students carrying that personal burden. It simply means that it will be the next generation left picking up the tab. We all know that this generation will be the first to be worse off than their parents. Do we really, as a nation, want to make a habit of that? The tab that maintenance loans will leave them with is more than 2% of GDP. That is more than our entire defence budget, more than £34 billion. Perhaps the Minister can tell us how leaving that debt for the next generation is, in his words, "fair and sustainable".

The Government have made it clear that they want us to use the Bill to improve opportunity for all. We know that the maintenance grant is the way to do that. We saw under the last Labour Government how it was central to helping record numbers of children from disadvantaged backgrounds into universities—a proud record, I might add. The Government plan to scrap the maintenance grant. To simply impose an additional debt on students is a regressive step. Having already burdened students with additional debt, taking the power retrospectively to increase their debt burden again and again will create a dangerous disincentive, as students will not enter further and higher education for fear of what the Government will do to their loans. The Minister may feel that new clause 15 is unnecessary because his Government would never renege on their promises to students and never retrospectively change the terms of a loan agreement, but his Government have already done that once. We know that the Government have not only the power but the inclination, so it is no wonder that students are worried they will do it again.

3.15 pm

If a private company did something like that, we would call that mis-selling loans and, if no private company could get away with that, no Government should be allowed to do so, either. That is why we have tabled new clause 15 to protect students and the investment they make in their education. I am sure the Minister would agree that there are few things more important to protect than that.

We have seen the damaging impact that spiralling student debt has had on state pupils' ability to access university, and as living costs are a growing concern for many students, the end of the maintenance grant will make it far more difficult for many students to get by. Luckily, in this room today the Committee has the power to reverse this change. I sincerely hope that Members on both sides of the Committee will join us in doing that when it comes to the vote.

Paul Blomfield (Sheffield Central) (Lab): I think this is the first opportunity I have had in this sitting to say what a delight it is to contribute with you in the Chair, Sir Edward. I will speak on new clauses 10 and 11 and say a few words on some of the other new clauses in the group.

We are in agreement on the objective of widening participation and new clause 10 seeks to strengthen the Government's intention in driving forward widening participation by ensuring that changes that may be made in funding arrangements do not have consequences that cut against the drive of that policy. It requires the OFS to review the impact of any changes that have been made recently or that will be made in the future subsequent to the Bill. For example, on maintenance grants for poorer students, on which my hon. Friend the Member for Ashton-under-Lyne spoke powerfully, the Government will no doubt come up with a defence but there is a need to do some serious work looking at the impact of those changes.

I remember, as will other Members here, when the 2012 funding changes were introduced. In previous sittings the Minister has spoken about how they did not have the anticipated impact on widening participation, but he will also remember how his predecessor David Willetts and other Ministers said on occasion after occasion that one of the principles they could be proud of in the proposals was having maintenance grants for poorer students. Indeed, the Minister is willing to parade the numbers of students from disadvantaged homes participating in higher education, but if I were to accept the argument his predecessor made at face value, maintenance grants for poorer students must have played a significant part in achieving those numbers.

It is important that we carry out some serious research and put a responsibility on the office for students to carry out research on that change and on other changes to see how far they might pull the rug from under the feet of the Government's intentions on widening participation. Another example is on disabled students allowance and the changes due in that area.

The Minister has spoken previously of the introduction of maintenance loans for part-time students. I think that is a measure people would uniformly welcome, but we need to be sure those changes are sufficient to achieve the objectives of reversing the cliff-edge fall in part-time student numbers that followed the Government's changes in 2012. It is absolutely clear from the way those numbers can be tracked that it was those funding changes that had that impact. I hope the proposals the Government are now bringing will reverse those changes, but we need to look at them, assess them and then put that responsibility on the office for students.

The introduction of sharia-compliant loans is a welcome move. We should also evaluate and make sure we got that right, and if we did not, we should change that policy. The amendment embeds looking at all of those sort of issues as they arise, evaluating them properly and making proper recommendations to Government into the responsibilities of the office for students, to ensure we achieve the objectives we all want to achieve on widening participation.

New clause 11 is really an extension of the arguments I made in an earlier debate about credit accumulation and transfer, which I know the Minister is supportive of in principle and which the Government are encouraging. Again, it tries to address the concerns over the fall-off in part-time student numbers. As I said a moment ago, we know that fall-off was heavily influenced by the changes in the funding arrangements. The Department for Business, Innovation and Skills, as it was then, commissioned YouGov last September to do some work entitled, "Perceptions of Part-Time Higher Education". As the Minister knows, that work concluded that one of the leading barriers to engaging in part-time education for 33% of the people YouGov spoke to was financial issues relating to funding and fees. That affected those from socioeconomic groups C2, D and E much more so than those from the A, B and C1 groups, so it absolutely cuts across the Government's objectives on widening participation.

Gordon Marsden: I am delighted my hon. Friend is pursuing the broad principle he outlined when speaking to previous amendments and on which we had a significant debate under clause 36. Does he agree with me, and pursuant to YouGov's findings, that one of the things people need, particularly older people in their 30s, 40s and 50s who have never had any exposure to higher education before, is to be able to go one step at a time and so be able to juggle their financial and personal and family needs? With the right safeguards and guarantees, that is exactly what a greater focus on modular funding would achieve.

Paul Blomfield: My hon. Friend is absolutely right to make that point. The Open University is clearly a hugely valuable reference point in this given its world-leading success in part-time education. Its assessment of the collapse in part-time student numbers and evaluation of the 2012 reforms was:

"Since the reforms, prospective part-time students in England are giving greater consideration to the whole learning pathway they are going to take. They must now consider the end qualification they are aiming for at the very outset of their HE learning journey if they want a loan (given loans are only an option for those with a stated intention to study for a degree or other HE qualification). Prior to the reforms, part-time students were more likely to try out higher education and perhaps study on a module-by-module basis, and at a lower intensity, without committing to a degree or other HE qualification."

Dr Blackman-Woods: I am grateful to my hon. Friend for giving way. Both he and my hon. Friend the Member for Ashton-under-Lyne make a powerful case on how disgracefully students have been treated by the Government. The Open University had to change the way in which it deals with part-time students by making them register for a course in order to be able to get student loans. That seems to be the height of inflexibility and not the flexibility that the Minister says he wants to usher in. Perhaps one of the things he could do this afternoon, in addition to reversing all the changes to maintenance loans and so on, is to put much more flexibility into the loans system.

Paul Blomfield: My hon. Friend is absolutely right. The Minister could give serious consideration to such a proposal; I very much hope that he will.

As the Open University illustrates, all the evidence shows that shifting towards the requirement for loans to be given for a whole-course commitment was one that tipped too many people over the edge. The change in the arrangements that my hon. Friend has just outlined tipped too many people over the edge and contributed enormously to the dramatic decline in part-time student numbers. This issue is about widening participation. It is about the discussions we had earlier on credit accumulation and transfer. It is about giving people different entry routes into higher education. As the Minister keeps making the point validly, it is about having a more creative, more innovative, more wide-ranging view of our higher education system, but that requires exactly the sort of flexibility that my hon. Friend talks about, which the Open University was driven away from. I do hope the Minister will give serious consideration to the proposal in new clause 11 for module by module loans.

I will speak briefly to new clauses 13 and 14. I have the privilege of representing more students than any other Member of Parliament—I regularly make that point; I can see the weary faces—and it is a great privilege. I was hit with a wall of outrage when the Government introduced the retrospective changes. They were met with outrage and incredulity from many of the 36,000 students that I represent. Rachel Mercer wrote to me:

"I have been at University since 2014 and think it is completely outrageous—if true—"

because she did not believe the Government could do something like this—

"that my loan may be rewritten....I have not seen anything which confirms these rumours...but the students I am friends with are all very worried and very angry!"

Emily Reed wrote:

"During my time"—

The Lord Commissioner of Her Majesty's Treasury (David Evennett) (Con): A Jeremy Corbyn approach.

Paul Blomfield: I think we can apply every approach. *[Interruption.]* I have got three more. Where were we? Emily Reed wrote:

"During my time as an undergraduate at Sheffield University, I volunteered with local young people who were considering university as an option. As many were from less privileged backgrounds, money was obviously a huge concern for them. These young people will be the worst affected by the proposed plans."

And she makes the point that this is on top of the scrapping of maintenance grants. It makes me feel immense guilt for having potentially encouraged young people who trusted in university advice and Government dependability to aim beyond their means. James Dawkins made the point echoed this afternoon by my hon. Friend the Member for Ashton-under-Lyne, that

"Neither banks nor lending companies would be allowed to get away with such a modification to their terms and conditions after a contract had already been signed, so how can the Government expect to do the same?"

[Paul Blomfield]

This is the nub of the issue. In any other walk of life, this would be considered to be what it is: fraudulent behaviour that undermines confidence in a funding system, in Government and in our democracy at a time when we need to encourage that confidence among young people. I wholly endorse new clauses 13, 14 and 15 and hope that the Government will give them serious consideration.

3.30 pm

Gordon Marsden: I congratulate my hon. Friend the Member for Ashton-under-Lyne and my Back-Bench colleagues on the strong, forceful and continuous way we are pressing the Government on these issues. I do not want to repeat the arguments that have been made, but I want to offer a couple of observations.

My hon. Friend the Member for Ashton-under-Lyne talked about the effect this will have on thousands of students' loan agreements. She and I both represent north-west constituencies, and one thing comes across powerfully when we look at the impact of these changes. I am not suggesting that they are simply restricted to affecting adversely a particular part or region of the country. Nevertheless, if we look at average earnings for graduates in the north-west, the east midlands or other parts of the country outside the south-east and London—graduates who have sweated hard and laboured to get their degrees and taken out loans—those are the people who thus far have been shielded from the effects of this change because they have had only modest salaries in the first two or three years of their employment. This change has a disproportionate impact on graduates on modest incomes. It is not only a socially regressive move but a geographically regressive one.

On freezing the threshold as a principle, there is little more one can say to shame the Government over this process, except to remind them of one thing. I have sat on many Bill Committees over the years, but I have never seen a witness speak truth to power with quite so much force as when Martin Lewis came before us and comprehensively condemned the Government on this. It is not often we hear such strong comments from witnesses, so it is worth repeating what he said:

"Looking at students as consumers, if they had borrowed money from a commercial lender, the Financial Conduct Authority would have struck out in a second the idea that, five years after announcing that the repayment threshold would go up from £21,000 in April 2017 with average earnings, that would be frozen."—[*Official Report, Higher Education and Research Public Bill Committee,* 6 September 2016; c. 38, Q55.]

That is the point. I do not want to get outwith the narrow clause, but Martin Lewis also said that this is not only a question of trust of a particular group of people; it is a question for our democracy. The students we are talking about are people we want particularly—I am not saying exclusively—to play a strong part in our democracy and electoral process in the future. If they come away feeling they are being treated by the Government of today with less consideration than that of a fabled second-hand car salesman, we cannot be surprised that the turnout in certain elections is not exactly what all of us would wish. Those are fundamental and central points that should be considered.

My hon. Friend the Member for Ashton-under-Lyne, with great passion and eloquence, dealt with virtually all of the reasons why we believe it is so important to bring forward the reversal of the Government's decision to replace maintenance grants with loans. I have only one further point: as the Government's own impact assessment showed, it is precisely those disadvantaged groups of young people who will suffer the most from this policy. If the Government are concerned not only about the social justice and social mobility that would be improved by restoring maintenance grants, but about our economic performance, particularly in those parts of the country they are still waxing so lyrical about devolving powers to, they really must take this argument sensibly. It does not make sense economically or socially to replace maintenance grants with loans.

Wes Streeting (Ilford North) (Lab): I rise to support new clauses 13 and 14, tabled in my name, as well as the amendments tabled by my hon. Friends. I begin with a broad point. I support the amendment tabled by my hon. Friend the shadow Secretary of State for Education on the Government's decision to abolish student grants. Whatever we think about how the Government went about making that decision, it is appalling, as I said on Second Reading, that they are proceeding with a policy that will leave the poorest students graduating with the highest levels of debt. That will be the consequence of replacing student grants with increased student loans.

In itself, that is deeply regressive, but it is also the latest step in dismantling the compromise that was reached over successive Parliaments and under Governments of different political colours. It was agreed that we would mitigate the risks posed to fair access and widening participation by higher university tuition fees and ensure, as successive Ministers have argued, that the new system would be progressive in terms of the distributional impact of Government decisions on student finance and funding. By abolishing student grants, the Government have not only undone the promise and commitment that was made to students and their representatives back then, but they have left the poorest students graduating with the highest levels of debt. That completely undermines any case the Government want to make about the inherent fairness of the system.

I am glad to see the amendments tabled by the Labour Front-Bench team, which would undo the damage, and also to see the amendment tabled by my hon. Friend the Member for Sheffield Central, who quite rightly calls for a Government review of the impact on fair access and participation in higher education of the changes to the student finance terms and conditions. In the debate about student finance we should not overlook the fact that it is about ensuring not only that people get through the door at the point of application, but that students from the poorest backgrounds are able to participate in higher education in the fullest sense because they have the financial means to do so.

Whether the lack of money in students' pockets means that they cannot access the right resources or participate fully in student activities, or that they are turning to pulling pints and stacking shelves for hours that no one could reasonably consider to be part time, there is an opportunity cost as well. If we are serious about social mobility, we need to ensure that those from the most disadvantaged and poorest backgrounds are able to play the fullest part in the higher education student experience. As the Committee will know, when

employers make decisions about graduates, they are looking at not only the degree classification but the rounded student experience.

I particularly welcome the amendment tabled by my hon. Friend the Member for Sheffield Central on access to student finance for refugees. In a previous life, I was chief executive of the Helena Kennedy Foundation, a small national educational charity focused on widening access to higher education for the most disadvantaged students from further education. The foundation had, and still has, a project aimed particularly at supporting refugees to access higher education.

Many of us will know from our casework that there are bureaucratic problems—forget policy for a moment—with the Home Office and the Border Agency. I think I have just understated the situation by describing them as bureaucratic problems. For many of those people stuck in the system, it is an absolute nightmare. Among those people are refugees who have fled some of the most indescribable and unspeakable situations and want to build a new life in the United Kingdom. Because they are left in limbo, they cannot play a full and active part in employment. They can go through school, but then they reach the barrier of access to higher education because they cannot afford international student fees. The Government ought to look at that issue very seriously, and should commend the universities that have already taken the initiative by offering generous scholarships and bursaries to refugees who find themselves in that position.

New clauses 13 and 14 are what I have dubbed the "Martin Lewis amendments". I agree with my hon. Friend the Member for Blackpool South—Martin Lewis's testimony was some of the most powerful that the Committee heard and one of the most powerful pieces of testimony that I have heard in any Committee in my short time in Parliament. He absolutely nailed the injustice and inequity of what the Government have done by making retrospective changes to student finance, which, as the Minister knows, is something that he and I both feel very strongly about.

In 2011, Martin agreed to head up an independent taskforce on student finance information at the instigation of the then higher education Minister, now Lord Willetts. He asked me to be his deputy head as I had recently finished at the National Union of Students. Our commitment was that—whatever our concerns about the system—it was absolutely critical that students should be well informed to make the right decisions about higher education and whether it was right for them, based on the facts, not fear. We worked with schools, colleges, universities, the private sector, the voluntary sector and the Government, trying to convey the facts of the system in an impartial way, not least because Martin Lewis was and still is one of the most trusted voices and a consumer champion respected by members of the public. We were conveying what we believed in good faith to be facts about the system, and find now that those promises are being undone. I agree with the adviser who wrote to my hon. Friend the Member for Sheffield Central—I feel a sense of betrayal, not just of the commitment that Martin Lewis and I had faithfully signed up to, but of those students who were inadvertently ill-advised because we could not have imagined that a Government would retrospectively change the terms of repayment for existing students and graduates.

Gordon Marsden: My hon. Friend is making a powerful and excellent case for the new clauses, which illustrates the strong convictions that he has held throughout this process. On the subject of why any Government would make this change to student loans, there is a saying that desperate times require desperate measures. Does he share my concern that this is a fundamental unravelling of the settlement that the Government thought would lead them to the promised land, but has left them with potential deficits and black holes for years to come?

Wes Streeting: I wholeheartedly agree. The only justification for the move is financial. It is a Treasury-driven decision to save some change in the Treasury coffers at the expense of existing students and graduates and, as I shall argue, at a greater cost, which is to the trust and faith in promises made by Government.

Turning to the reasons why the Minister should agree to the new clauses, I do not think that anyone in this room could, hand on heart, disagree with the principle that when a contract is signed, both sides should keep to it. If a lender advertises a loan, they should be held to the terms and conditions that it was sold under. In fact, not only is that a principle that we would all sign up to, it is a principle enshrined in law. Thankfully in this country we have laws and regulations that apply to financial products, but with, it seems, one exception: student loans.

As a result of the decision taken by this Government, albeit under the last Administration, from next April the Government will breach a promise they made to millions of students who started university since 2012. In doing so, they will hike up the costs of those students' loans by thousands of pounds. The Minister knows how the repayment system was sold: people were told that they repay 9% of everything earned above £21,000 per year. Government repeatedly promised that the £21,000 figure would be uprated each year from April 2017 in line with average earnings. I know that the Minister will stand up shortly and make a very important point about sticking to terms and conditions, and he will say that I am mistaken because the terms and conditions allow for this sort of flexibility.

3.45 pm

My amendment would tighten up the issue of the terms and conditions. It would also go to the heart of the matter, because this is about not simply terms and conditions, but promises that are made by Ministers. We were told that the £21,000 figure would be uprated in line with average earnings, and that was confirmed in black and white in a letter to parents by the former universities Minister, Lord Willetts. It was there unambiguously—not with caveats or with, "We might change our mind, but it's okay because the terms and conditions allow us to do that, even though no other financial lender would be allowed to do that." It was there, very simply stated, in black and white. If the Government go ahead, those parents will have been misled. I am sure if we invited Lord Willetts to give evidence, he would say, "Well, that was the intention. That was the promise that I made, but of course I am no longer the Minister." Although faces and names change, it is not fair that people can take out a loan in good faith with certain terms and conditions only for it to be changed retrospectively.

This is a retrospective hike in costs. Rather than rising to £25,000, the threshold has stuck at £21,000, so everyone over that level will repay an extra £360 per year. It is regressive. Lower and middle-earning graduates will not clear what they owe within the 30 years before the repayments wipe, so they will repay thousands more over the life of their loans.

On the regressive nature of the change, putting the retrospective issue to one side for a moment, if the Government want in the future to make changes to student loan repayment terms and conditions to save money, there are more progressive ways of doing so than freezing the repayment threshold. The Minister could change the taper, for example, and the rate at which higher earners pay. That would be more equitable. Instead, he has taken the simple approach of freezing the repayment threshold, but that has made the system even more regressive.

This is not just a financial issue; it has resulted in a serious loss of trust. The Government made a clear promise in all the communications, and they have moved back on it. The fact is that if this loan were regulated by the Financial Conduct Authority, there is no way it would allow any commercial lender to make a change to the terms and conditions in this way, given the way that the loan was sold. If it is not right for the banks, it is not right for the Government. Retrospective changes are bad governance, and they should not be allowed to continue.

Given that we have a new Prime Minister who said she wants a Britain where every person has the opportunity to be all that they want to be, and given that we have a new Chancellor—this is not his fault; he did not make the decision—I urge the Government to rethink this situation. The freeze has not actually started yet. There is time to reverse the damage before it is done. It was announced by the previous Chancellor, the right hon. Member for Tatton (Mr Osborne), in last year's autumn statement, and it could be reversed by the new Chancellor of the Exchequer in the autumn statement on 23 November.

I have set out clearly why this is a matter not simply of terms and conditions but of promises and trust. I hope that the Minister will hear what we have said and agree that we have made a compelling case for the Government to clean up the mess left by the previous Chancellor in the autumn statement. I hope he will stand up today and confirm to the hundreds and thousands of students, graduates and parents who are concerned about these issues that he has listened and learned, and that he will correct this mistake before it is too late.

Joseph Johnson: We have had a lengthy debate about issues that hon. Members and I have already debated on many occasions over the past year. I am sure they are familiar with many of the points I will make in response.

I will start with the overarching position, which is that Britain has some of the very best universities in the world and this Government are committed to putting them on a strong and sustainable financial footing to ensure that that continues. Our student funding regime achieves exactly the right balance between students, taxpayers and universities. Our decisions have allowed us to remove the cap on student numbers; we have increased up-front financial support to students and made above-inflation increases for some of the poorest; and I am proud to say that as a result of our decisions, more people, not fewer, are going to university, including record numbers of students from disadvantaged backgrounds. As I have told the Committee before, the entry rate for the most disadvantaged 18-year-olds has risen under the current system to 18.5%, a record high. Disadvantaged young people in England are now a third more likely to enter university than they were when the coalition Government came into office. The system is progressive; it ensures that those who benefit the most from their education contribute more.

I was struck and a little disappointed that the shadow Secretary of State claimed that the Bill was silent on social mobility and widening participation. I do not think that that is the view of the Committee as a whole. I am surprised that she has not taken into account the various ways in which the Bill moves forward Government policy on widening participation. For her benefit, I will remind her of some of the key ways in which it does so. It makes equality of opportunity a core duty of the OFS. As we were discussing an hour or so ago, it places a transparency duty on providers, shining a spotlight on those that need to go further on social mobility. It introduces an alternative finance product so those who cannot access interest-bearing loans for religious reasons can access student finance. It mainstreams the director for access and participation's role in the office for students, giving that important function the full suite of OFS levers and sanctions. It ensures that information collected by the admissions body can be used for research on social mobility. It enables new providers to enter the sector, providing greater diversity of provision for a wider range of students. Those are just some of the many ways in which the Bill takes us forward on social mobility, and I was disappointed that she did not acknowledge any of those.

Angela Rayner: I suppose the issue is gusto—whether the Bill has teeth and the ability really to drive social mobility. I was hoping that the Minister, instead of just reeling off what he has told us before, would come with me today and do something actually to help social mobility. That is why I am disappointed with his response.

Joseph Johnson: As I was going to say, our funding system for higher education has enabled us to put it on a sustainable financial footing and, in turn, lift the student number cap. If we moved back to the old way of funding universities through direct Government grants and the payment of tuition fees and maintenance grants, we would have to reimpose the student number cap, which would inevitably have an impact on widening participation. We have seen in Scotland how the alternative funding model that the Labour party wants to move us back to crimps social mobility. We see that in all the data from Scotland on widening participation and access. The hon. Lady needs only to look at the Scottish example to see how her policies would take us backwards on social mobility. She needs to look carefully at how the record participation of people from disadvantaged backgrounds under our funding system is driving social mobility and will continue to do so in the years ahead.

Angela Rayner: I thank the Minister for giving way once more; he is being generous with his time. Does he agree that Labour's announcement about how we would

plan the corporation tax rate to pay for things such as education maintenance allowance to be reintroduced was a really progressive step and would be the best way to help all our students?

Joseph Johnson: There is always the option of raising taxation and imposing on the general taxpayer the burden of paying for—

Gordon Marsden: It is not the general taxpayer—it's business.

Joseph Johnson: The general taxpayer or businesses. If the Opposition want to hammer business taxpayers, they can hammer business taxpayers too. Our funding system allocates a share of the cost of providing higher education to those who are going to benefit from it. It is not all of the cost, because as hon. Members well know, the Government make a deliberate and conscious investment in the skills base of this country by having an income-contingent student loan system that results in significant Government subsidy of student borrowing. The Government and the taxpayer are making a contribution but we feel that, to have a sustainable system, it is appropriate that the primary beneficiaries of higher education make a significant contribution to its cost. That is what our funding system does, and it has enabled us to lift student number controls, driving social mobility and access in a way that no previous funding system has ever managed.

New clause 8 would revoke the 2015 student support regulations. Those regulations replaced maintenance grants with loans for new full-time students starting their courses in the current 2016-17 academic year. The shadow Secretary of State made some comments about process and how we had avoided proper scrutiny of the change we made. I remind her that, in making that change, we correctly followed the parliamentary process as determined by the Teaching and Higher Education Act 1988, introduced by the last Labour Government. [Hon. Members: "No it wasn't—1988?"] Sorry, did I say '88? I beg your pardon; 1998, introduced by the last Labour Government.

I also note the Government's success in expanding access to higher education. To maintain that success we need to ensure that higher education funding remains sustainable, which is why we have replaced the previous system of maintenance grants, saving £2.5 billion a year. We have replaced maintenance grants with increased maintenance loans for new full-time students starting their courses in 2016-17. The poorest students are receiving the most financial support through those subsidised loans, with an increase of up to 10.3% on the previous amount of support for eligible students.

Gordon Marsden: I observe in passing that the Minister keeps saying there has been a great improvement in disadvantaged student access. I would not say it is a great improvement; I would say it is an important improvement. That is true if we look at 18 to 21-year-olds, but as he has heard me say ad nauseam, it is not true of adult, mature or part-time students. On loans, it is late in the day and I do not wish to be controversial, but if I were being controversial, I could say that those are rather weasel words. A loan is not a guarantee of that money being spent. A loan is going to be used and spent only if the people who are offered it feel it is of sufficiently good value to take it up. The truth of the matter is, and we have seen this with the advanced learner loans, that when adult students in particular do not think they can afford those loans, they do not get taken up. Some 50% of the advanced learner loans did not get taken up and that money went straight back to the Treasury, so that is not money that is automatically invested, but money that is offered, and if the terms of trade are not right, people will not take them.

Joseph Johnson: The hon. Gentleman and I have discussed part-time and mature students as part of the bigger picture. We also went through the mature numbers in some detail on Tuesday, and from recollection, mature numbers are actually now at a record level. I am probably going to get this wrong, but I believe they are at around 83,000 in the last full year, exceeding the previous high of around 82,000 a few years ago, so we are now back on track. Mature numbers certainly took a dip but they are now back at record levels.

We acknowledge and agree that we want to address the decline in part-time numbers. The origins of that fall are complex but they certainly predate the start of the increased tuition fee era, as we discussed on Tuesday. Some of the origins of the decline can be traced back to the Labour Government's imposition of the equivalent and lower qualification restriction, which we are now in the process of lifting.

Gordon Marsden: Partially.

Joseph Johnson: Yes, partially—as public finances permit. We are also in the process of putting in place a reformed funding scheme for part-time students so they can access maintenance loans on the same basis as full-time students. We are conscious that there has been a decline in the number of part-time students and we are determined to address it. We are putting in place significant measures to enable us to do so.

Last year, the Leader of the Opposition announced that he was keen to scrap tuition fees, a key architectural feature of our sustainable funding system, which prompted Lord Mandelson recently to describe the move as "not credible" and not "an honest promise". It is important that we are honest when making commitments to the general public. That key point by Lord Mandelson in his interview with the *Times Higher Education* mirrored similar remarks by former shadow Chancellor, Ed Balls, who went even further when he described the Labour party's failure to identify a sustainable funding mechanism for higher education as a blot on Labour's copy book.

4 pm

I encourage the Opposition to face reality on how to put in place a sustainable funding system and to explain exactly how they would provide a serious, real-world alternative to what we are doing. The Labour party has said that scrapping tuition fees and restoring maintenance grants would cost £10 billion a year. A conservative estimate is that it would cost £40 billion over a normal five-year Parliament. In contrast, the OECD has praised the student loan system that this Government have introduced in England and said that we are one of the few countries to figure out a sustainable approach to higher education finance.

I understand that there were concerns that the changes might have deterred students from entering higher education, but we have seen that that was a dog that did not bark. The evidence has shown that participation continues to rise following our reforms in 2012. The latest data from UCAS suggest that it will continue to do so.

Angela Rayner: The Minister is making great play of his sustainability model and suggesting that the Opposition do not have one. Is he aware that the OBR report on sustainability says that the debt increase by this Government will be 11% of GDP when they write off the existing debt under their proposals?

Joseph Johnson: The hon. Lady may want to tell us more about her sustainable model. We have a sustainable funding model and it is delivering record participation for people from disadvantaged backgrounds. Surely she should welcome the level of investment that the Government are consciously and deliberately making in our higher education system. I thought that the Labour party would welcome Government investment in our higher education system but, on the contrary, it seems to be lamenting it. That is extraordinary.

Angela Rayner: The Minister fails to understand that I said in my contribution that the Government are increasing debt for future generations and not providing a sustainable model. He is trying to hoodwink the public into believing that that is what he is trying to do. He should be honest with the public.

Joseph Johnson: The hon. Lady should look carefully at the benefits that students get from higher education. She will have seen the frequently rehearsed statistics showing that a woman who goes through higher education can expect lifetime earnings that are £250,000 higher, net of tax and the cost of university, than she would have had, with the same qualifications, if she had not gone through university, and the figure for a man is £170,000. The model is sustainable.

Gordon Marsden: This is nonsense.

Joseph Johnson: The hon. Gentleman says "nonsense", suggesting he does not believe in—

Gordon Marsden: I do not believe that at this hour of the afternoon, even allowing for the Chair's indulgence, we should get involved in trading statistics, but the Minister might like to reflect on the fact that, because there has been an expansion in the number of students—I referred to this when I talked about graduates in the north-west earning only £16,000 or £17,000—many of the figures that he and his colleagues merrily chirp about are based on past experience. None of us can say what the situation will be in 10 years, but we know, and a variety of reports show, that the graduate premium is rapidly decreasing.

Joseph Johnson: If the hon. Gentleman looks at the evidence from bodies such as the IFS, I think he will find that the graduate premium is holding up. Certainly there is variability across institutions and between courses, but there is still robust evidence for a graduate premium.

The Chair: Order. We are going wider and wider, and we are getting more and more worked up. I think we should calm down. The Minister has made his point. Stick to the new clauses.

Joseph Johnson: I will crack on, Sir Edward.

New clause 11 is intended to support learner flexibility, as helpfully discussed at length in Tuesday's debate. The Government are committed to student choice and share the ambitions of Members of all parties to support flexibility to meet students' circumstances. Supporting students who wish to switch higher education institution or degree is an important part of our reforms.

The hon. Gentleman is aware that the Government recently ran a call for evidence on credit transfer and accelerated degrees. We were pleased to receive more than 4,500 responses, which we are currently looking at carefully. We need to consider a number of issues before moving forward, and we recognise the central importance of student funding arrangements alongside wider issues such as student demand and awareness, and external regulatory requirements. We expect to come forward, as I said previously, by the end of the year with our response to the call for evidence.

Turning to new clauses 13, 14 and 15, I share hon. Members' desire to ensure that students' interests are protected when they take out a student loan, and I am pleased to have the opportunity to set out how we will ensure that. The key point is that student loans are not like commercial loans. Monthly repayments and interest are based on the borrower's income, not on the amount borrowed. Borrowers repay nothing if they earn below the £21,000 threshold. Repayments are affordable and the loan is written off after 30 years with no detriment to the borrower.

Hon. Members have suggested that an independent panel should consider terms and conditions, and that changes to repayment terms and conditions should be subject to the approval of both Houses of Parliament. However, the key terms and conditions governing the repayment of the loan—the repayment threshold and rate, and the interest charged on the loan—are all set out in regulations. The current procedure already allows Parliament to debate or vote on any changes to the repayment regulations. That is the appropriate level of accountability for the decisions.

Wes Streeting: The Minister has outlined his views on terms and conditions. Does he agree that the Financial Conduct Authority should regulate student loans on the basis that it looks not only at terms and conditions, but at the premise on which a financial product is sold? That is where the Government have come a cropper.

Joseph Johnson: It has long been a feature of our system that we have a highly subsidised student loan, offered on a universal basis by the Student Loans Company, to all borrowers who can benefit from a higher education. It is massively different from a commercial product, which can cherry-pick who to lend to and charge market rates of interest.

Our student loan product is heavily subsidised, as hon. Members described earlier. It is income contingent, so borrowers only repay when they earn £21,000. It is written off altogether after 30 years. The interest rate

charged would certainly be lower than that charged by commercial organisations when faced with a similar scenario.

Gordon Marsden *rose—*

Joseph Johnson: I have to make more progress.

Gordon Marsden: He doesn't want to address the issues.

Joseph Johnson: You won't goad me into giving way. The Chair has indicated that he wants us to make progress, and that is only fair to him after a long day.

The current procedure already allows Parliament to debate and vote on all this. New clauses 14 and 15 address the issue of the FCA. We do not believe that we need to change the arrangements, which, since the Teaching and Higher Education Act 1998, have enabled the loans to be exempt from consumer credit legislation. Parliament confirmed the exemption from regulation under consumer credit legislation in 2008, when the then Labour Government passed the Sale of Student Loans Act 2008. The factors that led Parliament to that decision remain valid today, and the current system of parliamentary oversight is the most appropriate for this statutory loan scheme.

New clause 15 relates to equal treatment for borrowers whose loans have been sold. I am glad to be able to reassure the Committee that borrowers whose loans have been sold are protected by the Sale of Student Loans Act 2008. I can also confirm that for the planned sale of pre-2012 income-contingent loans, purchasers will have no powers to change the loan terms in any way and will have no direct contact with borrowers.

New clause 15 would also require the repayment threshold for all income-contingent student loans to increase in line with average earnings. The precise value of the repayment threshold is a key factor in determining the long-term sustainability of the loan system, and in particular the extent to which taxpayers—many of whom are not graduates—subsidise loans. Any Government have to be able to balance the interests of taxpayers and graduates in the light of the prevailing economic circumstances. The decision last year to freeze the threshold was taken precisely because economic circumstances had changed, with the result that the taxpayer would have had to pay substantially more to subsidise the loans than was originally intended.

Paul Blomfield: The Minister says the terms were changed because of changed economic circumstances. Is it not the case that the reason was flawed planning by the Government? He will recall that when the changes were introduced in 2012, the Minister at the time, now Lord Willetts, was arguing that the resource accounting and budgeting charge—the non-repayable debt facing the Government—would be around 28%. Many of us, including independent experts, argued that that was not credible and that it would be much higher.

Gradually, over a period of years, the Government's projections shifted from 32% to 36% to 38%, moving up to the mid 40%s and at one stage modelling—not confirming—a RAB charge of more than 50%. At that point, the new system became more expensive to the public purse than the one it replaced, as well as imposing additional debt on students. Was the Government's incompetence on this not the reason?

Joseph Johnson: I do not think that is right.

Hon. Members: It is!

Joseph Johnson: No, it is not right. The historical record will show that the original RAB charge projections ended up being more or less in the ballpark. The RAB charge is estimated by the Department now to be between 20% and 25%. The real thing that changed was that earnings did not rise as rapidly as we expected, which meant that fewer people were repaying and the cost of providing the loan system to the taxpayer would therefore be higher than anticipated. When the policy was introduced, the threshold of £21,000 was about 75% of expected average earnings in 2016. Updated calculations based on earnings figures from the Office for National Statistics show that figure is now 83%, reflecting weaker than expected earnings growth over the intervening period. The proportion of borrowers liable to repay when the £21,000 took effect in April is therefore significantly lower than could have been anticipated when the policy was introduced. That is the issue. I will now carry on.

The current funding system is fair to students, graduates and taxpayers. We must also ensure it supports all eligible students, irrespective of their religion. Ever since student loans were introduced there have been concerns about their impact on Muslim prospective students, who might consider they are not consistent with the principles of Islamic finance. Those concerns were backed up by our research, which shows that Muslim students make less use of student loans than their peers. Clause 78 sets out our intention to provide the Secretary of State with the power for the first time to offer alternative payments alongside existing powers to offer grants and loans. We believe clause 78 will help advance equality of opportunity by allowing the Government to provide a new form of financial support for students who feel unable to access interest-bearing student loans due to their religious beliefs.

4.15 pm

Wes Streeting: The Minister will be pleased to know I really welcome this important step to widen access. Does he have a sense of the timetable for when this will kick in, so I can inform Muslim students in my constituency or other students who would also have access to this mechanism when they might be able to take advantage of it?

Joseph Johnson: I am glad the hon. Gentleman welcomes the measure. There is a happy consensus on it in all parts of the House. We are pleased that as a Government we took the initiative to consult on this back in 2014, and we now have a legislative vehicle that will give the Secretary of State for the first time the ability to offer a non-interest-bearing product. We are currently constrained from putting that kind of alternative finance package in place. We are dependent on the passage of the Bill, but our intent is to get cracking on it as soon as parliamentary business allows.

This Government are committed to a sustainable and fair funding system. We are seeing more people going to university and record numbers of students from disadvantaged backgrounds. I hope the Opposition can see that their amendments can now be withdrawn safely

[Joseph Johnson]

and that the student funding regime is sustainable and already works in the best interests of students and this country.

Question put and agreed to.

Clause 78, as amended, accordingly ordered to stand part of the Bill.

Clause 79 ordered to stand part of the Bill.

Clause 80

POWER TO DETERMINE THE MAXIMUM AMOUNT OF LOAN ETC

Amendments made: 243, in clause 80, page 49, line 29, at end insert—

"(1A) In subsection (2), after paragraph (a) insert—

"(aa) for the designation of a higher education course for the purposes of this section to be determined by reference to matters determined or published by the Office for Students or other persons;"."

This amendment makes clear that regulations under section 22 of the Teaching and Higher Education Act 1998 may make provision for the designation of higher education courses for the purposes of that section to be determined by reference to matters determined or published by the Office for Students or other persons.

Amendment 244, in clause 80, page 49, line 29, at end insert—

"(1B) In subsection (2), after paragraph (f) insert—

"(fa) in the case of a grant under this section in connection with a higher education course, where a payment has been so suspended, for the cancellation of any entitlement to the payment in such circumstances as may be prescribed by, or determined by the person making the regulations under, the regulations;"."

See the explanatory statement for amendment 242.

Amendment 109, in clause 80, page 49, line 31, leave out "in relation to England".

This amendment provides for new subsection (2A) of section 22 of the Teaching and Higher Education Act 1998 (which clause 80(2) inserts into that section) to apply to Wales as well as England.

Amendment 245, in clause 80, page 49, line 34, at end insert—

"(3) In subsection (3), after paragraph (d) insert—

"(da) in the case of a loan under this section in connection with a higher education course, for the cancellation of the entitlement of a borrower to receive a sum under such a loan in such circumstances as may be prescribed by, or determined by the person making the regulations under, the regulations where the payment of the sum has been suspended;"."—*(Joseph Johnson.)*

See the explanatory statement for amendment 242.

Clause 80, as amended, ordered to stand part of the Bill.

Clause 81

QUALIFYING INSTITUTIONS FOR PURPOSES OF STUDENT COMPLAINTS SCHEME

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

Gordon Marsden: The clause expands the student complaints regime to a list of new higher providers that are required to join the higher education complaints handling scheme. That in itself is good and useful, but I want to discuss the nature of the expansion that requires this student complaints regime. In discussions on the Bill so far, the Minister has been at pains to praise competition and the free market in expanding provision and expanding opportunity, both for providers and for students, but the interesting issue is the nature of the expansion.

I do not know whether the Minister is familiar with the QAA report that was highlighted in *Times Higher Education* on 28 July this year. That report said that 19 of the 23 new providers that were inspected were located in the London area, with 12 clustered within a one-mile radius of the centre of the capital. The report also said that although the total number of inspections is small, the proportion of unsatisfactory reviews appears to be increasing. In 2013-14 one of seven providers inspected failed to meet standards and in 2014-15 seven of the 20 fell short.

The point I want to make is that it is not sufficient simply to amend the student complaint regime to accommodate an increase in numbers of providers. The Government should really be paying some close attention to whether the increase in new providers is geographically and regionally fair. Competition there may be, but that is competition largely in and around one city: London. The Campaign for the Defence of British Universities says:

"it is local and regional universities that do the heavy-lifting on social mobility—not the most selective universities…And in many parts of England"—

as we have discussed when talking about the implications of Brexit for funding for universities—

"they are often engines of economic growth as well."

The Minister's new counterpart, the Secretary of State for Business, Energy and Industrial Strategy, understands that well and has made strong points about the need to spread advantage and equality, but it seems to me that in what the Government have said so far on competitiveness and encouraging new providers there has been very much focused on London and the south-east. The Minister will no doubt talk about Hereford and one or two other places, but if the Government are serious about expanding new provision or utilising existing provision in further education colleges to expand numbers and include those new institutions providing higher education in the student complaint regime, as the clause provides for, they have to do far more on their diversity strategy to ensure that new providers, good though they may or may not be, are not simply confined largely to London and the south-east.

Joseph Johnson: Our higher education sector enjoys an excellent reputation around the world. We want to continue to ensure that all HE students enjoy a high-quality learning experience. It is important that there are effective arrangements in place for students to raise concerns and formal complaints in the relatively small number of cases when things go wrong.

As it stands today, the responsibility for handling student complaints rightly rests in the first instance with the autonomous and independent institutions that deliver higher education. Providers will want to respond to feedback from their students, including those issues raised through complaints. That will both enable the speediest resolution of issues for the student and provide

the institution with a means of improving quality for all their students in the longer term. When complaints remain unresolved, there is a well established service offered by the Office of the Independent Adjudicator for Higher Education.

The scheme operated by the OIA was set up as an alternative to the courts and is free of charge to students. The clause extends access to the service to the students of all providers that are included on the OFS register. In practice, that means that those providers that have chosen to join the OFS register but are not accessing public funding will be part of the OIA scheme. That should give protection to an additional group of students that are part of the higher education system. We should also expect to see an improvement in complaint handling arrangements at those providers. A major part of the OIA's role is also to spread good practice in complaints handling more generally.

The clause also states that where a provider ceases to be a qualifying institution for the purposes of the student complaints system—for example because they have been removed from the register—that provider becomes a transitional provider for a 12-month period. That puts into legislation an additional protection to all students by ensuring that complaints can now be considered in that 12-month period.

I turn to some of the points the hon. Gentleman made in his remarks about coldspots. We are not specifying particular places where the OFS must direct resources or new providers need to be. We want to be led by market demand and the needs of learners across the economy, and we are encouraged by evidence that coldspots are attracting new entrants. He and I have discussed a number of those new entrants over the past few months, and he is familiar with the examples in Hereford, the new institutions coming up in Suffolk and the proposed institutions in Milton Keynes, and so on. We are pleased that market processes are encouraging new entrants to fill such coldspots, but we are not just leaving it to the market; we are proactively identifying opportunity areas. He will have seen the announcement in recent days of 10 areas of England that we have identified as clearly experiencing social mobility challenges because of a relative lack of high-quality provision, including his own patch in Blackpool. I hope he will welcome the Government's steps to identify parts of the country, including his own, that need special attention and action.

Question put and agreed to.

Clause 81 accordingly ordered to stand part of the Bill.

Clause 82 ordered to stand part of the Bill.

Schedule 8

HIGHER EDUCATION CORPORATIONS IN ENGLAND

Amendment made: 110, in schedule 8, page 89, line 3, leave out from beginning to end of line 10 and insert—

"(1A) The application of the seal of a higher education corporation in England must be authenticated by the signature of—

(a) the chair of the corporation or some other person authorised for that purpose by the corporation, and

(b) any other member of the corporation.

(1B) A document purporting to be duly executed under the seal of a higher education corporation in England or signed on the corporation's behalf—

(a) is to be received in evidence, and

(b) is to be taken to be executed or signed in that way, unless the contrary is shown."—*(Joseph Johnson.)*

This amendment replaces the new section 124ZB(2) of the Education Reform Act 1988 with two new subsections. New subsection (1A) requires the seal of a higher education corporation in England to be authenticated by two signatories, the chair or other authorised person and one other member. This replicates the current requirement in paragraph 16 of Schedule 7 to the Education Reform Act 1988. Subsection (1B) replaces current subsection (2) with wording that is consistent with that used in Schedules 1 and 9 to the Bill.

Schedule 8, as amended, agreed to.

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

4.26 pm

Adjourned till Tuesday 18 October at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

HERB 57 Public and Commercial Services union
HERB 58 London Mathematical Society