

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT HIGHER EDUCATION (FEE LIMITS AND
FEE LIMIT CONDITION) (ENGLAND)
REGULATIONS 2018

Monday 16 July 2018

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The Committee consisted of the following Members:

Chair: ANDREW ROSINDELL

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| † Badenoch, Mrs Kemi (<i>Saffron Walden</i>) (Con) | † Marsden, Gordon (<i>Blackpool South</i>) (Lab) |
| † Brereton, Jack (<i>Stoke-on-Trent South</i>) (Con) | † Milling, Amanda (<i>Cannock Chase</i>) (Con) |
| † Debbonaire, Thangam (<i>Bristol West</i>) (Lab) | † Platt, Jo (<i>Leigh</i>) (Lab/Co-op) |
| † Dunne, Mr Philip (<i>Ludlow</i>) (Con) | Powell, Lucy (<i>Manchester Central</i>) (Lab/Co-op) |
| † Gyimah, Mr Sam (<i>Minister for Universities, Science, Research and Innovation</i>) | † Reynolds, Emma (<i>Wolverhampton North East</i>) (Lab) |
| Howarth, Mr George (<i>Knowsley</i>) (Lab) | † Syms, Sir Robert (<i>Poole</i>) (Con) |
| † Jones, Andrew (<i>Harrogate and Knaresborough</i>) (Con) | † Warburton, David (<i>Somerton and Frome</i>) (Con) |
| † Jones, Susan Elan (<i>Clwyd South</i>) (Lab) | Nehal Bradley-Depani, Hannah Bryce, <i>Committee Clerks</i> |
| † Lewer, Andrew (<i>Northampton South</i>) (Con) | |
| † McGinn, Conor (<i>St Helens North</i>) (Lab) | † attended the Committee |

Second Delegated Legislation Committee

Monday 16 July 2018

[ANDREW ROSINDELL *in the Chair*]

Draft Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018

4.30 pm

The Minister for Universities, Science, Research and Innovation (Mr Sam Gyimah): I beg to move,

That the Committee has considered the Draft Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Rosindell. On 2 July, I announced that maximum fees for students undertaking undergraduate courses in the 2019-2020 academic year would remain at 2018-2019 levels for the second year running. The Government have listened to the views of young people, parents and Members, and have decided to freeze maximum tuition fees for the 2019-2020 academic year, saving students up to £255.

The freeze in fees builds on other changes we have made to help students with their finances. From the '18-'19 tax year we increased the threshold above which graduates are required to make repayments on their loans from £21,000 to £25,000, rising by average earnings thereafter. That puts more money in the pockets of graduates, and it is happening in the context of widening access to higher education. A record proportion of 18-year-olds, including those from disadvantaged backgrounds, are going to university to study full time. However, there is still more to do across higher education. That is why the Government are undertaking a major review of post-18 education and funding to ensure that we have a joined-up education system that is accessible to all and encourages the development of the skills we need as a country. The Government expect to conclude the review in early 2019.

These regulations are made under section 10 and schedule 2 of the Higher Education and Research Act 2017. They set the maximum fee limits that providers in England can charge home students in 2019-2020. The existing fee caps, made under section 24 of the Higher Education Act 2004, will be revoked automatically on 1 August 2019 as a result of paragraph 30(2) of schedule 11 to the 2017 Act. It is therefore essential that new regulations are made under HERA to ensure that fee caps continue and that students benefit from the freeze in maximum fees.

Under HERA, providers can choose to register with the new independent regulator, the Office for Students, in one of two categories: the "Approved (fee cap)" category or the "Approved" category. Providers registering in the "Approved (fee cap)" category will, for 2019-2020, be eligible for OfS grant funding and subject to maximum fees set in the regulations—£9,250 for a full-time course offered by a provider with a teaching excellence and student outcomes award. Students attending "Approved (fee cap)" providers will be able to access loans to cover

the full costs of their fees. Providers registering in the "Approved" category, however, will not be eligible for OfS grant funding or subject to maximum fees. Students attending those providers will be able to access lower rates of loans towards the costs of their fees. Under HERA, the OfS will be able to limit fees charged by "Approved (fee cap)" providers once the regulations come into force.

Without the regulations, providers will be free legally to charge whatever fees they wish, and we will be unable to implement fully the new regulatory framework under HERA—in particular, the requirement for "Approved (fee cap)" providers to submit access and participation plans to the OfS in order to charge fees above £6,165 for full-time courses. The regulations will ensure that providers have to adhere to the maximum cap, and without them, providers would be free to charge whatever they want. I commend the regulations to the Committee.

4.34 pm

Gordon Marsden (Blackpool South) (Lab): It is a great pleasure to serve under your chairmanship, Mr Rosindell. I thank the Minister for the indications he has given today. I give notice, for the relief of Government Members, that we do not intend to oppose these regulations. We do, however, intend to hold the Government to account—that is the role of the Opposition—by asking one or two questions about them.

We are discussing regulations that will, as the Minister said, freeze tuition fees for a second straight year and set the levels at which institutions can charge students, depending on their place in the Office for Students' new register. I emphasise for the benefit of all Committee members that we are entering new and uncharted waters. The OfS is not the same as the Higher Education Funding Council for England, and the Government do not wish it to be the same; that was made very clear during proceedings on the Higher Education and Research Act 2017. That means that we have to tread carefully, both in establishing precedents and in evaluating the effectiveness of the implementation of the regulations, the capacity of the OfS to implement them, and the outcomes. I will be asking the Minister one or two questions about that.

In the 2017 Act, the Government balanced the introduction of differentiated fees for institutions with the creation of the teaching excellence framework. The TEF was one of the ways in which differentiated fees would be established, which is why the Government used the Act to put those mechanisms in place. However, the Government have not been able to do as they originally intended with these regulations, because they are committed to a full review of the TEF. Although the Minister was not involved in the discussions that took place between Labour and Conservative Front Benchers before the previous general election, he will know that that review was one of the concessions that the Government made in the so-called wash-up period. We and a large number of Members of the House of Lords were concerned that that should be done, and amendments were tabled to that effect, so the Government have to begin the process this year. Will the Minister let us know what progress has been made on appointing the independent chair for that review? If the review does not go forward in a timely fashion and is not accepted by all parties, it will be difficult to make the TEF work in establishing differentiated fees for institutions.

Although it is important and absolutely right that tuition fees do not go up any further—we await the outcome of the Government’s post-18 review—it is instructive to look at why the Government have had to do what they have done. The Minister, perfectly reasonably, said that they had listened to Parliament and various groups, including universities and young people. All of that is highly laudable, but they also had to listen to the growing clamour of concern about the long-term implications of the system they have put in place.

The Institute for Fiscal Studies found that the removal of maintenance grants from students from low-income families meant that those students were graduating with the highest debt levels—in excess of £57,000. That makes the current educational climate for students not favourable, despite what the Minister said about the number of students from disadvantaged backgrounds under the age of 18; that is an important caveat. Since 2010, Governments have repeatedly raised tuition fees. They trebled them to £9,000, with a subsequent increase during the 2017-18 academic year to £9,250. According to a Sutton Trust report from late last year, the average debt for students in England is £46,000.

There has been a steady stream of reports in recent months criticising the Government’s market model for higher education as completely unworkable. Bodies such as the Lords Economic Affairs Committee and the Public Accounts Committee have said that the student loan system is economically unsustainable and damaging to social mobility.

I understand that in introducing the regulations, the Minister wants to put the best gloss on the Government’s motivations. I appreciate that he has listened, as he said he would, to the views of students, but the Government are also introducing the measures for practical and political reasons. Whatever the basis for it, however, this freeze is highly welcome and definitely desirable, which is why the Opposition will not vote against it. We do not believe that we should place any further burdens on students at this stage. The freeze is the bare minimum that the Government should do, and there are other impacts on students and certain groups that must be looked at urgently.

Before I turn to those impacts, I will ask the Minister one or two questions about the detail of the regulations. For the benefit of the Committee, I will refer to the explanatory memorandum that we have been given. I said earlier that the OfS was a different animal from HEFCE, and it behoves me to ask a couple of questions about that. Paragraph 4.1 of the memorandum describes the background to the establishment of the process, how HEFCE currently imposes the limit on tuition fees and how the regulations

“will prescribe the maximum tuition fees that will apply to higher education providers which are registered in a certain part of the register maintained by the OfS under section 3 of the Act.”

In advance of introducing the regulations, what discussions has the Minister had with the OfS about its capacity to register the various higher education providers? We know, of course, what the Government anticipate. Indeed, one of the elements of the pitch made by the Minister’s predecessor, the hon. Member for Orpington (Joseph Johnson), was that we were going to get a great influx of new higher education providers, not least in the private sector; he made great play of that throughout proceedings on the Bill. What consultations has the Minister had with

the OfS about how it is proceeding with the register, and what differences does he anticipate between the OfS’s handling of the register and how HEFCE handled it?

The Minister also spoke about the differential between providers on the register that have in place OfS-approved access and participation plans—I refer to paragraph 4.6 of the memorandum—and those that do not. The regulations prescribe an absolute commitment to fair access and participation as part of being on the register. Furthermore, paragraph 4.7 states:

“These Regulations similarly set a limit on the maximum fees that prescribed registered providers which do not have access and participation plans approved by the OfS in place, but which do have a high level quality rating may charge for full-time or part-time higher education courses...This limit is known as the ‘basic amount’.”

I have two concerns about that. Is the Minister absolutely confident that the OfS has the mechanisms it needs to distinguish between higher education providers that come under the higher amount category and those that come under the basic amount category? The phraseology in the explanatory note is those that can charge the basic amount must have a “high level quality rating”. The words “quality” and “high level” are potentially quite subjective, so it would be helpful to have some illumination from the Minister about whether it is down to his Department or the OfS to decide what a high-level quality rating is.

The last thing we need is for providers to go on to the basic amount register if they do not provide even that. Right from the beginning of proceedings on the 2017 Act, we raised the question of whether new providers could assume that they would eventually be taken as higher education providers. We argued strongly against that “day one” scenario. We accept that we were not successful, but that makes further reassurance in that area all the more important. I ask the Minister to look at that issue, in particular.

I turn to the broader issues that must be addressed with this freeze. The Minister said that the Government have had consultations but, as the former Universities Minister, Lord Willetts, admitted, the fee increases have had a major—indeed, devastating—impact on part-time and mature learning. I hope the post-18 review will look at that very closely, and I am concerned that these regulations contain nothing to remedy it. We know from the Sutton Trust that the biggest decrease has been in the number of students aged over 35—people of prime working age—and we know about the disastrous effect that that has had on the part-time sector. The Government have a key role in widening access for older people, but unfortunately they have had a funny way of showing it in recent years. There is nothing in the regulations to tilt the status quo in favour, or even in support, of mature students.

I must challenge the Minister on one point. Contrary to popular belief, and according to the Open University, the total number of English undergraduate entrants from low-participation areas actually fell by 17% between 2011-12 and 2016-17. I know I have written to him about that recently, but I am extremely concerned about it.

The regulations freeze fees for a year but do not diminish them. Given the nature of statutory instruments, they contain no measures to mitigate the effects of fees. We are agreeing to a freeze for a second year, but who knows what will happen after that? Whatever comes out

[Gordon Marsden]

of the post-18 review, it will not have any effect until the 2021 academic year, at the earliest, and the sector needs some remedy before then. What immediate remedies can the Minister put in place, financial or otherwise, to encourage more take-up of part-time courses and more take-up from mature students?

I want to return to the specifics of the regulations, which talk about the areas and the types of students that will be affected by this process. What the regulations say about maximum fees for specified cases for full-time courses includes students who come to the UK and study on an Erasmus study or work placement year. There is a great deal of concern about what the status of those students will be in terms of funding and eligibility for loans, in relation to the maximum fees that will be charged. In the HE sector, an Erasmus year is the academic year in a course when a student participates in the European Union's Erasmus+ programme.

I wrote recently to the Minister about the application of Erasmus in 2019-20. I was grateful for his response, which said that EU27 students will be guaranteed for course studies in September 2019, possibly lasting until 2023. We welcome that and I know the HE sector welcomes that, because of the important security it offers the university sector at a time when it has lots of concerns and fears about the implications of Brexit.

However, I also wrote to the Department about whether it would provide a parallel guarantee for those in the further education sector, given that one in 10 higher education students in this country takes their degree via the FE sector. Nothing has been said about a parallel guarantee for adult education courses and apprenticeships or for those participating in the FE sector. Can the Minister chivy up his colleagues in the Department for Education, particularly the Secretary of State, to make a parallel commitment? It would be greatly appreciated.

Finally, the Minister has talked about the importance of freezing the fees. He has talked about the rise in the threshold, but he did not talk about the interest rate payments, which brings us to the vexed issue of the retail prices index. According to the Library's research, graduates with student loans in England will be saddled with up to £16,000 more debt because of the Government's use of RPI instead of the consumer prices index to set interest rates. Analysis shows that the use of RPI, which has been criticised by the Bank of England and the Office for National Statistics, adds the most interest to the debt of the lowest paid graduates.

As I have said, on average students leave university with £46,000 to £50,000 of debt, which is bad enough, but because of the Government's current interest rate system, they are being charged an additional £16,000 on their loans. In other areas, the Government has dropped RPI in favour of CPI: for example, for uprating public sector pensions. The House of Commons analysis found that switching to CPI would result in £16,000 less interest being added over 30 years to the debt of graduates. Why has there been foot-dragging on that change? What representations is the Minister making to the Treasury team and the Chancellor for his autumn Budget to make a significant change?

At the risk of being accused of being a dog in the manger about this, it is all well and fine to freeze the fees at what the Labour party would consider to be an

excessive sum of money in the first place, but if the Minister and his colleagues do not do something to address the issue—or perhaps we are supposed to wait for the post-18 review—the promise of relief that they are trying to offer students and which is embodied in the regulations today will be only half fulfilled.

4.54 pm

Emma Reynolds (Wolverhampton North East) (Lab): It is a pleasure to serve under your chairmanship, Mr Rosindell.

Although the official Opposition are not planning to vote against the regulations—I would not want higher education institutions to set whatever fees they like, so I understand that there has to be a cap, which is what today's regulations are about—I remind the Committee that Labour Members opposed the increase of the cap from £3,000 to £9,000 and I regret, as my hon. Friend the Member for Blackpool South has outlined, that the regulations do not decrease the fees. I think the fees should come down. There is an argument that students should make a contribution, but I do not think that it should be as high as £46,000 or £50,000.

I have said in the Chamber that I oppose the Government's removal of maintenance grants. I was able to benefit from such a grant at university, and I urge the Minister to ensure that universities such as the one that he and I attended, the University of Oxford, redouble their efforts so that people from under-represented groups—black and ethnic minority communities, but also working-class communities—attend them. My right hon. Friend the Member for Tottenham (Mr Lammy) recently made a freedom of information request. There were some appalling answers from the University of Oxford and other elite universities that are taking in very few people from under-represented groups. The universities and the Government need to do a lot more.

4.55 pm

Mr Gyimah: I thank hon. Members for a wide-ranging debate and for some very pertinent questions, which I will try to answer.

The first question pertained to the independent reviewer for the teaching excellence and outcomes framework. I want to put it on the record that the process of appointing the reviewer is under way and an announcement will be made in due course, once the appointment has been made.

A number of issues were raised about the current fees system. Interestingly, the Opposition did not mention the effect of raising the threshold, which is an important policy. It cost billions of pounds and will save the average student about £10,000 over the duration of the loan. It is not an insignificant policy in ensuring that we alleviate the burden of debt for students.

Since I was appointed to this job, I have travelled around the country speaking directly to students. I have spoken to about 1,500 students since I was appointed in January. When I say that what we are doing is a response to listening to students, that is meant very seriously. Students have a range of concerns. The issue that is most likely to get them to riot on campus is actually not tuition fees, but the rent going up. That has come up repeatedly.

In that context, maintenance grants were mentioned. It is worth putting it on the record that maintenance grants offered significantly less money than a student can get through a loan. It was actually more difficult for students to pay their way through university, because they received maintenance grants of about £3,000, whereas now they can get a loan, with almost no questions asked, of £10,000. Furthermore, if someone earns less than £25,000 and cannot pay back the loan, they do not have to and after 30 years it is written off. That is helpful for disadvantaged people, because there is no barrier to their accessing higher education. It is therefore unsurprising that the proportion of disadvantaged 18-year-olds applying for full-time undergraduate courses was, in January this year, a record high of 22.6%.

Emma Reynolds: I welcome the threshold that the Minister outlined in his opening speech and has just emphasised, but there is a difference between a grant and a loan. Even if someone will never pay the loan back, they do not know that for sure because they are not entirely sure how much they will earn over their lifetime. Does he not accept that, although maintenance grants were only £3,000, that was money in people's pockets up front that they never had to pay back? That is different from a loan.

Mr Gyimah: There are two points to make about that. If someone got a £3,000 grant in the previous system and then had to go to a bank to borrow, that would cost them a lot more than it does to borrow under the current loans system. The truth about the current system, which is obviously under review, is that it is a hybrid between a loans system and a contribution system. Opposition Members do students a disservice by pretending that it is similar to a loan from Lloyds bank. It does not go on their credit score if a student is not able to pay the money back, they will not have a bailiff knocking on their door, and there is the issue of their having a job in which they earn more than £25,000. That is very different from a commercial loan, and we do students a disservice by not explaining the system to them and pretending that it is something it is not.

Gordon Marsden: I am sorry to have to intervene on the Minister on that point. He accused the Opposition of not talking about the raising of the threshold. Let me put it on the record to satisfy him, for what it is worth, that we welcome the raising of the threshold. We have persistently and continually argued for the need to raise it, not least because of its implications for students in certain parts of the country who leave university and do not get a decent graduate premium immediately. They are in a very different situation.

However, I really must take issue with the Minister saying, "Oh well, they don't have to pay it back." I thought that this was supposed to be a fiscally prudent Government who wanted to look to the future, but the Minister is throwing around public loans like a man with no arms. We all know—surely the Minister has seen this too—that the resource accounting and budgeting figure for the debt that will be laid on future generations is going up and up. We cannot simply work on that basis.

The other point I will mention briefly is that the Minister says that it is much better to take up a loan, based entirely on the assumption that the cohort is

made up of 18 to 22-year-olds. I am not sure that is even correct for them, but it is very different for older people—mature students in their 30s and 40s and those doing part-time courses—to take on a debt of the sort of amount we are talking about. The statistics are clear that there has been a catastrophic drop in the number of mature students and part-timers. Although we cannot say absolutely that the tripling of the fees is 100% responsible, it certainly bears a great part of the responsibility.

Mr Gyimah: I thought that was meant to be an intervention but it was a mini-speech. At the risk of drifting into a Second Reading debate on the student finance system, there is one clear difference between Government Members and Opposition Members: if university education was made free, which the Opposition argue for, the numbers would have to be capped. If it is free, it is capped; and if it is capped, it is the well-off who will benefit the most. The system we have introduced means that more disadvantaged students are going to university than ever before. We do not say that the system is perfect, and that is why there is a post-18 review with a wide-ranging remit looking at the issues, including the interest rate, which was raised by the Opposition. If the Opposition would make it free, they have to tell us whose child will not go to university under their scheme when they cut the numbers.

A number of other questions were raised. On the OFS and its capacity to register, it does have that capacity. A lot is going on, and it is on track to deliver in the timeframe that has been set. On new providers, the OFS is dealing with a number of inquiries from them. On EU students and whether the clarification regarding university students applies to FE students, I would like to put it on the record that it does.

The issue of part-time students is of serious concern. We have adopted a number of measures to support part-time and mature students. For example, in the next academic year, part-time students will for the first time be able to access full-time maintenance loans, and we are looking at a lot more support for such students as part of the Augar review.

The regulations must be introduced now because universities have to market their courses for the next academic year, but this is by no means the end of the matter as far as student finance is concerned. I thank Members for their contributions and I welcome the points raised by the Opposition. We must ensure that access to our elite universities is as open as possible, without resorting to any kind of social engineering, so that wherever in our system someone is educated, they are competitive and can apply and get into the top universities if they have the grades. That is a real focus and passion of mine, and I will say lots more about it in due course. I therefore commend the regulations to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018.

5.6 pm

Committee rose.

