

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SKILLS AND POST-16 EDUCATION BILL [*LORDS*]

Fifth Sitting

Tuesday 7 December 2021

(Morning)

CONTENTS

CLAUSE 14 disagreed to.
CLAUSES 15 AND 16 agreed to.
CLAUSE 16 agreed to.
CLAUSES 17 AND 18 disagreed to.
CLAUSES 19 AND 20 agreed to, one with an amendment.
CLAUSE 21 under consideration when the Committee adjourned till this day at Two o'clock.

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

not later than

Saturday 11 December 2021

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The Committee consisted of the following Members:*Chairs:* CLIVE EFFORD, † MRS MARIA MILLER

† Ali, Tahir (*Birmingham, Hall Green*) (Lab)
 † Bradley, Ben (*Mansfield*) (Con)
 † Burghart, Alex (*Parliamentary Under-Secretary of State for Education*)
 † Carter, Andy (*Warrington South*) (Con)
 † Clarke-Smith, Brendan (*Bassetlaw*) (Con)
 Gwynne, Andrew (*Denton and Reddish*) (Lab)
 Hardy, Emma (*Kingston upon Hull West and Hessle*) (Lab)
 † Hopkins, Rachel (*Luton South*) (Lab)
 † Hunt, Jane (*Loughborough*) (Con)
 † Hunt, Tom (*Ipswich*) (Con)

Johnson, Kim (*Liverpool, Riverside*) (Lab)
 † Johnston, David (*Wantage*) (Con)
 † Nici, Lia (*Great Grimsby*) (Con)
 † Perkins, Mr Toby (*Chesterfield*) (Lab)
 † Richardson, Angela (*Guildford*) (Con)
 † Tomlinson, Michael (*Lord Commissioner of Her Majesty's Treasury*)
 † Western, Matt (*Warwick and Leamington*) (Lab)
 Sarah Thatcher, Bradley Albrow, *Committee Clerks*
 † **attended the Committee**

Public Bill Committee

Tuesday 7 December 2021

(Morning)

[MARIA MILLER *in the Chair*]

Skills and Post-16 Education Bill [Lords]

9.25 am

Clause 14

AMENDMENTS TO SECTION 42B OF THE EDUCATION ACT 1997

The Chair: We now come to clause 14 and Government new clause 1.

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

The Committee divided: Ayes 3, Noes 7.

Division No. 13]

AYES

Hopkins, Rachel
Perkins, Mr Toby

Western, Matt

NOES

Bradley, Ben
Carter, Andy
Clarke-Smith, Brendan
Hunt, Tom

Nici, Lia
Richardson, Angela
Tomlinson, Michael

Question accordingly negated.

Clause 14 disagreed to.

Clause 15

SUPPORT FOR LIFELONG LEARNING

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

The Committee divided: Ayes 7, Noes 3.

Division No. 14]

AYES

Bradley, Ben
Carter, Andy
Clarke-Smith, Brendan
Hunt, Tom

Nici, Lia
Richardson, Angela
Tomlinson, Michael

NOES

Hopkins, Rachel
Perkins, Mr Toby

Western, Matt

Question accordingly agreed to.

Clause 15 ordered to stand part of the Bill.

Mr Toby Perkins (Chesterfield) (Lab): On a point of order, Mrs Miller. Am I correct that new clause 1 has not been put to the Committee? I expected us to deal with it alongside clause 14. In the absence of the Minister, will you clarify what has happened?

The Chair: I can clarify that Government new clause 1 will be voted on later. It was grouped for debate with clause 14 stand part, but there was no debate.

Clause 16

LIFELONG LEARNING: AMENDMENT OF THE HIGHER EDUCATION AND RESEARCH ACT 2017

The Parliamentary Under-Secretary of State for Education (Alex Burghart): Clause 16 amends the definition of “higher education course” in the Higher Education and Research Act 2017 to make express provision for the regulation of modules and to make it clear what a module of a higher education course is, as distinct from a full course.

The current post-18 student finance system does not specifically provide for modules. The lifelong loan entitlement will transform student finance by supporting more flexible and modular provision. This legislative change is needed to provide the explicit underpinning for the delivery of modular provision. This clause makes specific provision for modules by amending part 1 of HERA 2017, which relates to the regulatory regime under the Office for Students.

The amendments relieve higher education providers of certain additional burdens that would otherwise arise from the addition of the concept of modules under HERA.

Mr Perkins: I am grateful to the Minister for moving the clause; he was not here to move clauses 14 or 15 stand part. He has offered no apology to the Committee. As we did not have the opportunity to hear from him before those clauses were voted on, will he explain what happened this morning?

Alex Burghart: I am happy to respond to the hon. Gentleman, and I apologise to the Committee: I was unexpectedly held up on my way here. I apologise to everyone for the inconvenience and for any discourtesy, particularly to you, Mrs Miller. The amendments relieve higher education providers of certain additional burdens that would otherwise arise from the addition of the concept of modules under HERA. These relate to certain requirements to provide or publish information under section 9 of that Act.

We want to reduce the bureaucratic burden on providers where possible, and these changes will ensure that the introduction of funding for modules through the LLE will not add to this.

We will consult on the detail and scope of the lifelong loan entitlement in due course. We will take this and other wider engagement into account before we reach a final position on fee limits and will bring forward further primary legislation on this matter.

Overall, the changes in the Bill will help to pave the way for more flexible study and for greater parity between further and higher education.

Mr Perkins: On a point of order, Mrs Miller. I appreciate the Minister’s apology—these things happen—but I was under the impression that in the event of a Minister being unable to move a motion someone else

stands in. As a result of no one being here, clauses to the Government's Bill have passed without debate. For those who made representations, that feels like quite a discourtesy.

I accept the Minister's apology for his being unavoidably detained, but people listening to our deliberations might well wonder what the Government's intentions are as the Bill has been unable to be amended.

May we have your advice on how this unavoidable situation can be put right so that people can at least understand the Government's thinking?

The Chair: It is for the Government to decide how they deliberate on their business in the House. I certainly agree with Mr Perkins that it is unusual not to have a Minister here to move clauses, but the Minister has given us an explanation. New clause 1 has not been moved; it will be moved and voted on later. I think you have made your point, Mr Perkins.

Matt Western (Warwick and Leamington) (Lab): In fact, there is no need to extend this debate.

Question put and agreed to.

Clause 16 ordered to stand part of the Bill.

Clause 17

UNIVERSAL CREDIT CONDITIONALITY

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

The Chair: With this, it will be convenient to discuss new clause 8—*Benefit eligibility: lifelong learning*.

The secretary of state must ensure that no learner's eligibility to a benefit will be affected by their enrolment on an approved course for a qualification which is deemed to support them to secure sustainable employment.

Alex Burghart: Clause 17 seeks to change the law so that some students could keep their universal credit entitlement while studying.

It may help if I explain to the Committee that financial support for students comes from the current system of learner loans and grants designed for their needs. Section 4(1)(d) of the Welfare Reform Act 2012 sets out that one of the basic conditions of entitlement to universal credit is that the person must not be receiving education, which is defined in regulations made under subsection (6).

Where students have additional needs that are not met through this support system, exceptions are already provided under regulation 14 of the Universal Credit Regulations 2013, enabling those people to claim universal credit. This includes, for example, those responsible for a child—either as a single person or as a couple—or those aged 21 or under studying non-advanced education, such as A-levels, who do not have parental support.

It is an important principle that universal credit does not duplicate the support provided by the student support system. The core objective of universal credit is to support claimants to enter work, earn more or prepare for work in the future. There is an expectation that people who are able to look for work or prepare for work do so as a condition of receiving their benefit.

Let me reassure the Committee about the important work already that is under way. Officials at the Department for Education and the Department for Work and Pensions are working closely together to help to address and mitigate the barriers to unemployed adults taking advantage of our skills offers. For example, DWP Train and Progress is a new initiative aimed at increasing access to training opportunities for claimants. As part of this, in April 2021, a temporary six-month extension in the flexibility offered by UC conditionality was announced. As a result of this change, adults who claim universal credit and are part of the intensive work search programme can now undertake work-related full-time training for up to 12 weeks—or up to 16 weeks as part of a skills bootcamp in England—without losing their entitlement to UC. That builds on the eight weeks during which claimants were already able to train full time without losing their UC entitlement. This flexibility has now been extended to run through to the end of April 2022. Such measures are helping to ensure that UC claimants are supported to access training and skills that will improve their ability to gain good, stable and well-paid jobs. Claimants who enrol on a longer course that is not advanced education can also retain their entitlement to UC, provided they can still meet their UC conditionality requirements.

More broadly, we are continuing to support working families on UC. As we set out at the spending review, we have reduced the taper rate to 55% and increased work allowances to £500 per year, allowing UC claimants to keep more of what they earn. This is an effective tax cut worth £2.2 billion, meaning that almost 2 million of the lowest paid in-work claimants are better off overall by around £1,000 a year on average. We do not think it is necessary for the UC regulations to be amended in this way, and the clause should therefore be removed from the Bill.

New clause 8 seeks to ensure that eligibility to benefit is retained for claimants undertaking certain courses deemed to support them to secure sustainable employment. In addition to what I have stated on universal credit and Train and Progress, claimants on new-style jobseeker's allowance are able to undertake a full-time course of non-advanced study or training—not above level 3—for up to eight weeks if work coaches identify a skills gap and are satisfied that it will improve the claimant's prospects of moving into work more quickly.

The time spent on the course can be deducted from the hours of work search that the claimant is expected to undertake. Claimants on new-style employment and support allowance can already receive benefits while in education, whether full or part-time study, as long as they satisfy the eligibility conditions.

The DWP is monitoring the impact of Train and Progress, with the review date due in April, and will make decisions on continuing based on the evidence available. This will include the potential to extend the legacy benefit groups that have not transitioned to UC.

New claims for legacy benefits are no longer possible, so this is a diminishing case load. Existing claimants can still study part time as long as they meet their conditionality requirements and are willing to give up their study for employment, which they have agreed to look for.

The core objective of universal credit and other working-age benefits is to support claimants to enter work where appropriate, earn more or prepare for work in the future. There is an expectation that people who are able

[Alex Burghart]

to look for work or prepare for work do so as a condition of receiving their benefit. We therefore do not think it is necessary or appropriate to change eligibility criteria to benefits for those who enrol on a course, so the clause should not stand part of the Bill.

Mr Perkins: It is vital that the cross-party support in the House of Lords on ensuring that those in receipt of universal credit are not penalised for undergoing level 3 training is upheld in the Bill.

What the Minister just said, however, somewhat undermines other things that we have heard from him and other members of the Government about the importance of skills training and education. Much of the Government's approach to skills, which we support, has been about the importance of qualifications and apprenticeships being proper qualifications that are given depth and that develop people's learning. For that purpose, apprenticeships are a minimum of one year; level 3 qualifications are longer, and even level 2 apprenticeships are a minimum of one year.

It appears that the Government's approach to universal credit is that those who are seeking to get themselves into the jobs market should be allowed to do very basic training of the sort I have seen on many excellent work programmes, but that if they want to develop the qualifications they would gain on a one-year course they will be unable to do so while claiming universal credit.

It is essential that those who are furthest from the labour market have every opportunity to find work.

Alex Burghart: What one-year courses is the hon. Gentleman thinking of where claimants may continue on universal credit while studying?

Mr Perkins: Apprenticeships are a one-year course. Many people might be on an apprenticeship and on universal credit. I have had the opportunity to see many courses that people are not on for longer than what the Minister said and face perhaps significant barriers to accessing the world of work. We have real concerns, which were shared by those in the other place, that rather than helping people to move from universal credit into work this programme will prevent them from doing so.

Rachel Hopkins (Luton South) (Lab): It is a pleasure to speak for the first time in this important Committee under you, Mrs Miller.

One of the key points that we have seen is the move to online learning for many people, which would be time away from seeking work. Many of the modules last for a quarter, six months or a year. Does my hon. Friend agree that, under the clause, many people will feel uncertain about whether they can undergo training?

Mr Perkins: I absolutely do agree. Under the original drafting of the clause it was clear that to access universal credit people had to be on an approved course that took them towards the world of work. It fits in with the principles of universal credit, as we are led to understand them. Under the clause,

“the Secretary of State must review universal credit conditionality with a view to ensuring that adult learners who are—

(a) unemployed, and

(b) in receipt of universal credit, remain entitled to universal credit if they enrol on an approved course for a qualification which is deemed to support them to secure sustainable employment.”

The word “sustainable” is very important. The Government's approach seems to be that it is better to get anyone off unemployment and into work in any capacity, even if it is only a few days of casual employment, than to allow them to take sustainable steps to develop skills and get a job on which they can rely in the long term. My hon. Friend, many Labour Members and possibly Conservative Members will have come across constituents who are bedevilled by unstable employment—a day here or a few days there—without anything on which they can rely in the long term to sustain their families financially. Sustainable employment that they can trust is vital.

9.45 am

Ben Bradley (Mansfield) (Con): I shared many of the hon. Gentleman's concerns so I went to the Department for Education to seek clarity. As I understand it, many of the things that he is suggesting are already possible. Under both the current system and the new proposals, if a job coach accepts that a qualification would help someone into work, that coach can already approve that qualification and allow someone to do that training instead of job seeking under the work-based requirements for universal credit. Someone can also do a part-time qualification outside of working hours and still receive universal credit. Does he accept that that is true and perhaps contradicts some of his comments?

The Chair: Before Mr Perkins responds, may I remind Members that an intervention is just that; if you want to make a speech, make a speech.

Mr Perkins: A very well made point, Mrs Miller.

I accept that what the hon. Gentleman describes may be true on some occasions. However, the way in which the Bill is drafted and the very fact that the Government seek to oppose it, means that many job coaches, and many learners, will think that the Government would prefer to get them off the dole and into any job, at any moment, rather than invest in their skills. I have met many people in a variety of projects who are employed by the private sector, social enterprise or Jobcentre Plus to support people into work whose absolute focus seems to be to get one person from one list on to another. I fear that the long-term contribution to that person and ensuring that their training and qualifications are sustainable—the purpose of the Lords amendment—is lost as a result.

The hon. Member for Mansfield appears to be saying that the principles of the Lords amendment are already in operation given how job coaches operate. If that is the case, what is the harm of including the amendment in the Bill? If those rights and opportunities already exist for people, I cannot see the point in the Government's opposition to the amendment.

The noble peers saw the value in the amendment, which enjoyed cross-party support. It is disappointing that, by their attitude, the Government are continuing to create the impression that people on universal credit

who have the audacity to invest in their skills rather than simply take the very first opportunity to get off the dole and into work, however unsustainable or unreliable, should be discouraged from that.

On Second Reading, I was struck by the contribution from the hon. Member for Waveney (Peter Aldous). He said:

“the Government have placed much emphasis both on the importance of making work pay and on the current high level of job vacancies. Unfortunately, many people are currently some distance from the workplace and are not able to take advantage of these opportunities. However, many of them would be able to do so if universal credit conditions were reformed so that they could more readily access education and training. With that in mind, I urge the Government to consider carefully the amendment tabled by the Lord Bishop of Durham.”—[*Official Report*, 15 November 2021; Vol. 703, c. 416.]

As I said at the time, the hon. Gentleman was absolutely right to say that.

Given the twin challenges of Brexit and covid, Ministers must do all that they can to ensure that those who are furthest from the labour market are able to retrain or upskill. It has never been more important to ensure that we make the best of every single person. We know that there are staff shortages and we can respond to that in two ways. We could say, “Well, we have got shortages in staff, so let’s just get people into those jobs and fill the gap with a body.” Or we could say, “Let’s make sure we upskill the people who are currently furthest from the labour market, so that they are able to make a sustainable, long-term contribution.” That is the approach adopted by the Labour party.

The Opposition believe that it is a travesty that people in receipt of universal credit can be penalised for taking up an opportunity that could help them move into sustainable employment. We understand that the Government want to prevent people from undertaking qualifications for the sake of it, but those in receipt of universal credit should be supported to undertake training that is deemed appropriate by their work coach, in line with the principles outlined in the Bill. I hope that Members recognise the importance of supporting the clause.

New clause 8 is designed to probe why the Government may be against people in receipt of other benefits developing their skills so that they get closer to the labour market. Many people who are on a variety of benefits, such as incapacity benefit and other legacy benefits, may be very nervous about losing their entitlements to them. We all know that it is much easier to be taken off those benefits than to be put back on them. With some patience, tolerance and support, those people would be able eventually to join the world of work. There is a false dichotomy between those who Jobcentre Plus says are ready to go into work and should be spending every hour of every day looking for a job and other people who the Government accept will never get into work. Instead, we should be supporting everyone, rather than threatening them. We tabled new clause 8 to understand for what reason the Government would be against people developing their skills in a manner that pushes them to the labour market, even if they are in receipt of benefits that do not prompt the immediate response from Government that they should be doing all that they can to find work. I commend the new clause and clause 17 to the Committee.

Matt Western: It is a pleasure to serve under your chairship, Mrs Miller.

I support clause 17 and new clause 8, tabled by my hon. Friend the Member for Chesterfield and me. The new clause relates to the universal credit conditionality clause that was inserted during Lords consideration of the Bill by the Lord Bishop of Durham and Baroness Bennett of Manor Castle. It relates to the issues surrounding adult learners who are unemployed and in receipt of universal credit, who would remain entitled to that benefit within law if they were on an approved course.

To put it simply, the current welfare system actively discourages people from getting the skills that they need. A person loses their rights to receive unemployment benefits if they take an educational training course. Surely that cannot be right. The “Let them Learn” report from the Association of Colleges that was published recently highlights the great work of colleges with Jobcentre Pluses to support unemployed people into work. In fact, the Association of Colleges described the current system as “unjustifiable and incoherent”. Indeed, the principal of my local college wrote to me ahead of our consideration of the Bill to express her concern about the universal credit restrictions. She viewed them as causing barriers to retraining and upskilling. That cannot be right.

The truth is that unemployed people, or those in low-paid jobs, are the least likely to take out a loan for fear of risking greater indebtedness and poverty for themselves and their families. As someone who in the course of their career did courses at evening classes, I know that access to such courses is really important. However, if someone cannot afford to get to them, they simply will not take them up. The truth is that this will impact far more on certain groups than on others. We know that 53% of those on universal credit are women. We know that, as of July 2021, 30% of claimants were aged 16 to 29; 40% of people on universal credit are working.

How can those workers justify taking a cut in their monthly pay and finding time to reskill? Indeed, the Department for Education’s impact assessment reveals that the cost of study is the greatest barrier to further study. That is why we propose new clause 8 and will vote against the Government. We believe that the clause introduced by the Bishop of Durham and Baroness Bennett of Manor Castle should be in the Bill.

Alex Burghart: We believe that it is important that the welfare system helps people to get into work as quickly as possible, but we are not blind to the fact that some people will need or desire additional training. I referred to the flexibilities we have introduced to allow people to do bootcamps—a very productive way of reskilling at speed. On my visits to Salford, Bedford and Doncaster I met people who had been referred by their work coaches and were acquiring new skills that would often lead them into new professions.

Similarly, as the hon. Member for Chesterfield mentioned, it is possible for people to be on apprenticeships while claiming universal credit if their pay is low enough, and courses for the new lifetime skills guarantee that the Prime Minister made will often be available to people who are on universal credit.

[Alex Burghart]

We have shown that the system is capable of flexibility. We do not believe that people ought to be able to claim benefit while on long courses. However, there are opportunities to skill up, move into work and still receive some protection from universal credit.

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

The Committee divided: Ayes 4, Noes 9.

Division No. 15]

AYES

Ali, Tahir	Perkins, Mr Toby
Hopkins, Rachel	Western, Matt

NOES

Bradley, Ben	Johnston, David
Burghart, Alex	Nici, Lia
Carter, Andy	Richardson, Angela
Clarke-Smith, Brendan	Tomlinson, Michael
Hunt, Tom	

Question accordingly negatived.

Clause 18

LIFELONG LEARNING: REVIEW

Mr Perkins: I beg to move amendment 50, page 22, line 6, at end insert—

“(1A) The Secretary of State must also prepare and publish a review of student maintenance entitlements.”

This amendment would require the Secretary of State to review the maintenance support available to further education students and courses.

The amendment ensures that those from the most disadvantaged backgrounds have the opportunity to undertake level 3 qualifications in order to get a job or gain higher-paid qualifications.

The success of the lifetime skills guarantee depends on those who need training or upskilling being able to take up the opportunity. In his speech at Exeter college, the Prime Minister outlined, in a great fanfare, his intention—in the midst of the pandemic—that people should be able to retrain. It was clear that he appeared to have those people in mind, but little attention has been paid to how they will take up the offer if they cannot afford to put food on the table while they are studying.

We believe that it flies in the face of reason not to set out during the passage of the Bill maintenance support for those from marginalised groups and those furthest from the labour market. I believe that the Government are minded to say that they will respond in due course, but as the lifetime skills guarantee will not be fully implemented until 2023, which signals the Government’s too little, too late approach to the skills challenge, we believe that it makes sense to announce maintenance support in the Bill, which is why we tabled amendment 50.

10 am

We do not oppose clause 18, but we believe the lifelong learning review is important, and that the Secretary of State should prepare and publish a report on the impact of the overall level of skills in England and

Wales. In fairness to the Government, they have spoken in narrative terms but they have not been in a position to make clear their proposals. A review that ensures that there is a detailed investigation of the maintenance required by people to access the skills that they need would be of real value.

Alex Burghart: Amendment 50 would require the Secretary of State to publish a review of student maintenance entitlements, to be conducted annually, I believe. We agree wholeheartedly with the importance of ensuring students are supported to enable them to succeed in their studies. The Government’s ambition for the lifelong loan entitlement is to help those studying at higher levels to have the opportunity to choose the best course or modules based on their learning needs, rather than just choosing the funding system that is most advantageous for them.

In our forthcoming consultation on the LLE, we are seeking to understand better the barriers that learners might face in accessing it, and how the availability of maintenance loans and other forms of support could help. It is crucial that we consider the importance of creating a sustainable student finance system.

Rachel Hopkins: I thank the Minister for taking my intervention. In the earlier part of the debate, when the Minister was not in place, we were not able to consider Sharia-compliant loans. Will the Minister please include that in his comments?

Alex Burghart: I believe we will come later in the debate to another clause that treats the subject of Sharia, and I will be happy to address the hon. Lady’s point then. It is something that the Government will consider.

It is crucial to consider the importance of creating a sustainable student finance system, alongside what will be necessary to ensure that the Government can offer all eligible students the opportunity to study. However, as with clause 18, imposing an annual reporting requirement would create an unnecessary burden upon Government and the taxpayer. The student support regulations are updated annually, as it is, providing the Government with a regular opportunity to introduce improvements. In addition, introducing a review requirement before the maintenance policy is finalised would be untimely, and would pre-empt the outcome of the LLE consultation.

The Bill already provides the necessary powers for maintenance support to be introduced as part of the LLE, if the decision taken is that it should, following the consultation. Advanced learner loans are currently available in further education. Learner support funds are available for adult learners aged 19 and over, and there are bursaries of up to £1,200 a year for students in specific vulnerable groups, such as care leavers. With that in mind, and given that the amendment is burdensome, pre-emptive and unnecessary, we cannot support it.

Matt Western: I rise to speak in favour of amendment 50, which would require the Secretary of State to review maintenance support available to further education students and courses. The Augar review recommended that student maintenance should be extended to cover students in further education as well as higher education. That was one of the important findings in that review. We have been waiting two and a half years for some outcome from the Government, which I hope we will get soon.

The Association of Colleges reminds us in its briefing that many adults will be unable to take up lifelong learning opportunities, because there is no support for living costs when taking a course at that level. Such people will be prevented from transforming their life chances. The Minister will be aware that the Government's own impact assessment reveals that one of the main barriers to adult learners is the cost of study, including living costs.

Right across the higher and further education landscape, there are calls from many, including the Open University, for an extension of maintenance support to FE students. The Welsh model is interesting: the Welsh Government introduced reforms to tackle that issue by extending maintenance support including, importantly, means-tested grants to all students, regardless of mode of study, while maintaining low tuition fees for part-time study.

Elsewhere, in the written evidence, Birkbeck University argued for a maintenance grant to prevent further hurdles to taking up study. Universities UK states:

"We would...welcome further details on the government's plans for introducing maintenance support for individuals studying through the"

lifelong learning entitlement

"and, specifically, what would the minimum intensity of study be for individuals to be eligible for maintenance loans."

Those factors are important. My hon. Friend the Member for Denton and Reddish talked about his own experience the other day. I was lucky enough to go to university many decades ago—

Alex Burghart: No.

Matt Western: It is hard to believe. The Minister is right on that point but, as a third child, I would not have been able to go were it not for the maintenance grant, back in those days. That is why being given a maintenance grant is very much a mobilising and enabling part of the provision of education, to allow young people the chance to study. Since the removal of the EMA—education maintenance allowance—many have not been able to access education, because they just cannot afford to take the courses without some form of maintenance support.

For those reasons, we tabled the amendment. I very much hope that everyone in Committee will support it.

Mr Perkins: Apologies for the slight delay, Mrs Miller, I was still musing on how long ago it was that my hon. Friend went to university. It was quite a shock. The points he made are important. For that reason, we believe the amendment has merit. We have heard what the Government have said. We will get the opportunity to vote on clause stand part, so we look forward to supporting it. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Alex Burghart: The Government agree that many learners need to access courses in a more flexible way to fit their study around work, family and personal commitments, and to retrain as their circumstances and the economy change.

Existing equivalent or lower qualification rules, however, were designed to help maintain a sustainable system. As such, we are designing the lifelong loan entitlement not only to support students pursuing higher and further education flexibly, but to share the costs fairly. We want the lifelong loan entitlement to provide value for money to students, the education sector and the taxpayer.

The complexity of that balance and the transformative nature of the LLE is one of many reasons why we intend to consult on its detail and scope before legislating on eligibility. It is crucial that careful consideration of the needs of providers, learners and stakeholders informs our final policy design, and that we do not pre-empt the consultation's findings; however, introducing an ongoing obligation to report annually on eligibility before the policy detail is yet finalised may prejudice the outcome of the consultation, as it could indicate a future path for ELQ rules before there has been a chance for open consultation to happen.

Beyond that, the Government believe that a yearly reporting duty in perpetuity would be an undue and disproportionate burden at this stage. Placing such a duty in primary legislation would be restrictive and out of kilter with prior similar legislation passed by Parliament on student finance. For example, the Teaching and Higher Education Act 1998 gave significant powers to the Secretary of State over student finance, with much of the detail of the policy covered in a complex suite of regulations, including eligibility, repayments and fee limits to name but a few.

It would be disproportionate to put a requirement to report in primary legislation when the system is already under continuous review and subject to frequent amendment. Previously, much of the detail on how the system works has been set out in secondary legislation, with necessary monitoring and review undertaken only after changes have been implemented and had time to embed. The Government will of course address plans for review and monitoring as we work towards the roll-out of the lifelong loan entitlement from 2025 and post implementation. I therefore believe that the clause should be removed from the Bill.

Mr Perkins: It is regrettable that the Government will seek to remove clause 18 from the Bill. It was introduced by the Lords for entirely the right reasons. On many occasions we have all seen the Government having to be dragged to the House in order to answer for their performance. The country also faces significant skills challenges. Who would have known a year ago that we would have spent so much of the last few months talking about the heavy goods vehicle driver crisis? Such things arise suddenly.

Given the dynamic state of skills policy—particularly, at the moment, legislatively but also in terms of employers' ability to access skills—we think that clause 18 is proportionate. It requires the Secretary of State purely to prepare and publish a report on the impact on the overall level of skills in England and Wales of the rules regarding the eligibility for funding of those undertaking further or higher education courses. There is a lot of scope within that. The level of tuition fees in this country is so disproportionate to any other nation around the world, or any of the other major competitor nations in Europe, that inevitably it pushes students to access the courses that will lead them towards the jobs that pay the most.

[Lords]

[Mr Perkins]

There are many crucial public servants in this country who might not end up earning king's ransoms but are performing roles of incredible importance to our country. A regular review of funding and maintenance support in the context of the level of skills is of real value. As a result of that review, the Government might think about being more flexible on tuition fees for certain courses, or taking specific steps to support learners in a variety of areas to study for the specific skills that the Government think will be of most use to our country and economy, and providing incentives for them to do so.

There are all kinds of different professions for which the Government rack their brains about how they can get more people to study. Each year we hear of courses in medical environments, for example, where thousands of places go unutilised. Such a review could push the Government to take the steps required to ensure that the country addresses those areas of skill shortages. It was a sensible amendment by their lordships, and it is regrettable that that very minimal commitment expected of the Secretary of State should be too much for the Government.

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

The Committee divided: Ayes 4, Noes 9.

Division No. 16]

AYES

Ali, Tahir	Perkins, Mr Toby
Hopkins, Rachel	Western, Matt

NOES

Bradley, Ben	Johnston, David
Burghart, Alex	Nici, Lia
Carter, Andy	Richardson, Angela
Clarke-Smith, Brendan	Tomlinson, Michael
Hunt, Tom	

Question accordingly negatived.

Clause 18 disagreed to.

Clause 19

INITIAL TEACHER TRAINING FOR FURTHER EDUCATION

10.15 am

Alex Burghart: I beg to move amendment 23, in clause 19, page 22, line 34, leave out subsection (3).

This amendment leaves out clause 19(3) of the Bill (regulations about courses of initial teacher training for further education to include provision about special educational needs awareness training), which was inserted at Lords Report.

The Chair: With this it will be convenient to discuss new clause 2—*Lifelong learning: special educational needs*—

“When exercising functions under this Act, the Secretary of State must ensure that providers of further education are required to include special educational needs awareness training to all teaching staff to ensure that all staff are able to identify and adequately support those students who have special educational needs.”

This new clause would place a duty on the Secretary of State to ensure that there is adequate special educational needs training for teachers of students in further education.

Alex Burghart: We can all agree that it is vital for teachers to be trained to identify and respond to the needs of all their learners. That must include those with special educational needs and disabilities. However, the Government do not prescribe the content of further education initial teacher training. We believe that experts from the sector are best placed to design training programmes to meet the needs of learners, using a clear occupational standard as their benchmark.

The new occupational standard for FE teaching, published in September, has been developed by representatives from the sector who themselves work alongside and employ teachers. The standard clearly articulates the key knowledge, skills and behaviour that FE teachers must demonstrate. That includes an explicit requirement to actively promote equality of opportunity and inclusion by responding to the needs of all students. We believe that the standard is the right place to set out the expectations of teachers and what their training should cover, and that view is shared by sector experts themselves.

The Universities' Council for the Education of Teachers has stated that the new occupational standard for teachers in the FE sector

“provides an appropriate framework for the design and delivery of FE initial teacher training programmes—including the new qualification that UCET and other sector groups are currently helping to develop”.

UCET is of the view that

“the standard and qualifications based on it will help to ensure that all new FE teachers are properly equipped to recognise and respond to the needs of their learners—including those with SEND”.

Furthermore, UCET has said:

“It is vital that providers of FE ITT should be able to use their expertise and judgement to tailor training programmes to the needs of trainees and learners within the framework provided by the occupational standard.”

It concludes that

“it would be unhelpful to remove this flexibility by mandating the content of FE ITT programmes in legislation.”

I believe that it is important that we listen to the voices of expertise in the sector and do not unduly tie their hands. We have been clear that we intend to make public funding available only to FE ITT programmes that meet the new occupational standard.

Clause 19(3) as drafted, although honourable in intent, is unhelpfully restrictive. It would require the Secretary of State, when making regulations for the first time under this power, to make provision relating to SEND awareness in FE ITT even if the regulations being made did not bear at all on the content of training programmes. This is, in our view, the wrong way to achieve the right aim.

I want to directly address new clause 2. The Government are already driving up the quality of teaching in further education and strengthening the professional development of the FE workforce. We provide significant funding for programmes to help to spread good, evidence-based practice in professional development. Examples are the T-level professional development offer, which integrates support for learners with SEND throughout its offer, and the FE professional development grant pilot. Making sure that teachers have access to high-quality training

and professional development will ensure that learners, including those with SEND, receive the highest standard of teaching.

Our continuing professional development offer for teachers also includes provision delivered by the Education and Training Foundation. That training improves the capability and confidence of the FE workforce to identify and meet the needs of learners with SEND.

Ultimately, providers themselves must make decisions about what training is relevant and necessary for their teachers. That means that they can respond to the specific needs of their learners and those who teach them.

It is also important to note, outside professional development, that under the SEND code of practice there should be a named person with oversight of SEND provision in every college. Those people co-ordinate, support and contribute to the strategic and operational management of the college.

The Government are committed to ensuring that all learners, including those with SEND, are benefiting from outstanding teaching in the FE sector.

Mr Perkins: I rise to oppose Government amendment 23, and to discuss new clause 2, tabled by my hon. Friend the Member for Kingston upon Hull West and Hessle. I believe that clause 19 is an important clarification added to the Bill by the Lords. The Minister spoke passionately about the need for ensuring that those who attended ITT further education courses have awareness of special needs. However, it is precisely because of that that we believe clause 19 is sensible. Government amendment 23 removes clause 19(3), which ensures the duty for initial teacher training providers to provide special educational needs awareness training.

That is particularly important because a huge number of people, later in life, are identifying that they have learning difficulties, be that autism, attention deficit disorder, or Asperger's syndrome. These were not picked up throughout their school career because there has been such a low level of awareness about such issues within much of the teaching profession.

We know that awareness of issues like autism has improved a great deal in recent years, but there are still many people going through our school system with other conditions, such as dyslexia, dyspraxia and others. With access to the right support, teaching could have been provided that recognised their disability and enabled them to access the curriculum to the best of their ability. It would have also enabled them to understand themselves. That is a crucial point about special needs; we must help people to understand themselves. I have spoken to many people who say, "I always knew I was different, but I never knew what it was. It was only in my 20s or my 30s that I realised." There is a family member of mine in their 40s who has recently identified having a disability of this kind.

Tom Hunt (Ipswich) (Con): I speak as someone with both dyslexia and dyspraxia; I was diagnosed when I was 12. Does the hon. Member agree that it is important to ensure that every single teacher—not just SEN specialists, but regular teachers—have a certain level of understanding of different types of disability, and that not all young people, or adults, process information in the same way?

Mr Perkins: The hon. Gentleman makes an important point. That is precisely the value of this provision. It makes this not the responsibility of the special needs co-ordinator—who, if they get an opportunity to sit down with someone would have that professional awareness—but, instead, makes sure that people right across the sector are able to identify these needs. We would not expect every teacher to become a full SENCO expert, but it is about them having the awareness to identify that there may be issues that need to be given further consideration—that is what I think is of real value.

New clause 2 attempts to find a different way to deliver the same initiative as the one proposed by their noble lordships in clause 19, whose subsection (3) places a duty on teacher training providers to ensure that SEN training is part of their work. In new clause 2, the obligation is on all providers of FE colleges to ensure that all their staff have been provided with special needs awareness training. There are two different ways to deliver that training. It can be delivered at the point where someone is qualifying, or can be certified at the point where someone is employed. There is merit in either approach; simply to dismiss both approaches is really disappointing.

New clause 2 would place a duty on the Secretary of State to ensure that there was adequate special educational needs training for teachers of students in further education. Given the high number of students with special educational needs who access further or adult education, often as a second chance when they have had a negative experience of school, it is particularly crucial that trainee teachers in the sector have an awareness of the issues the students face.

We must remember that people within the further education sector are far more likely to have an identified special educational need than those in mainstream schooling. The sector needs this kind of awareness. The Department for Education's own figures show that the percentage of pupils with a special educational need, but no education, health and care plan, has increased to 12.2%, continuing an upward trend.

Tom Hunt: As the hon. Member will know, it is important to provide support at that stage, but it is also important to start as early as possible. What are his views on the ten-minute rule Bill being introduced today by my right hon. Friend the Member for West Suffolk (Matt Hancock), which would require the assessment of every primary school kid for dyslexia, and whether that should be extended to dyspraxia?

The Chair: I am sure Mr Perkins will draw that comment back to the subject of the debate here today, as opposed to what might be going on elsewhere.

Mr Perkins: I am fiercely conscious of that point, Mrs Miller. I take the restriction that has been issued by the Chair, but would say briefly that there is real value in the hon. Gentleman's point about identifying issues as early as possible—I think every one of us would appreciate that point. But, accepting that that has not happened, it is crucial to ensure that people at every level in the further education environment understand and are aware of the issues.

[Mr Perkins]

The new clause proposed by the noble Lords has real value, and I urge the Government to consider ensuring in the Bill that people across our FE sector have that awareness. The Minister has said there may be many people in that environment who do not have the need to have that awareness. As I have laid out, it is my view that it should be the responsibility of everyone to ensure that they are able to identify various kinds of special need and know how best to support learners with special needs in all kinds of environments.

Matt Western: I rise to speak in favour of new clause 2 and against Government amendment 23. I have various concerns with clause 19 and where the Government seem to be going with the review on initial teacher training, including the market review that the Government are consulting on and where it seems to be heading. It would be easy to conclude that they are seeking to centralise control of how teacher training is being delivered and to move away from the diverse approach that we currently enjoy. I have real concerns about what clause 19 proposes, and specifically what the Government propose with amendment 23.

10.30 am

These amendments concern the inclusion of special educational needs training, as we have heard. Clause 19 was added by Lord Addington. Again, the Government are seeking to remove a clause that received widespread cross-party support. We have to understand the scale of special educational needs in our education system.

According to the National Autistic Society, one autistic child in four waits more than three years to receive the support they need in school—three years—which has a huge impact on families and loved ones, as well as those in the teaching profession. Further, 74% of parents who were polled by the society said that their child's school did not fully meet their needs. In fact, dissatisfaction levels have doubled in the four years since the charity's last education report. Proper education within the schools would certainly help to alleviate the matter. It is a shame that the initial teacher training market review did not spend more time focusing on the support that should be given to SEND students and trainee teachers to help to understand their needs.

Further education colleges have a proud record of supporting students with SEND and of providing an inclusive context. Some larger colleges cater for up to 500 SEND students, and a large minority of college students have some degree of SEND. According to the statistics, 21% of students in colleges have a learning difficulty and/or disability.

The situation has been made worse by the pandemic. According to a report from the National Children's Bureau in Northern Ireland, families of children with special educational needs and disabilities felt forgotten in the last 22 months during the response to the covid-19 pandemic.

It is vital that teaching staff have access to good-quality training in SEND as part of their continued professional development, which will help them to identify and adequately support those students who have special educational needs. That is why I am pleased to speak to and support new clause 2, which has been tabled by my hon. Friend the Member for Kingston upon Hull West

and Hesse. She is the chair of the all-party parliamentary group for special educational needs and disabilities, which is why it is particularly important to give due support.

Alex Burghart: We fully understand the sentiment behind the changes that the Lords and the Opposition are trying to make, but we disagree with the way that they are going about them. We think that the occupational standard is the best place to contain such provisions and that the occupational standard is best owned by the profession itself. We believe that the profession ought to hold the ring on such matters. We do not want to set a precedent that every detail of initial teacher training should be set out in primary legislation. For that reason, we are acting as we are.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 4.

Division No. 17]

AYES

Bradley, Ben	Johnston, David
Burghart, Alex	Nici, Lia
Carter, Andy	Richardson, Angela
Clarke-Smith, Brendan	Tomlinson, Michael
Hunt, Tom	

NOES

Ali, Tahir	Perkins, Mr Toby
Hopkins, Rachel	Western, Matt

Question accordingly agreed to.

Amendment 23 agreed to.

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

Alex Burghart: It is important that the further education sector has enough suitably trained teachers to deliver the high-quality outcomes all learners deserve and that we all want to see. That is why a consistently high-quality initial teacher training offer in further education is needed. Initial teacher training in further education is not regulated, nor is there any primary legislation to allow for regulation. The clause gives the Secretary of State the flexibility to introduce measures through secondary legislation to secure or improve the quality of further education initial teacher training provision. The clause does not place requirements on trainee or practising FE teachers. To be clear, the Government have no intention of reintroducing mandatory qualifications for individual teachers in the FE sector.

We are already working with the sector to bring about the change and improvement needed. For example, we worked with a group of sector employers to support the development of a revised employer-led occupational standard for further education teaching. The clause sends a clear message that the provision of high-quality FE initial teacher training is vital, and therefore that secondary legislation should be introduced to complement and strengthen non-legislative measures where appropriate.

Mr Perkins: We do not oppose the clause. It is of real importance that initial teacher training for the further education sector is put on a statutory footing. We think that this is of particular importance given the scope and

scale of the sector, and that many people in FE—probably more than in any other academic establishment—move directly into lecturing from the workplace. There has often been a two-way path between people in all kinds of different vocational environments. For example, mechanics, plumbers and painter-decorators may sometimes practise their chosen trade and at other times move into the further education sector. For that reason, it is important that the best standards of training for those teachers is in place, so we welcome the Government’s putting this on a statutory footing.

Obviously, it remains a regret that clause 19(3) has been deleted. We will continue to press the Government to ensure that, although that provision has been removed from the Bill, there is a real commitment to ensuring a high standard of awareness of special educational needs. On that basis, we will not oppose the clause.

Question put and agreed to.

Clause 19, as amended, ordered to stand part of the Bill.

Clause 20

OFFICE FOR STUDENTS: POWER TO ASSESS THE QUALITY OF HIGHER EDUCATION BY REFERENCE TO STUDENT OUTCOMES

Matt Western: I beg to move amendment 60, in clause 20, page 24, line 13, at end insert—

“(5A) When measuring student outcomes under subsection (5), the OfS must take account of mitigating circumstances, such as the impact of the Covid-19 pandemic.”.

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

Amendment 56, in clause 20, page 24, line 16, at end insert—

“(6A) The OfS must consult the higher education sector before determining a minimum level in relation to a measure of student outcomes.”.

This amendment requires the OfS to consult the higher education sector before determining minimum levels.

Amendment 57, in clause 20, page 24, line 17, leave out “not”.

This amendment requires the OfS to determine and publish different levels to reflect differences in student characteristics, different institutions or types of institution, different subjects or courses, or any other such factor.

Amendment 58, in clause 20, page 24, line 23, leave out “or subject being studied”.

This amendment is intended to probe the OfS’s powers of intervention at subject level.

Amendment 55, in clause 20, page 24, line 24, at end insert—

“(7A) When making decisions of a strategic nature in relation to a measure of student outcomes, the OfS must have due regard to the potential impact on the participation in higher education of students from disadvantaged and underrepresented groups.”.

This amendment seeks to ensure that the OfS’s measure of student outcomes does not jeopardise widening participation for students from disadvantaged and underrepresented groups.

Amendment 59, in clause 20, page 24, line 28, at end insert—

“(8A) The OfS must work together with the devolved authorities to minimise the potential for different assessments of the quality of higher education with a view to protecting the United Kingdom’s higher education sectors’ international reputation.”.

This amendment probes the impact that moving the English higher education sector out of line with the UK Quality Code will have upon the coherence and consistency of UK quality assessment and the UK’s HE sectors’ international standing.

Matt Western: It is a pleasure to be able to give my hon. Friend the Member for Chesterfield a bit of a break this morning, given that he has been doing so much hard work in the past hour or so. The amendments essentially relate to the role of the Office for Students. I have been in my role a short time—slightly longer than the Minister—but I have to say that I have some reservations about what the Office for Students is doing presently. I understand its remit and purpose, but I am not sure what direction it seems to be taking us in. That direction comes from its leadership. It is a shame that the chief executive is standing down. We need more continuity there, and I await the appointment of her replacement with great interest.

We have tabled several amendments. Amendment 60 would require the Office for Students to bear in mind mitigating measures—for example, the past 22 months of the covid-19 pandemic and the impact it has had on students and therefore on outcomes. When assessing quality, it is important that quality is understood in the context of such factors. In the case of the past two years, there has clearly been a huge impact on students and their ability to learn, despite the best efforts of lecturers and the teaching profession to deliver as much as possible as well as possible in really challenging circumstances, whether face to face or mostly online. So much of the normal teaching framework has been greatly challenged.

The most recent pilot of the student covid insight survey showed that students’ experience has changed dramatically because of coronavirus. On the academic experience, 29% of students reported being dissatisfied or very dissatisfied with their experience in the first term. Statistics from the Library highlight employment levels for those aged 16 to 24; I am not talking about outcomes. It is easy to look at what has happened to employment as an obvious measure of outcome, but employment levels have fallen 9%, which has clearly had a huge impact on the student outcome as a result of the national crisis.

The Institute for Fiscal Studies has also found that the impact of the pandemic has been very likely to disrupt the career progression of those in the early stages, with many graduates potentially delaying their entry to the labour market by staying in education. Research by jobs website Milkround provides us with further evidence. It shows that, compared with the typical 60%, just 18% of graduates are securing jobs this year—a third of the figure we would normally expect.

The purpose of the amendment is to identify and recognise the need to establish a link between what we might call force majeure events such as the pandemic and ensuring that the OfS is more flexible when considering student outcomes. It cannot be a static metric. That point is echoed by a significant representative body for the higher education sector, Universities UK, which states:

“Employment outcomes will also be impacted by national and local economic conditions.”

It is important that the OfS bears that in mind in any framework that it establishes for outcomes.

Amendment 56 has been tabled because we want to see true and substantive consultation with the higher education sector before the outcomes are defined. The Government should talk to the Universities UK

[*Matt Western*]

representative body, which has been exploring the development of a framework in England for an institutional programme and course review process centred on best practice. Given that Universities UK represents 140 institutions, collaborating with them and exploring the work that already exists would be a sensible start for the Government to focus on. Universities UK also says that it is “unclear whether the baselines” of minimum assessment of standards

“will be subject to thorough consultation.”

I hope the Government will start a consultation programme with all the representative bodies to understand how they may structure student outcomes.

10.45 am

We cannot afford this to become some simplistic metric that is based purely on initial earnings in the first year of employment, which is one such measure that has been proposed. Amendment 57 allows the OfS to publish data that takes into account the geographical and socioeconomic differences, which I am sure you, Mrs Miller, would appreciate, and how important such differences are in determining student outcomes. These differences must be considered because where someone starts and where they end up shows the improvement that is achieved through the education process. There is much variation, as we know, in all those factors, and they are significant in determining outcomes.

Unfortunately, it seems that, as it stands, the provision will adopt a “one-size-fits-all approach”—not my words, but those of the Open University. I am concerned that if we do not consider the regions and the types of students in this process, we will dissuade universities from accepting students from low-income backgrounds, who are more likely to drop out of their course because of outside factors.

The metric of retention may seem like an obvious and simple measure to use in terms of the quality or outcome of the course, but there are many factors that come into play. I stress that the Government need to consult with the sector to understand the complexities involved in arriving at the metrics to measure outcomes. As it stands, the clause will have a big impact on the smaller, more local universities that often take students from lower economic and more challenging social backgrounds.

Amendment 58 is an exploratory amendment to see if the OfS will probe into individual courses or modules. Various questions are being raised about how a one-size-fits-all approach to assessing student outcomes will be applied outside of a three-year degree. A three-year degree is a simple thing to measure, but are the Government and the OfS seeking to measure the component parts, that is, the individual modules taken in a course? Is that the granularity the Government are considering for measuring outcomes? That is something that we clearly need to know. In particular, with certain courses being delivered on a modular basis—say with the Open University or other providers—that will be extremely relevant.

The clause is currently a permissive clause and does not formally extend the OfS’s powers, but it does clarify the levers available. My question to the Minister is, will he provide more clarity on how far that power will stretch, particularly in the light of the comments made just a few days ago by the chair of the Office for

Students, Lord Wharton, on the second OfS strategy that the body will be more assertive in intervening on universities and colleges to uphold their obligations? The chair’s language is perhaps slightly more aggressive than I would have expected, but we need to understand what is being considered because it seems that he is the person who is very much directing the course of higher and further education.

What considerations will be given to the UK quality code and the reputation of UK higher education? New analysis of the economic impact of international students in the UK has shown that the net impact of just one cohort of international students in 2018-19 was worth nearly £26 billion to the UK economy. The majority of overseas undergraduate students on STEM courses—51% of respondents—said that they chose a UK institution because of its reputation for high-quality education, with another 29% saying that a qualification from this country offers excellent career prospects in their discipline. Just over a fifth attributed their choice to the presence of friends and relatives, according to research from the British Council published the other day.

The amendments are designed to ensure that the Government open themselves to true consultation with the sector to get its views and understand the work it is already doing and the great number of factors that we all appreciate come into play and impact on a student’s outcomes. That is important if we are to get a proper form of measuring university outcomes rather than using a simplistic measure for different universities and colleges when they are already doing a terrific job in their regions, perhaps against the odds.

Alex Burghart: I rise to speak to this monster group of amendments: 60, 57, 56, 58, 55 and 59.

Amendment 60 would add to the power in clause 20 an obligation on the Office for Students to assess and consider mitigating circumstances such as the pandemic. The OfS is already required to take into account wider factors when assessing the performance of providers. It has a general duty to have regard to the need to promote equality and opportunity and is subject to the public sector equality duty. It also has a public law obligation to take all material factors into account when reaching a decision.

The OfS will therefore consider a range of different contextual factors that may explain the reasons for a provider’s performance before reaching any final judgment. For example, this may include factors such as the relative proportions of students from disadvantaged or under-represented backgrounds. This could also include information from the provider about the actions it has taken, or plans to take, to improve quality, and external factors that may be outside a provider’s control such as the pandemic.

The OfS has previously produced guidance on how it expects providers to comply with the quality and standards-related registration conditions in the light of the pandemic. It is well aware that particular circumstances may be in play at a particular time, including the disruption caused by the covid-19 pandemic.

Amendment 57 would leave out the word “not” and in doing so completely reverse the purpose of this clause. Students would be expected to accept that they might achieve different outcomes—and, in some cases,

lower outcomes—depending on their background, which risks entrenching disadvantage in the system. That cannot be right. Every student, regardless of their background, has a right to expect the same minimum level of quality that is likely to improve their prospects in life. That is why we included the provision in this clause to make clear that there is no mandate on the OfS to benchmark the minimum levels of standards it sets based on factors such as particular student characteristics. The OfS will none the less continue to consider appropriate contexts, including student characteristics, and make well-rounded judgments when assessing individual providers.

Amendment 56 would require the OfS to consult before determining minimum levels of student outcomes. I reassure the Committee that, under the Higher Education and Research Act 2017, the OfS already has a statutory duty to consult before publishing any revised version of its regulatory framework, including on quality measures. In relation to student outcomes specifically, it has already undergone one round of consultation, while a further consultation on specific outcome levels and how the OfS will take wider context into account will be published early next year. The amendment is therefore unnecessary.

Amendment 58 suggests that the OfS may be required to determine different expected outcome levels by reference to each subject, which would be inappropriate. Requiring the OfS to determine different minimum outcome levels for different subjects would mean that students studying certain subjects would be expected to accept different and, in some cases, lower outcomes than if they had chosen a different subject. All students should expect that minimum levels of continuation and completion rates, as well as the proportion of students that achieve employment commensurate with their qualifications, will be the same for all subjects.

Amendment 55 would require that the OfS has regard to widening participation for disadvantaged and under-represented groups. However, I assure the Committee that the OfS already has to take due regard of the impact of its decisions on disadvantaged and under-represented groups. The minimum expected levels of student outcomes will form only part of the overall context the OfS takes into account as it makes rounded judgments. When it exercises any function, it must, under section 2 of the Higher Education and Research Act 2017, have regard to the need to promote equality of opportunity in connection with access to and participation in higher education, and that duty applies when the OfS looks at how disadvantaged students and traditionally under-represented groups are supported and what they go on to achieve. It includes access, successful participation, outcomes and progression to employment or further study. The OfS has a public law obligation to consider relevant wider factors, which could include, amongst other things, the characteristics of a provider's students, where appropriate.

Amendment 59 would require the OfS to work with devolved Administrations to minimise different assessments of higher education quality. HE is a devolved matter, and it is right that each Administration should be free to drive up quality in the way they think best. I understand that there is a concern about the removal of direct reference to the UK quality code from the guidance in the OfS's regulatory framework and its impact on the reputation of the UK's higher education sector, but the OfS has already made clear that its regulatory requirements would continue to cover the issues in the expectations

and core practices of the quality code, which will remain an important feature of the regulatory framework. The OfS is not proposing to abolish the UK quality code—indeed, it has no power to do so. The code will continue to be important in the sector and providers will still be able to use it.

I would like to take this opportunity to announce the Government's intention to table an amendment on Report that will give the OfS an explicit power to publish information about its compliance and enforcement functions, in particular when investigating higher education providers for potential breaches of registration conditions, which will give the OfS protection from defamation claims when it does so. That increased transparency will be in line with other regulators' powers and protections, including appropriate safeguards.

Rachel Hopkins: I rise to support my hon. Friend the Member for Warwick and Leamington and the proposed amendments, in particular those including the requirement to consult the higher education sector before determining the standards. My constituency, Luton South, is home to the fantastic University of Bedfordshire, which takes many non-traditional students—for want of a better term. The majority of its students are older and may be working and studying additional qualifications to support their work. Many come from disadvantaged and under-represented groups. It is vital that we understand the difference that universities like the University of Bedfordshire make to those people's lives when considering the clauses and the amendments proposed.

11 am

I also want to ensure that the widening participation aspect is considered thoroughly. There are so many people who have had no formal education who then come on to access courses and foundation degrees as part of their working life in order to better their skill level. The Bill is all about skills and improvements. With regard to measuring student outcomes and reflecting on the public sector equality duty, many students at the University of Bedfordshire come from very low socioeconomic groups, which is not always covered by the equality duty. I want to ensure that that is explicitly understood in any guidance and requirements of the OfS. I add my support for the amendment and the intention of what it is trying to achieve, in recognition of the many students at the University of Bedfordshire in Luton South.

Matt Western: I thank the Minister and my hon. Friend the Member for Luton South for their comments. Let me pick up on the points my hon. Friend just made. Educators and educationalists are concerned that these measures could lead to a reduction in opportunity and access, and that many could feel marginalised in the education process. I am not a specialist and have no background in education, but I understand that many schools have started to direct and encourage students to take certain GCSEs, to stay on to take A-level, BTECs or whatever. They may be prevented from doing so because of concern about the results achieved by that school or college, which could dissuade them.

It can never be known at the start what will happen to a student with the right sort of teaching and course. That education could bring alive their interest in a

[*Matt Western*]

subject. I would underline the sense of caution that motivates the amendments. The Government need to tread incredibly carefully, for fear of reducing access and participation in our education sector. I appreciate that you may wish to restrict the number of amendments put to a vote, Mrs Miller, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 56, in clause 20, page 24, line 16, at end insert—

“(6A) The OfS must consult the higher education sector before determining a minimum level in relation to a measure of student outcomes.”—(*Matt Western.*)

This amendment requires the OfS to consult the higher education sector before determining minimum levels.

Question put, That the amendment be made.

The Committee divided: Ayes 4, Noes 9.

Division No. 18]

AYES

Ali, Tahir	Perkins, Mr Toby
Hopkins, Rachel	Western, Matt

NOES

Bradley, Ben	Johnston, David
Burghart, Alex	Nici, Lia
Carter, Andy	Richardson, Angela
Clarke-Smith, Brendan	Tomlinson, Michael
Hunt, Tom	

Question accordingly negated.

Amendment proposed: 55, in clause 20, page 24, line 24, at end insert—

“(7A) When making decisions of a strategic nature in relation to a measure of student outcomes, the OfS must have due regard to the potential impact on the participation in higher education of students from disadvantaged and underrepresented groups.”—(*Matt Western.*)

This amendment seeks to ensure that the OfS’s measure of student outcomes does not jeopardise widening participation for students from disadvantaged and underrepresented groups.

Question put, That the amendment be made.

The Committee divided: Ayes 4, Noes 9.

Division No. 19]

AYES

Ali, Tahir	Perkins, Mr Toby
Hopkins, Rachel	Western, Matt

NOES

Bradley, Ben	Johnston, David
Burghart, Alex	Nici, Lia
Carter, Andy	Richardson, Angela
Clarke-Smith, Brendan	Tomlinson, Michael
Hunt, Tom	

Question accordingly negated.

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

Alex Burghart: Clause 20 clarifies the provisions set out in section 23 of the Higher Education and Research Act 2017, known as HERA, which relate to the assessment

of the quality of higher education provided by a registered provider. Section 23 of HERA currently places no restrictions or stipulations on how the Office for Students might assess quality or standards. Clause 20 provides some much-needed clarity. It puts beyond doubt the OfS’s ability both to determine minimum expected levels of student outcomes and to take those into account alongside many other factors when it makes its overall and well-rounded assessment of quality. It also makes clear that if outcome measures are to be used, the outcomes can be any the OfS considers appropriate.

The OfS looks at important indicators of high-quality higher education that are hugely valuable to students. They may include student continuation and completion rates and progression of graduates to professional or skilled employment or further study. The OfS is already regulating on that basis. The Government believe strongly that every student, regardless of background, has a right to expect the same minimum level of quality and the same opportunities to go on to achieve successful outcomes. Students from underrepresented groups should not be expected to accept lower quality, including poorer outcomes, than other students. That is why the clause also makes clear that there is no mandate on the OfS to benchmark the minimum levels of standards it sets based on factors such as particular student characteristics. The use of minimum levels for student outcomes is not and will not be a blunt instrument that relies only on data.

Absolute outcomes are only one aspect of a provider’s performance. To make a well-rounded judgment on a provider’s absolute performance, the OfS will consider a higher education provider’s appropriate context before determining whether a registration condition has been met. Alongside that work on baselines, the new Director for Fair Access is tasked with rewriting national targets to focus on social mobility and ensuring that higher education providers rewrite their access and participation plans. New and ambitious targets will be set to raise standards in schools, reduce drop-out rates at university and improve progression into high-paid, high-skilled jobs.

Clause 20 is an important element of the Bill because it serves to ensure that higher education provision delivers quality for all students, the taxpayer and the economy.

Matt Western: I do not have any further points to make and will not press any other amendments.

Question put and agreed to.

Clause 20 accordingly ordered to stand part of the Bill.

Clause 21

LIST OF RELEVANT PROVIDERS

Mr Perkins: I beg to move amendment 29, in clause 21, page 25, line 10, at end insert—

“(aa) for mayoral combined authorities or other authorities as defined by the Secretary of State, to keep a list of relevant education or training providers who meet the conditions specified by the authority in respect of that education or training;”

The effect of this amendment is that mayoral combined authorities or other authorities as defined by the Secretary of State will be able to establish a list of their own relevant education or training providers.

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

Amendment 30, in clause 21, page 26, line 12, at end insert ‘including mayoral combined authorities or other funding authorities.’

This amendment is consequential on Amendment 29.

Amendment 31, in clause 22, page 27, line 8, after ‘(a)’ insert ‘or (b)’.

This amendment is consequential on Amendment 30.

Mr Perkins: It is a great pleasure to move the amendment in the name of the hon. Member for Bury South (Christian Wakeford), my hon. Friend the Member for Warwick and Leamington and myself. The amendments concern the Government’s plans to have a list of preferred providers. What could go wrong with this Government and a list of preferred providers, I hear hon. Members ask? There have been reasons to question the Government’s record when it comes to relevant providers. The particular concern that the hon. Member for Bury South and I, and others, have is that when it comes to the Secretary of State and his Whitehall colleagues providing a list of providers to be considered appropriate by metro Mayors and combined authorities in Birmingham, Manchester, Leeds or anywhere else, important local providers will be missed out.

The amendment was tabled because of those local providers, both private sector providers and social enterprises, which might not have the huge ability to do detailed tenders but are important and proven in many local areas. There is a real concern in Manchester from the metro Mayor, which I suspect is where the interest of the hon. Member for Bury South comes from, and in other areas, that their importance should be recognised.

The amendment says that provision should be made, “for mayoral combined authorities or other authorities as defined by the Secretary of State, to keep a list of relevant education or training providers who meet the conditions specified by the authority in respect of that education or training”.

Amendment 30 would add,

“including mayoral combined authorities or other funding authorities”, to clause 21. It is really important that those local providers can be utilised by local combined authorities and metro Mayors.

During the Bill’s stages, there has been much talk about devolution and the importance of local decision making, but at every turn, we see the opposite—the Secretary of State is clawing back power for himself. In this case, without the amendment, that would be at the expense of local decision making, because if the mayoral combined authority was in a position to say, “We’ve worked really closely with a provider,” but for whatever reason, the provider was not on the Secretary of State’s list, it could be missed out.

The amendment seeks to ensure that the Government, who once passionately championed devolution, do not allow Whitehall decision makers to prevent the continuation of local arrangements and relationships that are delivering for local communities. As I said, there is concern that the Secretary of State’s list of relevant providers will exclude local providers that may not offer the scale and scope of national providers but are proven and have a successful track record in local areas. I have been to Manchester and discussed in great detail the strong relationship that the Mayor’s office has established with local small and medium-sized enterprises and social enterprises that are doing great work locally.

It sometimes feels as though the Government have a love affair with major firms that promise them the world. We fear that smaller providers will inevitably be missed off the Secretary of State’s list and that local learners and local businesses will be the biggest losers. It is vital that mayoral combined authorities, and other authorities that have local expertise, can continue those agreements with existing providers and that there is no break in provision where funding contracts are in place for adult education. Again, it feels as though the clause seeks to centralise power in the hands of the Secretary of State without paying due consideration to local representation, which is why I am keen to support amendment 29.

Alex Burghart: The amendments aim to give mayoral combined authorities and other authorities the power to keep their own lists of relevant education or training providers, specify their own conditions and exercise discretion about whether certain conditions have been met by relevant providers. The list of post-16 education and training providers that can be established under the powers in the clause aims to put in place guiding principles for a coherent and consistent scheme to protect learners in the case of provider failure. This important, specific point is made in subsection (5), which says:

“A condition may be specified in regulations under subsection (1)(a) only where the Secretary of State considers that specifying the condition in relation to a relevant provider may assist in preventing, or mitigating the adverse effects of, a disorderly cessation in the provision of education or training by the relevant provider.”

The whole clause is there to prevent circumstances in which providers crash out of the market and leave those in training with nowhere to go.

11.15 am

The amendments could lead to multiple lists of providers with different requirements for each list, which would be confusing for providers and learners and would lead to additional bureaucracy for providers. We cannot support the amendments, because one of our principal aims is to create a consistent and rigorous set of requirements for providers at a national level, so that providers and learners have clarity on what is expected to protect learners and public funds from provider failure and the disruption that causes.

Mr Perkins: The Minister has a tendency to sit down rather abruptly before he has had the opportunity to respond to things that have been raised, so I just wanted to catch him at this moment. Will he explain what about subsection (5) in any way secures the quality and robustness of those providers? Is it his view that the Secretary of State’s list will somehow ensure the finances or quality of that provider? What assurances can he give the hon. Member for Bury South and myself, and all those who have those local relationships, that those local relationships will not be the victim of this desire for consistency?

Alex Burghart: The hon. Gentleman makes a fair point. If he looks at subsection (7)(b), he will see that one key thing we seek—this is relevant to the point I am making regarding preventing provider failure—is providers having relevant insurance cover, which we might consider through regulations. There have been a number of cases in the past where some providers have not had that, and there has been a real risk of a break in the provision given to certain students. We do not want to exclude

[Lords]

[Alex Burghart]

small, local providers of the type he mentions at all. If ever it was felt that the Government were doing that, I draw his attention to subsection (10)(d), which says that an appeals process will be set out in regulations. I hope he can take some comfort from that.

Members will note written evidence from Learning Curve Group, an independent training provider, stating:

“Learning Curve Group welcomes the Government’s proposal...to include a register of providers who meet certain conditions as we believe this will increase overall quality and ensure high standards.”

We intend to work closely and collaboratively with mayoral combined authorities and other funding authorities on the creation of the list and the conditions that will apply. We will continue to engage with MCAs in designing the conditions and operation of the list. Through collaboration, we can ensure that we set a high bar for all providers for protecting learner interests. We certainly value the expertise and input that MCAs will have in this. As I said last week, we recognise the importance of the work of MCAs and their vital work in supporting local communities.

Mr Perkins: Subsection (7)(b) relates to the relevant provider having insurance cover. Will the Minister confirm whether that means insurance cover in the context of employer liability in the event of an apprentice or other adult learner being injured, or is it insurance cover in the event of the failure of the business and additional costs that might be attached to that? Will he clarify what the clause refers to?

Alex Burghart: It is the latter—in the case of business failure. The Bill sets out that we will consult on the conditions and provisions for being on the list prior to making the first set of regulations, to help ensure that those conditions manage and mitigate the risk of disorderly exit. That consultation will allow us to take into account fully the views of those affected by the scheme, including MCAs.

Mr Perkins: The Opposition are not opposed to clause 21 standing part, but there is a real danger that the way it is drafted will create much greater bureaucratic responsibilities. Inevitably, the result is going to be smaller providers not ending up on that list, either because they consider that their relatively small provision means that the Government’s requirements make it prohibitive for them to carry on, or because they get missed, as inevitably happens when dozens of local lists are turned into one major one.

We are not opposed to the Government introducing conditions and having standards and the register, but there is a real danger that the concerns raised by the hon. Member for Bury South and a number of different combined authorities will mean that really important local relationships will end up falling by the wayside and that provision may end up getting lost. We will press amendment 29 to a vote. Amendments 30 and 31 are conditional on amendment 29.

The Committee divided: Ayes 4, Noes 10.

Division No. 20]**AYES**

Ali, Tahir
Hopkins, Rachel

Perkins, Mr Toby
Western, Matt

NOES

Bradley, Ben
Burghart, Alex
Carter, Andy
Clarke-Smith, Brendan
Hunt, Jane

Hunt, Tom
Johnston, David
Nici, Lia
Richardson, Angela
Tomlinson, Michael

Question accordingly negated.

Ordered, That further consideration be now adjourned.
—(Michael Tomlinson.)

11.23 am

Adjourned till this day at Two o'clock.