

# Higher Education and Research Bill

## Recommendations to the House of Lords for the Report Stage

### Endorsement of amendments

CDBU welcomes Jo Johnson's announcement of 24 February concerning amendments to the Bill that the Government wishes to endorse. In particular we urge peers to give support to the definition of institutional autonomy provided by the **amendments to clause 3** that is jointly proposed by Lord Stevenson, Viscount Younger and Baroness Garden.

CDBU specifically wishes to encourage support for those amendments designed to insert in the Bill safeguards for free speech within the law (**after clause 86**) and for the interests of international students and staff (**after clause 85**).

CDBU also wishes to encourage support for those amendments designed to clarify where the responsibility lies for determining academic standards, notably with regard to **clauses 14, 24, 27, 36 and 81**.

At the same time, CDBU wishes to draw attention to a number of features of the Bill that pose a threat to the independence of universities and the quality of higher education in the UK, and which have not yet been addressed or resolved in amendments supported by the Government.

### Remaining concerns

#### 1. Tuition fees

A major cause for concern in the background to the Bill remains the design of the "Teaching Excellence Framework" (TEF) and the use of the ratings it will generate as a basis for determining fee levels (see **Schedule 2**). The metrics proposed for the TEF are highly contentious, and confidence in their effectiveness is extremely low among academic staff. (The staff survey results published by *Times Higher Education* on 16 February showed that only 4% of academic staff believe that the TEF will accurately assess teaching quality and only 12% believe that it will contribute anything to the improvement of teaching quality.) There have been signs, e.g. in Viscount Younger's letter to peers of 25 January, that the Government is responding to this lack of credibility by emphasising instead the role of "holistic judgement" about the performance of institutions, but it remains very unclear how the procedure will eventually operate.

In view of these uncertainties, and because the reputation of UK HE institutions needs to be handled with especial care in the context of the upheavals generated by Brexit, it seems inadvisable to base any form of material judgement on TEF outcomes until the system has bedded down.

**CDBU therefore strongly endorses** those amendments to **clause 26** which seek to defer any application of the TEF to the authorisation of tuition fee increases, and those which require any metrics used for this purpose to be subject to independent validation.

## **2. Powers of the Office for Students**

The report of the Delegated Powers and Regulatory Reform Committee on the Bill (December 2016) recommended the use of affirmative procedure in relation to the provisions contained in several clauses. Adjusting the numbering of clauses to the post-Committee version of the Bill, these provisions are the wide range of functions conferred on the Office for Students under **clause 3**, the scope of the powers created by **clause 10**, the extent of the powers to set fee limit conditions in **clause 11**, and the powers of revocation contained in **clauses 44 and 54**. The Committee made similar points with regard to **Schedule 2** and **clauses 38(3), 66(2), 67(2), and 73(1)**.

**CDBU would strongly encourage** members of the House of Lords to press for **implementation of these recommendations** in the report stage.

## **3. Powers to make consequential provision**

It remains a serious cause for concern for CDBU that the powers given to the Secretary of State under **clause 112** to make changes to primary and secondary legislation appear not to be subject to the level of parliamentary scrutiny that is commensurate with their magnitude.

**CDBU would welcome clarification** of this matter at report stage.

## **4. The Haldane principle**

It is clear that the understanding of what is meant by the “Haldane principle” has shifted over time, and that to some extent this is understandable in the context of changes to the nature of university research and the higher education sector generally. There is, however, a danger that the definition provided by Lord Prior in his proposed addendum to sub-section 2 of clause 99 will be understood as relating only to the evaluation of individual applications for research funding, and not to the broader nurturing of a research base in universities.

By contrast, the full text of Annex A to the Department for Business Innovation and Skills' publication “The Allocation of Science and Research Funding 2011 to 2015”, to which the amendment proposed by Lord Krebs and Lord Stevenson for insertion after clause 99 refers, is clear and explicit on how the Haldane principle should be understood with regard to the functions of the research councils.

**CDBU therefore urges support for the Krebs/ Stevenson amendment to clause 99.**

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on behalf of CDBU,  
28 February 2017