

Higher Education and Research Bill

Suggestions for writing to MPs (April 2017)

With the Third Reading of the Bill in the House of Lords taking place on April 4th, CDBU is asking its members to write to MPs with a view to persuading them to help us ensure as far as possible that the changes made to the Higher Education and Research Bill during its passage through the Lords are not reversed when the Bill returns to the Commons. Support from any MP will be welcome at this stage, but letters to Conservative MPs would be particularly helpful.

We have been advised that MPs are generally much more likely to respond to a personal communication from constituents than to anything that looks mass-produced. It is also clear that Conservative MPs will not want to appear to be openly breaking ranks. But if we put arguments to them in a spirit of asking them to use their good offices to help reduce the risk of damage to the higher education sector, there is at least a chance that they might persuade the Government front bench to take some of those arguments seriously.

CDBU members are urged to write as soon as possible to their local MP and to encourage others who they know to be concerned about the Higher Education and Research Bill to do likewise, particularly if they live in Conservative-held constituencies. The letter should ideally be relatively short, couched in terms that come naturally to its author, and focused on just one or two key issues.

A list of Conservative MPs who may be amenable to some of our arguments is appended below. The links to the documents referred to are also provided at the end of this text.

The key issues relating to the Lords amendments are these:

1. The Bill gives very strong powers over the higher education sector to the Secretary of State and to the new regulator, the Office for Students. In acknowledgment of the need for protection against any misuse of these powers, Lord Younger informed peers in his letter of 20 March that any amendment to primary legislation by the Secretary of State (under Clause 117, as it has now become) would be subject to strong parliamentary scrutiny in the form of affirmative procedure – i.e. both Houses would have to positively agree to the proposed action being taken. The House of Lords, on 8 March, also decided to strengthen the protection for universities against any ill-founded decision by the Office for Students to revoke their degree-awarding powers or their university title by inserting in both Clause 49 and Clause 60 a sub-section that enables them to appeal against such a decision on the grounds that it was wrong. It is important to the overall health of the sector that these safeguards should remain in place when the Bill becomes law.
2. Since it is part of the purpose of the Bill to encourage new providers to enter the market in higher education courses, safeguards are also needed to ensure that the general reputation of UK higher education for high quality is maintained into the future. The amendment that now appears as sub-sections 12 and 13 of Clause 47, which the House of Lords also adopted on 8 March, is designed to meet this need by specifying the role that the Quality Assessment Committee should play with regard to the authorisation of a new provider, and by stipulating that such a provider should have been “established for a minimum of four years with satisfactory validation arrangements in place” before authorisation may be issued. In the interests of the sector as a whole it is important that these safeguards should also remain in place.

3. A major cause for concern to those who work in universities is the **Teaching Excellence Framework** (TEF), not just because it creates another intrusive regulatory procedure, but because it has very serious design faults. While the Government side has claimed that the TEF is necessary to promote good teaching and value for money, the metrics it proposes to use do not actually measure the quality of teaching. The use of the **National Student Survey** in particular in this context was severely criticised in the Lords for its unreliability as a measure of the quality of teaching. In acknowledgment of these shortcomings in the design of the TEF, Lord Younger informed peers in his letter of 25 January that the evaluation of university teaching would, additionally, make use of “holistic judgement”. But this is equally unsatisfactory because it opens the way to subjective decision-making and “gaming” of the system by the institutions being assessed. It is therefore important that Clause 27 remains in place since it requires that any scheme used to assess, and provide information about, the quality of education and teaching is subject to suitably rigorous independent scrutiny.
4. A further danger inherent in the scheme the Government proposes to introduce is that it will, in effect, manufacture “losers”. That is to say, the scheme will be used, within a few years, to differentiate between the levels of tuition fees institutions will be allowed to charge, and thus to penalise institutions financially if they receive a low rating (i.e. are classified as “bronze”) in the TEF. It appears likely that this will happen to some institutions even if their teaching provision is in many senses excellent. With the financial penalty will come a perception that these institutions are “inferior”, and the combined effect is likely to drive the institutions affected down-market or out of business altogether. Since the evaluative procedures envisaged for the TEF are known to be unreliable, the risk of serious injustice being inflicted by the scheme is considerable. It is to forestall that risk that Clause 12 prohibits the use of the TEF to rank higher education providers as to the regulated course fees they charge, and it is important to the stability of the higher education sector that this provision should remain in place.
5. If you know that the MP in question is likely to recognise the importance of international co-operation for successful academic research, and of the recruitment of overseas students for the general health of the UK higher education sector, you might also try to enlist their support for retaining the protection provided by Clause 90 for the free movement of students and staff from outside the UK.
6. If you think the MP in question is likely to be sympathetic to arguments about an equitable electoral system, you might encourage them to look favourably on Clause 16, which gives all eligible students the opportunity to be added to the electoral register in their place of study.

If you get into discussion with one of the Conservative MPs whose help we are seeking, the following points are also worth bearing in mind:

7. If the purpose of the TEF is to promote good teaching, there are more effective ways of achieving this aim than through the scheme as envisaged — e.g. by ensuring that good teaching is recognised as a criterion for academic promotions, and by nurturing a sense of professional responsibility for high-quality teaching among young academics, which they will carry through the system in the course of their careers.
8. What is referred to as ‘poor value for money’ in higher education appears to be linked to under-resourcing rather than inadequate teaching. This connection was explicitly made in the report on the student academic experience survey by the Higher Education Policy Institute and the Higher

Education Academy for 2014 (p. 9), from which the Government side drew its statistics on this issue.

9. Contrary to the impression given by the letter to peers of 2 March from Universities UK and GuildHE, confidence in the TEF within the academic profession is extremely low. The staff survey results published by *Times Higher Education* on 16 February showed that only 4% of academic staff believe the TEF will accurately assess teaching quality and only 12% believe that it will contribute anything to the improvement of teaching quality.
10. Opposition in the House of Lords to key features of the Bill is not limited to members with academic affiliations. The numbers voting at the report stage for major amendments were of the order of 260 (on 6 March) to 310 (on 13 March), which represents 32.5-37.5% of all eligible members.

The links for the documents referred to are these:

The Bill as amended in report stage is at <https://www.publications.parliament.uk/pa/bills/lbill/2016-2017/0112/17112.pdf>

A description of the key amendments made in the House of Lords is on the CDBU website at <http://cdbu.org.uk/update-on-amendments-to-the-higher-education-and-research-bill/>

The Hansard record of the Lords debates about the Bill can be accessed at <http://services.parliament.uk/bills/2016-17/highereducationandresearch/stages.html>

Viscount Younger's letter to peers of 20 March in response to questions raised in the report stage is at http://data.parliament.uk/DepositedPapers/Files/DEP2017-0247/Younger_and_Young_dear_colleague_letter_to_all_Peers_on_the_HE_R_Bill.pdf

Viscount Younger's letter to peers of 25 January in response to questions raised about the TEF is at: http://data.parliament.uk/DepositedPapers/files/DEP2017-0067/Letter_from_Viscount_Younger_to_Peers_re_HER_Bill.pdf

The year-two specification for the TEF is at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/556355/TEF_Year_2_specification.pdf

The report on the student academic experience survey for 2014 is at http://www.hepi.ac.uk/wp-content/uploads/2014/05/HEA_HEPI-Report_WEB_160514.pdf

The letter to peers of 2 March from Universities UK and GuildHE is at <http://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2017/uuk-guildhe-letter-to-peers-herb-report-stage.pdf>

CDBU
31 March 2017

Conservative MPs who may be worth approaching

East and North:

Heidi Allen, South Cambridgeshire
Jo Churchill, Bury St Edmonds
Lucy Frazer, South East Cambridgeshire
Richard Harrington, Watford
Alan Haselhurst, Saffron Waldon
Will Quince, Colchester
Chloe Smith, Norwich North
Nicky Morgan, Loughborough
Amanda Solloway, Derby North
James Wharton, Stockton South
Paul Maynard, Blackpool North
David Mowatt, Warrington South
John Stevenson, Carlisle
Edward Timpson, Crewe and Nantwich
Ben Wallace, Wyre and Preston North
William Wragg, Hazel Grove
Stuart Andrew, Pudsey
Kris Hopkins, Keighley
Andrea Jenkins, Morley and Outwood
Andrew Jones, Harrogate
Greg Knight, East Yorkshire
Jason McCartney, Colne Valley
Julian Sturdy, York Outer
Rishi Sunak, Richmond (Yorks)
Lucy Allen, Telford
Philip Dunne, Ludlow
Jesse Norman, Hereford
Robin Walker, Worcester
Chris White, Warwick and Leamington

London area:

James Berry, Kingston and Surbiton
Jane Ellison, Battersea
Mark Field, Cites of London and Westminster
Justine Greening, Putney
Nick Hurd, Ruislip, Northwood and Pinner

Tania Mathias, Twickenham
Matthew Offord, Hendon
Chris Philp, Croydon South
Paul Scully, Sutton and Cheam
Theresa Villiers, Chipping Barnet
Angela Watkinson, Hornchurch and Upminster

South East, South West and Wales:

Nicola Blackwood, Oxford West
Julian Brazier, Canterbury
Steve Brine, Winchester
Robert Courts, Witney
Maria Caulfield, Lewes
Flick Drummond, Portsmouth South
Suella Fernandes, Fareham
Maria Miller, Basingstoke
Penny Mordaunt, Portsmouth North
Caroline Nokes, Romsey and Southampton North
Victoria Prentis, Banbury
Alok Sharma, Reading West
Nicholas Soames, Mid-Sussex
Rob Wilson, Reading East
Oliver Colvile, Plymouth Sutton and Devonport
Richard Graham, Gloucester
Ben Howlett, Bath
Charlotte Leslie, Bristol North West
John Penrose, Weston-super-Mare
Alun Cairns, Vale of Glamorgan
Byron Davies, Gower
Craig Williams, Cardiff North

Sources: https://en.wikipedia.org/wiki/List_of_MPs_for_constituencies_in_England_2015-20 and https://en.wikipedia.org/wiki/List_of_MPs_for_constituencies_in_Wales_2015-20