

Higher Education and Research Bill

University and College Union (UCU) briefing

July 2016

The University and College Union (UCU) is the largest trade union and professional association for academics and academic-related staff working in higher and further education throughout the UK.

UCU welcomes the government's recent focus on the importance of higher education in creating a strong economy and a vibrant, learned society. In particular we welcome the minister's recognition of the importance of teaching in universities, which for too long has been viewed as the 'poor relation' to research.

However, many of the concerns raised by UCU members and other stakeholders in response to the government's green paper have not been adequately addressed in the white paper, *Success as a Knowledge Economy*, or the subsequent Higher Education and Research Bill. We are therefore concerned that many of the measures in the bill do not enjoy the confidence of the sector.

UCU also believes that the changing political context should give pause to the progression of the bill. The UK's vote to leave the European Union will have wide-ranging effects on higher education funding, research, the academic workforce and the student body. We are already hearing examples of issues with European research partnerships in light of the referendum result, and there is a high level of uncertainty about the UK's future relationship with other EU study and research programmes. Instead of introducing unnecessary upheaval at this time of uncertainty, then, universities and students would be better served by thorough consideration of the challenges and opportunities presented by Brexit.

UCU therefore calls on government to halt the progress of this bill while negotiations on EU withdrawal are ongoing, and to undertake an inquiry into how we can ensure that the UK remains at the forefront of cutting edge international research and continues to be attractive to the best and brightest staff and students.

Ahead of the bill's second reading, this paper sets out a number of other recommendations for parliamentarians in relation to specific parts of the bill, developing issues set out in [UCU's white paper briefing](#).

UCU concerns about the bill's proposals

Focus on competition

The government asserts in the white paper that “insufficient competition and a lack of informed choice” are the main weaknesses of the higher education system in England. The bill from the outset seeks to address this by introducing a duty on the new regulatory body, the Office for Students, to ‘encourage competition between English higher education providers.’

UCU response

UCU rejects the government’s analysis and the idea that encouraging more private, for-profit providers and raising tuition fees are the best ways to drive up quality. On the contrary, evidence from both the USA and the UK suggests that market-based reforms are likely to deliver worse outcomes and value for students, employers and taxpayers.

UCU instead believes that the best results for students are to be gained through supporting universities in greater collaboration and sharing of good practice.

Recommendation: UCU would welcome amendments that remove the duty on the Office for Students to encourage competition (clause 2), and instead focus on enabling universities to collaborate effectively.

New providers and deregulation

Part 1 of the bill sets out a new regulatory framework which would make it easier for new providers to enter the higher education sector, and allow them to gain degree-awarding powers from day one.

New providers will be able to apply for *full* degree-awarding powers after only three years and then university title after only another three years. The government is also proposing to reduce the numbers threshold (currently 1,000 students) required for applications for university title.

Another significant change is that new providers will now be able to charge tuition fees of up to £9,000 rather than the current £6,000. For the first time, new providers will also be able to access block grant funding for teaching and research.

The bill also seeks to shift responsibility for awarding and revoking university title to the Office for Students, removing the involvement of the Privy Council in this process.

UCU response

UCU believes that speeding up the process for becoming a higher education provider poses a serious risk to staff and students, and also increases the risk of public money being

misused. There have already been a number of high-profile scandals involving private companies and the large amount of public money in the form of student loans being made available. Previous **expansion of private providers** has already **'tarnished the reputation'** of the higher education system through reports of phantom students, fraud and low quality of education following the rapid increase in taxpayers' money paid to private colleges in recent years.

Making it easier for new private providers to obtain degree-awarding powers is plainly at odds with the primacy of academic quality. New institutions will not have to prove their quality and robustness through building up a track record. Having a probationary period gives scope for institutions to fail to meet the required standard after already having taught and awarded degrees, leaving it too late to protect these students from poor quality provision.

UCU acknowledges that private colleges and universities have been a feature of our HE system for a long time. However we are strongly of the opinion that higher education providers should be not-for-profit bodies because these pose a far lower risk to the sector. Accelerating the rate at which for-profit organisations can award degrees or become universities exposes the sector to greater risk from those motivated to move into the market predominantly for financial gain.

We are also concerned about the removal of minimum student numbers from the criteria for university title, as it is likely to result in increased fragmentation of the sector. Also, the proposal to abolish Privy Council involvement in the granting of English university title, and to transfer these powers to a body entirely appointed and overseen by the Secretary of State, removes a key level of parliamentary scrutiny which UCU believes is crucial to protecting quality in the sector.

Lastly, a proliferation of new providers without regard to the devolution of skills strategies and funding to cities in England will impede their ability to ensure a joined-up approach to provision for learners in their areas.

Recommendations: UCU would welcome amendments to halt deregulation and introduce more stringent requirements on new providers - especially those operating on a for-profit basis - before they are able to access the full level of tuition-fee funding, grant funding or degree-awarding powers (clauses 5 – 9 & 37 – 41).

UCU would also urge parliamentary colleagues to oppose the abolition of Privy Council involvement in the awarding and revocation of university title.

Tuition fees and teaching excellence

Clause 25 of the bill establishes a power for the Office for Students to 'make arrangements for a scheme to give ratings to English higher education providers regarding the quality of, and standards applied to, the higher education that they provide'.

This refers to the proposed 'teaching excellence framework' (TEF) which is currently subject to a separate technical consultation (read UCU's response [here](#)). The bill also seeks to link this framework to the level of tuition fees an institution can charge (Schedule 2).

The TEF will assess universities according to their performance on student satisfaction, retention and graduate employment, and will be implemented in stages. In the first year all providers with satisfactory quality assessments will automatically be allowed to increase their tuition fees by inflation, and in subsequent years only those with higher ratings will be able to increase fees.

UCU response

While UCU welcomes the government's focus on the importance of teaching within universities, it does not believe that the proposed teaching excellence framework will be effective in assessing teaching quality, as it is based largely on a flawed system of metrics which are poor proxies for quality.

UCU instead urges the government to focus on addressing underlying issues like insecure contracts, low status of teaching, high workloads and lack of funding which affect teachers' ability to do their best work, and make it harder for institutions to retain the best teaching staff in the sector.

We are opposed to the proposal for variable tuition fee limits linked to assessments of teaching quality because:

- The proposed system would introduce high-stakes pressures on teaching staff and increase the likelihood of institutional 'game-playing'
- Many of the proposed metrics (e.g. graduate employment) are not in the gift of teaching staff to control
- Further increasing the cost of higher education to the individual is not conducive to widening participation – UK tuition fees are already amongst the highest in the world
- Many students could begin their courses without knowing the full cost of their study, which could change if the institutional rating changes
- The metrics on student satisfaction could introduce perverse incentives for students to award low marks to potentially reduce the overall cost of their course
- A system of variable fees would lead to a tiered system of institutions, and may remove funding from institutions which need it most in order to improve
- the proposed timescale will put great pressure on the sector to design, pilot and evaluate a new framework.

UCU is also deeply concerned by the lack of parliamentary scrutiny surrounding the proposed teaching excellence framework, especially as the quality measures contained within it will serve as the basis for variable fee awards to institutions. By putting key aspects of the TEF proposals out for consultation separately to the bill itself, parliament is being denied the chance to debate this vital aspect of the plan in full.

Recommendations: UCU strongly urges MPs and peers to oppose any further rise in tuition fees (Schedule 2), especially where this is linked to proposed assessment of teaching quality.

We would also urge that the full criteria upon which any variation in tuition fees may be based should be subject to full parliamentary scrutiny.

Office for Students, regulatory structures and staff representation

A new Office for Students (OfS), with an aim to promote choice and competition, will replace the learning and teaching functions of the Higher Education Funding Council for England (HEFCE) as well as the Office for Fair Access (OFFA) and be given wide ranging powers as a funder, regulator and awarding body.

The OfS will be a non-departmental public body and ministers will be responsible for appointing its Chair, Chief Executive and non-executive Board members. It will mostly be funded by registration fees from HE providers, with the government providing a small level of resource.

UCU response

We are concerned that the proposed Office for Students (OfS) will become a government-led body, rather than one which reflects the real interests of students or staff. In particular, we note the absence of information within the bill and white paper on its governance structure, and weak protections for academic freedom.

In order to reflect the diversity of the higher education system, we call for proper student and staff representation on the main governing body of the OfS, and increased consultation with the higher education workforce on key elements of the regulatory framework.

There are also opportunities with the creation of a new body for an increased emphasis on important workforce issues like insecure contracts and student-staff ratios which directly impact upon quality, but which HEFCE has had a poor record in either analysing or addressing.

Recommendations: UCU would like to see the inclusion of more robust stipulations concerning the governance structure of the OfS (Schedule 1, clause 2), to include at least one representative from the academic workforce. We would also like a specific reference to consultation with staff representatives on the OfS duties outlined in clauses 14, 59 and 67 (similarly in schedules 4 & 6).

In clause 59, there is also an opportunity to strengthen the reporting requirements on higher education providers to include key workforce data which would assist in ensuring a sustainable sector; this may, for instance, include information on insecure contracts and student-staff ratios.

Furthermore, UCU would welcome amendments to strengthen the duty of regard for academic freedom where it is referenced throughout the bill (clauses 2, 35, 66, 69).

Access, widening participation and social mobility

The bill includes a duty on higher education providers to publish the gender, ethnicity and social backgrounds of their student intake, which links with an aim in the white paper to “shine a light on their admissions processes”.

As mentioned above, the bill seeks to subsume the Office for Fair Access (OFFA) within the OfS. The current access agreements will be replaced by access and participation plans as a condition of registration for providers wishing to charge tuition fees higher than the basic cap (currently £6,000).

Further to plans in the white paper, the government is also currently consulting on accelerated courses and enabling switching between different courses and degrees, with a view to addressing the current barriers around credit transfer and accumulation. The teaching excellence framework will also include consideration of universities’ efforts to widen participation.

UCU response

While increased reporting requirements on universities are to be welcomed, the government must do more to address the persistent barriers to higher education for those from the most disadvantaged backgrounds. This must include:

- greater support for Further Education Colleges in their plans to widen access to college-based higher education
- tougher action on universities who are missing access targets
- better support for part-time and mature study, and
- a national inquiry on our broken admissions system to ensure fair access for all.

UCU has been a strong supporter of the work of OFFA in encouraging institutions to take widening participation seriously. We are very concerned that the previous good work of OFFA will be watered down if it is subsumed within the proposed OfS, and that the UUK led Social Mobility Advisory Group may unintentionally undermine or duplicate OFFA’s previous work.

We are also concerned that only those institutions charging higher-level fees will be required to produce access and participation plans. UCU believes that due consideration of widening participation should be a precursor to receiving public funding, and that all providers charging tuition fees or receiving grant funding should be required to produce an access and participation plan.

The objective within the TEF to “recognise those institutions that do most to welcome students from a range of backgrounds and support their retention and progression to further study or a graduate job” is admirable. However, if improvements in student

outcomes data such as retention rates and employability data is used, this may actually disadvantage universities that already focus on widening participation, part-time students and experimental and innovative provision because their gains may be comparatively smaller than other institutions once the TEF is introduced.

Recommendations: UCU would welcome the addition of:

- a requirement on the OfS to conduct a review of the current system of university admissions and explore alternative models, including post-qualification admissions (PQA)
- an extension of the requirement for access and participation plans to cover all registered providers in receipt of public funding for teaching (clause 12)
- specific duties on the OfS and institutions to promote part-time and mature study in order to address the decline in this area since fees were introduced

Research and innovation

A new research and innovation body, UK Research and Innovation (UKRI) will allocate funding for research and innovation. UKRI will incorporate the functions of the seven Research Councils, Innovate UK, and HEFCE's research funding functions. The latter will be known as 'Research England'.

The nine 'committees' within UKRI will have only 'delegated autonomy and authority'. The Secretary of State will 'set budgets for each' through the 'annual grant letter' to UKRI thus remaining free in principle to support one area of research more generously than another.

UCU response

We welcome proposals to protect the dual support system, but it is unclear whether these arrangements will be sufficient to prevent ministerial interference in the research funding process, as this will be left entirely to UKRI and the Secretary of State.

We recognise the vital **importance of research** to the sector and are disappointed that little or no attempt has been made to strengthen the positive relationship between teaching and research. We are therefore concerned about the institutional separation between research and teaching within the new structure and call for the UKRI's remit to include the promotion of sustainable research careers.

No provision is made in the Bill to meet the infrastructure funding needs which serve both teaching and research, such as libraries and laboratories. We would also like to see a specified role for research and teaching communities to influence strategic capacity building which straddles research and teaching.

On research funding, we have previously called for a more **fundamental review** of current research policy than the proposals outlined in either the Nurse review or the current legislation. However, in the absence of a wider review, we call for additional protections for

the block grant element of research funding and for research-teaching links to be an essential criteria in both the TEF and the REF.

Recommendations: UCU believes that detailed parliamentary scrutiny of the bill's provisions for the dual support system of research funding is required to ensure that they are robust. We would also welcome amendments which introduce a duty to consult with relevant research communities regarding the funding system, and the structure and functions of UKRI.

Produced by University and College Union 2016
Carlow Street, London NW1 7LH
T: 020 7756 2500 E: mwaddup@ucu.org.uk W: www.ucu.org.uk