



# The All-Party Parliamentary University Group

## Note of speaker meeting: “The Higher Education and Research Bill”

Speakers:

**Professor Andrew Wathey**, Vice-Chancellor, Northumbria University, Newcastle

**Jo Johnson MP**, Minister for Universities, Science, Research and Innovation, Department for Education and Department for Business, Energy and Industrial Strategy

**Andrew Wathey** began his comments by setting out that the HE and Research Bill was the first major piece of higher education legislation since 1992. He commented that the Minister’s thesis was that the previous regulation was designed for a different world (with student number caps and grants, for example), and needs to catch up to the reality, noting a differing view held by some, namely that the sector is getting by ok and in the current climate the Bill is not essential, but also the dangers of retaining regulation that is out of date.

Professor Wathey stated that from a broad sector perspective none of the big things in the Bill are opposed. Recognising the highest teaching quality, a manifesto commitment now rendered as the TEF, provides a corrective to the balance of teaching and research that was probably long overdue. As the REF generally is, the TEF in itself is likely to be a good thing (though by no means straightforward, and at best a proxy measure of excellence); and though the linkage to fees could drive complexity, the Government’s acknowledgement that it is developmental has helped and gives the sector something to work with.

Noting publicly the welcome amendments tabled on Monday 14 November and the general predisposition of the Minister and the Bill team to listen, Professor Wathey then turned to some of the remaining worries about the Bill.

1. Competition: It is a fairly widely shared view in the sector that not only students and employers could be beneficiaries of competition in the sector but also wider society. However, he noted that competition could be leavened with collaboration. Competition alone risks waste and inefficiency; it may also benefit successful providers more than it benefits students.
2. Quality and standards: The fine-grained nature of the distinction between quality and standards is well known, and the Bill unhelpfully elides the two. In HE parlance generally, ‘quality’ relates to how a provider supports students to enable them to progress and achieve their award, ‘standards’ relates to the calibration of student attainment by a provider, and both have established definitions in the Quality Code. The provisions of the Bill move accountability substantially away from universities, in a way that is not consistent with the requirements and dynamics of autonomous institutions. The power given to OfS to rate

standards as well as to assess them potentially opens the door to undesirable outcomes, e.g. the adoption of an Ofqual mind-set, or rating universities' degrees 'platinum', 'gold', 'silver'. What the legislation sets out to do – guarding against grade inflation, and giving the OfS a locus in the discussion of standards – can be achieved under the Revised Operating Model published by the HEFCE last March.

3. Powers of the OfS to validate degrees: With over a hundred validating bodies now, and probably more in future and all in competition, it is perhaps open to question whether this will arise. But the real issue is whether OfS can reasonably be poacher and gamekeeper at the same time. Another fundamental issue here is whether an arm's length body of government validating degrees would, over time, undermine sector autonomy.

Professor Wathey concluded his comments by mentioning other areas, widening participation, part-time students, implications for the devolved nations, the status of royal charters, amongst others, that may need further scrutiny as the Bill enters its next stages.

**Jo Johnson MP** spoke about the amendments that the Government laid on 14 November. He noted that these were a reflection of five months of listening and that he and the Bill team intend to remain open to comments and suggestions. He felt that the process of the Bill's journey through parliament must remain a consultative one. The Minister also commented on his awareness of how so many peers care very deeply about the higher education and research sector, and he looked forward to the detailed scrutiny that will take place when the Bill reaches the House of Lords.

Jo Johnson then went on to set out the amendments that were tabled on 14 November:

1. The first referred to the Office for Students and how students related to this. He noted that the Government received strong feedback that the clause was tightened up and the new amendment sets out that there would be a requirement that a person representing the students interest would be on the board.
2. Student protection plans: Approximately half of institutions have student protection plans, but they vary greatly. The Bill will make it mandatory on a condition of registration that all institutions must have a protection plan if they wish to have access to public funds. The amendment will also require universities to publish their plans and bring them to the attention of their students.
3. Oversight of the sector: This amendment would seek to bring the Bill in line with the White Paper, clarifying that the OfS would have the oversight role, in terms of looking at the financial stability of the sector.
4. Teaching: The Government received feedback that the Bill wasn't sufficiently attended to the need to promote institutional autonomy. The amendment restricts the Secretary of State's ability to give guidance to OfS, making it explicit that the OfS cannot direct institutions to open or close specific courses, but will enable it to target the funding that it has, supporting strategic and high cost subjects.
5. Research: Firstly, confirming that UKRI will be responsible for funding post-graduate study and the OfS will continue to play a role in regulating this across the whole system. Secondly, putting a duty on the Secretary of State to ensure that the full range of research excellence

exists across the entire country, including Scotland, Wales and Northern Ireland, and this is reflected in the composition of the UKRI Board.

### **Q&A and Discussion**

It was generally agreed at the meeting that the **House of Lords** will provide another opportunity for further scrutiny and possible changes to the Higher Education and Research Bill. Several peers raised concerns about how the Government expects the Bill to help **adult, part-time learners** and how more clearly the **further education** and college sector fits in.

The discussion then moved on to the **National Student Survey** and whether it is fit for purpose as a metric of the Teaching Excellence Framework, but it was generally agreed that the NSS is useful for individual institutions. Jo Johnson reiterated that there is a basket of metrics for the TEF, in addition to the NSS there are also other quantitative and qualitative measures and peer engagement, he argued that this is a balanced assessment process and that like the REF it will evolve in a positive direction. Many attendees agreed that the REF we have today bears little resemblance to when it began, however they raised concerns about categorising whole institutions at one level, and about the stepped grading into gold, silver and bronze categories. There were also worries raised by attendees about **the speed of implementation** and unintended consequences.

Several attendees mentioned that a government league table and whole institution categories might be particularly challenged by the **Brexit vote**. Mainly, how **international students** may view our higher education system and how any loss of students may have a knock on affect to other courses due to the practice of cross-subsidy.

One attendee also raised the issue of protection of **institutional autonomy**, noting that this is seemingly fragmented across the Bill, for example the OfS has to have regard for various things which are very market based, but there is no requirement to have regard to institutional autonomy.

The discussion then moved onto the role of the **Privy Council**, with some attendees noting that the existence of a super authority ensures that decisions are thought through. This may be unrequired if decisions are working well but it is important to have checks and balances to future proof the system and therefore the Privy Council role and how it is replaced needs clarification.

Finally, attendees discussed the significance of a philosophical point, **'what is a university'**. The Minister arguing that it was accepted under a previous government that a university could just be an institution that has teaching only, and that this Bill is just going further, for example including specialist institutions where there might be a national need. Members of the Lords in attendance felt that this issue needed further scrutiny when the Bill progressed to that House.