

Skills and Post-16 Education Bill: House of Commons Second Reading Briefing

About Universities UK

Universities UK (UUK) represents 140 universities across all four nations of the UK. Our mission is to create the conditions for UK universities to be the best in the world; maximising their positive impact locally, nationally and globally.

Background

The Skills and Post-16 Education Bill was announced at the Queen's Speech on 11 May 2021 and provides the legislative underpinning for several of the reforms announced in the [Skills for Jobs White Paper](#).

The Prime Minister announced the government's intention to introduce a Lifetime Skills Guarantee in September 2020. As part of the flagship policy of 'levelling up' the country, the guarantee aims to ensure that all individuals have the skills needed to progress in work at any stage of their lives. The element of the Lifetime Skills Guarantee concerned with providing adults that do not hold a Level 3 qualification with the opportunity to gain one for free has already been rolled out, but this legislation paves the way for the establishment of the Lifetime Loan Entitlement for Level 4 to 6 qualifications.

The Bill also aims to ensure employers are more closely involved in the skills system to meet skills needs and boost productivity, strengthen the system of accountability around further education colleges and also to strengthen the powers of the Office or Students to set minimum standards for quality, based on student outcomes.

Certain elements of the Bill will have a significant impact on the higher education sector, particularly when taken alongside the government's final response to the Post-18 Education and Funding (Augar) Review expected in the very near future.

Scope of the briefing

This briefing will cover the parts of the Skills and Post-16 Education Bill of direct relevance to UUK and its members, and provide information on the legislation as it stands following the passage of the Bill through the Lords in the summer and early autumn of 2021.

UUK will continue to update the briefing at relevant stages of the Bill's passage through the House of Commons.

Please contact: harriet.jones@universitiesuk.ac.uk, Political Affairs Manager, with any questions.

Lifelong Loan Entitlement

The Post-16 Education and Skills Bill provides the legislative underpinning for the introduction of a Lifelong Loan Entitlement (LLE) from 2025, as first announced by the Prime Minister at Exeter College in September 2020.

The aim of the LLE is to allow individuals to study higher level courses more flexibly throughout their lives by increasing provision of higher technical courses as well as allowing existing qualifications to be studied in a more bite-sized way.

Before the Bill was introduced, the government announced that the LLE would cover both higher technical and degree-level courses delivered at either colleges or universities, and provide individuals with **funding up to the equivalent of four years' full time post-18 education** that can be used for individual modules of eligible courses as well as full years of study.

Progress to date

There are few details about the LLE on the face of the Bill. The original [Impact Assessment](#) stated that the government would introduce amendments to modify the Higher Education and Research Act (HERA) 2017 to specific modular provision.

These amendments were made at Report stage in the Lords and amend section 83 of HERA so that a "higher education course" can either mean a full course or module of a course, and to ensure information sharing requirements for modules are no more onerous than for full courses.

The government had originally planned to amend the Bill in the Lords to give further details about aspects of the LLE such as fee limits for modules. However, it has since been confirmed by Baroness Barran that further details would not be decided until after the consultation.

Baroness Barran also confirmed the consultation will seek views on:

- the government's ambition, objectives and coverage
- the level of modularity (minimum number of credits a course will need to be eligible for funding)
- maintenance support
- how to support quality provision and flexible learning
- how to incentivize and enable effective credit transfer
- whether restrictions on previous study should be amended to facilitate retraining (i.e. ELQ requirements)

She also confirmed that **further primary legislation will be brought forward** following a consultation on the LLE. No timetable for the consultation or future primary legislation has been given.

Universities UK position

UUK has previously called on the government to introduce additional flexibilities in the student funding system to better support part-time, flexible learning and mature students. Any post-16 education reforms should have student choice and flexibility at their heart and meet employers present and future needs.

Universities already support flexible learning in a number of ways, through partnerships with further education colleges, working with employers on apprenticeships, accrediting prior learning, and delivering Level 4-5 qualifications such as Foundation Degrees. However, we know many universities want to build on this strong foundation to expand their offer to learners.

In response to these reforms, UUK has set out the following principles for an education system that delivers a clear and joined up choice for all learners, supporting the ambition of the LLE.

- **Learners should enter an education system with opportunity and flexibility at its heart.** Providers will facilitate greater flexibility through modular study,

enhanced credit recognition and transfer, and a new focus on reskilling. Broad and consistent eligibility criteria will allow learners to choose how and where they engage with education. Providers will deliver learning experiences and qualifications that focus on student needs, whether that is to change career or to upskill.

- **Employers and universities should enhance their strategic partnerships to locate and meet the skills needs of the future.** These collaborations will deliver agile local and national networks supporting both upskilling and reskilling aligned to local and national workforce needs. In addition to skills delivery these partnerships will support innovation, generating local skills demand and supporting economic growth.
- **Funding models should support learners to study through different routes.** The diversity of the sector is a strength and incentives should enable providers to grow their high-quality provision in line with their missions. A funding model that reflects institutional diversity will produce sustainable and high-quality provision that reaches more learners.
- **Education providers should collaborate to support seamless progression.** Enabling learners to move between further education and higher education for different needs will be key to these reform's success. Providers should build on strategic local partnerships to deliver more seamless, connected solutions for employers and greater opportunities for students within regions. These partnerships will deliver on ambitions for growth and quality.
- **As we build towards 2025, both government and the higher education sector should work together to learn what works, energise interest from students and demand from employers, and support transformation.** The LLE is a large and complex reform programme; collaboration, support, evaluation and testing will be crucial to ensure there are clear and rewarding options available for learners and that providers achieve the desired impact for the workforce and economic growth. Mechanisms should be established to pilot, test and stimulate demand and support transitions to new approaches.

UUK supported amendments to the Bill in the House of Lords concerned with ensuring the eligibility for the LLE regardless of an individual's prior level of study/qualification, subject choice, mode of study or choice of institution. An amendment to this end was originally tabled by Lord Johnson of Marylebone and then later by Lord Watson of Invergowrie (Amendment 40 at [report stage](#)).

Areas where further clarity/assurance is needed

- How will the introduction of the LLE align with potential reforms to the wider higher education funding system?
- What assessment has been made of the cost of introducing the LLE and whether the scope of the entitlement will be affected by wider fiscal factors?
- What the process for determining which courses will be eligible for the LLE will be and how / how often the list will be amended?
- Will Equivalent or Lower Qualification (ELQ) rules be relaxed to support learners of all ages looking to reskill and upskill?
- How learner demand for modular study will be boosted and whether particular groups will be targeted (ie on a local/age/sector basis)?
- At what level of intensity of study will individuals be eligible for maintenance support as well as tuition support?

Quality Assessment of Higher Education

Background

Unlike the rest of the Bill which focuses on reforms to the structure of the post-16 education and skills system, Clause 20 of the Bill '*Office for Students: power to assess the quality of higher education by reference to student outcomes*' deals entirely with amending existing higher education quality assessment methods.

The Conservative Party's 2019 manifesto specifically includes a commitment to tackling "low quality courses", and this has been reiterated by Education Secretaries and Ministers on several occasions since. However, there is no consensus about what constitutes a 'high' or 'low' quality higher education course. Commentary often focuses on graduates' salaries several years after completing their course but there are multiple factors that can affect this metric such as the geographical area in which a graduate works, whether they enter a low paid but highly valuable job such as social care or nursing, or whether they embark on entrepreneurial ventures that often do not lead to high earnings for several years.

Proposals in the Bill

The Bill includes provision to extend Clause 23 ('Assessing the quality of, and the standards applied to, higher education') of the Higher Education and Research Act 2017. The existing legislation, which established the university regulator the Office for Students (OfS), makes reference to the regulator's ability to assess the quality and standards of higher education providers on its register, or applying to be, but does not specify the metrics that might be used.

Clause 20 is a permissive clause that does not formally expand the OfS' powers, but clarifies the levers available to them. It specifically explains that:

- The OfS may take into account student outcomes when assessing quality.
- The outcomes considered could include continuation, completion and progress and could be measured quantitatively or qualitatively.
- A minimum level for these metrics can be determined as and when the OfS feels it is appropriate, but the minimum level **does not need to be benchmarked** by student characteristics, institution type, subject or any other factor.
- The OfS can make judgements on student outcomes with reference to these minimum levels.

The clause does not *require* the OfS to use student outcomes data and apply non-benchmarked minimum baselines, but it would legally allow it to, paving the way for significant changes to the way quality is assessed as and when the leadership of the OfS decides. The OfS will shortly consult on proposals on the use of students outcomes data (expected December 2021). They have previously stated a preference for this approach.

Universities UK position

Universities monitor and review their courses regularly and have robust processes in place to uphold quality and standards. The overwhelming majority of courses are high quality, however, to ensure maximum value, UUK has been exploring the development of a framework in England for institutional programme and course review processes centered on best practice, to ensure courses provide good value and outcomes for students and the taxpayer, while meeting the changing needs of employers and the economy.

The framework will:

- support UUK members in their programme and course review processes, based on best practice with a focus on the delivery of high-value and high-quality sustainable courses
- demonstrate the sector's commitment to consistency and clarity in programme and course review processes and give confidence that the sector is effectively and transparently self-regulating
- develop an approach where the full diversity of universities in England can integrate graduate outcome and wider measures of value into reviews of courses, while maximising their ability to contribute to levelling up, improving social mobility, and meeting the needs of students, employers, and local areas.
- Set out the sector's view on how to define the value and quality of courses, in a move towards developing a shared understanding with government

Questions and concerns

The lack of benchmarking when assessing student outcomes is of significant concern due to the unintended consequences it might have on improving access and participation in higher education, specifically among those from disadvantaged and underrepresented groups.

Universities play a significant role in driving social mobility and will help achieve the government's levelling up agenda through producing skilled graduates in all regions of the country and providing research, innovation and employment opportunities. Having absolute minimum levels for student continuation or outcomes without benchmarking against student characteristics could unfairly penalise universities that serve disadvantaged areas of the country, or are expanding their outreach activities.

Under Section 2 of the HERA the OfS is required to apply a degree of proportionality and therefore contextualisation to any assessment, but it is unclear how this contextualisation could be achieved and applied in a fair way if not through benchmarking.

We are also concerned that the Bill would pave the way for the OfS to prioritise the use of student outcomes metrics to assess quality above other metrics, and it is not clear from the Bill whether the OfS would apply this at institutional or course level.

UUK will engage closely with the Department for Education and OfS as the Bill makes its way through parliament, however **it would be helpful if MPs could raise the following issues during Second Reading:**

- How will the proposed one-size-fits-all approach to assessing student outcomes will be applied to courses outside of three-year bachelors' degrees?
- How and when consultation will take place with universities on minimum standards?
- What assessment has been made of the possible impact of introducing minimum standards without benchmarking on widening participation?
- What assessment has been made of the implications of a metrics-driven approach to the international reputation of UK higher education quality assurance?
- How will the proposed approach interact with the future development of the Teaching Excellence Framework that has historically used benchmarked data?
- How will the impact of the pandemic on university data and metrics be managed?
- If not benchmarked, what context will be considered and how will the approach to contextualisation be fairly applied across different universities?

Other measures of interest

Employer engagement

Universities already have extensive links with local, national and international employers and local business interest groups such as regional CBI offices. There has been considerable engagement with employers and local partners in economic and social recovery planning. We want to build on and extend these partnerships to more employers and therefore **one of the key elements of UUK's #GettingResults campaign is encouraging more numerous and effective local partnerships** between universities and their local stakeholders.

We are encouraged that the definition of a post-16 provider, as set out in the Bill's impact assessment, is: 'providers delivering publicly funded FE & Skills with at least one active learner in 2019/20' as this will include around 100 higher education providers.

Questions remain about the proposed new Employer Representative Bodies, Local Skills Improvement Plans (LSIPs), and how providers will have to show curriculum choices through the LSIPs.

Universities have to date been involved with pilots and UUK will continue to push for universities' inclusion to support collaboration across further education and employer bodies.

Essay mills

UUK welcomes the government's decision to make it a criminal offence to provide, arrange or advertise cheating services (including 'essay mills') for financial gain to students undertaking a qualification at any post-16 education including universities. This is outlined in Part 4 Chapter 4 of the Bill following agreement to a government amendment.

UUK has repeatedly called for essay writing services to be made illegal and we have worked together with government, the Quality Assurance Agency (QAA) and other higher education bodies to tackle their use.

While the use of essay mills by students is rare, all universities have codes of conduct that include severe penalties for students found to be submitting work that is not their own. Universities have become increasingly experienced at dealing with such issues and are engaging with students from day-one to underline the implications of cheating and how it can be avoided.

University support services are there to help vulnerable students struggling with anxiety and stress around coursework and deadlines.

Funding for level 3 qualifications

Throughout the Bill's passage through the Lords, Peers have tabled amendments to safeguard against funding for established level 3 qualifications (including BTECs) being removed either prematurely or without consultation.

One amendment specifically states that funding for BTECs should not be removed until T Levels have been fully embedded and acceptable to students, employers and universities.

We are in favour of an **approach to funding level 3 technical qualifications that includes thorough consultation with the university sector**. BTECs have helped to widen participation in higher education, particularly amongst those from disadvantaged backgrounds, students with SEND and Black pupils. It is therefore important that any changes to the level 3 qualifications landscape do not

inadvertently reverse progress on opening up access to university for underrepresented groups.

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