



Department
for Education



Department for
Business, Energy
& Industrial Strategy

Higher Education and Research Bill

**Amendments Tabled Ahead of Lords
Report Stage**

February 2017

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Introduction

The Higher Education and Research Bill will deliver greater diversity, innovation and choice in our world-class system. It will promote social mobility, boost productivity in the economy and ensure students and taxpayers receive value for money from their investment in higher education, while safeguarding institutional autonomy and academic freedom.

The sector has long acknowledged that the current regulatory framework is simply not fit for purpose. We must do more to ensure that young people from all backgrounds are given the opportunity to fulfil their potential and the information they need to make good choices about where and what to study. The Bill provides stability and puts in place the robust regulatory framework that the sector itself agrees is needed.

The Bill will help ensure that everyone with the potential to benefit from higher study can access relevant information to help them make the right choices from a wide range of high-quality universities and other higher education providers, and benefit from excellent teaching that supports their future productivity. It will also strengthen the UK's world-class capabilities in research and innovation.

The Bill was introduced in to the House of Commons on 19 May 2016 and was subsequently introduced into the House of Lords on 22 November 2016.

The Government has engaged widely with the higher education, research, and innovation communities, and listened intently to views expressed in both Houses of Parliament. The Government tabled amendments ahead of Commons Report Stage (November 2016) and Lords Committee Stage (January 2017), as a result of the views expressed.

We have continued to listen carefully during the Bill's passage through the House of Lords. We are grateful for the thoughtful and expert scrutiny and consideration that Peers and stakeholders have provided.

As a result of this important scrutiny, we have tabled a number of amendments ahead of Lords Report Stage that seek to address many of the points raised, and ensure the Bill delivers on the objectives of the White Paper, *'Success as a Knowledge Economy'*, published on 16 May 2016. Subject to Parliament, this Bill, including the proposed amendments outlined in this document, will ensure that our higher education sector remains amongst our greatest national assets, and provides for a research and innovation system which is more agile and able to respond strategically to future challenges and needs.

This factsheet explains these amendments.

Amendments: Higher education providers and the Office for Students

1. Institutional Autonomy

Institutional autonomy and academic freedom are cornerstones of the success of our higher education (HE) sector.

In this Bill, we have sought to recognise the importance of institutional autonomy and academic freedom by considerably strengthening the protections for them, compared to the current legislative framework for the regulation of the HE sector. These protections apply to key powers that the Bill gives to the Secretary of State to influence the new regulatory body, the Office for Students (OfS). The Bill achieves this by ensuring that the Secretary of State must have regard to academic freedom when using guidance, directions or conditions of grant funding to influence the OfS. At House of Commons Report Stage, the Government strengthened these protections by moving amendments which prevent the Secretary of State from issuing guidance with a view to requiring the OfS to act in a way which either prohibits or requires the provision of a particular course of study.

During Lords Committee, we heard clearly the strength of feeling on this totemic issue – and further strong evidence for its fundamental role in the achievements of our HE sector to date. We committed to consider how we could further strengthen protections for academic freedom and institutional autonomy.

This is why we have supported amendments which will place an explicit duty on the OfS in performing its functions, and the Secretary of State in issuing guidance and directions and determining terms and conditions of grants, to have regard to the need to protect the institutional autonomy of English higher education providers.

These amendments apply across all the OfS's functions, and will ensure that the OfS considers institutional autonomy in everything it does. It therefore provides an explicit and wide ranging protection, which, subject to Parliament, will be enshrined in law for the first time.

These amendments provide a full and clear definition of institutional autonomy, making clear that English higher education providers have freedoms in relation to day to day management, decisions on course content and structure, selection and dismissal of academic staff, and admission of students. They also specify the freedoms of academic staff to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions. Together this collection of amendments provides the most robust protection for institutional autonomy that has ever existed in our modern higher education system.

2. Standards

We have heard representations from Peers and stakeholders that the Bill, as drafted, could undermine the sector's role in regard to standards. **We have, therefore, tabled amendments which are designed principally to clarify, amongst other things, that the standards against which providers are assessed, and to which registration conditions can refer are the standards that are recognised by, and command the confidence of, the higher education sector (where such standards exist).** Where sector recognised standards exist but do not cover a particular matter the OfS cannot apply its own standard in respect of that matter.

Amongst other things, they also:

- amend clause 27 so that where a body has been designated to carry out the assessment functions, those functions cease to be exercisable by the OfS to the extent that they relate to standards. This means that the designated quality body would have exclusive responsibility for assessing standards;
- ensure that the OfS, when giving general directions to the designated quality body, must have regard to the need to protect the body's ability to carry out an impartial assessment.
- delete the previous definition of standards for the purposes of the Bill. This deletion brings standards in line with "quality", which is not defined in the bill, so as not to undermine the principle that the sector is responsible for defining standards.
- amend clause 27 so that, where a body has been designated to carry out the assessment functions (a quality body), those functions cease to be exercisable by the OfS to the extent that they relate to standards. The OfS will retain ultimate responsibility for assessing quality, and for setting registration conditions relating to quality and standards.
- We have also amended Schedule 4 to ensure that the OfS, when giving general directions to the designated quality body, must have regard to the need to protect the body's ability to carry out an impartial assessment. This is in addition to the existing requirement for the OfS to have regard to the need to protect the body's expertise.

Some concerns were raised by the sector that the Secretary of State could give guidance to the OfS regarding the standards at an individual institution. The restrictions already contained within clause 3 of the bill prevents this. The Secretary of State can only give guidance that relates to English higher education providers generally, or to a description of such providers, and must not relate to the manner in which courses of study are taught, supervised or assessed.

3. Expert advice when granting, varying or revoking Degree Awarding Powers

The measures in this Bill will make it simpler for new high quality providers to start-up, achieve Degree Awarding Powers (DAPs) and secure university status. New providers can drive more diversity and innovation, more choice for students, competitive pressure to drive up quality, and will mean that all students with the potential can access a high quality university place. These reforms will help ensure employers are provided with enough of the right graduates; that there are enough flexible study options on offer to meet students' diverse needs; and that more is done to support social mobility.

In order to become eligible for DAPs, any provider must register and pass rigorous entry requirements. We expect them to meet tough quality, financial sustainability and good governance criteria, and to undergo a rigorous scrutiny process to test the ability of a provider to maintain the quality of academic provision. It is a high bar, which only high quality providers will be able to meet. Further information on our market entry reforms can be found in a series of published factsheets, published in January 2017.¹

At Lords Committee Stage we confirmed that we would expect a committee comprised of independent members to play a vital role in the scrutiny of applications, bringing to bear its unique and expert perspective on the process, and enabling the OfS to draw on its expertise. We agree that the important decision of awarding DAPs must be based on objective and independent advice, including from a relevant range of experts. **That is why we have now tabled an amendment to ensure that the OfS will have to seek expert advice ahead of awarding DAPs to a HE provider. This advice should come from the Designated Quality Body or, if no body is designated, from a committee of the OfS.**

This advice must be informed by the views of persons with a range of relevant experience. We envisage that there will be strong representation from persons who have experience of granting degrees, but it will also include persons whose expertise lie in the education provided by institutions without DAPs – so the would be challenger institutions and further education providers. Persons with experience of employing graduates, and persons representing the interests of students, will also be represented.

¹ <https://www.gov.uk/government/publications/higher-education-and-research-bill-market-entry-reforms>

4. Degree Awarding Powers and University Title – revocation

This Bill will replace an outdated system with a new, risk-based regulatory framework that concentrates regulation where it is needed in order to protect the overall quality of the sector while reducing burdens on the best performing providers.

The express powers to vary or revoke DAPs and revoke University Title (UT) contained in the Bill are a part of the suite of tools that will be available to the OfS under the new regulatory framework. We have long recognised that in order to be able to regulate the sector effectively, express powers to remove DAPs and UT in serious cases are vital. This is because they illustrate to providers what is at stake and are important levers for the OfS to be able to protect students, value for money and the overall reputation of English higher education.

We have always been clear that powers to revoke are last resort powers, to be used only in very serious circumstances, and where other interventions have failed to produce the necessary results. **To clarify this, we have tabled an amendment that will state on the face of the Bill the specific conditions that would need to be met before the OfS can revoke a provider’s DAPs or UT.**

For DAPs these include serious concerns about quality or standards, where variation of DAPs is insufficient to address the concerns. The amendments also include provisions enabling University Title to be revoked if DAPs are lost, and for the option to revoke both DAPs and UT following changes in circumstances, i.e. DAPs could be revoked if there were serious concerns regarding quality or standards following a sale or merger.

We have also been clear that this Bill does not take away the Royal Charters of any of HE institutions. Through the measures in the Bill, the OfS will have a power, as a last resort, to remove an institution’s ability to award degrees or call itself a university. If these are contained in a Royal Charter, the Secretary of State may amend the Charter to reflect the changes. This would require Parliamentary scrutiny, and would be subject to the affirmative procedure. **We have tabled an amendment to clarify that the powers in the Bill may not be used to revoke a HE provider’s Royal Charter in full.**

5. Collaboration

It is important for the OfS to have a focus on supporting a competitive market. It means that it must regulate proportionately and fairly, allowing all providers to operate under a common set of rules and avoiding unjustifiable barriers to entry. And the centrality of increasing choice and competition within our reforms – including the general duty to consider the need to encourage competition between higher education providers “where that competition is in the interests of students and employers” – has not been ignorant to the benefits of collaboration.

The Government recognises the importance of collaboration between providers within the HE sector and we have heard strong representations about the importance of

collaboration, and how this can be of great benefit to students and employers. Whether manifested through outreach activity, employability schemes, shared infrastructure or other means, collaboration has an integral role to play in the mission of higher education and its benefits to wider society. **We have therefore tabled an amendment which, as part of the OfS's general duty relating to the need to encourage competition, also requires the OfS to have regard to the benefits for students and employers resulting from collaboration between higher education providers.**

6. Freedom of speech

Our reforms to the HE landscape are intended to deliver a single, risk-based regulatory system for all providers. We believe they will create a level playing field, with a single route to entry underpinned for the first time by a single, comprehensive register of English HE providers. This will provide students with consistent and comparable assurances about all higher education providers that have chosen to register with the OfS.

There is an existing duty placed on those concerned in the government of certain higher education providers to take reasonably practicable steps to ensure that freedom of speech within the law is secured for students, staff and visiting speakers. These providers must also have a code of practice setting out procedures to be followed in connection with meetings and activities taking place on their premises, and take reasonable steps to ensure that it is complied with. That duty is set out in the Education (No.2) Act 1986, and applies to a range of institutions in the HE sector, in particular universities, higher education corporations, higher education institutions that have been designated as eligible to receive HEFCE funding, and higher education institutions that are maintained by local authorities.

Freedom of speech within the law is a value that is central to all of our higher education providers, just as it is to our society at large. Being exposed to a wide range of ideas and opinions, and learning the skills to debate and challenge them effectively, is key to the experience of being a student in the UK. HE providers take this duty very seriously and we agree that this is absolutely right for them to do so. We believe that the duty strikes a critical and practical balance between ensuring that the HE sector remains a vital place for discussing and debating lawful ideas and simultaneously ensuring that providers aren't burdened by excessive legislation.

As we deliver, through this Bill, the regulatory system that the sector needs, we must ensure that the coverage of this important duty is appropriate for the sector as it evolves. **Consequently, we have tabled an amendment that will require all registered providers, regardless of where on the OfS register they sit, to be subject to the freedom of speech duty as set out in the Education (No 2) Act 1986.**

Amendments: Choice and opportunity for students

7. Diversity of choice

One of the great strengths of our higher education system is its diversity. Our reforms are designed to ensure a globally competitive market that supports that diversity and student choice, where anyone who demonstrates that they have the potential to offer excellent teaching and clears our high quality bar can compete on a level playing field.

A diverse range of higher education provision can include, for example, specialist institutions and providers with distinctive characteristics, such as those of a denominational character. Diversity of provision can also equally apply to course subjects and the format of study options available, such as part-time education, distance learning and accelerated courses.

Diverse forms of provision bring enormous benefits to individuals, the economy and employers, and so we expect the OfS to have regard to these different forms of study when carrying out its duties.

We have therefore tabled an amendment to clause 3 of the Bill to specify that the OfS's duty in relation to greater student choice includes – but is not limited to - choice amongst a diverse range of types of provider, higher education courses, and means by which they are provided (for example, full-time or part-time study, distance learning or accelerated courses).

8. Accelerated courses

Student choice is a key feature of our reforms to the HE sector. We will encourage more flexible forms of provision to meet students' diverse needs, foster the innovation required to respond to the changing demands of the economy and enhance the life chances of students.

The 2015 Conservative Manifesto set out a commitment to encourage universities to offer more two-year courses. In order to understand the need for greater flexible learning opportunities and the ways in which the Government could best support HE providers to meet that need, we published a Call for Evidence on "*Accelerated Courses and Switching University or Degree*" in May 2016 and a high level summary of the evidence received in December 2016. The Call for Evidence, along with our stakeholder engagement and independent research, has demonstrated that the main barrier to accelerated courses is the lack of a higher fee cap for accelerated provision. In addition to the responses to our consultation, amendments tabled by MPs and Peers during the passage of the Bill and the related debate have demonstrated the strength of feeling on this issue.

A number of providers currently offer accelerated courses at the same high standards as traditional courses, while losing important income. For example, for a course accelerated from three years to two years, where the summer period is used for additional teaching, a provider can only charge a student for two years' tuition at the current maximum fee cap, even though the student is receiving three years' worth of tuition condensed over two years. The provider misses out on the final year's tuition and absorbs the increased cost of condensed tuition.

We know that accelerated courses appeal to mature students who want to retrain and enter the workplace faster than a traditional full-time three-year degree would permit. We have therefore tabled an enabling amendment to deliver on our Manifesto commitment, further support our lifetime learning agenda and help drive economic productivity.

This amendment would enable the Secretary of State to set a annual fee limit in respect of an accelerated course that is higher than the fee cap for the standard equivalent version of that course. Subject to the will of Parliament, we intend to consult on the detail of how to deliver higher annual fee limits for accelerated courses ahead of tabling secondary legislation.

The setting of any new fee cap for an accelerated course would, if it is higher than the annual fee cap for its standard equivalent, be subject to Parliamentary scrutiny via the affirmative resolution procedure.

To ensure that only genuine accelerated courses can benefit from a higher fee cap the Bill limits the new fee cap to an accelerated course as defined by the Bill in the following way that: *“An “accelerated course” means a higher education course where the number of academic years applicable to the course is at least one fewer than would normally be the case for that course or a course of equivalent content leading to the grant of the same or an equivalent academic award.”*

Our clear intention is that accelerated courses will cost students less than an equivalent course, and we anticipate students will claim less overall in maintenance loans too. This means the costs should be lower for Government.

We will seek to stimulate the market for accelerated courses by setting a fee cap that provides adequate funding for providers while offering the student and the taxpayer a fair and good deal.

9. Credit transfer

The ability for students to transfer between courses or institutions while having their existing learning recognised (thus not needing to 'start from scratch') is an important element of student choice and flexible learning options. We sought views on credit transfer through our Call for Evidence on *“Accelerated Courses and Switching University or Degree”*, referred to above. The responses provided valuable data and insight into the barriers that students experience and how the Government could best support innovative

and flexible course delivery. In particular, the findings highlighted a lack of awareness of the option to transfer and the way in which such transfers could take place.

The Government wants to support student transfer, provided it is not to the detriment of institutional autonomy, nor to greater choice, diversity and vibrancy of provision in the HE sector. The ability to transfer can provide flexibility for the balance of work, life and study, and can offer new opportunities for part-time and mature learners. We have considered carefully the amendments that were tabled on this issue at earlier stages of the Bill's passage and the associated debate, and have weighed up the evidence, and the desirability of having flexible provision to address this issue now and in the future. **We have tabled amendments which would place a duty on the OfS to monitor and report on the provision of arrangements for student transfer and their take-up; and which would confer a power on the OfS to facilitate, encourage, or promote awareness of, arrangements for student transfer.**

10. Transparency duty

As set out in the White Paper, *'Success as a Knowledge Economy'*, the purpose of the Transparency Duty in clause 10 of the Bill is to shine a spotlight on individual institutions' records on widening participation. The duty requires each provider to publish, at a minimum, application, offer, acceptance and completion rates broken down by gender, ethnicity and socioeconomic background. That is not an exhaustive list; and we have always been clear that providers can choose to publish information on additional categories if they wish.

The Transparency Duty will help make transparent individual institutions' records in the areas listed and spur action by institutions in areas where it is needed. As part of this, we recognise a key issue is understanding how students achieve and how they are supported during their time in higher education. The importance of this is reflected in the fact that, for example, there is a difference between the proportion of white students and BME students obtaining a degree award of a first or a 2:1, which cannot be explained by factors such as prior educational attainment. This is why we asked the Director of Fair Access to look at unexplained differences in degree attainment in our most recent guidance.

We have reflected on this further, and have tabled an amendment to require providers to publish information on levels of attainment, in addition to application, offer, acceptance and completion rates, broken down by gender, ethnicity and socio-economic background. This will enable a fuller picture of the whole student lifecycle.

Amendments: Research & Innovation

Part 3 of the Higher Education and Research Bill will implement Sir Paul Nurse's recommendations and establish a single strategic research and innovation funding body – UK Research and Innovation (UKRI). We are putting the UK's strengths in research and innovation at the heart of our industrial strategy, backing them with a further £4.7 billion by 2021 in R&D funding – the largest increase by any government since 1979. This will enable us to make the most of the opportunity UKRI presents to deliver a joined up and strategic approach to research and innovation investment, to deliver economic impact, jobs and growth across the country. The amendments we have tabled respond to invaluable feedback received from the research and innovation communities as well as Parliamentarians, and further support these aims.

11. The Haldane Principle & Autonomy

In addition to institutional autonomy and academic freedom, the Government recognises the importance of autonomy in discipline-specific decision making within UKRI, and remains committed to the Haldane Principle – namely, that decisions on individual research proposals are best taken following an evaluation of the quality and likely impact of the proposals (e.g. a peer review process). Subject to Parliament, the amendment that we have tabled will, **for the first time in history, enshrine the Haldane Principle in law.**

This Bill will also protect the dual support funding system through legislation. To further strengthen this, the Government has already moved amendments during House of Commons Committee Stage to make clear that the Secretary of State cannot attach terms and conditions, or issue directions, regarding particular courses of study or programmes of research to grants issued to Research England.

In addition, we have tabled a number of amendments for debate at House of Lords Report Stage which seek to reinforce autonomy, including:

- A requirement for the Secretary of State, or UKRI on their behalf, to **consult with stakeholders before making any changes to the fields of activities or names of the Councils.** This is in addition to an existing requirement for an affirmative resolution in Parliament before any such changes are made;
- A duty on the Secretary of State to **make each Council's separate budget allocation clear** when issuing grants to UKRI, thereby ensuring transparency of the allocation process;
- Clarification that specialist employees includes all technical staff required for the research endeavour.

These amendments build on existing provisions in the Bill, including that UKRI will be established at arm's-length from Government, that it will be required to devolve functions

to its constituent Councils within their fields of activity, and that the Councils will retain their right to use their names, brands and insignia.

Box 1: Haldane Principle amendments

Clause 99

- Page 64, line 7, at end insert—
“the Haldane principle, where the grant or direction mentioned i subsection (1) is in respect of functions exercisable by one or more of the Councils mentioned in section 91(1) pursuant to arrangements under that section,”
- Page 64, line 8, after “principle” insert “, in any case”
- Page 64, line 10, at end insert—
“The “Haldane principle” is the principle that decisions on individual research proposals are best taken following an evaluation of the quality and likely impact of the proposals (such as a peer review process).”

12. UKRI Governance & Functions

Having reflected on debates in both the House of Commons and House of Lords regarding the structure, purpose and experience of UKRI and its Councils, **we have tabled a number of amendments for debate at Lords Report Stage which relate to the governance and functions of UKRI.**

This includes an amendment **placing the Executive Committee within UKRI’s legal framework.** This committee will include the Executive Chairs of each Council, Innovate UK and Research England, the UKRI Chief Executive and Chief Financial Officer, and will be a critical forum within UKRI’s governance structure.

We have also tabled an amendment to **increase the upper limit for ordinary Council members from 9 to 12**, thereby allowing greater flexibility in managing the breadth of activity required by each Council. Building on the existing provision for the Secretary of State to appoint one member of the Council (e.g. the Innovation Champion), another amendment will require the Secretary of State to consult with the UKRI Chair before doing so. Subject to Parliament, these amendments will ensure our intended practice is explicitly set out in law.

A further amendment adds **experience of the charitable sector** to the list of criteria to which the Secretary of State must have regard when making appointments to the UKRI Board. This recognises the importance of the charitable sector to research in the UK, and will facilitate further engagement and partnership working with this vital sector.

Regarding the functions of UKRI, we have tabled an amendment **to explicitly recognise on the face of the Bill that the advancement of knowledge is an objective of the**

Research Councils. This supplements previous amendments moved to clarify that the functions of UKRI include: the development and exploitation of advancements in humanities; the power to encourage and support the provision of postgraduate training; and knowledge exchange – including a specific role for Research England in supporting knowledge exchange within higher education providers.

13. Innovate UK

Incorporating Innovate UK into UKRI will bring benefits to businesses, researchers and to the UK as a whole. We agree with those stakeholders and Parliamentarians who have expressed the view that to realise these benefits it is crucial that Innovate UK maintains its business-facing focus. As such, this Bill, for the first time ever, gives Innovate UK’s functions legislative protection, as well as preventing changes to its status and name. We have tabled a number of amendments for debate at House of Lords Report Stage that further ensure that Innovate UK’s business-facing focus is maintained.

We are reinforcing our description of Innovate UK’s business-facing focus to capture the key aspects of its mission. Subject to Parliament, **Innovate UK’s duty to support people engaged in business activities in the UK will be strengthened**, and an **additional duty added to promote innovation by this community**.

We have also tabled an amendment which will **clarify the basis by which UKRI, including Innovate UK, can enter into specific financial arrangements** (listed in Schedule 9 16(3)), within the framework of Managing Public Money which sets out the requirements for all public bodies in relation to their expenditure. Specifically, it establishes that permissions, subject to terms and conditions, will be set out periodically by the Secretary of State. This is in accordance with current practice.

The amendment we have tabled setting out each Council’s budget allocation is also relevant here, as it places in legislation a **commitment to Innovate UK’s separate budget**, issued through a grant from the Secretary of State to UKRI.

Box 2: Innovate UK’s business facing focus

Clause 92

Page 60, line 31, leave out subsection (3) and insert—

“(3) Arrangements under this section must require Innovate UK, when exercising any function to which the arrangements relate, to have regard to—

- (a) the need to support (directly or indirectly) persons engaged in business activities in the United Kingdom,
- (b) the need to promote innovation by persons carrying on business in the United Kingdom, and
- (c) the desirability of improving quality of life in the United Kingdom.”

14. Joint-working between OfS and UKRI

Details on how the OfS and UKRI will work together, including areas where collaboration will be expected, were set out in a factsheet published in November 2016². To ensure transparency and accountability, amendments have been tabled for debate at House of Lords Report Stage which, subject to Parliament, would **require both UKRI and the OfS to report on cooperation with the other organisation in their annual reports.**

We recognise that the OfS' role in relation to Research Degree Awarding Powers (RDAPs) is an important and specific area where the OfS can benefit greatly from UKRI's expertise. Therefore, our amendment relating to provision of expert advice in awarding Degree Awarding Powers specifies that **UKRI's views must inform the advice that's required to be given by the relevant body to the OfS on the grant, variation or revocation of Research Degree Awarding Powers.**

15. Working with the Devolved Administrations

UKRI will be a UK-wide organisation, and we will continue to work closely with the devolved nations as it is established to ensure the UK's research and innovation base remains one of the most productive in the world. During the passage of the Bill we have moved a number of amendments to bolster UKRI's relationship with Scotland, Wales and Northern Ireland.

In particular, at House of Commons Report Stage an amendment was moved to require the Secretary of State, when appointing members to UKRI's Board, to consider their experience of the Devolved Administrations. Specifically, the Secretary of State must have regard to the desirability of including at least one person with relevant experience in relation to at least one of Wales, Scotland and Northern Ireland. No such duty is currently in place regarding the existing bodies with UK wide remits.

We recognise that Research England, operating within UKRI with an England-only remit, will have a unique relationship with the devolved administrations. As such, we added a new clause to the Bill at House of Commons Committee Stage to explicitly enable joint-working between Research England and its devolved counterparts. This was complemented by another new clause, which enables UKRI to provide advice to the relevant Northern Irish Departments regarding higher education research.

Furthermore, the amendment tabled placing a duty on the Secretary of State to make each Council's separate budget allocations clear will ensure **transparency regarding Research England's budget, separate from UK wide functions.**

² <https://www.gov.uk/government/publications/higher-education-and-research-bill-ofs-and-ukri-joint-working>

Government amendments: Accepting recommendations of the Delegated Powers and Regulatory Reform Committee

The Delegated Powers and Regulatory Reform Committee published its report on the Higher Education and Research Bill on 20 December 2016. **We are tabling amendments that accept three of its recommendations.**

1. Schedule 2: the first set of regulations setting the higher, basic and floor amounts for establishing the fee limits for providers based on their Teaching Excellence Framework (TEF) rating should be subject to the affirmative procedure (not the negative procedure as previously proposed in the Bill). This would replicate the current position under the Higher Education Act 2004 (the existing legislation concerned with specifying the higher and basic amounts).
2. Clause 38: the regulations prescribing the higher education providers that are eligible for OfS funding in the form of grants, loans or other payments should be subject to the affirmative procedure (they are currently subject to the negative procedure under the Bill).
3. Clause 10: the regulations that specify those providers to whom a transparency condition applies (which are currently subject to the negative procedure under the Bill) should be subject to the affirmative procedure. We have been very clear in our White Paper that a transparency condition should apply to approved and approved fee cap providers.



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