

Education and Lifelong Learning Committee

Date: 28 January 2004

Title: Higher Education Bill

Purpose

To note and respond to the provisions of the Higher Education Bill, which received its First Reading in the House of Commons on 8 January 2004.

The full text of the Bill and the Explanatory Notes is available in hardcopy in the Members Research Service, and through HMSO at:

<http://www.publications.parliament.uk/pa/pabills.htm>

Summary

This paper, and the attached annexes, set out for Committee Members the main provisions of the Higher Education Bill. Included is a summary of the Wales-specific clauses (Annex A) and an overview of the new student support package (Annex B).

The paper provides an opportunity for Members to respond to the provisions of the Bill, and for the Parliamentary Under Secretary of State at the Wales Office to brief the Committee on the policy intent underlying these provisions.

Background

The bulk of the Bill relates to the Department for Education and Skills (DfES) White paper on higher education, *The future of higher education*.

The Bill contains provisions for the transfer of certain functions relating to student support and the tuition fee regime to the National Assembly for Wales.

The Bill also covers research, data sharing, bankruptcy, and student complaints. The majority of the Bill affects both England and Wales but includes measures relating to Wales only. The Bill has fifty clauses and seven schedules and is divided into five parts.

Provisions of the HE Bill

Part 1: Research in arts and humanities

The intention is to create a statutory UK-wide Arts and Humanities Research Council (AHRC) to replace the existing Arts and Humanities Research Board, as well as for the direct funding of arts and humanities research by the Secretary of State and the Assembly.

The aim is to put research in the arts and humanities on the same footing as science-based research.

Part 2: Review of student complaints

The intention is to end the Visitor's jurisdiction over student complaints and establish an independent adjudicator who will review complaints made by students in higher education institutions (HEIs). The proposed provisions will also require HEIs to use a scheme approved by the Secretary of State or the Assembly. It is not proposed that the adjudicator would make binding decisions, but would make recommendations. If these recommendations were not implemented, then the student would have recourse to the courts.

The Bill will give the Assembly equivalent powers to the Secretary of State to designate an operator of a student complaints scheme. It is envisaged that this would be Universities UK, who are establishing a voluntary scheme, and that this would be operated on an England and Wales basis. However, there will be powers for the Assembly to designate another body to provide a scheme. The adjudicator's office would be funded by subscriptions from institutions.

Part 3: Student fees in higher education

The intention is to provide parallel powers for both the DfES and the Assembly to introduce variable fees. In England, these powers extend to requiring HEIs to produce and agree fee plans with a new Office of Fair Access (OFFA) before being allowed to introduce variable fees. The detailed content of fee plans will be specified by regulations, but the framework for them is on the face of the Bill. OFFA will not operate in Wales.

The Bill will transfer student support functions to the Assembly, as well as giving the Assembly the power over whether or not to adopt variable fees. The Bill will give the Assembly the power to specify the basic fee level, and to set a cap on fees.

Should the Assembly decide to introduce variable fees at a later date, the Bill provides the flexibility for it to require institutions to have fee plans to regulate the use of the new powers.

In recognition of the need to give proper consideration to future variable fees policy and the devolution of the student support function to Wales, the Assembly Minister for Education and Lifelong Learning has announced that an independent study of the issues will be established. The review will be Chaired by

Professor Teresa Rees and will be set up with the interests of the Welsh HE sector firmly in view.

Part 4: Transfer of student support functions, debt and data sharing

The majority of powers relating to education have been transferred to the National Assembly for Wales, with the exception of student support functions. The intention is to transfer the majority of student support functions, including the policy on tuition fees, which presently lie with DfES to the Assembly.

Excepted from the transfer of functions is the collection of repayments through taxation, which is operated on a UK-wide basis. Those functions will, therefore, remain with the Secretary of State for Education and Skills.

This part also includes provision to prevent student debt from forming part of a bankrupt's estate.

A further provision in this part allows for the sharing of information, both electronically and on paper, with other government bodies and external organisations, with the consent of the person to whom that information relates, in order to simplify student support arrangements, and arrangements in other Government and HE bodies.

Part 5: General

This Part makes general provisions about the extent of the Bill, and the process for exercise of regulation making powers under the Bill.

Actions for the Committee

To note and respond to the provisions of the Higher Education Bill.

Contact Point

Neil Surman, HE Bill Manager (Wales), Devolution of Student Support Project.

Mr Don Touhig, MP

Parliamentary Under Secretary of State

Wales Office

Annex A Table of powers, duties and responsibilities that the HE Bill confers on the National Assembly for Wales

Provision

Effect

<p>Research in arts and humanities Clause 10</p>	<p>Provides the Assembly with the power to fund arts and humanities research and related activities in relation to Wales.</p>
<p>Review of student complaints Clause 13</p>	<p>Provides power for the Assembly to designate a body as the operator for a student complaints scheme for qualifying institutions.</p>
<p>Clause 16</p>	<p>Requires the Assembly to publish notice of the termination of designation of an operator of student complaints scheme if and when that takes place.</p>
<p>Clause 18</p>	<p>Empowers the Assembly by order to make provision where a designated body ceases providing a student complaints scheme, or an agreement or notice to terminate has been made.</p>
<p>Schedule 2</p>	<p>Provides the Assembly with the power to amend the Schedule by regulations, in order to change conditions that must be met by the student complaints scheme.</p>
<p>Schedule 3</p>	<p>Requires that the designated operator for student complaints must comply with requests from the Assembly to provide information or conduct a review of the scheme's operation.</p>
<p>Schedule 4</p>	<p>Empowers the Assembly to terminate the designation of an operator for student complaints.</p>
<p>Student fees in higher education Clause 25 and 26 (Wales only)</p>	<p>Provide the Assembly with a power to impose conditions as to student fees, and a regulation making power to set a higher and basic amount for fee limits, and for those fee limits to be enforced by the Higher Education Funding Council for Wales (HEFCW). Provides the Assembly with powers to require HEFCW to impose a condition on a relevant institution, which must include provision for the imposition of further financial requirements by HEFCW in the event of a failure by the institution to comply with the approved plan.</p>
<p>Clause 31</p>	<p>Empowers the Assembly to make regulations setting out the content that is required to be included in fee plans, which must be approved before fees above the basic level can be charged.</p>

Clause 32	Allows the Assembly to make regulations specifying circumstances in which the authority must or may not approve a plan.
Clause 28	Provides the Assembly with the power to specify by regulations the relevant authority which will approve plans, including modifying any enactments as necessary for that authority to carry out its function.
Clause 33	Gives the Assembly the power to prescribe the maximum duration of plans in Wales.
Clause 34	Empowers the Assembly to make regulations enabling plans to be varied with the approval of the relevant authority.
Clause 36	Provides that the Assembly may make regulations setting out procedures and effect of sanctions that may be imposed by the relevant authority in the event of a plan being breached.
Transfer of student support functions, debt and data sharing	
Clause 41 (Wales only)	This clause transfers to the Assembly certain functions under section 22 of the Teaching and Higher Education Act 1998 (except functions related to repayment of loans through the tax system) and functions under section 23 of that Act.
Clause 42	Permits the Assembly (once student support functions are transferred) to make regulations allowing student support authorities to supply information collected from individuals in connection with student support to other designated organisations. Consent of the individuals is required before information can be supplied.

Annex B

Summary of new student support package

Charles Clarke, at the First Reading of the HE Bill, described the student support package available to full-time students.

1. Abolition of up-front tuition fees.

2. Repayments to start at £15,000 salary (an uplift from the £10,000 threshold now operating).
3. A package of financial support worth up to £3,000 for students from poor economic backgrounds.
4. Higher Education Grant to be introduced on an England and Wales basis from September 2004 (HE Grant to increase from £1,000 in 2004 to £1,500 for new students starting in 2006-07);
5. Maintaining fee remission at around £1,200
6. Requiring universities to offer bursaries to students from the poorest backgrounds, so that the full fee cost of the course will be covered - which means a minimum bursary of £300 for a course whose fee is £3,000.
7. Student loans are free of any real interest (repayments based on money earned not money owed).
8. Commitment not to raise the fee cap above £3,000 in real terms before the end of the next Parliament.
9. Writing off of any outstanding student loan after 25 years (starting with full-time undergraduates from 2006).
10. Maintenance loans will be raised to the median level of students' basic living costs (as reported by the student income and expenditure survey) from September 2006.
11. UUK to develop model bursary schemes for English HEIs charging variable fees.
12. There will be a UK Government review of variable fees.
13. The review is to be independent of Government, reporting to the House of Commons on the operation of variable fees after three years
14. The review will include cross-border issues within its remit.