

# Apprenticeships, Skills, Children and Learning Bill

## LORDS STAGES Briefing

### Clause 137 – Criteria for Accreditation

#### Issue: Fairness

In the House of Commons stages - most notably at Committee Stage – points relating to the core themes of independence, transparency and efficiency were made many times. Indeed several votes were forced on these issues - regarded as crucial to sustaining public trust and confidence in the qualifications system.

There is an opportunity now for their Lordships to undertake thorough and detailed examination of the provisions within the Bill relating to Ofqual.

While Cambridge Assessment broadly welcome the Government's wish to formally institute an independent Regulator of qualifications, we believe the Bill, as currently drafted, will fall short of delivering an independent, accountable and effective Ofqual.

There is extensive support from the public, Parliament and education stakeholders for transparency and accountability. The evidence for this is set out later in this paper but we believe these are powerful reasons why Peers should actively probe, query and persuade government on specific core issues.

#### **Retrospective power potentially penalising students**

Clause 137 effectively builds in a new retrospective power regarding an accredited qualification; Ofqual may decide to revise accreditation criteria applicable to a form of a qualification which has been accredited and so that accreditation would cease on a date specified by Ofqual, unless the regulator determined otherwise.

At Committee stage the government amended the Clause to state that Ofqual *may* make a 'saving or transitional provision' about a qualification ceasing to be accredited.

However the clause puts no obligation on Ofqual to use a delay mechanism. This could be unfair to learners and destabilising to awarding bodies.

#### **Suggested Amendment**

Clause 137, pg 79, line 19 after Ofqual delete 'may' and insert 'must'

The Government's move on a 'saving or transitional' provision was to provide a time delay in order to adhere to new criteria. Indeed, Minister Sarah McCarthy-Fry told the Bill Committee the intention was for Ofqual to "manage revisions in an orderly way".

**However, unless there is clarity in the Bill through an explicit requirement being placed on Ofqual, it is difficult to see how order could be maintained.**

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### Increasing risk, limiting choice

There is potential for candidates who are on courses, or have made a decision to go on a certain course, to be left without any options. At the same time, the need to maintain long-term financial stability could lead to risk premiums being built into exam development costs by awarding bodies.

In certain scenarios it may lead to some courses being withdrawn by awarding bodies – so limiting choice for future candidates.

To avoid learners being disadvantaged and awarding bodies facing financial challenges, the clause should place a statutory duty on Ofqual to provide an adequate transitional period.

### Parliamentary Support

There is overwhelming cross-party *political support* for unequivocal Ofqual autonomy and accountability. A survey of 150 MPs<sup>1</sup>, found over 90% of MPs agreeing:

- ❖ that a regulator should have a duty to report its key regulatory decisions to Parliament
- ❖ that Parliament should play a key role in ensuring regulators operate independently from government
- ❖ that Parliamentary scrutiny is critical to making sure regulators are accountable and transparent.

### Educational Endorsement

Most *education stakeholders are supportive* of the points raised in this briefing:

- ❖ **ASCL** (Association of School & College Leaders) representing over 14,500 senior school & college leaders
- ❖ **ATL** (Association of Teachers & Lecturers) representing over 160,000 teachers across the UK
- ❖ **HMC** (Headmasters' and Headmistresses' Conference) representing 250 independent schools
- ❖ **NAHT** (National Association of Head Teachers) representing over 28,000 school & college leaders
- ❖ **NUT** (National Union of Teachers) representing over 292,000 teachers

### Tasking Ofqual to use transitional mechanisms

It is disappointing the Government chose not to support an amendment at Commons Committee Stage that sought to ensure that learners could not be treated unfairly and left without options and/or out of pocket.

We urge their Lordships to take the opportunity in the Lords Stages of the Bill's passage to place a statutory obligation on Ofqual to use a transitional mechanism when a qualification ceases to be accredited.

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<sup>1</sup> Undertaken by ComRes for Cambridge Assessment, March 2009