



RESEARCH PAPER 07/92  
18 DECEMBER 2007

# ***Sale of Student Loans*** **Bill Committee Stage** **Report**

**Bill No 13 of 2007-08**

This is a report on the Committee Stage of the *Sale of Student Loans Bill* produced in response to a recommendation of the Modernisation Committee in its report *The Legislative Process* (HC 1097, 2005-06).

The Bill contains provisions which will enable the Secretary of State for Innovation, Universities and Skills to carry out a programme of sales of the Government's student loan portfolio. It will permit the Secretary of State to sell some or all of his rights and obligations relating to income-contingent repayment loans and to spend public money in connection with the sales.

The Secretary of State will be permitted to include provisions in any sale to compensate a loan purchaser in specified circumstances.

The Bill will enable data sharing between the Government and the loan purchaser and puts in place measures to control the disclosure and use of this information.

Welsh Ministers will be empowered to conduct similar loan transactions in Wales.

The Bill received cross party support at Second Reading and one minor Government amendment was agreed in Committee.

Sue Hubble

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## Summary

The Government announced in the Budget 2007 that it was planning a programme of student loan sales. These are intended to raise £6 billion between 2008-09 and 2010-11. Sales of the student loan portfolio were previously conducted in the late 1990s under the *Education (Student Loans) Act 1998*. In two sales in 1998 and 1999 a total of around £2 billion worth of fixed rate or mortgage-style loans were sold. The *Sale of Student Loans Bill* will enable the Secretary of State for Innovation, Universities and Skills to resume sales of the student loan portfolio. New legislation is necessary to carry out the sales as the earlier Act only applied to mortgage-style loans and was repealed when mortgage-style loans were replaced by income-contingent repayment loans in 1999.

The *Sale of Student Loans Bill* was included in the Government's Draft Legislation Programme published on 11 July 2007.<sup>1</sup>

The Bill contains 12 clauses; the substantive details of the provisions are found in clauses 1-6. Clause 1 enables the Secretary of State to enter into arrangements which will transfer his rights in respect of student loans to another person (the loan purchaser). The clause gives detail of the rights and obligations that may be transferred.

Clause 2 contains information about the type of provisions that the Secretary of State may include in transfer arrangements such as payments to the purchaser in certain circumstances and repurchase in specified circumstances. The clause also allows the Secretary of State to incur expenditure in connection with transfer arrangements.

Clause 3 concerns the onward sale of loans to another purchaser. Such sales will be permitted unless the Secretary of State prohibits them.

Clauses 4 and 5 state that references in regulations on loans and repayments made under the *Teaching and Higher Education Act 1998* which refer to the Secretary of State should also include the loan purchaser.

Clause 6 allows the disclosure of information in relation to transferred loans, to persons or bodies acting on behalf of the Secretary of State. Safeguards on disclosure of information are provided in the Bill such as extending the criminal sanction for wrongful disclosure of data in section 19 of the *Commissioner for Revenue and Customs Act 2005* to cover these disclosures.

Clause 8 enables Welsh Ministers to enter into transfer arrangements.

The Bill extends to England and Wales only.

House of Commons Library Research Paper 07/78 *Sale of Student Loans Bill* gives a detailed assessment of the Bill.

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<sup>1</sup> Office of the Leader of the House Legislation Draft Programme 2007/08 at <http://www.commonleader.gov.uk/output/DraftProgrammeHome.htm>



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# I Background

## A. Second Reading in the House of Commons

The Second Reading of the Bill took place in the House of Commons on 22 November 2007.<sup>2</sup> The Bill was presented by the Minister for Lifelong Learning, Further and Higher Education, Bill Rammell. In his introductory speech the Minister put the Bill in context by outlining the financial support system for students and restating the Government's commitment to widening participation in higher education. He explained that increasing participation in higher education had enlarged the size of the publicly-owned student loan book, and that the proposed sales were the best way to manage this public asset:

We should be proud of our record of breaking down the financial barriers to education and widening participation, but that also brings an interesting challenge. As participation has grown, so too has the size of the Government-owned student loan book. According to the latest figures—those for the year 2006-07—the English loan book was valued at £18.1 billion. Of that, about £17 billion was accounted for by the new income-contingent loans repaid through Her Majesty's Revenue and Customs. We firmly expect that the loan book will increase appreciably in the coming years. That projected growth makes it all the more important to give careful consideration to how best we can handle this large and growing public asset. The Bill concerns how the student loan book can best be managed.<sup>3</sup>

In his early speeches the Minister touched on the issues that were of most concern to Members: value for money, transferring risk and data protection:

Transferring ownership of large parts of the English loan book will allow us to reduce the risk of continuing to hold the loans on the Government's balance sheet, and is expected to realise an initial £6 billion in receipts over the next three years. Having commissioned expert external advice from the financial sector, we believe that we will be able to conduct sales at a price that represents good value for money for the taxpayer. I think that we can achieve that.<sup>4</sup>

Through this mechanism we are transferring risk from the public sector to the private sector, and in doing so, we are realising a capital receipt that can go back into the Consolidated Fund and used for other Government spending purposes. That is an important achievement.

I need to make one precise point clear at this stage. The Government will retain control of regulations, terms and conditions for all loans, and there will be no adverse change for borrowers, whether their loan is sold or retained.<sup>5</sup>

For the record, purchasers will not be able to access any wider range of personal data or use personal data for any purpose other than administering student loans.<sup>6</sup>

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<sup>2</sup> HC Deb 22 November 2007 c1388

<sup>3</sup> *ibid* c1390

<sup>4</sup> *ibid*

<sup>5</sup> *ibid* c1391

The Conservative spokesperson John Hayes said that he welcomed the principle behind the Bill:

We welcome the principle behind the Bill. As the Minister said, it transfers risks from the public to the private sector, but in a measured and careful way. Indeed, as the Minister and the House will know, at the last two general elections the Conservatives advocated similar plans, so it is ironic that the Minister suggests that we are imitating the Government—ironic that the Government's plan for the sale of student loans appears to be on loan from the Conservative party; although, when we announced our plans, we proposed that the money raised should be used to endow universities—a point to which I shall return.<sup>7</sup>

The Liberal Democrat spokesperson Sarah Teather said that she also supported the Bill:

We will support the Bill, but we have a number of reservations that we would like to develop further in Committee, including the matter of how the Bill relates to Wales.<sup>8</sup>

The Conservatives were however concerned about several issues, in particular the timing of the sales, the valuation of the loan book and the proportion of the book to be sold, and the impact on graduates.<sup>9</sup>

Sarah Teather raised, among other issues, the potential difficulties surrounding the repayments of EU students.<sup>10</sup>

The devolution of powers to Wales was debated by Roger Williams, who asked whether the money raised by sales in Wales would stay in Wales.<sup>11</sup>

Other Members expressed concern about the cost of subsidising the sales<sup>12</sup> and raised the possibility of reinvesting the proceeds of sales in higher education.<sup>13</sup>

The Bill passed its Second Reading without division.

## II Public Bill Committee

The programme motion, which was agreed, allowed the Public Bill Committee two sittings for consideration of the Bill. A money resolution for the Bill was also agreed.

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<sup>6</sup> *ibid*

<sup>7</sup> *ibid* c1395

<sup>8</sup> *ibid* c1403

<sup>9</sup> *ibid* c1395 - 1397

<sup>10</sup> *ibid* c1404

<sup>11</sup> *ibid* c1412

<sup>12</sup> *ibid* Rob Wilson c1415

<sup>13</sup> *ibid* Rob Wilson c1416



## A. Evidence Session

During its first sitting on the 4 December 2007 the Committee took evidence from Bill Rammell, the Minister for Lifelong Learning, Further and Higher Education, and Michael Hipkins, the Director of Student Finance and Strategy at the Department for Children, Schools and Families.

Much of the information given in the evidence session was either referred to, or repeated during the Committee stage. The issues covered and the Minister's responses are outlined below.

The Minister explained how the sales would be structured:

We will be appointing a sales adviser to administer the establishment of the special purpose vehicle that will be set up to take on board the loans that are sold. There will also be a rigorous ongoing assessment of the market conditions to determine the stage at which x amounts of loan finance are sold. Overseeing that process, the National Audit Office has already indicated that it will review the first tranche of sales and will be reporting to the Public Accounts Committee. Within that context, there is a rigorous and robust framework in place to ensure that we not only get value for money, but demonstrate that we have achieved it.<sup>14</sup>

The Committee questioned Mr Rammell and Mr Hipkin on particular issues of concern, many of which were raised in Second Reading, such as the value of the student loan book, the cost and timing of sales and the value for money requirements. The effect of onward sales and the impact on graduates were also raised.

### 1. Value for money

The Minister reassured the Committee that the sales would not go ahead if the sale arrangements did not represent good value for money.<sup>15</sup> Mr Hipkins explained the components of the value for money assessment:

**Michael Hipkins:** There are three elements to understanding how the value-for-money equation will work. The first is that the market understands the nature of these loans because they are different from consumer credit. We have to ensure that the market understands their particular characteristics. The second element is to ensure that the market is functioning properly, with proper competition.

The third element is to do some form of value-for-money comparator, which I think is the element to which you are referring. That is to do with estimating the difference between the value for money of retaining the loans on the Government's balance sheet and selling them into the market. That is a complex calculation and is about trying to discount the future cash flows that will come from loan repayments, as against a lump-sum payment coming to the Government soon. Those are estimates rather than complete answers.

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<sup>14</sup> PBC First Sitting 4 December 2007 c4

<sup>15</sup> *ibid* c3

We must also factor it in that there will be some transfer of risk from the Government to the private debt owners. That element of risk will have to be given a financial value and factored into the equation. To do that, we are getting advice from our colleagues in the Treasury, speaking to the NAO and taking advice from commercial companies that can help us in the overall sale process.

**Bill Rammell:** I want to follow that up explicitly. For the overall advisory process, we have engaged KPMG and in terms of assessing the external market, we have engaged Morgan Stanley and Goldman Sachs.

However the Minister reiterated what he had said during the Second Reading debate, that it was not possible to make public statements on certain aspects of the sales as this could prejudice the bidding process and that value of the book could change:

£6.3 billion is a cautious estimate; it is not set in stone.<sup>16</sup>

Mr Hipkins stated that the cost of the sales would be 'comparatively small'<sup>17</sup> and it was suggested that sales could begin in 2008-09.<sup>18</sup>

The Committee questioned the Minister about how loans would be selected for sale. The Minister said that initial sales would be of loans with a 'good track record of graduates repaying'.<sup>19</sup> It was said that loans should not be considered as 'low risk' or 'high risk', but as loans with an established payment record and those without. The stated intention was 'to sell all of the loans'.<sup>20</sup>

## 2. Onward sales

Committee members were concerned that purchasers of loans could repackage loans and sell them on making large windfall profits. Members were also concerned that loans could be sold on to overseas companies. The Minister said that he thought onward sales would be unlikely:

I think that it is unlikely, although I cannot guarantee it, that the loans will be resold; I have discussed that in detail with officials. I say that, based upon the fact that we envisage it taking place through the establishment via our sales adviser of a special purpose vehicle to undertake the sales of the loans. The funds will then be raised via a process of securitisation and bonds against those sales. That will allow the trading of those bonds on the markets. I think that that should ensure a robust income stream. I cannot rule out that, at some stage, the special purpose vehicle may be sold on, but I do not anticipate it as a likelihood.<sup>21</sup>

The Minister also said that the Secretary of State could veto any sale.<sup>22</sup>

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<sup>16</sup> *ibid* c7 and 8

<sup>17</sup> *ibid* c10

<sup>18</sup> *ibid* c29

<sup>19</sup> *ibid* c31

<sup>20</sup> *ibid* c33

<sup>21</sup> *ibid* c13

<sup>22</sup> *ibid* c21

### 3. Impact on graduates

The Minister stated that graduates would not be affected by the loan sales:

We want to be able to demonstrate, and for the reality to be, that a graduate repaying their loan finance will see not one iota of difference in the way in which that process is handled, whether their debt is owned by the Government or by the private sector.<sup>23</sup>

He also said that mechanisms would be put in place to protect graduates; these protections would be included in the loan sale contract:

They [terms and conditions for borrowers] would be part of the contract of sale and legally enforceable. As I said earlier, a toolkit is available within the Bill to enable this and future Governments to protect the graduate interest. That may be by means of our enforcing the fact that the Secretary of State should be a party to the onward sale agreement. It may be by prohibiting further sales without the Secretary of State's agreement. Those mechanisms would enable us to ensure that things that we put in the initial contract are apparent in subsequent contracts, such as continuing to use the SLC for the administration and chasing of debts, and having to have recourse to the independent assessor. I think that that gives a strong degree of reassurance.<sup>24</sup>

The terms and conditions of loans would be put to House:

The terms and conditions of the loans are protected because they are contained within the regulations that would come before the House. I am happy to put on the record that we will ensure that any onward sale contract continues to protect the borrower fully.<sup>25</sup>

### 4. Data protection

The Minister assured the Committee that robust mechanisms were in place to protect data:

Let me try to give some reassurance. Before the Committee met, I thought about areas that Members would have concerns about and anticipated that this would be one such area. Let me be clear and explicit: personal data is currently exchanged between the SLC and owners of the old mortgage-style loans electronically, using a secure virtual private network. That VPN is facilitated using an internet protocol secure encrypted tunnel and that method of data sharing is considered very robust by industry standards. Most people who have passed comment on recent events would accept that to be the case.

In respect of the Bill, as we plan to require purchasers of income-contingent repayment loans to use the SLC to administer and enforce the sold loans, loan account data would not need to be transferred to the purchasers for day-to-day

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<sup>23</sup> *ibid* c14

<sup>24</sup> *ibid* c15

<sup>25</sup> *ibid* c18

purposes. In the event, however, that the purchasers require access to data—for example, for audit purposes—the method of data transfer would be secure and encrypted. That should provide reassurance to hon. Members on that account. As part of the Government-wide review, even though we are certain that there have been no breaches of protocol at the SLC and no data have gone missing, all processes are being reviewed.<sup>26</sup>

## **5. EU students**

Since 2006 EU students have been eligible for tuition fee loans on the same basis as UK students. The repayment process for EU students and home students is however different. UK graduates repay their loans through the PAYE system when they are earning over £15,000 per year and EU students make repayments directly to the Student Loans Company (SLC). Committee members asked questions about repayments and default of students living overseas. The Minister replied:

We do not yet have a track record because the ability of students of other European Union countries to access the fee loans came in only in 2006, and the repayment will not start until 2009. However, we have rightly been concerned about such matters and, in particular, we will be looking at EC regulation 14/2001—from memory—which enables us to take a case against a student in default elsewhere in the European Union through the British courts, but for the repayment to be enforced through the courts within his or her own country. We are rightly seeking to ensure that we can retrieve any defaults from students wherever they may reside.<sup>27</sup>

## **B. Committee stage**

One minor, technical Government amendment was made to the Bill (see 1 below). The Conservative and Liberal Democrat spokespersons said that it would have been useful to have had a gap between the evidence taking session and the consideration of the Bill and the Conservatives said that they might table amendments on Report.<sup>28</sup>

Much of the debate in Committee covered the same areas of concern as the Second Reading debate and the evidence sessions.

### **1. Details of the debate**

Only one amendment was tabled to the Bill – Government amendment No 1. This amendment aimed to make it clear that the Bill would give effect to transfers of the Secretary of State's rights with regard to income-contingent loans, rather than just giving the Secretary of State power to make sales under general contract law. The amendment was agreed without division at the end of the debate on clause 1.

No further amendments were tabled and the debate on each clause proceeded straight to a clause stand part debate.

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<sup>26</sup> *ibid* c24

<sup>27</sup> *ibid* c37

<sup>28</sup> *ibid* c68

**a. Clause 1**

The clause stand part debate was wide ranging and covered the main topics of the Bill. Some members expressed concern that certain key elements were not on the face of the Bill, Mr Hayes suggested that the value for money framework could be appended to the Bill<sup>29</sup> and Rob Maris suggested that the fact that purchasers would not be able to alter repayment terms of sold debts should be included in the Bill.<sup>30</sup>

The Minister reassured the Committee that the power to set terms and conditions on loans resided with the Secretary of State and that graduates' interests would be protected. He also said that having the ongoing income stream from student loans on the Government's books entailed a degree of risk and that this would be more appropriately managed by the private sector. He repeated that the value for money framework was robust and did not need to be included in the Bill.<sup>31</sup>

With regard to onward sales the Minister said that he thought they would be very unlikely, he based this on the fact that in ten years since the sale of mortgage-style loans no onward sale had occurred.<sup>32</sup>

Mr Hayes questioned the Minister on the cost of the sales process. The Minister gave a commitment to place figures on the cost in the Library.<sup>33</sup>

Sarah Teather probed the Minister on the intervention powers of the Secretary of State and the nature of the risk being transferred.<sup>34</sup>

At the end of the clause stand part debate the Minister stated how the transfer of risk would be taken into account in the value for money framework:

If the debt is transferred from the Government to the private sector, a range of factors must be taken into account to determine how much of the money, if it remained with the public sector, would eventually come back to the Government. That is the risk that we are transferring, and I set out the risk factors this morning: the number of graduates in employment and earning more than £15,000 a year; the number who die before their debt is paid off; and the number who become permanently disabled. The purchaser of a debt will make a judgment on a range of factors before making their bid. Similarly, the Government will make a judgment, measuring a bid against the value for money framework. I believe that, in those circumstances, we will be able to demonstrate that we have achieved value for money and allow the sale to go ahead.<sup>35</sup>

The clause was agreed without division.

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<sup>29</sup> *ibid* c44

<sup>30</sup> *ibid* c47

<sup>31</sup> *ibid* c47-49

<sup>32</sup> *ibid* c49

<sup>33</sup> *ibid* c50

<sup>34</sup> *ibid* c46

<sup>35</sup> *ibid* c51

**b. Clause 2**

The only issues raised during the debate on this clause concerned the purchasers' use of Her Majesty's Revenue and Customs (HMRC) and the SLC as part of the sales contract. Mr Hayes suggested that this should be on the face of the Bill.<sup>36</sup> The Minister responded:

To return to the question of why HMRC and the SLC are not included in the Bill in this regard, it is possible that student loan repayment systems might change. The legislation is enabling—it is about a longer-term programme, which is why it is important to include such measures in contracts and not in the Bill.<sup>37</sup>

**c. Clause 3**

This clause contained the provisions on onward sales. Mr Hayes repeated his concerns about sales to overseas bodies<sup>38</sup> and the position of EU students.<sup>39</sup> The intervention powers of the Secretary of State were also raised.

Mr Maris questioned the Minister on the issue of prohibitions in onward sales contracts and whether restrictions could be inserted retrospectively.<sup>40</sup>

The Minister responded to these concerns stating:

Let me set this out in as up front a way as I can. I hope that I can reassure members of the Committee. It is pertinent to ask how the Government will be sure that an ongoing sale on the part of a special purpose vehicle has taken place, despite the fact that for 10 years we have been operating a special purpose vehicle in respect of mortgage-style student loans and there has been no onward sale. There is no question of the Government being unaware because we will have used, in the initial contract, one or other of the powers under clause 3(6) to ensure legally that we are a party to the onward sales contract. We would expect a notification clause to be part of the contract, and we would ensure that there was. I hope, on that basis, that members of the Committee are reassured.<sup>41</sup>

With regard to EU students the Minister expanded on information given in the evidence session:

Finally, the hon. Gentleman raised points about other European Union students. I made the point this morning that European Union students have been able to access loans for fees only since 2006, so we are not yet into the repayment phase. There is EC directive 2001, which, crucially, enables us to take action in the UK courts to chase a debt that is in default, and then to have that ruling enforced within the court of the country in which that individual resides.

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<sup>36</sup> *ibid* c52

<sup>37</sup> *ibid* c53

<sup>38</sup> *ibid* c54

<sup>39</sup> *ibid* c55

<sup>40</sup> *ibid* c56

<sup>41</sup> *ibid* c58

I believe that that will give us a robust protection over time. We want certainty that, even if a European Union student comes from a country where the cost of living and average income are less than in this country—so that they are probably unlikely to end up earning more than £15,000 a year—the banding system for thresholds will reasonably ensure that people repay, wherever they reside after graduation.<sup>42</sup>

There is, however, a certain amount of good track record for UK citizens who live abroad or who emigrate to other countries—where such records exist and where there are robust repayment systems. With the legal processes that are now in place, which have been achieved only by co-operation with our European partners on repayment mechanisms, I am confident that we can ensure that wherever students reside their loans will be repaid.<sup>43</sup>

A lengthy exchange took place on the use of the word ‘may’ in section 6 of the clause:

- (6) Transfer arrangements may—
- (a) prohibit the making of further transfer arrangements without the Secretary of State’s consent;
  - (b) require further transfer arrangements to be effected by way of novation or other arrangements to which the Secretary of State is a party;
  - (c) include provision by virtue of which the Secretary of State is automatically a party to further transfer arrangements (and may enforce any of their terms).

The Minister explained to the Committee why ‘may’ had been used and not ‘shall’:

All I can say, clearly and precisely, is that the advice I have, based on the accounting rules, is that the mechanisms available to us in clause 3(6)(b) and (c) enable us to protect the graduate interest. Were we to insert the word “shall” in respect of paragraph (a) so that in all circumstances we would have to prohibit the making of further transfer arrangements without the consent of the Secretary of State, it would contravene the rules of classification and it could not be classified as a transfer from public to private sector debt.<sup>44</sup>

Mr Hayes said that he would revisit this issue on Report.<sup>45</sup> The Minister said that he would write to Members if necessary and would consider amendments on Report:

I am always happy to consider constructive proposals. Having looked at the matter in detail, I do not believe that we need to amend the legislation at this stage. If amendments are tabled on Report to the effect that has been set out, I will consider them. However, I state for the record that under clause 3(6)(a), (b) and (c) we have the protection that members of the Committee are looking for.<sup>46</sup>

The clause was agreed without division.

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<sup>42</sup> *ibid* c60

<sup>43</sup> *ibid*

<sup>44</sup> *ibid* c62

<sup>45</sup> *ibid* c63

<sup>46</sup> *ibid*

**d. Clause 4**

During the clause stand part debate a question was asked about whether reimbursement costs referred to in section 4(3) related to cost incurred in purchasing the loans or costs incurred by defaults on repayment.<sup>47</sup> Members suggested tabling amendments on Report to clarify the position and the Minister said that he would be sympathetic to any such amendments.<sup>48</sup>

The clause was agreed without division.

**e. Clauses 5 to 7**

Clauses 5 to 7 were ordered to stand part with little or no debate.

**f. Clause 8**

This clause concerned the sale of loans in Wales. Members questioned the Minister on the compatibility of policies in England and Wales and the use of the proceeds from loan sales in Wales. The Minister responded that the powers granted to Welsh Ministers would mirror the powers being granted to the Secretary of State and that the money from sales would go into the Consolidated Fund not the Welsh block:

Let me pick up on the points that have been made. The first was about the difference of treatment that we may end up with between Wales and England. The responsibility is devolved. Part of the settlement of devolution is that the Welsh Assembly is allowed and empowered, in areas for which it has responsibility, to make decisions that may be different from those in England. In terms of the scale of things, the sums of money are relatively small, as Wales represents £1.1 billion of the £18.1 billion total student loan book. On whether there is an incentive for Welsh Ministers to undertake the step because money comes back to the Consolidated Fund and not the Welsh block, the money coming back to Government will give the Government as a whole greater flexibility in determining its spending priorities. Welsh Ministers cannot have the money directly attributed to their block but, as a DIUS Minister, I cannot have that money directly attributed to DIUS.<sup>49</sup>

The clause was agreed.

The final clauses were agreed and the Bill ordered to be reported as amended.

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<sup>47</sup> *ibid* Sarah Teather c63

<sup>48</sup> *ibid* c64

<sup>49</sup> *ibid* c66



## **Annex: Membership of the committee**

**Chairman:** Miss Ann Begg

**17 Members:**

**Anderson**, Mr David (Lab)  
**Boswell**, Mr Tim (Con)  
**Cawsey**, Mr Ian (Lab)  
**Dorries**, Mrs Nadine (Con)  
**Flelo**, Mr Robert (Lab)  
**Foster**, Mr Michael (Lab)  
**Hayes**, Mr John (Con)  
**Irranca-Davies**, Huw (Parliamentary Under-Secretary of State for Wales)  
**Linton**, Martin (Lab)  
**Marris**, Rob (Lab)  
**Marsden**, Mr Gordon (Lab)  
**Moran**, Margaret (Lab)  
**Rammell**, Bill (Minister for Lifelong Learning, Further and Higher Education)  
**Teather**, Sarah (LD)  
**Watkinson**, Angela (Con)  
**Williams**, Mark (LD)  
**Wilson**, Mr Rob (Con)

**Committee Clerks:** Dr Weston and Dr Blacklock