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Dear Lord Watson of Invergowrie,

Thank you for your interest in the Technical and Further Education Bill and for the amendment you tabled in our first Committee session on Wednesday 22 February, where you asked me to provide some further information about your proposed additions to the Bill in relation to freedom of speech within Further Education Institutions.

As I stated in the debate, the Government accepts without reservation the importance of freedom of speech in our further and higher education sectors. However, as I also stated, there is already a duty and a range of legislation in place on both free and unlawful speech, and further education providers have not raised any concerns to us about either area. I therefore do not accept that a change to the duty is necessary.

If we are to legislate in this area, we must have regard to the practical implications of how the new duty would be implemented. It is here that there is a real risk of creating confusion. Providers are already well acquainted with their existing duties and the laws which surround them. Unless we can be crystal clear about what new legislation would mean in practice, and what changes in institutional behaviours we would expect as a result, we will create counterproductive uncertainty as to how the duties should be applied.

In addition, the standard of “reasonably practicable steps” in the existing duty allows providers to make sensible decisions where safety and security are concerned. An absolute requirement to “ensure” freedom of speech without caveats narrows this margin for decision-making and holds providers to a higher standard that may not always be practical.

I agree that colleges are ultimately responsible for events taking place on their premises. The existing duty does not spare them this responsibility, but it does allow them to balance it, where necessary, against other important considerations. It is not a given that the amendments proposed would strengthen providers' role as safe havens

for free speech; and I maintain that the uncertainty it would introduce could be to the detriment of its stated aims or introduce other unintended consequences that we have not had the chance to properly test before making such a change.

Should it be helpful to arrange a further discussion on this topic with relevant policy officials from within the Department for Education, please do get in touch with the Bill Manager, Kate Ridley-Moy (Kate.Ridley-Moy@education.gov.uk / 0207 340 7573).

I hope you find this letter helpful. I will place a copy in the House Library.

A handwritten signature in black ink, appearing to read 'Vere', with a large, sweeping flourish on the left side and a horizontal line extending to the right.

BARONESS VERE OF NORBITON

Lord Watson of Invergowrie
House of Lords