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My Lords,

SKILLS AND POST-16 EDUCATION BILL: GOVERNMENT AMENDMENTS FOR REPORT

I am looking forward to working with you in my new role as the Lords Minister in the Department for Education and in particular, supporting the Skills and Post-16 Education Bill's passage through the House. I would like to take this opportunity to acknowledge the work of my predecessor, Baroness Berridge during the earlier stages of the Bill. This letter aims to provide you with details of the amendments that the Government is tabling ahead of Report Stage. Report stage is due to take place on the 12 and 18 October, following the recess.

There are six sets of amendments that the Government intends to bring forward:

- **Lifelong Loan Entitlement** – amendments to the Higher Education and Research Act 2017 (HERA);
- **Local skills improvement plans** – a technical fix relating to devolution interactions with Wales, and a substantial amendment to introduce a requirement for consideration of net zero, adaptation to climate change, and other environmental goals on the face of the Bill;
- **List of post-16 education or training providers** – a technical fix expressly to allow conditions for being on the list to contain discretionary elements;
- **Essay mills** – introducing clauses to ban the provision of cheating services in England and Wales for students at sixth forms, post-16 and higher education providers in England;
- **Careers information and guidance** – introducing minimum requirements for providers of technical education and apprenticeships to have access to schools on the face of the Bill; and
- **Designation of 16-19 academies with a religious character** – allowing faith sixth-form college corporations to become academies with a religious designation.

Lifelong Loan Entitlement (LLE) – amendments to the Higher Education and Research Act 2017 (HERA)

During Committee Stage, there was a robust and engaging debate on the LLE clauses in the Bill. In that debate, the Government set out its intention to bring forward further amendments at Report Stage, which would introduce powers to enable the setting of fee limits for modules under the LLE policy.

Over the summer, the Government has carefully considered the concerns that were raised. After concluding further policy work, we have decided that it would be best not to lay these amendments ahead of consulting on the LLE. This is because the consultation will inform the policy details of the LLE, and we want to ensure that we get every aspect of it right. The Government intends to publish the LLE consultation in due course.

The Government will continue to develop the policy of fee limits for modules, engaging with stakeholders and Parliament and, following the LLE consultation, will bring forward new primary legislation. Therefore, the Government will not bring forward an amendment relating to Section 11 of HERA as was tabled at Committee. The Section 11 amendment directly related to the introduction of modular fee limits, which we now believe should be provided for as an entire package in future primary legislation. We remain committed to introducing the LLE from 2025 and this change will have no impact on the timing of the introduction of the policy.

You will also recall that the Government laid amendments on the LLE at Committee Stage. I can set out here that the Government intends to re-table the majority of these amendments, which whilst more technical in nature, are still an important part of laying the legislative foundation for the LLE. These will be proposed changes to the Higher Education and Research Act 2017 (HERA) and include:

- Amendments to section 83(1) and section 85(1) which further amend the definition of “higher education course” to make clear that there are two categories of such a course (full courses and modules). They also introduce a new defined term - “full course” which is an HE course which is not a module of another course;
- An amendment to section 9 which ensures certain existing information sharing or publication requirements apply less onerously in relation to modules than they might otherwise have done; and,
- Paragraph 3(3) of Schedule 2 which corrects an anomaly relating to when a provider has to have a high quality rating in order to charge the Teaching Excellence Framework tuition fee uplift.

I attach a copy of these proposed amendments as an annex to this letter below, with a description of its associated policy objectives and functional impact.

These amendments were discussed in detail at Committee and withdrawn to allow your Lordships to consider further these amendments for Report. I hope you will agree that these amendments are not contentious and will be happy to support these changes. Should you wish to discuss these amendments in detail further, please get in touch with the Bill team (skills.billteam@education.gov.uk), who would be happy to arrange a further

briefing.

There is one other amendment that was tabled at Committee, which the Government will not bring forward at Report stage. This relates to Section 65 of HERA. Section 65 related to the frequency of data publication in respect of modules. Following further work with the Office for Students, we have determined that it would be better to engage further and test the balance of transparency for learners and burden on providers with stakeholders before making this change.

Local skills improvement plans

The Government is bringing forward two amendments in relation to local skills improvement plans.

The first is technical in nature, and is intended to ensure that the legislation has the intended policy effect. The Government, after discussion with the Welsh Government, has agreed that it must clarify how the duties set out in the Bill might affect Welsh providers. The policy intent of this change is to ensure that providers will *only* be subject to the duties in respect of any post-16 technical education for provision that is funded by the Secretary of State, and so long as it meets the existing requirement of being material to a specified area in England. This will ensure that we do not inadvertently impact the devolved powers of the Senedd.

The second amendment will introduce a specific requirement to consider net zero, adaptation to climate change, and other environmental goals in developing local skills improvement plans on the face of the Bill. This was an issue of significant discussion during Committee, and the Government has heard clearly the concerns raised by peers. In developing local skills improvement plans, employer representative bodies will need to have regard to critical national priorities as set out in statutory guidance. Supporting a green industrial revolution and accelerating our path to net zero is clearly such a priority and local skills systems will need to support the increasing number of jobs relating to climate change and environmental goals.

This amendment will require the Secretary of State to be satisfied that skills, capabilities or expertise required in relation to jobs that directly or indirectly support the net zero target, adaptation to climate change, and other environmental goals have been considered by employer representative bodies in the process of developing a plan. As we have already seen through the trailblazers, net zero, green technology and decarbonisation are common themes in terms of local priorities.

List of post-16 education or training providers

This is an amendment that is technical in nature, which affects clause 18 of the Bill on the list of post-16 education or training providers. The policy intent of this change is expressly to allow for the regulations setting out the conditions for being on the list to include an element of discretion when it comes to considering whether that condition has been met. This ensures that a level of judgement could be applied by the Secretary of State or another suitable

person or organisation (to be set out in the regulations) when considering if providers meet a condition - for example, in relation to deciding if a student support plan is of a reasonable quality. This will ensure that the policy can be applied in a sensible and proportionate way.

Essay mills

The issue of cheating services has been a long-standing issue that your Lordships have rightly raised during the passage of the Bill, and in particular from Lord Storey. We have listened, and the Government is bringing forward amendments relating to essay mills. These provisions will make it a criminal offence in England and Wales, to provide, arrange or advertise cheating services, in commercial circumstances, to students who are either taking regulated qualifications at, sixth forms, and other post-16 education providers in England, or who are enrolled at HE providers in England. It would make it clear that such services are illegal and thus act as a strong deterrent to providers of such essay writing services.

The Government is continuing to discuss with the devolved administrations on how a UK-wide approach can be taken to these proposals.

Careers information and guidance

The Government is bringing forward amendments to the legislation that governs providers access to schools which will introduce a set of minimum requirements that is easy for schools and providers to follow and has very clear measures of compliance. This was an important issue raised by Lord Baker and other peers during Committee. These amendments will ensure that every pupil has sufficient time with providers of approved technical education qualifications or apprenticeships to allow them to build up a full picture of the options available, leading to well-informed choices about education and training options at key transition points.

Specifically, the Government proposes to amend the Education Act 1997, so that all pupils will have two mandatory encounters with providers of approved technical education qualifications or apprenticeships. This will be one encounter in either year 8 or year 9 (before 28 February if in year 9) and again in either year 10 or year 11 (before 28 February if in year 11). A third encounter must be arranged for pupils in either year 12 or 13 but will be optional for the pupils to attend.

This strikes the right balance between widening access to providers to ensure that pupils have information about all of their options at key decision points in a school year, while managing the burden on schools. We want to retain some flexibility for schools to manage provider encounters across each key phase and not limit them to a narrow window every year that could lead to congestion. We also want to safeguard the quality of provider encounters, by having legislation that will set parameters around their duration and content. If needed, secondary legislation can specify the number and types of providers that are to be included in each encounter.

Designation of 16-19 academies with a religious character

The Government is bringing forward amendments to provide the Secretary of State with an order making power to enable the designation of 16-19 academies with a religious character. This important issue was raised by Lord Touhig during Committee and met with broad agreement across the House. The effect of this would be to allow sixth form colleges converting to 16-19 academies and new 16-19 academies to be designated with a religious character. This will enable existing sixth form college corporations with a faith character to convert to become academies while still retaining the freedoms and protections they require due to their religious character.

Conclusion

The Government is tabling these amendments now in order to give you sufficient time to scrutinise these proposals ahead of the first day of Report. I have included a set of supplementary policy notes as an annex to this letter, to support you in understanding these proposed measures and to address wider issues that were raised during Committee.

I hope you find this letter informative, and I am very happy to meet colleagues to discuss the Bill ahead of Report stage. The Bill team also stand ready to provide any official briefing or further detail on the amendments, and can be contacted on skills.billteam@education.gov.uk.

I will place a copy of this letter in the House library.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Donna Barran'.

BARONESS BARRAN

PARLIAMENTARY UNDER-SECRETARY OF STATE

Annex: Lifelong Loan Entitlement – amendments to the Higher Education and Research Act 2017

| Amendment | Description – Policy Objective | Functional Impact – how will this work in practice |
|--|--|--|
| <p><u>Amendment to section 9 of HERA</u></p> <p>Page 18, line 17, leave out “In section 83(1) of”</p> <p>Page 18, line 17, after “2017” insert “is amended as follows. (2) In section 9 (mandatory transparency condition for certain providers), after subsection (3) insert— “(3A) The OfS must not request information relating to modules of full courses by virtue of a transparency condition more frequently than it requests information relating to full courses by virtue of the condition.” (3) In section 83(1)”</p> | <p>Section 9 requires a mandatory transparency condition to be imposed be certain (currently all registered) providers.</p> <p>Amending this is aimed at reducing administrative burdens on providers.</p> | <p>Ensure certain information sharing or publication requirements apply less onerously in relation to modules than they might otherwise have done. Section 9 relates to information about offers and acceptances, completion rates and attainment, not information about HE provision generally.</p> |
| <p><u>Amendment to section 83(1) of HERA</u></p> <p>Page 18, line 23, leave out from “course” to end of line 24 and insert “, where it is undertaken otherwise than as part of that course;”.</p> | <p>To clarify that a module must be derived from a course mentioned in Schedule 6 to the Education Reform Act 1988, and be something taken other than as part of that course.</p> | <p>Clause 15 of the Bill has the effect of including a module as a type of HE course. Specifically, section 83(1) would, as amended, read: higher education course” means—</p> <ol style="list-style-type: none"> 1. a course of any description mentioned in Schedule 6 to the Education Reform Act 1988, or 2. a module of such a course undertaken otherwise than as part of that course; |

| | | |
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| | | This amendment would then carry through to the rest of HERA, making explicit the OfS ability to regulate the provision of modular courses. |
| <p><u>Amendment to section 85 of HERA</u></p> <p>(6) In section 85 (definitions)— (a) in subsection (1), at the appropriate place insert— ““full course” means a higher education course that is not a module of another higher education course;”; (b) after subsection (1) insert— “(1A) References in this Part to modules (except in relation to references to the full course of which the module forms part) are to modules which are— (a) modules of full courses, but (b) undertaken otherwise than as part of those courses.””</p> | Introduces the concept of a “full course” as distinct from a module and ensures that further references to modules are to modules taken otherwise than as part of the full course from which they are derived. | This amendment distinguishes a ““full course” from a module and enables other provisions (such as the amendment to section 9 above) to be applied to modules only, to full courses only, or to both, in accordance with the policy intent. |
| <p><u>After clause 25 of the bill</u> <u>Amendment to paragraph 3(3) of Schedule 2 to HERA</u></p> <p>Insert the following new Clause— Higher education course fee limits: administration “Relevant date for purposes of fee limit for certain higher education courses In paragraph 3(3) of Schedule 2 to the Higher Education and Research Act 2017 (the fee limit where the provider has no access and participation plan), omit “before the calendar year”.</p> | Correcting an error in the existing legislation, ensuring that providers must have a high-quality rating on the 1 January in the calendar year in which the relevant academic year begins (rather than in the year before) in order to charge the TEF tuition fee uplift. | This corrects an anomaly relating to when a provider has to have a high-quality rating in order to charge the Teaching Excellence Framework tuition fee uplift. |
| <p><u>Amendment to clause 26 of the Bill</u></p> <p>Page 31, line 12, after “15” insert “(3)”</p> | These amendments clarify that the amendments to section 83(1) of HERA relating to the definition of a “higher education course” extend to | The effect of these amendments is that the amendments of the Higher Education and Research Act 2017 made by clause 15 have the same extent as the provisions of |

| | | |
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| <p>Page 31, line 20, after “15” insert “(3)”</p> | <p>Scotland and Northern Ireland, as for limited purposes, the existing section 83(1) has that extent.</p> | <p>that Act which they amend.</p> |
| <p><u>Amendment to clause 27 of the Bill</u></p> <p>Page 31, line 24, leave out “25” and insert “(Relevant date for purposes of fee limit for certain higher education courses)”</p> | <p>This amendment provides that the new clause (amendment to paragraph 3(3) of Schedule 2 to HERA) will come into force 2 months after the Act is passed.</p> | <p>This amendment provides for the new clause (amendment to paragraph 3(3) of Schedule 2 to HERA) to come into force 2 months after the Act is passed.</p> |



Department
for Education

Skills and Post-16 Education Bill

Supplementary policy notes

October 2021

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Summary

The following notes provide further information on the Skills and Post-16 Education Bill as it continues its passage through Parliament.

They should be read alongside the government's publication of its [first set of policy notes](#) in May 2021.

Some of these notes provide more information on amendments that the government intends to bring forward to the Skills and Post-16 Education Bill at Report Stage in the House of Lords.

Other notes provide further information on measures in the Bill, or issues raised in Parliament as the Bill has been debated.



Skills and Post-16 Education Bill: Supplementary note on amendments to the Higher Education and Research Act 2017, including relating to the Lifelong Loan Entitlement

This is to be read in addition to the lifelong loan entitlement policy summary note [published in May 2021](#). This note provides further information on amendments relating to the Lifelong Loan Entitlement.

The government has brought forward amendments to the Higher Education and Research Act 2017 (HERA) as part of amendments to the Skills and Post-16 Education Bill at Report Stage in the House of Lords. This is primarily part of supporting the introduction of a Lifelong Loan Entitlement (LLE) from 2025. Additionally, they will ensure that the tuition fee uplift connected to the Teaching Excellence Framework awards can be applied in a timely fashion.

The government recognises that consultation and engagement are a critical part of delivering this transformation of student finance, so intends to consult and engage on the scope and policy of the Lifelong Loan Entitlement.

What is the government's policy objective?

Through the LLE, the government aims to enable student loan funding for modules of both higher and further education courses at levels 4-6. It seeks to facilitate more flexible study, particularly learning undertaken on a basis other than by reference to a full course.

Through these amendments to the Skills and Post-16 Education Bill, the government aims to make express provision for the regulation of modules within the Higher Education and Research Act 2017 (HERA).

How will these amendments work in practice?

The Skills and Post-16 Education Bill already includes clauses to modify the regulation-making powers of the Secretary of State, under the Teaching and Higher Education Act 1998. These modifications make specific provisions for funding of modules of higher education and further education courses. They also enable the Secretary of State to prescribe an overall maximum amount of funding that learners can access (i.e. a 'lifetime limit') and make clear that maximum amounts in relation to any loan or payment can be provided for on a basis other than an academic year.

The further amendments the government has tabled will add to the definition of ‘Higher Education Course’ in HERA, setting out clearly that it includes a module as a self-contained concept distinct from the full course itself. Thus, the regulatory regime already set out within the Higher Education Research Act 2017 (HERA) will be better and more precisely extended to modules when not undertaken as part of a full course. The amendments do not change the existing territorial reach of HERA, which, aside from a few minor exceptions, extends to England and Wales and applies to England only.

At this stage, the government is content that the initial [impact assessment](#) published alongside the Bill sufficiently addresses the impact of the primary legislation, including these further amendments. However, the government intends to continue assessing the wider impact of the whole LLE policy as it develops, as we receive further information from consultation feedback and develop regulations.

Modular fee limits

Previously, the government had outlined our intention to lay further amendments to the Bill relating to modular fee limits. Following further engagement and policy development, the government has decided not to lay these amendments to the Bill before the consultation on the LLE has been conducted. The consultation will inform the policy details of this amendment and other aspects of the LLE. It is important that the impact on learners and providers has been carefully and more fully considered. The government’s intention is to provide for modular fee limits after assessing the information gathered from further engagement, including a consultation.

Key questions and answers

How are modules catered for in the Skills and Post 16 Education Bill?

- The original definition of “higher education course” in HERA was a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- With our amendments to section 83(1), the Bill continues to define a “higher education course” in that way but includes in the definition “a module of such a course “if it is undertaken in its own right and not as part of a full course.
- The government seek to amend section 85 of HERA to introduce the concept of a “full course” as distinct from a module, and to provide that a full course is a higher education course which is not itself a module.”
- Together these clarify that for the purposes of HERA 2017, there are two categories of higher education course: a) full courses and b) modules of full courses, when taken otherwise than as part of those courses, and make explicit the power of the OfS to regulate modular study.

Will these changes mean that the Secretary of State for Education can decide the content of a module?

These changes do not impact the institutional autonomy of Higher Education providers to determine the content of their courses, or the way they are taught or delivered.

What do your proposed changes to section 9 of HERA do?

Section 9 is a mandatory transparency condition for certain providers, relating to information about offers and acceptances, completion rates and attainment. The government is amending this in order to reduce administrative burden on providers, by ensuring information sharing and/or publication requirements do not apply any more onerously in relation to modules than to full courses.

What do your proposed changes to the Teaching Excellence Framework do?

Our amendment corrects an anomaly relating to when a provider has to have a high-quality rating in order to charge the Teaching Excellence Framework (TEF) tuition fee uplift. It does this by ensuring that providers must have a high-quality rating on the 1 January in the calendar year in which the relevant academic year begins (rather than in the year before as previously) in order to charge the TEF tuition fee uplift. This thereby reflects the government's policy intent of accurately and fairly measuring quality.

Will you be consulting on the LLE?

Yes. The government will consult and engage with the sector on the scope and policy of the Lifelong Loan Entitlement in due course. Consultation and engagement area critical part of delivering this transformation of student finance.

What else is the government doing?

As part of the pathway towards the Lifelong Loan Entitlement, the government will:

- Stimulate the provision of high-quality higher technical education (level 4 and 5).
- Introduce pilots to test how to incentivise more flexible and modular types of provision.
- Examine the fee limits that apply to different qualifications at higher levels to ensure value for money for the learner and the taxpayer.



Skills and Post-16 Education Bill: Careers information

High-quality careers education and guidance in school or college is critical to young people's futures. It helps to prepare them for the workplace by providing a clear understanding of the world of work, including the routes to jobs and careers that they might find engaging and rewarding.

It supports them to acquire the self-development and career management skills they need to achieve positive employment destinations. This helps students to choose their pathways, improve their life opportunities and contribute to a productive and successful economy.

What is the government's policy objective?

The government wants to make sure that there are opportunities for providers of technical education and apprenticeships to visit schools for the purpose of informing year 8-13 pupils about approved technical education qualifications and apprenticeships. Schools must allow providers to have a reasonable amount of time to meet the pupils and to provide all pupils with 'career-focussed' experiences, which will include:

- sharing information about both the provider and the approved technical education qualification and apprenticeships that the provider offers;
- explain what career routes those options could lead to;
- provide insights into what it might be like to learn or train with that provider; and
- answer questions from pupils.

How will this work in practice?

The government proposes to amend the Education Act 1997, via the Skills and Post-16 Education Bill, so that all pupils will have two mandatory encounters with providers of approved technical education qualifications or apprenticeships. One encounter in either year 8 or year 9 (before 28 February if in year 9) and again in either year 10 or year 11 (before 28 February if in year 11).

These provider visits must be made available to, and attended by, **all** pupils and not pre-selected groups of pupils. The school must give each provider a reasonable amount of time to meet the cohort of pupils and must timetable their minimum number of provider visits during normal school hours. They may supplement this with provider visits at other times.

Schools will also be required to offer a third encounter with providers of approved technical education qualifications and apprenticeships, in either year 12 or year 13 (before 28 February if in year 13) which will be optional for pupils to attend.

The Secretary of State for Education will also have the power to set out further detail in secondary legislation of the provider encounter in each key phase. For example, he could specify the number and type of providers that every pupil must meet. This could, for instance, include a requirement for pupils to meet a representative from an FE college or University Technical College where there is one within reasonable travelling distance of the school.

Key questions and answers

How does this amendment fit with current provider access legislation?

Provider access legislation, commonly known as the ‘Baker Clause’, was introduced in 2018. This law requires all state schools to ensure that there are opportunities for providers of technical education and apprenticeships to visit schools for the purpose of informing year 8-13 pupils about approved technical education qualifications or apprenticeships.

The proposed amendment to the Skills and Post-16 Education Bill will strengthen the existing legislation so that every pupil meets providers to learn about technical options and inform decisions about their next steps. The government will require schools to provide two encounters that are mandatory for all pupils – one in year 8 or 9 and one in year 10 or 11 – as well as a further encounter in year 12 or 13 that is optional for pupils to attend. The amendment will also ensure that all encounters are meaningful for pupils by establishing new minimum legal requirements about their duration and content. There is also scope for the government to specify further detail about the number and type of provider encounters in secondary legislation.

What evidence is there that young people need better information about technical education and apprenticeships?

Recent evidence has shown that more needs to be done to ensure young people receive information about approved technical qualifications and apprenticeship pathways. 38% of year 8 pupils and above reported that during the last 12 months, their school had provided them the opportunity to learn about vocational or technical options from FE colleges. 32% of the same group had been provided with this opportunity from apprenticeship providers, 25% from university technical colleges (UTCs), and 5% from Studio Schools.

In years 9 and 10, most young people reported that they were spoken to about GCSEs (95%) and A levels (53%). Far fewer reported being spoken to about BTECs (45%) and vocational choices (15%).

The March 2021 UCAS report ‘Where next?’ highlighted that two in five young people said that more information and advice would have led to them making better choices.

Almost one in three said they did not receive any information about apprenticeships from their school.

The government is therefore seeking to strengthen the legislation to make it clearer what the requirement to allow access to providers of technical education or apprenticeships should mean in practice.

Why has the government decided to act now to strengthen provider access legislation?

On 21 January 2021, the government published *Skills for Jobs: Lifelong Learning for Opportunity and Growth*. The government announced a three-point-plan to enforce the Baker Clause:

1. Create a more specific set of minimum legal requirements for provider access to pupils, specifying who is to be given access to which pupils and when (which is now being introduced through the amendments to the Skills and Post-16 Education Bill).
2. Take tougher formal action against non-compliance with the Baker clause.
3. Make government-funded careers support for schools conditional on compliance with the provider access legislation.

Having engaged with and listened to peers during Committee Stage of the Skills and Post-16 Education Bill, the government believes now is the right time to bring forward these reforms. This amendment covers the first part of the three-point plan. The government will provide further details about enforcement under parts two and three of the Baker Clause three-point-plan in due course.

Why the lack of consultation that was announced earlier?

The government remains committed to consulting on new statutory guidance for schools on careers guidance and access to education and training providers. The statutory guidance will set out in more detail how the amended legislation will work in practice, including case studies and good practice. The government will provide further details in that statutory guidance about enforcement under parts two and three of the Baker Clause three-point-plan.

When does the government expect to commence the new legislation?

The government expects the legislation to commence in the academic year 2022/23.

Why don't you extend the Baker Clause duty to year 7 pupils?

The Baker Clause is designed to allow pupils to meet providers to inform decision points when there is an opportunity to pursue education or training opportunities beyond the school. Year 8 or 9 is the most appropriate time to meet providers to inform the first of these key transition points at age 14.

How does this fit with other careers legislation?

Since September 2013, maintained schools have had a statutory duty to secure independent careers guidance for all year 8-13 pupils. For pupils of compulsory school age, this must include information on the full range of 16-18 education and training options, including apprenticeships. Most academies have an equivalent requirement in their funding agreement.

Mark Jenkinson MP has introduced a government-supported Private Members' Bill that will extend this statutory duty to ensure all state school pupils receive independent careers guidance throughout their secondary education, regardless of their age or the type of state-funded school they attend. The Bill passed its Second Reading on Friday 10 September 2021 and will extend the duty to secure independent careers guidance:

- To pupils in year 7; and
- To academy schools and alternative provision academies.

All further education colleges and sixth-form colleges have a requirement in their funding agreements to secure independent careers guidance. This applies to all students up to and including the age of 18 and students aged up to 25 with current education, health and care plan in place under section 37 of the Children and Families Act 2014.

The government also requires maintained schools and expects academies and colleges to publish details of their careers programme online, including a named Careers Leader.

What else is the government doing?

The government is funding The Careers & Enterprise Company to roll out a careers infrastructure across England to help secondary schools and colleges to improve their careers programmes. This includes Careers Leader training and Careers Hubs that support collaboration and sharing of good practice.

Annex A – Overview of Impacts

Who will be impacted by the change to the legislation?

Schools and providers of approved technical qualifications and apprenticeships will be impacted by the change to the legislation. Schools must provide two encounters that are mandatory for all pupils – one in year 8 or 9 and one in year 10 or 11 – as well as a further encounter in year 12 or 13 that is optional for pupils to attend. The amendment will also ensure that all encounters are meaningful for pupils by establishing new minimum legal requirements about their duration and content. Providers will be given the opportunity to request access to visit the school to meet young people to:

- share information about both the provider and the approved technical education qualification and apprenticeships that the provider offers;
- explain what career routes those options could lead to;
- provide insights into what it might be like to learn or train with that provider; and
- answer questions from pupils.

Costs

The strengthened legislation simply reflects existing good practice. We want to bring all schools up to the standard of those that comply fully with the Baker Clause.

Benefits

All young people will be given the opportunity to have two encounters before the end of year 11 and an optional encounter before the end of year 13 to meet providers of approved technical qualifications and apprenticeships. This will ensure that all young people are aware of the options available to them post year 9, year 11 and year 13. If young people are aware of the options available and where they can find out more information, they will be better able to choose training options that work for them – and enable them to get good jobs.

This will lead to two core benefits: a reduction in the number of young people not in employment, education or training (NEET) after leaving school, and improved employment outcomes. Further, more young people will be aware of technical routes which may lead to increased take-up of technical qualifications and apprenticeships which will, in turn, improve the skills supply to address local skills needs.

Compliance

The government knows that more needs to be done to correct the imbalance between the amount of information between academic and technical pathways that young people receive.

- Pupils in year 8+ reported in 2019 that their schools had provided them with the opportunity to learn about vocational or technical options from FE colleges (38%),

apprenticeship providers (32%), university technical colleges (UTCs) (25%), and Studio Schools (5%).¹

- In years 9 and 10, most young people reported that they were spoken to about GCSEs (95%) and A levels (53%). Far fewer reported being spoken to about BTECs (45%) and vocational choices (15%).²
- We commenced the 'Baker Clause' in 2018 to require schools to invite providers of apprenticeships and technical options to speak to pupils.³
- We expect compliance in the Baker Clause to increase because of this amendment – we are more tightly defining the requirements on schools and will publish underpinning statutory guidance that will have examples of good practice that will showcase how schools can comply with the legislation.

¹ [Pupils and their Parents or Carers \(PPC\) Wave 5](#)

² [2019-Youth-Employment-UK-Report_FINAL-1.pdf \(youthemployment.org.uk\)](#)

³ Section 42B of the Education Act 1997 requires the proprietor of all schools and academies to ensure that there is an opportunity for a range of education and training providers to access all pupils in year 8 to year 13 for the purpose of informing them about approved technical education qualifications or apprenticeships. This is commonly known as the 'Baker Clause'.



Skills and Post-16 Education Bill: Supplementary note on list of post-16 education or training providers

This is to be read in addition to the list of post-16 education or training providers policy summary note [published in May 2021](#). It provides further information on the example conditions and provisions that are included in the Skills and Post-16 Education Bill.

What is the purpose of this summary note?

Clauses 18-21 of the Skills and Post-16 Education Bill give powers for the Secretary of State to create a list of post-16 education or training providers. Clause 18 includes example conditions that the Secretary of State for Education may specify in regulations that relevant providers would be required to meet to be on the list. Any conditions specified in regulations must assist in preventing or mitigating the adverse effects of a disorderly cessation of the provision of education or training. The Bill also includes examples of provisions that may be specified in regulations in connection with the keeping of the list and deliver a well-functioning, transparent and fair scheme for those involved.

As set out on the face of the Bill, we will consult on the conditions and provisions for being on the list prior to making the first set of regulations to help ensure that those conditions manage and mitigate the risk of a disorderly exit. That consultation will allow us to take into account fully the views of those affected by the scheme.

This summary note provides further information on the example conditions and provisions that are included in the Bill. It also includes information on an amendment the government plans to table to clause 18.

Example conditions and provisions included in the Bill:

Allowing for the provision of and access to information by the Secretary of State for Education

This condition is likely to be for a provider to give access to, or provide, certain information to the Secretary of State for Education that assists in preventing or mitigating the effects of an exit. There are likely to be two aims for the receipt of specified information from the provider. One is to maintain learner engagement when a provider exits the marketplace, with an expectation that the information provided will result in actions that make a transition faster and smoother leading to completion of learning. The other is to assess the risk of provider failure.

Subject to consultation, the following types of information are likely to be specified:

- **Information that is intended to support a smoother transfer of learners in the event of provider failure:** this may include information about learners, courses, subcontracted delivery, employer information and information relating to funding and eligibility. It is likely that this information will need to be provided from time to time to ensure that it is up to date and accurate. We are also exploring whether access to learner files and data controller rights might be acquired.
- **Financial and other information to assess the risk of provider failure:** this may include information such as financial statements, income and expenditure forecasts, comparisons of forecasts and actuals for a previous year, audited statements, information allowing the review of the impact of a parent company or group on financial sustainability and information about governance and assurance structures.

A requirement for a student support plan

A student support plan would likely set out how a provider would help preserve the continuation of study for learners and clarify how learners would be kept engaged in the event of a provider exit. The aim is to maintain continued learner engagement, when a provider exits the marketplace, to the point where a learner completes their learning.

A plan would likely be reviewed at the point of application to the list of post-16 education or training providers. It would likely need to consider learner needs, planned communications to students and stakeholders (such as funding bodies, subcontractors and local authorities) and include plans that facilitate a smooth transfer of learners.

Examples of what a plan could include are:

- Information that focuses on learner needs, such as an assessment of risks to the continuation of study for learners, and how varying learner needs and characteristics will be catered for.
- Mitigations the provider intends to put in place for the above risks.
- Consideration of the impact of costs on learners as a result of exit.
- An explanation of how the plan is communicated to learners.
- A communications strategy that outlines how impacted stakeholders would be informed of developments.
- Plans to facilitate a smooth transfer of learners.

A relevant provider having insurance or an equivalent

We may require that a provider has insurance, or an equivalent, as a condition of entry to the list. The aim is to mitigate the impact of disorderly provider failure on affected learners by making available monies to accelerate their transfer to new providers. The main disadvantage that learners experience following a disorderly provider exit is the loss of continuity of learning. Sourcing and securing a new provider can be a challenging and disruptive experience for everyone involved, leading to delays in, or even non-completion of, training. It can be difficult to place displaced learners with new providers because the

initial provider has often claimed a disproportionate amount of funding in comparison with the amount of training delivered.

For example, the insurance might cover the costs of finding replacement provision for learners or include the costs of catch-up teaching where the learner has not progressed as far in their course/apprenticeship as would be expected based on the amount of funding already paid to the provider.

We are mindful of the need not to burden the sector with a disproportionately costly insurance scheme when only a small minority of providers will experience disorderly exit in any given year. We acknowledge that the proposition here is not covered by insurance products that are currently known to be available to the sector and may not necessarily take the form of a commercially available product. We would only impose a condition like this if we were satisfied that the condition would be achievable for providers. We are working with stakeholders to see what solutions or products could be realistically available.

Clause 18(9) also allows different conditions to be applied for different descriptions of providers. It is not one size fits all. This would ensure that, where appropriate, we could make the scheme as flexible as possible.

A 'fit and proper persons' requirement

This may be for providers to put in place in relation to their own management personnel, but also potentially for no provider to be allowed on to the list where a person in any management or control capacity is, for example, in the opinion of the Secretary of State for Education and/or measured against certain criteria set, not a fit and proper person to have control and management of a relevant provider.

It could include:

- A review of publicly available databases, such as the disqualified directors register.
- Personal and/or business credit checks.
- Undertaking Disclosure and Barring Service checks.

A relevant provider taking action specified in directions given by the Secretary of State for Education

This condition would support activities to ensure the list is current and that providers are adhering to the conditions. The aim here is to mitigate any risks to learners or public funds. The regulations may make provision for the Secretary of State for Education to make directions to a provider for a particular action to be taken in order for a provider to remain on the list. For example, that they must:

- Notify the Secretary of State for Education, and relevant funding body, of any changes in respect of any conditions of registration.

- Take certain action to mitigate risk to learners and/or the funding body which might become necessary if the Secretary of State for Education considers that the provider may no longer meet certain conditions and/or is at risk of ceasing provision.

Fees

A fee may be charged in relation to entry onto the list, in order to recover the costs of administering the list which would help government-run an effective and fiscally responsible scheme. There would be no intention to make any profit at the expense of providers. Any fee would be set at a reasonable level, with reasonable notice and with consideration of the impact on providers of all sizes.

A flat fee is one of the approaches being considered to ensure simplicity, with possible distinctions made on the size or scale of provider or how they deliver - for example as a subcontractor.

Application of conditions and provisions

Our intention when setting conditions or provisions, and their subsequent implementation, is to ensure that they are appropriate and proportionate in order to manage the risk of a disorderly exit and the impact on learners. In order to reduce bureaucracy, we will look at the extent to which we can align or consolidate the operation of the list with other administrative processes, such as those required for the operation of the Register of Apprenticeship Training Providers.

We recognise concerns raised about the potential disproportionality of costs for being on the list and that it could represent a barrier to market entry. We will also look at costs for being on the list in their totality when considering the financial impact. There are provisions in the legislation that allow different conditions to be applied for different descriptions of providers and also for the funding agreements in relation to which the provider must be on the list to have any characteristics specified in the regulations. It is not a one size fits all approach. This will help ensure that, where appropriate, we can make the scheme as flexible as possible.

For example, it would be possible for certain conditions to be altered depending on the size or scale of a provider or how they deliver and for de minimis requirements to be imposed so that certain funding agreements (such as small subcontracts) are not brought into the scope of the funding prohibitions. We will be considering the risk to learners and funding bodies alongside this.

We are currently working towards implementing regulations in the academic year 2023/24, subject to going through the parliamentary process.

Exercising discretion about whether conditions are met

We are intending to update our clauses to expressly provide that under the regulations the Secretary of State for Education can confer a function on another person to exercise discretion about whether certain conditions have been met. An example of this would be deciding if a student support plan is of reasonable quality.



Skills and Post-16 Education Bill: Statutory underpinning for local skills improvement plans – update

This is an updated version of the policy summary note on the statutory underpinning for local skills improvement plans, [first published in May 2021](#). It provides further information on local skills improvement plans and how these will work in practice.

The government is legislating to place local skills improvement plans on a statutory footing. Local skills improvement plans will be employer-led, locally-owned and set out the key changes needed in a local area to make post-16 technical education and training more responsive to employers' skills needs. They are intended to be high-level documents that set out a limited number of key priorities for change that resonate with local partners to gain traction and maximise impact. They are not about the entirety of provision in an area. They will be created by employers and providers working together, in discussion with key local stakeholders.

What is the government's policy objective?

To ensure post-16 technical education and training is better aligned to employers' skills needs. To achieve this, employer engagement is required throughout the skills system, from identifying skills needs to developing the training and qualifications to meet them. That is why the government has introduced the Skills Accelerator programme, including local skills improvement plans, which will support the government's Plan for Growth. This is part of a transformational approach to tackling long-term problems to deliver growth and create high-quality jobs across the country.

Why is legislation needed?

To create and embed a clear and binding framework to give employers more influence in shaping local skills systems and hold providers to account in responding to employers' skills needs so that post-16 technical education and training is more responsive to the skills needs of local labour markets.

What is the effect of the legislation?

The Bill measures focus on:

- Providing powers to the Secretary of State to designate employer representative bodies to lead the development of local skills improvement plans in a specified local area in accordance with statutory guidance. The Secretary of State must be satisfied that a body is capable of developing and keeping under review a local skills improvement plan in an effective and impartial manner and that it is

reasonably representative of employers in the area before they are designated. In exercising the power to designate an employer representative body, the Secretary of State will be subject to the usual principles of public law including the requirement to act rationally and fairly. A body must also consent to be designated. The specified area will be defined in the notice published by the Secretary of State upon designation. The Secretary of State will have the power to have explicit regard to local skills improvement plans when exercising their powers (i.e. funding decisions, contracting and intervention measures).

- Placing duties on providers to co-operate with employer representative bodies in developing the plans and to have regard to these plans, once developed, when considering their post-16 technical education and training offer. This will help ensure providers co-operate effectively to develop and agree plans with actionable priorities and help ensure relevant changes are implemented by providers to align their provision more closely to employer skills needs.
- The Secretary of State will have the ability, through regulations, to add certain additional providers to the group upon whom duties are placed in the future.

How will this work in practice?

The government is running eight local skills improvement plan trailblazers in 2021-22 to test how employers, providers and stakeholders can most effectively work together to reshape local skills provision. Evidence from these trailblazers will inform plans for implementation and future statutory guidance. A list of the local skills improvement plan trailblazers is available here: [Skills Accelerator: Local Skills Improvement Plan trailblazers and Strategic Development Fund pilots.](#)

Statutory guidance will provide further details on the process for developing a local skills improvement plan and expectations as to what a good plan will look like. It is expected to cover aspects such as who designated employer representative bodies should engage with, including a broad range of employers, Mayoral Combined Authorities (MCAs) and other key local stakeholders to ensure their skills priorities are considered. This is alongside relevant national priorities and strategies such as supporting green jobs and unlocking the value of digitalisation.

Engagement with local employers

Employer representative bodies are well positioned to engage and convene employers, gather intelligence and articulate their skills needs and help them navigate the skills system to drive greater employer involvement. They are therefore best placed to lead the development of the plans.

When developing the plans, designated employer representative bodies should draw on the views of a wide range of employers of all sizes, other representative and sector bodies as well as evidence from sources such as existing analysis of skills demand and relevant local, regional and national priorities and strategies.

Designated employer representative bodies will need to work creatively with local employers to understand local unmet and future skills needs, in discussion with key local stakeholders, and articulate this in a way that is meaningful to providers.

Engagement with local providers

Local skills improvement plans will support stronger, direct collaboration between employers and providers so that post-16 technical education and training provision funded and delivered in a local area in England meets the skills needs of employers.

Providers will play a key role working closely with employers to co-create actionable local skills improvement plans. They can supply valuable knowledge and experience of the local skills landscape, provision and the opportunities and challenges faced by providers to support the development of plans. Working on the development of plans should also help foster collaborative arrangements between providers. It is only by working closely together that employers and providers can improve the alignment of skills provision to labour market skills needs.

Engagement with key local stakeholders

Employer representative bodies will also need to engage with key local stakeholders to gather intelligence considering their views and priorities when developing the plans. We expect them to build a consensus around a set of strategic goals that have widespread support and assist effective progression pathways.

Mayoral Combined Authorities (MCAs) are important organisations within their local skills systems with devolved responsibilities including the Adult Education Budget and will need to be engaged in the development of local skills improvement plans if they are to have an impact. Where a local skills improvement plan has been developed in an MCA area, the plan will need to be accompanied by a statement from the MCA when it is sent to the Secretary of State for approval.

Designated employer representative bodies will also need to work closely with organisations such as the Careers and Enterprise Company, Careers Hubs and Careers Service to ensure employer needs are fed into the provision of careers information, advice and guidance in ways that enable learners to make more informed choices. They will also need to engage with Jobcentre Plus around the links between upskilling and reskilling and helping people to get back into employment and progress.

Approval of local skills improvement plans

In order to approve and publish a plan, the Secretary of State will need to be satisfied that, in line with statutory guidance, a suitable process of evidence collection and stakeholder engagement has taken place during the development of the plan. Thus the approval process is more about the Secretary of State being content with the process that has been followed, and to check that appropriate factors have been considered, rather than being content with the key skills needs or priorities identified in the plan.

Designated employer representative bodies will be accountable to the Secretary of State. If they do not comply with any terms or conditions of their designation or do not have

regard to any relevant guidance, the Secretary of State may not approve and publish the local skills improvement plan and could remove their designation.

Why is the government proposing amendments?

Two amendments are being proposed in relation to local skills improvement plans to:

- clarify the position that duties only apply to relevant providers that provide post-16 technical education or training that is English funded, and
- reflect within legislation the existing intention for local skills improvement plans to include consideration of jobs relating to climate change and other environmental goals.

Key questions and answers

What are local skills improvement plans?

Local skills improvement plans will set out key changes needed in a local area in England to make post-16 technical education and training more responsive to employers' skills needs. They will be created by employers, convened by an employer representative body, providers and other key local stakeholders. Employers will articulate a credible and evidence-based assessment of skills needs, which providers will be empowered to respond to.

How is post-16 technical education and training being defined in relation to local skills improvement plans?

The legislation does not contain a detailed prescriptive definition of post-16 technical education and training because we want the plans to be led by the specific priority skills needs of local labour markets. English-funded post-16 technical education or training is being defined as education funded by the Secretary of State or an authority in England. Student loan finance paid by the Secretary of State for the purposes of tuition fees is also included as well as sub-contracting arrangements.

How will local skills improvement plans take into account skills for jobs relating to climate change and other environmental goals?

In developing local skills improvement plans, employer representative bodies will need to have regard to critical national priorities as set out in statutory guidance. Supporting a green industrial revolution and accelerating our path to net zero is clearly such a priority and local skills systems will need to support the increasing number of jobs relating to climate change and other environmental goals.

The Secretary of State will be required to be satisfied that skills, capabilities or expertise required in relation to jobs that directly or indirectly support climate change and other environmental goals have been considered by employer representative bodies in the process of developing a plan. As we are already seeing through the trailblazers, net zero, green technology and decarbonisation are also very common themes in terms of local priorities.

How do local skills improvement plans relate to the Skills Accelerator?

The Skills Accelerator brings together local skills improvement plans and the strategic development fund first announced in the Skills for Jobs white paper. It forms a central part of the government's landmark reforms that will realign the post-16 education system around the current and future skills needs of employers, so that people are trained with relevant skills to get good jobs.

How will the Skills Accelerator make a difference in FE?

The Skills Accelerator will give employers a stronger role in shaping post-16 technical education and training. This will help learners secure meaningful employment and upskill the existing workforce. As a result, employers will have the skills they need to support productivity growth in their local area, create jobs and build the industries of the future.

What else is the government doing?

- Reforming the further education funding and accountability system to support young people and adults into good jobs. This is aligned with the proposals we are consulting on, including introducing new accountability structures to underpin the delivery of local skills improvement plans.
- Making Strategic Development Funding available as part of the Skills Accelerator in 2021-22 in pilot areas to support colleges to reshape their provision to address local priorities that have been agreed with local employers.
- Placing a duty on colleges and designated institutions in relation to local needs.



Skills and Post-16 Education Bill: Designation of 16-19 academies as having a religious character

This measure will provide the Secretary of State for Education with an order making-power to enable the designation of 16-19 academies as having a religious character. It also provides for Secretary of State to make regulations about the procedures relating to the designation. In addition, it sets out the freedoms and protections that the designation provides.

What is the government's policy objective?

The government is committed to increasing the standards of 16-19 education and providing choices for students. Allowing for and encouraging sixth-form colleges to become academies will help safeguard their future and, through working as part of a multi-academy trust, has the potential to improve education outcomes at the college and other institutions in the academy trust. This provision will allow existing sixth-form colleges designated as having a religious character to become academies and retain their religious character designation, with the freedoms and protections it provides. It will also allow future and existing 16-19 academies to apply to be designated as having a religious character. This provision will enable increased diversity in 16-19 academies and ensure that high-quality providers of schools with a religious character are also able to open 16-19 academies.

Why is legislation needed?

At present, there is no power that enables 16-19 academies to be designated as having a religious character. Such a power is needed to enable those sixth-form colleges designated as having a religious character to become academies and retain their existing freedoms and protections. The power will also enable existing 16-19 academies to be designated as having a religious character in the future.

What is the effect of the legislation?

The legislation provides the Secretary of State for Education with an order-making power to designate 16-19 academies as having a religious character, as well as the power to make regulations to set out procedures in connection with designation. In addition, it sets out the freedoms and protections relating to governance, religious education and collective worship that are provided to 16-19 academies that are designated as having a religious character.

How will this work in practice?

Initially our expectation is that the designation power will be mainly used to facilitate existing sixth-form colleges designated as having a religious character to become 16-19 academies whilst retaining their religious character designation and the freedoms and protections associated with it. There are currently 14 sixth-form colleges designated with a religious character, all of which are designated as Catholic.

In future where the department runs competitions for the creation of new 16-19 academies it will be possible for groups wishing to establish a 16-19 academy with a religious character designation to apply to do so.

Also, if existing 16-19 academies wish to apply to be designated as having a religious character, it will be possible for them to do so by going through the academies significant change process which will also require them to consult locally on the proposed change to their character.

Key questions and answers

Will this be open to a range of religious groups to establish 16-19 academies?

Yes, the designation power will be sufficiently wide to enable a 16-19 academy to be designated as having a religious character related to any of the major religions in England.

What are the freedoms and protections that will be available for 16-19 academies designated as having a religious designation?

The provisions enable 16-19 academies designated as having a religious character to provide religious education and collective worship in accordance with the tenets of their faith. They also provide for governance arrangements that will ensure that the religious character of the institution is safeguarded.

Will you make these same provisions available for 5-16 schools?

It is not necessary to extend these powers to cover 5-16 schools. Existing powers enable maintained schools, independent schools and academies with compulsory school aged children to be designated as having a religious character. Schools with a religious character designation also have equivalent freedoms and protections relating to RE and Collective Worship and governance as those which we are providing in relation to 16-19 academies.

What else is the government doing?

- Continuing to support and enable any and all sixth-form colleges who wish it to convert to become 16-19 academies.
- Enabling existing academies designated as having a religious character to apply to make a significant change to their age range and add provision for students aged 16-19.

Annex A – Overview of Impacts

Who will be impacted by the change to the legislation?

Initially, the main impact will be in relation to those sixth-form colleges designated as having a religious character who will have the ability to convert to become academies for the first time. We know from engagement with the sector over several years that there is considerable desire from this group of colleges to become academies.

The students and staff at these institutions should not be impacted significantly as the day-to-day operation of them is expected to be relatively unchanged. The main impact for these institutions will be to help ensure their continued existence, their ability to deliver high-quality education and their ability to maintain and deliver in accordance with the tenets of their faith.

In future, dependent on what competitions the Department provides for the establishment of 16-19 academies, there will be the opportunity for interested groups to propose opening these institutions with a religious character designation.

Costs

There are costs associated with the process of sixth-form colleges becoming 16-19 academies. These are largely legal costs associated with the new legal documentation required. There will also be some costs associated with consulting on their dissolving as FE corporations and entering into academy arrangements with the Secretary of State for Education. Sixth-form colleges becoming academies receive a conversion grant to help with these costs which are along the same rates as those provided to maintained schools applying to become academies.

Benefits

The government is committed to increasing the standards of 16-19 education and providing choice for students. Allowing for and encouraging sixth-form colleges to become academies will provide significant benefits, including helping to safeguard their future and through working as part of a multi-academy trust has the potential to improve education outcomes at the college and at other institutions in the academy trust.

This provision will allow existing sixth-form colleges designated as having a religious character to become academies and retain their religious character with the freedoms and protections it provides. Secondly, it will allow future and existing 16-19 academies to apply to be designated as having a religious character. Providing the opportunity to other faith communities to establish 16-19 academies with a religious character designation has the potential for expanding the provision of high-quality education for young people in these age groups from those communities.

Alternative options

There are no alternative options that would allow the establishment of 16-19 academies designated as having a religious character. The main alternative would be for the existing sixth-form colleges designated as having a religious character to remain as they are. This would put their future at risk as they would lose the cost benefits of joining a multi-academy trust and it would mean that their expertise could not as easily be shared with schools.

In addition, not making this change limits the abilities of other religious communities from establishing post-16 provision with a religious character designation. They would be left with the only option open to them being the establishments of sixth-form colleges attached to their secondary schools.



Skills and Post-16 Education Bill: Essay mills

What is the government's policy objective?

The aim of this policy is to help safeguard the academic integrity and standards of post-16 and higher education in England and to protect students from falling prey to the deceptive marketing techniques of contract cheating services. This legislation will underpin existing sector-led activity to educate students and education providers about the problems of malpractice, including the use of essay mills, and will serve as a tool to enhance the work already taking place to detect, deter and address incidents of cheating.

How do essay mills operate?

Contract cheating happens when a third party completes work for a student which is passed off by the student as their own work. Online platforms, known as "essay mills", are often paid to undertake this work.

Many essay mill companies use marketing techniques which indicate that they are offering 'legitimate' academic writing support for students. Anecdotal reports also indicate that some essay mills are seeking to blackmail students that have used these services.

What is the effect of the legislation?

The legislation will make it a criminal offence to provide, arrange or advertise contract cheating services for financial gain to students taking a qualification at a post-16 institution or sixth-form in England or enrolled at a higher education provider in England. The legislation would enable prosecution of individuals and bodies committing these offences in England and Wales, that are providing contract cheating services to students studying at institutions in England. It would send a clear message that contract cheating services are not legal, discouraging essay mills from targeting students taking a qualification at a post-16 institution or sixth-form in England or enrolled at a higher education provider in England and will act as a strong deterrent. It would seek to minimise the number of essay mills in operation and limit the practice of organisations facilitating cheating by selling essays and other assignments to pupils and students.

Why is legislation needed?

Government intervention is required to criminalise the provision of and advertising of contract cheating services to minimise the number of these in operation and to underpin wider activity to reduce the number of students accessing such services.

There is growing concern about students' use of essay mills to present the work or ideas of others as their own. The use of such services is unacceptable - it threatens to undermine the reputation of our education system, devalues the hard work of those who succeed on their own merit and prevents students from learning themselves.

According to a recent article by the Office for Students (OfS), the pandemic and the shift to online learning and assessment has led to a further recent increase in the number of sites targeting their services at students in England and the UK.⁴ Both the government and the higher education sector have already taken a number of steps to attempt to tackle the problems of essay mills and contract cheating but this has achieved limited success. Similar legislation has been recently introduced in Ireland (2019) and Australia (2020). From early indications, legislation appears to have led to some "big name" essays mills, as well as lots of smaller sites, ending their operations in Australia. The Irish regulator has also indicated that legislation has provided a useful sector-specific directive that cheating services are illegal.⁵

Essay mills typically offer contract cheating services to students studying a range of qualifications up to doctorate level. Contract cheating in higher education is generally considered to be the area of greatest risk, though the government knows that essay mills do also target post-16 students. Therefore, the scope of legislation includes contract essay mills which target students enrolled in institutions providing post-16 education. It would demonstrate that government is taking a firm and consistent approach in criminalising cheating services to stop them exploiting students for financial gain. Deterring cheating at an earlier stage in an individual's educational journey may also help mitigate risks of students entering HE with an established pattern of cheating behaviour.

How will this work in practice?

The government hopes to gain royal assent for the Bill in Spring 2022. The advertising or selling of essay writing services will become an offence two months later (estimated May or June 2022). The government anticipates prosecutions are likely to begin in 2023.

An enforcement body is not specified on the face of the Bill and therefore any supporting investigations and prosecutions would fall to the police and Crown Prosecution Service (CPS) respectively.

The Bill extends to England and Wales and applies in relation to England only. In practice, this means that the offences can be committed in England and Wales and only

⁴ [Trouble at mill: protecting students from contract cheating - Office for Students](#)

⁵ [National Academic Integrity Network \(qqi.ie\)](#)

apply to services provided to students enrolled in institutions in England. The government is continuing to discuss the proposals with the devolved administrations.

Key questions and answers

Will this new legislation criminalise students who use these services?

No. The offence is intended to target those providing essay mills commercially – it will not criminalise students who have used or are using these services. Though the students' actions do still constitute cheating this is a matter for the institution they are enrolled at to address. The Department for Education has been working closely with the Ministry of Justice (MoJ) and the CPS to ensure that students that use essay mills are excluded from any liability by virtue of this legislation.

Does the scope of the legislation extend to work that does not contribute to a final qualification grade e.g. homework?

Yes – the legislation will cover all assignments, including an examination or any other piece of assessed work.

Will the legislation put additional burden on schools, colleges and HE providers and post-16 institutions?

The legislation will not place any additional duties on schools, colleges, HE providers or other post-16 institutions. It is designed to enhance existing malpractice policies, which will be familiar to all schools, colleges, HE providers and FE institutions. Educational institutions may choose to update their existing malpractice guidance to reflect the legislation as part of usual routine updates but will not face additional burdens.

Will the legislation place unnecessary burden on the police and Crown Prosecution Service?

No. The Department has been working closely with the MoJ and CPSAs we develop our policy proposals to help ensure this legislation achieves our policy aims whilst minimising the impact on the justice system.

What else is the government doing?

A multi-pronged approach is required to tackle this complex problem – the government will continue to work with the education sector to strengthen non-legislative action to clamp down on essay mills and to support students who might be targeted by these services.

- Universities and colleges have come together, coordinated by the QAA, to pledge to combat the threat of essay mills.
- QAA with the support of the Academic Integrity Advisory Group has recently developed an Academic Integrity Charter which sets out key guiding principles to support academic integrity policy development and practice in UK higher education.
- The Charter represents the collective commitment of the UK higher education sector to promote academic integrity and take action to address academic misconduct.
- Over 170 institutions have pledged to implement the Charter's principles and commitments⁶, this includes working with staff and students and, in collaboration across the sector, to promote academic integrity, and take action against academic misconduct.
- OfS's consultation on their future approach to regulating quality and standards contains detailed proposals to ensure providers are playing their part, delivering rigorous assessment and reliable standards for all students. This includes designing assessments to minimise academic misconduct and facilitate its detection and providing support for students with essay planning and accurate referencing, and advice about the consequences of academic misconduct.

⁶ <https://www.qaa.ac.uk/en/about-us/what-we-do/academic-integrity/charter>

Annex – Overview of impacts

Evidence supporting rationale for intervention

Academic misconduct takes a wide variety of forms. One of these is contract cheating, where a third party, typically an essay mill, completes work for a student which is then passed off by the student as their own work. The House of Commons Innovation, Universities, Science and Skills Committee looked at the issue of plagiarism in its report in 2009. It found that that opportunities for plagiarism in higher education have risen exponentially since 2003, both in terms of material available on the internet and through the development of a writing services market for students.⁷

There is growing concern in government and among higher education providers about students' use of essay mills. There is also clear evidence of essay mill websites targeting post-16 students. Research commissioned by Ofqual in 2014 indicated that students were purchasing A level essays online.⁸ Whilst the majority of students do not cheat, those that do put themselves at risk. If a student is caught, they risk their academic education and future employment prospects. If a student is not caught, they miss out on the opportunity to learn the skills associated with researching and formulating written work, making them less prepared for future employment.

This also impacts on employers. Students who cheat may enter the workforce without the skills, knowledge and competence to practice which would result in lost output or an additional cost to address skills gaps and training needs. A growing prevalence of essay mills risks undermining public confidence in qualifications being an accurate signal of ability and also threatens the world class reputation of the higher education sector.⁹ In some cases where students enter professions without the relevant skills, they may also pose a danger to themselves or service users.

A report from the Quality Assurance Agency for Higher Education (QAA) estimated the number of essay mills to be in excess of 1,000¹⁰, noting that it is difficult to provide an accurate estimate due to the nature of the operations of these businesses ranging “*from UK-based organisations registered at Companies House with offices and permanent staff, to one-person operations with minimal infrastructure beyond a computer operating off-shore.*”¹¹ Students who engage in contract cheating are also less likely to volunteer to participate in surveys about cheating. A Freedom of Information request made by

⁷ <https://publications.parliament.uk/pa/cm200809/cmselect/cmdius/170/170i.pdf>

⁸ ARCHIVED CONTENT] Cheating risk from online essays - Ofqual (nationalarchives.gov.uk)

⁹ The Office for Students agree that essay mills are problematic in their recent blog. <https://www.officeforstudents.org.uk/news-blog-and-events/blog/trouble-at-mill-protecting-students-from-contract-cheating/>

¹⁰ there are now over 1000 sites listed on the uktopwriters.com website: [Best Essay Writing Services \(August 2021\) | UK Top Writers](#)

¹¹ https://www.qaa.ac.uk/docs/qaa/guidance/contracting-to-cheat-in-higher-education-2nd-edition.pdf?sfvrsn=6197cf81_24

FactCheck¹² found that 58 higher education institutions reported a combined total of between 278 and 316 cases of contract cheating in 2017-18¹³ which they averaged to be 5 to 6 cases per institution. The numbers indicate only how many students were caught; the numbers of students who use essay mills and are not discovered may well be higher.

Cheating devalues the hard work of students who succeed on their own merit; can get in the way of students studying to actually develop the skills and knowledge required by the qualification they gain; and can provide misleading signals to employers about those they recruit. Government intervention is required to criminalise essay mills to reduce their prevalence within the UK and underpin wider activity to reduce the number of students accessing such services. Legislation to criminalise essay mills activity is in line with the manifesto commitment to improve the quality and standards of higher education, which includes upholding academic integrity.

Description of main benefits and costs to different stakeholders

These proposals will have benefits and costs for a variety of different groups including:

- a. **Cheating services providers** – the actions of providers offering cheating services has always been immoral and they will lose annual revenue as a consequence of this reform as students at higher education providers in England and post-16 providers cease to use their illegal services. It may be that parts of the service they offer are allowed to continue, in which case they will also face costs associated with due diligence checks and possibly adapting their service.
- b. **Tuition support services** – these companies may need to check or adapt their offer to students to ensure what they are offering is legal. This will lead to costs around familiarisation and implementation.
- c. **Advertising businesses** – which provide advertising services for essay writing services will likely also lose some revenue.
- d. **Students** – although use of essay mills by students is already considered malpractice, the legislation will encourage those still accessing these services to cease commissioning cheating service products – because the services will have been criminalised. Those who have been tempted to cheat will be encouraged to develop their knowledge and skills in academic writing, independent research and critical thinking. In doing so, they will become more confident, accomplished learners. Some students who may have become reliant on essay mills may drop

¹² [FactCheck: universities catch less than one per cent of 'bought in' essays, own records suggest – Channel 4 News](#)

¹³ 58 institutions out of 99 could say how many contact cheats they caught in the last year. A further 66 did not respond.

out of their courses or fail to achieve their qualifications.

- e. **Student Unions** – already promote academic integrity and raise awareness amongst students regarding dangers of essay mills but this work is currently undermined as the activity is not illegal. Criminalising essay mills activity will strengthen and support their work.
- f. **Post-16 providers** – administrative staff from post-16 organisations will need to read any small changes to guidance, from awarding organisations (AOs) on malpractice which reflects the new legislation. They may then choose to update their guidance to make clear that essay mill services are now illegal. It is assumed that updated guidance will impose no additional time burden (i.e. the guidance is assumed to be roughly the same length as it is now and using cheating services currently constitutes malpractice).
- e. **HE providers** may choose to revise their academic misconduct regulations, policies and procedures to make clear to students and staff that contract cheating services are illegal. Legislation will have a positive impact in raising the prominence and importance of tackling this issue, both within individual HE providers and across the HE sector as a whole, to maintain their reputation and value of degrees.
- f. **Awarding Organisations (AO)** may wish to make small updates to guidance to post-16 and HE providers. Existing guidance already sets out that use of essay mills is malpractice and against AO rules. Legislation will have a positive impact on maintaining the value of qualifications.
- g. **Employers** – legislation reduces the risk of students/graduates entering the workforce without the knowledge, skills and/or knowledge to practise. Employers will have fewer mismatches while recruiting which will boost productivity and savings through reduced cost of staff turnover in cases where graduates are found not to have the required skills.

We expect legislation to increase the prominence and importance of this issue within providers and across the sector as a whole, supporting sector collaboration to tackle this problem e.g. sharing of best practice and intelligence about cheating service providers that are targeting UK students. Legislation would protect the reputation and integrity of the sector as a whole.

Ultimately though there may be some costs in essay mills going out of business and others being clear about the law changes and revisiting their own practices, the legislation is proportionate because it helps maintain the fairness and integrity of the degree system and support employers in recruiting the right people to meet their skills needs.

Alternative options

Option 0: do nothing;

Option 1: Amendment to the Skills and Post-16 Education Bill making it an offence to provide or advertise cheating services to students enrolled at post-16 and higher education providers in England.

Option 2: Non-legislative options.

The higher education sector continues to take a number of actions to attempt to tackle the problem of essay mills. This has shone a spotlight on the problem of essay mills but so far has achieved only limited success given the activity is not illegal. If a legislative option was not pursued, the Department for Education could commit to doing more to support the sector. For example, increasing the amount of government communications and ministerial engagement on the issue of essay mills. Regulators in Australia and Ireland, where recent essay mills legislation has been introduced, report that legislation has played an important role in catalysing activity to tackle essay mills and building on non-legislative activity. Given that non-legislative options on their own have not yielded the outcome desired, the preferred option is Option 1.

Conclusion

Whilst we acknowledge there may be impacts, we believe these are proportionate given the need to ensure academic integrity in education. In line with Better Regulation Guidance, compliance with measures is assumed, thus any impact on the justice system is not considered in this assessment.



Skills and Post-16 Education Bill: Duty on colleges and designated institutions in relation to local needs – update

This is an updated version of the policy summary note on the duty on colleges and designated institutions in relation to local needs, [first published in May 2021](#).

This measure will place a duty on all colleges and designated institutions to keep their provision under review to ensure that they are best placed to meet the needs of the local area.

What is the government's policy objective?

To ensure that the provision of further education and training is fully aligned to local needs, across all colleges and designated institutions.

Why is legislation needed?

Creating a statutory duty will ensure that aligning provision with local needs is a priority for the governing body of the relevant providers, alongside their other statutory duties, and strengthens accountability for this aspect of their performance.

What is the effect of the legislation?

The legislation will create a new duty on governing bodies of further education colleges, sixth-form colleges, and designated institutions. Governing bodies will need to have regard to statutory guidance issued by the Secretary of State for Education. [A draft of the statutory guidance](#) has been published to support scrutiny of the proposals during the passage of the Bill. It is intended that the final statutory guidance will be issued when the relevant clause of the Bill (Institutions in England within the further education sector: local needs) comes into force. [DRAFT statutory guidance - review FE education and training provision \(publishing.service.gov.uk\)](#)

How will this work in practice?

From time to time, at least once every three years, governing bodies of colleges and designated institutions will need to make an assessment of how well the education or training provided by the institution meets the needs in the local area, reflecting both learner and employer-related needs, and consider whether there are changes to its provision or to its structure that would better meet those needs.

The contents of local skills improvement plans will be an important reference point for colleges and designated institutions that are providers of English funded post-16 technical education or training. When complying with this duty, governing bodies of

colleges and designated institutions will also have to consider other areas of their curriculum (vocational, academic, higher education), and links between their provision and that offered by other providers. They will also consider whether changes in local organisational arrangements – for example stronger collaborative arrangements with other providers – would support a better response to local needs.

The draft statutory guidance sets out the principles governing bodies will need to follow when reviewing their provision, the persons or organisations that the governing bodies may want to engage or work with, and the evidence that should be considered. The draft guidance also sets out the flexibilities governing bodies will have in conducting the reviews, for example allowing them to incorporate the reviews into normal business and strategic planning cycles.

Colleges will be expected to publish the outcome of reviews on their websites.

Key questions and answers

Does the duty introduce new burdens on colleges?

- The approach set out in the draft guidance is flexible and proportionate. It provides the freedom for governing bodies to determine how they should approach complying with the new duty.
- The government is confident that governing bodies will be able to comply with the duty without significant or excessive burdens. The government believes there is good practice available within the sector that demonstrates how this can be done.

What is meant by local needs?

- The governing body of the institution will be responsible for assessing what the local needs are in the context of their institution, having regard to the statutory guidance issued by the Secretary of State for Education. That would include, for example, the needs of learners and employers in the local geographic area served by the college.
- Where there is an approved local skills improvement plan in place which providers of English funded post-16 technical education or training are obliged to have regard to, the plan will be the key point of reference.

If colleges are already reviewing their provision in relation to local needs, why place a duty on them?

- The government wants all colleges to focus on, and take account of, the wider interest of learners (not all of whom will attend their institutions) and the needs of employers in an area.

What else is the government doing?

- Placing a duty on FE providers and other providers to have regard to local skills improvement plans.
- Introducing annual strategic conversations with all governing bodies. These conversations will provide colleges with the opportunity to showcase achievements and outstanding practice and to raise any concerns.
- Enabling the Secretary of State for Education to exercise his statutory intervention powers where there has been a failure to meet local needs.
- Consulting on proposals to reform adult skills funding and the wider accountability system for colleges, including a specific role for Ofsted to inspect how well a college is delivering local and national skills needs.



Skills and Post-16 Education Bill: Office for Students (OfS) quality assessment – update

This is an updated version of the policy summary note on the Office for Students (OfS) quality assessment, first [published in May 2021](#). It provides more information on how the OfS approaches student outcomes as part of an assessment of the quality of the provision delivered by English higher education providers.

The OfS is currently consulting on its regulatory approach to quality and standards, including its detailed approach to regulating student outcomes, but this will not affect the principles underlying the provisions contained in the Skills and Post-16 Education Bill.

This measure clarifies the provisions set out in the Higher Education and Research Act (HERA) 2017 that relate to the OfS's assessment of the quality of higher education provision. In particular, it clarifies that the OfS has the power to determine minimum expected levels of student outcomes. It is a clarifying measure only – it does not give the OfS any additional powers nor change how the OfS is able to take into account wider contextual factors to reach a rounded judgement when assessing an individual provider's performance.

What is the government's policy objective?

HERA places no restrictions or stipulations on how the OfS might make an assessment of quality. This measure brings clarity as it puts beyond doubt the OfS's ability, should it choose to do so, to determine minimum expected levels of student outcomes and to take these into account when it makes decisions on registration and compliance.

It clarifies that the OfS can describe its minimum expected levels of quality by reference to an absolute level of performance which can be applied across all English higher education providers. The outcomes that the OfS may consider include:

- Continuation rate: the proportion of students who continue from their first year of study to their second year.
- Completion rate: the proportion of students that receive a higher education qualification at the end of their study.
- Progression to further study or highly skilled employment: the proportion of students that progress to professional or managerial employment or postgraduate study following the end of their study.

However, this measure does not compel the OfS to assess quality by reference to a provider's absolute performance alone. A provider's absolute performance will be just

one factor that the OfS considers. The OfS will also continue to consider a provider's context and make rounded judgements. In doing so, the OfS would look at factors that may explain the reasons for a provider's performance, including information from the provider about the actions it has taken, or plans to take, to improve quality; and external factors that may be outside of a provider's control. The OfS must act proportionately and will consider a range of different contextual factors before reaching any final judgement – for example, when considering the actual outcomes a providers has delivered, the OfS will consider factors such as the relative proportions of students from disadvantaged backgrounds, the share of a provider's provision that is part-time, and the extent to which a provider is delivering modular provision.

As a basic principle, the government firmly believes that every student, regardless of their background, has a right to expect the same minimum level of quality that is likely to improve their prospects in life.

Why is legislation needed?

This technical amendment is desirable to put beyond doubt the fact that the OfS can determine minimum expectations to be used in the regulation of quality.

What is the effect of the legislation?

The measure proposes to amend the HERA 2017 to make clear that the OfS has the ability to determine absolute expected levels of student outcomes and to use these on a consistent basis when it makes quality assessments. The legislation will take effect two months after Royal Assent, which is expected to be in the early part of 2022.

How will this work in practice?

The OfS is already regulating based on absolute outcomes. In practice the amendment will not affect the OfS's current approach but will put beyond doubt its ability to continue to operate in this way.

The OfS consultation

The OfS is currently consulting on its overarching regulatory approach to quality and standards. This three-stage consultation will not affect the Bill. The purpose of the consultation is to provide clarity that the OfS can assess performance by means of any student outcomes that it considers appropriate. The OfS carried out a stage 1 consultation between November 2020 and January 2021, aiming to bring more clarity generally to its approach to focus on identifying those providers that represent the greatest risk to students (those that are performing below, or close to, minimum requirements for quality) and anticipates minimum regulatory intervention for high-quality providers. The OfS's analysis of the responses it received is here: [Consultation on regulating quality and standards in higher education: Analysis of responses - Office for Students](#).

The OfS stage 2 of the consultation focused on a set of revised quality and standards conditions covering academic experience, learning support resources, assessment and standards. This closed on 27 September 2021.

In November 2021 the OfS is expected to launch the final stage of the consultation which will focus on its approach to regulating student outcomes and contain proposals for minimum numerical baselines for a range of indicators and the way in which it proposes to take the context of a provider into account as it makes its regulatory judgements.

Key questions and answers

Does this mean the OfS will regulate quality solely on the basis of absolute outcomes?

No. While it is important that the OfS can determine registration conditions by reference to absolute outcomes, and use these when making quality assessments, this is just one factor the OfS will consider. The OfS will continue to consider appropriate context and make rounded judgements as required under its [Regulatory Framework](#). The framework makes clear that absolute performance against an indicator will form only part of the overall context for assessing the compliance with the relevant quality condition. The OfS has a public law obligation to consider wider factors where appropriate. It also has general duties which include having regard to the need to promote equality of opportunity and it is subject to the Public Sector Equality Duty.

Why absolute and not benchmarked minimum outcomes?

The government firmly believes that every student, regardless of their background, has a right to expect the same minimum level of quality that is likely to improve their prospects in life. The government does not accept that students from under-represented groups should be expected to accept lower quality, including weaker outcomes, than other students. Setting the same level of outcomes for all providers, irrespective of the make-up of their student populations, sends an important message. But the level of a provider's absolute performance will be determined by taking into account important factors such as relative proportions of students from disadvantaged backgrounds, the share of a provider's provision that is part-time, and the extent to which a provider is delivering modular provision.

Does this disincentivise the recruitment of disadvantaged students?

No. Many higher education providers have proved that it is possible to deliver good outcomes for disadvantaged students. The government believes that it is preferable to incentivise such providers instead of making allowances for those providers that recruit students without providing the support necessary for them to successfully complete their studies. It should also be noted that the OfS requires many providers to comply with condition A1 that requires compliance with an agreed access and participation plan, which will include targets for recruitment of disadvantaged students.

How are contextual factors taken into account by the OfS when considering providers' performance?

The OfS is required to consider wider factors which could include, amongst other things, the characteristics of a provider's students.

The OfS will take these factors into account when it considers the performance of an individual provider against the minimum numerical baselines. In reaching any final judgement, the OfS will balance contextual factors, proportionality and the need to protect students from low quality, including weak outcomes.

Example – How would the OfS approach assessing a provider with a very high proportion of students from an under-represented/disadvantaged group, hugely above the average for the sector, with low continuation rates below the baseline?

When it decides the level of a numerical baseline that would apply to all providers, the OfS would expect to consider the factors that, at sector-level, may influence the outcomes delivered for students. This means that variation in performance linked to, for example, disadvantaged students, or students with disabilities, would be taken into account in setting the level of the baselines that apply.

When an individual provider is subsequently assessed in relation to that baseline, its recruitment of disadvantaged students will already have been accounted for to some extent in the level of the baseline. The OfS would then also consider whether there are any further factors such as the characteristics of a provider's students, and a range of other contextual factors that would provide for a full and accurate assessment of a provider's performance. The OfS would make a rounded judgement looking at all of these issues together.

What action will the OfS take if a provider is not meeting minimum baselines?

Performance below a numerical baseline would not be, by itself, determinative of a negative regulatory outcome – because, as described above, the OfS would always consider a provider's context before reaching a judgement. Where the OfS reaches a rounded judgement that there is a breach of the relevant condition, it has a range of enforcement powers available to it but has an obligation to be proportionate in their use. The facts of each case would be considered and each case assessed on its merits. The OfS would usually expect to escalate its interventions in a way that gives a provider the opportunity to improve. For example, the OfS could impose a specific condition to require improvement within a fixed timescale and, if that is ineffective, could consider the imposition of a monetary penalty or suspension of aspects of registration which could involve switching off elements of funding for a provider or for a subject. The OfS is able to use any of these powers separately, or in combination, and would always consider proportionality in each case.

The OfS would set out for a provider the action it proposes to take and the detailed reasons it considers that action necessary. In the case of suspension of registration, the

OfS would advise the provider on the actions required to have the suspension lifted. In the most significant cases a provider could be deregistered. The HERA 2017 provides safeguards about the use of these enforcement powers, for example, a provider can appeal to the first-tier tribunal against a monetary penalty or deregistration decision.

Does this approach undermine government ambitions for more flexible and lifelong learning?

No. The government and the OfS are working closely together as part of the development of the Lifelong Loan Entitlement. The OfS's quality measures are designed to be flexible and are effectively used by the OfS across a diverse provider base and across different courses, e.g. part-time courses. The OfS is currently consulting on its approach to regulating quality and standards, which includes consideration of modular and flexible provision.

What else is the government doing?

- The government has a manifesto commitment to tackle low-quality provision and to drive up quality and standards across higher education.
- In January 2020, the government set out in strategic guidance to the Office for Students our support for their consultation on quality and standards and that we expect the OfS to progress rapidly to ensure an enhanced regulatory regime is in place, supported by effective and meaningful enforcement action, as soon as possible.
- This measure aims to make clear the power of the Office for Students to enforce minimum expectations of student outcomes for universities and other higher education providers, helping them to tackle low quality provision and drive up standards.



Skills and Post-16 Education Bill: Links between Universal Credit and education or training

This policy note sets out the interactions between Universal Credit (UC) and the education and training system in England, as well as updating on the Kickstart Scheme.

Links between Universal Credit and Education or Training

Eligibility for Universal Credit is dependent upon income and the claimant satisfying all of the basic conditions of entitlement:

- at least 18 years of age (age 16 exceptionally);
- under state pension age (or partner is);
- living in UK;
- capital not exceeding £16,000;
- not receiving education;
- has accepted a claimant commitment.

The condition of entitlement that the claimant must not be in education excludes most students. Financial support for students comes from the system of student loans and grants designed for their needs.

It is important that Universal Credit does not duplicate support available from other sources so a full-time student cannot usually get Universal Credit. Exceptions are generally made where students have additional needs that are not met through the student support system and the person in education falls into one of the following groups below;

- living with their partner and the partner is eligible for UC.
- responsible for a child, either as a single person or as a couple.
- disabled and entitled to Attendance Allowance (AA) Disability Living Allowance (DLA), Personal Independence Payment (PIP) or Armed Forces Independence Payment (AFIP) and already have limited capability for work.
- In 'non-advanced education' (for example studying for A levels or a BTEC National Diploma), are 21 or under and don't have parental support.

Support Available to UC Claimants when Undertaking Education or Training

Courses of education/ training can be treated as work preparation requirement. This is usually where the coach has identified a skills gap and suggested the course themselves or if the work coach is satisfied that it will improve the claimant's prospects of moving into work more quickly. Time spent on the course can be deducted from the hours of work

search. Where full-time education/training courses have been accepted as a Work Preparation they should generally be up to a maximum of 30 hours a week, to allow claimants time to fulfil other work-related requirements.

Part time education

A student in part time education may qualify for UC if they can meet their conditions of entitlement and work-related requirements. If they cannot meet work-related requirements they will qualify for UC if they are in one of the exceptions listed above.

Full time education

Periods of more intensive (full-time) education and training are expected to be of short duration (usually up to 8 weeks but may be twice this for responsible carers of younger children) except in specific circumstances to meet skills needs where claimants have very low skills, for example, maths, English, ESOL and ICT. Where training includes an element of work experience, such as some training schemes in Scotland and Wales, the duration of training may be extended to up to 16 weeks.

Until 31 October 2021, the Department for Work and Pensions (DWP) are trialling a temporary increase to the number of weeks claimants in the Intensive Work Search regime¹⁴ can participate in training. This is:

- up to 12 weeks for full-time work-related training throughout Great Britain.
- up to 16 weeks for Skills Bootcamps in England.

This allows claimants in the Intensive Work Search regime to access any full-time work related training up to level 3, including sector-specific training, provided as part of the Lifetime Skills Guarantee, such as Skills Bootcamps and the level 3 adult offer.

¹⁴ When a claimant makes an application for Universal Credit they will be allocated to one of the six conditionality regimes underpinned by four prescribed legal conditionality groups. The six regimes are segmented by division of key claimant circumstances that broadly define a range of capabilities and capacity to fulfil work related requirements and their position in relation to work. Namely:

- All Work related requirements for those who can work and need to engage in Intensive work search;
- a Light Touch regime for those with some earnings but could do more;
- Work Preparation regime for those who have other caring responsibilities but are nearing the labour market, or those who have very young children or health conditions that mean they cannot yet prepare for work are asked to attend Work focussed interviews only;
- and those who are not currently able or expected to look or prepare for work have - No work related requirements set but must continue to report any change in circumstances, this also applies to those who have individual or household earnings above a proscribed level of earnings.

In own time – compatible with work related requirements

Claimants may engage in learning/training outside of the above if it is in their “own time” i.e. that they can complete all their UC work related activities and it does not interfere with their general availability for work or specific ability to attend work search, job interviews, or take up work. They should not restrict their availability for work in favour of the course and should be prepared to give up or adjust the course to take up work.

Course is not compatible with work related requirements

Where the qualifying student in full-time education does not have student income considered, they must be placed in the Labour Market regime¹ based on their other circumstances (i.e. as if not in full time education) and they will be expected to meet their work-related requirements.

If the course of study or training is not compatible with their work-related requirements and the claimant is unwilling or unable to comply with them then they are to be treated as “receiving education” (this being the claimant’s primary concern) and so are not eligible for UC unless an exception applies.

Kickstart

Since the Kickstart Scheme’s launch in September 2020, over 69,000 young people have started Kickstart jobs. Over 188,000 jobs have been made available for young people to apply for through the Kickstart Scheme with over 281,000 jobs approved for funding by the Scheme.

From 18/08/2021 to 08/09/2021, over 4,800 jobs were made available each week, and over 2,800 started each week.

The government is deploying a range of measures to encourage people into Kickstart jobs, such as promoting vacancies on social media and by connecting employers to young people on the same day they sign up for Kickstart. Work coaches are now holding face to face meetings with young people, enabling us to job match more quickly.

More young people aged 16-24 and on Universal Credit will be able to benefit from the Kickstart Scheme, which is being extended to March 2022 and will be open to applications from employers and gateways until 17 December 2021. The Department for Work and Pensions will monitor and evaluate the Kickstart Scheme throughout and after its implementation, and will continue to evaluate the longer-term outcomes for Kickstart participants after they have completed their six-month placements. The Department for Work and Pensions will publish the findings of that evaluation once it is complete.

What financial support does the Department for Education offer for adult learners?

Higher Education

Eligible students attending designated full-time higher education courses, and designated Level 6 part-time higher education courses of a minimum of one academic year in length, qualify for partially means-tested loans for living costs. The loan for living costs is a contribution towards a student's living costs and the amount a student is entitled to depends on the student's household income. Students on household incomes of £25,000 or less qualify for the maximum loans for living costs.

The primary source of financial help for students is provided through the student support system. As such, students on full-time higher education courses cannot normally satisfy the entitlement conditions for UC. Exceptions are only made where students have additional needs that are not met through the student support system, for example if they are responsible for a child or are disabled with limited capacity for work and qualify for certain benefits (Personal Independence Payment, Disability Living Allowance, Attendance Allowance or Armed Forces Independence Payment). Full-time students who are eligible for benefits and are on low incomes qualify for higher rates of loan for living costs than students not eligible for benefits. Part of the loan for living costs for students eligible for benefits is paid as a maintenance loan and part as a special support loan.

The maintenance loan element of the loan for living costs, less £110 a month, is treated as student income for maintenance by DWP when they calculate an eligible student's UC. As a result, UC entitlement will be reduced during term-time. For students eligible for benefits, the DWP do not take into account any element of the loan for living costs that is awarded as a special support loan when calculating benefits for eligible students at the start of their higher education course.

Further Education

Adults in further education may seek support for course related costs directly from their college or training provider in England. This is the case regardless of if their course fee is grant funded or Advanced Learner Loan funded. The support is to contribute towards costs associated with undertaking a course such as, but not limited to, childcare, travel and additional course materials. Support is also available for those who require residential study. The support, in the form of learner support through the Adult Education Budget or the Advanced Learner Loans Bursary Fund is not for general living costs. Applicants of this support are advised to inform DWP of any offer made, so that any impact on UC is understood.



Skills and Post-16 Education Bill: supplementary policy note on approval and regulation of technical education qualifications

This is to be read in addition to the approval and regulation of technical education qualifications summary note [published in May 2021](#). It provides further information on certain issues raised during the Committee Stage of the Skills and Post-16 Education Bill in the House of Lords.

Purpose of the note

The purpose of this supplementary note is to provide further clarity on certain issues raised during the Committee Stage of the Skills and Post-16 Education Bill in the House of Lords.

Chapter 2 of the Skills and Post-16 Education Bill extends the powers of the Institute for Apprenticeships and Technical Education (the Institute). It also embeds the roles and responsibilities of Ofqual and the Institute in relation to technical education qualifications. An overview of the measures is provided in the policy note published in May 2021.¹⁵

Key questions and answers

What is happening to BTECs?

Employers are facing a skills shortage that we must act to address. It is vital in a fast moving and high-tech economy that technical education closes the gap between what people study and the needs of employers. This is why the government is introducing over 20 T Levels – developed with 250 leading employers and based on the same standards as apprenticeships – and reviewing the wider post-16 qualifications system at level 3 and below.

The department's plans for reform of level 3 qualifications were published on 14 July 2021.¹⁶ The government will continue to fund high-quality qualifications that can be taken alongside or as alternatives to T Levels and A levels where there is a clear need for skills and knowledge that T Levels and A levels cannot provide. This may include some Pearson BTECs, provided they meet the new quality criteria for funding approval.

¹⁵ [Skills and Post-16 Education Bill: impact assessment and JCHR memorandum - GOV.UK \(www.gov.uk\)](#)

¹⁶ [Reforms to post-16 qualifications at level 3 in England - GOV.UK \(www.gov.uk\)](#)

How does the Bill relate to decisions about the defunding of individual qualifications?

The defunding of qualifications that overlap with A level and T Levels for 16 to 19 year olds will not be affected by this Bill as funding powers rest with the Secretary of State for Education.

The government wants to fund high-quality technical education qualifications that enable learners to progress into skilled employment. The legislation will support the implementation of our reforms by enabling the Institute to approve a wider range of technical education qualifications than is the case under its current powers. Institute approval will signal that a qualification meets the new quality bar and holds genuine currency with employers, with a focus on alignment with employer-led occupational standards. While approval decisions made by the Institute and funding decisions made by the Education and Skills Funding Agency (ESFA) are separate, technical education qualifications will need to be approved by the Institute before they are considered for funding approval by the ESFA.

Why are you defunding qualifications when we don't yet know if T Levels will be a success?

T Levels have been developed with over 250 employers and designed with reference to the best technical education systems in the world. They provide a critical step-change in the quality of technical education and, being based on the same employer-led occupational standards as apprenticeships, the government is confident that they will provide excellent preparation for entry into skilled employment or further technical training.

The government is introducing T Levels gradually and providing extensive support to providers to ensure high quality from the start. This includes support in preparing the teaching workforce, building capacity for industry placement delivery, and capital funding to ensure providers have the industry-standard facilities and equipment they need. The government is also working with employers and sector bodies to make sure that T Levels will be recognised for progression into employment.

The reforms are being phased to ensure that funding approval is not removed from qualifications that overlap with T Levels before all prospective providers are able to deliver them.

The government is committed to ensuring that T Levels are accessible to all young people. Flexibilities to support learners with special educational needs and disabilities have been introduced across all elements of the T Level programme. In addition, the government has introduced the T Level Transition Programme to support learners who are not ready to start a T Level but have the potential to progress onto one following a tailored preparation programme.

Will learners be able to undertake a mixed programme of academic and technical options at level 3?

Following an excellent grounding in the core academic subjects and a broad and balanced curriculum to age 16, it is the government's ambition that every young person can be confident that the route they take at age 16 will lead to good outcomes. Too many young people leave post-16 education without the skills they need to successfully complete higher education courses, or the skills required by employers. The government's reforms will make sure that every qualification has a clear and distinct purpose so that learners are well-equipped to undertake high-quality higher education or progress into skilled employment.

Alongside A levels, the government will fund a small range of other high-quality academic qualifications that will help students to progress to high-quality higher education. These include qualifications of a similar size to one A level and designed to complement A level study, often with a practical or occupational component (for example, in STEM subjects such as engineering). The government will also fund qualifications which are more similar in size to two or three A levels and which are designed to enable access to specialist higher education (for example, in creative and performing arts). These qualifications will fulfil a role similar to current Applied General qualifications.

The government will continue to publish detailed information, advice and guidance in relation to 16 to 19 study programmes as the reforms to the qualifications system we are proposing take effect. This will help students and providers understand what the reforms mean for them. It will ensure that all 16 to 19 year olds in classroom-based provision undertake coherent, high-quality study programmes that offer the best preparation for entry to higher education and higher technical education institutions.

The government recognises that some students do not always know what they want to do at 16 and that is why we need outstanding information, advice and guidance to support them in their decision making. The government will also explore what more we can do to enable students to move into different provision, should their ambitions change.

Wouldn't it be simpler for Ofqual to have sole responsibility for technical education qualifications?

The Institute and Ofqual bring distinct and complementary sets of expertise to the approval and regulation of technical education qualifications. Both organisations are essential, and both Ofqual and the Institute are fully committed to working together to deliver top quality technical education qualifications.¹⁷ The Institute and Ofqual already collaborate successfully on T Levels and the Bill embeds the long-term stability of their relationship and removes the risk of overlapping functions.

¹⁷ [Ofqual and the Institute are united across their distinctive roles \(feweeek.co.uk\)](https://www.feweeek.co.uk)
[Introducing Long Term Assurance \(Institute for Apprenticeships\)](#)

It is right that the new approvals process for technical education qualifications, once introduced, should sit with the Institute. The Institute has the experience and expertise in place to ensure the content of technical education qualifications meets the skills needs of businesses and industry. It works extensively with a range of employers to make certain that the products it approves are directly grounded in the needs of the workplace. This includes working with employers in the development of occupational standards, which set out the knowledge, skills and behaviours that are essential to competence in an occupation. The Institute approves T Level qualifications and higher technical qualifications in alignment with occupational standards. Its role is about ensuring the content of qualifications is – and continues to be – relevant to employers. Our reforms will extend this to a broader range of technical education qualifications, providing coherence across the technical offer through the Institute’s oversight.

Likewise, it is right that Ofqual, as the statutory regulator of qualifications and awarding organisations in England, continues to be involved in all stages of the lifecycle of technical education qualifications. This includes recognition of awarding organisations, advising the Institute on the standards of proposed technical education qualifications as part of the approvals process and regulating technical education qualifications in live delivery to ensure that standards are maintained.

The Institute ‘owns’ T Levels but will also have powers to manage the rest of the market – does this create a conflict of interest?

Extending the Institute’s role does not create a conflict of interest as the Institute is not a market participant. The Institute does not develop, deliver or award qualifications. It reviews and approves qualifications to ensure relevance to employers. To implement this, the Institute either procures awarding organisations to develop qualifications (i.e. T Levels) or it takes a market-led approach where awarding organisations and higher education institutions are able to submit qualifications for approval (for example, higher technical qualifications and, in future, other technical qualifications at level 3). In both contexts, the qualifications are developed and delivered by awarding organisations or higher education institutions.

The Institute does not benefit commercially from the qualifications it approves. While the Institute owns the copyright in relevant T Level qualification course documents, the contracted awarding organisations accrue the commercial benefit for the term of the contract. The rationale for the transfer of copyright to the Institute is an important aspect of the exclusive licensing policy for T Levels. It mitigates any risk to learners, should the contracted awarding organisation fail, and would allow the Institute to transfer delivery of the qualification to another awarding organisation. It also means that a T Level contract can be awarded to a different awarding organisation when the contract is re-tendered.

Institute approval confirms that a qualification has met the relevant statutory tests and the Institute’s criteria for approval, which signals that the outcomes obtained by a learner who has attained the qualification hold currency in the labour market. In this way, the

Institute manages the market to ensure all approved qualifications are high-quality and genuinely meet the skills needs of businesses and industry. It does not compete within the market – its activity aims to support a market that is fit for purpose. The Institute having a broader role in the approval of technical education qualifications will therefore not create a conflict of interest.

Will this give ministers more direct control over the wider technical offer?

It means that employers will have more direct involvement across the wider technical offer. Extending the Institute's powers will provide assurance that the technical offer is grounded in the needs of the workplace, with the vast majority of technical education qualifications based on employer-led occupational standards. Our reforms aim to ensure that the content of all approved technical education qualifications is high-quality and meets the needs of business and industry, as defined by employers. The Institute is best placed to take the lead on the approval of technical education qualifications because it embeds the active involvement of employers across all areas of its business. This includes its route panels of over 130 employers and industry experts, and the hundreds of employers involved in the development of occupational standards. The Institute places the independent employer voice at the heart of its work.

The Institute is a non-departmental public body. It is directly accountable to the Secretary of State for Education, and the Secretary of State for Education is accountable to Parliament for the Institute's activity. Accountability to the Secretary of State for Education ensures that the Institute's activity supports the government's skills priorities. It is now more important than ever that the Institute harnesses insight from employers to support a skills-led recovery in light of the impacts of the pandemic, and future skills needs in carbon reduction and technological advances. These are some of the priorities set out in the strategic guidance issued to the Institute for 2021-2022.

The Secretary of State for Education is required to lay the Institute's annual report before Parliament. This means there is sufficient opportunity for parliamentary scrutiny. As a statutory public body, the Institute must comply with public law principles, including public procurement law. Its decisions are subject to administrative law and can be judicially reviewed.

What impact will approval fees have on the awarding organisation market?

Awarding organisations have a critical role to play in the reforms, bringing valuable experience and expertise to the development and delivery of qualifications. Any future approach to approval fees would be proportionate and take account of impacts on the market to ensure that the range of approved qualifications meets the needs of employers and learners, including qualifications in highly specialist areas.

Approval fees would be charged on a cost-recovery basis. The introduction of fees will not be considered until the initial reforms to technical education qualifications have been implemented. An initial assessment of the impact of charging fees for the approval of

technical education qualifications has been published as part of the wider Skills and Post-16 Education Bill impact assessment.¹⁸

The fee-charging power would be subject to regulations published by the Secretary of State for Education and there would be opportunity for Parliamentary scrutiny of the regulations. A further assessment of the impact on the market would be undertaken when the regulations are being made and would be based on evidence from the initial reforms.

Will the Institute own the copyright for the qualifications it approves?

Transfer of copyright to the Institute only happens in relation to T Levels. Awarding bodies retain the copyright for the higher technical qualifications they develop, and this will also be the case for other qualifications at level 3 that are approved by the Institute in future. The new approval scheme, introduced by the Bill, does not facilitate transfer of copyright to the Institute.

Can more than one qualification be approved in relation to an occupation?

Yes. The new approval scheme, introduced by the Bill, does not place a restriction on the number of qualifications approved in relation to an occupation. To be considered for approval, qualifications will need to meet the approval criteria for the relevant category of qualification, including the relevant statutory test and employer demand test.

But it is important to strike the right balance between quantity and clarity of choice. This is why the best technical education systems in the world have a clear, streamlined offer. As the Sainsbury review found, the proliferation of qualifications with few differentiating features creates a complex landscape that is confusing for learners and employers.¹⁹ The government's reforms aim to deliver a technical offer that has clarity as well as quality. The defunding of qualifications that overlap with T Levels and A levels for 16-19 year olds and the quality bar set by the Institute's approvals process will support a streamlined landscape. In addition, the Bill makes provision for the Institute to introduce a moratorium on the approval of qualifications of a particular kind for a period of time. The moratorium power provides an additional lever to manage the risk of proliferation, should it be needed in targeted areas.

¹⁸ [Skills and Post-16 Education Bill: impact assessment and JCHR memorandum - GOV.UK \(www.gov.uk\)](#)

¹⁹ [Post-16 skills plan and independent report on technical education - GOV.UK \(www.gov.uk\)](#)

What else is the government doing?

- The government response to the second-stage consultation of the review of post-16 qualifications at level 3 was published in July 2021.²⁰ The response sets out the qualifications that will be considered for public funding alongside A levels and T Levels.
- Alongside our reforms to level 3 qualifications, the government wants to improve study at level 2 and below, which has been neglected for too long. Getting level 2 and below right is key to making sure that students have clear lines of sight to level 3 qualifications, apprenticeships, traineeships, and for some, directly into employment.
- The government is considering feedback to the call for evidence which ran from November 2020 to February 2021 and will consult on proposals for reform later in 2021.

²⁰ [Review of post-16 qualifications at level 3: second stage - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/review-of-post-16-qualifications-at-level-3-second-stage)



Skills and Post-16 Education Bill: Apprenticeship policy

Success of the programme so far

Apprenticeships are available to employees at all stages of their career (starting, upskilling and retraining), from aged 16, at levels 2-7 (GCSE to Masters) and in a breadth of sectors. Combining work and training, they bring benefits to both employers and individuals.

Following fundamental reforms, we have transformed apprenticeships into a prestigious technical education option that better meets employer needs, is higher quality and has sustainable funding through the Apprenticeship Levy.

We have made greater investment:

- The introduction of the levy has enabled the government to make £2.5bn available in this financial year to invest in apprenticeships for all employers, large and small – double what was available in 2010-11.
- As part of plan for jobs we introduced apprenticeship incentive payments for new apprenticeship hires. Between September 2020 - August 2021 employers have submitted incentive claims for 85,430 new apprentice hires.

We have introduced stronger quality requirements:

- Apprenticeships are now a minimum of 12 months.
- They have at least 20% of an apprentice's time spent off-the-job training.
- New independent end-point assessment proves occupational competence.

We put employers in the driving seat with the introduction of standards:

- There are now over 630 high-quality, industry designed apprenticeship standards available.²¹
- Since the introduction of standards in September 2014, there have been 931,300

²¹ [Apprenticeship standards / Institute for Apprenticeships and Technical Education](#)

starts.²²

- Since August 2020 there have been 298,000 new apprenticeship starts.

Apprenticeships are more successful at helping people secure employment than other training:

- 92% of apprentice achievers go into work or further training with 91% in sustained employment.²³

Apprenticeships within post-16 reform

Apprenticeships form a core part of our reform of post-16 education. They provide employers and individuals with an offer that combines work with substantial training to support entry and progression.

As we build back better and greener, apprenticeships play a vital role in helping employers of all sizes access the skills they need to thrive and making sure people of all ages and backgrounds have the chance to get ahead.

Employers are continuing to design apprenticeship standards, ensuring we can meet the future skills needs of the economy. The Institute for Apprenticeships and Technical Education's Green Apprenticeships Advisory Panel will focus efforts to ensure that the right skills are in place for the future workforce to deliver the green technology shift the UK needs.

We now have strong foundations on which to build even higher quality apprenticeships that support more employers and apprentices to succeed.

The plans set out in the Skills for Jobs white paper²⁴ build on the principles we've established and position apprenticeships as a core part of the wider technical education offer, as well as improving quality even further.

We are setting out accelerated progression routes that create pathways into apprenticeships from other technical routes such as T Levels, some bootcamps and occupational traineeships, supporting, where appropriate, those with prior learning to accelerate their apprenticeship to complete more quickly.

To support people moving into apprenticeships we are undertaking the largest ever expansion of the traineeships programme. Additional funding will support up to 43,000

²² [Apprenticeships and traineeships, Academic Year 2020/21 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics)

²³ [Further education: outcome-based success measures, Academic Year 2017/18 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics)

²⁴ [Skills for jobs: lifelong learning for opportunity and growth - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

starts over the 2021/22 academic year with employers benefitting from £1,000 payments for each traineeships work placement they offer until 31 July 2022.

We have started to deliver occupational traineeships. Developed alongside trade bodies and employers, these occupational routes will map to occupational standards to allow progression where appropriate through accelerated apprenticeships. The first pilots in the Construction, Adult Social Care, Transport & Logistics and Health & Beauty are already underway.

Improving apprenticeships

We are making improvements for employers in direct response to their feedback, giving them greater flexibility to choose the apprenticeship training model that works for them.

We are:

- Improving transfers to allow large employers to pledge unspent levy funds with SMEs who want to offer an apprenticeship, supporting starts in their supply chains and helping to address local and regional skills needs.
- Helping employers choose more flexible training models, like accelerated and front-loaded apprenticeships, which speed up apprenticeships training to ensure apprentices get job-ready more quickly.
- Supporting sectors of the economy that have flexible working patterns to make greater use of apprenticeships. The new £7 million flexi-job apprenticeship scheme will increase the portability of apprenticeships between jobs with different employers.

In addition to the quality requirements already in place, we are:

- Supporting employers to give a high-quality experience by providing quality roadmaps, benchmarking and self-assessment tools.
- Investing in professional development for providers through a new national online Apprenticeship Workforce Development programme.
- Undertaking a full refresh of the Register of Apprenticeship Training Providers with more stringent criteria for all providers.²⁵
 - Only providers who have the necessary capacity and expertise, are ready to deliver and are financially stable can access apprenticeship funding.
 - We will take action to remove from the Register those who have not actively delivered training in the last 6 months and/or those who have received an inadequate Ofsted grade for apprenticeships (or for overall effectiveness

²⁵ [Register of apprenticeship training providers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/register-of-apprenticeship-training-providers)

under its FE and skills remit where there is no separate apprenticeships grade).



Support for those with special educational needs and disabilities in the further education system

Everyone should be able to access the skills and training they need to be productive. We know that a significant proportion of participants in further education have special educational needs and disabilities (SEND) and that colleges have an important role to play in supporting these students to prepare for adulthood, including employment.

How will the reforms set out in the Skills for Jobs white paper help those with SEND?

In further education, student support promotes the young person's independence and enables them to make good progress towards adult life, including employment. The reforms set out in the Skills for Jobs white paper will support people with SEND: for instance, we anticipate that the elements of our reforms relating to lifelong learning and a more modular approach will work better for some learners. We will consult on the Lifelong Loan Entitlement later this year.

We know that the quality of teaching is the single most important education-based factor determining outcomes for children and young people. This is why we have made a clear commitment through the white paper to strengthening the teaching profession in the FE sector, with a range of support to recruit, retain and develop more high-quality individuals as FE teachers – including specific incentives targeted at those who will be teaching learners with SEND.

What are the existing expectations of FE providers to support learners with SEND, including learners with low or moderate needs?

In 2014, the Children and Families Act introduced significant reforms to the SEND system. It brought the FE sector into a single coherent system for SEND which spans early years, schools and FE, and covers provision for those with low or moderate needs, as well as those with more complex needs. The Act placed new duties on FE colleges and some other post-16 providers, who must have regard to the [SEND Code of Practice](#).

Colleges have the following legal duties in relation to SEND:

- A duty to co-operate with the local authority on arrangements for children and young people with SEND;
- A duty to admit a young person when the institution is named in an education, health or care (EHC) plan;
- A duty to have regard to the SEND Code of Practice; and

- A duty to use best endeavours to secure the special educational provision called for by the student's special educational needs.

In addition, colleges also have duties and obligations under the Equality Act 2010 to ensure that they are acting inclusively and not discriminating against disabled students. As with other FE providers, they are obliged to make reasonable adjustments to prevent disabled students being placed at a substantial disadvantage.

What is the government doing to build on and improve the SEND system?

The government is committed to building on current successes and improving the SEND system so that it delivers for children and young people, their families and the professionals working with them. The reforms to the SEND system introduced in 2014 were widely recognised as, broadly, the right reforms. The government know that the system is not delivering well enough for many.

The government established the SEND Review because it is determined:

- to improve the outcomes for children and young people with SEND and focus on preparing them for later life and adulthood;
- to improve people's experiences of the SEND system, with services working in co-production with children, young people and parents; and
- to ensure we achieve better value for money, targeting and distributing resources in a way that best ensures children's needs are met quickly and effectively.

Throughout the Review, the government has worked, and continues to work, closely with a range of partners – children and young people with SEND, the Children's Commissioner, parents and carers, a wide range of system leaders, SEND sector organisations, representatives from educational establishments and others.

Based on what the government has been told through that extensive engagement, it wants to make sure the Review focuses on three things in particular:

- How mainstream provision, in early years, schools and post-16 settings, could provide more effective support for a wide range of SEND needs. This means a renewed focus on identifying and addressing needs early, quality teaching and understanding what works, and offering the right support faster than many currently experience.
- Strengthening roles and accountabilities for those who provide services and support for children and young people with SEND so that parents need to be clear of the pathways for redress. All so that services work better together and put children and young people at the centre of service design and delivery.
- How the government can ensure proposals can be implemented effectively so that they lead to real and lasting change, as well as taking account of the impact of the Covid pandemic.

The government will be finalising proposals over the coming months, and intends to publish proposals for public consultation that will give children and young people with SEND greater opportunities to succeed by fundamentally improving the way we deliver support. The government wants to get this right and will publish proposals as soon as possible.

How does the Skills and Post-16 Education Bill help learners with SEND?

The measure relating to the duty to review provision in relation to local needs in the Skills and Post-16 Education Bill creates a new duty on FE sector providers that builds on the existing duties on local authorities to keep educational, training and social care provision for children and young people with SEND under review (section 27 of the Children and Families Act 2014).

The new duty requires the governing body of each FE college, sixth-form college and designated institution to review how well the education or training provided by that institution meets local needs. The draft statutory guidance published by the Department for Education makes clear that when governing bodies are reviewing how well their provision meets local needs, they should include consideration of the needs of learners with SEND, including those with education, health and care (EHC) plans, and ensure that reviews are carried out in a way that is compliant with existing statutory obligations including in relation to SEND.

The duty to review how well the education or training provided meets local needs complements our work on local skills improvement plans. Local skills improvement plans focus on better aligning technical education and training with priority skills needs, identified by employers. They should focus on the specific skills needs of local labour markets. For many colleges and other providers, these plans will be a key point of reference when reviewing how their provision meets local skills needs, including needs of learners with SEND.

The Bill also proposes new powers for the Secretary of State for Education to improve the quality of teacher training for the FE sector. Driving up the quality of teacher training and development in the sector is vital to ensuring that learners across the whole spectrum of needs can experience the best possible teaching and achieve their full potential.

How are FE teachers being trained to support students with SEND?

The Department for Education does not regulate FE teachers or set a minimum requirement for their training, but does have a strong interest in making sure that FE teacher training prepares people to support all learners as best as they possibly can. Evidence is clear that the quality of teachers and teaching is the single most important factor in education determining outcomes for learners.

Although there is some excellent teacher training currently available, the government knows that the system as a whole could be stronger. The initial teacher training (ITT)

measure in the Skills and Post-16 Education Bill underpins the commitment in the Skills for Jobs white paper to improve the quality of teacher training in FE. That is why the government is committed to making the new employer-developed occupational standard the basis of all FE teacher training.

This standard, developed by sector representatives who have experience of employing teachers, includes a specific duty that focuses on the importance of inclusion, which will support the early identification of learners' needs and enable teachers to respond effectively to them.

To improve the capability and confidence of the FE workforce to identify and meet the needs of children and young people with SEND, in 2021-22, the Department for Education is providing a grant of almost £1.2 million to the Education and Training Foundation (ETF) for supporting SEND. The Department for Education also contracts with the Autism Education Trust to develop training and resources to support teachers in every stage to meet the needs of autistic learners.

Activities supported through this funding will equip the FE workforce to effectively support young people with SEND to prepare for adulthood, with an ongoing focus on preparation for employment.

The government also offers bursaries and grants, worth up to £18,200 each in 2021/22 (maintaining a similar offer in the previous year), to support high-quality initial training for teachers who want to work with learners with SEND. Demand for these incentives has been high, helping to develop a strong supply pipeline of SEND specialists into the FE teaching profession.

What is the government doing on careers guidance for learners with SEND?

The Department for Education is working in collaboration with various organisations to ensure careers advice for young people with SEND is of the highest quality. The Careers & Enterprise Company (CEC) works with special schools across England, as well as with Careers Leaders, who design and deliver careers education programmes tailored to the needs of young people with SEND regardless of their educational setting (i.e. mainstream schools and colleges, special schools or alternative provision).

The National Careers Service is designed to enable people to self-serve as much as possible, however some people need more intensive support. For self-service, the intuitive digital tools and smart use of data enable them to get a personalised service. Professional careers advisers will help provide people with additional advice and guidance, specific to their personal circumstances.

The Gatsby Benchmarks of Good Career Guidance define world-class careers education. The Department for Education expects all secondary schools and colleges to use the Gatsby Benchmarks to develop and improve their careers programmes. The benchmarks can be used for all young people and specialist implementation support is available

through the CEC (all housed in an online [Resource Directory](#)) to assist delivery of the benchmarks for young people with SEND.

Examples include:

- The Inclusion Community of Practice (COP). Operating out of 32 Careers Hubs and reaching 628 educational establishments, this national community of best practice sharing was established in March 2020 to enable young people with SEND to be better supported in their careers education. This will be rolled out to all Careers Hubs in the next academic year.
- [My Skills My Future programme](#). Launched in June 2021 as a direct result of the work of the Inclusion COP, this initiative is a collaboration between Careers Hubs, employers, providers and voluntary organisations to support Careers Leaders to prepare young people with SEND for their next best steps.
- The CEC is also undertaking targeted work with employers to stimulate greater SEND [employer engagement](#) and will continue to make the case for employers to provide experiences of the workplace and supported internships for these young people.
- Training: CEC have established SEND specific training for CEC local [Enterprise Coordinators](#) and [Enterprise Advisers](#) to enable them to better understand how they could support their schools.
- A [SEND Outreach Campaign](#). This campaign saw a pack of SEND specific resources, including the [SEND Gatsby Toolkit](#) (developed in collaboration with Talentino, CDI and Gatsby Foundation), sent to every special school in England outlining its services.

The Education and Training Foundation (ETF) also provides professional development for careers advisers working with SEND young people.

How are FE providers funded to meet the additional needs of SEND students?

Colleges receive additional funding (over and above their core funding) for students with additional needs, including those with special educational needs, through Disadvantage Funding. Like mainstream schools, colleges are expected to provide appropriate, high-quality SEND support using all available resources.

The Education and Skills Funding Agency (ESFA) also allocates high needs funding to colleges and local authorities for students whose additional support costs more than £6,000. Colleges and local authorities should use their funding allocations to work together with young people with SEND to agree study programmes and support packages which are personalised to the student's individual aims, enabling the achievement of positive outcomes.

For adult learners, the Adult Education Budget (AEB) also funds colleges and providers to help adult learners to overcome barriers which prevent them from taking part in learning. This includes Learning Support funding which helps Colleges and training providers to meet the additional needs of learners with learning difficulties and/or

disabilities and meet the costs of reasonable adjustments as set out in the Equality Act 2010. Learning Support can cover a range of needs including an assessment for dyslexia, funding to pay for specialist equipment or helpers and arranging signers or note takers.

How are learners with SEND served by accessible technology?

FE providers have legal requirements under the Equality Act 2010 to ensure that they are acting inclusively, including making reasonable adjustments to their teaching to support students with disabilities.

FE providers must use their best endeavours to meet the needs of those with special educational needs, one element of which would be thinking about how to deliver learning.

However, decisions about what technologies to use and how to apply them are for individual providers, as independent institutions, to make.

What support is available for those with SEND to transition out of the education system and into employment?

Young people, no matter what their SEND, need the right support to succeed in their education and transition to adult life. The government wants colleges to be flexible in the study programmes they provide for young people with SEND and to include training for adult life where it is needed.

The SEND Code of Practice explicitly states that all children and young people with SEND should be prepared for adulthood. For those with an EHC plan, there must be a focus from year 9 onwards on preparing the young person for adulthood as part of their plan's annual review. This continues while the young person is attending college until they are 25 years old or earlier if their EHC plan ceases.

With the right preparation and support, the overwhelming majority of young people with SEND are capable of sustainable paid employment. All professionals working with them should share that presumption, and should provide the career advice and support that helps young people to develop the skills and experience, and achieve the qualifications, to succeed in their careers.

Supported internships and traineeships are work-based study programmes specifically designed to prepare young people for employment. Supported interns and trainees can apply to Access to Work for financial support for specialised equipment and job coaching.

The Department for Education is also supporting the Department for Work and Pensions to develop an adjustments passport that will help to smooth the transition into employment and support people changing jobs. Pilots will be taking place this year focussing on young people leaving education and service leavers leaving the armed forces. The adjustments passport will capture the in-work support needs of the individual and empower them to have confident discussions about adjustments with employers.



Skills and Post-16 Education Bill: mental health in higher education

What are the government's aims in supporting mental health in higher education (HE)?

Higher Education Providers (HEPs) are autonomous bodies, independent from government, and have responsibilities to support their students. HEPs are experts in their student population and are best placed to identify the needs of their particular student body, and provide tailored welfare and support services.

The Department for Health and Social Care (DHSC) has overall policy responsibility for young people's mental health. The Department for Education continues to work closely with DHSC to take steps to develop mental health and wellbeing support.

The government has addressed the unprecedented challenges of COVID-19 in relation to student mental health in a number of ways set out below. This includes additional investment in mental health support for students, driving more integrated partnerships between the HE sector and healthcare colleagues to ensure students are well supported, and working with the Office for Students (OfS) to provide Student Space, a dedicated student mental health platform in direct response to the challenges posed by the pandemic.

The government expects all HE providers to engage actively with suicide prevention and share effective practice across the sector. It is key that HE providers investigate the circumstances around student deaths and continuously improve their practice. The Office for Students is taking a leading role in disseminating effective practice to the sector.

What is the government currently doing to support mental health and prevent suicide in HE?

Government funding for mental health services

The government is committed, through the NHS Long Term Plan, to investing at least £2.3 billion of extra funding a year into mental health services by 2023-24. This will see an additional 345,000 children and young people and adults able to access support through NHS-funded services. As part of the government's Mental Health Recovery Action Plan, this year the NHS will receive around an additional £500 million, to address waiting times for mental health services, give more people the mental health support they need, and invest in the NHS workforce.

£13 million has been allocated to ensure young adults aged 18 to 25, including university students, are supported with tailored mental health services, helping bridge the gap between children's and adult services. Students are a key part of this population and face some unique challenges in the transition from school/college to university, including access to support from NHS mental health services where they move area or GP practice. A DHSC ministerial-chaired Mental Health Recovery Board has been set up to provide oversight and assurance of the delivery of the additional mental health recovery funding.

We are continuing to work with our counterparts in DHSC, as well as with stakeholders in the HE and health sectors sector through the Mental Health and Wellbeing Taskforce Subgroup, and the Mental Health in Education Action Group to ensure that supporting students through these transitions remains a priority.

HE Frameworks

The HE sector is proactive in leading work to establish and promote standards of practice, with oversight from government. Standards of practice are driven by Universities UK (UUK); the Mental Health in HE Advisory Group (MHHE); and Step Change: Mentally Healthy Universities which promotes a whole institution approach to health and wellbeing.

The university [Mental Health Charter](#), developed in collaboration with students, staff and partner organisations, is intended to drive up standards of practice across the HE sector, including leadership, early intervention and data collection. Open for applications in April 2021, the [University Mental Health Charter Programme](#) means members can work towards the Charter Award, which recognises HE providers that promote good mental health and demonstrate excellent practice. So far 40 HE providers have signed up to the first cohort of the University Mental Health Charter Programme. The Parliamentary Under Secretary of State for Higher and Further Education has made clear the ambition for all HEP's to sign up to the Charter programme.

OfS role

Student mental health continues to be a strategic priority for the OfS. Through the access and participation regime, HE providers are challenged to address gaps in outcomes between disabled students, including students with mental health conditions, and their peers, particularly where there is evidence of gaps in access, progression and attainment. This is intended to enable all students to fully participate and succeed at university. The OfS can also receive notifications from students, their families or third parties where they consider there have been systemic failures to provide adequate student support, and will consider regulatory action where this risks breaching conditions of registration.

The OfS have funded [Student Space](#) with up to £3 million, which is a mental health and wellbeing platform designed to bridge any gaps in support for students arising from the pandemic. Student Space is designed to work alongside existing services, providing dedicated one-to-one phone, text and web chat facilities as well as a collaborative online

platform providing vital mental health and wellbeing resources. The Office for Students is continuing to fund Student Space into the new academic year, which will mean that students can continue to receive this expert advice and support.

The OfS have invested £6m in ten large-scale projects through a [Challenge Competition](#) to develop innovative approaches to address student mental health issues. The projects involve over 60 different universities, colleges and other organisations including NHS services, the police and charities, together contributing matched funding taking the investment up to £14.5m. An additional £3m of funding will be invested in the 2021/22 academic year to develop digital and innovative proposals to drive improvements in mental health support and early intervention for HE students. The [18 successful projects](#) were announced in August 2021 to develop partnership working between the health and higher education sectors.

Through strategic guidance to the OfS in February 2021, the Department for Education asked that it continue to support initiatives in relation to mental health in the short and long term, and asked the OfS to allocate an additional £15 million towards student mental health in 2021-2022 to help address the challenges to student mental health posed by the transition to university, given the increasing demand for mental health services. This should target those students in greatest need of such services, including vulnerable groups and hard to reach students.

Suicide Prevention

The Suicide Safer Universities framework, authored by UUK and Papyrus, sets out the key elements of a suicide prevention strategy for university leaders to adopt. In June 2021 Minister Donelan and incoming President of Universities UK, Professor Steve West, jointly chaired a new roundtable on suicide prevention. The roundtable highlighted the importance of adopting and embedding the Suicide Safer Universities framework and promoted good practice in the sector, helping to make sure students are well supported during their time at university.

Minister Donelan has written to university leaders to set out expectations in this important area, and the [OfS have recently published a range of resources](#) to support the HE sector in embedding effective practice. In line with the Suicide Safer Universities framework, all universities should adopt a structured approach to learning from deaths to ensure that incidents are identified correctly, investigated thoroughly, and learned from to reduce the reoccurrence of incidents. Public Health England are currently scoping a preventable deaths framework for the higher education sector. The Department for Education are working with ONS to improve the frequency of analysis of student suicide data and risk factors, which is central to informing preventative action.

What is the government planning to do to improve mental health and suicide prevention in HE?

The government asked UUK to investigate how HE providers could be better at sharing information with family and friends when students are at risk of suicide or serious self-

harm. UUK's consensus statement and guidance, which will be published in the autumn term, will set out when and how information should be shared.

Through the Strategic Priorities guidance, the then Secretary of State asked the OfS to work with the HE and health sectors to contribute to guidance and strategic frameworks to share good practice, such as practical toolkits and resources for the HE sector. The Department for Education are working with the OfS to oversee this work and sector engagement and intend to measure the improvement of institutional policies and practices around mental health through following up the recently published [sector insights study](#).

The Parliamentary Under Secretary of State for Skills will write to university leaders this term to set out expectations that they continue to prioritise supporting their students, including adopting and embedding the whole university approach from Step Change, and sign up to the University Mental Health Charter programme and Award Scheme to continuously improve their practice. This will include a clear ambition for all providers to have signed up to the programme in the next 5 years.



Department
for Education

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