23 February 2022

My Lords,

**Skills and Post-16 Education Bill: consideration of Commons amendments**

I am writing to you ahead of the debate on the consideration of the Commons amendments to the Skills and Post-16 Education Bill.

I am extremely proud of this Bill. It represents a landmark moment for skills and further education. Its measures will change people’s lives across the country, allowing them to get the high-quality education and training they need to get good jobs that our economy needs and to help increase productivity. There have been interesting and thoughtful debates in both Houses, and I am delighted that there is clear agreement across all parties of the importance of boosting the skills sector.

Changes made in the Lords

There have been a number of issues raised throughout this Bill’s debate, and the Government welcomes the scrutiny that has been applied to this area of policy. That is why my colleague Baroness Barran and I have sought to engage directly with your Lordships, and we have listened carefully to the points made. This led us to introduce a number of amendments during the House of Lords passage including:

* + **Local Skills Improvement Plans (LSIPs) and net zero**: Putting consideration of net zero and other environmental goals on the face of the Bill, ensuring these are considered in the process of developing an LSIP. This amendment helps to ensure that skills are at the heart of the Government's environmental agenda and will be an important tool to support the Government to meet its environmental targets.
  + **Provider access**: Introducing minimum requirements for providers of technical education or apprenticeships to have access to pupils. This amendment, which builds on the current duty, strikes a careful balance between widening pupil access to providers of technical and vocational education and managing the requirements on schools.
  + **Essay Mills**: The criminalisation of cheating services in England and Wales which are provided to students at post-16 education providers in England. This will help to safeguard the academic integrity and standards of post-16 and higher education and protect students from falling prey to the deceptive marketing techniques of essay mills.
  + **Powers to designate 16-19 academies with a religious character**: This creates a new power for the Secretary of State to designate 16-19 academies with a religious character. This will ensure that when existing Sixth Form Colleges designated with a religious character convert to become academies, they retain their religious character and associated freedoms and protections. It will also provide in future for the creation of new 16-19 academies with a religious character.

These are important changes that were made in response to the thoughtful points raised in the Lords and represent a significant set of concessions already made by the Government on this Bill.

Changes made in the Commons

In the House of Commons, the Government has gone even further, introducing more amendments to the Bill:

**New amendments**

* + **Local Skills Improvement Plans (LSIPs) and Mayoral Combined Authorities (MCAs)**: We listened to the concerns raised by members of both Houses on the role of MCAs in LSIPs. On review of the arguments made, the Government introduced an amendment which places a duty on the Secretary of State to only approve and publish an LSIP if satisfied that during the development of the plan due consideration has been given to the views of the MCA or Greater London Authority in the area, where relevant. This amendment, in addition to the statutory guidance, will ensure that these democratically accountable authorities, with devolved responsibilities including the Adult Education Budget, play a meaningful role in supporting the success of LSIPs.
  + **Office for Students publication power**: We introduced an amendment which will give the Office for Students (OfS) the explicit power to publish information about its compliance and enforcement functions in relation to English higher education providers. This will increase transparency in the actions of the regulator and therefore confidence in the sector and the regulatory system. This amendment provides the OfS with similar powers and protections to other regulators.

There were further minor and technical amendments to the Bill in relation to the LSIPs measure, which further clarified the England-only application of these provisions. The Government also tabled a minor and technical amendment which clarifies that advanced learner loan funding, routed through the Student Loans Company, is in scope of the definition of “funding arrangements” referenced in the list of post-16 education or training providers measure.

**Lords amendments**

As you can see, the Government has already made a significant number of concessions throughout the passage of the Bill to address your Lordships concerns. Nonetheless, the House of Commons has decided to remove the amendments made by your Lordships at Report stage, as they are not appropriate for this Bill. I would like to address each amendment in turn and explain our position.

* **Local skills improvement plans (LSIPs), Local Authorities and FE providers**: We agree wholeheartedly that key stakeholders, including providers and local authorities, hold valuable intelligence which should inform the development of local skills improvement plans. That is why in the recent [*Levelling Up* white paper](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052706/Levelling_Up_WP_HRES.pdf) we outlined our vision for locally-led skills provision, with local employers at its heart. This is alongside our commitment to extend, deepen and simplify devolution across England, so that by 2030, every part of England that wants one will have a devolution deal with powers at or approaching the highest level of devolution with a simplified long-term funding settlement. For LSIPs, we will set out expectations on local stakeholder engagement, including with local authorities, within statutory guidance as this can be adapted more quickly to changing circumstances. Moreover, the Bill already places duties on relevant providers to co-operate with designated local employer representative bodies to ensure their valuable knowledge and experience directly inform the development of LSIPs. While I do not agree with this amendment, I will commit my officials to engage with stakeholders, including the Local Government Association, the Greater London Authority, MCAs and the Association of Colleges, and ensure that I am satisfied their views have been fully considered in the development of the statutory guidance.
* **Technical Education Qualifications**: The Government does not believe the amendment requiring a delay to the defunding of level 3 qualifications that overlap with T Levels is needed as the change we have made to the reform timetable has already dealt with the substance of the concern raised by your Lordships. I announced at Second Reading in the Commons that we are allowing an extra year before public funding approval is withdrawn from qualifications that overlap with T Levels for 16-19 year olds and reformed qualifications are introduced. This gives providers, students, awarding organisations and other stakeholders more time to prepare for these important changes. It means that no qualification will have public funding approval withdrawn solely due to overlap with T Levels until August 2024. Delaying our reforms further would put our ambitious programme at risk.
* Turning to the amendment which gives students the right to take certain types of qualifications, we do not think this is necessary. I have been clear that Applied General style qualifications, including some BTECs, will play a valuable role in the reformed landscape where there is a need, and they meet new quality and other criteria. This will include the option of mixed programmes, with Applied General Style qualifications alongside A levels. Focusing on a smaller range of high-quality qualifications, with A level and T Levels as the core academic and technical options, will lead to better outcomes for students.

* **Provider encounters**: The Lords amendment would require schools to put on nine encounters with providers of approved technical education qualifications or apprenticeships for year 8-13 pupils, instead of the three encounters required by the Bill at present. The Government is concerned that nine encounters, while well-intentioned, may lead inadvertently to a reduction in quality as well as putting a disproportionate burden on schools which face many competing demands on their time. We believe that three encounters offer a sensible compromise which allows schools to focus on the quality of each encounter. Secondly, while we completely agree with the importance of ensuring that pupils meet a range of providers, the Lords amendment only puts University Technical Colleges on the face of the Bill. We want to act in the interests of all types of providers of technical education and apprenticeships. The Bill as it stands includes the power for the Secretary of State to set out further details about the number and type of providers that pupils should meet.
* **Universal Credit (UC) conditionality**: This amendment would create significant financial cost by widening eligibility for UC. The Commons has voted to remove this clause, and it would be inappropriate for the House of Lords to introduce a measure which impacts public spending. However, the government agrees that helping UC claimants into work is key, which is why there are already a number of ways people can study while claiming. The Jobcentre Plus support offer includes the ability to enable claimants to enhance their existing skills or gain the new skills that local employers need. The recently announced Way to Work campaign will ensure eligible benefit claimants are supported to urgently take on vacancies that remain unfilled in the labour market. The Government also recognises for some claimants and some job roles additional upskilling will be necessary in order to enter and progress in sustained employment.
* On 21 Feb 2022 a written statement ([HCWS612](https://questions-statements.parliament.uk/written-statements/detail/2022-02-21/hcws612)) was laid by Parliamentary Under Secretary of State for Employment (Mims Davies MP), announcing the expansion of the training flexibility element of DWP Train and Progress until April 2023. The policy initiative enables UC claimants to access and participate in full-time work-related training opportunities for up to 16 weeks such as Department for Education funded Skills Bootcamps and the equivalent delivered by both the Scottish and Welsh Governments, without losing their entitlement. There are also exemptions for students who have additional needs that are not met through the support system, such as those responsible for a child. Claimants can also study courses part-time if their work coach agrees it will improve their chances of gaining employment and they can still meet their UC conditionality requirements.
* **Equivalent or Lower Qualification (ELQ) rules review**: The consultation on the policy of the Lifelong Loan Entitlement will include questions such as whether restrictions on previous study should be amended to facilitate retraining and stimulate provision. A review of these rules ahead of the consultation’s findings would be pre-emptive, and it would not be appropriate to include a requirement for a review in primary legislation. The consultation will be published imminently and we will write to your Lordships to inform you when this has happened.
* **Further Education Initial Teacher Training and Special Educational Needs and Disability (SEND)**: It is vital that teachers are trained to identify and respond to the needs of all learners, including those with special educational needs and disabilities. We have worked with a group of sector employers to support the development of a revised employer-led occupational standard for further education teaching. The standard explicitly requires that trainees must actively promote equality of opportunity and inclusion by responding to the needs of all students, including those with special needs and disabilities. We believe that the occupational standard provides an appropriate framework within which experts in the teacher training sector can exercise their professional judgement, to ensure that training programmes properly equip new teachers to meet the needs of all learners. Teacher training experts, such as the Universities’ Council for the Education of Teachers (UCET) agree that the occupational standard is the right way to secure all the necessary elements of teacher training programmes.
* I recognise and understand the importance of post 16 SEND provision and the strength of feeling of this matter in both Houses. With this in mind, we have recently announced a package worth over £45 million, to be delivered over the next 3 financial years, which includes direct support to schools and colleges to support the workforce to meet the needs of learners with SEND. In addition, the forthcoming SEND Review aims to ensure children and young people, and parents and carers, get the support that they need, when they need it regardless of where they live. And, at the end of January, we announced that we will make training bursaries worth £15,000 each, tax-free, available in the next academic year to trainee FE teachers who will specialise in SEND.
* **Level 3 Entitlement and Apprenticeships spending**: This amendment would require additional spending and impact public funding arrangements when we are trying to simplify and give local areas greater autonomy in the funding system. On this point, I hope that your Lordships will respect that this amendment is financially privileged and do not seek to reintroduce it to the Bill. I would also like to emphasise that putting the Free Courses for Jobs offer into legislation, as this amendment effectively does, would constrain the Government in how we allocate resources in future and makes the policy inflexible. Furthermore, this Government is looking to empower local areas to better shape the adult education provision available to residents to ensure it meets the needs of its local economy, rather than taking directives from Whitehall. In the recently published *Levelling Up* the United Kingdom Whitepaper, we announced that our Devolution Framework would include further devolution of the Adult Education Budget to more areas.
* In relation to encouraging young people’s participation in apprenticeships, we are committed to increasing starts for young people and have a range of initiatives underway. The Minister for Skills, Alex Burghart, has written to all pupils in years 11,12 and 13 to tell them about the great opportunities available through apprenticeships. We have been running roundtables with young people, employers and providers to hear directly from them about their experiences, ambitions and concerns. We want to support young people to benefit from apprenticeships, but do not believe this amendment is the best way to do that. However, this amendment, which requires two-thirds of apprenticeship spending to be made on those aged below 25 and at levels 2 and 3, will restrict opportunities for young people and older people, as well as restrict employer choice.
* Baroness Barran will be holding a drop-in session in the House of Lords for all peers at 11.00-12.00 on Tuesday 1 March to discuss any questions you may have on the Bill ahead of the consideration of the Commons amendments debate. If you would like to join this, please RSVP to the Bill Team by emailing [skills.billteam@education.gov.uk](mailto:skills.billteam@education.gov.uk).

I hope this has helped to explain our rationale for the changes made in the Commons. As I have outlined, we have made a significant number of improvements, both to the Bill and to policy more generally, in response to the important issues raised by your Lordships. Our focus now must be for the Bill to pass through Parliament and to start implementing these important measures, so that we can begin reforming skills and improving people’s opportunities and lives across the country.

As ever, please do not hesitate to contact the Bill Team officials on [skills.billteam@education.gov.uk](mailto:skills.billteam@education.gov.uk) should you have any further concerns or questions, and I will place a copy of this letter in the House of Lords Library.

Yours sincerely,

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**Rt Hon Nadhim Zahawi MP  
Secretary of State for Education**