



The Technical and Further Education Bill: factsheet

October 2016

The Technical and Further Education Bill takes forward the Government's reforms to technical education which will help boost the country's productivity by addressing skill shortages and ensuring high quality technical education. It also establishes an insolvency regime to protect students in the very unlikely event that a Further Education or Sixth Form college fails financially.

The technical education measures in the Bill focus on supporting the implementation of the reforms to post-16 technical education. These were set out in the [Post-16 Skills Plan](#), published in July 2016, which accepted the recommendations made by the [Independent Panel on Technical Education](#), headed by Lord Sainsbury. The Bill takes forward provisions which extend the remit of the Institute for Apprenticeships to cover college-based technical education in addition to apprenticeships.

Following the Area Reviews programme, which will help to ensure the long-term financial stability of the FE sector, the Bill will reflect the important principle of student protection through the introduction of an effective insolvency regime for Further Education and Sixth Form Colleges. The Bill ensures that, for the first time, suitable protections are available for students in further education, by establishing a Special Administration Regime, which has the objective of minimising or avoiding disruption to the studies of existing students should their college be affected. The regime follows a consultation that was launched in July 2016 and to which the government issued its response on 27th October 2016.

There is also an additional measure regarding FE data which ensures the continued provision of information on FE to the Secretary of State after the Adult Education Budget is devolved to combined authorities.

Technical Education

Reforming the skills system is crucial to the economic success of this country and to improving the life chances of millions of people. We face a pressing need for more highly skilled people, trained effectively, to grow the economy and raise productivity. Bringing training for young people and adults in line with the needs of business and industry will drive up productivity, which has lagged behind even as economic growth and employment have improved. It will also help ensure young people and adults can move into sustained and skilled employment which leads to prosperity and security.

An independent panel, chaired by Lord Sainsbury, undertook a review of the post-16 skills system and advised Government on measures which could improve technical education in England. The panel found that, despite a number of improvements made during the last Parliament, serious flaws remain. The system is over-complex with a confusing array of courses and qualifications that are

insufficiently linked to the world of work and the needs of employers. The Government accepted the Panel's recommendations and in July 2016 published a Post-16 Skills Plan setting out its vision for the reformed system.

As part of this package of reforms, these provisions seek to extend the remit of the new "Institute for Apprenticeships" to cover college-based technical education in addition to apprenticeships, and to rename it accordingly as the "Institute for Apprenticeships and Technical Education".

The Institute will oversee employer-led reforms and bring together its apprenticeships and wider technical education functions in one place. It is intended to put employers at the heart of the skills system, ensuring that technical education courses and apprenticeships undertaken by individuals develop the knowledge, skills and behaviours that meet the needs of employers and improve overall productivity.

Through its responsibility for apprenticeships, the Institute will support the Government's commitment to delivering 3 million high quality apprenticeship starts in England by 2020. Through functions set out in the Enterprise Bill, given Royal Assent earlier this year, it will help regulate the quality of standards and assessment plans, ensuring a sustainable, employer-led governance arrangement to uphold high quality apprenticeships. The Technical and Further Education Bill will give it further functions to help deliver this role, including a power to allow the Institute to charge for the evaluation of apprenticeship end point assessment and establishing data-sharing gateways for sharing information with Ofsted, Ofqual and the Office for Students.

The Secretary of State for Education will retain strategic oversight of the technical education reforms and will have responsibility for the overall national system. The Institute will have wide-ranging autonomy for ensuring that employers agree the content of both apprenticeships and college-based technical education including approving standards for occupations which the Institute considers to be in scope of technical education.

The Institute will become operational in April 2017 and will then formally take on responsibility for technical education in April 2018. By extending the Institute's remit to include all technical education, it will be able to develop a coherent strategy and put employers in the lead of designing the standards across all technical education – college-based as well as apprenticeships. We believe that having one autonomous body with the right set of powers, a clear remit and clear accountability is the best way to deliver these reforms and put employers in the driving seat. Therefore, we will ensure that the Institute has the resources it needs to do its job effectively at the heart of the system.

Further Education Insolvency Regime

In 2015 a programme of Area Reviews was launched across England with the aim of ensuring high quality, sustainable provision capable of meeting the future needs of learners and employers. A key objective of the reviews is to facilitate any structural changes required to deliver institutions which are financially viable, sustainable, resilient and efficient, and provide maximum value for public investment. The Government is supporting colleges through this transition, making funding available to support them in implementing the recommendations of Area Reviews where that is required. More information on the Area Reviews is available [here](#).

The Government has also signalled its commitment to the sector by protecting the Adult Education Budget and 16-19 funding in the recent Spending Review and through its strong support for apprenticeships and Advanced Learner Loans; giving colleges a strategic opportunity to further

diversify their funding base. In fact, by 2019-20, the total funding available to support 19+ skills participation will be £3.41bn, a cash terms increase of 40% compared with 2015-16. Government – including both central Government and local Combined Authorities – will continue to have a strong interest in the financial resilience and sustainability of the college sector going forward. It will remain the provider of a large proportion of the sector’s funding, and will continue to have legal duties in respect of provision.

Once the Area Reviews process is complete, there is an expectation that colleges will continue to operate autonomously, both financially and operationally. However, although the Area Reviews process should significantly reduce the possibility of a financial failure in future, it does not remove it altogether.

At present, the Further and Higher Education Act 1992 makes no provision for the treatment of insolvent colleges. It is unclear whether insolvency law relating to compulsory winding-up currently applies to colleges. If it does, it would be possible for a college to be wound up by the court. However, this is untested; and in any event would not provide the range of procedures that would offer flexibility for colleges and their creditors or protections for their learners.

This uncertainty creates the risk of disorderly closures and potential detriment for learners as their courses are interrupted or terminated, as well as potential adverse outcomes for creditors, and the taxpayer. It can also result in distorted incentives for colleges when making commercial decisions.

The measures in the Bill will establish a clear and well understood insolvency framework for the benefit of learners, colleges and taxpayers, with procedures for colleges broadly in line with those afforded to companies under the Insolvency Act 1986, including: administration and voluntary arrangements, so facilitating the rehabilitation of a college where possible; and where not, an orderly winding-up through voluntary or compulsory liquidation. Most importantly, it will include a Special Administration Regime which will protect learners by avoiding or minimising disruption to the studies of the existing students of the FE body. At the same time, the insolvency regime will address the current absence of any provisions for college insolvency, giving creditors certainty for the first time about how their claims will be dealt with.

Further Education Information

This Bill will also include a measure concerning information in Further Education. Consistent, comparable and robust data is of vital importance in ensuring good policy decisions are made about investment in further education. We want to ensure that the continued availability of such information in a national data system is unaffected by devolution of the Adult Education Budget and further education functions to certain combined authority areas in England as part of wider devolution deals. Therefore, we will amend existing legislation to ensure that after devolution of further education functions (and the adult education budget) to a combined authority, FE providers and others will continue to submit the relevant information to the national data system.