

# Skills & Post-16 Education Bill

## 1<sup>st</sup> Day of Report Stage briefing

October 2021



### About AoC

The Association of Colleges (AoC) represents more than 90 per cent of the 234 colleges in England incorporated under the Further and Higher Education Act 1992. English colleges educate over 1.7 million students every year and employ approximately 106,000 full time equivalent staff. Colleges are inspirational places to learn, preparing students with valuable employability skills, helping to develop their career opportunities.

### Background

- In January 2021, the government published the Skills for Jobs White Paper, with a clear focus on the pivotal role that further and technical education has in helping people get skills for good jobs now and in the future.
- Part of the government's 'Plans for Jobs', it recognised the central role colleges have at the heart of our economic recovery, the plans to redress long-standing regional inequalities and transition to a net zero carbon economy
- **This agenda will of course ultimately require serious, long-term investment**, redressing stark funding cuts over the past decade.
- In May 2021, the Government introduced the Skills & Post-16 Education Bill, which aims to deliver some of the key elements of their reform package, which we welcome – but colleges are clear that the Bill must go further.
- We were encouraged by the amendments tabled and the debates that took place over the four days of committee stage. The debates highlighted the strong cross-party and cross-sectoral support for skills and lifelong learning in both the White Paper and the Bill.
- Peers also highlighted many of the key areas where we think the Bill needs to be strengthened in order to ensure it meets the needs of colleges and learners across the country.
- The Bill will have its first day of report stage in the House of Lords on **Tuesday 12 October**.
- We welcome many of the amendments tabled by Peers and by the Government ahead of report stage, which would enable the Bill to more fully deliver on the ambitions of the skills reform agenda.
- This briefing sets out what we believe to be the key issues with the legislation which need to be addressed by Government at report stage. We will be in touch again on Monday to let you know which amendments we'll be encouraging you to support.

### Key areas where the Bill needs to be strengthened:

We have summarised below the key areas where we think the Bill needs to be strengthened, and have included the numbers of the amendments we are encouraging you to support to deliver on these:

#### **Creating a right to lifelong learning so everyone can access the skills they need.**

1. **Putting the Lifetime Skills Guarantee on a statutory footing and extending it to include subsequent level 3 courses** to unlock retraining for even more people. **(Amendments 50, 60)**

2. **Creating a maintenance support system** that enables everyone to live well whilst studying or training at college across both FE and HE. **(Amendment 43)**
3. **Reforming benefit entitlement rules** so that that people that would benefit from attending college whilst unemployed don't lose out. **(Amendments 45, 63)**
4. **Removing the Equivalent or Lower Qualification (ELQ) rule** which places funding restrictions on those who wish to pursue a qualification at a level equivalent to or lower than one they already hold, acting as a barrier for adults seeking to reskill. **(Amendments 40, 41)**

**Joining up the wider education and skills system so that it better meets society's needs and gives people the skills they need.**

5. **Enshrining the creation of a national 10-year education and skills strategy sitting across government** to deliver on wider policy agendas and to give stability to all parts of the system. **(Amendment 20)**
6. **Creating a duty on schools and universities to collaborate with colleges and employers** in the development of skills plans so that the training on offer efficiently meets the need of local areas.

**Ensuring that colleges have the autonomy and authority to deliver together for people, employers and communities.**

7. **Clarifying the role and accountabilities of employer representative bodies (ERBs) in developing their Local Skills Improvement Plans (LSIPs)** - including describing the role of employer representative bodies, their accountabilities and the process for instances where they do not deliver this effectively. **(Amendments 8, 9, 14, 18)**
8. **Affirming the role of colleges in co-constructing Local Skills Improvement Plans (LSIPs)** - describing and enshrining their role, together with their abilities to challenge and prompt further work where they believe this to be required. **(Amendment 11)**
9. **Establishing a joint requirement on employer representative bodies (ERBs) and colleges to ensure that the views and priorities of the wider community are reflected in the Local Skills Improvement Plans (LSIPs)** - which must include the views and interests of students, students' unions, trade unions, and relevant community groups, agencies and local government. **(Amendments 11, 12)**

**Empowering colleges to deliver on long-term strategic priorities within a trust-based system.**

10. **Affirming clear and robust accountabilities right across the new system** – which means clarifying the accountabilities and oversight on employer representative bodies (ERBs) leading local skills improvement plans (LSIPs). **(Amendments 14, 18)**
11. **Embedding sustainability and the role of colleges in delivering a net-zero carbon economy into the Bill and wider reform agenda** - including in the strategic outcomes for colleges and with the capital investment to match. **(Amendments 3, 6, 7, 17, 64)**

**Committing to sustainable investment and meeting immediate priorities.**

12. **Backing up legislative reforms with sustainable investment and measures that will support people and employers now**, not just when the Lifelong Loan Entitlement is introduced from 2025.

### **Other areas where amendments are required:**

13. **Setting out a national plan for English and maths to ensure that all learners are supported to have the skills they need** to succeed in their adult life, in work and as active citizens. **(Amendments 10, 66)**
14. **Ensuring apprenticeships policy and any future reform of the apprenticeships levy align with the skills reform agenda.** **(Amendment 50)**
15. **Ensuring there is adequate and effective access and successful outcomes for all learners with special educational needs and disabilities**, with alignment between the work of DWP and DfE on relevant reform agendas and strategies. **(Amendments 13, 16, 19, 26, 44, 46)**
16. **To embed careers information, advice and guidance (CIAG) as an element of delivery as part of the new Local Skills Improvement Plans, applying to all post 16 providers.** **(Amendments 35, 65)**

### **Why are these amendments needed and what do they look like?**

1. **Putting the Lifetime Skills Guarantee on a statutory footing and extending it to include subsequent level 3 courses** to unlock retraining for even more people.

**Amendments we are asking you to support to deliver on this: 50, 60**

#### **Why should people be able to take another level 3 qualification?**

- Changes in the world of work mean many people who already have a level three qualification (A level/BTEC equivalent) will need to be able to study for a subsequent qualification at this level. Parliament implemented an entitlement to a first full Level 3 qualification to those under the age of 25 in 2009 via section 88 of the Apprenticeships Skills Children and Learners Act.
- The Lifetime Skills Guarantee extended this entitlement beyond those aged under 25 to all adults. The post 18 review recommended an all-age Level 3 entitlement and the government has now put this into effect but only to a limited list of L3 qualifications and only for those that don't have one.
- For example, an adult who is made unemployed and needs to retrain but already has a L3 (A level/ BTEC equivalent) will not be able to access the entitlement.

#### **What does change look like?**

- The Lifetime Skills Guarantee Level 3 entitlement should be put on a statutory footing and extended to include subsequent qualifications, where relevant.

2. **Creating a maintenance support system that enables everyone to live well whilst studying or training at college across both FE and HE.**

**Amendments we are asking you to support to deliver on this: 43**

### **Why is student maintenance needed?**

- The government's ambition to make education and training available to people throughout their lives is welcome and needed as jobs change and are displaced.
- The Lifelong Loan Entitlement (announced in September 2020) would open up tuition fee loans for people taking Level 4-5 qualifications, which are especially important for unlocking higher technical skills for key sector. Clauses 14 and 15 of the Skills Bill create powers to put this into effect but only covers tuition costs and higher-level courses (Level 4 and above).
- This is packaged with the all-age level 3 entitlement in the Lifetime Skills Guarantee (see point 3 below).
- Many adults will be unable to take up these opportunities because there is no support for living costs while they are taking course at this level or higher levels.
- These people would be prevented from transforming their life chances and being part of the skilled workforce employers and the economy need.

### **What does change look like?**

- Government should extend a system of loans and means-tested grants to support adults to be able to afford to live whilst in relevant education and training. This could be restricted to only be available for the lifelong loan entitlement and lifetime skills guarantee.
- Work would have to be undertaken to align a system of grants and loans with the benefits system so that everyone can access the support and funding they need.

### **3. Reforming benefit entitlement rules so that that people that would benefit from attending college whilst unemployed don't lose out.**

### **Amendments we are asking you to support to deliver on this: 45, 63**

### **Why are welfare reforms needed?**

- The current welfare system actively discourages people from getting the skills they need. This poses as a major barrier to many people out of work to upskill or retrain. This was historically the '16 hour rule' – but persists under the new Universal Credit system.
- Many people lose their right to receive unemployment benefits if they take an education or training course. For example, someone currently in receipt of universal credit will lose access to benefits if they take up the Lifetime Skills Guarantee of a fully-funded first level 3 qualification or other, short, further education qualification.
- The Chancellor has invested in programmes in both the Department for Work and Pensions and the Department for Education to support 16 to 24-year-olds, but they do not operate in tandem and are difficult to make work for employers, for students/unemployed people and for colleges.
- The Government has recognised the need to support people into jobs as part of the education and skills reforms. A reciprocal move from DWP is needed to remove existing barriers to people gaining the skills they need whilst unemployed.

### **What does change look like?**

- Universal credit conditions should be reformed so that people can access education and training that will help them whilst receiving benefits.

- 4. Removing the Equivalent or Lower Qualification (ELQ) funding restrictions which acts as a barrier to those who wish to reskill by pursuing a qualification at a level equivalent to or lower than one they already hold.**

**Amendments we are asking you to support to deliver on this: 40, 41**

#### **Why is this needed?**

- Most students who hold a higher education qualification are currently not eligible for fee loans for a second qualification at the same or a lower level. Under current ELQ funding rules therefore, with the exception of a small number of exempt courses, individuals wishing to reskill at level 4, 5 and 6 are not eligible for fee and maintenance loans and need to self-fund.
- These funding restrictions are a barrier for adults seeking to reskill. Higher level skills at levels 4, 5 and 6 are key to unlocking productivity, and a relaxation of ELQ rules is a fundamental strand of a lifelong right to retrain.

#### **What does change look like?**

- Encouraging people to study more flexibly across their lives by removing the ELQ funding restrictions so that no adult is unduly prevented from reskilling.

- 5. Enshrining the creation of a Government 10-year education and skills strategy to deliver on wider policy agendas and to give stability to all parts of the system**

**Amendments we are asking you to support to deliver on this: 20**

#### **Why is a 10-year education and skills strategy needed?**

- Currently there is a lack of a comprehensive, long-term education and skills plan that brings together all parts of the system towards the same vision.
- Different parts of the system have different policy priorities and initiatives. The current reform agenda is not sufficiently addressing this. It deals with only one part of the system (ie colleges), without exploring the need for complementary alignment with universities, schools, and other providers.
- At the same time, this means that the role of education and skills in addressing wider policy priorities and strategies are not always recognised, for example the role of colleges in welfare, health and net-zero policies.

#### **What does change look like?**

- The Government should enshrine the creation of, and cross-departmental commitment to, a 10-year national strategy for education and skills.
- This should set out the respective and complementary roles of each kind of institution towards the same vision.
- The strategy should also ensure alignment to strategies for jobs, public health sustainability and economic strategies.
- This strategy should be owned by a cross-departmental ministerial taskforce/body, with DFE, BEIS, DWP, MHCLG and others represented. It must also have meaningful input from employers, colleges, and trade and student unions.

**6. Creating a duty on schools and universities to collaborate with colleges and employers in the development of skills plans so that the training on offer efficiently meets the need of local areas.**

**Why is a duty on schools and colleges needed?**

- Clauses 1 to 4 and clause 22 create duties on designated employer representative bodies and colleges collaborate to develop Local Skills Improvement Plans so that the training on offer meets the need of local areas is welcome. Currently unproductive competition between providers drives a focus on short term institutional survival over collaborating for the public good.
- Colleges do not work in isolation to meet the education and training needs of their communities. Schools and universities are important parts of the system too so should be part of the planning process.
- There is a lack of any system to co-ordinate 16-18 offer at the local and subregional level between schools and colleges. This leads to insufficient provision and limits student choice of programme (for example, when multiple competing providers concentrate on a narrow offer at the expense of offering less popular or 'minority' provision).
- At the university level, there is contested ground over the higher technical Level 4-5 provision and who is best placed to offer this, leading to unproductive competition between colleges and universities.
- If a whole education system approach is not taken to local skills planning, there will be a disjointed system that is not efficient or effective use of public money and doesn't best meet the needs of students and employers.

**What does change look like?**

- The Local Skills Improvement Plans provide a vehicle to build on. This should be used to deepen partnerships across education and skills landscape, to coordinate information, advice and guidance; pathways/progression between providers; employer strategic support across innovation and skills; and the wider role they play together in building healthy, connected communities.
- The Bill should set out the complementary roles of schools, colleges and universities. This should involve a duty on universities (via the OfS) to ensure that their Level 4-5 provision complements the existing offer sitting in colleges in their region and to deepen collaboration between them.
- Additionally, to strengthen cohesion between colleges and schools, a single 16-18 commissioner should be established, with a requirement for providers to engage in a local co-ordination process, particularly for missing or low-enrolment provision. This includes stronger implementation of the minimum size requirement for 16-18 provision and intervention when providers fall below this size.

**7. Clarifying the role and accountabilities of employer representative bodies (ERBs) in developing their Local Skills Improvement Plans (LSIPs).**

**Amendments we are asking you to support to deliver on this: 8, 9, 14, 18**

**Why do we need to clarify the role of employer representative bodies in relation to Local Skills Improvement Plans?**

- The Department for Education announced plans for Local Skills Improvement Plans (LSIPs) in January 2021 and invited employer representative bodies to test these plans in its Skills Accelerator prospectus. Clauses 1,2 and 3 set out the arrangements but in a fairly sketchy form.
- The role of employer representative bodies will be very important in shaping local systems so it is worthwhile being clear about expectations, accountabilities and oversight in terms of what they are undertaking. There is a risk that some ERBs might represent a narrow group of employer voices, focus too much on current skills needs or be unwilling to take feedback. It is important to ensure they represent the voice of the full breadth of employer voices; focus on future demand and have appropriate governance.

### **What does the change look like?**

- The legislation should set out clearly the role and the system of accountability and oversight. This must include describing the relationship between Local Skills Improvement Plans (LSIPs) and national strategies (including the work of DfE's Skills and Productivity Board; the Decarbonisation Strategy; etc).

### **8. Affirming the role of colleges in co-constructing Local Skills Improvement Plans (LSIPs).**

#### **Amendments we are asking you to support to deliver on this: 11**

### **Why do we need to describe the role of colleges in co-constructing LSIPs?**

- The Skills reform agenda is seeking to develop a more resilient, autonomous and better networked skills system. Achieving this demands that colleges and other providers are not passive recipients of LSIPs (which could be the consequence of clauses 2 and 22 of the bill) but are empowered to co-produce the plans. This recognises their expertise – and the crucial role they have to play in interpreting and stimulating articulated employer demands.

### **What does the change look like?**

- The legislation must describe and enshrine the role of colleges in co-creating LSIPs, together with their abilities to challenge and prompt further work where they believe this to be required.

### **9. Establishing a joint requirement on employer representative bodies (ERBs) and colleges to ensure that the views and priorities of the wider community are reflected in the Local Skills Improvement Plans (LSIPs).**

#### **Amendments we are asking you to support to deliver on this: 11, 12**

### **Why do we need to establish a voice for other community/ local partners?**

- The voice of employers is critical – but it is also important that Local Skills Improvement Plans reflect wider priorities too, from students, trade unions, local and devolved government and other relevant agencies/ organisations. Clauses 1 and 4 of the bill set out arrangements for consultation with employers and providers but the process should go further.

### **What does the change look like?**

- The consultation process to set up Local Skills Improvement Plans should involve students/ students' representatives, trade unions, local and devolved governments and other relevant agencies should be a requirement of ERBs and colleges in establishing LSIPs.

### **What is the change required?**

- The legislation should clarify a limited set of circumstances where DfE would use intervention powers to require compliance with a Local Skills Improvement Plans

## **10. Affirming clear and robust accountabilities right across the new system.**

### **Amendments we are asking you to support to deliver on this: 14, 18**

#### **Why do we need to clarify wider accountabilities across the system?**

- The new lead role for ERBs is significant. Ensuring effective accountability across the system requires clarifying the accountabilities and oversight on employer representative bodies (ERBs) leading local skills improvement plans (LSIPs).
- Several different organisations currently represent employers in England including the CBI, IoD, FSB, sector-based trade associations and geographically-based chambers of commerce. DfE is currently evaluating bids from employer representative bodies to participate in its skills accelerator programme and this will be a chance to develop good practice. Government should also learn from the experience of past attempts to improve the employer voice in the system, for example Training and Enterprise Councils set up in the late 1980s or Local Enterprise Partnerships created in the early 2010s. In both cases, government retro-fitted governance requirements to existing organisations after they had started work.

### **What is the change required?**

- The legislation should explain how ERBs are held to account by central or local government for the performance of their role

## **11. Embed sustainability and the role of colleges in delivering a net-zero carbon economy into the Bill.**

### **Amendments we are asking you to support to deliver on this: 3, 6, 7, 17, 64**

#### **Why does sustainability need to form a key theme?**

- The challenge posed by the climate crisis is existential, and the consequent changes are already greatly impacting on our lives and our world (IPPC, 2014). This means dramatic changes to industries, with people needing to develop skills in new areas and continued change to the way that people live.
- The Committee on Climate Change (2020) has argued for governments across the UK to develop coordinated strategies for a net-zero workforce, integrating relevant skills into education frameworks. The Committee has additionally argued that education systems have a wider role to play supporting the transition to a net-zero economy and preparing for the risks of climate change including the need for greater public awareness and understanding, and the need for technical skills in the workforce.

### **What does change look like?**

- Sustainability must be embedded into the Skills for Jobs reform agenda.
- This should include the role of colleges in the transition to a net zero carbon economy reflected in the agreed strategic outcomes that colleges are expected to work collectively to support, in partnership with employers.
- Additionally, there should be a funded universal learner entitlement to education for sustainable development, with investment in the college workforce to match.
- Capital investment must support the reduction of the carbon footprint of colleges within their communities.

**12. Backing up legislative reforms with adequate investment and measures that will support people now, not just when the Lifelong Loan Entitlement is introduced from 2025**

**Why is further investment needed?**

- Adult education funding has halved over the past decade. Analysis from IPPR has found that if further education funding had kept up with demographic pressures and inflation over the last decade, we would be investing an extra £2.1bn per year on adult skills and £2.7bn per year on 16-19 further education.
- Almost £5bn in additional funding a year is required simply to redress the cuts of the past decade, let alone to do something more aspirational. To give confidence to this new emphasis on skills and the central role of colleges in delivering the reform agenda, we must put investment in skills on a statutory footing.
- Investment is needed urgently to support people and employers as part of the post-pandemic economic recovery.

**What does change look like?**

- Reforms should be backed up urgently with meaningful investment to unlock the potential of colleges. There should be a statutory commitment to return funding to where it would have been if it had kept up with demographic and inflationary pressures 10 years ago, and to index link this to inflation as a minimum.

**Other areas where amendments are needed:**

**13. Delivering a national plan to ensure that all learners are supported to have effective English and maths skills so that they can succeed in their adult life, in work and as active citizens.**

**Amendments we are asking you to support to deliver on this: 10, 66**

**Why is this plan needed?**

- Colleges are the last stage of the journey for English and maths and are expected to pick up the pieces where there are shortcomings in pre-16 education. After 7 years of condition of funding, a review is needed to see whether the current policies on English and maths are fit for purpose to prepare students for the world of work.
- A pertinent example of the importance of this review is T-levels. The T-levels requirement for students to achieve Level 2 English and maths by the time they have finished has – so far – resulted in informal self-selection. Students enrolling on T-levels in 2020 have already reached

this standard. If this trend continues during the roll-out of T-levels then the parts of the country with low GCSE maths and English achievement won't have many T-level students. The transition programme is an important part of the picture and more needs to be done to understand the impact of the current policy landscape.

### **What does this change look like?**

- A new approach to the funding rules and curriculum content is needed to ensure young people have the skills they require for work and life. Colleges would like to work towards a policy which allows young people to develop English and maths skills appropriate to their individual needs and employer requirements.
- A national plan from DfE setting out how they will support learners to have effective English and maths skills so that they can succeed in their adult life, in work and as active citizens, is required.

## **14. Create alignment with apprenticeships policy and any future reform the apprenticeships levy**

**Amendments we are asking you to support to deliver on this: 50**

### **Why is alignment on apprenticeships policy needed?**

- This will be the third bill extending IfATE's remit (the first was in 2016 creating it, and the second was in 2017 extending it to T-levels) but there's still a complex 4 way relationship between DfE (oversight/funding/intervention on provider side), Ofqual (qualification regulation), Ofsted (inspection of provider side) and IfATE (development of programmes, and their regulation). Meanwhile, the number of young people taking apprenticeships has declined dramatically from a low based (now down to 60,000 annually).

### **What does change look like?**

- The government set out their approach the apprenticeships/ the apprenticeship levy alongside this wider skills agenda.

## **15. Supporting access and successful outcomes for all learners with special educational needs and disabilities**

**Amendments we are asking you to support to deliver on this: 13, 16, 19, 26, 44, 46**

### **Why is further support needed?**

- There is very poor alignment between DWP and DfE strategies on supporting SEND students.
- Currently adults in receipt of disability benefits can lose out on benefit entitlements if they engage in education and training.

### **What does change look like?**

- Building on the amendment to reform universal credit rules so that no one is prevented from being able to access training that will help them and lose their benefits, there should be a Government commitment to ensure that the upcoming SEND Green Paper will actively align to the skills reform agenda, and describe the strategic oversight that will support this.

**16. Putting the Baker Clause on a stronger statutory footing and embedding careers information, advice and guidance (CIAG)** as an element of delivery as part of the new Local Skills Improvement Plans, applying to all post 16 providers.

**Amendments we are asking you to support to deliver on this: 35, 65**

#### **Why is this needed?**

- Since January 2018, secondary schools across England have been required by law to allow other education and training providers access to their pupils to inform them of technical and vocational qualifications. This regulation is known as the Baker clause after its author, Lord Baker.
- However, compliance with the Baker clause has been very poor and this needs to be addressed to ensure young people understand the options available to them in the technical and vocational education system. We therefore welcome the Government's own amendment to the legislation making it mandatory for schools to offer two separate encounters with technical education and apprenticeships for pupils in Year 8/9 and Year 10/11 and would encourage Peers to support this at report stage.
- In addition, CIAG currently suffers from being insufficiently joined up and tied to individual institutions. As Local Skills Improvement Plans (LSIPs) come to drive a more coordinated strategic offer between institutions, this presents as an opportunity for a more joined-up, all age CIAG offer.

#### **What does the change look like?**

- Supporting the Government's amendment strengthening the Baker Clause.
- Introducing coordination of CIAG across a locality as an element of the new Local Skills Improvement Plans.

#### **Additional amendments that we support:**

**36 (on a Personal Education Skills Account), 47 (on mental health and wellbeing in HE), 48 (on widening participation in HE), 61 (on credit transfer), 62 (on Kickstarter)**

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**For further information or to discuss these themes in more detail contact:**

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