

# Skills & Post-16 Education Bill

## Key areas for amendment

May 2021



### Introduction

The Skills Bill puts colleges firmly in the political spotlight. It is an affirmation of their central role in economic and social recovery from the pandemic, and efforts to build a fairer, healthier, more sustainable society.

The Skills Bill is an important element of the wider reform agenda, which seeks to achieve three core aims:

- **To develop a system of lifelong learning.** Delivering this means ensuring that this is meaningfully accessible to all, and involves an effectively joined-up wider education and skills system.
- **To deepen the strategic relationship with, and service to, employers.** Delivering this must involve a genuine partnership, with colleges and other providers empowered to stimulate and challenge articulated demand, rather than act as passive policy recipients.
- **To empower colleges to deliver as a resilient network to look outward in delivering on long-term strategic priorities, rather than looking up to Whitehall for permission.** Delivering this means ensuring that we develop the right balance of autonomy, authority and accountabilities, which enable colleges to focus on the complementary roles they can play together and with other partners over the long term.

Based on the Bill as it stands, there are a number of areas where we think further detail, clarification and changes are needed, in order to achieve the stated ambitions. This note sets out key themes and areas for amendments that we believe will better empower colleges to deliver on the ambitions of the skills reform, and require consideration across the sector, from government and by legislators.

### Key themes for amendments

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

1. **Creating a maintenance support system** that enables everyone to live well whilst studying or training at college across both FE and HE.
2. **Reforming benefit entitlement rules** so that that people that would benefit from attending college whilst unemployed don't lose out.
3. **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.

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

4. **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.

5. **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.
6. **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.

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

7. **Clarifying the powers of intervention** - ensuring that the new reserve powers ultimately support colleges to deliver on long-term strategic priorities and engender trust across the system.
8. **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).

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

9. **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.
10. **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.
11. **Setting out the complementary role of providers in developing higher technical provision (L4-5)** - with colleges leading on delivery of L4-5 and universities leading on delivery of L6+, and affirming this approach through regulation - with ESFA established as the regulator for all L4-5 and foundation degree provision, and OfS leading on L6 and above.

#### **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 for amendments include:**

- a) Creating alignment with apprenticeships policy and any future reform the apprenticeships levy.
- b) 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.

- c) Ensuring that 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.
- d) Providing funding for digital devices to enable all 16–19-year-olds eligible for free school meals to have the resources they need to learn.
- e) Increasing employability and life chances of students through funded enrichment activities in colleges, with an entitlement for every student and accountability measures to encourage partnerships that support the most vulnerable learners (for example, the youth justice system).

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

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

#### 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.

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

#### 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 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.

### **3. Extending the Lifetime Skills Guarantee to include subsequent level 3 courses to unlock retraining for even more people.**

#### **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.

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

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

- DfE 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).

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

### **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.

## **6. 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).**

### **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.

## **7. Clarifying the powers of intervention.**

### **Why do we need to clarify the powers of intervention?**

- The system should act to develop the authority, autonomy and accountability of colleges to deliver on long term strategic priorities. Clause 22 of the bill extends the DfE's intervention powers over colleges by an amendment to section 56 of the 1992 Further and Higher Education Act. DfE has amended its intervention powers in section 56 seven times in the last 25 years so this would be the eighth time. Back in January, DfE promised to make its intervention rules more targeted following the finding in a 2020 National Audit Office report that almost half of colleges were in early or full intervention. Clause 22 creates a power for DfE to intervene in cases where a college is failing to meet local needs as set out in a Local Skills Improvement Plans.

- DfE needs to allow time for the new arrangements to take effect and will need to support governing bodies so that they can do their job and can act on Local Skills Improvement Plans Intervention should be reserved to cases where it is really necessary. The system will not work well if run on a command-and-control basis.

### **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

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

### **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.

## **9. 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.**

### **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 and the industrial decarbonisation strategy.
- 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.

**10. 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.

## **11. Setting out the complementary role of providers in developing higher technical provision (L4-5).**

### **Why is this change required?**

- Building a coherent whole-systems approach means clarifying and articulating the complementary roles of different parts of the system, and redressing areas of unproductive competition.
- With the ambition to expand higher technical qualifications (L4-5) there is a need to articulate how this will be delivered across the system.

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

- There should be a presumption towards colleges leading on delivery of L4-5 and universities leading on delivery of L6+.
- This should be backed up through clarification of the approach through regulation – with ESFA established as the regulator for all L4-5 and foundation degree provision, and OfS leading on L6 and above.

## **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 for amendments:**

- 1. Create alignment with apprenticeships policy and any future reform the apprenticeships levy.**

### **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 four-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 should set out their approach to the apprenticeships/ the apprenticeship levy alongside this wider skills agenda.

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

### **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.

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

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

- There is very poor alignment between DWP and DfE strategies on supporting SEND students.
- In particular, 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.

#### **4. Providing digital devices to all 16-19 eligible for free school meals.**

##### **Why is the provision of digital devices needed?**

- The move to mostly online delivery of education and training in light of lockdown measures during the pandemic has underscored the extent of digital exclusion facing many students.
- Having access to digital devices is critical to engaging in education and training, especially now that blended learning becomes a common method of teaching and training.
- Lack of access to digital devices presents an ongoing issue of exclusion, which risks reaffirming existing disadvantages. Levelling up cannot happen without levelling up access to digital devices.

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

- Government should commit to make funding available to provide digital devices to all 16-19 eligible for free school meals.

#### **5. Increasing employability and life chances of students through funded enrichment activities in colleges.**

##### **Why are more enrichment activities needed?**

- There is an insufficient focus on preparing students for the opportunities and challenges of the 21<sup>st</sup> century.
- All students (14 to 16, 16 to 18, adults, apprentices) are the beating heart of colleges and to empower them to thrive colleges can address their wider needs through more effective information sharing, enrichment and experiences.
- For younger students in particular this is important for them to be equipped with the skills and confidence to tackle the opportunities and challenges of citizenship in the post pandemic, 21<sup>st</sup> century.

##### **What would the change be that we would like to see?**

- The Bill should include an entitlement for every student to the following:
  - o political, cultural, economic, health, scientific and emotional literacy (knowledge and skills);
  - o enrichment (trips, talks, citizenship, financial management, climate, supporting social action);
  - o transition information from schools.
- This should be supported by accountability measures that encourage:
  - o consistent engagement between colleges and external agencies (police, health, local authorities, youth justice system) to support the most vulnerable learners;
  - o a requirement for the college sector to be represented in all Violence Reduction Units.