



# Library Note

## Technical and Further Education Bill (HL Bill 88 of 2016–17)

The [Technical and Further Education Bill](#) was introduced in the House of Lords on 10 January 2017 and is scheduled for second reading on 1 February 2017. The Bill completed third reading in the House of Commons on 9 January 2017.

The Bill includes the following provisions:

- To extend the remit of the Institute for Apprenticeships to include regulation of the quality of classroom based technical education in England, creating the new Institute for Apprenticeships and Technical Education (IFATE). The role of IFATE has been described by the Government as being to support the implementation of the reforms set out in its *Post-16 Skills Plan*.
- To introduce an insolvency regime for further education institutions, intended to improve the “financial reliance” of the sector. This would provide for the creation of an education administrator, to be appointed by the courts as part of the insolvency procedure.
- Following the devolution of responsibility for further education in some areas of England to combined authorities, the Bill would also allow the Secretary of State to continue to be provided with information by further education institutions.

The Government’s stated aim in introducing the Bill is to support the improvement of technical and further education and thereby increase social mobility and help increase productivity by addressing skill shortages in the economy. It comes at the same time that the Government has proposed the creation of three million new apprenticeships by 2020, with the introduction of the Apprenticeship Levy to be paid by large employers.

The Opposition has stated its support for the objectives of the Bill, but tabled a number of amendments during committee stage and report stage, the purpose of which it described as being to probe how the provisions in the Bill might work in practice.

There were two divisions on opposition amendments to the Bill at report stage: the first on a requirement for the Government to lay a strategy on improving careers education before Parliament and the second on whether to prevent education administrators from transferring certain assets to a for-profit private company. Both of these motions were defeated.

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## 1. Introduction

This briefing provides a summary of the policy background to the Technical and Further Education Bill and its progress through the House of Commons, particularly focusing on scrutiny of the Bill at report stage and third reading. Further information on the Bill is provided in the following briefings:

- House of Commons Library, [Technical and Further Education Bill \[Bill No 82 of 2016–17\]](#), 9 November 2016
- House of Commons Library, [Technical and Further Education Bill: Committee Stage Report](#), 20 December 2016

The House of Commons Library has also published the following briefing on the funding provided to adult further education in England:

- House of Commons Library, [Adult Further Education Funding In England Since 2010](#), 16 September 2016

## 2. Policy Background

One of the Government's policy objectives for the 2015–20 parliament is to reform further education. The Conservative Party's 2015 manifesto included the following commitment:

We will continue to improve further education through our network of National Colleges, which will provide specialist higher-level vocational training in sectors critical to economic growth. We will publish more earnings and destination data for further education courses, and require more accreditation of courses by employers.<sup>1</sup>

The manifesto also stated that, in office, a Conservative Government would:

[...] continue to replace lower-level, classroom-based further education courses with high quality apprenticeships that combine training with experience of work and a wage.

Following the general election, during a speech in November 2015, the then Education Secretary, Nicky Morgan, stated that the Government would reform vocational and technical education by introducing:

[...] rigorous new standards and put an end to hollow, low-value qualifications, which didn't help the people who studied them and weren't respected by employers.<sup>2</sup>

### 2.1 Apprenticeships Strategy

In addition to the Government's proposals to reform technical education, the Government has proposed increasing the number of apprenticeships available. The 2015 Queen's Speech included a target for the creation of three million new apprenticeships by 2020.<sup>3</sup> The

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<sup>1</sup> Conservative Party, [Conservative Manifesto 2015](#), April 2015, p 35.

<sup>2</sup> Department for Education, ['Nicky Morgan: Raising Ambition for All'](#), 9 November 2015.

<sup>3</sup> [HC Hansard, 27 May 2015, cols 31–3.](#)

Government stated that this was to be funded by the creation of an Apprenticeship Levy to be paid by large employers. The Government also created, under the Enterprise Act 2016, a regulator of apprenticeships, the Institute for Apprenticeships. The Institute for Apprenticeships is to be operational from April 2017. Further information on the Government's apprenticeships strategy is provided in the House of Commons Library briefing, [Apprenticeships Policy in England](#).<sup>4</sup>

## 2.2 Panel on Technical Education

In November 2015, the then Minister of State for Skills, Nick Boles, announced that the former Department of Trade and Industry minister, Lord Sainsbury of Turville (Labour), had been appointed by the Government to chair an independent panel on technical and professional education.<sup>5</sup> In the press release accompanying this announcement, the Department for Education stated that the panel would advise the Government on plans to establish “up to 20” new professional and technical education ‘routes’, taking students to either employment or degree-level study.<sup>6</sup>

In April 2016, the Panel on Technical Education, published its [report](#).<sup>7</sup> The Panel made 34 recommendations, including the following:

- That there should be two education routes into employment provided to students at the age of 16, the academic and the technical route, with the potential for students to move between the two. The report recommended that the technical route be improved so that it would become as clearly delineated as the academic route.<sup>8</sup>
- That the technical route should be recognised as having two modes of learning: employment-based—typically an apprenticeship—and college-based.<sup>9</sup>
- That a common framework of an initial 15 types of technical route be established, encompassing all employment-based and college-based technical education at levels 2 to 5.<sup>10</sup>
- That the remit of the Institute for Apprenticeships, created by the Enterprise Act 2016, should be expanded to include technical education.<sup>11</sup> The regulator's role would include creating “a single common framework of standards [covering] both apprenticeships and college-based provision”.<sup>12</sup>
- That the Institute for Apprenticeships convene panels of professionals to advise on the standards for the various different technical routes.<sup>13</sup>

<sup>4</sup> House of Commons Library, [Apprenticeships Policy in England](#), 17 November 2016.

<sup>5</sup> House of Commons, [Written Questions: Qualifications](#), 9 November 2015, 14623.

<sup>6</sup> Department for Education, [Technical and Professional Education Revolution Continues](#), 5 November 2015.

<sup>7</sup> HM Government, [Report of the Independent Panel on Technical Education](#), April 2016.

<sup>8</sup> *ibid*, p 9.

<sup>9</sup> *ibid*.

<sup>10</sup> *ibid*.

<sup>11</sup> *ibid*, p 10.

<sup>12</sup> *ibid*, p 9.

<sup>13</sup> *ibid*, pp 10–11.

### 3. Provisions in the Bill

In July 2016, following the Panel's recommendations, the then Department for Business Innovation and Skills and the Department for Education jointly published the Government's [Post-16 Skills Plan](#), which was put forward for consultation.<sup>14</sup> The Government stated in its *Post-16 Skills Plan* that it accepted the recommendations of the Panel on Technical Education. The Technical and Further Education Bill was introduced in the House of Commons for its first reading on 27 October 2016.<sup>15</sup> The [Explanatory Notes](#) to the Bill describe its purpose as being to support the implementation of the Government's *Post-16 Skills Plan*, stating that the Bill would:

[Take] forward policies relating to technical and further education which support the Government's social mobility agenda and seek to help boost the country's productivity by addressing skill shortages and ensuring high quality technical education.<sup>16</sup>

The Bill as introduced to the House of Lords include the following provisions:

- To extend the remit of the Institute for Apprenticeships to include regulation of classroom based technical education in England, creating the new Institute for Apprenticeships and Technical Education (IFATE).<sup>17</sup> The Explanatory Notes to the Bill describe the role of IFATE as being to support the implementation of the reforms set out in the *Post-16 Skills Plan*.<sup>18</sup> The changes to the remit of the Institute for Apprenticeships are set out in schedule 1 of the Bill.
- To introduce an insolvency regime for further education institutions in England and Wales, intended to improve the "financial reliance" of the sector.<sup>19</sup> These proposals had been the subject of a consultation in July 2016.<sup>20</sup> This regime would include the creation of an education administrator, to be appointed by the courts.
- Following the devolution of responsibility for further education in some areas of England to combined authorities, the Bill would also allow the Secretary of State to continue to be provided with information by further education institutions.<sup>21</sup>

### 4. House of Commons: Second Reading and Committee Stage

The Bill was debated in the House of Commons at second reading on 14 November 2016.<sup>22</sup> The Education Secretary, Justine Greening, described the Bill as vital to helping to improve the technical education route, and that this would help young people, the majority of whom choose

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<sup>14</sup> Department for Business, Innovation and Skills and the Department for Education, [Post-16 Skills Plan](#), July 2016, Cm 9280.

<sup>15</sup> [HC Hansard, 27 October 2016, col 442](#).

<sup>16</sup> [Explanatory Notes](#), p 4.

<sup>17</sup> Technical and Further Education Bill, HL Bill 88 of 2016–17, clause 1 and schedule 1.

<sup>18</sup> [Explanatory Notes](#), p 4.

<sup>19</sup> *ibid*; and Technical and Further Education Bill, HL Bill 88, clauses 2–37 and schedules 2–4.

<sup>20</sup> Department for Business, Innovation and Skills and Department for Education, '[Developing an Insolvency Regime for the Further Education and Sixth-Form Sector](#)', 27 October 2016.

<sup>21</sup> Technical and Further Education Bill, HL Bill 88 of 2016–17, clause 38.

<sup>22</sup> [HC Hansard, 14 November 2016, cols 41–82](#).

not to go to university.<sup>23</sup> The Shadow Secretary of State for Education, Angela Rayner, told the Commons that the Opposition would not seek to oppose the Bill at this stage, but that there remained questions to be answered by the Government on the provisions in the Bill.<sup>24</sup>

While Government amendments were made to the Bill during committee stage, these were technical in nature. No new clauses or schedules were added to the Bill. The Opposition suggested a number of proposals which it returned to at report stage, including that IFATE be required to report annually to Parliament on the quality outcomes of completed apprenticeships, that representative panels of students should be created and that transfer schemes set up by the education administrator would not allow for assets to be sold to for-profit private companies.<sup>25</sup> Evidence was also submitted to the Public Bill Committee by organisations including the [National Society of Apprentices](#), the [Association of Colleges](#) and the [TUC](#).<sup>26</sup>

Further information on the debate at second reading and the scrutiny of the Bill at committee stage is provided by the House of Commons Library briefing, [Technical and Further Education Bill: Committee Stage Report](#).<sup>27</sup> Issues raised at committee stage, and relevant evidence submissions, are also referred to in further detail below in the context of amendments moved at report stage.

## 5. House of Commons: Report Stage

Report stage of the Bill in the House of Commons took place over the course of one day on 9 January 2017.<sup>28</sup> MPs debated two groups of amendments: the first relating to the remit of the Institute for Apprenticeships and Technical Education (IFATE); and the second concerning the proposed insolvency procedures as set out in the Bill. All of these amendments were tabled by the Shadow Minister for Education, Gordon Marsden. Mr Marsden described many of these amendments as being detailed and, in some cases, technical in nature, but that they were all tabled with the following intentions:

[The] broad thrust of what we are trying to do is: first, to ask the Government to act on their commitments in committee; and, secondly, to go further than that and make the rhetoric around social mobility and widening participation a reality.<sup>29</sup>

<sup>23</sup> [HC Hansard, 14 November 2016, col 41](#).

<sup>24</sup> *ibid*, col 47.

<sup>25</sup> [Public Bill Committee, Technical and Further Education Bill, 29 November 2016, session 2016–17, 6th sitting, cols 137–68](#); and [Public Bill Committee, Technical and Further Education Bill, 1 December 2016, session 2016–17, 8th sitting, cols 202–11](#).

<sup>26</sup> A full list of evidence submissions is provided on [the Parliament website](#).

<sup>27</sup> House of Commons Library, [Technical and Further Education Bill: Committee Stage Report](#), 20 December 2016.

<sup>28</sup> [HC Hansard, 9 January 2017, cols 70–119](#).

<sup>29</sup> *ibid*, col 84.

## 5.1 Amendments: Institute for Apprenticeships and Technical Education

The following issues were debated as part of first group amendments at report stage:

### Reporting on the Quality Outcomes of Completed Apprenticeships

New clause 1 would have required IFATE to report annually to Parliament on the quality outcomes of completed apprenticeships. This report would have been required to include information such as job outcomes and average annualised earnings for the first year following the completion of an apprenticeship. The Shadow Education Minister, Gordon Marsden, stated that a similar amendment had been moved at committee stage, and this change to the Bill was necessary to ensure that the Government's focus on increasing the number of people starting apprenticeships was matched by a focus on apprenticeship completions and their outcomes.<sup>30</sup> He argued that, while the Labour Party supported the objective of increasing the number of apprenticeship starts, there remained concerns on the part of the Opposition about ensuring the quality of these new apprenticeships.<sup>31</sup>

The Minister of State for Apprenticeships and Skills, Robert Halfon, argued that there were already provisions in force, under the Enterprise Act 2016, that would require IFATE to report annually to Parliament on its activities, a point he said that he had made during committee stage.<sup>32</sup> He also argued that much of the information on the further education sector, which the amendment would have required IFATE to publish, was already published by the Government.<sup>33</sup> This amendment was subsequently withdrawn.

### Establishment of Representative Panels

New clause 2 would have required IFATE to establish two advisory groups. The first would be a representative panel made up of people undertaking apprenticeships, and the second would be a representative panel made up of people studying towards approved technical education qualifications. Mr Marsden told the Commons that the Government had assured members of the Public Bill Committee that an apprentice panel would be set up in April 2017 and would report directly to Institute for Apprenticeships board.<sup>34</sup> He said that the purpose of this amendment was to require this in the legislation and ensure that a corresponding representative panel was established for further education students. Mr Marsden argued that the proposals for the creation of a representative panel, subsequently outlined in the Department's January 2017 consultation on the strategic guidance for the Institute for Apprenticeships, fell short of the assurance given during committee stage:

[The Opposition] have been through the finer detail of the belated consultation document and have found a paragraph that says that an apprenticeship panel reporting directly to the institute's board would "perhaps" be set up:

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<sup>30</sup> [HC Hansard, 9 January 2017, col 73.](#)

<sup>31</sup> *ibid*, col 74.

<sup>32</sup> *ibid*, col 84; and Enterprise Act 2016, schedule 4.

<sup>33</sup> [HC Hansard, 9 January 2017, col 84](#)

<sup>34</sup> *ibid*, col 74.

“to ensure that apprentices have an opportunity to have their say about [...] education and training [...] and the chance to improve the experience of those who come after them”.

Now, “perhaps”—Madam Deputy Speaker, you are a student of the English language, as I am sure most of us know—is a lot weaker than the assurance that was given by the Minister in Committee. Will he confirm that the panel will still be set up before April?<sup>35</sup>

Responding for the Government, Mr Halfon stated that he agreed with the principle, outlined by Mr Marsden, that IFATE “[needed] to consider the views of those who take an apprenticeship or a course in technical education” and told MPs that he was “confident” that it would do so.<sup>36</sup> In regards to the consultation document, he assured the House that an apprentice panel would be set up in April 2017, and that he expected the Institute to do something similar for technical education students in due course.<sup>37</sup> However, he said that the Government was against enshrining the panels in law. Mr Marsden thanked the Minister for confirming the creation of the apprenticeship panel and withdrew his amendment.<sup>38</sup>

### Careers Education

New clause 4 would have created a statutory requirement that the Government produce a strategy on improving careers education, to be laid before Parliament. Mr Marsden described the state of careers education in England as “woeful”, citing a report published by the Science, Engineering and Manufacturing Technologies Alliance, which found that a high proportion of people across various sectors described the careers advice and guidance they had received as being poor or very poor.<sup>39</sup> He stated that the Careers and Enterprise Council, established by the Coalition Government in 2014, was beginning to make progress on improving careers education provision. However, he argued that this body was not being properly supported by the Government and was over reliant on volunteers.<sup>40</sup>

A number of Labour MPs, including Rob Marris (Labour MP for Wolverhampton South West), Kelvin Hopkins (Labour MP for Luton North) and Tracy Brabin (Labour MP for Batley and Spen), spoke in support of new clause 4.<sup>41</sup> Ms Brabin told the Commons that there were “real concerns” regarding a lack of career education provision in colleges.<sup>42</sup> She also cited the joint statement, published in November 2016 by the chairs of the House of Commons Sub-Committee on Education, Skills and the Economy, in which they accused the Government of failing to take action to address problems in careers advice provision.<sup>43</sup>

<sup>35</sup> [HC Hansard, 9 January 2017, col 75](#); and Department for Education, ‘[Consultation: Government’s Draft Strategic Guidance to the Institute for Apprenticeships—2017–18](#)’, accessed 13 January 2017.

<sup>36</sup> [HC Hansard, 9 January 2017, col 85](#).

<sup>37</sup> *ibid*, col 86.

<sup>38</sup> *ibid*, col 101.

<sup>39</sup> *ibid*, cols 75–6; and Science, Engineering and Manufacturing Technologies Alliance, [The Industry Apprentice Council Survey Research Report](#), June 2016, p 8.

<sup>40</sup> [HC Hansard, 9 January 2017, col 77](#).

<sup>41</sup> *ibid*, cols 91–5, 96–9, and 100–1.

<sup>42</sup> *ibid*, cols 100–1.

<sup>43</sup> *ibid*; and House of Commons Sub-Committee on Education, Skills and the Economy, ‘[Government Inaction on Careers Provision Failings is Unacceptable](#)’, 1 November 2016.

The Minister, Robert Halfon, argued that the Government was taking action on career plans and told MPs that further policy announcements would be made:

We are spending £90 million [on the Government's careers education strategy], which includes the work of the Careers and Enterprise Company. A separate £77 million is being spent on National Careers Service guidance just this year. I am going further. I am looking at a careers strategy from the beginning to ensure that we address our skills needs, and to look at how we can help the most disadvantaged. I am looking at how we can ensure widespread and quality provision, and how that leads to jobs and security. I will set out my plans on careers over the coming weeks.<sup>44</sup>

In response to Mr Halfon, Mr Marsden described the exclusion of a careers strategy from the Bill as a “huge missed opportunity” and pressed new clause 4 to a division.<sup>45</sup> The Opposition motion that the new clause be added to the Bill was defeated by 274 votes to 186 votes.<sup>46</sup>

### **Promoting Equality of Opportunity**

Amendment 4 would have required IFATE to have regard to the promotion of equality of opportunity in connection with the levels of access to, and participation in, education or training. Mr Marsden argued that too few students from disadvantaged backgrounds were transitioning from level 2 to higher levels of study.<sup>47</sup> He told MPs that the amendment would better enable IFATE to focus on increasing the number of students in higher levels of study, and thereby improve social mobility.

Mr Halfon stated that he understood why Mr Marsden had tabled the amendment and said that it was “crucial to widen access and participation, and to ensure that apprenticeships and technical education are accessible to all”. He said that, according to the equalities impact assessment carried out for the Bill, the reforms already outlined in the Bill were likely to have a positive impact on people, including those who were economically disadvantaged.<sup>48</sup> Mr Halfon opposed the amendment on the basis that he believed that the duty for IFATE to promote equality of opportunity already existed in legislation, specifically in the Equality Act 2010 and the Apprenticeships, Skills, Children and Learning Act 2009.<sup>49</sup> The amendment was withdrawn.

### **Cooperation with the Apprenticeship Delivery Board**

Amendment 5 would have required IFATE to cooperate with the Apprenticeship Delivery Board. The Apprenticeship Delivery Board was established by the Government in September 2016 with a remit to ensure employer engagement in expanding apprenticeships and to advise the Government. Mr Marsden characterised the role of the Apprenticeship Delivery Board as being thus far “somewhat underwhelming”, arguing that there was little evidence that it was currently fulfilling its remit.<sup>50</sup> He also argued that the Government had ended its involvement with this group, following the departure from the group of the former adviser to Number 10 on apprenticeships, Nadhim Zahawi (Conservative MP for Stratford-on-Avon). Mr Halfon disputed Mr Marsden's characterisation of the Apprenticeship Delivery Board, and said that it

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<sup>44</sup> [HC Hansard, 9 January 2017, col 86.](#)

<sup>45</sup> *ibid*, col 101.

<sup>46</sup> *ibid*, cols 101–6.

<sup>47</sup> *ibid*, cols 77–8.

<sup>48</sup> *ibid*, col 87; and Department for Education, [Technical Education Reform: Assessment Of Equalities Impacts](#), July 2016.

<sup>49</sup> [HC Hansard, 9 January 2017, col 87.](#)

<sup>50</sup> *ibid*, col 79.

continued in its role under the chairmanship of the businessman David Meller.<sup>51</sup> He argued that the amendment would “straightjacket” the Apprenticeship Delivery Board with red tape and that the board was independent, without any legislative standing. The amendment was withdrawn.

### **Funding of the Institute for Apprenticeships and Technical Education**

Amendment 6 related to the funding of apprenticeships through the Apprenticeships Levy, and would have required IFATE to “in any one year expend a sum no less than the sum projected to be raised under the Apprenticeship Levy in that year”.<sup>52</sup> Mr Marsden argued that the Government needed to clarify whether all the money raised from companies through the Apprenticeships Levy was going to be spent on the apprenticeships, or go to the Treasury.<sup>53</sup> Mr Halfon argued against the amendment on the basis that, while IFATE would be asked to advise on the pricing of apprenticeship standards and allocation to funding bands, it would be the Secretary of State for Education, and not IFATE, that would have responsibility for spending Apprenticeships Levy funds.<sup>54</sup> The amendment was withdrawn.

### **State-Funded Apprenticeships**

In schedule 1 of the Bill, the Secretary of State is to be given powers to expand the function of IFATE through secondary legislation. Amendment 7 related to these regulation-making powers, in particular regarding the further expansion of IFATE’s existing remit relating to apprenticeships. It would have limited these regulation-making powers so that the remit of IFATE could not be expanded beyond state-funded apprenticeships. Mr Marsden said that this amendment was necessary to prevent the extension of rulings on technical qualifications into “professional accreditation schemes paid for solely by learners or employers”.<sup>55</sup>

Mr Halfon opposed the amendment on the basis that it would create a distinction which did not appear in the legislation already in place governing the Institute for Apprenticeships.<sup>56</sup> He argued that the amendment would risk inconsistency in IFATE’s approach to different apprenticeships and technical education courses depending on how they were paid for, which could impact on IFATE’s efficiency. The amendment was withdrawn.

### **Mapping of Occupation Groups**

Amendment 8 related to the mapping of occupation groups, as set out in paragraph 7 of schedule 1 of the Bill. The inclusion of provisions in the Bill for mapping of occupation groups follows the recommendations of the Panel on Technical Education that the Secretary of State should create groups of occupations based on shared training requirements—referred to as routes—and that technical education should be mapped according to the specific needs of each route.<sup>57</sup> Amendment 8 would have required the mapping of occupation groups be done with particular regard for people aged 16 to 24 taking apprenticeships. Mr Marsden argued that

<sup>51</sup> [HC Hansard, 9 January 2017, col 79](#); and Department for Business, Innovation and Skills and Department for Education, ‘[David Meller Announced as the New Chair of the National Apprenticeship Ambassadors Network](#)’, 24 March 2014.

<sup>52</sup> [HC Hansard, 9 January 2017, col 72](#).

<sup>53</sup> *ibid*, col 80.

<sup>54</sup> *ibid*, col 88.

<sup>55</sup> *ibid*, col 81.

<sup>56</sup> *ibid*, col 89.

<sup>57</sup> [Explanatory Notes](#), p 14.

under the new Apprenticeships Levy system, employers were tending to award apprenticeships to people over 19 rather than 16- to 18-year olds.<sup>58</sup> He cited concerns raised by the Association of Employment and Learning Providers that a lack of framework funding for 16- to 18-year olds had removed the incentive to provide apprenticeships to this age group.<sup>59</sup> Mr Halfon argued that the amendment would constrain IFATE in its decision making when mapping occupation groups, which could be potentially damaging.<sup>60</sup> The amendment was withdrawn.

### **Apprenticeships: Recognised Technical Qualifications**

Amendment 9, and its consequential amendments—amendments 11 to 16—would have required that standards set by IFATE for apprenticeships included a recognised technical qualification. Mr Marsden stated that the Opposition shared concerns raised by organisations, including the Association of Employment and Learning Providers, that the IFATE standards, as set out in the Bill, would not require that apprenticeships should lead to a technical qualification.<sup>61</sup> Mr Halfon stated that the Government felt this amendment was unnecessary, arguing that the approach outlined in the Bill would ensure that “individual employers [had] the freedom and flexibility to determine how to train their own apprentices to ensure they gain full competency”.<sup>62</sup> The amendment was withdrawn.

### **Retaining Copyright for Course Documents**

The Bill included various provisions intended to enable IFATE to establish the standards for technical education qualifications for each occupation or group of occupations.<sup>63</sup> The Explanatory Notes to the Bill state that this process “would include the transfer of copyright for relevant course documents to [IFATE]”.<sup>64</sup> The Bill would also grant IFATE the power to assign or grant a licence of the copyright to another person.<sup>65</sup> Amendment 10 would have changed the wording of the Bill so that IFATE’s powers concerning copyright applied only to “standard or technical assessment design specification”.<sup>66</sup>

Mr Marsden told the Commons that this amendment had been tabled followed evidence submitted to the Public Bill Committee by City and Guilds.<sup>67</sup> City and Guilds, in its submission, stated the following regarding the proposal relating to copyright:

This is a significant proposal and not one that was canvassed in the Skills Plan. As drafted, it is unclear whether awarding organisations retain any copyright in potentially key documents relating to a qualification once ownership transfers to the [IFATE].<sup>68</sup>

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<sup>58</sup> [HC Hansard, 9 January 2017, col 80.](#)

<sup>59</sup> *ibid*, col 81; and Association of Employment and Learning Providers, [Consultation Response: Apprenticeship Funding and Register](#), 2 September 2016.

<sup>60</sup> [HC Hansard, 9 January 2017, col 89.](#)

<sup>61</sup> *ibid*, col 82.

<sup>62</sup> *ibid*, col 90.

<sup>63</sup> [Explanatory Notes](#), p 16; and [Technical and Further Education Bill](#), HL Bill 88 of 2016–17, schedule 1, paragraphs 15 and 23.

<sup>64</sup> [Explanatory Notes](#), p 16.

<sup>65</sup> *ibid*.

<sup>66</sup> [HC Hansard, 9 January 2017, col 72.](#)

<sup>67</sup> *ibid*, col 83.

<sup>68</sup> Public Bill Committee, Technical and Further Education Bill, [Written Evidence Submitted by City and Guilds Group](#), November 2016.

City and Guilds argued that this would be more appropriately applied at the level of national standards and would allow awarding organisations to retain their copyright in qualification and assessment material design.<sup>69</sup>

The Minister of State for Apprenticeships and Skills, Robert Halfon, stated that he understood why concerns regarding these provisions in the Bill had been raised, but said that the Government did not think that the change put forward in amendment 10 was necessary.<sup>70</sup> He argued that it was important for IFATE to retain the copyright to do its job. The amendment was withdrawn.

### **Fees Charged For Technical Education Certificates**

The Bill includes provisions to enable the Secretary of State to issue technical education certificates to people who have finished a technical education qualification.<sup>71</sup> These provisions would also enable the Secretary of State to introduce secondary legislation regarding the application process for such certificate, as well as how copies of the certificates would be supplied and whether fees would be charged. Amendment 17 would have removed powers for the Secretary of State to charge fees for these technical education certificates. Mr Halfon argued against the amendment, saying that the Government had a duty of care to the tax payer to implement a charge for certificates if this were necessary, and that the Department would not use this provision to raise revenue.<sup>72</sup> The amendment was withdrawn.

### **Quality Assurance Agency for Higher Education**

Schedule 1 of the Bill included provisions to require data sharing between IFATE and Ofsted, Ofqual and the Office for Students.<sup>73</sup> Through amendments 18 to 21, the Opposition proposed the expansion of this list of organisations to include the Quality Assurance Agency for Higher Education (QQA), the body that monitors, and advises on, standards and quality in higher education. These amendments would also have specified in the legislation that higher education institutions offering degree apprenticeships would be required to share information with IFATE.

Mr Marsden argued that these amendments were necessary to ensure that degree apprenticeships be more strictly monitored than was currently the case, and argued that some degree qualifications did not offer genuine work-based learning.<sup>74</sup> Mr Halfon responded that the exclusion of the Quality Assurance Agency for Higher Education from the provisions on data sharing reflected reforms being introduced in the Higher Education and Research Bill.<sup>75</sup> He also said that the Bill as it was already worded would require higher education institutions to share information with IFATE. The amendments were withdrawn.

## **5.2 Amendments: Insolvency Procedures**

Mr Marsden, in his speech when moving the second group of amendments at report stage, stated that the Opposition welcomed the proposals for the creation of an education

<sup>69</sup> Public Bill Committee, Technical and Further Education Bill, [Written Evidence Submitted by City and Guilds Group](#), November 2016.

<sup>70</sup> [HC Hansard, 9 January 2017, col 90.](#)

<sup>71</sup> [Technical and Further Education Bill](#), HL Bill 88 of 2016–17, schedule 1, paragraph 24.

<sup>72</sup> [HC Hansard, 9 January 2017, cols 90–1.](#)

<sup>73</sup> New section 40AA.

<sup>74</sup> [HC Hansard, 9 January 2017, col 84.](#)

<sup>75</sup> *ibid*, cols 90–1.

administrator.<sup>76</sup> However, he said that the Opposition wished to continue the probing of how the Government's proposals relating to insolvency would work in practice, begun at committee stage. The following amendments were included in the second group of amendments debated at report stage:

### **Special Administration: Potential Impact on Students**

Amendment 1 would have required an assessment be carried out of the potential impact on students if a further education body were put into special administration, including the impact on the quality of their education and the financial impact. This amendment would also have required appropriate mitigating actions be taken, such as transferring students to another institution and keeping insolvent institutions open for existing students. The Secretary of State would be required to make regulations to specify which body would carry out this assessment.

Mr Marsden told the House of Commons that this amendment had been tabled on the advice of the National Society of Apprentices.<sup>77</sup> He argued that it was important for there to be an assessment of the impact of issues, such as travel. He cited evidence submitted to the Public Bill Committee by the National Society of Apprentices, which stated that average travel cost could constitute a quarter of an apprentice's wages, if they were on the £3.40 per hour national minimum wage set for apprentices.<sup>78</sup>

Mr Halfon argued against this amendment on the grounds that introducing a formal assessment of the impact on students would lengthen the administration process, causing increased disruption to students.<sup>79</sup> He also said that this amendment would reduce the education administrator's discretion in making decisions about how best to achieve his or her objectives. He told MPs that the education administrator necessarily would have to consult with stakeholders, including student bodies, and consider all the pertinent issues when carrying out this role. The amendment was withdrawn.

### **Role of the Office for Students**

Amendment 2 concerned the role of the Office for Students during the period that the education administrator took responsibility for the management of a further education body. The [Higher Education and Research Bill](#), as introduced in the House of Lords during the 2016–17 session, included provisions that would require higher education providers to put in place student protection plans.<sup>80</sup> These could address issues such as the impact on students of the closure of a course, and how students would be supported by their higher education providers.<sup>81</sup> Amendment 2 to the Technical and Further Education Bill proposed giving the courts the power to suspend action set out in the student protection plan during the period when the education administrator has management responsibility.

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<sup>76</sup> [HC Hansard, 9 January 2017, col 107.](#)

<sup>77</sup> *ibid.*

<sup>78</sup> *ibid.*; and Public Bill Committee, Technical and Further Education Bill, [Written Evidence Submitted by the National Society of Apprentices](#), 2 December 2016.

<sup>79</sup> [HC Hansard, 9 January 2017, cols 113–14.](#)

<sup>80</sup> [Higher Education and Research Bill](#), HL Bill 76 of 2016–17, Clause 13(1)(c). The Higher Education and Research Bill received first reading in the House of Lords on 22 November 2016, and, at the time of writing, was at committee stage in the Lords.

<sup>81</sup> [Explanatory Notes to the Higher Education and Research Bill](#), p 17.

Mr Marsden argued that the amendment was necessary because the Government was “creating two separate control systems with two sets of obligations on colleges”, established in two separate Acts.<sup>82</sup> He said that this amendment would prevent duplication of the higher education intervention regime proposed in the Higher Education and Research Bill. Mr Marsden noted that this proposal was supported by the Association of Colleges, who had argued the Government was needlessly creating an administrative burden by having two overlapping systems.<sup>83</sup>

Mr Halfon argued that the amendment was unnecessary because the courts were to have the power under the Technical and Further Education Bill to make interim orders following an education administration application being made, and that this order could address existing student protection plans.<sup>84</sup> The amendment was withdrawn.

### **Pension Obligations**

Amendment 3 would have required the Secretary of State in England, and the Welsh Minister in Wales, to guarantee borrowing by further education bodies in education administration, further to their statutory pension obligations. Mr Marsden told the House of Commons that this issue had been raised by both the Association of Colleges and the University and College Union, and that the amendment would ensure that the pensions of employees of further education bodies would be unaffected by the insolvency process.<sup>85</sup> Mr Halfon opposed the amendment, stating that it was the Government’s intention that the provisions in the Bill to follow “as far as possible” the provisions of the ordinary administration regime for company insolvencies.<sup>86</sup> The amendment was withdrawn.

### **Transfer Schemes: For-Profit Private Companies**

Amendment 22 related to the provisions in schedule 2 of the Bill, which gave the education administrator the power to make schemes for the transfer of a further education body’s property, rights and liabilities. The amendment would have prevented education administrators from transferring assets to a for-profit private company, if they considered those assets to have been acquired primarily using public funds. In his remarks, Mr Marsden referred to a discussion of the provisions in schedule 2 of the Bill at committee stage in the Commons.<sup>87</sup>

A similar amendment had already been voted on at committee stage, and had been defeated by 8 votes to 5.<sup>88</sup> During committee stage, Mr Marsden had noted that guidance given to the Public Bill Committee by the Department for Education had said that the relevant bodies to which the assets of a further education corporation could be transferred was listed in secondary legislation.<sup>89</sup> He argued that this guidance stated that it was “expected” that all transfers should

<sup>82</sup> [HC Hansard, 9 January 2017, col 110.](#)

<sup>83</sup> *ibid*; Public Bill Committee, Technical and Further Education Bill, [Written Evidence Submitted by the Association of Colleges](#), 29 November 2016.

<sup>84</sup> [HC Hansard, 9 January 2017, col 114.](#)

<sup>85</sup> *ibid*, col 110; and Public Bill Committee, Technical and Further Education Bill, [Written Evidence Submitted by the Association of Colleges](#), 1 December 2016.

<sup>86</sup> [HC Hansard, 9 January 2017, col 114.](#)

<sup>87</sup> *ibid*, col 111.

<sup>88</sup> [Public Bill Committee, Technical and Further Education Bill, 1 December 2016, session 2016–17, 8th sitting, cols 202–11.](#)

<sup>89</sup> *ibid*; and Dissolution of Further Education Corporations and Sixth Form College Corporations (Prescribed Bodies) Regulations 2012, SI 2012/1167.

be made to charitable bodies, but that this was not a requirement.<sup>90</sup> At report stage, Mr Marsden argued that amendment 22 was necessary to prevent the possibility of assets, acquired as a result of large amounts of public investment in the further education sector would be sold to private sector companies.<sup>91</sup> He also argued that this would prevent further education colleges being subject to asset stripping by private companies.<sup>92</sup>

Responding on behalf of the Government, Mr Halfon argued that the existing legislation was sufficient to ensure that assets would only be transferred to public sector bodies with educational functions.<sup>93</sup> He said that transfers could also be made to private companies, but only to companies established for purposes that included the provision of educational facilities.<sup>94</sup> He also outlined a number of checks on the process established in the Bill that he said would prevent asset stripping, including oversight of the transfer scheme by the Secretary of State. Mr Marsden pressed amendment 22 to a division. The amendment was defeated by 278 votes to 183 votes.<sup>95</sup>

## 6. House of Commons: Legislative Grand Committees

Following report stage, the House of Commons sitting was briefly suspended while the Deputy Speaker, Lindsay Hoyle, made a decision on the certification of relevant clauses of the Bill in accordance with the ‘English Votes for English Laws’ procedure set out in the House of Commons Standing Order number 83 M.<sup>96</sup> When the House resumed afterwards, the Deputy Speaker certified the following:

- That clauses 2 to 38 and schedules 2 to 4 of the Bill related exclusively to England and Wales and were within devolved legislative competence.
- That clause 1 and schedule 1 of the Bill related exclusively to England and were within devolved legislative competence.<sup>97</sup>

As such, these would be considered separately by English MPs and English and Welsh MPs in Legislative Grand Committees. The House resolved itself into Legislative Grand Committee (England and Wales), to consider clauses 2 to 38 and schedules 2 to 4. These clauses and schedules were agreed without debate.<sup>98</sup> The House then resolved itself into Legislative Grand Committee (England), and similarly agreed clause 1 and schedule 1 without debate.<sup>99</sup> The House then resumed for third reading of the Bill.<sup>100</sup>

Further information on ‘English Votes for English Laws’ procedure is provided in the House of Commons Library briefing, [English Votes for English Laws](#).<sup>101</sup>

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<sup>90</sup> [Public Bill Committee, Technical and Further Education Bill, 1 December 2016, session 2016–17, 8th sitting, cols 202](#). Further information on this debate at committee stage in the Commons is provided in the House of Commons briefing, pp 28–30.

<sup>91</sup> [HC Hansard, 9 January 2017, cols 112–13](#).

<sup>92</sup> *ibid.*

<sup>93</sup> *ibid.*, col 115.

<sup>94</sup> *ibid.*

<sup>95</sup> *ibid.*, cols 117–19.

<sup>96</sup> *ibid.*, cols 119–20.

<sup>97</sup> *ibid.*, col 120.

<sup>98</sup> *ibid.*

<sup>99</sup> *ibid.*

<sup>100</sup> *ibid.*, cols 121–7.

<sup>101</sup> House of Commons Library, [English Votes for English Laws](#), 2 December 2015.

## 7. House of Commons: Third Reading

At third reading, the Minister of State for Apprenticeships and Skills, Robert Halfon, restated to the Commons the purpose of the Bill:

I am clear about the priorities that we want to see in apprenticeships, further education and skills, creating a ladder of opportunity for all. These include a transformation of prestige and culture; widespread, high-quality provision; a system that addresses our skills needs; social justice; and job security and prosperity. The Bill seeks to build those priorities into our system, bringing to life the fundamental reforms needed to ensure that we have a skills and education system that rivals the best in the world.<sup>102</sup>

Mr Halfon told the Commons that, in addition to the [consultation](#) launched on 4 January 2017 on the draft strategic guidance for the Institute for Apprenticeships, the Government would also publish for consultation before April 2017 an operational plan for the Institute for Apprenticeships.<sup>103</sup>

The Opposition Minister for Education, Gordon Marsden, described the Bill as “an important Bill, including some important provisions”, saying that this was why the Opposition had chosen not to oppose it at either second reading or third reading.<sup>104</sup> While he said that the Opposition was supportive of the aims of the Bill, he repeated his belief that the absence of a strategy on improving careers advice was a missed opportunity. He also said that, among the issues to be considered in the House of Lords, the following remained unresolved:

Will the funding and the staffing numbers that were dragged out of the Government when Peter Lauener spoke to the Committee be adequate for all the responsibilities?<sup>105</sup> I would say that it is doubtful at this stage. How arm’s length or genuinely independent of judgment will [IFATE] be, or will Whitehall still be micromanaging the strings? Those are not just petty issues. They are issues that, if not resolved properly, will not gain the full-hearted consent of stakeholders, providers and all the people whom the Minister needs, and we all need, in order to meet the targets and to make his aspirations and my aspirations for apprenticeships for the next generation a reality.<sup>106</sup>

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<sup>102</sup> [HC Hansard, 9 January 2017, col 121.](#)

<sup>103</sup> *ibid*, col 123.

<sup>104</sup> *ibid*, col 125.

<sup>105</sup> [Public Bill Committee, \*Technical and Further Education Bill\*, 22 November 2016, session 2016–17, 1st sitting.](#) Peter Lauener is the chief executive of the Education Funding Agency.

<sup>106</sup> [HC Hansard, 9 January 2017, col 126.](#)

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