

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TECHNICAL AND FURTHER EDUCATION BILL

First Sitting

Tuesday 22 November 2016

(Morning)

CONTENTS

Programme motion agreed to, with an amendment.
Motion to sit in private agreed to.
Written evidence (Reporting to the House) motion agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 26 November 2016

© Parliamentary Copyright House of Commons 2016

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chairs: † MR ADRIAN BAILEY, NADINE DORRIES

† Argar, Edward (<i>Charnwood</i>) (Con)	† Marsden, Gordon (<i>Blackpool South</i>) (Lab)
† Brabin, Tracy (<i>Batley and Spen</i>) (Lab)	† Rutley, David (<i>Macclesfield</i>) (Con)
Donelan, Michelle (<i>Chippenham</i>) (Con)	† Shah, Naz (<i>Bradford West</i>) (Lab)
† Evennett, David (<i>Lord Commissioner of Her Majesty's Treasury</i>)	† Smith, Henry (<i>Crawley</i>) (Con)
† Halfon, Robert (<i>Minister for Apprenticeships and Skills</i>)	† Tomlinson, Justin (<i>North Swindon</i>) (Con)
† Hopkins, Kelvin (<i>Luton North</i>) (Lab)	† Turner, Karl (<i>Kingston upon Hull East</i>) (Lab)
† Jayawardena, Mr Ranil (<i>North East Hampshire</i>) (Con)	Vara, Mr Shailesh (<i>North West Cambridgeshire</i>) (Con)
† Kane, Mike (<i>Wythenshawe and Sale East</i>) (Lab)	Kenneth Fox, Marek Kubala, <i>Committee Clerks</i>
† Mak, Mr Alan (<i>Havant</i>) (Con)	† attended the Committee

Witnesses

Lord Sainsbury of Turville, Chair of recent Independent Panel on Technical Education

Peter Lauener, Shadow Chief Executive, Institute for Apprenticeships

David Hughes, Chief Executive, Association of Colleges

Professor Alison Fuller, UCL

Richard Atkins CBE, FE Commissioner

Bill Watkin, Chief Executive, Sixth Form Colleges Association

Ian Pretty, Chief Executive, Collab Group

Public Bill Committee

Tuesday 22 November 2016

(Morning)

[MR ADRIAN BAILEY *in the Chair*]

Technical and Further Education Bill

9.25 am

The Chair: Before we begin, I have a few preliminary points, which some of you may be familiar with. Please switch electronic devices off or to silent. Tea and coffee are not allowed during sittings, but you may drink water. Today we will consider the programme motion on the amendment paper. We will then consider a motion to allow us to deliberate in private about our questions before the oral sessions, and then a further motion to enable the reporting of written evidence for publication. There is an amendment to the programme motion, because one of our witnesses, Poppy Wolfarth from the National Society of Apprentices, has had to pull out because of a family illness.

Gordon Marsden (Blackpool South) (Lab): On that point, we all try very hard to get the apprentice voice heard, so it is unfortunate that the witness cannot come today. On the original list of witnesses was the name of Baroness Wolf, which has since disappeared, so she is obviously not giving evidence to us today. Do we know the background to that?

The Lord Commissioner of Her Majesty's Treasury (David Evennett): I believe she is unavailable to come along today because of other commitments. We are disappointed, but obviously people have full diaries.

Gordon Marsden: Indeed, and she is a very busy lady.

The Chair: In the Minister's absence, I call the Whip to move the programme motion and the amendment to it.

Motion made, and Question proposed,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 22 November) meet—

- (a) at 2.00 pm on Tuesday 22 November;
- (b) at 11.30 am and 2.00 pm on Thursday 24 November;
- (c) at 9.25 am and 2.00 pm on Tuesday 29 November;
- (d) at 11.30 am and 2.00 pm on Thursday 1 December;
- (e) at 9.25 am and 2.00 pm on Tuesday 6 December;

(2) the Committee shall hear oral evidence on Tuesday 22 November in accordance with the following Table:

<i>Time</i>	<i>Witness</i>
Until no later than 10.10 am	Lord Sainsbury of Turville; Shadow Chief Executive for the Institute for Apprenticeships; National Society of Apprentices

<i>Time</i>	<i>Witness</i>
Until no later than 11.25 am	Association of Colleges; Further Education Commissioner; Sixth Form Colleges' Association; Collab Group (formerly 157 Group); University College London
Until no later than 3.00 pm	Ernst & Young; Lloyd's Banking Group; Santander; Barclays
Until no later than 4.00 pm	National Union of Students; Learning and Work Institute; Blackpool and The Fylde College

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clauses 2 to 23; Schedule 2; Clause 24; Schedule 3; Schedule 4; Clauses 25 to 45; and remaining proceedings on the Bill; and

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 6 December.—
(*David Evennett.*)

Manuscript amendment made: 1, in paragraph (2), leave out “; National Society of Apprentices”.—(*David Evennett.*)

Main Question, as amended, put and agreed to.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 22 November) meet—

- (a) at 2.00 pm on Tuesday 22 November;
- (b) at 11.30 am and 2.00 pm on Thursday 24 November;
- (c) at 9.25 am and 2.00 pm on Tuesday 29 November;
- (d) at 11.30 am and 2.00 pm on Thursday 1 December;
- (e) at 9.25 am and 2.00 pm on Tuesday 6 December;

(2) the Committee shall hear oral evidence on Tuesday 22 November in accordance with the following Table:

<i>Time</i>	<i>Witness</i>
Until no later than 10.10 am	Lord Sainsbury of Turville; Shadow Chief Executive for the Institute for Apprenticeships
Until no later than 11.25 am	Association of Colleges; Further Education Commissioner; Sixth Form Colleges' Association; Collab Group (formerly 157 Group); University College London
Until no later than 3.00 pm	Ernst & Young; Lloyd's Banking Group; Santander; Barclays
Until no later than 4.00 pm	National Union of Students; Learning and Work Institute; Blackpool and The Fylde College

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clauses 2 to 23; Schedule 2; Clause 24; Schedule 3; Schedule 4; Clauses 25 to 45; and remaining proceedings on the Bill; and

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 6 December.

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*David Evennett.*)

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*David Evennett.*)

The Chair: Copies of written evidence that the Committee receives will be made available in the Committee Room. We will now go into private session to discuss lines of questioning.

9.28 am

The Committee deliberated in private.

Examination of Witnesses

Lord Sainsbury and Peter Lauener gave evidence.

9.33 am

The Chair: Good morning and welcome. Would you say a few words to introduce yourselves and the positions you hold, for voice transcription purposes if nothing else? We all know you, but that would be helpful.

Lord Sainsbury: My name is David Sainsbury. I was chairman of the Independent Panel on Technical Education.

Peter Lauener: My name is Peter Lauener. I am shadow chief executive of the Institute for Apprenticeships, and therefore leading its set-up—it will be up and running next April.

The Chair: Before I call the first Member to ask a question, I remind all Members that questions should be limited to matters within the scope of the Bill and that we must stick to the timings set out in the programme motion that the Committee has agreed. For this session we have until 10.10 am, so if we are approaching 10.10 am please do not ask a long question that the witness would be unable to answer before the knife falls. I call Gordon Marsden.

Q1 Gordon Marsden: Thank you, Mr Bailey. It is a great pleasure to serve under your chairmanship and to welcome our witnesses, both of whom have a distinguished and long-standing interest in this area, which we will pursue.

Lord Sainsbury, these issues about technical education, which you have campaigned and lobbied for hard over many years, have finally reached some form of catharsis—if that is the right word—in terms of the statute book, which for you must be somewhere on the spectrum between huge delight and moderate satisfaction. However, the Bill has avoided committing to the 15 routes that you suggested in your review. Are there any specific additional provisions that you would like to see in the Bill?

Lord Sainsbury: No. It seemed to me to be a very sensible approach to this issue. Always, in these things, you have to combine the basic requirements, but you also need to leave room for flexibility. I do not think that there has been a great argument about the 15 routes, but in the end one needs to have some flexibility built into a piece of legislation, if it is going to last as we hope it will.

Q2 Gordon Marsden: Yes. I am sure that in later discussions the Minister will want to elaborate on this issue, but there have been statements by Department for Education and Skills Funding Agency officials on the extent to which the routes themselves might be rather flexible, in terms of what they could include, even within the 15. It makes me think of the line:

“In my Father’s house are many mansions”.

We hope that some of those mansions will be explored further on.

I want to press you further, because you said that you are perfectly content with the position as it is, but you have been—forgive the English, or the French—“banging on” about this for years and years. I remember at least two excellent addresses in the past decade that you have given to various organisations on this issue. Yet we know, according to Baroness Wolf and the pamphlet, “Remaking Tertiary Education”, which she has just been involved with, that:

“Technical education, at Level 4 and Level 5, is on the verge of total collapse due to a steep decline in numbers.”

I also note that you have called for more funding for the technical route and for implementation. Would you like to comment further on those two points?

Lord Sainsbury: I think that funding is absolutely key to this whole area. I think that we have organised our system of technical education extremely badly over the years, but it is also true that we have underfunded it on quite a substantial scale. What has been proposed in my report, and what is in the Bill, will greatly improve and clarify the system, but there is still an issue of funding. If you look at the number of hours we fund further education colleges to do this kind of training, you will see that it is extremely low by international standards. So there is a funding issue here, as well as the bits of funding that we have suggested, for example for work placement, which is clearly fundamental and which I hope we can get movement on. There is a more long-term basic funding issue.

Gordon Marsden: We may or may not get some clarity on that in the autumn statement, but I am grateful to you. Mr Bailey, I would like to ask Mr Lauener some questions in due course.

The Chair: Are there any other takers? While other Members dwell upon that, I will invite you, Mr Marsden, to ask your question of Mr Lauener.

Q3 Gordon Marsden: Mr Lauener, it is a great pleasure to have you with us today. You have an enviable record of longevity in this area of activity. When I was going over your CV and looking at the various things you have done over the years, I was reminded of the famous French statesman Talleyrand. When asked what he had done during the French revolution, he famously replied, “I survived.” You seem to have survived several revolutions in this area, and several Governments. Could you start by saying what the key issue is for you in your new position, as opposed to the variety of positions you have held in the past?

Peter Lauener: Thank you very much; that was a very interesting introduction. The Institute for Apprenticeships does have a key role, and of course as a result of this Bill it will morph into the Institute for Apprenticeships and

Technical Education—subject to Parliament. The key thing for me is, first, that it demonstrates employer leadership of apprenticeships and technical education. That is not just about the body at the head of the institute, where we have been very pleased with the high calibre of applicants for positions, but it also refers to all the route panels and other bodies that will bring expertise to the institute.

We have estimated that overall that should amount to between 250 and 300 employers involved in all parts of the institute. The number itself, if it is managed badly, could just become a bureaucratic process, but I think it is vital that those employers bring expertise and credibility, and that when the institute says we need a new standard in this, it is because employers are saying that.

Q4 Gordon Marsden: I could not agree with you more on that; it is extremely important, going back to the original review in 2012, which talked about the whole area being employer-led, that that is the case. Unfortunately, following a series of untoward events, that has not exactly been demonstrated in the institute's leadership so far, has it? Because you are the second shadow chief executive who has been there. The first was a lady who had a significantly long civil service career in various Departments, but she did not stay terribly long—I think she stayed about a couple of months. Now you have taken over. I pay tribute to your versatility, because you hold a number of other positions.

The message that has been sent to the outside world, which may be unfair, is that although the Government have talked about the institute being employer-led, they have not put that into practice thus far when it comes to its shadow chief executives. What confidence can we have that the new board, chair and chief executive will have a very strong employer focus?

Peter Lauener: To make an obvious point, the institute does not yet exist—legally it will start on 1 April next year—so the preparations and appointments are being made. When people see the calibre of the board, and the employers on route committees supporting that and bringing particular sector expertise, everyone will see that the institute has employer knowledge, skills and behaviours—to take that phrase—built into every aspect of its operation.

Q5 Gordon Marsden: Can I just stop you there? You talked about the recruitment process, but can you give us any clarity on when it will be completed and when we might expect to see, as it were, white smoke coming out of the chimney? We are on a terribly tight timescale for this process, with the introduction of the apprenticeship levy and the formal setting up of the new institute.

Peter Lauener: The process for appointing members of the institute is substantially complete. I expect an announcement will be made about that shortly.

Q6 Gordon Marsden: Is that a civil service “shortly” or a general one?

Peter Lauener: There is not yet a planned date for it. There are one or two items—

Gordon Marsden: Before Christmas?

Peter Lauener: I would be surprised if there was not an announcement before Christmas. Incidentally, we are also planning to publish for consultation the

Government's remit letter in draft to the institute, and I would also expect, again before Christmas, a draft of the institute's first strategic plan. The intention is that that would then be open for discussion with a wide group of employers and stakeholders, so that the institute, when it is formed, with the employer members and the shadow chair—I will say something about that in a moment—will be able to start its operation with an agreed plan for the 2017-18 year, which has already been subject to wide consultation and which is owned by the institute.

The other thing to add, of course, is that Antony Jenkins has been shadow chair. In my experience, having had several discussions with him, he has brought very visible employer leadership to this set-up phase, and I have been very happy to support him during that. The advertisement for the post of permanent chair is now closed. I expect interviews to take place shortly and an announcement to be made in due course. That might well take a bit longer.

Q7 Gordon Marsden: It is helpful to hear that you want to keep the employers in a prominent position. It is also important for the wider FE sector, which you are trying to encourage to take up apprenticeships. The Minister's predecessor, perfectly rightly, exhorted the sector—not with significant success—to increase apprenticeship numbers. On the subject of increasing numbers, I want to ask about capacity—not your personal capacity, which obviously encompasses quite a few areas already, but the capacity of the institute to do some of the things said on the tin.

One of the Bill's important provisions is the extension to the area of technical education. We welcome that and think it is very important. I am sure Lord Sainsbury does as well. However, that area has capacity issues, too. The Minister and, for that matter, you, have been rather coy about putting out any figures for the staffing of the institute, so we have had to rely on rumours and leaked papers. We were told originally that there were going to be 40 employees, and there is now some suggestion that there will be around 100. Are you able to give any more clarity on that?

Peter Lauener: I expect that when the institute starts at the beginning of April next year, it will have about 60 employees. The planned running costs next year are about £8 million, but the number of staff will need to build up as the additional responsibilities, subject to Parliament, are added. That will probably be another 30 or so staff. I should emphasise that those figures are provisional at this stage. We need to keep them under review. One thing I am looking at is the roles and responsibilities of the Skills Funding Agency and the institute. There may be some marginal adjustments.

Q8 Gordon Marsden: So you are interrogating yourself on a daily basis.

Peter Lauener: I constantly challenge myself by saying, “Am I using the resources available in the best way possible?”

Q9 Gordon Marsden: Well, at least you will have a convenient and convivial conversation, because you are one and the same thing, are you not?

Peter Lauener: I am indeed. As I am sure you are aware, I am also chief executive of the Education Funding Agency. It would not be at all appropriate for these

three things to be combined on an ongoing basis. As I said at the start, I am very pleased, because of a lifelong interest in and commitment to apprenticeships, to have the responsibility of helping to set up the institute for next April and to ensure that the governance is—

Gordon Marsden: Indeed, and we will not commit you to the two further roles that *FE Week* cartooned you as having: taking part in the “Great British Bake Off” and “Strictly Come Dancing”.

Peter Lauener: No one has contacted me about those.

Q10 Gordon Marsden: As we know from Vince Cable, people from this area have a good track record, so you might want to put that on your list.

You talked about the numbers. I think there will be considerable concern in the sector as to what skills these people bring to the table. With that in mind, and given the staff reductions in the Department for Business, Innovation and Skills—of course, this is a machinery of government change—do you expect to be moving across or recruiting people from either the SFA or BIS who have previous experience in this area?

Peter Lauener: We have advertised externally for the key role of deputy directors, where we are looking to fill six posts. We have been very pleased, again, with the quality of applicants, which I think is an indication of the widespread interest across employers and the training and skills sector in the institute being set up. We have had a very good set of applications. From memory, we had 90 applications for those six posts, and we are very confident that we will be able to appoint a broad range of experienced individuals.

Q11 Gordon Marsden: Can I take you up on that point about a broad range of experienced individuals? That can cover a multitude of abilities or a multitude of sins. Many stakeholders have expressed concern throughout this process—indeed, the Opposition expressed it during the passage of the Enterprise Act 2016, which gave birth to the concept—that the new institute’s board might be too narrow in its experience and focus, as we believe the apprenticeship delivery board has been. Do you have any views on the importance of having, for example, an apprentice or someone from the apprenticeship coalface, as it were, on the board?

Peter Lauener: I think that the institute should certainly be clear how it is going to secure the voice of apprentices in its understanding and deliberations. I do not think that I should comment about the particular membership of the institute, but the principle of having knowledge, understanding and the live voice of apprentices is really important for the institute’s work. Inevitably, there is a lot of focus on employer leadership, but I think we need to look at apprenticeships from the perspective of employers and individuals.

Q12 Gordon Marsden: My final question is not so much about the membership of the board as about the reception that you want the new institute to get from providers and employers. As you know, a big question that is still being discussed vigorously in the FE sector is the extent to which small and medium-sized employers will be able to benefit from the apprenticeship levy. It is widely believed that gaining acceptance in the SME

sector will be critical for the Government to reach their 3 million target. What confidence do you have that the new board will be able to reflect and respond to the SME sector’s continuing concerns that it is not exactly at the front of the queue in terms of the apprenticeship levy?

Peter Lauener: I would extend that beyond the board itself and to the route committees that I have talked about. There needs to be a wide range of employer experience, both from large employers and small and medium-sized employers, in these critical bodies—the route committees—which will be looking at the right standards. Of course, the standard that we are talking about is the standard wherever it is applied; it is about the standard for an occupation and about the knowledge, skills and behaviours that an individual needs to be able to do a job properly for the benefit of the employer. You need the context both of large employers and of small and medium-sized employers to make that work properly.

Q13 Gordon Marsden: But you understand the point that I am making, I hope. Without becoming too technical, one issue historically for SMEs in taking on apprenticeships has been the lack of back-office support. In my experience—I have employed three apprentices over a three-year period, and being an MP is like running a small business; you juggle all sorts of things—SMEs constantly say that they would love to take on apprentices, and when they do and the apprentices are successful, no one is a stronger advocate for them than SMEs. However, they struggle with back-office support, red tape and all the rest of it. I am not trying to commit you to a specific SME place on the board, but do you understand why those concerns persist? Do you intend to try to provide reassurance about them and, if possible, given your years of unrivalled experience in this area, cut some of the red tape?

Peter Lauener: First, the new technical system—the digital apprenticeship service—that will be introduced from the beginning of next year will be much easier for employers of all sizes to navigate and for individuals to see apprenticeships on the system. That will be open to only large employers at the start, but we would expect to extend it over time.

Secondly, we should not underestimate the role of training providers. Again, under the digital apprenticeship system, most employers will still be using a training provider. They will be able to choose from the training providers on the system. In my experience—I speak partly as an employer in my own organisations of apprentices—organisations are heavily reliant on the training provider to make sure that the training is relevant, well managed and that the trainee is supported through the apprenticeship. I would expect that to be a continuing pattern in the future.

Q14 Justin Tomlinson (North Swindon) (Con): I want to build on some of the comments Mr Marsden has made. I used to run a small business, and by accident I employed someone on an apprenticeship because I stumbled across an apprentice, and I benefited greatly. One of the biggest challenges in us reaching the commendable target of 3 million apprenticeships is that lack of awareness from small businesses. I have repeatedly pushed that we should use the business rate mailer to include a rather nice, glossy A5 flier.

[Justin Tomlinson]

It is encouraging that you are talking about this digital portal where there will be a one-stop shop for all the information, but you said that at the beginning that that is just for the larger employers. How quickly do you see that being cascaded down to the smaller employers? The reality is that, whatever the political persuasion of the Government of the day, the large employers will re-badge their ongoing training packages to match what is going. If we really are to create some great opportunities, we must include those small and medium-size businesses that can offer those unique, more bespoke jobs that can fit apprentices' individual skills and give them a real opportunity to progress. However, those businesses are waiting to be told of this fantastic resource. How quickly can we cascade that information down?

Peter Lauener: I should make it clear that the ability of small and medium-sized employers still to be involved in apprenticeships does not depend on day one of the digital apprenticeship system. We would expect to continue the allocations of funding to training providers—to be clear, that is through the Skills Funding Agency rather than through the Institute for Apprenticeships—which we have operated for many years, for small and medium-sized employers. That will ensure significant continuity in the system. I would expect no risk to the target for growth in numbers.

That will apply for the 2017-18 year. We will need to review that in the context of how quickly the levy-paying employers take up the opportunities to secure apprenticeships under the levy system, so we will monitor that closely. The 2017-18 year is secure, and after that we will review how small and medium-sized employers should be brought on to the core digital apprenticeship service. But even from day one it will be a public-access system and people will be able to see what is on it, so I think it will be a good way of conveying the richness of apprenticeships available.

Q15 Justin Tomlinson: But people will see it only if they know to go and look at it. Therefore, in theory we are relying on the training providers making contact with them, and when they do I am sure that businesses snap their hands off. However, the training providers do not have huge marketing budgets, so they do not go door-to-door to those small employers.

The Department for Work and Pensions is trialling the small employer offer. It is worth considering sitting down with the DWP and talking about whether there could be joint funding for that offer. In the economy at the moment a lot of businesses have skills gaps, and the idea is that someone in each region or employment area doorsteps an employer and asks, "Do you have a skills gap in your organisation? What is it?", and then goes back. They could find that, "An apprentice is suitable for you. There are the providers. We will ask them to visit you next week and discuss it over a cup of tea", and match them together. Therefore, rather than trying to duplicate things, with some co-funding I think you will be able to plug those gaps. That, in my opinion, is the fastest way for us to get to that 3 million target.

Peter Lauener: Thank you very much for the suggestion. I am happy to take that away and look at it. One other thing we operate at the moment, which I think is quite successful, is a dedicated employer helpline, which I

think operates 8 am to 7 pm, seven days a week. We get quite good feedback on the information available on that for employers.

Justin Tomlinson: Find a way to sneak it into the business rate mailer—then every business will know about it.

The Chair: I remind Members that we have only 12 or 13 minutes for three further questioners, so could questions be brief and answers pithy? Thank you.

Q16 Tracy Brabin (Batley and Spen) (Lab): I applaud your desire to reach out to learners and have a conversation with them during the teething process. However, there does not seem to be a specific requirement in the Bill to have learners on the board, talking to you. They are going to be the guinea pigs. This will be up and running very soon; April seems five minutes away. Can you specify how learners are going to be connected to the board?

Peter Lauener: I cannot specify that in detail at the moment, because that is, properly, something that the board should discuss. With my deputy chief executive, Mike Keoghan, I am making a plan of board activities during January, February and March, to allow the board to focus on all the aspects of its remit and to think about the governance as well. I mentioned earlier that we expect to consult on a draft strategic plan for the institute for 2017-18, and I am sure that that will be an occasion to raise the question and get lots of views back. The board can then discuss it in the January to March period before coming out with its final plan. I hope right at the beginning of April, so that it is clear from the start of the institute's operation exactly how it will operate across a broad range of activities, certainly including the one that you have mentioned.

Q17 David Rutley (Macclesfield) (Con): The Bill supports the occupational categories of quality apprenticeships set out in that excellent document, the "Post-16 Skills Plan"; they include construction, and engineering and manufacturing. That is fantastic and a real step forward. Do you both believe that the Bill provides an effective ability to redefine those categories as economic sectors evolve? Secondly, do you believe that the mechanisms are in place to enable businesses and employers to have a meaningful role in redefining those categories as things progress?

Lord Sainsbury: It comes back to the original question. You have to have a certain amount of flexibility. As far as I can make out, that flexibility is there, and it is important. Of course, it is also important that we do not let the system degenerate, whereby everyone goes back to saying, "I want something specifically for my business or a very small group of businesses." It is very important that one keeps down the number of routes, but exactly what categories they include will have to be for the people running those routes to say. I think we have made quite a good stab at doing that, but there are one or two cases where you can certainly argue about whether we got the right job in the right route.

Peter Lauener: It is absolutely vital that the institute actively manages the system of apprenticeship standards. For the past couple of years, while new standards have been developed by trailblazer groups, we have not had that picture of what the overall system would look like.

Lord Sainsbury's report helps enormously with that. An early priority for the institute is to develop that map, communicate it, review it actively and spot areas that need updating. I imagine that one or two of the early standards will, with hindsight, look a little bit narrow, so they ought to be reviewed. Every standard has a review date anyway, but the institute, through its route committees, will need to actively manage that.

One of the great virtues of the German system is its absolute clarity about the number of apprenticeships, routes into apprenticeships and things like that. If you talk to people in Germany, they often say, "We'd like the system to be more flexible." I think the institute has the opportunity from the start to build in that flexibility and responsiveness to the changing labour market.

Q18 Naz Shah (Bradford West) (Lab): I have a quick question about the idea that this is going to turn into another 11-plus. What reassurance can you give us about what you have put in place to ensure that the technical route will be as prestigious as the academic route?

Lord Sainsbury: There has been a very long-running argument about this. It is useful to look at the experience of other countries. If you do that, you see that pretty well every developed country has a system of two routes: an academic route and a technical education route. There is quite a variation in the point at which people choose between the two routes, but most of them have it. In most of the successful countries you find the two routes are equally well valued, so there is not a problem of the technical education route being considered inferior. You can have these two routes and both of them be highly valued.

The question we have to ask ourselves is why in our system the technical route is undervalued. I think the answer is because it is a very bad system that does not deliver what people want on the system. What they want above all is to be able to take a qualification and for that qualification to work in the marketplace. What that means is that you can go along to an employer and say, "I have got this qualification," and the employer will give priority to you over somebody who has not got the qualification. That is not true of our system. The first thing you have to do to make the technical education route valued is to make it deliver for young people something of value to them, which is the ability to get a better job with security. That is the issue. It is not about age of selection or the fact that you have two routes.

Peter Lauener: I agree 100%.

The Chair: That brings us to the end of the questions. I thank the witnesses on behalf of the Committee. We will move on to the next panel who are all here. Thank you very much.

Examination of Witnesses

David Hughes, Professor Alison Fuller, Richard Atkins CBE, Bill Watkin and Ian Pretty gave evidence.

10.7 am

The Chair: We will now hear evidence from the Association of Colleges, the Further Education Commissioner, the Sixth Form Colleges Association, the Collab Group and Professor Alison Fuller from

University College London. We have until 11.25 am. Welcome. Please introduce yourselves for voice transcription purposes.

David Hughes: Good morning. I am David Hughes, chief executive of the Association of Colleges.

Professor Alison Fuller: I am Alison Fuller, professor of vocational education and work at UCL Institute of Education.

Richard Atkins: I am Richard Atkins, the FE Commissioner.

Bill Watkin: My name is Bill Watkin and I am chief executive of the Sixth Form Colleges Association.

Ian Pretty: I am Ian Pretty, chief executive of the Collab Group.

Q19 Gordon Marsden: I warmly welcome all of our panel, each distinguished in different areas. Who to pick on first is an invidious choice, but given the context of the previous conversations, perhaps I could start with David.

We have just heard from Peter Lauener an expansive view of where the institute is going. He talked about its digital abilities and I think the words he used were that standards would continually need redefining. As that was going on, hammering in my brain was "capacity, capacity, capacity". You have expressed some concerns about the capacity. Would you like to elaborate on that?

David Hughes: Thank you for picking on me first. The capacity issue is partly about timing as well. I am concerned—we are very concerned—that the changes are being rushed because of the timing issues. Sixty people sounds like a small organisation to deal with 15 routes and 250-odd employers. There is a big job to be done and it does feel as though a lot is changing at the same time.

What we have been doing with Peter and his team and with officials in the Department is trying to think through the risks and to work with them to make sure that we can address any problems that occur very early on. When you are fundamentally changing the funding system, there are lots of unknowns. The big unknown is how employers will behave in the new system—nobody can predict that. It is in all our interests to make sure that we do not lose capacity in the whole system, let alone in the IFA itself. We have offered to work closely with Peter and his team to try to address any problems at a really early stage, and I am really pleased with the response so far.

Q20 Gordon Marsden: That is good, and highly valuable. One of the things I did not mention is the fact that the Government used to be able to use the UK Commission for Employment and Skills as a backstop—sometimes a very short-term backstop—in terms of delivery mechanisms out of the Department, but of course they rather unfortunately abolished that earlier this year. On that point, because as you well know there has been a lively debate between Ministers and your membership in the past as to whether they are doing enough for apprenticeships, are you confident now that your members have got the message about the new institute, or are there particular issues that you would still like to highlight?

David Hughes: I think there are three key issues. One is funding, and it was good to hear Lord Sainsbury talking about the funding issues. If we want a really

high-quality system, we need to invest in it. I still find it completely illogical that we fund 11 to 16 at something like £5,500 per head, 16 to 18 at about £4,000, apprenticeships at about £1,500 per head and higher education at £9,000. In HE, we have index linking coming in with the new teaching excellence framework which we do not have in FE. If we want a high-quality offer at 16 to 18, which we do, we need to get the investment right.

Two other issues that go with that investment, and are really critical to allow colleges and other providers to invest in quality themselves, are stability and certainty. The thing that we want more than anything else, both on the technical education side and on the apprenticeship side, is some stability rather than constant change and churn, and certainty about those changes, so that my members and others can invest over the long term in the equipment, the people, the relationships and the outreach to students and potential apprentices. We have had a blizzard of changes over the past 10 or perhaps 15 years, and that causes my members and others to be cautious about the investment they make. The biggest risk to all this is the lack of certainty for the future. It is difficult, because how do you provide certainty? Some big statements from Government would be really helpful.

Q21 Gordon Marsden: You are absolutely right to make that point. The old joke used to be that when the Minister for HE sent a letter to universities it was more like the opening gambit of a conversation, or, “Would you like to do this?” whereas the letter that went to FE just said, “Do it.” I think and hope that we have moved on from there, Minister, and I hope that will not be the case in quite the same dirigiste way in the future. One of the issues that employers and other sectors are raising with me is just how rapidly some of the things, such as the digital system, are going to come on board. If that does not work to start with, that is going to be a further downer and concern for your members, is it not?

David Hughes: There are lots of concerns. The comparison with HE is quite interesting. Last week, the Higher Education Funding Council came out with a report on the financial picture for the sector; it is very concerned that there is only a 4.3% surplus predicted for next year. The FE sector has no surplus. That is my investment point. Quality needs investment, and FE colleges do not have that investment capacity at the moment. Issues around the digital service would and could be overcome by providers and colleges working closely with the employers they already work with, and that is one of those issues of timing and capacity. So there is a partnership approach that we are trying to push very strongly.

Q22 Gordon Marsden: Ian Pretty, you have been in post for about a year now. You have come to what we used to know as the 157 Group, now Collab, from a distinguished background as a career civil servant and also having spent time in the private sector. Having been in post for a year, what have you learned and what are your members telling you about capacity issues that is relevant to the Bill and particularly to the specific questions we have raised about the institute’s capacity to do all the wonderful things Peter Lauener told us about?

Ian Pretty: I agree with a lot of what David said. In terms of the capacity issue for the institute, you have to get the right resources in there. As you said, I am a former senior civil servant and a tax inspector, so I have a lot of experience in those things. I would focus on capability as well. You can have 60 people or 100 people in the institute, but have you got the right capability? I would be nervous if the institute was completely staffed by civil servants. If this organisation is about co-creation with the private sector and the education sector, you need people with the capability to understand how business thinks and how business operates. You also need people who understand how the education providers operate. On the capacity issue, in terms of raw numbers you will cite something, but capability is more important.

Q23 Gordon Marsden: You have to drill down, basically; that is what you are saying.

Ian Pretty: Yes, and you have to have the right people sitting in that institution. If the institute is focused on the skills plan, as the Government propose, that is sensible to me. Given my background, one thing I am mindful of is that we spent a huge amount of time—displacement time—on the area-based reviews. If we had had the skills plan and the insolvency regime in place, the ABR process might have been a smoother and easier process, because there would have been a logic to it.

Q24 Gordon Marsden: Your members include a significant number that have HE capacity. We were talking yesterday in another place about HE issues. One concern that has been expressed to us is the institute’s ability to grapple with the HE dimension of higher skills, which I am sure Lord Sainsbury would think is important, and treatment in terms of HE in FE colleges. Sometimes, dare I say it—I certainly felt it in the White Paper—it is an afterthought, rather than an integral part of the solution. What do you think the institute and Ministers need to do to ensure that the role of HE in FE is more fundamentally understood by Departments?

Ian Pretty: In terms of the institute’s capabilities and the people who are in there, it is important; you are right. Most of our members have HE as part of their remit. This goes back to the whole issue around the skills plan and the Sainsbury review. If you create the right technical pathways, you need to understand through that, from level 1 up to 6-plus, where that will be delivered and the role of HE within that. It could be HE in terms of the universities sector, but in our case it is HE sitting within the FE sector. That is a growing business for us, particularly around things like degree apprenticeships. It is important that the institute understands HE and plays an active role in understanding how HE operates within the FE sector.

Q25 Gordon Marsden: Finally, I will come to you, Professor Fuller. I am not going to credit you with quite the longevity—perhaps I should, but never mind—that I gave to Peter Lauener, but you have been around for quite a long time in this area. You have seen promises and Select Committees come and go. In the things you have seen and heard so far about the new architecture that the Government are proposing, which do you think are good and positive steps forward, and which are you feeling a bit more queasy about?

Professor Alison Fuller: I certainly welcome the renewed focus on what we used to call vocational education but now call technical education, and the seeming rise of it up the public policy agenda. However, today and in this Bill what we are trying to scrutinise is what stands behind that. We have been concerned about that for years, and it is about the seriousness with which this is taken. My colleagues have talked very clearly about capacity and capability issues. When we look at comparative countries, we see much more stability and longevity about arrangements for drawing in all the key constituencies to the decision-making processes. That kind of stability is there.

In addition to the stakeholders that have been mentioned, I would also say that the professional bodies and associations are key to this as well, because we are talking here about how these new routes will articulate during a career with the ladders of progression that exist. The professional bodies and associations are essentially the guardians of that kind of area.

In terms of concerns, it is really the substance and significance of the routes that are being proposed that concern me, if we are going to try to create something that is really high quality and which begins to address the parity of esteem question, which one of the panel was talking about earlier. The reality is that we are talking about a proposal for two-year programmes, which are called full time, but if you dig into what full time means, the definitions can be as little as 12 to 14 hours a week. If you phone up a college and say, for example, "I am looking to do a level 3 course in business administration. How many hours would that be?" you will typically be told 12 to 14 hours. If you look at the benefit rules, full time is defined as around that time. Potentially, we are looking at trying to help young people to reach a much higher level—level 3, hopefully, after two years—but with very little input. That is a real concern for me. That raises questions about how the routes are articulating downwards with the GCSE and upwards to higher education.

There is a big issue about intensity. Again, when we compare with other countries, we see that the full-time vocational routes tend to be longer. They may start a bit earlier. We have at the moment 16-plus, 16 to 18; they may start at 15, but they will typically have three or even four years, ending up at a good level 3 standard. That is an issue and has huge implications for resourcing and funding, which David and others have raised.

Q26 Gordon Marsden: You are talking about length. There have been a lot of conversations, some of them a bit semantic, about the pre-apprenticeship route, particularly if we want young people to get good-quality apprenticeships. There is obviously the traineeship issue, or call it pre-apprenticeship, or whatever. Are you saying, Professor Fuller, that the actual process needs to be longer or that there need to be more preparatory steps to get young people—not only them, though they are the key component—who would not otherwise be able to compete for some of the high-quality apprenticeships that will be on offer?

Professor Alison Fuller: Probably both. If you look at attainment at 16, we have just had recent figures that show that still it is only just over 50% of young people who are achieving five GCSEs A to C grades, including English and maths. We know that those who are achieving

that benchmark tend to stay on in the school route and take A-levels or a combination of A-levels and BTECs, which are sometimes called applied A-levels. That particular route has been quite successful in supporting social mobility and particularly progression to higher education.

Unless we start to eat into that population, we are talking about young people who have not attained that level at 16. We are proposing what we would all want to be a very high-quality technical education route within two years to get to what point? That is where we need to take a check and be realistic about what we might be able to achieve in two years on those kinds of numbers of contact hours and that kind of period.

We know that a good-quality level 3 standard is a really strong platform for career progression and engagement with employment. So for a good majority of our young people at 18 or 19, that is the kind of real aspiration we should be aiming for. It seems to me that without a much stronger commitment to what the resources are going to be, and what the container is going to be, if you unpack what a route is, we could end up with young people who have not made sufficient progress to reach the platform where they are going to have a secure stepping stone into the labour market and good-quality apprenticeships.

We know that at the moment 60%-plus of apprenticeships are at level 2 and that not many 16 to 18-year-olds are doing them—I think it is about 130,000. So there is quite a lot to do to ensure that all apprenticeships are as good quality as the fantastic ones that we know do exist.

Q27 Tracy Brabin: David, I have been told that in some circumstances members of staff such as receptionists without relevant qualifications or training are carrying out careers guidance in colleges as a tick-box exercise. Are you concerned that there is no careers guidance provision in the Bill?

David Hughes: I am very concerned if that story about reception staff is true, because it is an incredibly important area of education and, of course, it does not start at 16; it starts a lot earlier. I would echo a lot of what Alison was saying. We need to think about key stage 4 rather than just look at age 16-plus, because the decisions that get made by young people and their parents and carers are critical to their future. We need to think about introducing them to the world of work rather than just providing them with some information about courses, so the work experience and work placements that the Sainsbury report and the skills plan rightly concentrate and focus on are really important to consider for key stage 4, rather than just waiting until 16. We want some of the best young people with good achievements at GCSE at 16 going into the technical route and apprenticeships rather than what we have now, which is mostly that if you do well at GCSE at 16, you take an academic route.

We know that probably about £1 billion is wasted when young people go on an academic route for a year and then move off it because they find it is not suitable for them. We need to stop that happening because that wastes money and, more importantly, young people are using up a year of their life on something that does not stimulate them or motivate them. We have got to go back into key stage 4 rather than just wait. It is critical that we get college information, advice and guidance

right, but let us think about careers education through school, not just right at the end, and let us think about persuading the best young people to do technical if that is the right thing for them, because it should be high-quality to attract them.

Q28 Kelvin Hopkins (Luton North) (Lab): What David Hughes and Professor Fuller have been saying is striking. I recall comparisons made some 25 years ago by the National Institute of Economic and Social Research and Professor Sig Prais between technical education in Britain and in Germany, Italy and Spain in particular, where they had up to 30 hours a week of contact-intensive pedagogic teaching over a period. In Britain it was nothing like that.

The underfunding of technical education and 16-to-19 education is noticeable. By contrast, at universities—I went there many years ago—you have a few lectures and a couple of seminars and tutorials, so the contact hours are much lower but the funding is much higher. Do you not think we have got this the wrong way around?

David Hughes: For lots of the technical routes, we are getting 12 to 14 hours of contact time, and that pales into insignificance compared to most of our competitors in the OECD. It is a really important issue. It is not just for technical, though; we have now got young people being offered only three A-levels rather than four AS-levels, and that is really shameful. It means that their opportunities to explore at 16 have been limited.

We really must address the investment issue to get the level of support that is required for young people. We are talking about young people who might have careers lasting 50 years-plus. They need a broad education to allow them to become learners, to think about continuous professional development, to change career probably two or three times and to be able to move when technology moves. I do not think that 12 to 14 hours of contact time for the 16-to-19 phase is enough. I do not think that the quality will be high enough or that the choice, even on A-level routes, is good enough, given the funding that is available.

Professor Alison Fuller: I am sure others will want to speak, but I would hate to say, just because we maybe think there is a big contrast in the numbers, that higher education is overfunded. I certainly would not want that message to come through.

There are a couple of other points. One is that a lot of vocational education—I still say that—happens in universities. The expansion of higher education has largely been in relation to vocational higher education courses in applied areas. A big cost of that is in equipment—lab space, technology, machinery and so on—and that same argument is behind suggesting that further education should really be better resourced. Good-quality technical education does not come cheap; the reality is that it is extremely expensive. We need very highly qualified vocational teachers—I include those who are moving in and out of employment, and I am sure Richard will speak about that, because he was part of the very influential report a couple of years ago from the commission chaired by Frank McLoughlin. It is a case of being serious about what it costs to provide a good-quality technical education, in terms of the people, resources, equipment and facilities.

Q29 Kelvin Hopkins: I wonder whether Mr Watkin would like to say something about sixth-form colleges and the squeeze on funding there.

Bill Watkin: We published a report recently about the impact of the current funding levels, which, although the Government have set them at a certain level, are set at that level following three significant cuts which have cost the sector about 17% since 2011. As David just said, we find that the number of A-levels being offered is increasingly only three rather than four; that minority subjects are being lost—it is not just the high-profile archaeology and history of art, but modern languages and sciences—and that the enrichment support, pastoral support, the activities after college and the careers guidance are all at risk because of low funding levels.

We are also finding, exactly as has been said, that international comparisons show we are not funding enough hours of tuition per week. In Singapore and Shanghai, for example, they are funded for approximately 30 hours a week, whereas in New South Wales, it is 26 hours a week. In England, it is about 15 hours a week. Of course, the impact of that is that students from more disadvantaged backgrounds will find it harder to use the untaught time. It is not just that there is not enough teaching time to cover the qualifications, but that the non-taught time has to be used effectively. It is much more difficult for young people from disadvantaged backgrounds to use non-taught time well.

Q30 Kelvin Hopkins: It is a major factor. When Michael Gove was Secretary of State, I asked him why we were having to recruit so many engineers from abroad. He said that we were not training enough ourselves because our mathematics was not good enough and we could not get them up to the standards required. Resource is surely what the problem is.

Bill Watkin: It is certainly one of the problems. There is also the shift in what qualifications are available. To move away from apprenticeships and technical professional education for a moment and talk about the academic curriculum, we have just seen, for example, the loss of use of maths and the loss of statistics from the range of qualifications available. That means that young people coming into a sixth-form curriculum looking to study maths only have one route available for them at the moment. That is almost a commercial decision made by awarding organisations, but it is enormously unhelpful to young people who want to support their studies in engineering and physics by following a course of maths because the only course available is an A-level in maths. We would like to see, for example, a core maths qualification and a part 2 core maths that has A-level branding and equivalence, so that there is an alternative to an A-level maths qualification.

Q31 Mike Kane (Wythenshawe and Sale East) (Lab): This is an interesting panel because it represents sixth forms and FE colleges. In Greater Manchester, where my constituency is, further education is a devolved function but sixth forms are not. We have just gone through an area review process, which I supported. Fortunately, we have strong civil servant and political leadership in Greater Manchester, but I can only describe the process as tortuous and complicated. It has come out of a number of reviews around mergers and synergies of FE colleges—it does not affect sixth forms. You get

to that position and then have to enter negotiations between the FE colleges about co-operation. That really is a process of herding cats, in my opinion. There are things I would like to say, but this is an ongoing process so I will not say them in public for now, but the Government's area review programme is going to be rolled out in places that are less well organised than Greater Manchester. It could be a recipe for chaos. Do the panel want to comment on that?

Richard Atkins: It would be best if I started. As you probably know, I have been the FE commissioner for about four weeks. I was not involved in chairing or attending the Greater Manchester review, although I know Theresa Grant, who chaired it. I am going to Manchester in the next three or four weeks to see how things are going and to talk to the individual colleges. I sat and observed the Education Committee scrutinising area reviews about two weeks ago. Generally, I think the process has worked reasonably well. Clearly they begin from a premise that each college is an independent corporation and therefore is able to make its own views. I accept that that can lead to what you describe as tortuous negotiations, because each college needs to be convinced and persuaded of the right solution.

We have now done waves 1, 2 and 3 of the five waves. Nearly 200 colleges have been through area reviews; some 88 of them are working towards merger, 50 of the sixth-form colleges are considering becoming academies, and 62 colleges have confirmed that they want to go for stand-alone status. We have done that in a remarkably short period. Colleges that are changing the nature of what they do can apply for a restructuring facility to support that. We have done that with a remarkable amount of co-operation and good will. I do not think the process is in any way perfect or a silver bullet that will resolve all the structural problems.

It became obvious in the Education Committee that it is different in each area. There are 37 area reviews, based on the local enterprise partnership areas, and experiences genuinely differ from one area to another. If you had told me at the beginning that at this stage, two thirds of the way through, we would have 88 colleges considering merger and that 62 stand-alones have had to carry out a rigorous analysis of their own data to be sure that they can stand alone financially—I hope that what emerges from the process is a network in which more colleges are financially sustainable. I do not disagree that having those independent corporations gives governors the opportunity to make decisions for themselves, and therefore a high level of persuasion and influence is required to try to get the best results for learners.

In my new job, with my team of advisers, I am currently seeking to ensure that as often as possible, we get the right solution. I do not think it is a silver bullet. I do not think at the end of it we will have the perfect set of colleges across England, but I do think we will be in a significantly better place than we were when the process started only just over a year ago.

David Hughes: The Government have a choice. In Wales and Scotland, the Government decided to impose structural change, and in England they did not. There are pros and cons with both. We have to remember that we have had for the past 25 years in post-16 a managed market and a managed competition. It is probably fair to say that in the past four or five years, the management bit of that has been getting smaller and smaller, so we

do have competition post-16. We recently challenged a decision by a regional schools commissioner to open a new sixth form in east London, because we think that sometimes competition really goes against the interests of young people in terms of quality and breadth of curriculum.

As Richard says, the area review process has been variable across the country. In some areas, it has helped enormously to move things forward quickly; in other areas, it has been more difficult and more awkward. We have got to think about the 2,100 school sixth forms, over half of which recruit fewer than 100 learners into year 12. The Government's guidance suggests that you need at least 200 to make it both financially and educationally viable. In our autumn statement submission, we have asked, and we keep saying again and again, that if it is right for area reviews to happen for colleges with the rigour that Richard talked about and with really detailed five-year financial plans, why not do that with school sixth forms?

We have hundreds of thousands of young people learning in very small school sixth forms; you can make that work, but it is really difficult to get the breadth and quality right. We would really like to see that same rigour applied to school sixth forms. We know that some local authorities are starting to do that themselves, and it would be great to see Government supporting that and getting a framework for it across the country. You do not have to do it all at the same time but it would be nice to see that rolled through, in the interests of young people in terms of the quality and offer that they get.

Bill Watkin: I should just reiterate the difference between sixth-form colleges and school sixth forms, because they are not the same thing at all. I entirely agree with what David was just saying. To give an example, a sixth-form college straddles—usually successfully but sometimes slightly awkwardly and uncomfortably—two sectors: the FE sector and the schools sector. A sixth-form college offers a school-type curriculum, but it does so with economies of scale. For example, I recently visited a college that has 1,000 students studying maths A-level, and another where there are 400 students studying psychology A-level. These are not the small school sixth forms that David was just talking about; they are large colleges that are incorporated and therefore usually included in considerations about the FE sector. They were also included in the area review process, and there are those who say that it was not entirely helpful not to include school sixth forms while including sixth-form colleges—that did not necessarily make a great deal of sense.

The other consequence of straddling those two sectors is the relevance of the Bill to sixth-form colleges. Much of what is in the Bill will have only a very limited impact on a small number of colleges, and most of them will not be hugely touched by it. There are two areas of particular interest to sixth-form colleges: one is the insolvency regime and the impact on their finances, and the second is the applied general qualifications, which are enormously important to sixth-form colleges. Applied A-levels, BTECs and applied general qualifications are an enormously important part of a blended curriculum offered to students in sixth-form colleges as a pathway to high-end destinations such as universities; two students

recently got into biomedical degrees at Russell Group universities with entirely BTEC provision. That is the sort of curriculum that sixth-form colleges offer.

Q32 Mike Kane: Richard, may I just challenge you a bit further? Say you have two successful FE institutions and the recommendation from the area review is to merge—this scenario is not a million miles away from what is going on—but they say, “No, we are independent institutions. Forget it.” We know that they can stand alone, but the review said that they should come together. What is the stick? What is the incentive? How do you get from the world as it is, to the world that you want it to be?

Richard Atkins: I have two points. If they were both very successful and could produce the sorts of data that David referred to, they would probably be stand-alone anyway. If they could produce five-year data that showed that they would be financially sustainable and would continue to be very successful, they would probably opt for stand-alone and we would probably support that. We have got one or two cases like that.

If they cannot produce those data and we and the steering group think that merger is the best solution—this is possible, and we are doing it in at least one or two cases at the moment—we will put that recommendation in the report. The college can still opt independently not to do it. That means it will never be able to access the restructuring fund; if something went wrong in future, it would not get access to the large restructuring fund that is currently available. Of course, it would be subject to the new insolvency regime if this legislation goes through, so the world looks quite a lot tougher for it post-2018 if it chooses to ignore the evidence-based work that my team will have done and will have shared with the local steering group.

It is possible to bury your head and say, “We don’t accept the evidence that you are putting in front of us. We can’t produce robust plans for the next five years, but we are going to go it alone anyway. We won’t co-operate with anyone.” By doing that, those governors would be taking a big risk—a risk for their learners as well as for themselves. Let us say that the insolvency legislation goes through. I am generally supportive of that legislation in this role, and as a principal—as you probably know, I stepped down from being a principal earlier this year, after 21 years—I would have been supportive of it. You are taking quite a risk if you are prepared to confound the recommendation that we would make, along with the other members of the steering group. But you are right to say that ultimately these colleges are independent, and as a long-serving principal, I got the highest level of job satisfaction when my college enjoyed a degree of independence.

David Hughes: We need to be a bit careful on this. I remember twice being asked by Ministers when I was in the civil service to try to show the evidence that large colleges were more effective—well, once with Bill Rammell and then with John Hayes to show that small colleges were more effective. There is no evidence of size making that much difference. Leadership makes the difference, and context is king. The competition that I talked about can undermine the best led college, but leadership is the key thing.

When the area review comes through with a recommendation for merger, the right thing for the colleges to do is to go through a due diligence process to

examine the proposal further. In some circumstances, it is very correct that they make the decision not to go through with it, because they have to have at their heart the interests of their institution, their learners and their community. The area review will not always get that recommendation right. We have to have a degree of realism: the colleges are independent institutions, making their own decisions, and sometimes not to go forward with that recommendation might be the right thing.

Ian Pretty: The area-based reviews, as a general process, struck me as reasonable. Where it has become more challenging is that the key objectives were that you wanted fewer, larger, financially sustainable colleges; that was the premise on which the ABR process was set up. As I said earlier, the key thing for me is the extent to which you have looked at things such as the skills plan and the pathways first, putting in place things such as the insolvency regime, and then perhaps the ABR process would have been an easier process for many.

I think that it is absolutely right that further education colleges are allowed to be independent and remain independent. I recognise that that creates frictions in terms of their not necessarily agreeing to things, but that was how they were set up back in 1992. The risk with all this, in terms of the ABR and the current lack of an insolvency regime, is that I do not think you have the flexibility to be able actually to create the merged institutions that you might or might not want. I have a personal view that a solvent college merged with an insolvent college is not a solvent college; that causes problems afterwards.

Speaking as an organisation, I know that the association has representatives in Scotland, Wales and Northern Ireland—we have five colleges altogether there—and I think there is a lot that the Department for Education and Government can learn from the experience, particularly in Scotland, which did bang them together to create regional colleges. They could look at the successes and the failures. There are strong successes there, and there are colleges where the merger has not been so successful.

Q33 Gordon Marsden: I would like to continue on the theme of the implications of the area reviews and to come back to you, Richard, if I may. As you have already said, you have had a distinguished career as a college principal and have held leadership positions in the Association of Colleges, so at least for the moment, until you are covered in the bureaucracies, you can see from both angles. I want to ask you about the implications of 88 colleges moving towards merger. Sir Francis Drake famously said that

“it is not the beginning, but the continuing of the same, until it be thoroughly finished, which yields the true glory”.

Although, the question here is whether there will be glory or lots of pain along the way. I want to press you on two particular points.

The context of this, as Ian Pretty has alluded to, is two things: first, the critical National Audit Office report, which really bashed the former Department for Business, Innovation and Skills right around the head over some areas and set off alarm bells about financial stability—I am sure that played a major part in the insolvency regime set out in the Bill—and secondly, on a year-on-year basis, when we exclude apprenticeship funding, the trajectory of funding for FE colleges from Government has been going down.

The situation is febrile and, in some cases, is producing that number of mergers. Once they are merged, there are then of course the consequences for the staff and students. For example, when two colleges merge in a suburban or rural setting, the implications for them being able to maintain their courses, which are after all the viability of those colleges, will be significant if issues such as travel do not come into it. I see nothing in the Bill at the moment—and little has been said by Ministers—about where the funding to support that process will come from.

My second point picks up on what my colleague Mike Kane said earlier about his experiences with Greater Manchester—I am a native Mancunian by birth, so I understand the area's issues well, and the cohesion that already exists, and lots of other areas will not have that cohesion. We are going through a period of significant devolution from Government of responsibilities and funding—for what it is worth, I am wholeheartedly in favour of that—and skills and FE will be affected. We have a situation in which things are beginning to be set in stone in combined authorities or mayoralities that are likely to have significant powers in the next couple of years, but they might well come along and say, "Actually, this didn't include us. We want to unpick it." What do you have to say to that?

Richard Atkins: May I take the first question first? Thanks for setting it in context. If I may do the same, you are right that I had a long career as a principal, and when I started there were 469 FE and sixth-form colleges; there are 321 today. Some of those mergers have been very successful, but not all. But just as in business and other walks of life, some mergers do succeed. For example, takeovers are often more successful than mergers, but some have been very successful. I remember when towns such as Derby had two or three colleges, but now they have one strong college. So I think that in a number of cases the mergers we are proposing through area reviews may well strengthen college provision in that part of the country, but I do not for one minute think that every one of them will work out as if a magic wand has made it all brilliant and successful immediately.

There is continuing work for me and my team as the agency calls us in to support the implementation of the area reviews, to work out where things are going in the right direction or how to get them back on track, or to come up with alternatives, if necessary, to keep the process going. I do not think that it will be a cliff edge as such. I am talking to colleges a lot about the fact that it is not a cliff edge. I do not see 31 March and the end of the area review steering groups as an absolute cliff edge.

Q34 Gordon Marsden: That is a fair point, but may I press you a bit further? I am not necessarily saying that all these mergers will be a disaster; what I am saying is that they will be challenging—I gave you two particular examples—and what I wonder is whether you think the Government have given this enough attention, in terms of contingency funding or, for example, support for travel for students who might be affected. Or do you think it is part of your job and that of your fellow commissioners, when you are deliberating on these things, to send a stronger message to Government on these matters?

Richard Atkins: There are two points. Mergers do not necessarily mean the closure of sites, so they do not mean the end of provision for students locally. Clearly, in rural areas, for example, the history of the sector has been that provision has not gone even when there have been mergers. When Truro and Penwith came together, that did not end provision in Penzance. In fact, it regenerated the provision in Penzance to a higher standard. You can see that across the country.

Certainly, in any recommendations for area review that I am involved in—I have said this a lot—the interests of the learners would be paramount in my mind. I know that finance is one of the factors driving this. I do not disagree with you about the fact that there are pressures on colleges. Non-apprenticeship funding has been challenging. The cuts that colleges have faced in terms of the adult skills budget have been as big as any across education, and of course we have had a demographic downturn in 16-year-olds that goes on for another five years, and more competition. So colleges are under real pressure.

However, when I go out and intervene—the second part of my role, as you know, is intervening in colleges that have had either an inadequate Ofsted assessment or serious financial concerns—I actually find that what is missing are some of the basics of governance, leadership and financial management. I do not always find that it is a lack of funds.

I would like to see more investment in the sector. As a long-standing principal, I spent a long time arguing for that. I hope that in the future we will see greater investment in technical education, but when I go out to look at some of the most acute cases, what I find is—you will see this from my predecessor's reports as well and the lessons I share with the sector—lack of a costed curriculum plan, staffing costs well above average compared with turnover and so on.

Part of my job is to share that practice, both good and bad, with all the colleges so that people can keep on track. I do think that is part of my job. It is also part of my job to represent the interests of learners. I hope the insolvency legislation proposed in the Bill does not have to be used, but if it did, I hope that the administrator would call in our team. I hope that we would act in the interests of those learners to ensure that the right solution was found with the institution and, most importantly, the right solution was found for the learners.

I do not think that merger necessarily means rationalising the number of sites; it may do in an urban area. My first college, I seem to remember, reduced from 11 sites to two. In a reasonably small town there was plenty of room for rationalisation. The idea that you close provision down in a particular district, borough or town is not something I would be in favour of at all. I would be looking for merger solutions that bring together back-room services, avoid duplication and so on.

Equally, particularly at levels 1 and 2, I would ensure that provision continues to be delivered locally where those learners can best access it. I do not see merger as necessarily meaning a rationalisation of locality and sites, particularly at levels 1 and 2. When you get to level 3, just look at the distances that students travel to Bill Watkin's sixth-form colleges around the country. If you go to levels 4 and 5, which I hope we are going to see more of, I find that learners are very happy to travel considerable distances for the right provision. I do not

see mergers as necessarily wiping out, but I do see my role as representing the best interests of the learners, and I hope that is what I have brought with me from being a principal all those years.

I would love to see more investment in the sector, but that is not what I find when I go out and do interventions at the moment—I have done several already. I am not walking into the problems being caused simply by underfunding; I am walking into areas where there is room for considerable improvement in governance, leadership, management and financial management.

Q35 Gordon Marsden: But you will be aware, with the eagerness of people to travel distances, as you say, that they might be eager but, if they do not have the money to travel, they will not be able to.

Richard Atkins: Sure. Coming from a county such as Devon, I am acutely aware of that: there are the lowest take-home wages in the country in place such as Torridge and west Devon. I am very aware of the travel. That is why I say that provision at levels 1 and 2, in particular, needs to be as local as you can get it to the learners, whether in an urban or rural area. I agree.

Q36 Gordon Marsden: Indeed. We will keep a close eye on that.

Finally, I will come to Ian. We have been talking about insolvency provisions. You have experience in other areas that may be useful for taking an overview here. Let me say straightaway that I very much welcome the new provisions, but there seems to be a tension, which no doubt we will explore in our line-by-line scrutiny, between the role of the administrator and the natural commercial demands and pressures that will come from the traditional insolvency process. Have you had any thoughts about that? I am mindful that we do not want to paint a picture of the whole area being ripe for insolvency—David, you made that point to me not that long ago. Nevertheless, we must plan for the worst. Are you confident at the moment, notwithstanding welcoming the new provisions, that the balance is right regarding securing the interests of the staff and the pupils at the college that might be in trouble alongside those of the people who are the traditional creditors?

Ian Pretty: Broadly, yes. That is the slightly negative answer. It is right that we very much welcome the insolvency regime. I think that part of it has been adjusted. One of the concerns we had initially was with things such as winding-up orders. It looked like anyone from anywhere could issue a winding-up order on a college, which would have created some real dangers, particularly to the learners, in that they would suddenly have had nowhere to study, and to the employees, who would have had no jobs. I see that the proposed legislation has made adjustments to that, which is welcome.

On the role of the education administrator, it looks like a fairly standard role that you would see in any winding-up or any receivership or administration in the private sector. The biggest concern I have at the moment is about governance and liability in terms of disqualification under the Company Directors Disqualification Act 1986. I still have real concerns, as do our members, particularly as we are colleges that are very commercially minded, that, depending on how that is interpreted and perhaps put into secondary legislation, you might be at risk of ending up in a situation in which you deter private sector people from being on boards of governors.

You might also deter politicians and people from the third sector—from charitable trusts—from being on boards of governors. It is absolutely essential that the sector has that insight and know-how brought in to help it through the processes. If there is a risk of someone being told that they will be disqualified as a director, you can imagine that that is quite material in the private sector. That is the area we are most concerned about at the moment. On executive functions, on people like principals being disqualified, we have no problem with that.

On creditors and bankers—I know that you will be speaking to the banks this afternoon and I am sure that they will be able to tell you whether they are supportive of the provisions—

Gordon Marsden: I will not ask you about your experience with the banks.

Ian Pretty: Don't ask! There are sections of the proposed legislation that talk about indemnities and guarantees given by the national authority, be it the UK Government or the Welsh Government. Again, that is fine. I am sure it must be giving some comfort to the creditors, but the risk, of course, is that the Government become the guarantor of last resort. It is noticeable that other sections of the legislation refer to the college that is in administration having to re-fund. It depends on the sums of money that are involved, but if you do that you run the risk of never getting out of the insolvency cycle.

Q37 Kelvin Hopkins: Two issues have been raised in the past few minutes. One is mergers, and I think that David Hughes suggested that there could be a case for not enormous colleges staying as independent colleges; some might merge, but each could be judged on its own merits. But that should not be elided with the issue of sixth-form colleges doing A-levels and the contrast with small school sixth forms. I should say that I am a 25-year governor of a sixth form college, a former teacher in further education and the chair of the all-party group on sixth form colleges. The statistics produced by the Sixth Form Colleges Association overwhelmingly show that sixth form colleges do better in educational achievements and in value for money, and the Government would do well to persuade schools, local authorities or whoever to pool their sixth forms and create many more sixth form colleges. That would be enormously advantageous to the country, to education and to young people.

The other issue is governance, which Ian Pretty talked about. I agree strongly that we ought to have breadth in our governing bodies. I have to say that the governing body of which I am a member has invariably had at least two members qualified in accountancy and at least two with legal qualifications, as well as members from the education sector, including primary and secondary schools, and from local businesses. It is small, tightly knit, monocultural governing bodies—perhaps drawn only from small local businesses—that tend to get out of control and that do not do too well. There was one glaring example of that in my constituency—I will not mention its name, but many of you will know about it. It got into a disastrous state, although it has now been picked up by a superb new principal. That breadth of governance, with all sorts of skills as well as commitments, is crucial. I wonder whether you accept that that is a sensible way of doing things.

Richard Atkins: Shall I begin? First, on interventions and area reviews, the quality of governance is critical to the success of the college—more critical than many governors realise. I see that when I go into colleges that are not doing well. Getting the sort of governing body that you describe, with a broad base of skills and knowledge, is essential. I pay tribute to the chairs and to the role they play in the area review. They are giving up a huge amount of time and showing enormous commitment to their colleges by coming to all the steering group meetings and taking part in this. Governance is critical to the quality of colleges. I agree with David that the size of a college is not the key determinant; we have some successful big colleges, but we also have some very successful small, niche colleges. Logically, you would think “How do they survive?” but actually they are doing very well.

Another point that I did not make earlier is that, although area reviews are leading to these 88 mergers—I am thinking about the area review that we are about to start in your constituency; I was talking to the two principals last week—in some areas we are simply generating collaboration short of a merger at a level that we have not seen for a long time. I happen to know that those colleges in your area have already been to see me to talk about a new form of collaboration. If that is the best solution for that area, and the data underpin that, we will support it. Merger is not the single blind answer in every case; collaboration short of a merger may well be the best solution in certain cases.

David Hughes: I want to assert that governance in the FE sector is very strong. I know that the Minister is very interested in helping to improve it, but we have a sector with very strong governance. These are independent organisations taking big business decisions over the long term, and in the vast majority of cases they deliver a very high-quality service and achieve a surplus. For many years, in the Learning and Skills Council and the Skills Funding Agency, I did a job that was not dissimilar to the FE commissioner’s: overseeing all the colleges that were getting into difficulties. It is quite striking that, despite all the funding cuts and all the competition, there are still only 20 colleges in financial difficulties. That is a very familiar number; it was not dissimilar through the noughties and into this decade. Despite all those challenges, FE and sixth form colleges have proved incredibly adaptable and have responded really well to the funding environment.

Let me just go back to the fact that higher education is generating a surplus of more than 4% every year. The Higher Education Funding Council for England thinks that that is a problem, because it is only 4%, but FE has had a deficit in the last two years. That is not a commentary on the lack of good leadership and governance, but on the competition and the funding levels. We need to address that; otherwise, we still will not have the technical and academic education we need for young people and adults in this country. These are really important issues. It is not easy, because the economy is not doing as well as anyone wants. We are looking to the autumn statement this week and perhaps the Budget in the spring. As Lord Sainsbury said this morning, how do you properly fund technical education in this country, possibly for the first time ever?

Bill Watkin: I will respond to your comments about the growth of sixth-form colleges in the context of the economies of scale they offer, the quality of qualifications, their outcomes and their support for young people. I would also add that, with the population shift, the number of 11 to 16-year-olds is growing.

There is an interesting example of a proposed merger between a sixth-form college and an academy chain. The school, which has a large sixth-form provision, is looking to shift all of its sixth form across to the sixth-form college, and then to build capacity for 11 to 16-year-olds to serve the community. That is an example of a successful outcome of an area review recommendation. There is also the opportunity for sixth-form colleges to roll out their successful brand and open up a free school 16-to-19 provision, as happened in Pontefract.

I am pleased that the Government are reviewing the approval process for small school sixth forms. We have been invited to contribute to that review. I sincerely hope that there will be a different way of considering applications to open up schools’ sixth forms.

Professor Alison Fuller: I certainly do not want to downplay the importance of governance and efficiency—we are talking about public money, after all—but I do not want us to lose sight of the issue of efficacy and quality, which we started the session off with. The initiatives in the Bill will potentially achieve a step change in quality if we get this right. We know how much this matters, because the population performs very poorly in the OECD’s programme for the international assessment of adult competencies survey—the adult skills survey, which is administered to 27-year-olds. The added value from 15 to 27 is very weak, in terms of the age range, when you compare us to countries that have strong upper secondary and strong vocational and technical systems. The legacy effects that we are suffering as a consequence of the current system and what happened historically are playing through into the economy, life chances and wellbeing more generally. The prize is huge, but so is the challenge. I am a little concerned that an over-emphasis on governance may deflect from the really difficult thing—the quality issue.

Ian Pretty: Can I build on the discussion on mergers, which I think is a healthy one? To me, the merger is the merger. It is very easy to say, “We are all going to merge together. It’s all going to be wonderful, and the world is going to be fantastic,” but if you look at the statistics across all sectors—commercial and public—only 25% of mergers ever achieve their objectives. Post-merger integration is the most difficult thing. Part of that is that you have to understand the logic of the merger—is it a logical merger or a “shotgun” merger?—because that can have an impact. The studies show that, when they are successful, it is because of culture and cultural fit. Within the FE sector, some colleges are more likely to be able to culturally fit with another than others.

Having been on the receiving end, when I was in government, of ministerial decisions to merge, I can attest to the fact that it is difficult. The merger between Inland Revenue and Customs and Excise was an interesting experience, to say the least—I promptly walked out the door and went to the private sector.

You have to look at the logic of the merger, and then there is the whole point about post-merger integration. We have talked about whether there is enough funding, and all that sort of stuff, but do you have the right

leadership? Do you have the right cultural fit that will make the merger work? Does the merger have the right objectives?

The other thing that is worth looking at is that we see regional college groups merging, and we see alternative versions of collaboration. Devon recently announced the launch of the Devon Colleges Group. The colleges have not merged together; they are collaborating. That is quite significant. You will then see that some college groups are working very well as merged entities or as groups. Hull, for example, is a successful college that has HE sections and FE sections. Warwickshire has merged a large number of colleges together, but it has not got rid of the place. It can therefore maintain community.

Going back to one of my earlier points, it is worth looking at the experience of places like Scotland. North East Scotland College has been a highly successful regional college group around Aberdeen and Aberdeenshire, and it has campuses that are 40 miles apart and still work—it still succeeds. It is worth looking at those models, but it is about the objectives of the merger. There must be a clear post-merger integration plan, because that is where you are going to get more success, rather than just saying, “We need to knock this together to get a smaller number of colleges.”

Q38 Justin Tomlinson: Building on Ian’s comments about the mergers, we had a similar discussion this week in the centre of the universe that is Swindon, where New College and Swindon College are considering whether to merge formally, whether to collaborate further or whether to continue with the status quo. Ian highlights that the success rate is only some 25%, and it comes down to leadership. What more can be done to engage with local employers? They could provide expertise and leadership in the next wave of governors—colleges are all chronically short of that—thereby improving the culture. Crucially, that could lead to opportunities for the students later on, because too often employers are not being engaged. What more can be done?

The Chair: May I ask for short answers?

Ian Pretty: The quick answer is that college principals ought to be working with local businesses to understand whether their post-merger integration plan is really viable and will work. My other point goes back to the concern I raised about one of the clauses in the Bill—that governors run the risk of being disqualified if the college is made insolvent. You have to look at those sorts of things. You have to look much more closely at how businesses want to interact with FE colleges and how colleges can learn from business.

David Hughes: Richard mentioned Derby College, and I was involved in the three-way merger 15 years ago. What we did, and the lessons are pertinent today, is that we created clarity for employers about where to go. In places like Swindon there is a lot of good sense in having one college so that employers can say, “There is one place for us to go.” I would not underestimate the big difference that simplicity can make.

It is obviously a lot more than that. It is also about having staff in the college who will go out and be credible with employers. It is perhaps about picking out the level 4 and 5 specialisms on which the college needs to focus, bringing employers together around those specialisms and allowing them proper agency to influence

what gets delivered—making sure that they are contributing to the curriculum, offering work experience and work placements, and so on. It is about properly engaging for the long term, rather than just the short term. It can be done. Again, it requires really good leadership and governance within the college, and it requires employers to step up to the plate and meet halfway. Co-creation is what you want. You want for both sides to feel that they are contributing to something.

Q39 Justin Tomlinson: What is done to share that best practice?

David Hughes: The AOC works quite hard to share that practice. We have a governors’ council, and we share that practice with governors, principals and senior leaders. We work across the piece. We also support the Education and Training Foundation.

Richard Atkins: I am just going to come back with two or three things. First, the Swindon issue, as you will know, is a live issue. I am chairing the Gloucestershire, Swindon and Wiltshire area review at the moment—

Justin Tomlinson: I will be writing to you soon.

Richard Atkins: That is a live issue. Secondly, the relationship between a principal and their governing body is interesting. I always felt that one of the key elements was to work with my chair and clerk to recruit governors. That was a non-stop piece of work. When you are out and about in your town or community with employers, you are all the time thinking about people who might in the future make a governor. If you get it right, you will end up with a waiting list, and there are colleges with waiting lists. If you do not do that engagement and do not keep on top of it all the time, you will end up going around saying, “No one wants to be a governor.” For me, it is a key element of the principal’s job to work very closely with the chair and clerk to identify potential recruits who can then obviously go before a search committee and all the rest. I hope that the area review for your area, and particularly for the town of Swindon, is able to come to the right collective answer.

The Chair: Bill Watkin, if you can be short, I would be grateful, because Tracy Brabin wants to come in with a question.

Bill Watkin: Yes. I would like to draw together the strands of merger due diligence and the insolvency regime. The insolvency regime has an impact before insolvency is even a reality. Since the publication of the insolvency regime, banks and pension fund managers have been responding differently to colleges. A group of colleges in the south-east, for example, immediately after the publication of the insolvency regime—which I should say colleges welcome—were upgraded to a maximum risk rating in terms of their pension contributions, which of course means that they are able to divert less money to teaching and learning and have to negotiate less favourable repayment terms. It is the same thing with bank loans. Banks and pension fund managers are all being more cautious because of the insolvency regime, and that is having an immediate impact.

Q40 Tracy Brabin: Thank you for squeezing me in very quickly at the end, Mr Bailey. I would like to pick up on something that was said earlier. You said there is no cliff edge when it comes to insolvency. If students

are already on the course, how swiftly will they be moved to better provision so the lights are not turned off and there is not asset stripping around them? How much transparency will there be for prospective students if a college is under review and about to be declared insolvent?

Richard Atkins: I will start, because I would be likely to be involved—or my team would. I really hope that this legislation is not used, but it is very important to have it in the cupboard. I agree with Bill. Most principals welcome this. There is a lack of clarity in the 1992 legislation, which has led to some colleges getting exceptional funding on a long-term basis, which is not awfully good for neighbouring colleges or the sector and stops people getting their house in order. Generally speaking, people welcome this but hope it will never be used, and that is my position.

If it were ever used, there is a special administration regime, and the Secretary of State can declare that within 14 days and step in. The administrator, who would be commercially appointed, would almost certainly turn to me and my team to do just what you have said. My primary interest would be the welfare of the students. First, we would want teaching and learning to continue in that place, and we would certainly want students to complete their courses. Secondly, we would want to find the best institutional solution for that organisation, which would not necessarily be shutting it down and moving all the students. There is a range of options—a merger is one, but there are others.

I would like to think that this would be the absolute last resort and might never be used, but it might focus governors and principals very firmly on their financial

responsibilities as well as their educational ones, and it might enable me and my team to intervene earlier. Earlier intervention is a key part of this to prevent things from getting to the position where, by the time we arrive, there have already been successive exceptional funding payments, which leads to an unhelpful culture of money just being paid out. David will remember from when he was involved in these sorts of rescues that if you get into a cycle of exceptional funding payments, that is not helpful. This draws a line. I hope it is a line that never needs to be crossed, and I and my team would always be there, working with the funding agency to look after the very best interests of the learners and not disrupt their programmes.

Ian Pretty: Clause 14 of the draft legislation sums it up well—in particular clause 14(2). What is quite critical to me—I am very supportive of it—is that it puts the loan at the heart of what is going to happen. That gives protections.

The Chair: Order. I am sorry to have to interrupt, but it is necessary for me to do so to conform to the programme motion. If you would like to submit in writing any further comments you might have made, I am sure that the Committee would be happy to consider them. I thank all the witnesses on behalf of the Committee. It has been a very comprehensive discussion.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TECHNICAL AND FURTHER EDUCATION BILL

Second Sitting

Tuesday 22 November 2016

(Afternoon)

CONTENTS

Examination of witnesses.

Adjourned till Thursday 24 November at half-past Eleven o'clock.

Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 26 November 2016

© Parliamentary Copyright House of Commons 2016

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chairs: MR ADRIAN BAILEY, † NADINE DORRIES

† Argar, Edward (<i>Charnwood</i>) (Con)	† Marsden, Gordon (<i>Blackpool South</i>) (Lab)
† Brabin, Tracy (<i>Batley and Spen</i>) (Lab)	† Rutley, David (<i>Macclesfield</i>) (Con)
Donelan, Michelle (<i>Chippenham</i>) (Con)	Shah, Naz (<i>Bradford West</i>) (Lab)
† Evennett, David (<i>Lord Commissioner of Her Majesty's Treasury</i>)	† Smith, Henry (<i>Crawley</i>) (Con)
† Halfon, Robert (<i>Minister for Apprenticeships and Skills</i>)	† Tomlinson, Justin (<i>North Swindon</i>) (Con)
† Hopkins, Kelvin (<i>Luton North</i>) (Lab)	† Turner, Karl (<i>Kingston upon Hull East</i>) (Lab)
† Jayawardena, Mr Ranil (<i>North East Hampshire</i>) (Con)	Vara, Mr Shailesh (<i>North West Cambridgeshire</i>) (Con)
Kane, Mike (<i>Wythenshawe and Sale East</i>) (Lab)	Kenneth Fox, Marek Kubala, <i>Committee Clerks</i>
† Mak, Mr Alan (<i>Havant</i>) (Con)	† attended the Committee

Witnesses

Stephen Harris, Executive Director, Ernst & Young

Richard Meddelton, Head of Education, Charities and Local Government Sector, Lloyds Banking Group

Gareth Jones, National Head of Education, Santander

Richard Robinson, Regional Director for Public Sector Team and Head of Education, Barclays

Shakira Martin, Vice President, Further Education, National Union of Students

Shane Chowen, Head of Policy and Public Affairs, Learning and Work Institute

Bev Robinson, Principal, Blackpool and The Fylde College

Public Bill Committee

Tuesday 22 November 2016

(Afternoon)

[NADINE DORRIES *in the Chair*]

Technical and Further Education Bill

Examination of Witnesses

Stephen Harris, Richard Meddelton, Gareth Jones and Richard Robinson gave evidence.

2 pm

The Chair: Welcome, gentlemen. We will now hear oral evidence from Ernst & Young, Lloyds Banking Group, Santander and Barclays. For this session we have until 3 o'clock. Gentlemen, could you please introduce yourselves with your name and which company you are representing?

Richard Robinson: My name is Richard Robinson and I work for Barclays bank; I am the head of education at Barclays.

Gareth Jones: I am Gareth Jones; I am the national head of education for Santander.

Richard Meddelton: I am Richard Meddelton; I am the regional director responsible for education, charities and government for Lloyds bank.

Stephen Harris: I am Stephen Harris; I am an insolvency practitioner with Ernst & Young.

The Chair: Mr Marsden, were you going to lead first?

Q41 Gordon Marsden (Blackpool South) (Lab): Yes. Good afternoon, gentlemen; I see that it is all gentlemen, which might raise some interesting questions for the future. Obviously, you have been invited here this afternoon. We hope you have a generous overview of the further education sector, but you are principally here this afternoon as the lenders and, possibly, subsequently the enforcers—if I may put it that way. We are particularly interested in the parts of the Bill that have the details of the insolvency process.

Perhaps I could start by asking this genuinely open question to each of you in turn. We had some discussion on this insolvency regime this morning and its genesis may be disputed, or it may come from a number of areas, but undoubtedly one of those—I quoted this earlier—was the concerns expressed in the National Audit Office report in 2015 about the financial situation of a number of FE colleges. You will probably be familiar, in some shape or form, with that report, because I imagine it would have sat somewhere on your risk profiles. As I said this morning, I do not want to over-exaggerate that threat, because doing so would be very unfair to the FE sector. May I ask each of you to say briefly, from your own experience, whether the events of the past couple of years, including that NAO report and the inclusion in this Bill of a fairly detailed

insolvency process with some novel features, have already sharpened—or are likely to—your willingness or otherwise to loan to colleges? Who would like to start on that?

Richard Robinson: I think it is fair to say that the deterioration in the financial performance of the sector over the past couple of years has led to a tightening of the terms of finance available to further education colleges.

Our experience to date has been that when colleges have got into financial difficulty, they have been helped out by one of the agencies—be that the Skills Funding Agency or the Education Funding Agency—that have provided exceptional funding support to help turn those colleges around and keep them going. I think we are going to allow colleges to become insolvent. From a creditor's perspective, that is a worse position than the one we are in now, simply because, from our experience, we know what is going to happen. However, the proposed insolvency regime has been well thought through, and the points that we made through the consultation process have been well listened to. Our preference as a creditor is still that it is not introduced, but if it is, there are a number of things that will help creditors and most of those have been well reflected in the Bill.

Gareth Jones: I agree that, over the last couple of years, lending into the sector has become a little more difficult and challenging. Overall, from our perspective, we are still very supportive of the sector—still looking to grow our exposure to the sector and grow our lending book. On the Bill and the proposed insolvency regime, we are actually supportive of the clarity that they provide.

Q42 Gordon Marsden: Mr Meddelton from Lloyds—with whom I have been for 43 years, so I have an active interest in Lloyds—I am not going to ask you to divulge any commercially sensitive information but I think it is an open secret that you are rather a large lender to a rather large number of colleges. Is that correct?

Richard Meddelton: Yes, that is correct. We are a significant lender in the FE sector, as are a number of other banks around the table. We have supported the sector for many years.

Q43 Gordon Marsden: May I ask you something, then, on the basis of that long experience—almost as long as my time banking with you? Obviously, over that period, there have been high points and low points for the economy, and there have been changes in regime and Government responsibility. How would you characterise the current situation from your perspective—obviously being supportive, but at the end of the day having to be commercial lenders? How would you characterise the current situation in terms of risk for your bank, and what do you think the proposed insolvency regime does for that?

Richard Meddelton: In answer to your first question, the sector is going through a number of difficulties at the moment. My colleagues have highlighted the reasons, which I would agree with, on that. From our perspective, yes, it is a sector that certainly has a number of stresses within it at the present time. Notwithstanding that, as a major lender in the sector we remain extremely committed to it.

The Chair: Mr Meddleton, could you speak a bit louder please, so that we can hear you down here?

Richard Meddleton: I will try to. I don't have the loudest of voices.

The Chair: Or get closer to the microphone. Thank you.

Richard Meddleton: We are, as a bank, extremely committed to the sector and we remain so. The SAR as it is proposed—if that is your second question—does give us some cause for concern, certainly in terms of continuing to lend on a long-term basis. If you look at the current area review and start going through, they are very welcome. I am not sure, going forward, that it is particularly easy for us to make a longer-term lending decision based on the performance of the college as it stands now and in the short term.

Q44 Gordon Marsden: If I could just add to that, and for the benefit of the other witnesses, who I assume were not here this morning, we had a fairly full discussion as to what the economic impact of the area reviews would be. I think it is fair to say that the FE commissioner took a slightly rosier view than I did of where some of those mergers might end up. Of course, mergers in principle run along the lines of attempting to provide greater stability, but we heard from another member of the panel this morning that that was not always his experience. Obviously, you will have to take a measured view on that. The commissioner disclosed today—of course, the area review process is not complete—that some 88 colleges are likely to be involved in merger issues. Is that something that would be a material fact when you were going to your colleagues and talking to them about the spread of risk in the FE sector and your continued loans over the next one to two years?

Richard Meddleton: Could you clarify the question for me please?

Gordon Marsden: I am sorry. We heard this morning from the FE commissioner that there are up to 88 colleges that are potentially involved in the process of merger, from the area reviews. The implications of merger may be positive, as the FE commissioner was keen to emphasise, or negative, if they go wrong, and if the number of students declines and if there are all sorts of problems, which would include the potential for financial instability. I was asking you whether the area reviews, and the number that I have just given to you, would be a significantly material factor for you when you are presumably discussing with your colleagues the likely factors of risk for lending over the next two years.

Richard Meddleton: Certainly we understand the area review process and the reasons for it. I would say that we look at each one in detail. We certainly welcome the area review process. We think it is a positive step forward. As you rightly say, not all mergers necessarily work and work well, if you draw parallels with corporate life. Nevertheless, we see a lot more good than not in what is being proposed.

Q45 Gordon Marsden: Finally, I wonder if I could come to you, Mr Harris. You are set apart from your colleagues, but only set apart in the sense that you have been there, done that and bought several T-shirts, probably.

That is why we are very pleased to have you here today, because you have been through situations where there has been a special administration regime.

You will have seen in the Bill that there are clauses that spell out the nature of what the special administration regime would be. I note your comments; I have read your comments on the Bill. You perfectly reasonably hedge your bets about the outcome. You have asked the most pertinent question that we probably all need to ask—a focus for the responsible authority creditors and the insolvency practitioner: who will foot the bill for the greater good? Perhaps the Minister will be forthcoming on that at some point in the future—I do not know. I want to ask you what you think, because we have this very technical clause about the way in which colleges can have more than one corporate identity and legal identity. Could you comment on the implications of the distribution of that, in the insolvency part of the Bill, on the way in which colleges are defined, whether as corporate entities or some other body?

Stephen Harris: May I just clarify the clause that you refer to?

Gordon Marsden: I am referring to clause 22 on the general functions of the education administrator, which draws a distinction

“where the further education body is a company”.

I am interested in the extent to which that would affect all FE colleges that found themselves in this situation, as opposed to a particular number.

Stephen Harris: Paragraph 22—

Gordon Marsden: It is clause 22, paragraph 43—

Stephen Harris: I am sorry to appear stupid, but I do not seem to be able to read off the same clause to which you refer. I am anxious that I do.

Gordon Marsden: My apologies—it is clause 22. I am looking at “General functions” of the administrator—subsection (3).

The Chair: Mr Harris, we will give you a copy of the Bill, which might be helpful.

Gordon Marsden: It might also be helpful to refer you to the explanatory notes, which prompted my question. They state:

“The education administrator must also, so far as it is consistent with the special objective, carry out the functions in a way that achieves the best result for the body's creditors as a whole...Where the further education body is a company, subsection (4) requires the education administrator to carry out their functions in a way that achieves the best result for the company's creditors as a whole and, subject to that, the company's members as a whole.”

I found that rather opaque and not clear in its implications.

The Chair: We are sending you down a copy of the explanatory notes as well.

Stephen Harris: Thank you. I do empathise with your observation that it may be opaque. I also had to put a question mark there when I read it for the first time. This is my take on the legislation as proposed, as is writ in the draft Bill: it is very clear—this is the way I have read it, but others may differ—that the overarching or

transcendental purpose is to minimise the disruption and to carry on, within certain bounds. Then there are what seem to me to be some slightly subservient points. That is not to diminish them, but an office holder would have to step back and consider those people who fall into the category of subsection (3)—people with special needs—and how that dovetails into the way he is discharging his duties. Then you get to the issue of having to carry on in the interests of the creditors. I think there is a question when you read that: is that something that clicks into place when an office holder has optionality as to the route that he might take through the maze, or is that something he has to balance with the overarching purpose itself? If you say to me that it is not exactly clear on the face of the drafting, I have to concur with you; I stalled on the very same point myself.

Gordon Marsden: Thank you.

Q46 Mr Ranil Jayawardena (North East Hampshire) (Con): I refer Members to my entry in the Register of Members' Financial Interests; I used to work for Lloyds Banking Group and spent time in corporate banking, dealing for a time with education, community and government customers. I will come to Lloyds in a moment, but first, Mr Jones, you said in your written evidence to the Committee that you think that this is a positive step and that lenders will have certainty. Can you explain the uncertainty that exists to you as a lender today?

Gareth Jones: From Santander's perspective, the uncertainty has always been around the funding agencies and, when a college is struggling to make its payments, effectively where that interim funding will come from. There is also uncertainty about whether the current insolvency applies to college corporations at present. From a risk perspective, when we assess the underlying risk of a transaction, there has always been that uncertainty and we have had to make assumptions in the background. If the Bill is passed, the certainty it will provide is positive for us.

Q47 Mr Jayawardena: Despite what Mr Robinson said a moment ago about the challenges in the sector, if I understand what you said, Mr Jones, after you, as Santander, have done that analysis of the credit risk, you would like to lend more into the further education sector.

Gareth Jones: Yes.

Q48 Mr Jayawardena: Mr Meddelton, given what Mr Jones said, why do you say that this proposal presents banks with such significant challenges? Surely the certainty that Mr Jones just outlined is a good thing.

Richard Meddelton: Certainly to have a framework, as proposed, is a positive step. The issue for us is to do with the powers that the administration would have under a special administration regime. For example, if we were a secured creditor and the college went into an SAR, what could happen—I appreciate it is a “could”, and that it is untested—is that the administrator could run the college for what I think is an undefined period, unless I have misunderstood the drafting, and it could be at a loss, notwithstanding the fact that some very laudable principles are driving this.

As a lender, the ranking—again, it is unclear at the moment—may well sit behind a creditor. In addition, as we interpret it, even as a secured creditor the security

could be transferred into a separate entity. Again, I understand the practical considerations for that, but at the same time the debt could be left in the old college, or it could be transferred. Again, there are “know your customer”—colloquially, we tend to call them KYC—considerations.

Q49 Mr Jayawardena: But you also said in your written submission that Lloyds traditionally viewed this as quasi-Government risk. That is your own internal credit rating of this sector, and that is based on your own judgment. Surely when it comes to determining whether, to use your words, there should be further long-term decisions and long-term lending in this sector, that would again be a matter of using your own credit rating and credit risk process. More certainty is provided under this proposal than you currently have. You said that you assume that that option would be for the failing college to be financed by Government funding, but there is no guarantee of that today, so surely you are better off.

Richard Meddelton: There is no guarantee of that today, but under the current system if we have security, we have priority. The reality is that we have viewed it as quasi-Government because in the past—obviously the past is no prediction of the future—that money has been forthcoming, as you know, having worked in Lloyds corporate yourself. If there were greater clarity about what would actually be done in a special administration regime, that would obviously give us some comfort.

Q50 Mr Jayawardena: One final point, if I may: Lloyds has set out that it wants to “help Britain prosper”. You have challenged the SAR regime, which could lead a college to be administered in a separate regime for a period of time. You would, I am sure, agree that it is right for students to be able to finish their studies and not face disruption, because that would not be to the values that you hold dear.

Richard Meddelton: Yes. I appreciate that it is a dichotomy, but yes.

Q51 Mr Jayawardena: Can I ask Mr Jones and Mr Robinson a yes/no question? Under the current system, you would not want to close down a college and sell off their assets even if you did have security today, because you would want to allow those students to continue their education. That is the right thing to do, is it not?

Richard Robinson: The interest of the learners has to come first.

Gareth Jones: I completely agree.

Richard Meddelton: We said in our response that we would see the interest of the lender as coming first.

Q52 Mr Jayawardena: So Lloyds Banking Group, today, would sell off a college site even if people were in the middle of their A-levels and needed to complete their courses.

Richard Meddelton: I think that is highly unlikely. The reality is that we would always work with the college, with the administrator. Our history has been that of a responsible lender, helping Britain to prosper, and that will continue, regardless of the site.

Q53 Mr Jayawardena: So ultimately all three of you are in agreement that a college today would continue in existence until you had unwound the whole of the financials behind it and had found a solution in the interest of the learners and that, in the future, the same would be true.

Richard Robinson: The difference is that at the moment we have experience of what happens when colleges get into difficulty. Our experience today is that we, as lenders, work with the agencies—the SFA and the EFA—to find a solution. The Government have put money into those situations. We are now saying that we will allow colleges to become insolvent, and that we will put an insolvency regime in place that rightly puts students first. We absolutely agree about that, but the difference is that we have no experience of what happens in that case. Therefore, we have to try to make lending decisions today that will apply in the future, when the regime is in place, and we do not know whether they will apply because the regime is not tried and tested.

Q54 Mr Jayawardena: Mr Harris, this question is for you, given your expertise. At the moment, the banks are saying they have no understanding of what would happen in the future but they do know what happens today. But what happens today is based on a bit of a guess, a bit of luck and a bit of Government funding coming in. Perhaps the situation will be clearer to banks in the future, but surely having this clear framework set out in law is a good thing?

Stephen Harris: I feel that very cogent points could be made in saying it is a good thing. In an insolvency environment that is unclear, because you start to add in a peppering of trusts and unusual organisations and things that are not necessarily the bread and butter of corporate insolvency, when colleges start to get into difficulty the legal bill starts to rise, as people have to seek clarity about how the matter will legally be dealt with. In the draft Bill, an element of clarity is brought to the sector as a whole, which in the long term people might appreciate. I cannot speak on behalf of the banks, but I can see that there is a lot of clarity in the Bill about what is a very specialised sector.

Mr Jayawardena: Thank you.

Q55 Kelvin Hopkins (Luton North) (Lab): I will give a bit of background first. For 23 of the past 25 years I have been a governor of a sixth-form college and, before incorporation, I was chair of governors of a larger college of higher education, which was largely FE. In the sixth-form college we had internal expertise of the highest order. The previous experience was less good. I have said many times now that one of the important things for a governing body is for it to have accountancy expertise, with at least two independent qualified accountants and at least two independent legally qualified people. That makes a difference. In the college I am at now, the vice-principal in charge of finances is a chartered accountant and does a superb job.

Do you take an interest in the internal financial controls of colleges or do you just say, “Well, if they get into difficulty, we’ve got the security of the college assets and we’ll just take some of that”? Do you take an active interest or stipulate any kind of requirement about how finances are managed internally in the colleges?

Richard Robinson: Absolutely, yes. The quality of management and governance is one of the key criteria we look at when we are assessing the risk. We do not just lend the money and then disappear; this is a relationship for us. We go and see our college clients several times a year to talk about what is happening in their business and the challenges to the sector.

One thing we do is help management with their skill sets. For example, what has happened in the sector over the past couple of years, with the challenges it has faced, is new to a lot of managers. It has been quite difficult to manage through that process. We bring to bear the experience we have of dealing with lots of businesses to help them with that process.

We have often pointed out that maybe they do need some different experience on the board—people with different skill sets. I agree that there should be governors with a diverse set of experiences. That should definitely include accountants, as having people with financial literacy is very important.

Gareth Jones: Our approach is very much the same as Barclays, in the sense that the governance structure of the college, the key management team and our appraisals make us consider our overall lender proposal and whether we are willing to advance funds to that college. Fundamentally, it is the management who are in control of the college and their strength is strategically important to our lending decision.

Q56 Kelvin Hopkins: All that being said, I know of one college in recent times that came to the brink of disaster, until the principal was effectively chased out of town. It has now been picked up and restored but it was in a parlous situation with internal financial abuses—I can speak freely because we are private in Parliament; that is what was going on. Clearly someone was lending money to the college, presumably, but it was effectively out of control. Is that a concern to you, that such a thing can still happen?

Richard Robinson: We work very closely with the management teams and with the SFA and the EFA. If we were in a situation where we thought that the management was doing inappropriate things or had been run out of town—

Q57 Kelvin Hopkins: Even illegal things, I may say.

Richard Robinson: Even illegal. That is the sort of thing that would cause us quite a lot of concern. We have a close working relationship with the agencies and that is the sort of thing we would discuss with them. We do not have powers as a lender to remove people. We do have the ability to go and talk to governors, so if there were an issue with the principal, another of the things that we would do is speak to governors about that. We would also have conversations with the agencies. I do not know the college in question, but that does sound like an extreme position.

Q58 Kelvin Hopkins: Do you think Government ought to take much more of an active interest in what is going on in their colleges? Do you think an appropriate clause in the Bill might be helpful, to ensure that internal procedures are appropriate and disciplined?

Richard Robinson: Governors or Government?

Q59 Kelvin Hopkins: Both really: management and Government. Do you think there should be something specific in the Bill saying the sort of things I have said about having qualifications among governors and an inspection regime that works—as it did not in that case—to ensure that financial arrangements are not being abused?

Richard Robinson: I am not a governance expert, so I do not know if there is a clause that can be put in to help that. I do agree that the sector can always improve management and governance. No business can say it has perfect management and governance, so constant improvement in those is a good thing.

Richard Meddelton: I think the insertion of a clause in the Bill along the lines you have suggested would certainly help and be welcome, although, like the other Richard, I am no legal expert.

I would answer your first question in terms of how we look at the governance and management of a college. From a Lloyds banking perspective, we take a great deal of interest in the make-up of the management of the college. That would include the expertise of the board of governors. That is an ongoing practice in what we do. We have not got down to stipulating how many accountants or lawyers need to be there, but we would certainly look for a good mix, so that they are professionally managed and so that we have a fruitful long-term relationship over many years.

Q60 David Rutley (Macclesfield) (Con): It is interesting to hear your views. It seems as if there is broad support, at least at the right end of the table, for the direction of travel here. One of the proposals in the legal framework is the role of education administrator, ensuring that the quality of educational provision is continued. Could each of the panel members describe whether they are comfortable with this role as being a helpful addition and whether it should be changed or enhanced in any way?

Richard Robinson: Obviously we know what a normal administrator does, in a normal administration situation with companies. We do not know what the education administrator is going to do, beyond what is written in here—the legal, written thing versus the practical reality. For us, the role seems to be broadly balanced between making sure that the interests of learners are put at the front, which is the right thing to do, and making sure that creditors are not forgotten. There are probably two other things that would certainly help, and both have been touched on by other people. The first is some clarity about who funds the administration—who funds the insolvent college during insolvency—because that could be for a number of years. It is very important for us to know that when making lending decisions. The second point is the legal position of secured creditors, which Richard has mentioned. Again, further clarity about that would be helpful. Other than that, I think it is pretty clear in the draft Bill.

Gareth Jones: From Santander's perspective, overall we were supportive of the draft Bill and of that role as well.

Richard Meddelton: I have got nothing further to add.

Stephen Harris: If I can just clarify, your question was about the role of the insolvency office holder as an education administrator—

David Rutley: It is about whether the role would add anything.

Stephen Harris: From an insolvency practitioner's perspective, it is worth standing back and recognising that insolvency practitioners are not train drivers, or people who spend their life in the railway or the London Underground, when it comes to a special administration regime, nor are they specialist property developers. They come to each situation afresh. One comforting thing that insolvency practitioners bring is recognising when they need to keep in place the existing management structure in a corporate sense, or the workforce in a pastoral sense, recognising that those people have skills and qualifications that they as an office holder do not necessarily have, and also recognising that they can bring outside specialist help to continuing the duties of education administrator, should the need arise. That is all part and parcel of any trading insolvency regime, and I would imagine that any office holder stepping into the role of an education administrator would have that at the forefront of their mind. I do not think it presents a unique challenge; it is very similar to all the other special administration roles. There is an extra dynamic—there is a pastoral element.

Q61 Tracy Brabin (Batley and Spen) (Lab): Thank you for your candour in your response to the Bill. What are the implications for the future willingness of creditors, given the reluctance you have mentioned of lenders such as yourselves to lend now to colleges? There is a lot of excitement around this Bill because there is an opportunity for money from big business to provide apprentice opportunities. Will that be held back by a reluctance from banks and so on to lend to this community?

Richard Robinson: For the moment, for most creditors, the status quo is the preferred position just because of our experience of what happens when things go wrong. That said, I think the Bill has been carefully considered and, apart from the two points I made before, I do not think this is a sector where you are going to see lenders just disappear altogether. But it is going to be harder to support in the same way that we used to. Banks used to be able to lend for a very long period of time—30 years on an unsecured basis—but that will change. I do not think that it will result in colleges not being able to get funding at all, but the terms and conditions will probably be different from what they were in the past.

Q62 Tracy Brabin: So you are suggesting that it will be more expensive to borrow?

Richard Robinson: Not necessarily more expensive; it could just be that the loans have to be shorter or have to be secured versus unsecured. Cost is just one element of the terms and conditions of a piece of finance.

Q63 Gordon Marsden: I just want to return to the issue of cost-benefit analysis, in terms of the increased risk that will come about. Given the factors that have led to this insolvency provision having to go into the Bill, it is obvious that the Government recognise that there are increased risks in the future. That is not necessarily to say that the whole edifice is going to collapse, but it does mean that you as banks have to make difficult decisions about how you calibrate that risk.

I was struck again, going through the Bill, that there is a creative tension—hopefully it is creative and not destructive—between the needs of the education administrator and the traditional needs of the creditors. I was struck particularly by a phrase in your submission, Mr Harris, where you said, “I note also that the Bill contains measures such that a creditor or appropriate national authority may apply to court if it is dissatisfied with the conduct of an education administrator.” No one is suggesting that the majority of colleges are going to go through the procedure, but if a college was going through that procedure and the sums of money were quite large, it would necessarily be surprising if a creditor did challenge the education administrator in that fashion.

My question is twofold. First, Mr Harris, you have already expressed the big question: where is the money going to come from? Would that presumably increase the likely legal costs to which you referred in such a way that it could make it a very expensive process? Secondly, and this is for you three gentlemen generally, it seems to me that what is coming out of this afternoon’s session is that you would welcome greater clarity, whether in guidance notes or even a new clause, although Governments are reluctant to put some details into new clauses, to understand what the Government are prepared to take on board—after all, it is the Government who are introducing the proposal—and how much security, whether quantified as a financial amount or as a supporter of last resort, you would require from the Government.

Stephen Harris: May I just stand back and piggyback on your first question? I have actually been asking myself, since you asked me the question, how I got comfortable with this last Thursday afternoon. Clearly, I was; there was a holistic package of measures here, which I felt broadly work. I would like to return very briefly to the issue of clause 22 for a moment. In subsections (4) and (5) we see the crucial words placed between commas,

“so far as is consistent”

with the overarching duty. Having stalled on it on the first read, when I went back and saw those words it became reasonably clear to me that the transcendental purpose—the carrying on for the education—is the thing that matters.

We therefore turn to the question of funding. We come full square to clause 25 and the suite of options set out in it:

“Grants and loans where education administration order is made.”

Then we travel further into the draft legislation—indeed quite a long way to the back. This is a bit of a technical area, but it is worth focusing on for a minute. The administrator will receive grant money from the funding body, and he will spend it on wages, salaries and the upkeep of the college. The fundamental question is: where is the deficit funding going to come from? Of course, he will have to borrow. Borrowing money in an insolvency process carries some technicalities. The overarching technicality is: where is the repayment of the loan going to rank? In conventional, vanilla administration, it is generally accepted that if the administrator borrows during an insolvency process, his obligation to repay the bank or the funder carries a very high priority unless it is agreed with the bank that it will be demoted for one reason or another. We need not explore that here.

In the suite of options that are available here, there is a technical clause that enables the lending authority to position the option for the repayment of the loan. Broadly—if I may put it this way—it can come at the front of the queue, the middle of the queue or the back of the queue. When I say the queue, I mean that if you take the general body of creditors as a whole, the repayment of the loan for the deficit funding can rank ahead of those creditors, alongside them or behind them.

Turning to your question, I think that what we see here is a recognition that one size might not necessarily fit all. There is probably a sense that it is not wise to be prescriptive at a total level, so having a suite of options that can be adjusted to specific circumstances may be an appropriate balance at the moment. There will be tension when it comes to borrowing the money, and I have little doubt that the funding authority will set out its stall on which it is prepared to make the money available.

Q64 Gordon Marsden: Just to clarify, when you say the funding authority, are you talking about the Skills Funding Agency, the Government or some mixture?

Stephen Harris: I think the words used in the Bill are “the appropriate national authority”. An incoming office holder is going to be faced with something that ranks at the front of the queue, in the middle of the queue or behind the queue.

Q65 Gordon Marsden: No disrespect—I think your analysis is elegant and understandable—but that is not going to make the decisions of the three gentlemen sitting beside you any easier, is it?

The Chair: I have to hurry you, Mr Harris. We have another panel of witnesses and a question to go yet.

Stephen Harris: I cannot answer for my respected colleagues from the banks. It is an environment in which people generally try to work together to do good things for the community as a whole. We are looking here at a minority of situations—I hope it is a minority—where there will be tensions. Ultimately, lenders, taxpayers and the appropriate national authorities are all in the same country together, but I do not speak on behalf of the banks.

Richard Robinson: I think your question was about what we would like to see. All the various options that are in here are helpful; it is one of the strongest parts of the Bill. Mr Harris is right that we, as a lender, would want to work with the college and the authorities in that situation to find the most appropriate path. The issue is that it does not specify where that ranking lies. That, for us, is very important. Although it could rank at the back, it could also rank ahead of us. Obviously, being bankers, we have got to think about the worst-case scenario, and the worst-case scenario is that it is ahead of us. We are making lending decisions today for a long time in the future, and therefore we need to work on the assumption that the worst-case scenario will come to fruition.

The other point was about security. Security is important to us to ensure that we know what our rights are as a secured creditor. If the loan and the security are going to be transferred to another provider, having that option

is really helpful. We would want to explore ensuring that it was in the best interests of everybody that we did that. We would also want to ensure that it was not transferred to someone we were less comfortable with. So having that legal certainty about our rights at the outset is very important to us.

Stephen Harris: I can possibly add a little more colour to this question. I was mulling this over and trying to identify in my own mind a situation in which, for totally understandable reasons, somebody might say, "I really, really want to be at the front of this queue," in a particular situation. In some organisations you really do not know what all the liabilities are when you first approach a situation. Sometimes, when you have travelled a little way on your journey through the insolvency, you discover that there are some very unusual liabilities, which you had not really bargained for, attached to a certain site or situation.

I have some empathy with the idea that, in structuring a funding loan for an administrator early on, and not having total visibility over the level of liabilities that might rank in a particular situation, somebody might want to proceed with caution initially and perhaps take a view on things when the assignment has progressed. At moment zero you do not always know who your liabilities and your contingent creditors are. I do not know whether that is helpful context for these clauses.

Q66 Kelvin Hopkins: You are talking about lending to bodies that are in theory independent incorporated bodies but are actually largely funded by Government. Sixth-form colleges are funded entirely by the Government. That must make you feel a little more comfortable; the Government do not want these colleges to go under, so your money is relatively safer than if you were investing in a burger bar—if that went under, the nation's health might actually improve and you would just take the assets and sell them off or whatever. How much are your lending policies influenced by the fact that these are quasi-public bodies?

Richard Robinson: It is an important factor. The income they receive comes from the Government and they are doing something that is of strategic importance to UK plc, and all of those are factors. We need to put this in context. Although it is harder for us to support them in the way we used to, that does not mean that we are not supporting them or that they cannot get money; it is just on different terms from how they used to get it in the past. The relative position is an important one and it is well recognised by us, as I am sure it is by Lloyds and Santander. That relationship with Government is one of the key strengths, and that does bear out in our risk analysis of the sector.

Richard Meddelton: I would echo the fact that they are, as you put it, quasi-Government bodies. We do take great comfort from that, as is obviously evidenced by the fact that we are a major lender in the sector.

Q67 Kelvin Hopkins: This is a bit of a mischievous supplementary question: does that mean you are less concerned about how the college behaves internally, in terms of its funding and spending, compared with a private body that might go under, where you would lose all your money?

Richard Meddelton: That is a fair question. Obviously I can speak only for my own bank on that. The answer is no, we are not less concerned. The reality is that we are lending very much on a relationship banking perspective. We are looking for longevity; we are not looking for any funding out from that. We certainly carry out the same rigorous credit and risk assessment and ongoing assessment as we would for a corporate.

Gareth Jones: The level of due diligence we apply for a further education college is exactly the same as the level we would apply to the burger bar—to return to your reference. Further education colleges might sit at the better end of the risk profile of Santander's book as a whole, but actually the diligence we apply internally is exactly the same.

The Chair: If there are no further questions from Members, I will thank the witnesses. Thank you very much, gentlemen. Your agony is now over and we will move on to the next panel.

Examination of Witnesses

Shakira Martin, Shane Chowen and Bev Robinson gave evidence.

2.56 pm

The Chair: Welcome. Witnesses, could you please introduce yourselves for Members and the record?

Bev Robinson: Good afternoon, I am Bev Robinson. I have the privilege of being the principal and chief executive of Blackpool and The Fylde College.

Shane Chowen: I am Shane Chowen; I am head of policy and public affairs at the Learning and Work Institute.

Shakira Martin: Good afternoon, I am Shakira Martin. I am the vice-president for further education, representing 4.1 million students across the UK.

Q68 Gordon Marsden: I welcome all three members of the panel. Were any of you in the room and vaguely listening to our previous panel from the banks?

Bev Robinson: I only heard the last three or four minutes.

Q69 Gordon Marsden: I only ask as an opener, on the back of the very interesting evidence that we have just had from the banks. We were talking about levels of risk in the situation of potential insolvency, and what the relationship between the education administrator and the actual creditors might be. Could I ask all three of you the same question? Obviously, as principal of a college that I know extremely well and rate extremely highly, you, Bev, would hope never to be in this particular situation. Do you think that in the particular clauses that establish, and balance the functions of, the education administrator, as opposed to the interests of the students and staff at a college that would be affected, the Government have got the balance right? Do you think that there is sufficient detail there for us to feel comfortable with this process?

Shakira Martin: First, I would like to praise the positive step that we are taking in ensuring that students get the best out of this situation, if it were to occur.

However, I would like to focus on the Bill, making the point about students not being disrupted in their education. The problem that we at the National Union of Students feel could be encountered is that, for example, it is not clear how the Government will make sure that the colleges that students are transferred to will have the capacity and scope to take on more students at that further time. It is also not clear how the Government will make sure that the education the student receives in the college is kept open and to a high-quality standard. For example, the area review process may have unintended impacts. There will be fewer colleges, further apart. How will travel costs and access be addressed?

Q70 Gordon Marsden: That point is wider than the one I asked you about, but it is very interesting. We heard the view—I will not say the evidence—of the FE commissioner this morning, who was slightly downplaying the implications of that and said that in some cases mergers could be very beneficial. I think the point that you are making brings us back to the overall point that we have been discussing with the banks: where does the liability—the funding, in other words—for the process actually sit? That is one that I am sure we will continue to explore.

Bev, from your perspective as a college principal of some long standing—not just in Blackpool—and from having had nearly a year, with your colleagues on the panel who produced the skills plan, to look at all the facets and aspects of the FE sector, if you were an FE principal wondering about the future, would you feel that there was sufficient clarity in the Bill? Would you feel that what the education administrator would want to do in that situation would win out?

Bev Robinson: I am not an expert in the field of insolvency but I would make the following observation. First, the Bill is reasonably clear with regard to protecting students. What could be clearer, I feel, is protecting learning for a community in a reasonable travel-to-learn area. I welcome the idea of an education administrator with hopefully an FE background, but it might benefit from having clarity around the different roles of the different people in play—for example, the FE commissioner: how that would work. Because at the end of it all, colleges are businesses and students and learning are at the very heart of that business. Therefore, just to reiterate, I would wish to make sure that learning within a reasonable travel-to-learn pattern was protected as well as students.

Gordon Marsden: That is an issue. I think that is the point you were making, Shakira.

Shakira Martin: Yes. May I add one thing? We would like an amendment to make sure that there are local impact assessments made on local areas, especially with the devolution that is happening and local authorities having more say over what is happening in a local area. I definitely feel that those individual areas need to be looked at really carefully in a bespoke way to make sure that we are meeting those needs.

Gordon Marsden: Yes, I agree. There is very little in the Bill about the impacts of the devolution process except for a perfectly reasonable clause about data.

Shane Chown: I would not contradict anything that any of my esteemed fellow panellists have said. I would add that, following on from Bev's point about protecting the learning opportunities in a local area, following

area reviews we are looking at quite ginormous FE corporations with budgets of close to or over £100 million. So in some areas where you have quite large group structures, if there was an exceptional incident and that group became insolvent, the kind of ideas Shakira just highlighted around local impact assessments would be particularly important as well as in areas such as rural areas where there are very few colleges and providers that can swoop in and rescue those learning opportunities.

Bev Robinson: With area review, obviously I have got limited experience in my own area.

Gordon Marsden: You are about to get a lot more.

Bev Robinson: I am currently in the area review process, so I am happy to comment on Lancashire but not about across England. That has not been my experience in Lancashire. We are still midway through the process. There has been value in the process and I am not seeing any cold spots at the moment. But I think this is something to watch for in the Bill, so I do want to make this point again. If an unintended consequence is not in a reasonable travel-to-learn area, it could create a cold spot. I remember that words like sufficiency and adequacy were used back in the day to ensure there was sufficiency in an area, and I recommend the Committee considers that.

Secondly, the only thing I wish to question is one of the paragraphs in chapter 7, "Disqualification of Officers". I question whether that should apply to the college boards and their non-exec directors. I am a little bit concerned that it may discourage students and the business community from serving on colleague boards. I would appreciate it if consideration were given to that point.

Q71 Gordon Marsden: Incidentally, that point was raised by other witnesses this morning. I cannot remember who it was, but the palette was drawn wider to include local politicians as well. As I listened, I was worried who might be prepared to serve on a board. That is a similar point to the one that was made. I would just like—

Shakira Martin: Gordon, may I add two vital points? Another concern regarding the education administrator is what qualifications and expertise they have within the sector. Are they familiar with the further education sector? When we are talking about widening access, can the Committee also consider care leavers, student parents and those with disabilities? That is it for this section.

Q72 Gordon Marsden: Right, okay. Can I come back to the institute itself? We had some discussions this morning with Peter Lauener about the genesis of the institute and my concerns about capacity, particularly at the moment. I would like to touch on the issue of representation. Bev, you have quite rightly made a distinction between the community and the learners and the actual organisation in a FE college itself. Do you all believe that learners should be represented on the board of the institute? Over and above the board of the institute, where else can they add value in a process and in a new institution that—at least initially, on the basis of what Peter Lauener said this morning—will have a somewhat limited capacity in terms of the number of people working for it?

Shakira Martin: We 100% believe that there should be a learner on the board. I believe there should be two reserved places: one for an apprentice and one for a student, as their routes into education and experiences will be different. My membership—my apprentices and college students—are consumers, and they need to be around this board. As long as they are taking loan money out, they need to be getting the best deal. Additionally, we have taken the apprenticeship levy from a European model, which is fantastic. However, we have left behind the quality assurance part, which talks about collaboration and working in partnership with colleges, students and other stakeholders. I would like the Committee to consider that.

Shane Chowen: I agree. As the institute is currently set up in statute under this Bill and others, it feels like there is huge value to be added by properly consulting and working with learners at every level of the organisation. I am about to celebrate my 10th year of working in further education, and one of the lines in legislation and regulation that I have learned to fear is “having due regard for learner views”. That relegates properly consulting and involving learners and apprentices to a compliance exercise, and it quickly becomes a tick-box process. The new institute has an amazing opportunity to not do that. Learners should absolutely be on the board.

Each of the 15 route committees can do quite a lot with learners, apprentices and former apprentices. At the end of the day, they are the ones who are looking at jobs, applying for jobs, brushing up their CVs and looking at job specs, so they will have a perspective to add to the development of apprenticeship standards, right from entry up to a higher level. It is not just about the board; it is throughout the organisation.

Bev Robinson: I see merit in having a strong student voice on the board. At the moment, I do not see a strong argument for them on the 15 routes, but I would be open to that. I really welcome a debate on this aspect of the Bill. In this country, professional and technical education has been—I do not know how polite to be—woefully treated. It has been a second class and a last resort, almost. I welcome the Bill putting it where it should be, which is as a first choice rather than a last resort.

Q73 Gordon Marsden: I hope that is a view shared by everybody in the Committee. I want to probe a little more on the approval process for technical education, and both of you may have something to contribute here. Before being shadow FE Minister, I spent two years as a shadow Transport Minister and I found myself being lobbied by the maritime community because they had developed a series of qualifications—their trailblazers—that were perfectly adequate and excellent for the maritime sector, but then took nearly 18 months to jump through the hoops of the then Department for Business, Innovation and Skills. That is a particular issue in a particular area, but it raises in my mind the question of whether better learner engagement—“learner” in that respect could be treated very widely—in the approval process for technical education would facilitate and improve some of the approval process, so that the lessons from the trailblazers are heeded.

Bev Robinson: I strongly commend co-creation—by co-creation I mean the employer voice is really strong in that, and I feel it has to be. If we learn the lessons from

qualifications and the proliferation of qualifications over the last couple of decades, we have lost the employer voice and therefore we have lost some of the value of some qualifications. For me, co-creation is really important. That is about employers and educationists as well as making sure that the student or customer voice—the consumer voice, as Shakira said before—is important. I commend the Committee to consider that.

Shane Chowen: I do not want this to turn into a debate about why there may or may not have been a proliferation of qualifications, but some argue that it is because employers have argued that they did not particularly want it, so something else was developed. I have seen arguments that employers themselves have driven an agenda whereby they have been allowed to create and develop qualifications under a framework—under an employer-responsive model—so there are two sides to that coin. As I said, there are huge opportunities in this Bill to do a lot of great things in technical education and apprenticeships, and it feels like we are halfway there at the moment. An area I feel we can do much more on is widening access and participation in apprenticeships and technical education. If you had learners around the table with a serious voice and a vote, you would find much more innovative, creative and effective ways to engage with marginalised and under-represented groups than you would if you had a panel just of employers.

Q74 Gordon Marsden: On that point—after this, I will conclude, Ms Dorries—I am struck by the read-across between our discussions on this Bill and those that we had during the Committee stage of the Higher Education and Research Bill, except we have substituted the words “apprentices” for “students”. There is a lot of read-across between this and the Higher Education and Research Bill, and it is right that there is because the Government’s aim is to have higher skills, whichever Bill that comes out of, and this is part and parcel of that.

Yesterday in the Report stage of the Higher Education and Research Bill, we introduced a new clause that would set up a standing commission to look specifically at how we expand adult education and learning. My question is: what more, in the context of this Bill, does the Institute for Apprenticeships and Technical Education need to do to strengthen the argument for widening access and participation with the sorts of groups that we have talked about? I am talking about on the face on the Bill as opposed to saying simply, “Once it gets going I am sure it will think of looking at this.”

Shakira Martin: The Government are talking about parity between the two routes—was it parity? The office for students has just announced that it is going to have a learner voice—a student—at the table and that is where this starts. It starts in this room, from the beginning. You also need to remember that we are not just creating students with qualifications; we are creating citizens. Getting students around the table to take ownership of their learning and of what is happening with them in society is actually having a domino effect. They have been enabled to make decisions, and they will give this back. Once you take ownership of something then you have a much better view, love and respect for it.

I do think that it starts there, by having two reserved places, because studying in the classroom and studying as an apprentice are two very different things. That is

why I stress that it needs to be two reserved places. If we are saying that there is parity, then that is the beginning of where it starts.

Shane Chown: I would go further on that point about parity. I have heard Ministers and Secretaries of State call for parity of esteem and respect between the academic and technical route for many years, and that is laudable. This Bill feels like a good opportunity to move in the right direction with that. One of the first discrepancies is the enormous agenda to widen access and participation that there is in higher education, both in terms of what is in statute—which is why this Bill is important—and also in practice, in terms of what is funded on the ground. So in HE there is an established Office for Fair Access in statute, and the director has statutory responsibilities until the current Higher Education and Research Bill 2016-17 passes, and then that goes to the office for students.

There is a student opportunities fund managed by HEFCE that is worth about £41 million. Universities themselves spend between £700 million and £750 million a year on widening participation action in the form of bursaries and outreach activities. If we are serious about widening access and parity of esteem, there has to be a dual-pronged approach. We cannot have tonnes of resources pumped into widening access on the HE model and then not very much going into widening access on the technical and apprenticeship model, because there are still under-represented groups within the technical and apprenticeship system. There are still communities that are not engaging in the system as much as they should be. The system is not reflective of the employment sector or the general population, particularly when you look at students with disabilities and learning difficulties, and students from black and minority ethnic backgrounds. They are not reflected in the sector in the way that they should be. There is a massive opportunity in this Bill to do something about that.

At the very least, the new institute can have some responsibilities to report annually on progress towards levelling the playing field on improving access and participation, as well as achievement and progression of individuals from under-represented groups. What we can learn from the HE work is that there are already sophisticated models and benchmarks to do that. I do not think that it would be a difficult job. We would not be starting from scratch. It is important that there is a dual-pronged approach if we are serious about parity of esteem.

Bev Robinson: I would like to add something about the importance of careers advice and guidance. Understanding the many opportunities at a young age is key, and with positive models you then see them. Through careers advice and guidance, it is very simple: you can relate to that person and think to yourself, “Well actually if they can achieve that, then so can I.” That is very powerful for social mobility.

Q75 Tracy Brabin: I would like to ask about the opportunities of courses. My previous background was in the cultural industries, and it seems that culture and design are grouped. How would you like the choices within these brackets to be prioritised? Should the balance be about job creation, rather than careers? Have you had thoughts about the expectations of students and what they would be taking up within these brackets?

Bev Robinson: May I clarify: when you say brackets, do you mean the routes?

Tracy Brabin: Yes—culture and design is one route.

Bev Robinson: Indeed. I was involved in the Lord Sainsbury panel that contributed to the report, so I feel like I have spent a lot of my time and life in looking at that. I feel that there are real opportunities for both. It has to be about career, because it is about a journey. It is really important that we give everyone the opportunity to develop skills, to help them to secure employment for themselves and their families to have strong and healthy lives.

Because the routes are mapped against what the economy needs, it helps with advice and guidance and helps a young person of whatever age to think, “Here’s an opportunity for me. I can see my path and how that fits.” You do not always make decisions and stick to them. It is important that there is enough in there that one can transition across different pathways as well, and this proposal allows for that.

This also goes up to levels 4 and 5—a real engine of the economy in high-value jobs, for want of a better term. We talk a lot about levels 2 and 3 in technical professional education, but we must remember to include levels 4 and 5. I would like to think that this is very much about a journey—a career that enables you to move and develop further as you desire.

Shane Chown: I welcome that the Bill does not specify that there have to be 15 routes or what those routes are. It leaves that up to the Secretary of State to define the routes and the institute to define what occupations go into those routes. I think there is a clause that says that, if an occupation does not fit into one of the routes, the institute can pop it in somewhere that it sees fit.

I would add that it comes up against this parity with HE argument. In the 24-plus advanced learning loans system at the moment, where you can get funding to go on a course as an individual, in future you would only be able to get an advanced learner loan for a course that would fit in to one of those 15 routes. Most things probably will but the parity issue for me is as follows. No, I do not have a degree. No one will stop me going and doing my first degree in classics and I will get funding for that. If I wanted to do a course that was not within one of those 15 routes—at Bev’s college, for example—I could not get an advanced learner loan for that under the proposals. Sadly, that is the case at the moment—I am involved in the stakeholder group for the 24-plus loans. For me there is also a parity issue around access to funding for individuals. If we are saying in the loan system that the risk is on you—the loan is yours and you are responsible for paying it back—I do not think we can restrict people’s choices into those 15 routes, if there is a course that does not fit neatly within them.

Shakira Martin: The skills plan proposes 15 routes. I have been speaking to my membership already, and this goes back to the reason and importance of why we need them on the board. The 15 routes do not cover qualifications in the retail industry, for example.

My members feel extreme concerns for the arts courses as there is only a route that proposes for arts “Creative and Design”. Those do not cover courses such as

performing arts. Learners are already recommending that this route be split into two: applied art and design and performing arts. Again, I would like to reiterate why that is so important. It is this type of stuff we can address if they are around the table in the first instance, instead of learning by trial and error within the sector.

I would also like to draw your attention to how the clause is written. It is under “occupational categories” which, if you are not involved in the sector, you will not understand. That is again another reason why somebody needs to be around the board. The Secretary of State would be given more power to change the routes without consulting students. I would like to put to the Committee that we have an amendment to say that before any of these changes take place, learners should be consulted, as well as information, advice and guidance being part of the process. I agree with what David Hughes said this morning that IAG should be going into key stage 4. I went to the Skills Show this week and that provides an excellent example of IAG in those four days. I strongly recommend you to look into the Skills Show.

Bev Robinson: May I clarify something, please? We are talking about technical professional education. There are other opportunities for learning—A-levels, applied general qualifications—that would cover retail and performing arts. The technical education was not meant to cover absolutely everything. It is meant to cover just technical and professional education, so this would not exclude a learning opportunity because that would be covered by applied general qualifications currently.

Q76 David Rutley: Thank you for your points. Like all of you, I believe this is very important to help people achieve their potential and to improve social mobility—no question. We are all saying this is a positive step forward. Obviously there is more to follow, but this in itself is a positive step forward. I am keen to focus on these categories for a moment. I know that you were involved with helping to create these, Bev. Obviously, they are important not just for learners but for businesses and employers as well. Does the panel believe that there is enough flexibility in that arrangement to have some defined pathways but to be able to evolve, given what will happen in the economy and in those sectors in future?

Shakira Martin: I believe that, with devolution, we do need to be working at a local level, working in partnership with local organisations, such as local enterprise partnerships, local businesses and small and medium-sized enterprises, to make sure that it is relevant to the needs of that community and that area, and to the needs to the students. This is also why it is vitally important that we are training and educating our students not just for a job in a specific area, but giving them transferable skills to enable them to move out of their area and up into a different industry.

Shane Chownen: Whatever the structures put in place within in the institute around oversight of those routes, it is important that they have the necessary authority to make those kind of recommendations, so if a route needs to be modified in any way, they have the authority to do that. The digital sector, for example, is probably one of the fastest moving of those 15 sectors. That will need to change all the time: the kind of occupations that are

listed within those will need to be updated all the time. I would hope that the institute would have the flexibility to allow that to happen.

Bev Robinson: I completely agree: currency is king. We have seen some of the qualifications in the market become terribly out of date. The Bill does allow for flexibility because the institute will be responsible, with those panels, for making sure that it is kept up to date. I really do welcome that.

Q77 David Rutley: Do you believe that businesses are currently engaged enough in helping to define those categories or routes, and are the mechanisms in place to ensure that will happen?

Bev Robinson: I believe it is. The panels are not there to represent a particular business. Shane alluded earlier to fact that the panels can sometimes be too narrow, as we have seen with the early trailblazers. Lessons learned from that would suggest that you are on that panel because of your engineering expertise not because you happen to work for AA Engineering Ltd. It is about keeping that currency and making sure that you are representing not your company but the engineering field. Also, because it is co-creation, having educationalists there as well to make sure that pedagogy is also at the heart of the design of these products.

Shane Chownen: I have nothing to add on that.

Q78 Kelvin Hopkins: A very important question: what measures should be put in place to protect the quality of education received in a college that is struggling financially?

Shakira Martin: As I said, I welcome the fact that learners are being considered in the insolvency regime. The NUS did put forward some recommendations in the consultation—I think that maybe some of that has not been considered before but, within this process, that is vitally important—of an independent FE ombudsman. When students do go through this process, if they are not satisfied with the end result, what steps do they take in appealing that decision to ensure that they get the best? At the moment there is nothing out there to represent students in that way. I am not really familiar with the HE sector and whether there is the equivalent there, but I am sure that there is probably something in place. After the process has happened and a student has been placed in a college and is not happy with that position—what next? How do they challenge that? I would strongly recommend an independent ombudsman.

Shane Chownen: For me, if it has got to the stage where there are crisis meetings looking at how to recover teachers and get students to a place to learn, at some point along the way the system has already failed. The whole idea behind the commissioner’s office, for example, is to ensure that learners are protected long before a college even starts looking at insolvency as an option. The flags that are highlighted within the Department and the Skills Funding Agency at the moment to trigger a visit from the commissioner, should offer those protections long before an insolvency process.

Bev Robinson: I agree with that; it is about early intervention, not waiting for a failure—it is seeing the signs and making appropriate interventions.

Q79 Kelvin Hopkins: Pushing that argument further, you quite rightly said that colleges are now businesses after the incorporation in 1993. They have to perform like businesses, even though they are largely publicly funded. We may have a debate about whether that was a good idea or not, but nevertheless that is the situation we are now in. If a principal wants to make money, one way of making money is to squeeze more students in per class, to reduce the quality of the teaching by having less qualified teachers, to put people on courses and not worry about whether they turn up or not—to do all sorts of things that get the money in, but do not actually do the job particularly well.

I speak from some knowledge of a case exactly like that, where a college got into a terrible crisis. The principal disappeared and is now being picked up; I will not mention any names, but you may have been aware of it—it was a notorious national scandal. What is to prevent principals, especially with weak governing bodies, from behaving like this? Many students are not in a position to challenge and staff feel nervous about challenging, because if there is a wilful principal they might choose to get rid of staff, who cannot afford to lose their jobs, and so on. There are those possibilities, unless there are some controls. What would you suggest?

Bev Robinson: What you are citing there is an extreme example.

Kelvin Hopkins: But a real extreme example.

Bev Robinson: I appreciate that it was not fantasy—I appreciate that it was real—but such cases are an absolute minority. There are two golden threads in further education corporations—quality and finance—and it is about the balance of the two. In terms of what measures one could put in place, you have highlighted something: governing bodies—making sure that governing bodies are looking at the two golden threads of quality and money. It is about making sure that there are enough checks and balances within an organisation to allow for challenge; any good organisation would have that. I guess, ultimately, as we mentioned about the FE commissioner before, you would say the FE commissioner again, alongside Ofsted. Remember that with the desk research they do, they would spot within 12 months—if it was a dramatic example, as you cited—that quality suddenly went down very rapidly. That would be a red flag and a trigger. I would like to think that that would not happen, but obviously it does happen in a minority of cases.

Q80 Kelvin Hopkins: Earlier today I was talking about governing bodies, having had 25 years' experience on a sixth-form college governing body and some years before that on a college of higher education—which was really a high-powered FE college, with some HE and some FE. With that experience, I know that having the right governing body with the right kind of membership is absolutely crucial so that principals cannot get into that situation.

At the beginning of incorporation, all those years ago, the Government wanted small, tightly knit governing bodies made up of local businesspeople, thinking that that would make it work—the businesspeople would somehow guide the college into producing the right students. It did not actually work, and in the end the Government changed their mind and wanted broader based governing bodies including, of course, students—

certainly, at the college I am at, the student council elect their own students on to the governing body—plus some accountants, some lawyers, and some headteachers from local high schools and primary schools. There was a whole range of different skills, so that the college is properly accountable—without having an elected body, but they do appoint their own governors. That approach is a way forward. Can we put that sort of thing into the Bill, to ensure the legislation is improved? I know that you and Gordon know each other very well. I am interested to know what your governing body is like.

Bev Robinson: I am thinking of the unintended consequences. It is very easy to say that we can dictate exactly the constitution of a governing body, but if we are looking at further education corporations across the country, some of them are very different. My own, for example, is an outstanding college. We are very strong financially and so on, and we benefit from the mix and balance that we have on the board: we benefit from our business community and from two very able students on the board. I am hesitant about mandating exactly what that board would look like, because it varies by college. If, for example, I were a land-based college, I might want a slightly different mix, so I am hesitant about fully supporting that.

Shane Chownen: There is an interesting overlap in what you are saying, in terms of what the new accountability and regulatory landscape would look like after the Bill, with the various new bodies. How does Ofsted interact with the institute? How does the OFS interact with the institute, which interacts with Ofsted? Who inspects HE, given that Ofsted does not have a role within that? There is definitely something in cleaning up that landscape and giving the roles and responsibilities within the sector some very clear and defined lines.

We have not spoken much today about the devolution elements within the Bill—I have been here all day, by the way; I'm a superfan. If you are devolving significant sums of money to combined authorities, the Government are absolutely right, on behalf of the taxpayer, to expect some level of accountability and assurance about that. That should be not only raw numbers of how many people are doing qualifications and at what level, but also the extent to which those funds are being managed and accounted for. There might well be another layer of accountability under devolution.

Having said that, combined authorities and LEPs often have representatives on college corporations, so they should be responsible, as governors, for noticing when something is awry—for example, a spike in student complaints when they get their spreadsheets. I am not sure the Bill currently delivers that, so it could be looked at in future.

Shakira Martin: Can I remind everybody that FE has been cut to the core for a long time now? There might be some mismanagement, but when you are cut to the core and trying to change people's lives on a budget, this is the kind of situation we get into. There is a big call for investment at the moment. I am going to flip this and talk about money and why we need it. Something I picked up from David Hughes this morning is the point about stability and certainty. We are often known as a Cinderella sector. It was welcome to hear the new Secretary for Education put FE at the heart and say that it is a priority. However, investment is needed in that area.

Q81 Kelvin Hopkins: There were some striking figures this morning about the enormous difference between the spending per student in FE, post-16 and A-level students and in universities. I made the point that at university, you often have a small number of lectures with a couple of tutorials, whereas in FE, and particularly in A-levels and BTECs, you have constant contact with teachers. The level of engagement is much greater between teacher and student.

Shakira Martin: Definitely. There is another thing that is quite frustrating. I welcome the money being put into the adults skills budget, but that is not an investment directly into further education, so I would like the Committee to consider direct investment in FE institutions.

Kelvin Hopkins: In my case, you are preaching to the converted.

Shane Chown: It might be worth pointing out, just on that point, that there were also figures out last week showing participation in FE and skills, and in the last 12 months we have had the biggest drop in adults participating in basic English and maths training that we have had in six or seven years. That comes at a time when—I think Professor Fuller mentioned this earlier—the UK is ranked bottom of the OECD league tables for literacy and second bottom for numeracy. At a time when we have to send out negotiators and a Secretary of State for International Trade to fly the flag for the UK, those figures look really bad.

The Chair: Order. May I just interrupt here? The questions have to pertain strictly to the provisions in the Bill, as Mr Hopkins well knows. I know it is slightly difficult, but could you keep this answer as short as possible, so that we can move on to questions that do pertain to the Bill?

Kelvin Hopkins: Apologies, Ms Dorries. I have finished now; thank you.

Shane Chown: I would argue that there would be opportunities in the Bill to place extra emphasis on those kinds of issues that the country faces in international trade negotiations, such as basic literacy and numeracy.

Q82 Gordon Marsden: I would like to ask this, while remaining within the scope of the Bill. There has been some interesting discussion about priorities, adult skills, training and so on. I want to return us to discussing the institute. If you had been here earlier, Shane, you would have heard a number of questions put to Peter Lauener about the nature of the institute, what its capacity might be and so on. I want to talk about one thing that strikes me about what the Bill is trying to do.

The institute had an interesting genesis, because it did not start out as an institute at all; it started out as a wish list in the Enterprise Bill by the previous Government as to who could actually look after apprenticeships. At one stage, it was going to be trading standards. Obviously, that subsequently was decided not to be the way forward, so the Government brought through, in the Enterprise Bill, the first genesis of the Institute for Apprenticeships, and like Topsy, it has just grown—very beneficially, I

think, but that does raise some interesting questions that go to the heart of skills policy and of the new structure that will be set up, so I would like to ask the three of you, from your different perspectives, to answer this. We have heard a lot about apprenticeships. Obviously, that was discussed this morning with Peter Lauener. The technical qualifications are coming into this institute anew, but they bring with them the issue of how many people—actually, adults—need to be retrained and reskilled, the issue of what technical means for them. What should the balance be between the new institute focusing, obviously, on apprenticeships because that is a key Government target—

The Chair: Order. Mr Marsden, we have a vote just before 4 pm, so if we keep to the point of the question, the witnesses will have a chance to answer.

Gordon Marsden: Indeed. What do you think the balance should be in terms of the new institute focusing on apprenticeships, as opposed to focusing on other retraining and reskilling?

Bev Robinson: I would probably go 50:50, because if you look at what we are asking in terms of technical professional education up to levels 4 and 5, there will be a considerable amount of work to do.

Shane Chown: I would agree, but I also think there is a lot of overlap between the two. One thing we have argued is that the institute could do much more to publicise and promote better data around outcomes for technical education and apprenticeships. That would be the same job for different forms of learning. I am talking about things such as employment outcomes, earnings outcomes, learner satisfaction and employer satisfaction. Those are things that the institute could do jointly between apprenticeships and technical education.

Shakira Martin: One thing that the institute could do is define what an apprenticeship is—is it employment or work? There could also be better initiatives to get young people or just people back into work. An example is council tax exemptions. What does that mean for students who are estranged from their parents or whose parents are on low incomes? If it can be clarified whether an apprenticeship is education, work or both, perhaps we would be able to take steps forward in anticipating what we actually need.

Gordon Marsden: That involves the Minister discussing some of these things with his friends in the DWP and brings us back to the 16-hour rule and also to the conclusion of the sitting, I suspect.

The Chair: Does anyone else have any questions? If there are no further questions from hon. Members, I thank the witnesses for travelling here today and giving evidence.

Ordered, That further consideration be now adjourned.—(David Evennett.)

3.45 pm

Adjourned till Thursday 24 November at half-past Eleven o'clock.

Written evidence reported to the House

TFEB 03 NCFE

TFEB 01 Neil Phillips

TFEB 02 Catholic Education Service

