

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

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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 not 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 Chown: 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 Chown: 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 the institute around oversight of those routes, it is important that they have the necessary authority to make those kinds 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 the 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

