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Further Education and Training Bill Committee Stage Report

Bill 75 of 2006-07

This is a report on the Committee Stage of the *Further Education and Training Bill* produced in response to a recommendation of the Modernisation Committee in its report *The Legislative Process* (HC 1097, 2005-06).

This is a pilot Committee Stage Report and we would welcome feedback on its content and format. This should be sent to papers@parliament.uk or to the Director of Research Service, Rob Clements (x 3622).

The Bill will restructure the Learning and Skills Council by abolishing local Learning and Skills Councils and creating regional ones. The Bill will enable the Secretary of State to designate strategy making bodies and place the Learning and Skills Councils under a duty to implement the skills strategies which they develop. Greater London will have its own skills strategy body chaired by the Mayor of London. The Learning and Skills Council will be placed under a duty to encourage diversity in provision and to consult with learners and employers.

Further education colleges will be given extended powers to form companies and charitable organisations. College principals will be required to become qualified. Further education colleges will be able to apply for foundation degree awarding powers.

Industrial Training levies will be modernised.

Sue Hubble

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Summary of Bill

The Bill enacts provisions which were proposed in the White Paper *Further Education: Raising Skills Improving Life Chances* published in March 2006. The White Paper set out the Government's proposals for reforming the further education sector by increasing choice, streamlining administration and improving quality. It encouraged colleges to focus on a mission and aimed to ensure that provision was demand-led. The underlying theme of the Paper was improving employability and skills.

The *Further Education and Training Bill* is divided into four Parts. Part 1 concerns the Learning and Skills Council (LSC). Clauses in Part 1 streamline the administration of the further education sector by reducing the number of members on the National Council of the LSC and by abolishing the 47 local LSCs, replacing them with 9 regional councils.

The Bill permits the Secretary of State to designate bodies which will formulate strategies for educational provision which the LSC will be under a duty to implement. Greater London will have its own skills strategy body which will be chaired by the Mayor of London.

The LSC will be under a duty to encourage diversity and choice in provision of education and training and to consult with employers and learners. Clauses in Part 1 clarify the powers of the LSC to invest in companies and extend the powers of the LSC to design and operate support services.

Part 2 of the Bill relates to the administration of further education institutions. Clauses 14 to 16 transfer power to incorporate and dissolve further education institutions from the Secretary of State to the LSC. Clause 17 will enable the Privy Council to grant further education institutions powers to award foundation degrees. Clauses in Part 2 clarify the power of further education institutions to form companies.

Clause 21 enables the Secretary of State to make regulations requiring college principals to achieve a stipulated leadership qualification before taking a new post.

Part 3 of the Bill amends the *Industrial Training Act 1982* to modernise and streamline the process by which Industrial Training Boards demonstrate support for a levy proposal among employers in the relevant industry. They also require that proposals for levy orders cover a three-year period.

Part 4 of the Bill clarifies the power of higher education institutions to form and invest in companies and there is a new power to form charitable incorporated organisations. Another clause in Part 4 gives measure-making powers to the National Assembly for Wales in respect of further education and training.

The Bill extends to England and Wales only except for clauses 11, 12, 22 and 23 which extend to Scotland and clauses 11 and 13 which extend to Northern Ireland; and certain general provisions which extend to the whole of the United Kingdom.

The Explanatory Notes accompanying the Bill state that the provisions on shared services, career development loans and industrial training levies will require Legislative Consent Motions (formerly Sewel Motions) in the Scottish Parliament.

House of Commons Library Research Paper 07/35 *Further Education and Training Bill [HL]*¹ gives a detailed assessment of the Bill and background on the provisions.

¹ RP 07/35 *Further Education and Training Bill [HL]* Bill 75 of 2007-07 http://10.160.3.10:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY_OTHER_PAPERS/RESEARCH_PAPER/RP07-035.pdf.

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I Background

A. Consideration of the Bill in the House of Lords

The *Further Education and Training Bill* was presented in the House of Lords by Baroness Crawley on 20 November 2006, she outlined the aims of the Bill:

Baroness Crawley: My Lords, on behalf of my noble friend Lord Adonis, I beg to introduce a Bill to make provision about the Learning and Skills Council for England; to make provision about institutions within the further education sector; to make provision with respect to industrial training levies; to make provision about the formation of, and investment in, companies and charitable incorporated organisations by higher education corporations; to enable the making of Assembly measures in the field of education and training; and for connected purposes. I beg to move that this Bill be now read a first time².

The second reading debate³ on the Bill in the House of Lords highlighted two issues that were to prove most controversial during the passage of the Bill – foundation degree awarding powers and giving the LSC powers to intervene in colleges under certain prescribed circumstances.

The Bill was significantly amended during its committee stage in the House of Lords. Government amendments were made to the proposals on foundation degree awarding powers to place restrictions on the franchising of degree awarding powers and to strengthen scrutiny of these powers by granting them initially for a fixed period only. Also a new clause was added which required the Secretary of State to lay a report before Parliament on the effect of the changes to foundation degrees. The Government gave a commitment to consider further changes to foundation degree awarding powers to ensure progression routes for students.

The original Bill presented in the House of Lords contained a clause on intervention in further education corporations; this clause was defeated by 187 votes to 135 and dropped from the Bill.

Library Research Paper 07/35 *The Further Education and Training Bill [HL]*⁴ gives details of the changes made to the Bill in the House of Lords on pages 43-45 and page 53.

II Second Reading in the House of Commons

The second reading of the Bill in the House of Commons was on 21 May 2007⁵. The Bill was presented by the then Secretary of State for Education and Skills, Alan Johnson.

² HL Deb 20 November 2006 c111

³ HL Deb 13 December 2006 c1538

⁴ *The Further Education and Training Bill [HL]* Bill 75 of 2006-07 at http://10.160.3.10:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY_OTHER_PAPERS/RESEARCH_PAPER/RP07-035.pdf.

⁵ HC Deb 21 May 2007 c996

In his introductory speech Mr Johnson outlined the provisions in the Bill and announced the Government's intention to reintroduce the clauses on intervention powers⁶:

Members of the other place expressed concerns about some of our original proposals on interventions, especially the provision to enable the Learning and Skills Council to instruct an FE college to dismiss its principal if such an action were deemed necessary. I have listened to their concerns and we will shortly be publishing new proposals.

We will hold firm to our original intention to take action in instances of underperforming colleges, because without that power we do not believe that we can put forward these proposals with the necessary reassurance. While that intention remains—including instigating the removal of a principal, should that be warranted—in response to the concerns expressed in the other place, we will make sure that the intervention is scrupulously fair, transparent and legally robust.

The Shadow Secretary of State for Education, David Willetts, moved a reasoned amendment to the Bill in the name of the Leader of the Opposition⁷:

Mr. David Willetts (Havant) (Con): I beg to move, To leave out from “That” to the end of the Question, and to add instead thereof:

“That this House declines to give a Second Reading to the Further Education and Training Bill [*Lords*] because it will introduce yet another expensive reorganisation of the learning and skills councils, further entrenching the management of vocational training through a regional structure; it will grant the Learning and Skills Council draconian new powers to dismiss college governors, principals and senior managers; and despite the recommendations of the Leitch Review of Skills it fails to address the UK's relatively poor performance in intermediate level vocational skills, the growing problem of young people not in education, employment or training, the declining numbers of learners in apprenticeships at all levels, and profound doubts about the timetable for the introduction of the new 14-19 specialised Diplomas.”

In his introductory speech Mr Willetts described the Bill as a ‘missed opportunity’⁸. He said however that he agreed in principle with the granting of foundation degree awarding powers and acknowledged the concessions that had been made by the Government:

We welcome the concessions that he has made and appreciate that he has already moved significantly from the original proposals in the Bill in the light of debate in another place, as well as the extraordinarily constructive and statesmanlike role played by the shadow Ministers for further education and for higher education—my hon. Friends the Members for South Holland and The Deepings (Mr. Hayes) and for Henley (Mr. Johnson)—who have put country before party in a remarkable way. The documents that the Minister sent provided us with some reassurance, but we still need to know more about how he is going to take forward the assurances given by Lord Adonis that the safeguards on

⁶ HC Deb 21 May 2007 c1001

⁷ HC Deb 21 May 2007 c1003

⁸ *ibid* c1003

progression will be put on to a statutory footing by way of a Government amendment⁹.

The Liberal Democrat education spokesperson, Sarah Teather also acknowledged the changes to the Bill in her opening speech and said that the passage of the Bill would not be opposed:

The Bill that we are debating, however, has been amended by the other place. While the Liberal Democrats will seek further changes, reassurances and clarifications in Committee, we will not oppose the Bill's passage at this stage¹⁰.

The concerns raised during the debate were similar to those raised during the second reading in the House of Lords: foundation degree awarding powers, intervention powers and adult education¹¹. However rather less concern was shown about foundation degree awarding powers as a result of the amendments to the Bill which were made in the House of Lords.

The issue of transferring powers to the National Assembly for Wales under clause 25 was raised by two members – Mr Don Touhig¹² and Mr Murphy¹³. Their concern centred on scrutiny of the proposals rather than the proposals themselves:

Although I welcome the Bill, I am troubled—as was my right hon. Friend—by clause 25, which makes amendments to the Government of Wales Act 2006. If the clause is approved, it will transfer substantial responsibility to legislate for further education and training from Parliament to the National Assembly. Although I do not oppose the idea of using framework legislation to transfer power from Parliament to the Assembly, I think it wrong to do so without full parliamentary scrutiny of such a change to the devolution settlement. Notwithstanding the way in which it is being presented, the Bill contains a substantial constitutional change, and Parliament should have an opportunity to consider whether it is right to transfer those powers to the National Assembly.

The reasoned amendment was defeated by 137 votes to 296.

III Public Bill Committee

A. Membership of the committee

The Public Bill Committee consisted of seventeen members - ten were Labour, five were Conservative and two were Liberal Democrats. The full membership is given below:

Chairman: Mr Peter Atkinson

Clerk: Mr Alan Sandall

⁹ *ibid* c1007

¹⁰ *ibid* c1012

¹¹ Tim Boswell c1020, Ms Smith c1023, Hopkins c1038 and Wright c1053

¹² *ibid* c1014

¹³ *ibid* c1010

Members:

Ainger, Nick (Carmarthen West and South Pembrokeshire) (Parliamentary Under-Secretary of State for Wales)
Anderson, Mr David (Blaydon) (Lab)
Banks, Gordon (Ochil and South Perthshire) (Lab)
Blackman-Woods, Dr Roberta (City of Durham) (Lab)
Boswell, Mr Tim (Daventry) (Con)
Cawsey, Mr Ian (Brigg and Goole) (Lab)
Cryer, Mrs Ann (Keighley) (Lab)
Hayes, Mr John (South Holland and The Deepings)
Hope, Phil (Corby) (Parliamentary Under-Secretary of State for Education and Skills)
Mitchell, Mr Austin (Great Grimsby) (Lab)
Mulholland, Greg (Leeds North West) (LD)
Rammell, Bill (Harlow) (Minister for Higher Education and Lifelong Learning)
Smith, Ms Angela C. (Sheffield, Hillsborough) (Lab)
Teather, Sarah (Brent East) (LD)
Watkinson, Angela (Upminster) (Con)
Wilson, Mr Rob (Reading East) (Con)
Wright, Jeremy (Rugby and Kenilworth) (Con)

B. Brief summary of the committee stage

The committee stage of the Bill was conducted in a consensual manner¹⁴, the Minister commented on the ‘reasonable and constructive’¹⁵ nature of proceedings and members of the Committee commented on the Minister’s willingness to ‘meet the concerns’¹⁶ of the Committee, particularly over foundation degree awarding powers.

Four Government amendments were made to the Bill: amendments numbers 2 and 7 which aim to ensure progression routes for foundation degrees students and new clauses 1 and 2 which will permit the LSC and Welsh Ministers to intervene in FE institutions in England and Wales.

The debate in Committee covered in particular the main areas of current concern in further education: adult education, administration of the LSC and bureaucracy reduction in FE.

C. Detail of debate in committee

The committee proceedings began with the Minister for Higher Education and Lifelong Learning Bill Rammell moving the programme motion which allocated a maximum of eight sittings for the consideration of the Bill¹⁷. John Hayes, the Conservative

¹⁴ PCB Deb 12 June 2007 c76

¹⁵ PCB Deb 14 June 2007 c164

¹⁶ PCB Deb 12 June 2007 c57

¹⁷ PCB Deb 12 June 2007 c3

spokesperson and Sarah Teather, the Liberal Democrat spokesperson both supported the motion.

1. First Sitting, Tuesday 12 June (morning)

a. Clause 2: Regional Councils.

John Hayes moved an amendment¹⁸ which aimed to ascertain the reason for giving regional Learning and Skills Councils (LSCs) powers outside their own area and to test the legitimacy of those powers.

The Liberal Democrats gave their support to a regional structure¹⁹ but wanted to know how it would work in practice. The debate covered issues of cross boundary arrangements and the relationship between the LSC and employers. The Minister responded saying that the restructuring of the LSC would result in the removal of an estimated 1,100 posts and create an overall annual saving of £40million per year²⁰. He further explained that the 150 local partnership teams would work with local stakeholders to identify local learning and skills needs. He also said that the amendment if accepted would reduce the flexibility and responsiveness of the regional structure.

Mr Hayes commented that he was still ‘concerned about the financial and organisational effects of some of the proposals’, but withdrew the amendment.

John Hayes moved another amendment²¹ which aimed to include Sector Skills Councils (SSCs) in the list of bodies which must be consulted on guidance to regional councils. The amendment was prompted by the Leitch report which envisaged a greater role for SSCs in training. The Liberal Democrats supported the amendment. The debate covered the role of employers and the need for wide consultation. The Conservative position was summed up by Mr Hayes:

In essence, our amendments reflect our determination to ensure that employer-led organisations are at the heart of the process.²²

The Minister, Bill Rammell, responded that it would be made ‘explicit in regulations’ that the Government would expect engagement to take place with the SSCs²³ and that this measure was not required to be in primary legislation. He reassured the Committee that a number of changes had been made to the draft directions and guidance issued to bodies in relation to the formulation and review of strategies following the debates in the House of Lords.²⁴

Mr Hayes acknowledged the Minister’s commitment to ensuring that all interested parties would be involved in consultations and withdrew the amendment.

¹⁸ Amendment No 21 c5

¹⁹ PCB Deb 12 June 2007 c6

²⁰ *ibid* c13

²¹ Amendment No 22 (grouped with Nos 18, 23 and 24) c16

²² *ibid* c17

²³ *ibid* c19

b. Clause 4: Strategies for functions of Council

Sarah Teather moved an amendment²⁵, saying that the Liberal Democrats were generally in support of the clause, particularly the establishment of the London Skills and Employment Board²⁶, but that they wanted more information on the relationship between the new bodies and local authorities.

The Minister reassured the Committee that similar concerns had been raised on this issue during the committee stage in the House of Lords and that the Government had acted in response:

Similar amendments were tabled at Committee stage in another place. We considered the points that were raised, and have made a number of changes to the draft directions and guidance in relation to the formulation and review of the skills strategy for London by the London skills and employment board. Similar directions and guidance will apply to other bodies outside London. I am, therefore, pleased to be able to restate the reassurances given by my noble Friend Lord Adonis²⁷.

The members who had moved the grouped amendments agreed that including the provisions would 'entangle' the bill in inappropriate detail and the amendments were withdrawn.

c. Clause 5: Young people's learning and adult learning committees

In the clause stand part debate on clause 5 Mr Boswell summed up the concerns of the opposition members of the Committee on the abolition of these two committees saying;

I am not sure that we need them [the committees] in the statutory form. I would simply like to reinforce to the Minister my view, which I think he probably shares, that the importance of the development of adult skills is particularly intense because we know that we have a skills gap—it has been identified by the Leitch report.

A wide ranging debate followed on adult learning. Conservative²⁸ and Liberal Democrats²⁹ expressed concern about the Government's commitment to adult and community education. The Government reassured the Committee that they would expect 'the two statutory committees to be replaced with a single committee'³⁰ and that the LSC would 'provide a range of new measures to consult learners'³¹.

Clause 5 was ordered to stand part of the Bill.

²⁴ *ibid* c24

²⁵ Amendment No 17 (grouped with Nos 18, 23 and 24)

²⁶ *ibid* c22

²⁷ *ibid* c24

²⁸ PCB Deb 12 June 2007 Mr Boswell c26, Mr Hayes c27 and Mr Wright c29

²⁹ PCB Deb 12 June 2007 Mr Mulholland c27

³⁰ *ibid* c32

³¹ *ibid*

d. Clause 6: Duty in relation to diversity and choice

A short clause stand part debate was held on clause 6 which probed the meaning of 'diversity' and the implications for providers and learners. The Minister reassured members that there would not be 'competition for its own sake'³² and that the LSC would review provision in each area every five years³³.

Clause 6 was ordered to stand part of the Bill

e. Clause 14: Incorporation of further education institutions

John Hayes moved amendment number 26 (grouped with number 28) which was a probing amendment designed to elicit from Ministers why the LSC was being given power to establish FE colleges. Mr Hayes was concerned about increasing the powers of the LSC.

Phil Hope responded for the Government that the powers would make 'current practice simpler, quicker and less bureaucratic' and more transparent. He also said:

I want to make the important point that we will retain the current requirement that the LSC must publish proposals to establish and dissolve FE corporations, with some appropriate modifications. That requirement is set out in regulation—S.I. 2001, No. 782. In particular, there is a requirement to consult local partners and consider their views before any proposals are finalised³⁴.

The amendment was withdrawn and clause 14 ordered to stand part of the Bill.

f. Clause 15: Dissolution of further education institutions

John Hayes moved amendment number 27. The amendment was similar in purpose to amendment number 26 and concerned the dissolution of FE corporations. Mr Hope explained that the amendment would prevent the transfer of property rights to the LSC when an FE college was dissolved. Most dissolutions are the result of mergers and safeguards are in place to manage the process of transferring assets. The amendment was withdrawn.

g. Clause 16: Publication of proposals

Amendment number 29 (grouped with numbers 19, 20 and 36) was moved by John Hayes. It sought to probe how the accountability of the LSC would be retained under the new structures and competences.

³² *ibid* c35

³³ *ibid*

³⁴ *ibid* c37

2. Second Sitting, Tuesday 12 June (afternoon)

The debate on clause 16 continued. John Hayes said that he was reassured by the Minister's comments:

I remain concerned about the relationship between the LSC and those partners, but Ministers have been immensely reassuring about their determination to ensure that there is accountability for the LSC's work; that the powers that are invested in it will be used cautiously and moderately³⁵.

Mr Hope reassured the Committee that consultation was already a key part of the process for establishing and dissolving FE corporations and that nothing would change³⁶. He also said that if the LSC acted unreasonably the Secretary of State could intervene. Mr Hayes withdrew the amendment and clause 16 was ordered to stand part of the Bill.

a. *Clause 17: Power to award foundation degrees*

Clause 17 contained the 'most substantive element of the Bill': the granting of foundation degree awarding powers to FE colleges.

The Minister moved Government amendments numbers 2 and 7. He began by stating the rationale behind the clause:

Since the beginning of our deliberations, I have been clear that we need as much innovation and flexibility as possible within the further and higher education system in order to respond to the need of business for a higher level of skills. In that regard, we are absolutely right to say that highly performing further education colleges should be able to award their own foundation degrees³⁷.

He explained that he had listened and responded to concerns about the provisions and that the proposals had developed as a result of the debate:

It will help if I detail some of those changes.

First, we expect there to be a probationary period of six years during which time the ability of colleges with foundation degree awarding powers to authorise other institutions to make awards on their behalf or to award foundation degrees to students enrolled elsewhere will be restricted. Secondly, an independent report on the effect of the new powers will be made to Parliament within four years. The changes that we are making are important and significant, and it is right that a report is made to Parliament on their impact. Thirdly, the non-statutory guidance and criteria for applicants have undergone careful revision in response to comments and suggestions³⁸.

³⁵ PCB Deb Tuesday 12 June 2007 c48

³⁶ *ibid* c50

³⁷ *ibid* c52

³⁸ *ibid* c53

The Government amendments addressed the issue of progression between foundation degrees and other advanced study. This issue had been raised as a concern during the second reading debate. The effect of the amendments was explained by the Minister:

The Government amendments would prevent the Privy Council from making an order specifying that a further education institution in England is competent to grant foundation degrees unless it receives a statement from that institution setting out what arrangements it proposed so that students awarded one of its foundation degrees had the opportunity to progress to at least one course of more advanced study. The Privy Council must also consider whether the proposals are satisfactory and likely to be carried out. In a very significant way, that addresses some of the concerns that have been put forward³⁹.

The Minister said that the Government would conduct ‘a full consultation on the guidance and criteria’ as and when the Bill completed its passage⁴⁰.

A lengthy debate followed. Sarah Teather acknowledged how far the Government had moved since the Bill was first published and said that the Liberal Democrats were not opposed to FE institutions awarding foundation degrees. She expressed concerns over progression routes and quality assurance⁴¹ but said that the Government amendment went most of the way to meeting their concerns.

John Hayes also acknowledged that the Minister had listened and responded to arguments and said that the Conservatives agreed in principle with extending the awarding powers to FE colleges⁴².

Other issues of concern expressed about extending foundation degree awarding powers were: that progression routes could diminish foundation degrees as a qualification in their own right⁴³, that allowing the franchising of degrees to partnership institutions could affect the quality of foundation degrees⁴⁴, that partnerships between FE and HE institutions could be damaged, that the HE status of foundation degrees could be undermined and that ‘mission drift’ could occur in FE colleges.

The role of FE colleges and foundation degrees in widening participation among groups under represented in higher education was emphasised⁴⁵.

The Minister noted that ‘an important consensus’ had been established in Committee:

It is particularly interesting and welcome that, certainly across the three Front Benches, there is now no disagreement on the principle of degree-awarding powers for foundation degrees in respect of FE colleges⁴⁶.

³⁹ *ibid* c54

⁴⁰ *ibid* c56

⁴¹ *ibid* c57

⁴² *ibid* c59

⁴³ *ibid* c58

⁴⁴ FE colleges allowing other partnership institutions to award foundation degrees

⁴⁵ PCB Deb Tuesday 12 June 2007 Mr Hayes c60,

⁴⁶ *ibid* c76

The **amendments were agreed** without division.

Sarah Teather moved an amendment⁴⁷ which dealt specifically with franchising:

I have acknowledged the need for colleges to have the power to award degrees, but I am yet to be convinced of the separate need for them to be able to validate courses provided by other institutions, and I continue to have concerns about quality⁴⁸.

The Conservative spokesperson voiced similar concerns to the Liberal Democrats:

It does not seem unreasonable to say that if a small number are involved, the best way of maintaining rigour, quality and progression is not to let that number burgeon through franchising⁴⁹

The Minister reassured the Committee that degree awarding powers and franchising powers could be treated as separate points in guidance⁵⁰ and the amendment was withdrawn.

b. Clause 20: Consultation by governing bodies of FE institutions

Conservative amendment number 32 (grouped with numbers 33 and 34) was moved; this was a probing amendment to clarify the consultation processes to be used in clause 20.

The Minister reassured the Committee that guidance about consultation would allow for institutions to consult widely and that this could be achieved without legislation⁵¹.

The amendment was withdrawn

c. Clause 21: Qualifications of principals of FE institutions

The Conservatives moved an amendment⁵² as a probe to ascertain why only principals of colleges needed to have leadership qualifications and not others in the sector, such as the Chief Executive of the LSC.

The Minister responded:

Requiring the qualification of FE principals is part of our work to professionalise staff in the FE system.

I do not consider that it would be appropriate to expand the scope of section 137 of the Education Act 2002 and the regulations made under it to include the chief

⁴⁷ Amendment No 8 (grouped with No 9)

⁴⁸ PCB Deb Tuesday 12 June 2007 c82

⁴⁹ *ibid* c83

⁵⁰ *ibid* c86

⁵¹ *ibid* c91

⁵² Amendment No 30

executive of the LSC. The LSC, when recruiting its chief executive, ensures that the person has the necessary skills to meet the challenges of the role⁵³.

The amendment was withdrawn

3. Third Sitting, Thursday 14 June (morning)

a. **Government New Clause 1: Intervention in FE Institutions in England**

New clause 1 (grouped with Government new clause 2) contained new powers of intervention which would allow the LSC to intervene in FE colleges under circumstances of mismanagement, failure to discharge a duty, acting unreasonably and in cases where institutions are performing significantly less well than might reasonably be expected.

These clauses had proved controversial in the House of Lords and had been dropped from the Bill after they were defeated on a division by 187 votes to 135.

The Government said that these powers were necessary as the 'ultimate deterrent', to ensure that:

any pockets of underperformance in the FE system are tackled quickly, robustly and fairly. In saying that, let me be clear that we are talking about a very small proportion of providers; overall, FE colleges are doing extremely well. However, those intervention powers are vital if we are to continue making important improvements in the UK's skills base⁵⁴.

Sarah Teather made the point that underperformance was rare in FE colleges and questioned the need for new power as the existing powers had never been used⁵⁵. Members of the Committee raised the following issues: the additional burden of administering the scheme⁵⁶, vagueness of the phrase 'significantly less well'⁵⁷ and threat to academic freedom⁵⁸.

The Minister reassured the Committee that the powers would only be used 'in extremis', when all else had failed⁵⁹ and he pointed out that the Association of Colleges supported the new clause⁶⁰. He further said that the Secretary of State had the power to disagree with the LSC and could stop any intervention⁶¹. The LSC's draft intervention policy document which was made available to members set out the safeguards to be put in place and stated that intervention would only be considered in a serious case and only where the college had not tackled the problem itself.⁶²

⁵³ PCB Deb Tuesday 12 June 2007 c92

⁵⁴ PCB 14 June 2007 c97

⁵⁵ *ibid* c105

⁵⁶ PCB 14 June 2007 Mr Hayes c104

⁵⁷ *ibid* c106

⁵⁸ PCB 14 June 2007 Mr Mitchell c107

⁵⁹ *ibid* c108

⁶⁰ *ibid* c103

⁶¹ *ibid* c110

⁶² *ibid* c100

New clause 1 was put to a vote and the Committee divided Ayes 8, Noes 5.

New clause 1 was therefore added to the Bill.

New clause 2 contained intervention powers for Wales. The powers were similar to the powers in new clause 1 but in Wales intervention proceedings would be instigated by Welsh Ministers rather than by the LSC. This difference reflects the alternative funding mechanism in Wales.

New clause 2 was added to the Bill.

b. New Clause 7: Report on inspection bodies etc.

New clause 7 was moved for the Conservatives by Mr Hayes. The new clause would require the Secretary of State to lay an annual independent report before Parliament on the work of bodies responsible for inspecting and monitoring FE institutions for the next five years. This new clause aimed to put 'independent, empirical information'⁶³ before the House on the working of the seventeen inspection and monitoring bodies which are involved in the sector. Mr Hayes in the debate on the clause discussed the need to 'rationalise and focus' these organisations and to 'reduce the burden of regulation'.

The Liberal Democrats said that there was no need to put these provisions on the face of the Bill⁶⁴.

The Minister responded that the list of bodies had already been reduced by the merger of the Adult Learning Inspectorate and OFSTED and that a self regulation group was in place to consider further changes⁶⁵. He said that OFSTED and the LSC had a statutory duty to lay annual reports before Parliament⁶⁶ and that the LSC had already gone through a restructuring process resulting in a saving of £40 million⁶⁷. The Minister said that the new clause was unnecessary and gave a commitment that the LSC would continue to 'develop and evolve'⁶⁸.

4. Fourth Sitting, Thursday 14 June (afternoon)

The debate on Conservative new clause 7 continued. Administration costs and savings on expenditure were discussed and the new clause was put to a vote. The Committee divided and the clause was negatived by 9 votes to 4.

⁶³ *ibid* c114

⁶⁴ *ibid* c115

⁶⁵ *ibid* c119

⁶⁶ *ibid*

⁶⁷ *ibid* c120

⁶⁸ *ibid* c122

a. Clause 22: Conditions relating to levy proposals

John Hayes moved an amendment⁶⁹ which aimed to ensure that organisations representative of persons in a section of an industry (i.e. industry employers' federations) must be consulted when ascertaining the level of support for levy proposals. The amendment was a probing amendment to ensure commitment to the levy from the relevant industries was maintained. In response, Phil Hope noted that such an amendment would constrain an ITB's ability to demonstrate support for the levy; he stated:⁷⁰

I assure the hon. Gentleman that both the existing industry training boards ... have always placed, and will continue to place, great strength on their relationships with industry federations that represent the various subsections of their industries. Those will include representatives from those federations, and it is clear from what the ITBs have told us that they have no desire to reduce the input of federations in any way.

John Hayes expressed concern that the clause might reduce the influence of representative organisations and withdrew the amendment.

b. Clause 25: Powers of National Assembly for Wales

Clause 25 conferred legislative competence on the National Assembly for Wales over the provision of further education. Much of the clause stand part debate concerned the new procedure used to enhance the powers of the National Assembly rather than the principle of transferring the powers⁷¹. Concern was expressed about the scrutiny of these procedures and the role of the Welsh Affairs Committee.

The Parliamentary Under - Secretary of State for Wales, Nick Ainger, explained why these powers had been passed using primary legislation:

He asked why the primary legislative route had been taken rather than the Order-in-Council procedure. The answer is simple. It is a question of timing. At the moment, the National Assembly for Wales is conducting an independent review of further education in Wales. That review will be reporting in the autumn. If, as my right hon. Friend the Member for Islwyn wanted, we were to wait until the report was completed and thus have far more detail about what was to be placed in a framework power or an Order in Council, there would be considerable delay⁷².

The Liberal Democrats were in favour of transferring more powers to the Welsh Assembly and asked why the powers did not include foundation degree awarding powers⁷³. Mr Ainger responded:

⁶⁹ Amendment No 31

⁷⁰ PBC Deb 14 June 2007 c131

⁷¹ PBC Deb 14 June 2007 Austin Mitchell c 136.

⁷² PBC Deb 14 June 2007 c138

⁷³ *ibid* c137

Wales is a small country with only 25 FE colleges. Its further and higher education consortia have a good reputation for working together. They enable education institutions to provide a wide range of opportunities for learners through the sharing of resources, such as staff, equipment and infrastructure. The current evidence base suggests that delivery should continue to be via consortia arrangements between further and higher education providers.

The FE colleges in Wales are not demanding degree-awarding powers.

If there is a clear recommendation that degree-awarding powers be given to FE institutions in Wales and the Assembly agrees with it, there will be the option to bring that forward as an Order in Council, but there is not anywhere near as much pressure in Wales as there is in England for FE institutions to have degree-awarding powers. That is why the measure has not been included in the clause⁷⁴.

The clause was ordered to stand part of the Bill.

Minor consequential amendments were made to Schedule 1 and 2.

c. Clause 29: Interpretation

Dr Blackman - Woods moved a group of amendments⁷⁵ which were aimed at improving the system of pastoral care for 16 -18 year olds who undertake education and training. These amendments and clauses were the same as the provisions in a Private Member's Bill proposed by Barry Sheerman, *Post -16 Education and Training Bill*⁷⁶.

The debate discussed issues surrounding support and guidance for young people leaving school at the end of key stage 4. The Liberal Democrats were 'broadly supportive' of the amendments but felt that these issues should not be dealt with in legislation⁷⁷.

The Conservative debate on the amendments was broad and looked at the wider context of the Bill in terms of resources, priority groups for support and the Connexions service⁷⁸.

The Minister said that the Government were 'sympathetic to the intention behind the new clauses'⁷⁹ but added:

the new clause is not needed, however, because there are already sufficiently broad statutory powers for the Secretary of State to arrange that kind of provision. Sections 2 and 3 of the Learning and Skills Act 2000, for example, give the LSC statutory functions in relation to securing the provision of facilities for post-16 education and training.

⁷⁴ *ibid* c140

⁷⁵ Amendment No 12, grouped with Nos 13,14 and new clauses 3,4,5 and 6

⁷⁶ PBC Deb 14 June 2007 c 147. *Post -16 Education and Training Bill* at <http://www.publications.parliament.uk/pa/cm200607/cmbills/031/07031.i-i.html>.

⁷⁷ PBC Deb 14 June 2007 c152

⁷⁸ *ibid* c154

⁷⁹ *ibid* c159

Many of the changes that have been called for are already in train through particular strategies that we are pursuing or ones that are under consideration⁸⁰.

The amendment was withdrawn.

Finally two minor consequential amendments were made to clauses 30 and 32 and the Bill was ordered to be reported as amended.

The Bill was reported after two days in Committee with four sittings under the programme motion not used.

⁸⁰ *ibid* c162