

SKILLS BILL: THE SECOND READING

Lords line up to challenge new law on provider insurance

BILLY CAMDEN

BILLY@FEWEEK.CO.UK

Plans to force independent training providers to take out insurance to cover against possible cessation of training are set to be challenged in the House of Lords.

The Skills Bill proposes to introduce a set of conditions required of independent training providers to be on a new government list of approved providers.

Among the conditions is "insurance arrangements made and maintained by provider to cover associated exit costs", as well as a registration fee.

During Tuesday's second reading of the Skills Bill, Lord Aberdare warned that the "onerous" conditions would "constrain" the training provider market.

After telling his peers that he used to run a small training provider himself, Aberdare said that as a small business focused on service delivery, "we would have struggled to meet the sorts of conditions suggested in the Bill – for example, for insurance cover against possible cessation of training".

He described the plans as a "sledgehammer" approach that "risks penalising all ITPs for the failings of a few".

Baroness Wolf, who is a skills adviser to the prime minister, defended the new list and conditions earlier in the hearing. She said that while the independent training provider sector contains "many truly excellent, innovative and effective organisations", this part of the system and its "overall reputation" have been "bedevilled by regular failures and scandals".

"What we now have proposed is a single unified system of protection for learners which I hope other noble Lords will join me in welcoming," she added.

An impact assessment report for the Skills Bill explains that the new list of ITPs and its conditions are required because there are "delays in the current system" of "finding a new



Lord Aberdare

provider" for learners when another goes bust.

The delays come about because providers often have to take on the learners and receive no additional funding. This "makes it difficult to place some affected learners with alternative providers and this brings with it the risk that the learner may disengage and then fail to complete their learning", according to the DfE.

The impact assessment goes on to state that provider failings also "incur costs to government, for example, administrative costs in resourcing learner transfers or writing off advanced learner loans".

FE Week has reported on various cases of loans providers going bust in recent years, leaving learners in the lurch and in some cases, left with high levels of debt and no opportunity to complete their course.

Following an FE Week campaign, the DfE changed the law in 2019 to give the education secretary the power to clear student debt in those cases.

To combat the cost and delay issue, the DfE wants providers to take out a new type of insurance to cover the costs of transfer of learners to a new provider.

The report is light on detail but admits this

could incur significant additional costs on the sector. A consultation is expected to flesh out the details before the law is finalised.

But the DfE says "professional indemnity insurance" is anticipated to be required, which is typically set up to cover: breach of duty, civil liability, breach of contractual liability that is not caused by negligence, contractual liability, and legal costs.

Insurance expert Wayne Cowley, director of Trainsure, told FE Week this is "unlikely to be cheap in the present climate. If the risk is an ITP going bust, then the DfE is looking more for a creditors insurance, or even claiming against the ITPs management liability policy, depending on circumstances.

"It may be more like a clawback of the funds rather than an insurance risk, or if they have gone bust, it is like being a creditor wanting their money back."

He said that from a professional indemnity insurance point of view, if the risk could be understood and written, it is likely there will need to be a number of policy "triggers" to satisfy the cover.

The DfE would have to make a claim and "these things can take considerable time to investigate, qualify and quantify".

He added that professional indemnity insurance cost depends on the size of the turnover, but somebody with a £2 million contract could be looking at £3,000-plus annually.

Aside from insurance, the new list of ITPs will require a registration fee, "provisions of student exit plans", and access to learner and financial records. Providers will need to be on the list in order to gain funding.

Lord Bichard told Tuesday's debate that the feeling among providers in his area in Gloucestershire is that the plans "could make their existence more perilous".

"During the passage of the Bill, we need to ensure that it is possible for independent training providers to continue to provide their best and to strengthen in the future," he added.