



HM Government

# Reviewing post-16 education and training institutions

Updated guidance on area reviews

March 2016

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# Foreword from Nick Boles MP, Minister for Skills

It is a national priority to raise productivity. We can play a vital role in achieving this by developing a technical and professional education system which ensures all young people are on a high quality route to employment.

To achieve this we need strong education and training institutions which have high status and are genuine centres of expertise. We must have the right balance of provision, including the capacity and capability to deliver three million apprenticeships by 2020. The area review programme, driven by local leadership, will enable post-16 providers to put themselves in the best position to achieve these objectives.

Since this guidance was first published in September 2015, there have been a number of developments critical to the future of further education. The first is the Spending Review. This protected FE. It also created a huge opportunity in substantially increased investment in Apprenticeships through the employer levy. These are both excellent news. However they strengthen the need for reform, rather than diminishing it.

As the Further Education Commissioner has identified, colleges that perform well on a range of quality and efficiency criteria – from class sizes to back office costs – can produce surpluses and reinvest in high quality delivery for their learners. However, well in advance of the Spending Review many colleges were treading a tight financial line, and in some cases requiring exceptional support. The area reviews are designed to enable all colleges to be secure for the long term. Critically this will mean adjusting to the potential to expand apprenticeships in an environment where employers have greater control – a huge opportunity for colleges agile enough to take advantage.

I would emphasise that the review process represents a one-off opportunity for post-16 providers to put themselves on a strong footing for the future. We will facilitate that with substantial support – not just consultancy and analysis through the reviews but also the opportunity – where necessary – to apply for restructuring facility funding, and advice and support on implementation. However this is time limited. Once the restructuring is complete no college should be dependent on, or request any additional support from Government. Ultimately we would expect funding agencies, local areas with devolution powers and Local Enterprise Partnerships only to fund institutions that are taking action to ensure they can provide a good quality offer to learners and employers, which is financially sustainable for the long term. At the same time, we propose to introduce an insolvency regime to ensure protection for learners, and equitable treatment for creditors should a college reach an insolvent position after the review process is complete.

The first wave of area reviews is now approaching its conclusion, and while the process has not, and will not be easy, I am hugely encouraged by the progress made, and the initial options that are coming forward. I have already seen excellent

examples of good practice – including proactive and innovative ideas from colleges, and strong visions for how skills can support local growth from LEPs and combined authorities. This revised guidance draws on such exemplars.

I want to take this opportunity to thank everyone for their work so far, and to reiterate my commitment to supporting colleges that want to take the right, sometimes tough decisions to strengthen their long term position. I also appreciate that in some cases the solutions are not straightforward, and may involve difficult negotiations with creditors and hard decisions on rationalisation. However, I am confident in the ultimate result – an FE sector which is stronger and more dynamic than it has ever been, and with a greater capacity to respond to local economic and educational needs.

A handwritten signature in blue ink, appearing to read 'Nick Boles'.

Nick Boles MP  
Minister of State for Skills

# Context for the reviews

The overall objectives and context for the area review process are set out in the government policy document: 'Reviewing post-16 Education and Training Institutions'<sup>1</sup>. This updated guidance sets out a national framework for the reviews which allows local areas scope to work flexibly, and to take account of local circumstances and requirements, e.g. in London because of its size and particular local government structure.

## Purpose of the reviews

Each area review should establish the best institutional structure<sup>2</sup> to offer high quality provision based on the current and future needs of learners and employers within the local area. Reviews should deliver:

- **Institutions which are financially viable, sustainable, resilient and efficient, and deliver maximum value for public investment.** This is likely to result in rationalised curriculum; fewer, larger and more financially resilient organisations; and, where practicable, shared back office functions and curriculum delivery systems.
- **An offer that meets each area's educational and economic needs.** This will mean (a) Local Enterprise Partnerships (LEPs) and local authorities setting out their economic vision for the area and the skills base it will require to succeed; and (b) each area considering how existing provision and delivery structures can be adapted to deliver provision more effectively and efficiently. We expect the reviews to provide a foundation for more effective joint local working, including with the development of local outcome agreements, and with greater devolution of responsibility for adult skills to local areas.
- **Providers with strong reputations and greater specialisation.** Providers should focus on what they can deliver effectively and to a high standard. An important outcome of each review will be the establishment of clear progression routes to higher level skills. In a number of areas, there is work being undertaken to look at the potential role of Institutes of Technology (IoTs). Annex A provides more detail on IoTs. In addition, following the Spending Review, there is now potential for Sixth Form Colleges to consider the option of academisation for further information see the section headed "Sixth Form College Academisation" on page 26.
- **Sufficient access to high quality and relevant education and training for all,** including 16-19 year olds, adults and learners with Special Educational Needs and Disabilities (SEND), both those with high needs and those with moderate and low

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<sup>1</sup> [Reviewing Post-16 education and training institutions](#)

<sup>2</sup> The term institutions used in this document references those organisations involved directly in the review process.

levels of SEND. We will be publishing a data pack shortly setting out the templates that will be used to collect data from colleges.

- **Colleges well equipped to respond to the reform and expansion of the apprenticeship programme.** The government's reform and growth aims for apprenticeships will position these as the biggest part of the vocational market<sup>3</sup>. From April 2017, a levy on large employers will put funding for apprenticeships on a sustainable footing, and employers will become the purchasers of apprenticeship training. The levy is likely to lead to significant employer demand for the new, employer-designed apprenticeship standards, which will replace frameworks over time. Colleges and other providers need to be ready to respond to this demand and re-work their business model to operate competitively in a more market-style environment, moving away from the current allocations-based funding system for apprenticeships. We expect to see further education colleges taking a greater share of the apprenticeship training market, alongside other types of providers.

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<sup>3</sup>[government's 2020 vision for apprenticeships](#)

# Conducting reviews: governance and participants

## Governance of each review

Each review will be led by a local steering group composed of a range of stakeholders within the area. Members will include the chairs of governors of each institution (supported throughout the whole review process by their principals or chief executives), the Further Education (FE) and Sixth Form College (SFC) Commissioners, local authorities, LEPs, the funding agencies and Regional Schools Commissioners (RSC). The Department for Business, Innovation and Skills and the Department for Education will also be represented, either through or alongside the funding agencies, reflecting government's responsibility for protecting students. Areas which have secured devolution deals, such as Greater Manchester, Greater London, Leeds City Region and West Yorkshire, and Sheffield City Region are taking a leading role in their area review and we expect this to continue for the remainder of the reviews.

The local steering group will be chaired by someone who is independent from the providers involved in the review. In the cases of areas with agreed devolution deals, the chair is likely to be a representative from the combined or lead authority; in other cases we would expect the chair to be either the FE Commissioner or the SFC Commissioner.

The local steering group will oversee and steer the review's work within the national framework. They will be able to call on wider expertise such as the Commissioners' advisers in curriculum and financial matters, as well as experts in areas such as special educational needs and disabilities. The steering group will have a critical role in ensuring the coherence of the overall outcome for the locality – including alignment between institutions, with clear professional and technical progression routes that reflect local educational and economic need, and are easily understood by young people and adults.

It will be for the governing bodies of each individual institution to decide whether to accept the review's recommendations, reflecting their status as independent bodies. Governing bodies will therefore be expected to engage proactively in the review process, and in particular to ensure that the analysis covers the options they would wish to be considered, taking account of their legal responsibilities. We are looking at what guidance might be provided to assist governing bodies in their considerations.

## Participants roles and responsibilities

As set out in Reviewing Post-16 Education and Training Institutions<sup>4</sup>, area reviews will be a collaborative process involving a range of bodies.

We envisage that the following will participate in the review:

- **The Further Education and Sixth Form College Commissioners:** Responsible for ensuring consistency, quality and neutrality across all area reviews, ensuring boundary issues are addressed appropriately and ensuring reviews' recommendations are clear and deliverable. They will chair local steering groups, except when combined or lead authorities with devolution deals choose to do so. It is the role of the commissioners to take responsibility for presenting the review team's recommendations to the steering group, and to ensure that the full range of options has been considered.
- **Deputy FE Commissioners, FE Advisers SFC Advisers and the Joint Area Review Delivery Unit:** Deputy FE Commissioners provide oversight and direction of the review, supported by an enhanced team of FE Advisers and SFC Advisers. This team of independent professional specialists will be supported by officials from the Joint Area Review Delivery Unit (JARDU) (a cross-funding agency team of officials created to facilitate and ensure the delivery of the review process). The Deputy Commissioners work closely with institutions engaged in the review and stakeholders throughout the review period as different options and models of delivery are identified and tested. This group also work together to ensure that there are accurate and detailed records kept of all the evidence, analysis and activities captured and actioned during the review.
- **Local Enterprise Partnerships:** Contributing to the analysis of the current and future economic and educational needs of their area. Engaging in and supporting the review process including through setting out their vision of the skills system in sufficient detail within their wider strategic economic development role and through use of their potential resource leverage including capital funding and other related funding streams like European Social Funding. Being impartial and economically driven, LEP involvement allows the business voice to feature largely in the discussions and ensure there is a full understanding of employer demand and how the system needs to change to better meet that demand.
- **Local authorities:** Contributing to the analysis of the current and future economic and educational needs of their area. Engaging in and supporting the review process including through setting out their vision of the education and skills system and their expectations on the role of colleges and other post-16 providers within their wider strategic role. Engaging with school sixth forms in maintained schools and taking account of the analysis produced by the review to inform their future deliberations about schools provision. In addition, we expect combined or lead authorities (with devolution deals) to take a leading role, overseeing the process and chairing the local steering group where they choose to do so.

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<sup>4</sup> [reviewing post-16 education and training institutions](#)

- **Governing bodies:** Ensuring that all relevant options are considered for their institution informed by their chairs who are members of the local steering group. Taking decisions on the institutional recommendations. Leading implementation. As institutions are independent, each will need to make its own decision on its future where necessary relying on its own independent advice on financial and legal matters. We have set out at Annex C (developed in partnership with the AoC Governors Council) the role we see governing bodies taking at the relevant stages of the process. Governors at all institutions in a review will be updated regularly during the process. We expect chairs of governors to be members of the steering group, supported by their principal or chief executive who will also attend, and throughout the process.
- **Regional Schools Commissioners:** Membership of the local steering group; engaging with post-16 academies, free schools and university technical colleges (UTCs) at the beginning and end of the process, and feeding in any relevant local knowledge of issues or opportunities relating to provision into local steering group discussions, either directly or via the delivery team. Answering questions raised in the context of the review about post-16 academies, free schools and UTCs opening in the region that are within RSCs' remit. It will be particularly important for the RSC to attend the meetings where school and academy provision and emerging options are discussed. RSCs and local authorities will take account of the evidence gathered and the analysis undertaken during the review process in their future decision-making. Where analysis and findings from area reviews are available, RSCs should ensure these are taken into account in any decisions they make about future post-16 provision in academies, free schools and UTCs.
- **The Education and Skills Funding Agencies:** Facilitating the work and delivery of the review, including by undertaking, informing and presentation of data and analysis and using their funding levers to support the process and implementation of recommendations. To directly support restructuring, a Transaction Unit is being established (to work across both funding agencies and reporting directly the Chief Executive of the Agencies) to assess applications to the restructuring facility. The Transaction Unit staff will engage during the latter stages of the area review to provide specialist input, ensure that a full range of options are considered and provide an initial view on the viability of options which may lead to applications.
- **BIS and DfE, and wider government including BIS Local:** Setting the national framework for the reviews and their implementation, facilitating access to delivery resources and guidance, and undertaking a formal evaluation of impact. The Departments have also set up a national advisory group involving a wide range of stakeholders and partners including LEPs, local authorities, business, learners and providers to help shape the approach to area reviews.
- **Ofsted:** Providing local steering groups with a summary and analysis of inspection findings in relation to colleges and all other post-16 providers in the area covered by the review. Ofsted will carry out inspections from September 2015 in accordance with the newly-published Further education and skills inspection

handbook<sup>5</sup>. This includes information on the types of inspection and their frequency.

- **Other supporting organisations:** A range of bodies will support institutions in going through the review, and in implementation. This will include the Education and Training Foundation (ETF) and Jisc, and Annex D sets out more detail on the role they can play. Other key bodies such as the Association of Colleges (AoC), the Sixth Form Colleges Association, workforce unions and the National Union of Students will all play a full role in the reviews; feeding in views and support. Local employers are key stakeholders in the area review process. LEPs will represent the employer voice on local steering groups, and we expect each local steering group to consider how best to inform and engage with employers in the area and their representatives, such as the Chambers of Commerce

## Engagement with creditors

We recognise that there are some other key players who will have a critical role in the process. Banks, as main creditors of colleges are important in order to provide access to continued finance, and because their approval will in some cases be required for structural change to proceed. Government has initiated national level discussions with the major lenders to the sector. We encourage colleges to engage early with their banks during the process, and to make them aware of options that are being considered – particularly as banks will need to prioritise their own resource to assess the implications of options for their lending approach.

In many cases bank engagement will be relatively light touch during the review process, though there will need to be more detailed discussions and negotiation as the process moves to implementation. In other cases where the position of individual colleges is weaker (for example where there are large accumulated liabilities), there will need to be an early three way discussion between colleges, banks and Government and delivery of the recommendation of the review may be subject to more detailed discussions and due diligence analysis.

Many colleges also have considerable liabilities to the Local Government Pension Scheme (LGPS). We have been working with the Department for Communities and Local Government to ensure a good understanding of the processes to transfer and manage pension liabilities on merger. As with Banks, we encourage colleges to open their dialogue early with LGPS Funds.

## The National Area Review Steering Group and Advisory Group

The national approach to scoping and phasing area reviews is overseen by the **National Area Review Steering Group**, which reports to the Minister for Skills, and includes the FE and SFC Commissioners alongside officials from BIS, DfE and the funding agencies. This Group is also responsible for evaluating the impact of the review process, including outcomes for learners and employers.

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<sup>5</sup> [Ofsted further education and skills inspection handbook](#)

The work of the National Steering Group is informed by the **Stakeholder Advisory Group**. This includes representatives of the critical stakeholders in the process. Members of the Advisory Group are set out at Annex E.

We expect all parties participating in the reviews to adopt the following general principles:

- A visionary approach, thinking strategically about options for the benefit of the area as a whole matched to local economic and educational needs, local outcome agreements and government priorities such as apprenticeships, traineeships and high quality technical routes.
- An open-mindedness to change for the greater good, irrespective of vested interests and personal preferences.
- A willingness to seek best value in the use of resources, especially those arising from public funding, for the benefit of learners and employers.
- The capability to discern where and how the best use of digital technologies can make a significant impact on meeting needs, achieving ambitious educational outcomes and improving efficiencies.
- A strong commitment to collaboration and relationship building across local steering group members and other local stakeholders, recognising the importance of the views of learners and employers.
- A willingness to consider and judge objectively a range of structural options to assess which can deliver most effectively
- Sound financial planning to ensure the optimum area-wide use of resources and discharging of debt to secure long term financial sustainability.
- A determination to take long term strategic action now to ensure viability into the future, not merely to manage short term pressure. Critical will be a plan which ensures that all colleges are able to become financially viable and sustainable. Information on the range of indicators and benchmarks being used to inform options analysis and assessment is provided at Annex F.
- A sound evidence-based analytical approach taking into account local labour market information, Ofsted data and the full breadth of data available for and about the learning offer and institutions in the area.
- A strong focus on quality improvement across the area including the offer for young people, adults and employers, and access to higher level routes.
- A plan to embrace the possibilities provided by technology which can increase the quality and scope of provision and improve efficiency. For example to achieve ambitions for inclusion, flexibility (training at work, home or in the college) and active, collaborative and independent learning which will improve teachers efficient support for all learners.

- An awareness of the potential efficiencies which can be achieved through consolidation of back office systems and the adoption of shared services.
- An approach to innovation in delivery that is focused on the costs and benefits of blending learning in ways that can continually reflect and adapt to changing local needs and use intra and inter institutional collaboration to reduce the costs of innovation.
- The right balance of skills to take the local steering group through the area review process, including an ability and willingness to recognise the characteristics of resilience and sustainability in the development and assessment of options and recommendations.
- A preparedness to recognise other interests and cultures and to preserve these where possible in determining outcomes.
- A continued commitment to ongoing operations during the area review process.
- A willingness to learn the lessons communicated by the FE and Sixth Form College Commissioners and from others with experience of the area review process and Structure and Prospects Appraisals.
- A willingness to utilise sector learning and development support, in particular the existing networks that professional bodies offer.

# The scope and timing of reviews

## Timescales

The Government has now published the indicative timings of area reviews across England, running through to spring 2017 and, for the early waves, the institutions we expect to participate<sup>6</sup>. These timings are designed to enable institutions to plan their engagement in the process, and to initiate preparatory work. Waves 4-5 remain indicative in that should the risk profile of institutions in a particular area change or local areas make a substantive case for changing the timing, the National Steering Group retains the option to change the date of the review. If this is necessary, the Joint Area Review Delivery Unit will engage as early as possible with the colleges and stakeholders in the area. More details will be available by the end of March on how Waves 4 and 5 will work in practice, including the early action that can be taken by local authorities and LEPs with the colleges, to help prepare for the reviews.

Timescales for each individual review will vary depending on the area. In some cases where there is a large combined authority with a large number of colleges and other providers involved, it may be that a review takes place over several phases to ensure the process operates as effectively as possible and areas of high risk are dealt with urgently. In some areas, where there may be relatively fewer colleges in scope, a review may be able to be completed quickly. Our early review experiences have indicated that a typical timescale for a review is around 4-6 months. We expect all area reviews to be completed by March 2017.

## The scope of each area and border issues

Areas to be covered by reviews are defined by reference to (a) existing LEP boundaries, (b) relevant functional economic areas, and (c) population areas – particularly including travel to learn patterns. In some areas, such as those where there are combined or lead authorities with devolution deals, there will be natural political and economic boundaries.

The broad principle is that colleges should be formal members of only one area review steering group. However it is important that the process is pragmatic and flexible to ensure boundary issues can be accommodated. Where an institution has a significant interest in multiple reviews, we would expect to see it formally take part in one review, but also to be fully engaged in any other review where it has an interest without being a primary member. This will ensure institutions have the opportunity to feed in their views, and its interests are taken into account in other reviews that could also affect it. As part of this, steering groups could consider inviting bordering institutions to attend steering group meetings where the options being discussed are of particular relevance to them.

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<sup>6</sup> [list of institutions covered by the current reviews](#), this page will be updated regularly.

LEPs, and Local and combined authorities with an interest in a neighbouring area review where they are not steering group members will also be fully engaged and will have direct access to the relevant Deputy FE Commissioners to ensure their views are understood and taken into account. If appropriate, this engagement can also include meetings with the FE Commissioner and/or SFC Commissioner.

## Defining the scope of institutions to be covered

The indicative list of reviews<sup>7</sup> makes clear the institutions which are in the core scope of each area. These will normally be General Further Education colleges and Sixth Form colleges.

Other providers, including HEIs, local authority and independent providers can seek to opt in to the review process if they wish and the local steering group agrees. We would expect those opting in to do so at the beginning of the process. In particular, large providers of further education (with budgets of over £5m) whether community learning, basic skills or professional and technical skills up to level 5 may wish to consider participating, recognising that their participation means that there is potential for the outcomes of the reviews, including restructuring options and delivery models, to impact on them directly.

Information on all post-16 providers will be included in the initial analysis phase. Effective arrangements will be put in place to communicate with all providers in an area about the review, giving them the opportunity to engage. The RSCs and local authorities will have a role in engaging with school sixth forms. The analysis should consider how young people progress through the system in that locality from one provider to another, the effectiveness of those progression routes, and how the provision and its quality aligns with local educational and economic need. The challenges facing the post-16 sector apply across the board and all providers need to respond proactively and constructively. Therefore, reports on area reviews may make general observations about opportunities for collaboration, improved progression and signposting, and efficiency savings across all providers. Where analysis and findings from area reviews are available, RSCs should ensure these are taken into account in any decisions they make about future post-16 provision in academies, free schools and UTCs.

We want to encourage school sixth forms to collaborate to a greater extent to help drive efficiencies. Similar provision in sixth forms is often duplicated in relatively small geographical areas when it could be delivered in a more joined up way. This may particularly be the case where sixth forms are very small, as some evidence raises concerns about the costs, breadth of offer and outcomes for these providers. We have reviewed the criteria for proposing new school sixth forms in both academies and maintained schools. These guidelines seek to test the quality and financial viability of all new proposals, and guidance on this will be published separately in due course.

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<sup>7</sup> [list of indicative area reviews](#)

## Area reviews, Structure and Prospects Appraisals and early intervention

Where an area review takes place its analysis will take the place of a Structure and Prospects Appraisal (SPA), and there will be no requirement for a separate SPA process. Clearly colleges will continue to consider their long term structural options, and we encourage colleges to conduct such thinking in advance of the area review process taking place. Where colleges consider there is a case for a separate SPA in advance of an area review process they should engage with the FE Commissioner or SFC Commissioner and ensure that the SPA does not remove options which an area review would want to consider. Where colleges are engaging in discussions about structural change they should ensure that their Skills Funding Agency (SFA) or Education Funding Agency (EFA) lead is aware.

Where colleges, having conducted a SPA, are already significantly far down the track of merger for good reasons, and it would be counterproductive to delay that process, it is logical for them to proceed without delay. Should further options emerge through the area review process they would represent a second stage for these colleges. These colleges should bear in mind the possibility of further structural change in implementing the SPA recommendations.

Where colleges are initiating merger discussions, or considering federation arrangements, and are likely to be in a late wave review we would expect them to initiate a formal SPA to avoid an unnecessary delay, especially where the proposed changes address urgent problems in either or both colleges. However in undertaking the analysis they should:

- Set out the rationale for moving in advance of a review;
- Invite the local authority, LEP and agencies to engage in the arrangements set up for undertaking the SPA, in case there are broader issues that we would wish to be considered. The process should be broadly in line with the principles set out in the area review guidance; and
- Give consideration to broader structural questions which may be considered by the area review when it takes place.

We would expect these colleges to follow the SPA methodology – starting from a neutral position in terms of structural options and assessing the range of structural options against how they meet the needs of learners and employers in the area. There are some cases where rapid mergers are required or the range of options available is few. In these cases we would expect the colleges to follow the approach above, and the SPA principles, but the guidance allows flexibility for the SPA to be proportionate.

In all cases a college seeking to dissolve as part of a merger must follow the process set out in The Further Education Corporations (Publication of Proposals) Regulations 2012. These regulations include a requirement to publish the proposal to dissolve at least 4 months before the proposed dissolution date in the manner specified (i.e. in

one national newspaper and one local paper) and to send a copy, for consultation, to those listed in regulation 3(6), including the Secretary of State<sup>8</sup>.

If Government intervention in a particular college needs to take place urgently, an area review will not prevent this from going ahead. The ongoing strengthening of the funding agencies' approach to early intervention and prevention means it is likely that individual cases will be identified and, if appropriate, referred to the FE and SFC Commissioners for assessment in parallel with the area review programme. The interaction between the individual college intervention processes and the area review process is set out at Annex B.

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<sup>8</sup> [Further Education Corporations \(Publication of Proposals\) Regulations 2012](#)

# Area Reviews: The process

A flowchart setting out the review process at a high level is attached as Annex G. Each review's considerations and recommendations will be based on robust evidence, taking account of analysis and mapping data. A review delivery team is established for each review, which will normally be led by a Deputy FE Commissioner, supported by a team comprising FE and SFC Advisers and officials from the Joint Area Review Delivery Unit. The delivery team will be supported by local authorities, LEPs and RSCs, and will draw on any analytical resources or products they can make available. Delivery team members will be experienced in the further education and sixth form college sectors and independent of any of the providers involved in the review. The analysis will follow a framework agreed by the FE Commissioner and SFC Commissioner, and both Departments to ensure neutrality and consistency.

## Preparing for a review

Experience to date confirms that colleges, LEPs and local authorities are all keen to begin preparing for the review as early as possible. A key part of this preparation is for the local authorities and LEPs in an area to ensure they are clear that they have a full and coherent picture of the skills needs and any local issues, and to ensure that data is available to provide the economic and educational context for the review and the vision for what is needed going forward. Local authorities will have key data on participation issues, cohort decline and increases and the needs and aspirations of SEND learners coming through the system that is vital to ensuring that we have a clear picture of need.

LEPs will be able to provide a picture of the potential for economic development and job creation in the area and what that means for the skills system in their area. At the same time, colleges will want to work together and with the local authorities and LEPs to establish a shared understanding of their current offer and its impact; secure an understanding of their relative financial positions and the potential options for securing higher quality; greater specialisation and/or efficiency. A copy of the templates setting out the key information that will be used during the reviews and which LEPs, LAs and colleges may wish to start drawing together can be obtained from [area.reviews@education.gsi.gov.uk](mailto:area.reviews@education.gsi.gov.uk)

## Starting the process

At the commencement of each review the FE and SFC Commissioners write to the institutions, local authorities and other key partners involved. A high level statement setting out the intention to conduct the review, including the relevant area, timescales and roles and responsibilities are published on Gov.uk<sup>9</sup>. The review team will then set up initial meetings with the Governors, Principals, and stakeholders involved, and

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<sup>9</sup> [post-16 education and training document collection](#)

set out the timescale for the review, including proposed dates of local steering group meetings.

## Economic and educational need analysis

The review will be supported by an underpinning analysis which will cover:

- The current and future economic priorities of the area, including employers' skills needs. We expect this analysis to be led by the local authorities and LEPs with support from the Commissioners' advisers and funding agencies.
- The current and future demand for education and training at age 16 plus in the area, including longer term demographic change. This will be led and informed by LAs' data and will be supported by the funding agencies, but will also draw on institutions' data.
- The progression routes for young people from school to other education and training providers, including into apprenticeships and the potential numbers who could be supported into apprenticeships and other jobs via traineeships, and the extent to which these align with local economic needs and priorities and meet the needs of employers.
- The current and future demand for provision at Level 4+, in basic skills, for those who are not in work, for learners with special educational needs and disabilities and in other key categories of provision for the area.
- An assessment of the level of delivery capacity which is affordable in the local area in the context of both government funding decisions and likely business and individual investment.

The following stages of the process will include college visits – to interview the key people, ask pertinent questions, consider financial performance and quality, review the estate and take the views of students and staff. It will also consider the position of individual institutions in scope of the review in terms of their quality, curriculum offer, finances and estate, with a focus on FE and sixth form colleges.

## Analysis of current provision and curriculum delivery across the area

The review will consider an analysis of the current post-16 provision (including schools, independent and local authority providers and HEIs) including local capacity, the quality and outcomes secured and relevance to economic and skills needs, taking account of delivery across the range of provision in the area, the opportunity for greater specialisation and the views of learners.

The review will take account of the sub-contracting arrangements in place and the impact on the independent sector, reflecting the importance of this sector in delivering apprenticeships and a wider range of provision.

## Estates analysis

Each area review will look at the college estates across the area, on the basis of data provided by the colleges: this will include sites and facilities available, potential surplus space, building condition, running costs and utilisation. Having agreed on the direction of the curriculum offer for the area, steering groups may recommend that some rationalisation of estates across the area is possible. Land may be surplus to requirements. Buildings may need to be disposed of, given new uses or refurbished.

The data gathered and analysed on estates will enable this to be considered and reflected in the options analysis, and recommendations to be made about disposal or refurbishment of buildings and land as part of restructuring options. Where there are costs associated with the restructuring, these should wherever possible be funded by the colleges themselves, including through asset sales. LEPs and local authorities may also be sources of funding. In some circumstances colleges may be able to apply for support from the restructuring facility; this is covered in the implementation section below.

## Financial and Performance analysis

Each review will need to consider the current financial position of each institution, in order to consider the scope for securing efficiencies which create the capacity to ensure all colleges are in a long term sustainable position and able to reinvest in delivery. The financial analysis will compare the position of each college and the options that are developed through the review to a range of benchmarks comparing relative values across the sector. While there will be good reasons for colleges being outliers in some respects, this analysis will provide a strong starting point for assessing the current and proposed financial position and outcomes at each institution and the scope for further efficiency.

The benchmarks will be supplemented by views from the FE Commissioner and SFC Commissioners and others on what constitutes a long term, sustainable performance, which allows reinvestment in delivery. It is expected that the area review should provide a foundation which enables each institution to develop a business plan which provides a route to deliver financial viability, sustainability and resilience, and deliver a high quality offer that meets the needs of the local area. Again there may be some good reasons why particular institutions may need to be outliers on individual measures, but the onus will be on institutions to explain why they are exceptional in that respect. The benchmarks are set out at Annex F.

## Development of structural options

It is intended that each area review will test a range of long term structural options for the colleges involved which have the best prospect of delivering the overall objectives. Any member of the steering group can put forward a proposal for a structural option to be evaluated. We encourage all parties to engage actively, both in

advance of the review process itself and during the review to consider the full range of sustainable propositions. Options that have strong engagement and buy in from colleges have the best prospect of successful delivery. This stage of the area review can be substantially supported through the Deputy FE Commissioner and lead SFC adviser. However other options, including those put forward by the FE Commissioner or SFC Commissioner may be examined as alternatives, particularly where the viability of the alternatives is not clear.

In some cases it will be obvious and easily agreed as to which options should be tested in detail. In other instances it may be appropriate to have a 'long list' phase, where there is an initial high level analysis conducted, in order to focus the work on the review on the options that have the best prospect of success.

The range of options considered may include rationalisation of curriculum or individual institutions, academisation of sixth form colleges, closure of unviable institutions, full merger between institutions and options for collaboration – which could include agreeing a set of specialisms across the area and where those will be located, or shared services agreements. Options such as common procurement frameworks and better use of technology should also be considered.

In each case clarity about the rationale for the option, its objectives, and the commitments of each college to supporting it are critical. Implemented effectively, mergers can provide benefits including a stronger governance structure and more efficient delivery. In other cases less radical steps may be appropriate, such as shared service arrangements, or agreements around respective specialisms. In all it is important to have a clear statement of what each institution is signing up to.

The delivery of structural change – even where the strategic choice chosen is a good one – is challenging to achieve. The implementation section of this guidance sets out some of the issues which should be considered – and it is sensible to look ahead to the implementation phase when considering structural options. In this context, the FE Commissioner has also published an evaluation of mergers and models of collaboration in the college sector<sup>10</sup>. In addition, the AoC has recently published a Guide for Governors and Senior Leaders on new structures – collaborations, federations and mergers<sup>11</sup>.

## Options analysis and evaluation

In each case the options will be evaluated by the FE Commissioner and SFC Commissioner and adviser team, which will lead to a set of recommendations for the steering group to consider. The analysis conducted will assess the extent to which each option is capable of delivering the objectives of the review set out on page 8. In assessing each of the options, the review team will draw on relevant data, including the variables set out at Annex F. This will not be a tick box exercise, but rather will consider the capacity of each option to generate a business plan which can create confidence in each institution fulfilling the objectives over the long term.

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<sup>10</sup> [The FE commissioners letter on models of collaboration and partnership](#)

<sup>11</sup> [The Association of Colleges guidance for governors and senior leaders](#)

As discussed in the financial analysis section, where there are particular reasons for variance, these should explain, and where, necessary mitigating measures taken elsewhere.

In addition to considering options for the institutions directly involved in the review, the review will also consider implications for other institutions in the area (including, for example in relation to school sixth form capacity or Higher Education Institutions), and these will be set out in the final report.

In considering options the local steering group should consider the impact on groups of learners with protected characteristics in line with the requirements of the Equality Act 2010.

## Governing body deliberations

Governing bodies will be responsible for deciding whether to accept the Steering Group's recommendations in relation to their institutions. In considering the outcomes of reviews it is important that college governors give careful weight to the long term sustainability of their institution. This will need to take account of their legal duties generally, including under charity law and their legal obligations as charity trustees. The Secretary of State retains powers to intervene in colleges where there are substantial concerns that the institution is being mismanaged or significantly underperforming.

We expect institutions to take action, in light of the findings of a review, to ensure that they are resilient and able to respond to future funding priorities. To be confident of long term financial health, the review should support institutions in developing a plan (which may include changes to structures or delivery models) which will equip the institution to be financially viable, sustainable, resilient and efficient. Ultimately we expect the funding agencies, LEPs, local authorities and national partners only to fund or support institutions that have taken action to ensure they can provide a good quality offer to learners and employers, which is financially sustainable for the long term. In this context, institutions should note that Exceptional Financial Support will no longer be available in an area once the changes from the relevant area review recommendations have been implemented.

## Stakeholder engagement and publication

Local steering groups will need to develop and implement a strategy for engaging with, and taking account of the views of, local stakeholders. Engaging and encouraging contributions from learners, employers, other providers not directly affected and local communities should be evident throughout the review process. This engagement is central to the overall success of reviews, particularly as one of their key outputs is to ensure that the profile of provision meets the current and future needs and priorities of learners, employers and communities. Consideration will also be given to the views of any Higher Education providers who have an interest in the review to ensure that these are taken in to account. Stakeholder engagement is supported through the Joint Area Review Delivery Unit. It is important that disadvantaged and under-represented groups are actively involved in reviews.

We are aware that the National Union of Students is undertaking round table discussions on the reviews, and that individual college student unions are holding local meetings to gather views.

Agreeing a media/PR strategy is also essential at the outset of the process, together with an agreed internal communication strategy for those staff and students likely to be affected.

## Publication of Area Review Information

It is important that the area review process is open and transparent, and that findings and lessons learned from each review are shared.

We will publish information relating to the review of post-16 education and training institutions on the gov.uk website<sup>12</sup>. This collection will include all relevant policy information for area reviews.

Two documents set out specific information about the timing and focus of the five waves of the reviews<sup>13</sup>:

- *Reviewing post-16 education and training institutions: area reviews*

This document sets out detailed information relating to area reviews currently under way or due to start soon, the list of colleges, and LEPs involved in the review alongside the names of the chair, review delivery unit lead and date of the first steering group.

- *Reviewing post-16 education and training institutions: indicative area reviews*

In this document we set out an indicative list of the future waves of area reviews. This information will be updated regularly.

- *Summary Report*

Additionally, following the final local steering group meeting, a summary of the review's analysis and recommendations will be published on gov.uk<sup>14</sup>.

## Area review experience

Aspects of the area review process have been tested in the City of Nottingham and in the Great Yarmouth, Lowestoft and North Walsham area of Norfolk and Suffolk. The core expectations set out in this document build on and take account of the lessons learned from these reviews. Summary reports for the Norfolk and Suffolk reviews are available on gov.uk<sup>15</sup>.

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<sup>12</sup> [Gov.uk web page for all information relating to area reviews](#)

<sup>13</sup> [Gov.uk web page setting out specific details of timing and membership of the individual reviews](#)

<sup>14</sup> When the first reports are published they will be available via this [webpage](#)

<sup>15</sup> [The FE commissioners summary assessments](#)

The first wave of area reviews started in September 2015 to November 2015 and is now approaching its conclusion. While the process has been challenging, good progress has been made, and some strong options have been and are being developed, which now need to be tested through steering groups and with key stakeholders. The process has identified a number of lessons which it will be important to reflect as we move to subsequent waves:

- The importance of **early engagement between colleges on options to rationalise their curriculum offer and shared services**. Colleges need to own the process, accept the need for change, and proactively work together to explore options and solutions.
- The need for **early communication between the colleges and the LEP and LAs within an area**. Where the LEP and the LAs have clearly set out priorities, skills and education needs in sufficient detail, this has enabled the colleges to work together to shape their provision in response.
- The importance of a **strong evidence base based on accurate and timely data**. This will be informed both by existing data sets (i.e. SFA / EFA), and by submissions by colleges in advance of the review – for which templates are provided.
- The importance of **effective stakeholder engagement** to ensure that the views of all those with an interest in the review have an opportunity to input, with robust arrangements put in place to ensure employers along with college students and staff can input at all stages throughout the review. Other delivery bodies including private and voluntary sector providers, GTAs and schools (through their RSC or local authority) will also wish to engage.
- The **role that the wider sector can play in supporting change**. For example: Jisc in terms of advising on the technology options that can support improved delivery and efficiency; ETF in terms of the leadership and governance and wider workforce development support that is available; the AoC's Association of Colleges' (AoC) governors council in terms of the support it is able to offer governors and governing bodies including the case for remunerating governors, especially during the period of change; and the Sixth Form Colleges' Association (SFCA) that provides advice and guidance to its members on all aspects of structural change. FELTAG members have produced a snapshot of effective practice in how using technology can support learners, employers and colleges alike. The Evolution of FELTAG Report will be published in early March 2016 and highlights practical examples of technology-enhanced learning in colleges across England<sup>16</sup>.
- The importance of having the **right level of skills and resources** in place to support the reviews in terms of knowledge and expertise in curriculum delivery, finances, estates, use of technology, benchmarking indicators etc. as well as in supporting the day to day coordination of local steering group arrangements.

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<sup>16</sup> [Jisc website](#)

- The importance of **enabling the learner voice to input to the review boards**. The National Union of Students (NUS) is facilitating a student roundtable in every area where a review is taking place for student governors and lead learner representatives to feed in their expectations of further education to the review board. Providers should enable and encourage a good cross section of their learners to attend these.
- You could also add that the details will be communicated by NUS and the delivery unit and any questions can come to me at Gareth.lindop@nus.org.uk.
- **The potential to consider innovative delivery models to more effectively deliver apprenticeships**. One option that has been looked at in a number of reviews is the scope to create a joint apprenticeships company, enabling a number of colleges to pool resources to more effectively appeal to employers, and deliver a stronger offer. Significant detail remains to be worked through – but innovative solutions to adapt delivery to meet employer need are welcome. We are keen to see innovative options developed that will enable colleges to adjust delivery models to expand their apprenticeship programmes.
- In some cases it has proved helpful to **hold workshops to discuss options**. These will be organised where they would be felt to be helpful.
- In order to ensure transparency and effective stakeholder engagement, some steering groups have put in place arrangements for openly sharing the options and high level recommendations being considered by Steering Groups throughout the process but with a particular focus on agreeing communications handling at Steering Group 4. Other local steering groups might also want to consider this approach as a means of avoiding misinformation and to raise awareness of the key issues being considered.

# Sixth Form College Academisation

## Introduction

As part of the Government's autumn statement in November 2015, it was announced that sixth form colleges (SFCs) will be given the opportunity through post-16 area reviews to apply to establish themselves as 16-19 academies. This provides an additional option for area reviews to consider. Academisation will enable SFCs which wish to do so to work in closer partnerships with schools which build on their particular strengths whilst also realising the educational and financial benefits of sharing resources, expertise and administration.

## Eligibility

All SFCs in England will have to opportunity to apply as part of the relevant area review. Applications will need to show how academisation would enable the college to develop closer partnerships with schools and would contribute to the wider objectives of the area review programme by improving standards, accessibility and financial resilience of post-16 provision in the area. Applications will need the support of their local steering group and should be part of the recommendations of the relevant review. All applications will be considered alongside other recommendations from the review in their area.

Exceptionally, on a case-by-case basis, the DfE may also be prepared to consider applications from GFE colleges which can meet the criteria set out in the detailed guidance on academisation referred to below.

## Further information

Any college interested in applying to become a 16 to 19 academy should refer to the separate advice published by DfE on the criteria and process for applying to become an academy as part of the area review process<sup>17</sup>.

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<sup>17</sup> [16 to 19 academies: application process for sixth-form colleges](#)

# Implementation

Implementation of the outcomes of reviews should be underway as soon as practicable.

Restructuring can take many forms, from an informal collaboration to the takeover of one institution by another or the dissolution of existing bodies to create a new one. The creation of a new body may seem the more attractive option as it allows a fresh start. However, a clear takeover is a simpler process, with greater clarity of leadership and decision making, and has significant advantages.

In both cases, experience has shown that it is important to lay strong foundations for the new institution at the start of the process: the right people with the right skills and effective planning, with ideally a transitional board put in place to drive forward change.

Detailed monitoring of the implementation plan will be undertaken by the funding agencies. In addition, the National Steering Group, including the Further Education and Sixth Form College Commissioners, will oversee how implementation is progressing. It will receive regular updates on, and retain an interest in, the speed and effectiveness of implementation. It will report to the Minister for Skills at a high level on implementation of review outcomes and the impact they are making. The departments are also undertaking a formal evaluation of the impact made by area reviews. Further details of the evaluation arrangements will be published in due course.

This section of the guidance highlights some key issues for colleges in the implementation phase.

## Clarity about the 'in principle' decision, and creating the right environment for success

At the penultimate stage of the area review college governing bodies will be asked to respond to review recommendations. This is an 'in principle' commitment to deliver the recommendation, subject to due diligence, statutory consultation, and the agreement of creditors where required, and the business case and plan for the structural change being approved by the college's board prior to the change. At this stage, it is important to be clear about the terms of a structural change. In some cases, for example, it will be clear that one strong college, with good leadership capacity is effectively taking over a college in a weaker position. In other cases the merger may represent a coming together of colleges in a similar position, to create what would be a newly established college. The important outcome is for good quality relevant provision in the right places in the local area.

Governors will want to assure themselves that there is a solid business plan in place for creating the new institution, and that the right leadership capacity is in place. It is important that the work (including due diligence) is forward looking and separate from

the day to day management of the existing organisations. It is important to create an ethos where the predominant focus is to deliver the new entity and the benefits for learners, employers and the local economy, which the area review will have confirmed.

Overcoming a 'them' and 'us' mentality is critical to success. Transformation needs to be seen as a joint project. A transitional board should be established rapidly following the conclusion of the review. The role of the transitional board is to present an implementation plan to the boards of the relevant existing institutions to establish that the change is deliverable, that the benefits identified in the area review (the strategic case) can be achieved and that there is a clear implementation plan in place that can be taken forward.

## The right people with the right skills

Where the merger is being conducted between two or more institutions in a broadly similar position, it will normally be beneficial that the chair of the transitional board (which may be a temporary role) should be an independent person, who is not on either of the predecessor boards, and it is advisable that they should be joined by a number of other independent members. Experience from the pilot reviews suggests that it can be helpful to engage members of the governing bodies of merging institutions in small joint project committees to oversee aspects of the work – helping to build the relationship and understanding between the governing bodies of institutions that are coming together.

The designated or transitional board should be put in place as early as possible. The role of the chair will be crucial, as the executive leadership of the new institution may not be clear at the outset. In these situations it is essential that the chair has access to dedicated turnaround resource, reporting directly to them and the transitional board. In many cases it will be appropriate for colleges to commission consultancy support at this stage, or to recruit on an interim basis a dedicated project team with significant restructuring or turnaround expertise. It may also be sensible to appoint a part time, paid, senior advisor to the board, with appropriate transformation experience who can perform a 'non-executive director' role for a limited time.

Effective implementation requires a different skill set to that required to run an institution which is in a 'steady state'. Skills to keep the business running on a day to day basis will still be needed, but change management and project planning skills are essential to take forward implementation. For this reason, even where a clear takeover is taking place, colleges should review the skill set of their governing body and senior management team at an early stage and consider whether there are skills gaps and how these can be filled. Even in a takeover scenario the institution that is being absorbed should normally be represented in the transitional management structure, to support its effective engagement in the process.

As well as recruiting new governors with specialist skills, colleges may also want to consider remunerating the Chair or lead governor for the additional work during the area review process and implementation phase. In most cases this would need approval from the Charity Commission, which can be requested via the 'Request

permission to employ charity trustees' link located in the Charity Commission guidance<sup>18</sup>. It is proposed that the 'Employ a Trustee' option would be the best fit for area reviews. The Charity Commission is aware of the nature of area reviews and will consider applications. These should explain the difference in scale and scope between the work required for area reviews, including implementation, and the normal governance workload. The AoC Governors Council and the ETF has produced information to help colleges with this and will continue to support colleges in this implementation phase<sup>19</sup>.

The appointment of the principal or chief executive of the new institution is critical. Where there is a strong, continuing institution, taking over another college in a weaker position it may make sense for the principal to continue. However it will still be sensible for the board to assess their skill set – and in particular consider what additional specialised support is needed to support the transformation project. In other cases where the new college is significantly larger or different in nature from either of the predecessors, the principal or chief executive role will in effect be a new position. In this case, subject to any legal advice the corporation may commission, it is appropriate to do an open recruitment – with incumbent principals able to apply to step up to the new role.

When it comes to appointing permanent governors to the merged institution, the best use of the skill set from both predecessors should be considered with a skills audit across both boards.

## Implementation stages prior to legal merger

Implementation will vary depending on the particular circumstance of institutions involved in structural change and the type of merger. However the process below sets out the key stages in the process which forms a helpful structure in considering the critical path. As set out above, it is critical that each stage of the process is resourced appropriately, and it is likely that in general where structural change is taking place, additional specialist expertise will be needed to support the process.

- Strategic Business plan (including development of financial forecasts, and critical path to merger). Identification and appointment of appropriate leadership for the initial transformation process.
- Development of the detailed implementation plan (overlaps with subsequent stages)
- Recruitment of the permanent leadership for the new institution
- Due diligence to support the decisions of boards and a range of stakeholders, including of the strategic business plan, and of the position of existing colleges.

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<sup>18</sup> [Payments to charity trustees: what the rules are](#)

<sup>19</sup> [Guide for Governors and Senior Leaders on new structures - collaborations, federations and mergers](#)

- Completion of the implementation plan to a stage that satisfies boards and stakeholders
- Decision making by existing college boards and stakeholders

### **Strategic business plan (one month post-merger)**

The strategic business plan for the new institution should be developed rapidly, drawing on the area review analysis. This should set out the structure of the new organisation, savings, critical path to implementation, costs and benefits, and high level financial forecasts. This will draw on the case made at the area review – in setting out what can be achieved through merger at a high level, including through changes to delivery of curriculum across colleges, management of estates, back office functions, and finances. The role of the strategic business plan is in particular to identify the structure of the new institution, with a view to getting the right leadership capacity in place. Having a confirmed executive leadership appointed early in the process is important as the chief executive or principle of the new institution will need to ‘own’ the detailed implementation plan.

It may be advantageous for boards to appoint specialist support to develop the strategic business plan. They should then consider whether to retain the same support for the due diligence and implementation plan phases, or whether different capacity is required. It is important to consult stakeholders such as creditors in appointing specialist capacity, as their requirements will need to be met, and securing their support will prevent later duplication of work.

Communications should be part of the planning process. A clear, proactive internal and external communication strategy is vital to the merger’s success. Public consultation should be part of this. Key stakeholders should be kept informed and involved at all stages.

### **Due diligence**

(This will take place in parallel with the development of the detailed implementation plan below, and to include due diligence of that plan)

Once the strategic business plan is in place, boards will wish to commission due diligence to provide assurance to them on the decision they are making. Government is commissioning a project to consider how to align due diligence activities to minimise cost (for example as far as possible to align the arrangements for collecting due diligence information that governing bodies, banks and indeed government when there are claims on the restructuring facility, will all require). Forward looking due diligence, focussed on the business plan for merger is likely to be particularly constructive (and aligned with bank requirements), rather than simply evaluating the current position of a merger partner.

### **Implementation plan, approvals and new structure in place**

The implementation plan is the detailed plan for establishing the new institution. It is this which will provide the board with a basis for final approval of the proposition. The implementation plan will set out in detail how the benefits identified in the strategic

plan will be achieved, to the level necessary to secure approvals to the structural change from the existing college boards, creditor approvals where there are bank loans in place, and to support any bid to the restructuring facility. There is a need to undertake a statutory consultation where there is the intention to dissolve an institution. The required consultation period is 4 months. Consultation should therefore not begin at too early a stage prior to the establishment of a realistic date at which dissolution will be able to take place. Where colleges may need to access the restructuring facility they should discuss the proposed dissolution date of any relevant college with their SFA/EFA contact prior to publishing the consultation. Where bank consents are required, they should also engage their creditors on their planned timing at an early stage.

In commissioning external specialist support for the implementation process it is very important to be clear on what is in scope for the commission. Firms will make a distinction between the initial strategic stage, including preparing financial forecasts (or diagnostics), DD on the plan and financial forecasts, and then support for putting a detailed implementation plan for delivery in place. Post legal merger continued or different support may then be needed for the delivery process itself.

## Further support for implementation and removing barriers to restructuring

We are working with relevant organisations to ensure that the right support is available to institutions that are going through a process of structural change. We would expect support from key players at both national and local level such as LEPs, Ofsted, the Education and Training Foundation and Jisc. Annex D sets out the support offered by ETF and Jisc.

## Further work underway and future publications

### **More detailed implementation guidance**

We recognise that the implementation phase will be challenging and colleges may need support to achieve successful implementation. Drawing on the experience of the initial area reviews and discussions with sector partners, we are developing fuller implementation guidance which will outline the range of issues colleges will need to consider, highlight lessons learned and signpost colleges to sources of support. This is expected to be published in spring 2016.

### **Simplifying the statutory process**

The different merger options have relative pros and cons and we recognise that there is less need to involve government where one college transfer to another, which may tip some institutions into favouring this type over the creation of a new college. We are looking at how the process, especially where colleges dissolve and form a new institution, can be streamlined to make restructuring quicker and easier.

Following a merger or other restructuring, some institutions may want to have the term “Group” formally adopted as part of their name. This, or any other name change, would require approval from BIS for GFEs, and the DfE for SFCs. Recognising that area reviews are likely to result in more multi-layer organisations, we would be sympathetic to such requests and will be publishing revised guidance on name changes.

## Performance Reporting

BIS and DfE are reviewing the current performance reporting policy for colleges that merge as part of the area review process, or at any point from 2016 onwards. The proposal under consideration is that, **in all cases, data will be published at the single, aggregate level of the new provider/corporation**. However, in addition, colleges that form part of the new corporation, and meet specified criteria, will also have their separate results published within DfE performance tables and BIS achievement rates, learner and employer satisfaction rates and outcome based success measures. We are considering extending this to colleges that have merged in previous years and existing colleges.

The purpose is to support learners in making their choices and to enable College leaders and Commissioners/Funders to understand the relative performance of different sites which operate over larger geographical areas and provide a distinctly different or large scale offer.

Any decision to continue with separate performance reporting after merger will be reviewed by DfE and BIS.

## Inspection

In the light of the changes taking place across the college sector, Ofsted is considering inspecting component colleges or campuses as well as the corporation for the benefit of learners, college leaders, employers and others.

Ofsted intends to consult on any proposals concerning the changes to the level of inspection and reporting in late spring 2016. BIS and DfE are likely to join that consultation to seek views on separate performance reporting arrangements and the criteria to be applied.

The date for separate reporting and inspection is to be determined and further information will be available following the consultation.

## The Restructuring facility

Area reviews will support colleges in identifying options to ensure that all institutions are financially viable and meet the local educational and economic needs. Colleges are independent institutions and given the objectives of the area review process, implementation of area review recommendations will deliver long term savings to them. Therefore, they should in most cases be able to fund, through private lending or asset sales where relevant, any short term investment required. In cases where the required funding cannot otherwise be secured, there is a restructuring facility available to support the implementation of the recommendations of area reviews.

The facility is being made available to reflect the one off nature of the restructuring of the sector, through area reviews, to achieve long-term sustainability. A key objective of the reviews is that they result in resilient institutions in each area, and therefore no further Exceptional Finance Support (EFS), will be available for colleges following the implementation of review recommendations in the relevant area. The restructuring facility is not a 'fund' in the conventional sense of a typical programme budget. Applications will be subject to stringent approval processes, including by HM Treasury and Ministers. It is our intention that we spend the lowest amount of taxpayers' money possible in order to secure the area review outcomes.

The area review process, supported by the restructuring facility, should stabilise the financial position of the sector. Each continuing college should be left in a financially resilient position. There is no intention to repeat the process or the likely costs associated with it. If colleges fail in future, there should be a process which allows them to close in an orderly way which protects learners. The Further and Higher Education Act 1992 currently does not include provision for colleges to dissolve other than by transferring their assets and liabilities to another willing provider, which does not address what in practice should happen if a college is insolvent. The Government is proposing to introduce an insolvency regime for FE and sixth form colleges which would come into effect around the end of implementation of the area review process. This regime would facilitate the orderly closure of insolvent colleges and provide suitable protections for their creditors while seeking to protect continuity of provision for learners. More information about these proposals will be made available in due course.

The area reviews, the restructuring facility and the proposed new insolvency regime should be seen as part of a coherent package to secure the future of a viable, sustainable and high quality college sector. The area reviews and restructuring facility provide the time, space and resources to put the sector on a sustainable footing. The proposed insolvency regime is intended to provide part of a legal framework which ensures that the interests of learners and taxpayers are secured over the long term.

## **Eligibility**

Applications for financing from the restructuring facility would be expected to<sup>20</sup>:

- Come from Further Education Colleges (FECs) and Sixth Form Colleges (SFCs) in England;
- Relate to substantive area review recommendations (including academisation of SFCs if relevant on which guidance is available; and
- Be submitted within six months of the final Steering Group meeting.

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<sup>20</sup> All applications that can be shown sufficiently clearly to facilitate the implementation of one or more Area Review recommendations will be considered against the objectives of the restructuring facility, as set out in the table in Annex H. However, as the vast majority of applications are expected to come from colleges the remainder of this guidance is drafted on that assumption.

EFS will continue to be available for FE Colleges, subject to the principles which have been published<sup>21</sup>, up to the implementation of the recommendations of the relevant area review. New or extended applications for EFS grants or loans from 1 April 2016 will be considered in the context of the relevant area review, and through the same governance process as applications to the restructuring facility. Any applications for public funding needed to implement area review recommendations should be made as applications to the restructuring facility and not for EFS.

## Considerations

The facility aims to achieve:

- Provision which meets each area's educational and economic needs;
- All FEC and SFC institutions being financially viable, sustainable, resilient and efficient by 2020; and
- Value for money.

More detailed objectives and criteria for the facility are set out in Annex H. These aims broadly reflect the area review purposes. Where an application follows an area review recommendation this will provide a strong indication that it is consistent with broader plans to ensure the future provision meets the area's educational and economic needs, and that sufficient evidence has been provided to support this conclusion. It will also indicate that the proposal has the potential to deliver financially viable, sustainable, resilient and efficient institutions, and detailed evidence will be required to support assessment against this aim. The area review process will identify options and recommendations and applications to the restructuring facility will be considered in the context of this options appraisal, including taking into account the benchmarking information. Where public funding is requested, to support the assessment of value for money applicants may be required to provide further detail on the costs and benefits of the recommendation or possible alternative options, including the implications if no public funding is provided.

The default position will be that where public funding is required it will be provided as a loan on commercial terms (including repayable with interest, secured, subject to overage and other relevant provisions), and cover only a proportion of the total costs identified. The loan term will not be restricted to a maximum of 5 years, as is the case for EFS. Repayment, term and other conditions will be negotiated on a case by case basis, taking into account the objective that institutions should be financially sustainable once funding has been provided. We recognise that there may be cases where repayable funding alone will not achieve the best value for money; and in these cases we may consider providing some or all of the funding on non-repayable terms, where there is evidence that it is necessary to do so. This is only likely to be the case, by exception, for a limited number of restructuring cases such as mergers and academisation where the combination of net liabilities (excluding pensions) and one off costs would result in significant detriment to the financial position of one of the parties involved, taking into account any compensating long term benefits from

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<sup>21</sup> [Further education colleges: financial intervention and exceptional support](#)

the restructuring, or where repayment would be unaffordable for the new institution even over a significant period.

In compliance with standard Treasury rules, any funding provided will be the minimum necessary to achieve the benefits of the proposed change and only where those benefits exceed the cost to the taxpayer.

Any funding, whether by way of loan or grant, will be provided on the basis of a legally binding agreement. This may include, for example, pre-payment conditions to provide robust assurance of deliverability, key performance indicators relating to the successful delivery of the review recommendation and the associated benefits, provision for additional reporting, monitoring and assurance processes and the option to require repayment or for equity-like controls if required.

## **Process**

Funding will only be provided where all criteria are met, including that the proposal delivers maximum value for money. There will be funding available to support recommendations arising from all waves. Colleges will be expected to progress their planning for implementation quickly following the conclusion of their area review and are responsible for making timely applications to the facility. No funding will be available after March 2019 and any funding for waves one and two will largely be provided prior to March 2017. Payment will not be provided in advance of need and funding will not be flexible between financial years, so any funding offered but not spent to the agreed timeline will cease to be available. The availability of this funding reflects the important role that Government considers colleges to play in educational and economic outcomes, and the one off nature of this process.

A process map is included in Annex H. Applications will be assessed by a Transaction Unit, which is part of the SFA and EFA, and will be reviewed by a Funding Committee, of representatives from BIS, DfE, SFA, EFA and HM Treasury, and a panel, comprised of experts external to Government. Once all relevant information has been received our target will be to reach an in-principle decision within 8 weeks, but this timing may vary. Final decisions on funding will be taken by Ministers. The Transaction Unit will engage with potential applicants during the latter stages of the area reviews and will be available to discuss applications prior to submission.

The early stages of the process for applications arising from Wave 1 reviews may differ slightly and will be managed on a case by case basis. In many cases, once a decision has been taken in principle there will be a requirement for detailed discussion between the Transaction Unit, applicant(s), lenders and other stakeholders to finalise the terms. A commitment to funding will be made only once those terms are agreed and a contract is signed and exchanged. College Governors must at all stages take their own independent legal and financial advice. Assessment of applications for financial viability, sustainability and resilience will be carried out by the Transaction Unit on a case by case basis, considering the full facts. This assessment will include income and expenditure, cash flow and assets and liabilities, and take into account the indicators set out in Annex F.

Additional support will be available for Colleges developing implementation plans for substantive area review recommendations (closures, mergers, academisation and significant rationalisation). This will include guidance and checklists published by the Government, ETF, AoC, Sixth Form Colleges Association and others. In addition, FE and SFC Advisors and JARDU and Transaction Unit officials may be able to provide guidance on individual cases.

# Annexes

Annex A: Institutes of Technology

Annex B: Area reviews and the college intervention regime

Annex C: The role of the governing body in area reviews

Annex D: Supporting change: the Education and Training Foundation and Jisc

Annex E: Membership of the National Area Review Advisory Group

Annex F: The use of Benchmarks

Annex G: Area review high level flowchart

Annex H: Restructuring facility additional detail

# Annex A: Institutes of Technology

The post-16 skills system is critical to our strategy for raising productivity and economic growth. However, the UK suffers from several weaknesses in its skills base that have contributed to its longstanding productivity gap with France, Germany and the US. We perform poorly on intermediate professional and technical skills, and the UK is forecast to fall to 28th out of 33 OECD countries for intermediate skills by 2020.

To address this shortage and the productivity challenge a new system and approach to delivering professional and technical education is needed. In the Productivity Plan (Fixing the Foundations: Creating a More Prosperous Nation, July 2015) the government proposed the formation of Institutes of Technology (IoTs). They will focus on high-level STEM provision at levels 3, 4 and 5, providing the skills needed by employers in their areas. IoTs are not intended to be just a rebranding of existing provision – they will have their own independent identity and governance and will be nationally branded and focus on achieving a step-change in provision of higher-level STEM skills.

Our intention is that IoTs should be sustainable and complement and add value to existing provision. Because of this, the pace at which they are likely to be introduced will reflect an emphasis on ensuring quality and sustainability rather than quantity. Achieving this will require close working between stakeholders. Therefore we anticipate that initially the numbers of IoTs will be small but will increase progressively over time. Consequently, there is likely to be more than one opportunity for areas to be considered as candidates for an IoT.

IoTs are likely to involve collaborations between existing and new providers, which could include FE colleges working together with other organisations to create new and exciting opportunities for high quality technical training.

We are therefore keen to look at different arrangements which could suit different areas best. We have talked to a wide range of stakeholders about potential IoT models, and will continue to do so as our plans develop.

As a next step, we are planning to work with stakeholders to set up several detailed case studies, testing the viability of several different institutional and governance models. We will also organise a series of workshops to ensure that we identify and address any barriers to the successful implantation of IoTs. We will work closely with the area review process to ensure consistency between the reviews and emerging models for IoTs. We will announce the results of this process and the next steps for establishing IoTs in autumn 2016.

To discuss the IoT concept further, and to make an input to the development process, interested parties should get in touch with the department's Technical & Professional Education Reform team at: [paul.steeple@bis.gsi.gov.uk](mailto:paul.steeple@bis.gsi.gov.uk)

## Annex B: Area reviews and the college intervention regime

During the programme of area reviews, where a college triggers the criteria for intervention as set out in *Intervention in Further Education: the strengthened intervention process*, or the DfE's published accountability policy, the existing intervention process will continue to apply. In summary, this means that the Commissioners team will conduct an initial assessment of the college and provide recommendations to Ministers regarding appropriate next steps.

As set out in *Reviewing Post-16 Education and Training Institutions*, the funding agencies are continually developing their ability to identify potential issues, both in terms of quality and financial health, at an earlier stage. The Commissioners' and funding agencies' experience is that a drop in quality is closely related to deterioration in financial health, therefore it is important to closely monitor both. While we need to respect the autonomy of individual colleges there is action that can be taken to support the sector to identify and rectify potential problems quickly.

For example, through strengthened clauses in their funding agreements, the funding agencies are putting in place a range of measures to support early intervention. Section 4 of *Reviewing post-16 Education and Training Institutions* sets out in more detail early action that could be taken where colleges are identified as being at risk, including increasing levels of quality and financial expertise on boards, requesting recovery plans and conducting cost scrutiny exercises.

These changes are intended to ensure that the issue of financial stability is firmly on colleges' agendas without requiring recourse to a formal intervention process. They provide colleges with an opportunity to resolve issues at an earlier stage, when the time and cost of doing so is less. However, where serious issues are identified, formal intervention will continue to be taken to ensure rapid and robust action is undertaken to address underperformance.

Where intervention, either by the Commissioner (under the arrangements set out in *Rigour and Responsiveness in Skills*<sup>22</sup> or by the funding agencies, occurs in parallel with, or immediately precedes, a review of the relevant area, then the college in intervention will be assessed in the usual way but placed in the context of the wider analysis of local economy, employment opportunities and overall curriculum offer. Where a college is in intervention, additional funding levers and, in exceptional circumstances, legislative controls will be available to ensure the end outcome for the college best meets the needs of local students, employers and the wider community.

Where an individual college's intervention is completed in advance of the wider area undergoing an area review, the Commissioners' recommendations to Ministers will always take account of the future review of the area.

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<sup>22</sup> [Rigour and Responsiveness in Skills](#)

During the area review process, the monitoring of the progress being made by a college that is subject to FE Commissioner-led intervention will continue. This includes consideration where appropriate of whether it can now be removed from intervention. This will be determined on a case by case basis, but a condition of removing a college from FE Commissioner-led intervention while an area review is in progress is likely to be that it actively participates in that review and commits to implementing recommendations that come out of it. We would not normally expect to remove a college from intervention during the area review process where it is subject to administered college status. Flexibility will be maintained around the scheduling of area reviews to allow a review to be brought forward where the position of a college in intervention is such that it is not appropriate to look at the college in isolation. It may also be appropriate to accelerate a wider area review where a Commissioner's assessment recommends that a structure and prospects appraisal be conducted, particularly where initial findings suggest the college is not viable as a standalone entity.

# Annex C: The role of the governing body in area reviews

## During the review process

Governing bodies will be expected to:

- Take an active role in the local steering group through the chair.
- Ensure the review covers the options they wish to be considered.
- Continue to comply with their legal obligations as charity trustees.
- Take decisions on local steering group recommendations so far as they affect the status or operations of their institution, based on their own independent advice, for example on legal and financial matters.
- Lead implementation of the local steering group's recommendations.

## Implementing review recommendations

Governing bodies involved in implementing the recommendations will need to demonstrate:

- A commitment to implementing recommendations which deliver a strong outcome for learners and employers in the area – in line with the institution's charitable objectives
- Clear objectivity in implementing review outcomes, and a willingness to work openly with other governing bodies to achieve common goals.
- Continued collaboration with broader local partners on implementation and delivery of outcomes.
- Effective change management, particularly in the areas of finance, curriculum planning and quality improvement to ensure the delivery of plans. This is likely to require the recruitment of additional skills, and further training for the governing body.
- That all new and continuing institutions (including any new informal/formal federated structures) have the capability to be resilient, sustainable and sufficiently flexible to respond to future funding priorities and the need for income generation.

- That any informal/formal federated structures recommended by the local steering group are taken into account in line with expectations.
- That future financial and quality targets are based on realistic projections, rather than aspirational ones.

## Post implementation

Governing bodies of new and continuing institutions post-implementation will need to demonstrate that they:

- Have a recently reviewed, diverse membership with the capability, skills and characteristics, experience and commitment to drive the new institution forward.
- Have a strong business and commercial acumen commensurate with the size and complexity of organisations arising from an area review.
- Have taken into account the views of local employers and local stakeholders involved in delivering the economic plan for the area (LEPs / LAs).
- Can develop and implement a long-term vision, enabling better prediction of difficulties arising in the future.
- Are able to demonstrate complete independence in light of potential legacy issues (in the case of merger).
- Have structures in place to successfully manage a fast-moving business (and in the case of merger, multiple sites and different organisational cultures).

# Annex D: Supporting change: the Education and Training Foundation and Jisc

## Education and Training Foundation

The Education and Training Foundation (ETF) in conjunction with partners will provide support to Further Education and Sixth Form Colleges<sup>23</sup> through the area review process. As the sector-owned, government-backed support body they are uniquely positioned to support managers, leaders, governors and practitioners, as well as work with LEPs and other partners in playing their role excellently and objectively. ETF will offer events, resources, training and consultancy to: build personal and organisational resilience and capacity; equip governors to scrutinise options; support chairs and clerks in their roles; and promote and embed professional standards, to protect high quality education and training through periods of turbulence. Work to support the teaching workforce will commence area by area once implementation plans are agreed.

Through the completely refreshed and renewed Staff Individualised Record (SIR) data collection process, ETF will provide a free service to Colleges who have submitted their SIR data which allows more sophisticated benchmarking and analysis of their workforce than ever before. For leaders at all levels, executive, non-executive and clerks, support is available through the ETF's Excellence in leadership and management (ELMAG) portal<sup>24</sup>. This one stop shop has courses on: financial support for governors, fiscal discipline, effective strategic partnerships, lessons from early wave area reviews, developing a technology rich learning environment and building on feedback from completed reviews, individual colleges and the FE Commissioner. The Future Apprenticeship Programme includes a range of strategic support for building capacity and quality in apprenticeship delivery.

The national governance development programme, delivered in partnership with the AoC, is set up to meet sector demand for support across a range of current priorities. The programme has offered support through National Leaders of Governance (NLG) webinars on key issues facing the sector and regional events. To further support colleges, during and after area reviews, an NLG authored toolkit has been launched with practical guidance on considering area review recommendations and implementing structural changes. This is available via the AoC website<sup>25</sup>. The ETF's leadership programme also includes a key strand of activity on localism<sup>26</sup> and will continue its new seminar series with a focus on area reviews, mergers & collaboration, and the implications for leaders. Provision will be made to support those middle managers not directly involved in the area review whose

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<sup>23</sup> All online and governance support are available to sixth form colleges via ETF. Levels of subsidy for teaching and learning CPD will vary between FECs and SFCs.

<sup>24</sup> [The ELMAG portal](#)

<sup>25</sup> [The Governors and Senior Leaders Toolkit](#)

<sup>26</sup> [Education and Training Foundation reports](#)

accountabilities will change during the process and following the implementation of recommendations.

The ETF is available to support colleges in aspects of any application to, or funding secured through, the restructuring fund in respect of leadership, management and workforce development<sup>27</sup>.

## Jisc

Jisc (a registered charity owned by the HE and FE sectors) champions the use of digital technologies in UK education. BIS provides grant funding to enable Jisc to offer a wide range of organisational consultancy, advice, and guidance that enables colleges and providers to make best use of technology to improve delivery of teaching, assessment and administrative systems, in order to drive down costs. Jisc provides a range of services that support and accelerate transformational change, enhance digital capabilities and deliver network and business resilience, including through its direct work on the Further Education Learning Technology Action Group (FELTAG)<sup>28</sup>. Jisc advised and assisted colleges in Scotland and Wales to reorganise and is able to offer this experience to area review teams in England.

Jisc is therefore well placed to support area reviews and their implementation by offering advice, guidance and consultancy services tailored to the needs of institutions. In particular, given its knowledge and skills, Jisc will be able to provide direct support to colleges considering greater collaboration or merger arrangements, to advise the FE and SFC Advisers and steering groups on the potential for technology to support the shaping of options, can evaluate options from a technological and logistical perspective and support effective implementation of review outcomes, particularly where they relate to creating new infrastructure and delivery models based on use of technology.

There is clear evidence of potential for improved services and savings from an approach that considers technology:

- By transforming the delivery of their provision to incorporate blended learning Heart of Worcestershire College has achieved an 11% increase in achievement rates and efficiency savings of £250,000 p.a. over four years.
- Bedford College has seen an increase in achievement rates of 5.5% over three years since the implementation of an electronic tracking system, which is now being used by other colleges.
- City of Liverpool College Group project 12-20% of non-curriculum budget savings by shared service model (equates to recurrent circa £3-£5m savings). Also saved circa £50K in investment costs of taking up storage space within Jisc Infinity data centre compared to commercial equivalents.

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<sup>27</sup> Further details of ETF's work and their contact details are available on the [ETF website](#)

<sup>28</sup> [FELTAG website](#)

- University of West of England calculate that a move of student email into the cloud generates circa £30K/year savings compared to hosting themselves (for 30,000 students). Similarly, moving to cloud served infrastructure and storage generates a further £1.3m of recurrent savings.
- Centrally negotiated frameworks and procurement, such as Telephony framework, enables mini-competitions to be run quickly and effectively, reducing procurement timeframes, as well as delivering cost savings on delivery – Bishop Auckland College saves £2k/month through negotiations delivered through the Telephony framework
- Jisc have produced a paper on mergers and resilience in FE which shows the significant potential of technology in improving the curriculum offer and securing back office savings e.g. Glasgow College Group identified £255K investment savings during their merger as part of Scotland's Regionalisation agenda<sup>29</sup>.

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<sup>29</sup> [Jisc area review support](#)

## Annex E: Membership of the National Area Review Advisory Group

<b>Name</b>	<b>Organisation</b>	<b>Team/Position</b>
Bobbie McClelland (Co-Chair)	BIS	Deputy Director, Reforming FE Provision Unit
Warwick Sharp (Co-Chair)	DfE	Deputy Director, VE & 16-19 Strategy Division
Catherine Christie	JARDU	Deputy Director
Richard Lewis	BIS	Deputy Director, College Resilience & Sponsorship Unit
Roger Cotes	BIS	Area Review Policy & Intervention
Pete Grady	BIS	Reforming FE Provision Unit
Lisa Binks	DfE	Post-16 and Disadvantage Group
Sir David Collins	FE Commissioner	
Peter Mucklow	SFC Commissioner	
Martin Post	Regional Schools Commissioner	NW London & S West
Jonathan Wright	Local BIS & DCLG	Cities and Local Growth Unit
Mary Rogers	SFA	
Ed Hughes	HEFCE	Regional Consultant, South East
Pauline Crellin	DWP	Strategy & Partnerships
Ian Keating	Local Government Association	Principal Policy Adviser - Children & Young People
Jasbir Jhas	Local Government Association	Senior Advisor - Programmes
Tom Horwood	Local Government Association	Executive Director - East Hampshire & Havant Councils.
Martin Doel	Association of Colleges	Chief Executive
Anne Constantine	Association of Colleges	Principal, Cambridgeshire Regional College

<b>Name</b>	<b>Organisation</b>	<b>Team/Position</b>
Nick Martin	Association of Colleges	Chair, City of Westminster College
Sarah Robinson	157 Group	Principal, Stoke on Trent College
David Igoe	Sixth Form College Association	Chief Executive
James Kewin	Sixth Form College Association	Deputy Chief Executive
David Adelman	Sixth Form College Association	Principal Godalming SFC
Ian Wilson	Sixth Form College Association	Chair of Governors at Long Road SFC
Paul Joyce	Ofsted	Deputy Director, FE & Skills & Independent Schools
Paul McKean	Jisc	Head of FE and Skills
David Russell	Education and Training Foundation	Chief Executive
Warren Ralls	LEP Network	Director,
Dr Ann Limb CBE DL	LEP Network	Chair of South East Midlands LEP
Bob Harrison	Member of FELTAG	Chair of Northern College
Kath Boullen	British Chamber of Commerce	British Chamber of Commerce
Gareth Lindop	National Union of Students	FE Engagement & Quality Manager
Shakira Martin	National Union of Students	Director, Further Education
Andrew Harden	University & College Union	Head of Further Education
Beth Bickerstaffe	UNISON	Further Education
Stewart Segal	Association of Employment & Learning Providers	Chief Executive
Ed Quilty	The Chartered Institution for Further Education	Chief Executive
Chris Moody OBE	Landex	Chief Executive

<b>Name</b>	<b>Organisation</b>	<b>Team/Position</b>
Meredydd David	Landex	Principal, Reaseheath College
Mark Maudsley	Group Training Association	Chief Executive Officer
Dr Sue Pember OBE	HOLEX	Director of Policy
Rajinder Kaur Mann OBE	Network for Black & Asian Professionals	Chief Executive

## Annex F: The use of Benchmarks

The variables set out below will be considered in the context of reviewing and assessing options and presenting recommendations for consideration by the local steering groups and to support the assessment of applications to the restructuring facility. All values and information will only be used to identify where discrepancies arise from values that might be expected to allow for more detailed consideration.

Data will always be considered in context, and explanations sought for any discrepancies identified - to stress the point, all colleges are different with different circumstances and we expect this to be reflected in benchmark values. We have distinguished between indicators which provide a formal measure for financial analysis and a more general list of factors to be taken into account. Together these form the benchmarks.

As General FE Colleges have different characteristics from Sixth Form Colleges, we have separated out the two to allow for a like-with-like comparison. The indicators and benchmarks remain under review and may be subject to change. These tables are based on draft 2014/15 College Accounts submitted. The full dataset will be published shortly.

### Indicators

Indicator	Definition	Target range
Operating Surplus/deficit (as a % of income)*	Surplus/(deficit) on continuing operations after depreciation and before exceptional items, tax, pension finance income and FRS 17 adjustments, divided by Adjusted income <sup>30</sup>	The aim would be to deliver colleges in strong financial health e.g. to have the potential to make an annual surplus of 3%-5%, which enables reinvestment in delivery but not limited to including capital
From colleges' 2015/16 financial year the SFA and EFA will move to use of a measure of Earnings Before Interest Tax Depreciation and Amortisation (EBITDA) for the purposes of monitoring financial health. As this change progresses the use of this surplus measure for this process will be reviewed.		
Borrowings (as a % of income)	Total borrowing, i.e. overdrafts, loans (including exceptional financial support loans) and the capital element of finance leases)	<40%

<sup>30</sup> Adjusted income is Total income less release of deferred capital grants, capital grant income and pension finance income

Indicator	Definition	Target range
	as a percentage of Adjusted income	
Adjusted current ratio	Current assets (excluding restricted cash from disposal of fixed assets held for future reinvestment and assets held for resale) divided by current liabilities (excluding deferred capital grants and holiday pay accruals)	>1
Staff costs (as a % of income)	Total Staff costs (teaching and support, including contract tuition services but excluding restructuring) as a percentage of Adjusted income (excluding franchised provision income)	<65%

Other relevant information:

- Strategic/operational plans - these should reflect local economic and educational needs. As such we would expect to see them signed off by LEPs and the Local Authority and linked to local outcome agreements.
- SFA/EFA financial rating.
- Average cost per learner – this could provide an indication of class size, provision mix or efficiency.
- Learner and employer satisfaction.
- Proportion of business at NVQ Levels 4 & 5.
- Average Class Size – we would usually expect to see a minimum of 16, although this will vary for different types of provision (e.g. 16-18 and 19+ classroom based, traineeship, apprenticeship).
- Proportion of business that is apprenticeships - we would usually expect to see evidence that this is growing at least in line with Government targets, supported by an action plan.
- Quality - Quality of teaching should be at least Ofsted good and with plans for continuous improvement.
- Skills of SMT and Governing Body - we would expect that the SMT and Governing body are able to demonstrate they have the required skills and capacity to implement change whilst managing the day to day business.

- Top three SMT salaries – we are looking to increase the transparency associated with pay in the sector.
- Estate information – including building condition – through % of buildings in category A or B; Estate utilisation, where we would expect to see plans to improve estate utilisation; and estate running costs as a % of income.
- Governance & financial management – we would expect to see properly audited accounts. We expect to see that Governing boards comply with the requirements of the Governor’s Code<sup>31</sup> and adopt a financial strategy and funding plans which are compatible with the duty to ensure sustainability and solvency of the college. We would expect to see a statement contained in the corporate governance section of the audited financial statements on internal controls explaining the risk management arrangements that are in operation.
- Support/teaching ratio - this is the cost ratio between support staff and teaching staff and we would expect to see the ratio increase in favour of teaching. This data is not currently defined and we would look to colleges to provide this information in line with their perception of these categorisations in the first instance.
- Proportion of total income received in relation to provision which is delivered through sub-contracting or franchising arrangements.
- Use of technology – we would expect to see evidence of efficient use of technology in both back office functions and curriculum delivery to improve efficiencies and effectiveness. Jisc is developing guidance on the minimum levels of technology that we would expect to see in an effective and efficient college.
- Changes should not adversely impact on the equality and diversity of learners, including safeguarding arrangements for students with special needs.
- Outcomes for 16-18 year olds – including the average point scores for vocational and academic entries; percentage who achieve a grade C or better in English; and in maths; and percentage going into an education, employment or training destination. In line with the new proposed measures.

## Benchmarks

Taking account of the above we have developed the following benchmarks, with values for both sixth form colleges and general FE colleges.

The tables include the Median and Interquartile Range for the total college population. The median is an important measure to use for benchmarking as it is the mid-point of the data and separates the upper half and the lower half of the distribution (so 50% of colleges fall above and 50% below for each median value for

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<sup>31</sup>[The Code of Good Governance for English Colleges](#)

each indicator). This avoids the data getting distorted by significant outliers which can happen when the mean (average) is used.

The interquartile ranges shows the central tendency of the data and how close the range is – in other words it shows the range of the “middle 50%” of the values, giving a better idea of the distribution of the actual values i.e. whether the data is “bunched” or more spread out. Additionally, where there is a “good” and “bad” end of the spectrum the lower or upper quartile may provide a benchmark for a “good” or “bad” value for an individual college. There are a number of caveats to this, including that, for some indicators. The area review process is looking to improve the performance of the sector overall and therefore a good value may be above the current benchmark. It is recognised that different types of colleges with different business models may have justifiable differences for some values, as demonstrated, for example, as demonstrated by the difference between the FEC and SFC values for some variables.

The following data sources have been used to produce the values

**English and Maths Success Rates**

The [national success rates tables](#)

**College Accounts Data**

[SFA published college accounts information](#)

**Destination Outcomes**

[The experimental outcomes based success measures data](#)

**Definitions**

[The SFA data field definitions](#)

Further information on the definitions will be provided shortly.

Indicative Benchmarks	General FE Colleges			Sixth Form Colleges		
	Median	Low Quartile	High Quartile	Median	Low Quartile	High Quartile
1. Costs						
1.1 Average cost per learner <sup>32</sup> (£000s)	4,000	2,000	6,900	3,700	1,900	7,800
1.2 Admin costs as a % of total	16%	14%	18%	15%	13%	18%

<sup>32</sup> This has limitations especially for adult learning but gives overview of number of learners and cost

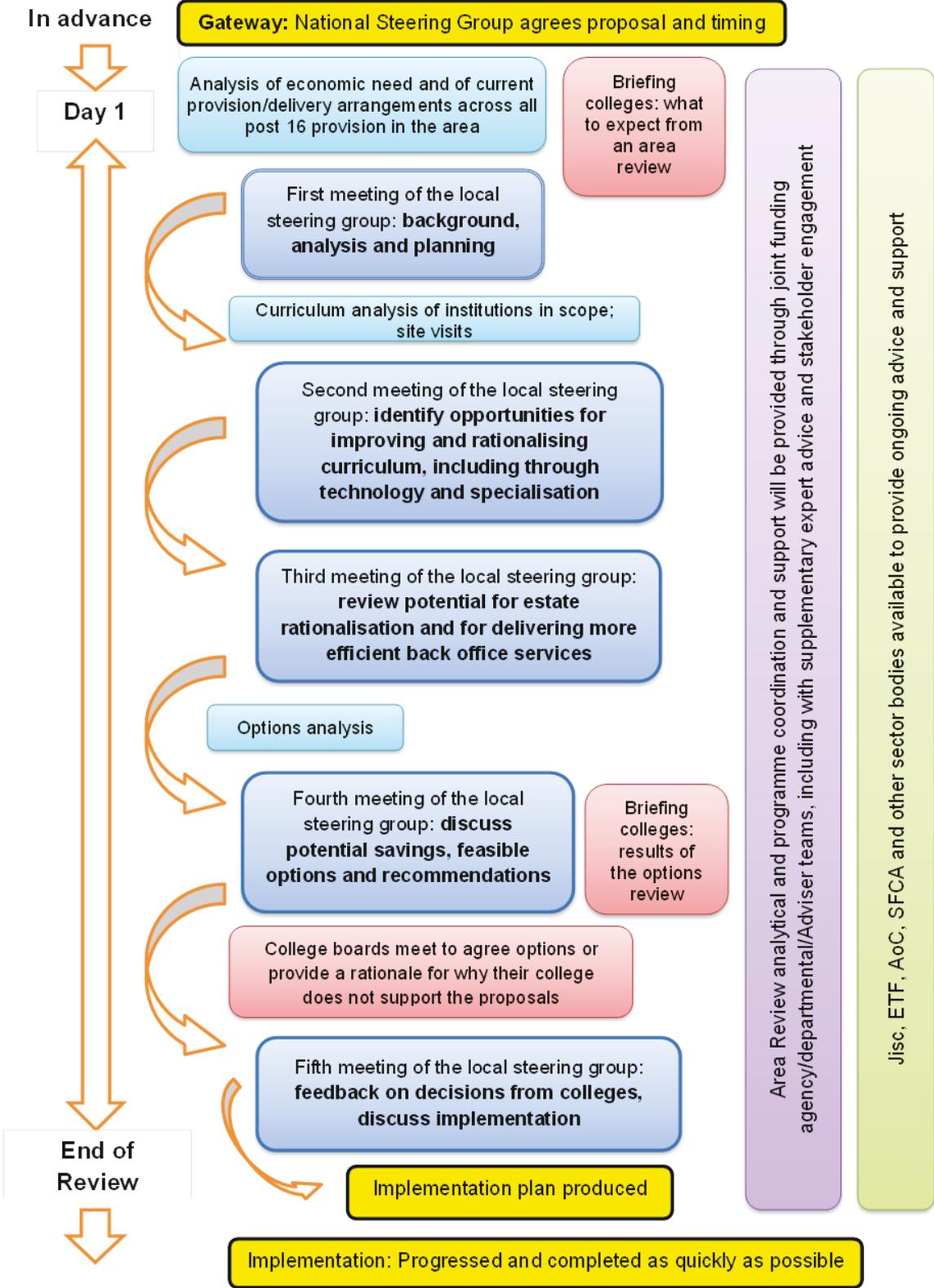
Indicative Benchmarks	General FE Colleges			Sixth Form Colleges		
	Median	Low Quartile	High Quartile	Median	Low Quartile	High Quartile
costs <sup>33</sup>						
2. Income						
2.1 Turnover (£000s) <sup>34</sup>	22,940	14,492	32,974	8,742	6,914	10,463
2.2 Non-grant income as a percentage of total income <sup>35</sup>	24%	18%	30%	8%	6%	13%
4. Outcomes						
4.1. % of learners who are successful	84%	81%	86%	86%	84%	89%
4.2. percentage of learners who are successful in core subjects	75%	69%	79%	85%	78%	91%
4.3. percentage of learners in employment, apprenticeships or HE	71%	66%	76%	75%	72%	81%

<sup>33</sup> Administration and central services, Running costs, Maintenance, Rents and leases, Examination and Other costs as a percentage of Total expenditure

<sup>34</sup> Adjusted income, as defined above

<sup>35</sup> percentage of adjusted income other than from SFA, EFA and HEFCE 19+ grants

# Annex G: Area review high level flowchart



# Annex H: Restructuring facility additional detail

## Objectives and criteria for individual applications

Objective	Criteria
Provision which meets each area's educational and economic needs	
Sufficient access to relevant training for all	The application follows, and takes account of, an assessment of local economic needs
	Resulting provision will meet (or is consistent with broader plans to move towards meeting) the local economic needs on an area wide basis
Sufficient access to high quality education for all	The application follows, and takes account of, an assessment of local educational needs
	Resulting provision will meet (or is consistent with broader plans to move towards meeting) area wide needs including: 16-19 provision; Apprenticeship; Traineeship, English and maths; Digital; Technical and Professional Education and higher level skills; and support into work
	Following the change quality will be at least as good as previously, and plans are in place for maintenance of or continuous improvement towards an Ofsted rating of at least "Good"
	Assessment of the impact on equality, diversity, provision and service for students with special needs (mainstream and specialist) and safeguarding arrangements should provide assurance that there is no reduction in such provision or service without appropriate mitigation
	Disruption to existing learners is minimised, proportionate and mitigated
	The governing body is able to demonstrate that they have a credible, deliverable and time-bound staff development plan in place, including specific reference to how they will ensure a professional teaching workforce capable of ensuring all learners benefit from high quality teaching.
All FEC and SFC institutions being financially viable, sustainable, resilient and efficient by 2020	

Remaining FEC and SFCs are financially viable, sustainable and resilient	A high quality, robust financial assessment and forecast has been undertaken
	Any remaining institutions will be financially viable in the medium term (without additional public funding)
	Any remaining institutions have effective governance and management
Remaining FEC and SFCs are efficient and deliver maximum value for public investment	All reasonable steps are being taken to maximise efficiency
Value for money	
Protection of the taxpayer from excessive or unnecessary expenditure or liabilities	Scale of expenditure is justified and proportionate, with an appropriate level of assurance and audit
	Funding is made available as a loan wherever possible, with terms which are commercial or as close as possible to commercial for government
	Other sources of finance have been exploited and therefore the ask of (all sources of) government funding is minimised. This includes, but is not limited to, asset sales and contributions from colleges, lenders and LEPs
	Funding is not provided in advance of need
All expenditure is on a value for money basis	Cost is lower than benefits compared to a robust counterfactual
Proposed changes are deliverable	Risks are identified, planned for and managed
	Institutions involved in structural changes are putting in place appropriate specialist expertise, over and above resources for day to day management of the business, to take forward implementation of such changes.

## Summary of information needed to support a College's application

Implementation Plan, including:

- Description of the interaction between the application and the area review process;
- Detail of who has prepared the detail to support the application and Implementation Plan, and what checks and scrutiny they have been subject to;

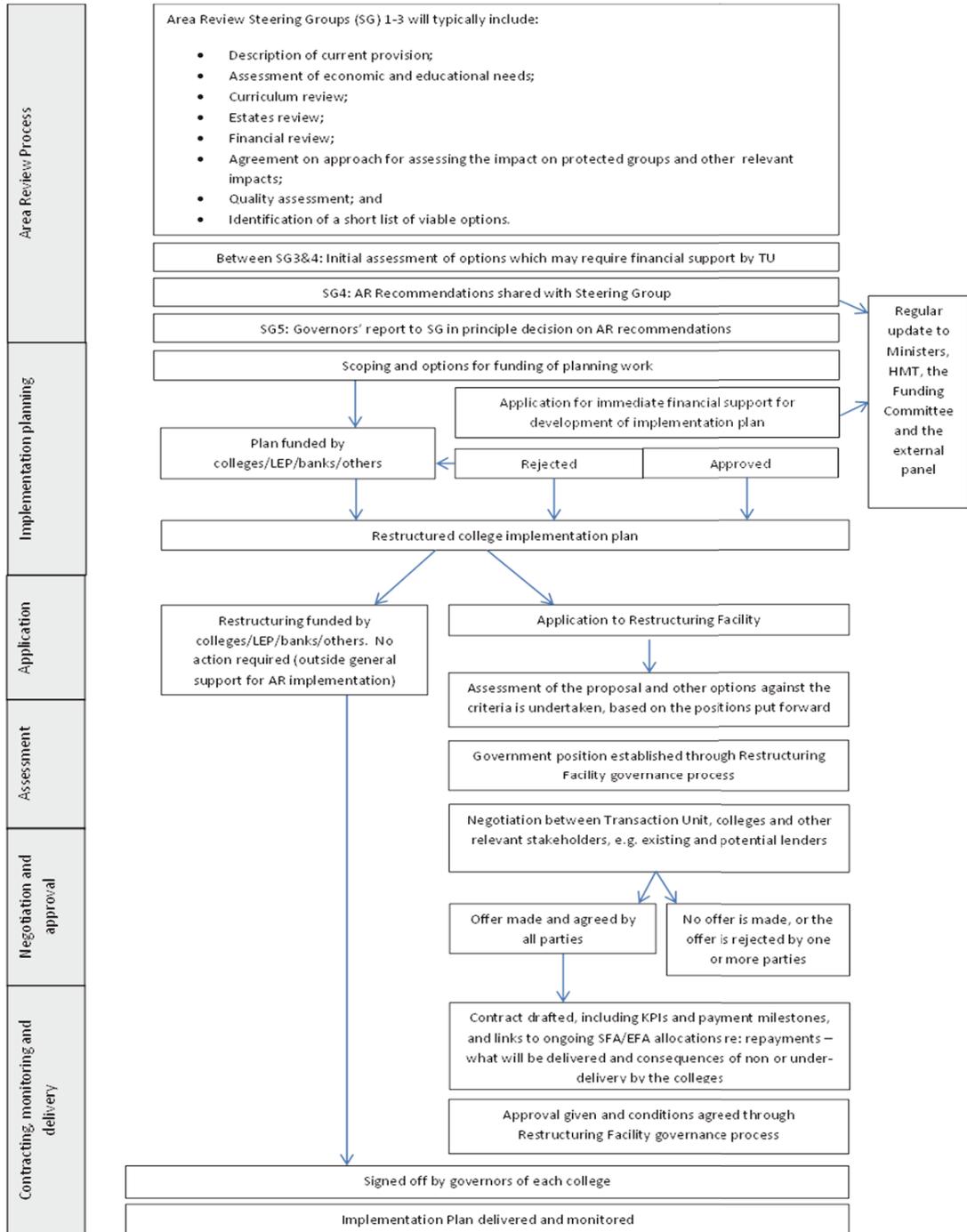
- How any remaining institution will meet (or is consistent with broader plans to move towards meeting) local economic needs – including engaging with local employers and growing apprenticeship provision if relevant;
- Detail of how the application fits with the area wide approach on each educational priority, including 16-19 provision; Apprenticeship; English and maths; Digital; Technical and Professional Education and higher level skills; and support into work, and any other areas set out in the relevant area review report;
- Detail of the costs and benefits and the fit with the objectives of the restructuring facility of other options, and why these are not preferred; and the implications of no government funding being provided, including if the application is rejected;
- A clear plan for quality improvement, or maintenance of quality where it is already at least “Good”;
- A staff professional development plan;
- How the application fits with the area wide assessment on SEN and equality and diversity set out in the area review report, and clearly set out mitigations where relevant;
- A clear plan for all existing learners;
- Detail of how assumptions which underpin the financial annex and are set out in the assumptions log (referenced below) will be achieved;
- Detail of the governance and management;
- An efficiency plan to take forward the area review recommendations on curriculum, estates and finances (including fixed and semi-fixed costs);
- Full details of total expected costs and the assurance processes through which these have been considered;
- When funding is required and for what purpose;
- What sources of funding they are seeking, including the ask from the restructuring facility and proposed repayment terms;
- A full appraisal of risks and these are incorporated appropriately (e.g. by adjusting forecasts); and
- A clear, detailed, workable proposal for the change, including detail of that appropriate skillsets which have fed into development of this plan and will be in place to implement it.

Attachments:

- Letter of support from the LEP on fit with local economic need;

- An EQIA should be completed or updated where relevant;
- Financial annex including forecast income and expenditure, balance sheet and cash flow financial information extracted from a fully integrated financial model;
- An assumptions log (including risk and optimism bias, increases and reductions in cost and income etc.);
- Evidence of asset valuations, where relevant;
- Evidence is provided that all other sources of funds will be utilised as far as possible; and
- Copies of any existing relevant agreements.

Applications should be submitted to [RestructuringFacility@sfa.bis.gov.uk](mailto:RestructuringFacility@sfa.bis.gov.uk).





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