skills Commission

A report by the Skills Commission

AN ANALYSIS OF INTERVENTION IN FURTHER EDUCATION AND SKILLS AND THE WIDER PUBLIC SECTOR

THE MOVE TO IMPROVE

This report considers the new environment further education providers face, and looks to practices of intervention and improvement in FE and from across the wider public sector to see what can be learnt.

WHY?

HOW?

The relationship between FE colleges and providers, the Government, employers, learners, and local communities is evolving. Public finances are constrained, sector bodies are changing, and expectations are high.

With colleges educating and training over three million people a year and the further education sector being "a fundamental part of this Government's growth strategy", the costs of underperformance, let alone failure, are unacceptably high both in personal and societal terms.

We must take stock of our new responsibilities and the challenges we face. How the sector and colleges respond creatively and proactively to financial pressures, changing policies and increased demand is a matter of crucial importance.

Our methodology for this inquiry was to examine how improvement and intervention happened in policing, healthcare, schools and universities. They are facing the same pressures we are – greater freedoms alongside much stronger responses from above in the event of failure.

WHAT WE FOUND

In this report, we understand intervention to be corrective measures to counter declining performance or overcome failure.

We believe that in the very best institutions in FE and across the public sector effective intervention measures sit within a constant cycle of improvement.

We found lessons in how the school system encourages collaboration, and how those charged with regulating quality in the healthcare system are designing more effective monitoring regimes.

10 recommendations are made.

We conclude that in many instances, in FE, practice is ahead of policy.

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FOREWORD

The previous Skills Commission report on *Specialisation*[1] considered the new models of further education (FE) provision appearing alongside the Coalition Government's reforms to the sector, and past inquiries have examined all the big issues from apprenticeships through to teacher training, technical education, and information, advice and guidance.

This report returns to post-2010 reforms to consider the risks that come with them and the intervention and improvement processes further education providers, particularly colleges, require to deliver excellence and avoid failure.

In granting new freedoms and flexibilities to further education and skills providers, the Government is calling upon the sector to use its dynamism to address the 'skills gap' – perhaps the greatest barrier to greater economic growth and prosperity in the UK. This new vision for further education and skills sees colleges and learning providers forging new relationships with their communities: meeting the needs of local businesses through LEPs, developing traineeships and apprenticeships in collaboration with employers, sponsoring academy schools, setting up UTCs and Career Colleges, and establishing new educational enterprises.

But while we welcome the new freedoms, the sector must take stock of its new responsibilities and the challenges it faces. Public finances are constrained, sector bodies are changing, and expectations are high. Leadership and governance in a time of freedom will be tough, yet despite these challenges, failure or mediocrity cannot be countenanced.

Aware of the greater demands being asked of colleges and learning providers, and concerned by the increased instances of provider failure in 2012, the Skills Commission felt it necessary to address the issue of improvement and intervention in the newly emerging FE landscape.

A Steering Group, chaired by Matt Atkinson, Principal and Chief Executive of City of Bath College, was set up to evaluate practice in FE and consider how it compared to that in other public services. The group took evidence from across the public sector as well as those involved in improvement and past interventions in FE.

Across the public sector the group found differing approaches to improvement and failure, and noted that regulatory practice in other sectors is increasingly mimicking that of the education and further education system. Despite some concerns around 'coasting performers' the Group felt that within FE, an effective failure regime is being established through the FE Commissioner, and that amongst the best providers, good practice around improvement through self-intervention is embedded institutionally. Based on the inquiry findings, a series of recommendations are outlined in this report, alongside an invitation to further develop and explore our conclusion that in many instances, practice is ahead of policy in the FE sector.

1 Skills Commission (December 2012) 'Google, Wiki & McKinsey Colleges? Specialisation in Public and Private Further Education' Available at: http://www.policyconnect.org.uk/sc/research/report-google-wiki-and-mckinsey-colleges-specialisation-public-and-private-further

Lastly we would like to express our gratitude to the now closed Learning and Skills Improvement Service (LSIS), who funded this inquiry. It is our hope that you will join us in a continued conversation around how FE providers can best identify issues ahead of time, and take pre-emptive action, or intervene effectively when necessary to rectify problems, and promote continual improvement, for, as all educationalists know, we never stop learning.

Barry Sheerman MP
Co-Chair, Skills Commission

Dame Ruth Silver
Co-Chair, Skills Commission

INQUIRY CHAIR'S FOREWORD

Our sector has always held great responsibilities, from driving local economic growth, to providing education and training to some of society's most disadvantaged. That responsibility hasn't dissipated in a time of economic uncertainty and austerity. If anything, it is more pronounced, with youth unemployment figures so stubborn, and with the price of public sector failure so high.

Having sat as a trustee of the Learning and Skills Improvement Service (LSIS), the Skills Commission asked me to look at the concept of intervention in a post-LSIS world, to ensure that the sector was in a position to keep improving, and intervene in some way to avoid failure when necessary.

Our methodology for this inquiry was to examine how other parts of the public sector went about improving and intervening. They are facing the same pressures we are – greater freedoms alongside much stronger responses from above in the event of failure. We hoped that by looking to the police, healthcare, higher education, and schools, and by checking that our own house was in order, the further education and skills world would learn valuable lessons, and could make changes where necessary to ensure top-quality provision across colleges and training providers.

We found common themes across the public sector: greater focus on quality of provision rather than simply monitoring compliance; greater freedoms coupled with stricter penalties for under performance; the involvement of 'users' in the process of inspection (and sometimes improvement). However, the overriding impression from our evidence is that other parts of the public sector are moving towards a place that has already been occupied by the best of further education for decades.

The emerging failure regime for the further education and skills sector is better-formed than in many other parts of the public sector undergoing similar change. As we say in the report – in FE, practice is ahead of policy. Any intervention, regulatory or failure-regime policy designed by the Government must recognise that many providers already do it very successfully themselves.

However, there are things that could be improved. Of course, it is preferable for organisations across the public sector to identify problems and risks themselves, and take early and pre-emptive action. However, this isn't embedded enough in FE and skills providers (or in other parts of the public sector). In this document, we recommend that college corporations should adopt better scrutiny procedures, become more self-critical in assessing how they perform their role and ensure they are giving adequate attention to the quality of their provision as well as their finances. Better early warning signals need to be developed and shared across the system to allow early and pre-emptive interventions to take place.

The sector must develop a better culture of sharing best practice and leadership. We can certainly learn from schools here, and better utilise expertise in the sector. Also, we need better mechanisms for improvement in coasting providers, and recommend a tougher approach by Ofsted, and watch with interest its move towards monitoring and aiding improvement.

We feel that greater discussion and sharing of best practice is needed. Therefore the Steering Group invites the Skills Commission to undertake further research into processes of 'self-intervention' already taking place in the FE and skills sector. A collection of essays, testimonies by leading lights in the sector, would be invaluable, so we can learn how to embed intervention and improvement right at the heart of our FE colleges and skills providers.

I would like to thank the Steering Group who have provided such expert support throughout this process, and to Dame Ruth Silver and Barry Sheerman MP for asking me to chair this inquiry. On behalf of them all, I would also like to thank all those who came and gave evidence, and ensured such challenging and fruitful conversations.

Matt Atkinson
Inquiry Chair

RECOMMENDATIONS

Recommendation 1

College corporations should adopt better scrutiny procedures, become more self-critical in assessing how they perform their role, and ensure they are giving adequate attention to the quality of their provision as well as their finances.

Recommendation 2

The Department for Business, Innovation and Skills should clarify and communicate the respective roles and responsibilities of sector bodies in the emerging system.

Recommendation 3

Better early warning signals need to be developed and shared across the system to allow early and pre-emptive interventions to take place.

Recommendation 4

Ofsted, in consultation with the AoC and the 157 Group, should examine the CQC and the QAA model of inspection, with a view to including greater stakeholder engagement in the assessment of learning and skills providers.

Recommendation 5

The Education and Training Foundation should develop a programme similar to National Leaders of Education that accredits successful principals and governors and deploys them to assist struggling colleges and other providers.

Recommendation 6

Colleges should take forward learning from the LSIS *Design for Improvement* project on how to involve learners – service users – in the intervention process itself.

Recommendation 7

The Skills Commission should research examples of self-intervention within further education providers and these should be widely disseminated.

Recommendation 8

Ofsted should consider grading a college as ‘inadequate’ if it fails to show any signs of improvement between its first and second ‘requires improvement’ judgment.

Recommendation 9

Given Ofsted’s move into providing support for improvement, we encourage Ofsted to publish an early evaluation of the impact of the support services to providers that require improvement.

Recommendation 10

The Education and Training Foundation should research and monitor processes of embedding and evaluating interventions that take place in colleges, with a view to sharing best practice.

1. INTRODUCTION

"Further education has a vital role to play in ensuring we have the skills that will build a stronger and more balanced economy."[2]
Secretary of State for Business, Innovation and Skills,
Rt Hon Dr Vince Cable MP

Further education (FE) colleges and training providers are fundamental to the Coalition Government's stated growth agenda. For the Government to succeed in rebalancing the UK economy away from an overreliance on the financial and banking sectors by encouraging growth in other sectors and boosting exports, businesses will require a highly-skilled and adaptable workforce. The further education sector is already recognised by the Government in its *Industrial Strategy* as "a key enabler of economic activity in providing skilled individuals across the economy".[3] Indeed, the role providers play across the UK economy – providing school leavers with employability skills, equipping individuals with entrepreneurial capabilities, meeting the needs of local businesses, and providing high-level qualifications and technical training – cannot be downplayed.

This chapter will consider some of the most significant recent changes to the FE skills system and seeks to place them in a wider context that sees public sector bodies operating with increased autonomy and accountability in a changing policy landscape. While the opportunities for public sector providers to excel are fully acknowledged, the risks that providers face, especially at a time of public austerity, are emphasised. With FE colleges playing a pivotal role in local communities and the growth agenda, looking at models of improvement and intervention across the public sector may offer vital insights on how the FE sector can best operate to deliver the skills and competencies learners deserve (and the economy needs) at a time of transition and constrained finances.

Recent changes in further education

The relationship between FE colleges and providers, the Government, employers, learners, and local communities is changing. In December 2011, the Coalition Government presented its vision in *New Challenges, New Chances* "for a newly confident sector – released from years of confinement – free to excel".[4] Measures to promote greater diversity and dynamism amongst FE colleges and providers were outlined alongside recommendations to enhance excellence in teaching and learning, and place learners at the heart of the system.

Two years on and many of the recommendations outlined in *New Challenges, New Chances* have become policy or are due to be implemented. The Education Act 2011 removed college regulations, freed 'outstanding' providers from Ofsted inspections, and simplified funding streams by creating a single adult budget for post-19 classroom and work-based learning.

2 BIS (March 2011) 'Further Education boosts economy by £75 billion'
Available at: http://news.bis.gov.uk/content/detail.aspx?NewsAreaId=2&ReleaseID=418914&SubjectId=2
3 BIS (September 2012) 'BIS Economics Paper No. 18: Industrial Strategy: UK sector Analysis' p.33.
Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/34607/12-1140-industrial-strategy-uk-sector-analysis.pdf
4 BIS (December 2011) 'New Challenges, New Chances: Further Education and Skills Reform Plan: Building a World Class Skills System' p.2.

Crucially, the Act gave college corporations greater organisational autonomy to pursue new models of education provision to meet the needs of their local areas. Corporations no longer need to seek permission to change their Instruments and Articles, and are encouraged to consider new organisational models such as setting up companies, trusts, federations, University Technical Colleges (UTCs), or partnerships to deliver apprenticeships.

There are also new institutional players on the scene, particularly at a local level. Local Enterprise Partnerships (LEPs) are beginning to play a greater role in determining local skills strategies, providing colleges with new opportunities to work alongside employers. The raising of the participation age to 18 with its accompanying new study programmes, and the move to allow colleges to take on learners from the age of 14, are blurring the lines between statutory and further education and similarly transforming the sector. Moreover, the social inclusion and employment agenda, historically the realm of FE (and therefore of the Department for Business Innovation and Skills) has been realigned towards a muscular Department for Work and Pensions. Colleges whose role has been to develop worthwhile and sustainable skills over time may find themselves side-lined.

Further education and the public sector at large

In summary, this latest series of reforms to how the further education system operates can be seen very much as a reaffirmation of the principles behind college incorporation in 1993. The underlying policy themes of greater organisational autonomy, provider diversity, and local accountability can be placed within a wider context and trend of public sector reform.

During the 1997 to 2009 Labour Governments, significant reforms to models of provision across the public sector began to take place. Power and decision making was increasingly devolved downwards. For example, the Academies Programme delivered new models of statutory education, while in healthcare Foundation Trusts were established to give the best performing NHS trusts greater financial autonomy.

Under the Coalition Government, the pace of change has intensified and even greater freedoms have been granted to providers of public services. As in FE and skills, there are new opportunities for innovation across the public sector and commissioning structures put in place to ensure providers are more responsive to local needs. Regulatory burdens are also being reduced as sector regulators embrace the call of *Open Public Services* "to ensure that all unnecessary regulation is cut".[5] By adopting lower-cost, risk-based regulatory regimes focusing resources on high-risk providers, regulators are tasked to replace red-tape and restrictions with less intrusive and 'smarter' regulation.

5 HM Government (July 2011) 'Open Public Services: White Paper' p.41.
Available at: http://files.openpublicservices.cabinetoffice.gov.uk/OpenPublicServices-WhitePaper.pdf

The removal of restrictions on public sector providers is also increasing competition and thereby creating incentives for providers to deliver the very best. In healthcare, it is hoped that such developments will not only give Clinical Commissioning Groups (CCGs) a wider range of providers to choose between, but will also enable them to get the best value for money. The recent removal of limitations on student enrolments at universities is yet another example of a reform designed to give service users more choice, and to reward public sector organisations when they are successful.

Decentralising power, increasing user choice, greater competition and encouraging a diversity of providers are all features of the public service landscape today. Providers have been given new opportunities to make choices about what they do and how they do it, yet in granting these opportunities, government policy promotes both the freedom to flourish and freedom to fail.

These new responsibilities bring new risks. There is no guarantee that governing boards across the public sector will use the greater autonomy afforded to them wisely. Some may take poor strategic decisions or avoid making tough choices altogether. Likewise, commissioners, CCGs or LEPs, may not always purchase the most suitable provision for service users or the local area.

Changes in how public sector bodies are regulated also present new challenges to the leadership of public sector providers. In light of high-profile failures such as the Mid Staffordshire Foundation Trust, regulatory bodies are shifting their focus to the user experience and quality, over mere compliance with baseline standards. In FE, a renewed Ofsted inspection regime has been cited as an explanation for why thirteen colleges were graded as 'inadequate' in 2011-12, compared to four the previous year.[6] Risk-based regulatory regimes also raise the possibility of the early indicators of organisational weaknesses going unnoticed in high and average performing providers.

The increased focus on competition and diversity means that providers in sections of the public sector being opened up to market forces will find themselves operating in less forgiving circumstances. To ensure effective competition, new points of market entry and exit for providers are being developed. This requires new distinctions between service and provider failure, and the installation of failure regimes that allow underperforming providers to be identified early on and replaced by new providers. In order to ensure that service users are not impacted negatively by provider failure, and to ensure service continuity, there will be much less tolerance for what is deemed to be marginal performance. Intervention, therefore, takes on a new significance.

Freedom in a time of austerity

Alongside the challenges that come with greater organisational autonomy and changing regulatory and failure regimes, public service providers also face an increasingly harsh economic climate. The 2010 *Spending Review* laid out £81bn of cuts to be found over

6 FE Week (September 2013) 'A Year of Ofsted Highs and Lows'
Available at: http://feweek.co.uk/2013/09/06/a-year-of-ofsted-highs-and-lows/

five years,[7] setting the tone for public sector austerity. Subsequent spending reviews and less-than-expected economic growth figures have caused Chancellor George Osborne to revise initial expectations of clearing the structural deficit by 2015. Instead, it is looking increasingly likely that the next two elections will be 'austerity elections' with spending cuts looking likely to continue well-past 2018.[8]

The difficulties caused by growing budgetary pressures and staffing cuts will be compounded by increased demands on services. As the UK's 'old age dependency ratio' (currently at 314 for every 1000 working age people)[9] rises, hospitals and care services will face new challenges, while at the other end of the spectrum, youth unemployment presents FE providers with significant challenges. Public service providers will certainly feel the strain unless they find innovative ways to do more with less, but even this entails risk.

Functioning within new policy landscapes, and with purses operating under these pressures, presents profound challenges and dangers to public sector providers regardless of their characteristics (established providers, private sector, or non-profit). A 2012 survey of council leaders revealed that 78% expect to see a local authority get into serious financial trouble in the next three years, while 82% anticipate service failure within the same timeframe.[10] Similarly, the Department of Health has indicated that it considers a further twenty-one hospitals to be "clinically and financially unsustainable" and in need of radical restructuring.[11]

With colleges educating and training over three million people a year and the further education sector being a "a fundamental part of this Government's growth strategy",[12] the costs of underperformance, let alone failure, are unacceptably high both in personal and societal terms. Learners, particularly those from disadvantaged backgrounds, may only have one chance to study and gain the qualifications they need to progress in life. Local businesses depend on colleges to provide workers with the skills and competencies they need to grow. Indeed, the regional economic impact of colleges will play a central role in the Coalition Government's growth strategy, to rebalance the economy and boost exports. As the Sharp Report documents, many colleges are already embedded well within their communities, delivering both high-end technical skills to meet the demands of local economies and programmes to reach marginalised and disengaged groups.[13]

This research – what can FE learn from others?

The Skills Commission recognised that the closure of LSIS – the Learning and Skills Improvement Service – in the context of this new public sector environment could present significant challenges for the sector. In light of the withdrawal of LSIS's improvement services, and BIS forecasting that overall public investment in adult FE

7 HM Treasury (October 2010) 'Spending Review 2010' p.16.
8 Institute for Fiscal Studies and the Institute for Government (May 2013) Available at: http://www.ifs.org.uk/docs/pre_spendinground_ce2013.pdf
9 ONS, see 'Pension Trends 2012, Figure 2.2' Available at: http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-243912
10 PwC (September 2012) 'Under Pressure: Securing Success, Managing Risk in Public Services' p.59. Available at: http://www.pwc.co.uk/government-public-sector/publications/under-pressure-securing-success-managing-failure-in-public-services.jhtml
11 Ibid
12 Vince Cable in BIS (March 2011) 'Further Education boosts economy by £75 billion'
13 Baroness Sharp of Guildford (November 2011) 'A Dynamic Nucleus: Colleges at the heart of local communities'

and skills will fall from £3.8bn in 2012-13 to £3.3bn in 2014-15,[14] how the sector and colleges respond creatively and proactively to financial pressures, changing policies and increased demand is a matter of crucial importance. There are many futures at risk.

Our primary aim has been to look to others facing similar challenges. We have sought to analyse the concept of intervention and improvement in response to the most common forms of risks public sector providers will face, and to assess the emerging FE model outlined in *Rigour and Responsiveness* against models and practices across the rest of the public sector. Evidence has been taken from leaders, governors, practitioners, and regulators working across policing, education (statutory, further and higher), healthcare, central and local government.

We first develop an archetype for how intervention could happen, within a cycle of improvement. We then present the main thrust of our research – analysis of other models of intervention across the public sector – and draw together findings with recommendations for the further education and skills sectors.

14 Barclays (September 2012) 'UK Education: Sector outlook, Third Quarter 2012' p.3.
Available at: http://www.barclayscorporate.com/content/dam/corppublic/corporate/Documents/sector_expertise/education_outlook.pdf

2. INTERVENTION AND IMPROVEMENT

Why intervene?

In this report, we understand intervention to be:

> *"corrective measures to counter declining performance or overcome failure"*

With this broad definition, interventions may vary widely in their timings. Interventions at the point of crisis periodically make the headlines and often require the involvement of an external party. Indeed, the public will be familiar with shock teams of auditors and financial managers taking on ailing hospital trusts such as the South London Care Trust, or 'super heads' being sent into failing schools.

Despite occasional high-profile interventions prompted by service failures in the public sector, most interventions occur before the point of service failure. These may be initiated voluntarily and carried out internally, or take place in collaboration with other providers or sector bodies. They can be responsive, in addressing the signs of failure as they emerge, or pre-emptive, taking early action to secure the organisation against future risks.

This spectrum of intervention can be demonstrated by a medical analogy whereby a patient:

1. Monitors their health and makes changes to their diet to improve their health and avoid future conditions
(Early Intervention or pre-emptive action: internal and voluntary)

2. Has a regular medical check-up which reveals symptoms of ill health, upon which a course of medicines and further consultations are advised
(Responsive Intervention: voluntary and internal, or mandated and collaborative)

3. Requires a visit to accident and emergency
(Intervention at Crisis Point: external and imposed)

Across this spectrum of intervention, it is clearly better for organisations to identify risks and issues early on, to enable them to intervene before problems escalate. Not only does this reduce the impact organisational problems can have on service users, but it enables organisations to remain in control and avoids the reputational damage they could suffer if external interventions were required.

In conceptualising interventions it is essential to consider the broad categories of risk public service providers may be exposed to. PwC's triangle of public sector failure can be a useful model.

The triangle divides an organisation's performance into three interrelated fields, comprising of the:

- Financial:
  - the performance of an organisation in terms of its key financial activities including its income and expenditure (or surplus and loss) account, its cash flow and its balance sheet, particularly its debt levels.

- Operational:
  - the efficiency and effectiveness of the delivery of services to end-users and the supporting infrastructure of people, processes and systems.

- Strategic:
  - the organisation's overall approach to succeeding in the markets it is serving, including decisions on whether to expand, contract or stop services.[15]

How and when the leadership or governing board of an organisation intervenes to manage stresses across these fields is of critical importance. All organisations will experience distress (if not failure) in one, or across all, of these fields at some point in their lifecycle, and difficulty in one of these fields is often closely linked with the existence or emergence of problems in other fields.

Financial difficulties might lead to economy drives that undermine standards, user dissatisfaction with the quality of a service may lead to lower demand and inefficiencies, and poor strategic decisions can undermine an organisation's financial sustainability or hinder its social purpose.

In FE, an example of this kind of negative contagion can be seen in the case of Cricklade College, where a poor financial position undermined student outcomes, which further compounded the college's financial difficulties.

Given the varied potential risks of failure that public service providers are exposed to, the diversity of public services, differing public attitudes and policy concerns, it is unsurprising that interventions may take place at different times with a number of aims.

15 PwC (Sept 2012) 'Under Pressure' p.57.

Typically, interventions may occur in order to:

Figure 1
Interventions in order to:

1. Improve provision
2. Realign finances
3. Restructure internally
4. Prepare for merger or a change of management
5. Take to market
6. Manage closure

The interventions listed here are not mutually exclusive. Given the relationship between strategic errors, financial stresses and operational underperformance, interventions may be designed to achieve multiple outcomes. As is often the case in FE, an intervention in order to realign finances may also prepare two colleges for a merger. Likewise, interventions to improve provision may involve internal restructuring or tendering the delivery of an aspect of a college's provision to alternative providers.

MERGER FOR SURVIVAL

CASE STUDY

CRICKLADE COLLEGE AND SPARSHOLT COLLEGE HAMPSHIRE

Cricklade College was a small tertiary college providing academic and vocational courses in the town of Andover. The college was largely a 16-18 institution but provided a small number of adult courses. The college had a very long history of financial weakness and marginal performance and the reputation of the institution in its locality was very weak. The majority of 16-18 year olds chose other neighbouring colleges and over a period of time enrolments declined. Student success rates were generally weak and the financial situation of the institution meant that the investment required to improve resources for learners could not be made. In the 2005/6 academic year the college, supported by the Learning and Skills Council, commissioned a merger feasibility study and the large and successful land-based provider, Sparsholt College Hampshire near Winchester, was chosen as the preferred merger partner.

Intervention Approach

The strategic options review completed by Cricklade College made a very clear case for merger as the financial situation of the College and the marginal performance meant that survival as an independent institution was very questionable. However, the review also stressed the need for the continuation of some form of provision in the town of Andover. In considering the outcomes of the strategic options review governors of Cricklade College considered a range of partners and felt that a merger with an institution with a complementary, rather than competing, course offer was the most compelling opportunity. The merger with Sparsholt College Hampshire was completed on 1st August 2007. This merger took place with the financial backing of the Learning and Skills Council.

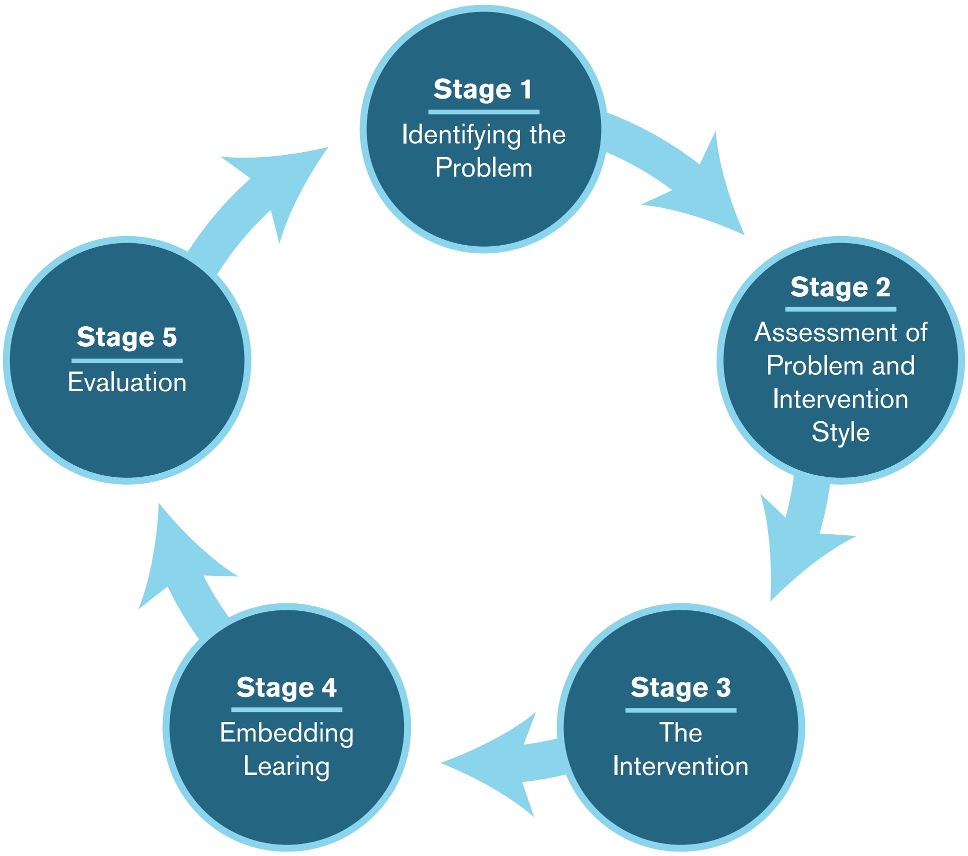
Intervention Outcomes

Today, the Andover College campus of Sparsholt College Hampshire provides a wider range of academic and vocational courses to the young people of Andover. Enrolments and pass rates for the dwindling A Level programme have been significantly enhanced, the reputation in the community through the association with a high performing neighbouring institution has strengthened and an ongoing capital investment programme has resulted in a significant improvement in resources and facilities for learners. Being part of a larger institution has reduced the cost base and delivered economies of scale.

Intervention in the cycle of improvement

Intervention is part of a broader methodology of improvement in which public sector bodies should be engaged. Whilst this report is interested in intervention - “corrective measures to counter declining performance or overcome failure” – it is important to situate this action within a broader cycle. We consider this to be an ideal, an archetype for how public sector bodies, including FE Colleges, along with their regulators, should look to develop intervention plans.

Figure 2
The Improvement Cycle



Stage 1 – Identifying the Problem

The earlier an intervention can be taken, the better for service users. By identifying risks and problems early on, the less likely it is that issues will escalate beyond an organisation’s capacity to deal with them. In other words, the quicker an institution can reach stage 3 in the cycle, the better. After all, it is easier to reorganise services from a position of strength than at the point of crisis. Therefore role of regulators in identifying indicators associated with underperformance and distress (stage 1), therefore plays a crucial role in enabling providers to maintain standards and deliver sustainable services. It is also essential that the leaders of public services take responsibility for monitoring all aspects of their provision.

Stage 2 – Assessment of the Problem and Intervention Style

During stage 2, often an external regulator (but ideally, the organisation themselves) needs to recognise what it is they are intervening in order to do (Figure 1 above), and consider the correct method of intervention. Again, speed is important, and the proximity to potential failure will often dictate the outcome of this stage. In other words, if a regulator has identified a provider to be very close to failure, the intervention may be external, quick, perhaps overriding the management. If stages 1 and 2 are part of an internal cycle of improvement, the intervention may be more collaborative.

Stage 3 – The Intervention

Styles of intervention, the intentions behind them, and the powers directing them, can vary hugely. However, the ease at which an intervention can proceed depends largely on the case made for it in stage 2, especially in times of failure when sensitivity and feelings of denial may be running high. This also applies to pre-emptive and early interventions, which may have more scope to incorporate staff, service users and stakeholders into the intervention process. Rather than merely imposing change, this can be beneficial in providing useful insights and giving stakeholders a greater sense of ownership over the improvement measures.

Stages 4 and 5 – Embedding Learning and Evaluation

In many ways, these are the most important elements of an improvement cycle. The changes in behaviour, process, or structure need to be embedded within continual practice, or consolidated. This can take place at both an organisational level, and a sector-wide level. Within an organisation, it is important that the changes implemented, to improve teaching and learning for example, are continued with or, in the case of an intervention to restructure, the new structures are monitored closely after reorganisation. Equally, at a sector-wide, level it is important that examples of good practice in interventions are evaluated and promoted to assist other providers in improving their organisations and managing failure.

Pre-2013 Interventions in FE

Before considering how intervention actually works, or is beginning to work in FE and across different parts of the public sector, the model of intervention prior to the departure of LSIS and the introduction of the FE Commissioner will be outlined.

INTERVENTION INVOLVING SERVICE USERS

CASE STUDY

STOCKTON SIXTH FORM COLLEGE[16]

Stockton Sixth Form College is the only specialist sixth form education provider in the Stockton area. It has 800 learners and around 80 staff. The college has a high A Level pass rate and has recently had a £5m renovation. However, Stockton Sixth Form College faces competition from other larger colleges nearby, all of which have good reputations. This has contributed to a decline in new learner applications in recent years.

Intervention Approach

Stockton Sixth Form College took part in the *Design for Improvement* programme funded by LSIS and designed and delivered by Uscreates (a strategic consultancy delivering social value). The team set an ambitious SMART goal, to increase student applications year-on-year by 2013, and quickly realised that in order to achieve this they needed to better understand learner perceptions of the college's application and enrolment services in relation to their competitors. They engaged 195 first year students to create a user journey map, which highlighted the positive and negative 'touchpoints' students experienced throughout the whole of the application process. A 'diary room style' video 'rant box' was also set up at the college which allowed students to express their views on a range of issues, and the results from both these were considered at a co-creation workshop. Here staff and students developed ideas for how the college could best engage with the community and potential learners.

Intervention Outcomes

Engaging learners through working with Uscreates allowed Stockton Sixth Form College to better understand the perceptions of applicants and to develop a range of strategies aimed at increasing admissions. As a result, the college has enhanced and increased its contact and engagement with prospective students following acceptance and prior to enrolment. The involvement of learners and staff has also helped to create a visual blueprint that communicates the backstage and frontline systems of recruitment so college staff understand their individual role and contribution within the bigger picture of the challenge. While it is still too early to fully assess the success of the programme, the college is optimistic about application numbers for next year.

16 Further information available at:
http://repository.excellencegateway.org.uk/fedora/objects/eg:6670/datastreams/DOC/content

As is the case now, the responsibility for ensuring good financial health, the quality of provision and the success of a college in fulfilling its mission, has always rested with the leadership and governing board of a college. Thus with regard to early and self-directed intervention, little has changed other than some of the external agencies colleges may have sourced support from previously.

Formerly, underperforming and Grade 3 providers could voluntarily sign up to the LSIS Improvement Development Service (IDS) and receive an Organisation Health Check and subsidised support from an LSIS Regional Development Manager (RDM). Under the IDS service an RDM would take a college through all of the stages outlined above in Figure 2.

In cases where a provider received an 'inadequate' Ofsted inspection rating (or was identified by the Skills Funding Agency (SFA) or Education Funding Agency (EFA) as operating below Minimum Levels of Performance or facing significant financial difficulties) the funding agency could issue an Inadequacy Warning giving the provider a Notice of Concern triggering, LSIS support. LSIS reports 95% of colleges which received LSIS support at this stage made a successful recovery.[17]

If a provider failed to make the necessary changes to improve in the agreed recovery period, LSIS had developed the **Escalated Intervention Service** (EIS) to offer more intensive support. LSIS would assist the college in brokering appropriate support and undertaking a Structure and Prospects Appraisal. Once a memorandum of support from the funding agency and key stakeholders had been issued in support of the appraisal's proposals, the college would implement the changes and if successful have the Notice of Concerns (and any associated additional funding conditions) lifted.

In extreme circumstances the funding agency could request the Secretary of State for Business, Innovation and Skills to intervene and:

- Limit or cease funding
- Remove all or some of the governors
- Appoint new members of the governing body
- Direct the governing body to take actions deemed to be expedient as to the exercise of their powers and performance of their duties
- Direct the governing body to make collaboration arrangements with another college or a school
- Direct the governing body to dissolve the college (at which point the normal rules about dissolution apply including consultation, for example, and would allow for transfer to another organisation)

17 LSIS (2012) 'Escalated Intervention Service strategy version 8' p.18.
Available at: http://webarchive.nationalarchives.gov.uk/20130802100617/http:/lsis.org.uk//sites/www.lsis.org.uk/files/2012-07-05-Council-Paper-C043-Escalated-Intervention-Service-Annex-1.pdf

ESCALATED INTERVENTION SERVICE

CASE STUDY
K COLLEGE

K College is a large College in Kent with campuses in Ashford, Dover, Folkestone, Tonbridge and Tunbridge Wells. The College was formed by the merger of West Kent and South Kent colleges in April 2010. In 2012, the college's extremely weak financial position was such that the continuation of the college in its existing form was brought into question. The college's debt position was critical, the financial operating position was very weak; it relied on short-term bank financing and emergency funding from the Skills Funding Agency to meet its obligations. Without this short-term and emergency funding the college would have become insolvent during 2012. The college's bankers were concerned about breaches to loan covenants and external auditors had not been able to sign-off the annual accounts since 2009/10. The college also experienced declining enrolments, significantly above those being experienced by other colleges in the region, and the Ofsted inspection of December 2011 rated the college 'satisfactory' ('requires improvement' in the current Ofsted framework).

Intervention Approach

K College was the first case to be dealt with through the Learning and Skills Improvement Service's Escalated Intervention Service. LSIS had been commissioned by BIS via *New Challenges, New Chances* to develop a 'last chance' intervention process for those further education colleges in the most precarious situations. The service was designed and introduced by LSIS at the beginning of 2012 and its purpose was to provide intensive peer support to develop a robust proposal, which gained stakeholder buy-in for a future strategy, and possibly operating model for the college. The service was delivered by experienced senior leaders and owned by the governing body and aimed to carry out a Structure and Prospects Appraisal in line with the process set forward in *New Challenges, New Chances*.

Intervention Outcomes

A Structure and Prospects Appraisal was completed through the EIS and recommended the break-up of the College. A prospectus was published inviting expressions of interest from other providers (public and private sector) and a competition was launched via a tendering process to identify new providers. It has been reported in the FE press that eight organisations have been shortlisted to develop their expressions of interest.[18]

18 FE Week (October 2013) 'Shortlisted college eyes up K College degrees'
Available at: http://feweek.co.uk/2013/10/11/shortlisted-college-eyes-up-k-college-degrees/

3. MODELS OF INTERVENTION

Public sector bodies are operating with increased autonomy in a new policy landscape and face acute budgetary pressures at a time of rising demand and new challenges.

The Skills Commission wanted to look outside of further education, to see how other public sector bodies are dealing with this new, less forgiving environment.

A large portion of this inquiry research involved inviting representatives from these various sectors to talk to us. We are extremely grateful to the Association of Colleges, Ofsted, the QAA, HMIC, and the CQC for sharing their approaches.

What follows is a summary of the processes of intervention and improvement in these sectors, informed by the evidence sessions and information available on the internet. We then analyse this processes from an FE perspective, and draw recommendations for the skills sector.

Further Education: Colleges

Summary

- Performance **monitored** by Ofsted and their funding agencies' risk-assessment matrix
- Short notice risk-proportionate **inspections** between three and five days – inspectors judge providers as: 'outstanding', 'good', 'requires improvement' or 'inadequate'
- Providers responsible for sourcing **support** from the new Education and Training Foundation and other sources, and where a provider 'requires improvement', implementing Ofsted's development plan
- **Interventions** triggered by: failure to meet minimum standards of performance, failing financial health or control, an 'inadequate' Ofsted rating or repeated underperformance
- Termination of contracts or conditional funding stipulations for contracted providers
- FE Commissioner intervenes on behalf of government and recommends one or more of the following:
    - Administered College status
    - New governors
    - Tendering for new providers or management
    - Dissolution of the college

Rigour and Responsiveness outlined BIS's new approach to raising standards and intervening to tackle poor performance in the further education and skills system. The current accountability structure, emerging risk-assessment framework, and intervention process for the 339 colleges in England is summarised below.

Governance and Accountability

Further education colleges are managed by a principal, or chief executive, with their senior management team. A governing board or corporation, consisting of up to twenty governors and including a chair and clerk, is responsible for overseeing the college's activities. They provide a policy and budget framework, advise the leadership, and hold the management to account.

College leaders, and their 8,000 plus governors, are accountable to:

- The Skills Funding Agency (SFA), which allocates funding to further education and monitors compliance with standards on behalf of BIS
- The Education Funding Agency (EFA), which funds education provision for 14-19 year olds and monitors compliance on behalf of the DfE

- Ofsted, the statutory regulator, which inspects any organisation delivering provision funded by the SFA and EFA
- The FE Commissioner, who directs interventions on behalf of BIS and the DfE
- And possibly the Quality Assurance Agency (QAA) and the Higher Education Funding Council for England (HEFCE) where the college has a contract with HEFCE to deliver higher education provision

Regulation

The monitoring of standards in further education is divided between the funding agencies and the statutory regulator Ofsted. The SFA maintains a quarterly provider risk-assessment matrix to track colleges and training providers, while the EFA monitors minimal standards annually and assesses the financial health of sixth form colleges.

Ofsted undertakes risk assessments of learning providers and operates a risk-proportionate approach to the inspection of further education colleges in England. The risk-assessments are conducted in two stages: the first based on an automated analysis of publicly available data, and the second, in cases where further examination is necessary, the college receives a desk-based review from an inspector.

Ofsted selects colleges for inspection by examining:

- previous inspection records
- self-assessment reports
- performance data (including trends over the last three years)
- changes in the senior management
- concerns raised by funding bodies and key stakeholders
- the views of learners, guardians and employers, gathered through an online questionnaire

Any information on significant changes to the type of provision and learner numbers is also taken into account.

Changes outlined in Ofsted's *A Good Education for All*,[19] mean that Ofsted will alert colleges two days in advance of an inspection. As well as observing teaching, learning and assessment, Ofsted will also now review anonymised outcomes of performance management procedures for teachers, trainers and assessors. Having spent a week on-site examining the full range of a college's provision the subject inspectors and lead inspector will provide formal feedback to the principal, and governors.

Ofsted then judges colleges on a 1-4 scale: 'outstanding', 'good', 'requires improvement', or 'inadequate'. Where the lead inspector believes that a college merits a Grade 1 or 4, a senior inspector will scrutinise the evidence before the final judgement can be made. To

19 Ofsted (February 2012) 'A Good Education for All'
Available at: http://www.ofsted.gov.uk/resources/good-education-for-all

be judged as ‘outstanding’ overall, a college must achieve ‘outstanding’ in the teaching, learning and assessment criteria. ‘Outstanding’ providers will be exempt from further inspection until their performance drops. In the case of ‘good’ providers, they will be exempt from further inspection for another six years. A ‘requires improvement’ grade has replaced the ‘satisfactory’ grade and colleges receiving a Grade 3 can expect to be re-inspected within twelve to eighteen months.

The inspection report, sent to the college and funding providers, explains the judgment and offers guidance on where the college needs to improve. Colleges receiving a ‘requires improvement’ grade three times in a row may be deemed ‘inadequate’ unless the provider can demonstrate to the lead inspector adequate progress has been made.

Intervention

College leaders and governors are expected to intervene when necessary to ensure the quality of their provision and sustainability of their finances. The role previously held by LSIS (see chapter 2) is expected to be covered, in part, by the new Education and Training Foundation. However, in cases where this scrutiny is lacking, there are a number of external intervention procedures that can occur.

When a college receives a ‘requires improvement’ judgement after an inspection, Ofsted will offer the organisation three days of support to draft a development plan, and help the college to identify relevant courses or sources of peer support. Depending on the nature of the issues identified, Ofsted will re-inspect the institution within 12 to 18 months after the initial inspection.

Where a college receives an ‘inadequate’ Ofsted rating, falls below the SFA’s or EFA’s minimal standards, or gets into serious financial difficulty, the new FE Commissioner or an FE Advisor will be appointed to investigate the college’s situation. Working on behalf of BIS and the DfE, the FE Commissioner will conduct an appraisal of the institution and within two weeks recommend to ministers one or more of the following:

- the removal and appointment of new governors
- Administered College status for the college including the loss of freedoms and a Structure and Prospects Appraisal to review restructuring and the entry process for new providers
- the dissolution of the college

Protecting learners’ interests is the primary purpose of intervention. That means safeguarding existing learners’ education, and putting in place better local provision for the future. In exceptional circumstances the Commissioner might allow for a twelve month period where the current management, monitored half-way through by Ofsted, would be allowed to improve the situation without government intervention.

Education – Schools

Summary

- Schools **risk-assessed** by Ofsted and floor standards **monitored**
- Short notice risk-based **inspections** lasting two-three days – inspectors judge schools as: ‘outstanding’, ‘good’, ‘requires improvement’ or ‘inadequate’
- ‘Outstanding’ schools exempt from further inspections and ‘good’ schools inspected at five year intervals
- Schools deemed to ‘require improvement’ are **re-inspected** within two years and those not judged ‘good’ after two subsequent inspections can be classified as ‘inadequate’
- ‘Inadequate’ schools, or those causing concern, to be receive **monitoring inspections** and re-inspected within eighteen months
- **Interventions** directed by either the local authority or Secretary of State
- The local authority can strip the governing body of a maintained school, of its financial powers, appoint additional governors or an interim executive board, and mandate the school to enter into arrangements with other schools
- The Secretary of State can appoint additional governors or an interim executive board, convert the school into an academy or close the school

The rapid expansion of the Academies and Free School Programme under the Coalition Government has given many schools greater control over their budgets and allowed academies to explore beyond the National Curriculum. Schools are increasingly diverse, ranging from local authority community schools to federated academies. While state schools have not experienced the same degree of autonomy as FE colleges, there are many similarities between their regulatory and intervention procedures.

Governance and Accountability

Headteachers and their senior management teams take responsibility for the day to day running of schools, and are supported by governing bodies acting as a ‘critical friend’. The role of school governors is to help set strategic direction, hold school leaders to account for improving performance, and ensure that money is well spent. The status of academy schools as charitable trusts requires a board of trustees responsible for ensuring that the charitable company achieves its objectives. In multi-academy federations, the trust will be supported by local governing bodies.

School leaders and governing boards are accountable to:

- Ofsted, through monitoring and inspection
- the Secretary of State for Education and the DfE, which directly funds free schools and academies
- Local authorities, responsible for funding maintained schools

Regulation

Ofsted regulates standards in schools across England, and regularly visits schools to carry out subject reviews, thematic and risk-based inspections. Schools are selected for inspections on the basis of a risk-assessment that takes into account floor standards, and:

- pupil progress and attainment in core subjects, particularly amongst disabled and SEN learners, and children in care
- pupil attendance
- previous inspection findings
- qualifying complaints about the school referred to Ofsted by parents or carers
- results from Parent View, an online questionnaire for parents

Unless the risk-assessment identifies a significant dip in performance, 'good' schools will not be inspected until the fifth year since their last inspection, and 'outstanding' schools remain exempt from routine inspections, although they may be part of thematic or subject reviews. Ofsted notifies selected schools at midday on the working day before the start of the inspection. The school must provide Ofsted with an evaluation of their provision to be analysed in advance of the inspection along with the information Ofsted already holds or is publicly available.

Inspections typically last two to three days during which inspectors talk to the headteacher, governors or trustees, staff, pupils, parents and carers. They also observe a range of lessons and consider the effectiveness of key leaders and managers. Provision for specific groups of learners such as those in care or eligible for the pupil premium is given particular attention by inspectors.

Inspectors give feedback to teachers and judge schools on a 1-4 scale from 'outstanding', 'good', 'requires improvement' and 'inadequate'. An inspection report will be produced and sent the headteacher, the local authority or governing trusts, and the EFA. The school's governing body is required to ensure that every parent or guardian receives a copy or summary of the outcomes of the report.

Schools receiving a 'requires improvement' judgment will be monitored and re-inspected within two years. Their inspection report will explain the reason behind the judgement and outline what needs to be improved. Schools receiving a third consecutive 'requires improvement' judgement may be deemed 'inadequate'. Schools causing concern and judged as 'inadequate' are classified into two categories:

- Serious weaknesses
  – where one or more of the key areas are 'inadequate' (Grade 4), and/or there are serious weaknesses in the provision for pupils' spiritual, moral, social and cultural development. However, leaders, managers and governors are judged to be capable of securing improvement (this means that leadership and management are judged at Grade 3 or above)

- Special measures
  – where a school is failing to give its pupils an acceptable standard of education, and, the leaders, managers or governors are not demonstrating the capacity to secure the necessary improvement in the school

'Inadequate' schools will face further monitoring inspections and will receive a full inspection within eighteen months. Schools causing concern will also be eligible for intervention from the local authority and Secretary of State for Education.

Intervention

The Importance of Teaching 2010 white paper states the Government's aim "to create a school system which is more effectively self-improving" in which the "the primary responsibility for improvement rests with schools".[20] To this end, school leaders are expected to incorporate self-evaluation as a fundamental part of their management process and intervene when necessary to improve standards. Here, intervention may take various forms from internal reforms, voluntary conversion to academy status, and sourcing external training or support from the National College of Teaching and Leadership.

Where a school's poor performance requires statutory intervention, the local authority can intervene to:

- Require the governing body to enter into arrangements including:
  - a contract or other arrangement for specified services of an advisory nature
  - an arrangement to work with the governing body of another school
  - collaboration with a further education body
  - to take steps to join or form a federation
- Appoint new governors or replace the board with an Interim Executive Board
- Suspend the delegated authority for the governing body to manage the school's budget

In extreme cases, the Secretary of State for Education also has powers to appoint or replace the governing body with an interim executive board, and to forcibly convert the school into an academy reopening it under the new management of an academy sponsor or chain. In a worst case scenario, the Secretary of State could direct the closure of a school.

20 DfE (2010) 'The Importance of Teaching: Schools white paper 2010' p.73.
Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/175429/CM-7980.pdf

NATIONAL LEADERS OF EDUCATION

CASE STUDY[21]

The National Leaders of Education (NLE) programme is overseen by the National College of Teaching and Leadership. It allows 'outstanding' headteachers to use their skills, experience and staff to support schools in challenging circumstances. The school in need of support, or commissioning body, will determine the level of support and type of activity involved. The programme puts significant emphasis on giving the schools ownership of their own progress and gives staff an opportunity to take on more responsibility, either in the supported or supporting school.

Commissioning bodies pay for the costs associated with deployments while the National College of Teaching and Leadership provides an annual bursary to assist with the costs of running a supporting school (such as contributing towards meeting the cost of a school business manager). The College also provides a free induction programme and organises NLE regional networking events and annual conferences.

The 870 schools supported, between 2007 and 2011, significantly improved attainment above the national average as a result of NLE support. For example, in the first year of support, primary schools and secondary schools improved their results by an average of 3.1% and 2.5% more than schools not supported by the programme.

Northfields School's National Leader of Education

Northfields School was a 13-19 upper school with a specialist technology status that was in special measures. The school was due to be closed and replaced by an academy in the following year but the consequent uncertainty over structure and job security had caused some staff to leave and was impacting on the quality of education provision.

Intervention Approach

The headteacher of Lincroft Middle School, an 'outstanding' school in Bedfordshire, was asked to become executive headteacher of Northfields by the National College of Teaching and Leadership. The NLE brought to Northfields an emphasis on tracking and intervention. A coaching system was implemented across the whole school designed to improve behaviour and attendance amongst students, and to develop staff professionally. The curriculum was also modified and three student advocate posts were created to improve student support.

Intervention Outcome

Two months after the National Leader of Education took over as executive headteacher, Ofsted removed Northfields from special measures. The inspection report stated that the executive headteacher had 'enabled existing members of the senior team to flourish while maintaining tight lines of accountability'. Northfields became the All Saints Academy and federated with three others to provide 9-19 secondary provision in 2009.

21 Further information is available at:
http://www.education.gov.uk/nationalcollege/index/support-for-schools/national-leaders-of-education.htm

Higher Education: Universities

Summary

- Universities are headed by their vice-chancellors and governing bodies with a great deal of **informal self-regulation**
- Universities submit annual assurances to HEFCE regarding their **governance** structures and finances
- HEFCE **regulate** by attaching conditions to the grants it was previously responsible for allotting to universities (this situation is no longer tenable)
- The QAA sets academic **standards** through consultation with the sector in the UK Quality Code
- OFFA and the OIA safeguard fair access and review **complaints** procedures
- Universities can source **support** from a range of agencies including HEFCE and the QAA
- **Intervention –** there is no formal intervention to improve mechanism in HE, although HEFCE can withdraw grants for a university and recommend the removal of designated course status

Over the past two decades universities in England have seen rapid expansion, and the introduction of tuition fees in 1998 has seen a marked shift in funding from the taxpayer to the student. The BIS 2011 higher education (HE) white paper, *Students at the Heart of the System*, introduced a further series of reforms to create a more demand-led and liberalised system. As a result of these developments, England's universities operate in a more competitive environment than before.

Governance and Accountability

Universities in England are diverse, autonomous institutions ranging from the University of Oxford founded in the eleventh century, to the BPP University College of Professional Studies, awarded university status in 2013. As such, there is no standard governance framework, but most universities tend to have a vice-chancellor or principal as the executive head, providing strategic leadership and management. A governing body, usually known as the university council or board of governors, is also responsible for the effective management and the future development of the affairs of the institution.

Given the independence of England's universities, there is currently relatively little statutory regulation on higher education institutions, and the sector regulates itself through a combination of self-regulation, co-regulation and external regulation.

As such, universities provide assurances to the following organisations:

- Higher Education Funding Council of England (HEFCE) which places requirements on universities through conditions surrounding grants
- The Quality Assurance Agency (QAA), through HEFCE's grant conditions
- The Office For Fair Access (OFFA) and the Office of the Independent Adjudicator (OIA), both established by the 2004 Higher Education Act

Regulation

Regulations are applied to universities through financial memoranda attached to HEFCE funding grants. As well as this, universities are required to subscribe to the OIA (which deals with students' complaints) and hold an access agreement with OFFA to encourage admission of students from disadvantaged backgrounds.

Higher Education Funding Council for England

HEFCE annually allocates the 'teaching grant' which up until the recent HE reforms to funding was the largest income source for universities. HEFCE attaches conditions to these grants through financial memoranda, requiring universities to submit data on performance, supply assurances of financial viability and improve the quality of their provision. These assurances are complemented by institutional visits every five years.

To reflect the reforms to HE funding, BIS announced plans in July 2013 to allow for the process of course designation to be transferred to HEFCE. This will allow HEFCE to control which institutions' students will have access to student loans, thus returning some of the leverage it has lost over the course of reform.

Quality Assurance Agency

The QAA is contracted by HEFCE to regulate academic standards and quality of provision in institutions across the UK through its Quality Code. The Quality Code is a set of nationally agreed reference points for the quality of higher education and is intended as a guide to aid providers who are ultimately responsible for ensuring the academic standards and quality of the education they provide.

The QAA has data sharing protocols with other bodies such as HEFCE and the OIA, and requires all universities in receipt of public money to submit an annual return. It uses this return to assess the risk of an institution and the level of scrutiny needed in its on-site Institutional Review (which is every six years). During a more intensive full review, the QAA send in an inspection team headed by a QAA officer leading trained contracted reviewers, including a student reviewer and professionals from the sector. The team interviews staff and students, and judges the provider as: 'commendable' or 'making acceptable progress', 'requires further improvement' or 'is not making acceptable progress'.

Where a provider falls into the last two categories, they will be required to submit a new action plan within 30 days of the visit. A full review will then take place within six months of publication of the outcome of the monitoring process. Upon an institution making significant improvements, the QAA will revise its judgment.

The QAA also operates a 'Concerns Scheme', whereby anyone can submit a concern to the QAA about an institution, and if upheld, can trigger an out-of-cycle review, with an action plan put in place for the university. This scheme is becoming increasingly important as the HE sector moves towards a more risk-based regulatory approach.

Intervention

There are few enforcement powers licensing external interventions in the affairs of English universities. Rather, problems are solved or pre-empted through a range of self-intervention, peer collaboration, support from the QAA and HEFCE, and guidance from the Committee of University Chairs.

The QAA, for example, has no formal powers to penalise providers and it relies on its public voice and the fact that the results of all reviews are published and available online to encourage universities to maintain high academic standards. Similarly, OFFA has relatively few formal enforcement powers over universities, and in extreme cases, both OFFA and the QAA can recommend HEFCE launch their 'unsatisfactory quality policy'.

In this scenario, HEFCE works closely with the university and other agencies as appropriate, to assess the risk status of the institution. A green, amber or red risk judgement will be attached to the university, and depending on the severity of the risk, HEFCE will devise a support or recovery plan, and send a written request or notice to improve to the governing body. In cases where a governing body has committed a serious and wilful breach, or a critical risk is uncovered, HEFCE may decide to withhold grants, publish the university's risk status or recommend the removal of designated course status.

Healthcare: Foundation Trust Hospitals

Summary

- Trusts are **licensed** and **regulated** by Monitor and the CQC, who also **monitor** and **inspect**
- Hospitals' performance is rated by the CQC and data is published
- **Inspections** can be responsive, themed or scheduled
- Boards of directors are appointed by trust governors, who are elected by the trust's membership
- Boards are responsible for quality and financial sustainability; they are also accountable to their commissioners and Parliament
- Local and regional Quality Surveillance Groups bring key **stakeholders** together to identify potential issues
- **Support** and **guidance** on improving outcomes are available from organisations such as NICE
- **Interventions** are directed by Monitor
- Trusts can be placed under Special Administration if their finances become unsustainable or the continuity of an essential service is threatened

By April 2014, most hospitals in England are expected to have converted from NHS trusts to NHS foundation trusts. Foundation trusts were introduced in 2002 in an effort to make the NHS more 'patient led', and differ from NHS trust in their greater strategic and financial autonomy.

Governance and Accountability

A board of directors, including a chief executive and financial director, is responsible for the day-to-day running of the hospital and is appointed, and held to account, by a council of governors who share responsibility for setting the overall direction of the organisation. The governors are elected by the patients, staff and members of the wider community who make up the foundation's members, and are expected to ensure that the needs and preferences of stakeholders are represented.

Aside from their governing body and members, the directors of foundation trusts are accountable to:

- those who commission services (Clinical Commission Groups) through contracts
- Parliament (each foundation trust must lay its annual report and accounts before Parliament)
- the Care Quality Commission (through the legal requirement to register and meet the associated standards for the quality of care provided)
- Monitor through the NHS provider licence

Regulation

The regulation of foundation hospitals in England comprises of two main elements: regulation of the quality and safety of care, undertaken by the Care Quality Commission (CQC), and regulation of finances and leadership, which is the responsibility of Monitor. The regulators are being supported by newly established local and regional Quality Surveillance Groups, who bring together commissioners, local Healthwatch representatives and other bodies on a regular basis to share information about quality that may indicate an early warning of a problem.

Care Quality Commission

The CQC registers all healthcare providers, sets the fundamental standards of quality, monitors and inspects providers, and publishes performance data. Recent high-profile cases of substandard care in the NHS, such as Mid Staffordshire, have led to a series of changes in the CQC's approach to regulating healthcare. The organisation's focus has shifted to inspecting quality, as opposed to merely regulating compliance, and an Ofsted-style approach to inspections has been developed. A new set of fundamental standards have also been adopted asking if care is: safe, effective, caring, responsive to people's needs, and well-led.

The CQC continually monitors healthcare providers across a range of metrics and updates each hospital's Quality Risk Profile nine times a year. Certain indicators known as 'smoke detectors' may cause a hospital's profile to be raised, upon which the CQC will request further information or launch a 'responsive' inspection of the relevant department or hospital.

As well as 'responsive' inspections, the CQC also carries out 'themed' and 'scheduled' inspections to ensure that all hospitals are inspected at least once a year. All inspections are unannounced and typically take around fifteen days, with six to seven of these spent on-site. Following recent criticism, inspection teams are now comprised of independent subject experts and members of the public as 'experts by experience'. Inspectors spend most of their time directly observing care and talking to patients, their families or carers, and staff.

Following an inspection, the Chief Inspector of Hospitals will publish ratings for each hospital and service across five fundamental standards, rating them as either 'outstanding', 'good', 'requires improvement', or 'inadequate'. The purpose of these ratings is to help patients choose between services, and to encourage improvement. Hospitals will also be presented with a report identifying areas of concern or good practice.

In situations where the CQC find a hospital operating below their fundamental standards of care, or where persistent and systemic failure is apparent, a warning notice will be sent to the board identifying where improvements are needed, and requiring action within a clearly specified timeframe. From this point, Monitor will be responsible for assessing whether a foundation hospital's trust is taking reasonable steps to rectify the problem and if intervention is required to secure the necessary improvements. The CQC, however, reserves the right to prosecute if its inspectors find evidence that patients are being put at direct risk of harm.

Monitor

In response to the changes in the Health and Social Care Act 2012, Monitor's role has similarly changed and expanded. Monitor will be responsible for:

- licensing and regulating foundation trusts
- setting prices across the NHS; safeguarding choice and preventing anti-competitive behaviour which is against the interests of patients
- protecting essential health care services for patients if a provider gets into financial difficulties

Monitor uses the conditions of its licensing agreements as its principal regulatory tool to promote financial viability and effective leadership. This can justify enforcement action and interventions where necessary.

Hospitals are surveyed by a Monitor relationship manager, and Monitor's *Quality Governance Framework* provides boards with examples of good practice. Monitor recommends that foundation trusts should commission an independent review of their governance every three years, and obliges boards to submit annual and quarterly plans, as well as ad hoc reports. Each trust is then assigned with an annual and quarterly risk summary, rating the NHS foundation trust on its:

- Governance (rated red, amber-red, amber-green or green)
- Finance (rated 1-5, where 1 represents the highest risk and 5 the lowest)

These risk ratings are used to assess risk on a forward-looking basis and allow Monitor to determine the intensity of future monitoring, or ascertain whether further investigations need to be made. The quarterly plans also provide a measure against which Monitor can hold a foundation trust's board to account.

Interventions

Ultimately, it is the responsibility of the board of directors to deliver improvements through internal interventions, sourcing peer support, or by calling in assistance from auditors or quality enhancement agencies such as NICE (National Institute for Health and Care Excellence). However, in cases where this has failed to happen and the foundation has received a warning from the CQC, or Monitor has identified a breach in licence conditions or a serious risk, Monitor will intervene to direct improvements.

Monitor's interventions will vary in their aims and methods. In the case of interventions in order to improve provision, or to realign finances, Monitor might request the board to develop a recovery plan, co-operate with third parties, or instigate a governance review. Monitor may also even remove and appoint governors, or impose further conditions on the foundation's licence. In some cases it will be necessary to send in a Contingency Planning Team to further assess the options for intervention.

In cases where hospitals are facing serious financial difficulties or the continuity of an essential service (i.e. a commissioner requested service) is at risk, Monitor may appoint a Trust Special Administrator to take control of the foundation. This allows Monitor to take action to deal with foundation trusts that are either unsustainable in their current configuration or at serious risk of failing to deliver high quality, sustainable services. The Administrator must develop and consult locally on a draft report, before making final recommendations to Monitor and ultimately to the Secretary of State for Health in a final report. Any of these steps may result in either one or more of the outcomes of the six types of intervention being achieved.

Policing: Police Forces

Summary

- Police forces are directed by a chief constable who can be appointed and dismissed by the Police and Crime Commissioner (PCC)
- PCCs are **elected** by the public on five year terms and are responsible for the policing budget and localised policing strategy
- Her Majesty's Inspectorate of Constabulary (HMIC) **monitors** policing activity on a monthly basis publishing the 'Crime and Policing Comparator' and 'Value for Money profiles' allowing the public and Policing and Crime Panels to assess the performance of their local police force and hold their PCC to account
- **Inspections**, which also occur on a thematic basis, are carried out on a principle of 'no surprises' and cover most forces once a year
- HMIC, the Home Office, and PCCs may initiate an **inspection** of a police force and may place forces under a **formal monitoring regime** and have the power to access premises and demand information
- The Policing College provides **training** and **support** for forces wishing to improve provision
- Serious concerns are to be passed on to the Home Secretary

The Police Reform and Social Responsibility Act 2010 established a new more 'democratic' governance framework for the 43 geographical police forces of England and Wales. The Act abolished police authorities in November 2012, and replaced them with directly elected PCCs.

Governance and Accountability

Each police force is headed and directed by a chief constable who is appointed and held to account by their local PCC, or in the case of London by the Mayor's Office for Policing and Crime. PCCs are elected every five years, and are responsible for delivering a five year police and crime plan, based on local priorities developed in consultation with the chief constable, local communities and other partners. PCCs also have control over their force's budget and are responsible for commissioning certain aspects of policing.

Police forces and those who direct them are also held in check by:

- Policing and Crime Panels made up of local representatives who scrutinise the work of PCCs
- the Policing Protocol which spells out PCCs' and chief constables' statutory duties
- the *Strategic Policing Requirement* which sets out how police forces must prepare for cross-force and national threats

- Her Majesty's Inspectorate of Constabulary (HMIC), the police regulator
- the Independent Police Complaints Commission, responsible for investigating complaints against police officers and staff

Regulation

HMIC is the independent body responsible for monitoring and inspecting police forces with the aim of encouraging improvement. Unlike many of the other sector regulators considered here, HMIC has a long history, being established in 1858. However, recent reforms have attempted to distance the organisation from the police service to enable HMIC to 'see policing through the public's eyes'.

HMIC's independence is guaranteed through five inspectors, appointed by the Crown rather than the police service or government. The Chief Inspector reports to Parliament on the efficiency and effectiveness of police forces in England and Wales, and HMIC makes its data publicly available.

Monitoring of forces is integral to HMIC's work and at monthly meetings HM Inspectorate assesses the latest data in key performance areas and inspection findings. The monitoring regime tracks changes over time and compares the differences between forces, taking into account media developments, public attitudes, and complaints of misconduct. This process determines which forces will receive closer monitoring and also provides the basis of the interactive 'Crime and Policing Comparator' and the 'Value for Money profiles' used by Policing and Crime Panels and PCCs in assessing the performance of their local forces.

On discovering any discrepancy or deterioration in standards through the monitoring process, HMIC may contact the chief constable and PCC of the force concerned to enquire about the situation, or will initiate a full risk-based inspection. Inspections, which also occur on a thematic basis, are carried out on a principle of 'no surprises' and cover most forces once a year. Chief Inspectors will be notified and the inspection framework, approved by the Home Secretary and laid out before Parliament at the beginning of each financial year. This provides a clear indication of what HMIC will be looking for in their inspections.

An inspection will last two or three days. An inspector will talk to staff, examine administrative procedures, view accounts, and assess operational performance. Once an inspection is completed, HMIC formally provides forces and their PCCs with a final report, and publishes the recommendations. PCCs are obliged to respond to these reports outlining how they intend to implement their recommendations. Their actions are then monitored.

Interventions

HMIC does not intervene in the ‘traditional’ way to maintain standards. Rather it uses its public voice and the relationship between chief constables, PCCs and the public to encourage forces to improve their performance through self-intervention. PCCs are able to commission HMIC reviews into their own police forces and are expected to seek support or training from the sector’s professional body, the College of Policing.

Where HMIC has concerns about the performance of a force, a formal monitoring relationship and dialogue with the chief constable and PCC is opened. This process includes in-depth analysis and seeks to establish the following:

- Does the force recognise there is a problem?
- What is the capacity and capability of the force and the prospect of the problem being fixed?
- Is it likely to be short lived or enduring?

Should a concern persist, the chief constable and PCC of the force in question are invited to a quarterly meeting of the Crime and Policing Monitoring Group, made up of representatives from the Association of Chief Police Officers, the Home Office, and the Association of Police Authorities. Although attendance is voluntary, the meeting gives the force the chance to explain the situation and take on board recommendations.

While this mechanism is the main way in which HMIC intervenes, it must pass on any serious concerns to the Home Secretary and it does possess powers to search force premises and demand information.

Figure 3 - Models of intervention across the public sector

	Further Education – Colleges	Education – Schools
Leadership and Governance	Principal/chief executive Senior Management Team, Governors	Headteacher, Senior Management Team, Governors or Academy Trustees
Accountable to	SFA (BIS), EFA (DfE) Commissioning bodies e.g. LEPs	Local Authority (maintained schools) EFA, DfE
Regulators	Ofsted (statutory), SFA	Ofsted (statutory), EFA
Quality enhancement agencies	Formerly LSIS, to be ETF and others	National College of Teaching and Leadership
Monitoring arrangements	Ofsted: automated provider assessments and desk-based review by HMI SFA: Provider risk-assessment matrix- updated quarterly EFA: Annual assessments of financial health and minimal standards across sixth form colleges	Ofsted: Risk-assesses schools depending on last inspection and the result. 'Outstanding' and 'good' schools will be risk-assessed annually 3 years after their last inspection. Floor standards are also monitored
Inspection	Ofsted: Risk proportionate inspections. 2 day's warning, 3-5 days long. 'Outstanding' providers exempted, and 'good' providers not re-inspected for another 6 years. Thematic inspections may also take place	Ofsted: Full inspections normally last around 2 days and are announced on the working day before the inspection. The frequency at which a school will be inspected is risk-based, but thematic reviews and subject surveys may inspect exempted schools
Actions to address underperformance	Funder attaches conditions or withdraws funding, independent providers may have contracts terminated. Providers receiving a requires improvement judgement will have 3 days of Ofsted support to design a development plan and identify relevant support	Ofsted: 'Requires improvement' schools will be re-inspected within 2 years. An inadequate judgement or special measures results in a closer monitoring relationship between Ofsted and the school. Development plan, section 8 inspection 3 months later, termly check ups
Formal intervention triggers	Rated 'inadequate', consistant underperformance. Financially unsustainable	Rated 'inadequate', failing to meet floor standards, unsustainable finances, child protection issues
Formal interventions directed by	The FE Commissioner on behalf of BIS and DfE	Schools Commissioner, Secretary of State for Education/Local Authority
Potential actions	FE Commissioner: Within 2 weeks will recommend one, or more, of the following: Replacement of Governors, Administered College status including a Structure and Prospects Appraisal, the loss of powers over expenditure; transferring assets; and staff changes. Tendering for new providers or closure	Local Authority: appoint additional governors, direct the governing body to collaborate with another school, FE provider or join a federation. Suspend a governing body's power over their delegated budget. Replace the governing body with a Interim Executive Body Secretary of State: Appoint additional Governors or replace with an IEB. Process an academy order or close the school

Higher Education – Universities	Health – Foundation Trust Hospitals	Policing – Police Forces
Vice Chancellor, Senior Management Team, Governing body	Board of Directors, Trust Governing Body	Chief Constable (CC), Police & Crime Commissioner (PCC)
HEFCE (QAA, OFFA, OIA - informally)	The Trust's members, Commissioning bodies, Parliament	Local police and crime panels, The electorate,, HMIC, IPCC The Home Office
HEFCE (through funding conditions)	CQC, Monitor Audit Commission (statutory)	HMIC Audit Commission (statutory)
QAA, HESA	NICE, Royal Colleges	College of Policing, ACPO
HEFCE: Reviews of universities' annual assurances, and 5 year visits QAA: Review of provider's annual and short monitoring visits including staff and student interviews. Providers making commendable progress may not require a visit in the next year	Quality Surveillance Group: Monitor developments on a local level CQC: Registers providers then monitors them on a broad range of metrics. Those identified as underperforming will be put on the raised profile list and face further investigation Monitor: Review annual statements, in-year financial reporting, governance information	HMIC: Monthly monitoring sessions during which performance data is analysed and considered alongside media developments, public attitudes and complaints
QAA: Full reviews triggered by significant changes or concerns noted in the monitoring process (special concerns scheme). Otherwise occurring every 6 years	CQC: Scheduled, responsive and themed, carried out by experts by subject and experience. Unannounced. Publishing report and summarising findings in a provider profile with Ofsted style rating	HMIC: Conduct thematic and risk-based A full report for each inspection is published and PCC's are obliged to respond with how they intend to take up the report's recommendations
QAA: Makes recommendations for improvement HEFCE: Unsatisfactory quality policy can lead to further QAA reviews and potentially the withdrawal of funding	Monitor: Enhanced monitoring. Request a plan of action. Cash lock up - limiting how a Trust can spend their budget. A contingency planning team may be sent in to investigate	Where concerns are found a formal monitoring process will be instigated, and a dialogue opened up with the CC and PCC. In serious cases the CC and PCC will be invited to HMIC's quarterly meeting to explain the situation and take advice. Attendance is voluntary. In other cases HMIC's public voice and pressure from a force's PCC should encourage positive change
QAA recommendation. Financial mismanagement	Warning from CQC on systematic failure. Breach of Monitor's standards. Financially unsustainable	Serious concerns
Arrangements not explicit	A Monitor Special Administrator	Arrangments not explicit
HEFCE: Fines or cuts in funding. Recommendation for the removal of designated course provider status. In the case of London Met the Home Office imposed a ban on enrolling non-EU students, HEFCE stepped in to find alternative places for students to complete their courses	Monitor: Can alter the licence or impose additional conditions on a provider as well as take a range of enforcement actions including demanding the provider implement an urgent care plan. Should Monitor's recommendations not be followed by a Trust Monitor may replace the board and governors. In cases where reconfiguration may be the best solution for fundamental issues a Special Administrator will be appointed	PCC: Can dismiss a Chief Constable The Independent Police Complaints Commission and the Secretary of State may also play a role

4. ANALYSIS AND FINDINGS

Given the concerns about FE providers' performance in 2012, this inquiry set out to assess the emerging intervention model and improvement cycle in further education colleges in light of the significant policy changes outlined in the opening chapter. We have analysed the process of intervention, looked to past practices in FE and skills, and studied the emerging models of intervention and improvement across a changing public sector.

We conclude that in further education, practice is ahead of policy.

In this chapter, practice in FE and the rest of the public sector will be assessed against the archetype proposed in Chapter 2 (Figure 2). The stages of intervention will be assessed from both an internal and external perspective, looking at how organisations identify and respond to signs of weakness, as well as the role played by sector regulators and government agencies. Recommendations for the further education and skills sector are made throughout.

Stages 1 and 2: Identifying problems and finding solutions

Within organisations

Across the public sector, as in further education, it is ultimately leaders and governors that are responsible for monitoring performance, identifying risks and taking the necessary actions for delivering improvements. Clear governance arrangements and an understanding of a board's full range of responsibilities are crucial to achieving this.

In FE, Ofsted has cited clear links between governing bodies too focused on financial matters, and poor teaching and learning.[22] Other parallels can be found across the public sector where an imbalance of attention to the operational, financial or strategic aspects of an organisation has led to problems arising in the neglected fields.

In healthcare, the Francis Report into the "appalling and unnecessary suffering of hundreds of people" at the Mid Staffordshire trust between 2005 and 2009, was highly critical of the way in which the board prioritised its strategic aim, to gain foundation trust status, over maintaining sufficient staffing levels and listening to the concerns of patients and staff.[23]

In policing, the introduction of Police and Crime Commissioners can also be seen as an attempt to ensure police forces give greater attention to the communities they police. The elected position of PCCs acts, it is hoped, as a powerful incentive to ensure police forces are meeting local needs. Public consultations and specially commissioned HMIC reviews are just one way a PCC might keep tabs on the performance of their force.

We came across examples of clinician governors in hospitals inspecting the provision

22 Ofsted (November 2012) 'The report of Her Majesty's Chief Inspector of Education, Children's Services and Skills: Learning and Skills' p.6.
23 Robert Francis QC (February 2013) 'Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry' Available at: http://www.midstaffspublicinquiry.com/report

of their own wards, and FE colleges conducting voluntary Structure and Prospects Appraisals. Such examples of self-assessment demonstrate how effective organisations will identify weaknesses themselves and develop solutions in house. An added advantage of self-assessing one's own problems and developing solutions is that it can avoid the reputational damage poor inspection findings can create. Self-improvement and monitoring is preferable to externally-directed and last-minute intervention. Effective and balanced governance plays a crucial role in an organisation's ability to do this.

There also remains an amount of uncertainty across the sector around the new bodies, the new figures, and their roles and responsibilities in intervention and improvement. More needs to be done to provide college leaders and governors with the knowledge they need to successfully navigate the new system that places greater responsibility on them to deliver a responsive and high quality service.

Recommendation 1

College corporations should adopt better scrutiny procedures, become more self-critical in assessing how they perform their role, and ensure they are giving adequate attention to the quality of their provision as well as their finances.

Recommendation 2

The Department for Business, Innovation and Skills should clarify and communicate the respective roles and responsibilities of sector bodies in the emerging system.

Monitoring and assessing from outside

The mechanisms and procedures used by external agencies to identify problems and assess what organisations need to do to improve plays an important part in highlighting good practice, maintaining standards, flagging problems and uncovering systemic risks. Taking a sector-wide view of stages 1 and 2, we found that the regulatory architecture across the sectors shares common features in their arrangements, methods and aims. With the exception of HE, all the sectors are subject to statutory regulation, and there is a general division between bodies regulating quality and standards, and those assessing financial health and sustainability.

Identifying risks and problems

Sector regulators and most funders monitor providers across the year and conduct risk-based and thematic inspections. In the same way the SFA maintains a quarterly provider risk-assessment matrix, the CQC updates hospitals' Quality Risk Profile up to nine times a year and HMIC reviews the latest police performance data at monthly meetings. Ofsted, HMIC, the CQC, Monitor, and the QAA all factor in qualitative data to their monitoring process, considering media coverage, complaints, concerns raised by local stakeholder groups, and changes in leadership.

Across the healthcare sector particular thought has been given to identifying the early warning signs of problems. Quality Surveillance Groups comprised of key local stakeholders have been established, and the CQC has developed a range of 'smoke detector' signals, which include data on staff satisfaction and turnover, as well as the more obvious signs of trouble.

The Skills Commission repeatedly heard, when discussing service failures across the public sector, that the warning signs were clear to see, yet failure ensued regardless.

Recommendation 3

Better early warning signals need to be developed and shared across the system to allow early and pre-emptive interventions to take place.

With regard to inspection regimes, higher education and policing stand apart from the other sectors considered with inspections of police forces and universities being scheduled and announced in advance. This is in contrast to the limited notice period given to FE colleges and schools by Ofsted, a practice that the CQC is now incorporating into its inspection regime.

The involvement of service users in inspections, beyond merely taking into account their views, is also an interesting feature of QAA reviews and the CQC's new inspection framework. For example, student reviewers are trained by the QAA and participate in university reviews, and the CQC now include 'experts by experience' in their inspection teams. The inclusion of service users in inspection teams allows for a greater emphasis on the service user's perspective. This approach is particularly suited to universities and hospitals given the way individuals relate to them, i.e. often as mature adults who may attach a great deal of significance to the time spent in these institutions.

Recommendation 4

Ofsted, in consultation with the AoC and the 157 Group, should examine the CQC and the QAA model of inspection, with a view to including greater stakeholder engagement in the assessment of learning and skills providers.

There is also an increasing focus on improvement and quality over mere compliance with baseline standards. In schools and FE colleges this is demonstrated by Ofsted's reclassification of Grade 3 from 'satisfactory' to 'requires improvement', and Ofsted's growing improvement role as outlined in *Rigour and Responsiveness*. Interestingly, this approach to grading is another example of an FE and education practice being adopted by the CQC as they seek to focus attention on the quality of care in the wake of the *Francis Report*.

Assessing Problems and the Intervention Style

Reflecting on stage 2 of our understanding of the intervention process – assessment – regulatory bodies across the public sector play an important part judging the severity of an organisation's problems, and often play a role in recommending solutions or encouraging organisations to develop action plans.

Most regulators will make a judgement on the capacity of an organisation to overcome its problems. For example, Ofsted will differentiate between 'inadequate' schools with 'serious weaknesses', but with able leadership, and those where special measures will be required for improvement. Similarly HMIC and the QAA issue confidence ratings and Monitor, like Ofsted, gives a specific grading to the effectiveness of an organisation's governance arrangements.

There is further commonality regarding the outcome of inspections. In much the same way as Ofsted operates upon identifying underperforming providers, most regulators and reviewers of quality across the public sector will make recommendations and expect organisations to incorporate these into their improvement plans. The level of input differs from sector to sector and in accordance with the scale of the challenges organisations face, sometimes broad recommendations will be made, other times organisations may be offered a greater level of engagement such as the three days Ofsted now offers to Grade 3 colleges, or the Contingency Planning Teams that Monitor may send into a foundation trust.

Stage 3 - Intervention

Self-intervention

Once the required measures for improvement have been identified, corrective actions, stage 3 of our process, can take place. Across the public sector we found a wide range of options open to providers. Self-interventions, whether initiated by the organisation or recommended by external organisations may start with internal reforms, changing the way services are run, cutting back on spending, and retraining or removing members of staff, senior or otherwise.

Most sectors have organisations dedicated to training and disseminating best practice. The National College of Teaching and Leadership and the Royal College of Policing provides training programmes for schools and police forces, while within the healthcare sector there are numerous colleges dedicated to occupational specialisms. Support may be sourced from these sector bodies or other organisations with expertise in training, public relations or financial auditing to assist public sector providers in improving their provision, realigning their finances or reconfiguring their services.

The Skills Commission was particularly interested in how the expertise of leaders and governors across each sector is tapped into and used to assist organisations wishing to improve their provision. The National Leaders of Education programme is a particularly good example of how the FE sector might encourage greater collaboration between colleges.

Recommendation 5

The Education and Training Foundation should develop a programme similar to National Leaders of Education that accredits successful principals and governors and deploys them to assist struggling colleges and other providers.

More drastic measures might even be taken by organisations to respond to user needs, future risk and problems. Schools may voluntarily convert to academy status to reap the benefits of greater freedoms and budgetary control, NHS trust hospitals can apply to Monitor for Foundation status and colleges may choose to merge for a variety of reasons or develop new business models as suggested in *New Challenges, New Chances*.

The Commission were particularly impressed by examples of intervention that included and involved service users themselves. This is a key feature of a more responsive public sector that colleges should seek to encourage.

Recommendation 6

Colleges should take forward learning from the LSIS *Design for Improvement* project on how to involve learners – service users – in the intervention process itself.

After 20 years of incorporation, there are some excellent college leaders and boards which, within their institutions, have developed what we have come to know as effective practices of self-intervention and are well prepared to for the new challenges and new chances that sector faces. In many ways, further education is a leader in public sector self-intervention, and practice is ahead of policy. What the sector lacks is a clear method for communicating and sharing best practice in intervention.

Recommendation 7

The Skills Commission should research examples of self-intervention within further education providers and these should be widely disseminated.

External intervention

In some cases regulators and funders may enforce sanctions or intervene directly to achieve desired outcomes. The lack of statutory powers of regulators in HE makes sanctions, or more precisely the threat of reduced funding, HEFCE's most powerful tool in ensuring the maintenance of standards alongside the reputational damage its criticisms can inflict on a university competing to enrol students.

In FE, healthcare and the schools system, there are clear responses to underperformance. In the case of schools placed in special measures, they will be open to interventions from either the local authority or the Secretary of State for Education. This can result in the removal of governors and the leadership, mandated directions for improvement, imposing spending arrangements on the school, the issuing of an academy order, or closure. Monitor has a raft of similar powers when it comes to struggling foundation hospitals.

Against these the new arrangements being put in place by BIS for intervention under the direction of an FE Commissioner, appear equal to, if not more advanced than, other sectors which either lack formal processes or specially dedicated appointees to assess problems and advise on the best solutions under a given timeframe.

The Commissioner, acting as the point of contact between a failing college or provider, the funding agencies and relevant government department, provides the clarity and momentum needed in a time of uncertainty. The role of FE Commissioner builds on the thinking behind the development of LSIS's Escalated Intervention Service, but crucially allows for the recommendations of the recovery plan to be backed up and enacted.

However, whilst the FE Commissioner and Administered College status may serve failing colleges well, we believe that students and communities deserve to be protected from failure and that the Commissioner ought to have the power and ability to intervene before the point of failure and crisis. Whilst it is too early to make a firm recommendation on the role of the FE Commissioner, we do suggest that BIS keep an open mind about expanding the role's remit to include earlier interventions before the point of crisis.

Along these lines we are also concerned that formal intervention through the FE Commissioner does not adequately challenge persistent underperformance quick enough. While we welcome the changes to Ofsted's inspection framework re-categorising 'satisfactory' to 'requires improvement' and potentially relegating colleges deemed to 'require improvement' to 'inadequate' on their third Grade 3 Ofsted judgment, we are concerned that this still allows for up to three years of underperformance. Coasting towards failure is unacceptable.

Recommendation 8

Ofsted should consider grading a college as 'inadequate' if it fails to show any signs of improvement between its first and second 'requires improvement' judgment.

Recommendation 9

Given Ofsted's move into providing support for improvement, we encourage Ofsted to publish an early evaluation of the impact of the support services to providers that require improvement.

Failure Regimes

When it comes to the uncovering of major operational, strategic, and financial failings, FE and healthcare appear to have the most developed failure regimes. Upon the discovery of the failure of a provider to meet minimum standards, serious financial difficulties, a breach of conditions or an 'inadequacy' judgment, these sectors have clearly structured intervention processes directed by specially appointed individuals and teams. This reflects the greater complexities of colleges and hospitals in comparison to schools, and the wider social and economic consequences of failure in these institutions.

Failing hospitals placed in 'special administration' will be assigned a Trust Special Administrator to take over the day-to-day management and develop a plan for the reorganisation of services. While the FE Commissioner, appointed to intervene in failing colleges does not take over the running of the college, the role is similar to that of the Special Trust Administrator in that they are both put in place to assess the organisations options, devise a plan of action and suggest recommendations to either the DfE and BIS, or Monitor and the Secretary of State for Health.

Based on the FE Commissioner's recommendations, further interventions can be made including the replacement of governing boards, Administered College status removing freedoms and flexibilities, restructuring or opening provision up to alternative providers following a Structure and Prospects Appraisal. Like interventions in schools and hospitals, the FE Commissioner's recommendations could potentially result in the dissolution of a college, or its transformation into a different type of FE and skills provider or even multiple organisations.

Stage 4 and 5 – Embedding and Evaluating

Given the numerous forms of intervention, the varied the reasons behind them, and the time it may take to fully implement them, the final stages the process, securing and evaluating the outcome will differ from case to case. Typically, externally led or encouraged interventions are accompanied by systems of formal monitoring or special inspection regimes which judge actions and emerging outcomes against the intended aims of the intervention.

In carrying out further research into self-intervention, we expect that these final stages will be given greater priority in the analysis.

Recommendation 10

The Education and Training Foundation should research and monitor processes of embedding and evaluating interventions that take place in colleges, with a view to sharing best practice.

THE SKILLS COMMISSION

The Skills Commission is a group of leading experts and opinion formers from the education and skills sector that carries out research and makes recommendations for skills policy reform. Recent inquiries have explored specialisation in FE, Information Advice and Guidance (IAG) services, apprenticeships, and teacher training in vocational education.

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ACRONYMS

BIS	Department for Business, Innovation and Skills
CCG	Clinical Commissioning Group
CQC	Care Quality Commission
DfE	Department for Education
EFA	Education Funding Agency
EIS	Escalated Intervention Service
HEFCE	Higher Education Funding Council for England
HMIC	Her Majesty's Inspectorate of Constabulary
IDS	Improvement Development Service
LEPs	Local Enterprise Partnerships
NICE	National Institute for Health and Care Excellence
OFFA	Office For Fair Access
OIA	Office of the Independent Adjudicator
QAA	Quality Assurance Agency
PCC	Police and Crime Commissioner
RDM	Regional Development Manager
SFA	Skills Funding Agency
SMART goal	A mnemonic for a goal that is: Specific, Measurable, Attainable, Realistic and Timely
UTCs	University Technical Colleges

SECRETARIAT

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Notes

Notes

ACKNOWLEDGEMENTS

The Skills Commission would like to thank all the individuals and organisations that participated in this inquiry.

In addition we would like to express special thanks to Peter Barrett, Chris Hall and Lynva Russell. We are also very grateful to Polly Fenn and Kathryn James for their assistance.

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