Department for Business Innovation & Skills

FE COLLEGE: EXCEPTIONAL FINANCIAL SUPPORT

FE College Resilience

NOVEMBER 2014

Contents

Introduction

This document sets out the steps BIS and the SFA will take, in exceptional circumstances, to protect learner provision where an FE College declares that it is encountering financial weaknesses, which it cannot resolve from its own resources or through its usual borrowing facilities.

1. ‘Rigour and Responsiveness in Skills’ (April 2013) set out the Government’s commitment to creating a world-class network of skills providers. It noted that high quality is best achieved by strong, accountable leadership working in partnership with learners, employers and their communities, and it outlined our approach to interventions in adult Further Education (FE) – which includes a trigger associated with failing financial health – making clear that protecting learner interests is the primary purpose of intervention.

2. This document sets out the steps BIS and the Skills Funding Agency (the Agency) will take, in consultation with the Education Funding Agency (EFA), when a FE College declares that it is in financial difficulty and approaches the Agency to seek exceptional financial support.

3. The approach applies to FE Corporations and designated institutions only (not Sixth Form Colleges) and will be applied to all requests for exceptional financial support during 2014-15, with an expectation that this approach will continue in 2015-16 and beyond.

Key Features of the New Exceptional Financial Support Policy

4. The purpose of this approach is to protect learner provision, particularly where it is high quality, sustainable education and training which is at risk due to a college experiencing financial difficulties. Requests for financial support will require detailed review, potential intervention actions and escalated decision-making, and so colleges should be aware that they need to carefully monitor and risk assess their cash flow forecasts to identify and resolve cash flow issues early. It is intended that, on an exceptional basis, limited repayable cash flow support may be made available to help address:

i. short and medium term financial weaknesses that cannot be readily addressed through normal borrowing arrangements;

ii. longer term actions which will deliver robust sustainable business models, good financial controls and strong resilience to change; or

iii. as part of an FE Commissioner-led intervention, where the financial assistance is required to enable the college to continue operating while the FE Commissioner conducts a Structure and Prospects Appraisal and then to support further actions where it is appropriate to do so.

5. There should be no presumption or expectation that Government will provide ‘emergency’ financial support to colleges and, where colleges do submit a request for exceptional financial support, they should do so in the full knowledge of the seriousness of their financial situation; the possible consequences of such a request being submitted, including FE Commissioner intervention; and the impact that refusal might have on its continued operations.

6. This new approach addresses three sets of circumstances where an FE college might request financial support:

i. <u>Short-term</u> cash-flow issues, where an increase to a college’s payment in one month will be repaid through reduced profiled payments from the Agency within the following three months;

ii. <u>Medium-term</u> cash-flow issues, where a college may require a longer period to manage the repayment of an increased profile payment, but where this will be managed within 12 months;

iii. Longer-term financial issues, where it is agreed that full repayment could not be made within 12 months, BIS will consider making a Loan available which the Agency will administer.

7. All requests for exceptional financial support will be considered by the Agency on a case-by-case basis, and it will determine the financial health grade of a college in accordance with the published criteria. Depending on the type of exceptional financial support requested, the Agency may assess the college's financial health as 'inadequate' which would then trigger consideration by the Case Review Group and possible referral to the FE Commissioner.

8. Such intervention by the FE Commissioner, as set out in the FE College Intervention Strategy [FE Intervention Strategy] may lead to changes in college governance and leadership, curriculum, and delivery models including new partnership arrangements with other colleges or providers. If the intervention identifies significant concerns over governance and leadership, along with concerns about the long term sustainability of the college, this could lead to the college being put into administered status. In extremis, the Secretary of State may exercise his statutory powers to direct aspects of the college's activities.

9. This approach seeks to safeguard learner provision, protect public funds and promote high quality, sustainable delivery. It is not a continuation of the Agency's previous Advance of Funds (AoFs) policy and outstanding advances made under the previous arrangements will be converted to the new arrangements. In respect of all future requests for support to help with short or medium term cash flow issues, there will be a strong expectation that the total amount of Exceptional Financial Support made available to a college will not usually exceed 40% of its funding from the Skills Funding Agency. In respect of requests for longer term support, there will be a strong expectation that any Loans advanced will not usually take a college's overall borrowing to more than 60% of its turnover. Where there are existing AoFs that need to be converted or exceptional financial support arrangements in place, the Agency will take a case by case approach which recognises existing commitments, whilst reflecting the new approach.

10. Financial support will only be considered by the Agency when it is clear that the college has explored and exhausted all other funding options. The college will be required to set out clearly why the funding is needed and what it will be used for. Should the Agency decide that an offer of Exceptional Financial Support is appropriate, this offer will carry terms and conditions which, whilst not seeking to direct or control college activity, are intended to protect these public funds and make clear the purposes for which the funding can be used, in line with the college's request. The offer will also set out the drawdown arrangements and the repayment profile, seeking to secure the earliest possible settlement, together with any implications associated with default. All of the terms and conditions will be agreed and accepted by the Corporation in advance.

11. Annex A provides an overview of the Exceptional Financial Support process.

Rationale for Change

12. The Government recognises the important contribution that FE colleges make to skills and growth across the country and seeks to support a college sector which is characterised by high quality provision which is meeting the needs of learners and employers, and is underpinned by sustainable business models, strong financial controls and resilience to change.

13. With more funding moving directly into the hands of employers and learners, and a declining adult skills budget, there is less funding going directly to colleges. Many colleges have responded swiftly to these challenges, reviewing their business models to reduce costs and increase their income from apprenticeships, loans, fees and other sources. However, those colleges that have not responded so swiftly are showing serious signs of financial stress. College financial forecasts suggest that the position will deteriorate over the short to medium term unless colleges take active steps to reduce their costs or secure additional income.

14. Where colleges have not taken sufficient active steps to address potential poor financial health or to adjust their business model in response to the changing economic environment, they have placed their very existence at risk, along with the provision they offer to their learners, employers and the communities they serve. This new approach to providing Exceptional Financial Support is intended to safeguard learner provision by offering those colleges that have exhausted all other funding options (and that recognise the need for change) an opportunity to move on to a sustainable footing.

Types of Exceptional Financial Support

15. There will be three types of Exceptional Financial Support:

i. Short Term Re-Profiling: this applies to short term cash flow issues.

Support of this kind will be considered where a college requires a re-phasing of its "in year" Agency allocation to deal with a short term cash-flow issue e.g. arising from a delay in the receipt of funds coming through from the sale of an asset. The re-phasing will involve an increase to a college's payment in one month with an expectation of repayment through reduced profiled payments within the following three months.

Such a request would be subject to Agency financial review and assessment with careful consideration given to the issuance of a Notice of Concern and the need for FE Commissioner intervention. If, following assessment, the Agency judges the college to be otherwise financially sound, a Notice of Concern would not automatically be issued and intervention would not be considered at this point.

The Agency will, however, raise the college's risk rating and the Agency will review the college's financial position on a monthly basis and have the option to extend the duration of support up to a maximum period of 12 months. Where a Notice of Concern has not been issued, the Agency reserves the right to issue such a notice if upon review it finds that financial circumstances have changed, and to re-consider the need for intervention.

ii. Medium-term cash-flow issues: this is where a college requires longer than three months to manage the repayment of an increased profile payment, but where this will be managed within 12 months.

As described in (i) above, such a request would be subject to Agency financial review and assessment with careful consideration given to the issuance of a Notice of Concern. Where a Notice of Concern is not issued, the Agency will raise the college's risk rating and review the college's financial position on a monthly basis. Where a Notice of Concern is issued and the college's financial health is assessed as 'inadequate', FE Commissioner intervention will be considered in accordance with the Intervention policy.

iii. Loans for Longer-term financial issues: this is where it is agreed that full repayment could not be made within 12 months.

Where such a request for support is received, a Notice of Concern will be issued, the college's financial health will be assessed as 'inadequate' and FE Commissioner intervention will be commissioned. Funds will usually only be made available to implement actions from an FE Commissioner review, for instance it may be appropriate to provide loans to a college to deliver a rapid recovery plan or to implement a Structure and Prospects Appraisal. Loans will be issued by BIS and administered by the Agency. This approach is consistent with other BIS Executive Agencies and the Agency will undertake close monitoring through monthly reviews.

16. It is a condition of providing support that all monies made available through Exceptional Financial Support, including Loans, will be repaid at the earliest opportunity.

BIS/ SFA/ EFA Gateway

17. In order to implement the new Exceptional Financial Support approach, a joint Gateway and 'sign off' process has been put in place by BIS, DfE and the two funding agencies. This involves the following steps:

i. when a College submits a request to the Agency for exceptional financial support, the college's financial health will automatically be reviewed (this process includes input from the EFA);

ii. where such a review identifies that the college is otherwise financially sound, the Agency would not automatically issue a Notice of Concern, although this would be kept under review;

iii. where a college is seeking or is deemed to require a loan, the Agency will immediately consider issuing a Notice of Concern and flag to the college that the Department and funding agencies are considering whether further intervention action is required. This process will be followed whether or not the Agency decides to provide exceptional financial support – the Agency will also monitor how a college deals with the financial consequences of not receiving additional funding from the Agency.

Role of the Case Review Group

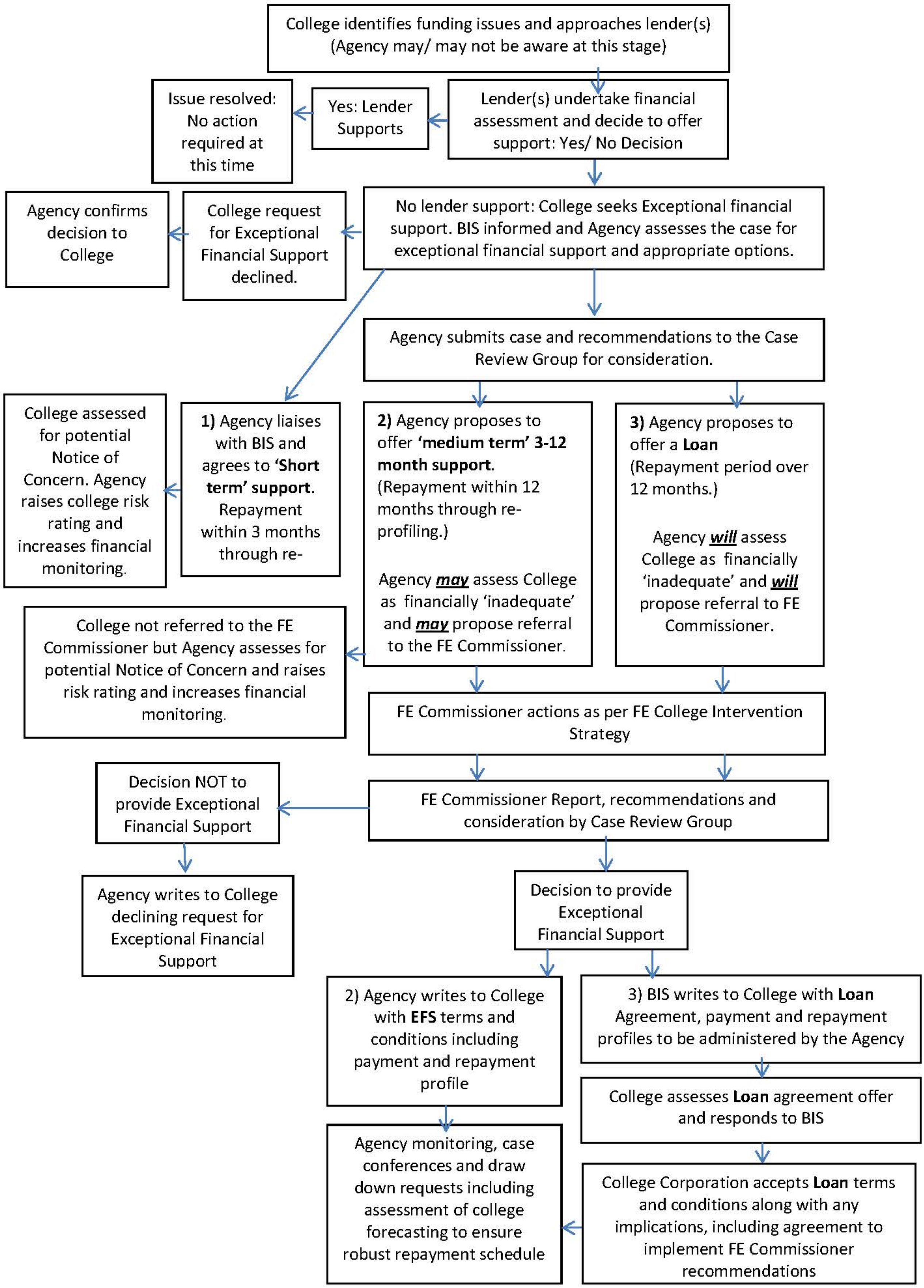
18. The Case Review Group, chaired by the Agency, brings together officials from BIS, DfE, the two funding agencies, Ofsted and the FE Commissioner on a monthly basis. The Case Review Group will consider what intervention action is necessary (including FE Commissioner referral) for those cases where a college has been assessed by the Agency as of ‘inadequate’ financial health because of a request for Exceptional Financial Support.

19. Whilst FE Commissioner intervention is automatic for longer term Loan support, the Group will have the option to consider whether a college seeking short/ medium term support, and which has been assessed as financially ‘inadequate’ by the Agency, should be recommended for FE Commissioner intervention. Such intervention would seek to assess the capacity and capability of the existing governance and leadership to deliver financial recovery and the action needed; and include discussion with BIS, DfE and the funding agencies about the feasibility of emerging options before these are crystallised into formal recommendations.

20. The Case Review Group will monitor and keep under review all ‘live’ cases.

Exceptional Financial Support

Annex A



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