



Department  
for Business  
Innovation & Skills

**STRUCTURE AND PROSPECTS  
APPRAISALS**

Further guidance to Further  
Education Colleges

APRIL 2014

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# Introduction

**This document provides additional guidance to Further Education Corporations on the triggers and process for undertaking a Structure and Prospects Appraisal, to supplement the information already provided in *New Challenges, New Chances*.**

## Background

1. Further Education Corporations now have greater freedom from government regulation and central control than ever before, enabling them to act as social enterprises serving their customers: learners and employers. In ensuring that what they are delivering is right for their area and communities, they are able to use this freedom to review and change their mission, governance, structures and delivery models so that they can better meet the needs of their customers. This is set alongside the responsibility of a corporation to ensure the continuing financial viability of their college.
2. With this increased freedom from regulation, colleges also take on increased responsibility to ensure that their provision meets the needs of their various communities, and that major organisational changes are designed to be responsive to learner and employer need. Responsibility for taking these decisions about the college's mission and vision, and changes to its delivery models rests firmly with the corporation. Decisions need to be taken by the Corporations in line with their role as strategic leaders and as trustees of the college as a charity. And most importantly they need to ensure that in making any change to their structure or delivery model they give first priority to meeting the needs of their learners, employers and the wider community.
3. *New Challenges, New Chances*<sup>1</sup> set out the government's policy on colleges considering major change:

*Any college considering a major change in their delivery model will undertake a College Structure and Prospects Appraisal and consider carefully and thoroughly the impact on their communities, consulting widely and transparently on their proposals, and taking explicit account of the views of the people – learners, employers, and the broader community – that they serve.*

4. This document provides further guidance for colleges considering a major structural change and sets out an outline process for undertaking a Structure and Prospects Appraisal, including the important issues that the appraisal should address. This guidance takes account of the practice adopted in a number of recent cases.

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/145452/11-1380-further-education-skills-system-reform-plan.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/145452/11-1380-further-education-skills-system-reform-plan.pdf)

## Why we are producing this guidance

5. Over the past few years many colleges have explored new delivery models. Some have set up new partnerships – with local and national partners including merger in some cases; some have federated with other colleges; some have sponsored or worked more closely with local Academies or University Technical Colleges; some are working in partnership with universities; and others have made internal changes to their governance structures. In addition we also expect to see more new providers enter the college sector, for the first time in over 20 years. These developments are transforming the sector and ensuring it is dynamic and responsive to the needs of customers.
6. At the same time, some colleges have indicated that they remain uncertain about what triggers and circumstances warrant a Structure and Prospects Appraisal; and the process which they would expect to follow, including undertaking an open, transparent and competitive process for selecting any new partners. Several colleges have asked for additional guidance from the government on the triggers and process for an appraisal, to supplement *New Challenges, New Chances*.
7. We have therefore produced this additional guidance for colleges on the Structure and Prospects Appraisal process, drawing on the experiences of colleges who have undertaken one recently and taking account of what is perceived to be effective practice and learned lessons when things have not gone as smoothly as hoped. This guidance supplements the policy set out in *New Challenges New Chances* and explains the triggers and process in greater detail.

## Who we are providing the guidance for

8. The Structure and Prospects Appraisal process applies to any FE Corporation seeking to undertake significant structural change, except Sixth-Form Colleges.<sup>2</sup> This guidance will be of particular use to Governing Bodies and Clerks of Corporations who undertake an Appraisal. It will also be of use to the college staff and the consultants and lawyers who are appointed to support them in this area.
9. This guidance does not cover colleges who are subject to formal government intervention. Colleges who trigger the formal intervention process will be subject to an assessment led by the FE Commissioner. In certain cases, following this assessment, the FE Commissioner may recommend that a Structure and Prospects Appraisal should be undertaken to determine appropriate changes that need to be made to the college's structure, governance or delivery model. In these instances the Appraisal will be undertaken by the FE Commissioner supported by FE Advisers, working with the college corporation. We would expect the process followed by the FE Commissioner and college in this instance to be the same as the process outlined in this document, but the focus of this document is on colleges looking to restructure their provision from a position of strength.

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<sup>2</sup> Although the Structure and Prospects Appraisal process does not explicitly apply to sixth-form colleges we would expect that many of the same issues will be considered by Sixth-Form Colleges considering significant structural change.

## **How and when the guidance will be updated**

10. We do not anticipate having to update this guidance. In the first instance colleges seeking further guidance on undertaking a Structure and Prospects Appraisal should make contact with their local Skills Funding Agency team.

# Section 1: Background

1. *New Challenges, New Chances* set out the full range of factors which should be considered by a college undertaking a Structure and Prospects Appraisal, and the process which should be followed.
2. The process set out in Annex A to *New Challenges, New Chances* is as follows:

<b>Triggers</b>	<ul style="list-style-type: none"> <li>• Change of circumstances</li> <li>• Need to increase choice</li> <li>• Opportunity to think afresh</li> <li>• Poor/Coasting Performance</li> <li>• Poor Financial health</li> </ul>
<b>Appraisal</b>	<ul style="list-style-type: none"> <li>• Draw up vision and desired outcomes</li> <li>• Agree success criteria and assess options against factors below</li> <li>• Establish proposals/implementation plan</li> <li>• Consult widely and transparently on proposals, and publish outcomes of consultation.</li> </ul>
<b>Action</b>	<ul style="list-style-type: none"> <li>• Implementation to move to new structure (including transitional arrangements)</li> <li>• Transparent open and competitive process to select any new partners</li> </ul>

3. Whilst a range of colleges have undertaken major structural change and have used the Structure and Prospects Appraisal process we have also been asked for clearer guidance on the process and triggers.
4. This document sets out an outline process and a suggested flowchart to illustrate it (at Annex A). The guidance is deliberately non-prescriptive as each situation and each college's circumstances will be different; so we have aimed to build in sufficient flexibility to accommodate this. A clear learning point is that before colleges consider any structural change the corporation needs to be absolutely sure that its mission and vision is right and supported by key stakeholders. Colleges should ensure that the interests of learners and employers remain at the heart of their mission and vision.
5. There is no requirement for a college to employ independent advisers or consultants to undertake the appraisal. In some instances colleges will find this independent advice beneficial, others may wish to manage the process themselves. In all cases the corporation will lead and oversee the process and be responsible for taking decisions. We appreciate that undertaking a full Structure and Prospects Appraisal is a significant undertaking for college governors and staff, requiring detailed strategic thinking and significant time commitment. In some cases it may be deemed appropriate to bring in individuals with particular skill sets and aptitudes, or to utilise the skills of governors, over and above their role on the corporation. BIS

has produced [guidance](#) on the remuneration of governors and this may be considered appropriate in certain circumstances.

## Section 2: When to undertake a Structure and Prospects Appraisal

1. The annex to *New Challenges, New Chances* sets out five triggers which would necessitate a college reviewing its mission and the best model for delivering that mission:
  - Change of circumstances;
  - Need to increase choice;
  - Opportunity to think afresh;
  - Poor/coasting performance; and
  - Poor financial health.
2. The last two triggers (Poor/coasting performance and Poor financial health) may, if they become inadequate, trigger the formal intervention process and any restructuring may be overseen by the FE Commissioner and Advisers (see Introduction, paragraph 9). However, changes of circumstance; need to increase choice; or the opportunity to think afresh, could trigger consideration of new structures and delivery models in any college, including highly successful ones.
3. Although the word 'Trigger' implies a sudden change in circumstance, we realise that sometimes this will be an evolutionary process. Most colleges have been in existence in one form or another for decades and will have built up relationships with stakeholders, partners and customers over a number of years which may evolve in different ways and changes to these relationships may necessitate colleges reviewing their structure and the way they do business

### Drawing up a vision and considering the position of the college

4. Corporations should review their mission and performance and how well they are responding to the needs of the learners and employers they serve, and many colleges do this on an ongoing basis. In this sense, we envisage the review of the mission of a college being more detailed than confirming the short 'mission statement' which most colleges have. Rather it is about confirming the college's role and purpose including the sectors, age range and provision type the college provides by answering the questions at paragraph 6 below. Through this regular process a college may identify that their current structure and delivery model is not allowing them to best meet the needs of their customers and that consequently, they need to review their strategic plan, structure and delivery models. At this stage we would not expect a college to have any firm structural solution in mind, but rather to be setting the criteria against which proposals will be judged.
5. Some of the circumstances which might warrant a review of mission and structure, and potentially trigger a Structure and Prospects Appraisal would include:
  - Feedback from employers or other stakeholders
  - Significant demographic changes



- New/changing provision and competition in the area
  - Significant expansion
  - Review of collaborative arrangements already in place
  - Changes in the governing body and/or management team
  - Other colleges or providers seeking new partners
6. As part of considering current mission and changes to it the college will need to:
- Consider the market in which it currently operates and consider some of the following questions:
    - is this a purely local college or does it offer provision regionally, nationally, or internationally?
    - is its focus on 16-18 provision, or adult provision? Does it feel it should move into 14-16 or HE provision?
    - what academic and vocational sectors does it focus on and why?
    - are there areas of niche provision which the college provides (e.g. offender learning, adult and community learning high needs students, vocational specialism, residential provision)?
    - what is the detailed feedback and views from key stakeholders about the relevance of the current offer in meeting local/regional/national identified needs?
    - what are the stakeholder views about the unique role the college should be playing as a social enterprise?
7. Having considered its mission the corporation may then consider that the current delivery model and structure are not optimally set up to deliver this; at this stage we would expect a college to begin a Structure and Prospects Appraisal. The significant factor will be the quantum of change. Of course a college may not know at the outset that they are embarking on significant enough change to warrant a full Structure and Prospects Appraisal. For many colleges this will be an evolutionary process and they may already have taken some decisions on their future plans before identifying the need to undertake a full Appraisal. In such cases they should use this document to confirm that in their process to date they have taken the necessary steps.
8. In all cases the college should start from the question 'how can the needs of current and future learners and employers best be met?', rather than starting purely from a position of how the current institution can survive.

# Section 3: How to undertake a Structure and Prospects Appraisal

1. Having identified the need for structural change a college will set out to undertake a rigorous and thorough appraisal of options, to determine the model that will best allow it to deliver its mission.
  - Undertake a detailed analysis of the local, sub-regional and regional environment and consider some of the following issues:
    - demographics – current and projected including deprivation
    - local employment patterns
    - LEP priorities and key sectors/employers
  - Undertake a detailed competitor analysis, including consideration of the following aspects:
    - potential competitors (such as new academies, UTCs, private providers, new school sixth-forms)
    - strategy/mission
    - learner numbers (trends over time)
    - curriculum provision and success rates
    - financial health
    - what is known of their future plans
  - Undertake a detailed review of its own performance, recognising that its mission/vision has evolved over time, including
    - relevance and responsiveness of provision
    - learner numbers (trends over time)
    - quality (trends over time)
    - minimum standards
    - strategic leadership and governance
    - financial position
    - travel to learn patterns (as appropriate to circumstances)

- feedback from learners and employers.
2. Some of the research in this stage of the Appraisal may be desk-based but some of it will need to be undertaken in consultation with key stakeholders, through written or online surveys and meetings with key representatives. Once this analysis has been undertaken the college will be able to develop a mission based around how it will meet the needs of the learners and employers it aims to serve. This should then be agreed by the corporation.

## Assessing options

3. In looking at structural change, no option should be ruled out from initial discussions and we would not expect colleges to presuppose a particular outcome.
4. Options that might be considered include:
- No change (as the base line)
  - Closure of College (with transfer of assets to another organisation and action to settle all outstanding liabilities)
  - Internally-focused changes
  - Federation models
  - Withdrawal from key areas of provision (curriculum areas, age range, academic/vocational/location etc)
  - Relocation
  - Looser collaborative models
  - Formal partnerships including Merger
  - New models – e.g. mutualisation
5. These options should then be assessed against the factors set out in *New Challenges, New Chances*, namely:
- Vision for the future
  - Impact on learners
  - Impact on employers
  - Impact with the community
  - Impact on quality
  - Value for money

- Impact on competition
  - Impact on staff
  - Impact on financial position
6. Colleges might want to consider how they score proposals against the factors, and whether there are other factors they would want to assess their options against.
7. The factors above might be used to score options numerically and then rank them to generate a shortlist of options (e.g. the top three on the list). These could then be further assessed against other criteria e.g.
- Practicality
  - Timescales
  - Risk profile
  - Ease of implementation
  - Support of customers, staff, key stakeholders, including funding bodies

## Consulting

8. Throughout the process we would expect colleges to consult thoroughly both internally, with staff and externally with their customers (students, prospective students, parents and employers) and local stakeholders.
9. However, it is crucial that colleges consult explicitly on their proposals with key stakeholders so that their views on proposals can be taken into account by the college in taking their final decision.
10. Key stakeholders whose views we would expect to be taken into consideration include:
- Students and prospective students, and their parents/carers, where relevant
  - Staff
  - Local employers
  - LEP(s)
  - Chamber of commerce
  - Local authority(ies)
  - Local MPs

- Other providers in the area – including schools, college, private training providers, higher education institutions
  - Provider associations
  - Funding agencies (SFA, EFA, HEFCE, DWP) and others such as Jobcentre Plus
11. There is no statutory basis for this consultation, and no requirement to consult with specific groups or individuals (e.g. Secretary of State, or Chief Executive of Skills Funding). Nor is there a required format – a paper consultation could be issued to selected stakeholders or it may be held online. Colleges may wish to hold individual meetings with key stakeholders to explain their proposals and seek views on them, in some cases they may wish to hold ‘townhall’ style meetings open to a range of stakeholders and to the public. The key point is that as locally accountable organisations colleges will want to be as open and transparent as possible about what they are proposing.

## Establishing proposals

12. Having assessed options against the chosen criteria the college will be able to identify a lead option and draw this up into a more detailed proposal, including plans for implementation. In solutions which require a partner (e.g. federation or merger) colleges should not presuppose any one partner at this stage, rather that partner should be sought through open and transparent competition.

## Taking a decision

13. Having consulted on its proposal(s) the college corporation should be in a position to make a decision on what structural change, if any, it should make. This decision is solely the responsibility of the corporation; there is no requirement for ministerial sign-off. However, the college should notify the funding agencies of their decision so that they can check and confirm funding agreement compliance.

# Section 4: What next?

## Looking for partners

1. In some cases the agreed new structure will require the college to work with other external partners, for example if federation or a new partner is deemed to be the model that best meets the needs of the college and their communities. It may be that a new partnership with another college, an independent training provider, academy chain, or higher education institution could offer the solution.
2. In these cases, given the need to comply with competition legislation and to ensure best value for public investment in them, we would expect the college to undergo an open and transparent competition to select a partner rather than presupposing that it will be one particular provider.<sup>3</sup> In most instances we would expect a college seeking a partner to invite applications completely openly without restricting the geographic or sectoral scope. However, in certain circumstances in undertaking the Structure and Prospects Appraisal the Corporation may decide that their mission is purely local and they will want to explicitly reference this when going out for new partners.
3. Once a college has advertised for partners we would expect them to assess bids against an agreed set of criteria with priority given to meeting the needs of learners and employers and the mission of the college.

## Moving to a new structure

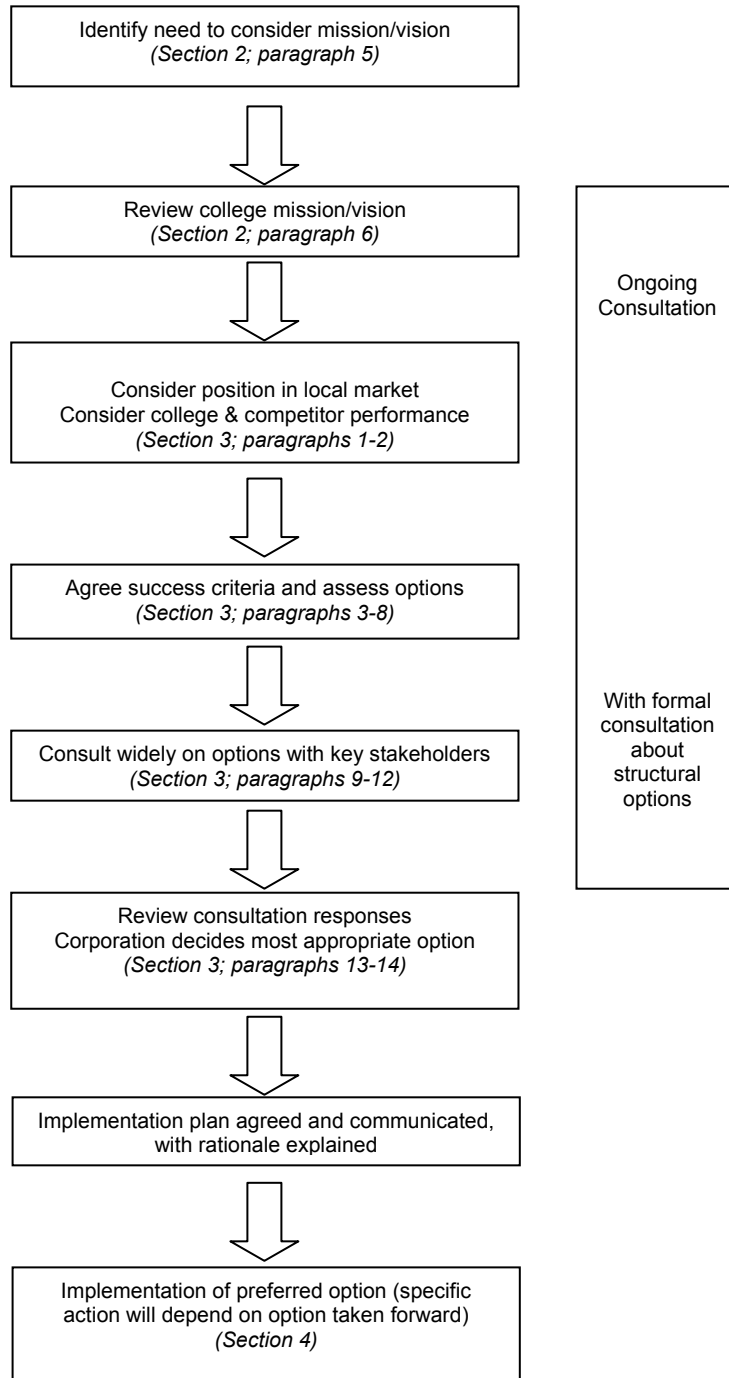
4. In some cases the move to a new structure will require dissolution of the existing corporation. Where an FE corporation intends to use its power to dissolve, it is required to publish and consult on proposals for dissolution in accordance with *the Further Education Corporations (Publication of Proposals) (England) Regulations 2012* (S.I. 2012/1157), which set out the process for publishing and consulting on proposals for dissolving a FE corporation (<http://www.legislation.gov.uk/ukxi/2012/1157/contents/made>).
5. *The Dissolution of Further Education Corporations and Sixth Form College Corporations (Prescribed Bodies) Regulations 2012* (S.I. 2012/1167) lists the bodies to which a FE corporation can transfer its property, rights and liabilities upon its dissolution (<http://www.legislation.gov.uk/ukxi/2012/1167/contents/made>).
6. If the outcome requires the creation of a new Corporation, the current Corporation will need to apply to the Secretary of State for Business, Innovation and Skills, and should add an extra six months to its timetable to allow the Secretary of State to fulfil his statutory duty, should he agree to the new incorporation.

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<sup>3</sup> Colleges need to consider the implications of competition legislation on their activities and may find the following paper, which includes several case studies, a helpful reference:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/248707/bis-13-1235-competition-issues-in-the-further-education-sector.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/248707/bis-13-1235-competition-issues-in-the-further-education-sector.pdf)

# Annex A: Flowchart

The flowchart below sets out an indicative flowchart of the process



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