



Department
for Education

Annual Report of the Further Education Commissioner

1 September 2016 to 31 August 2017

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Summary



This is a time of huge opportunity in Further Education (FE). Colleges are critical to raising productivity, driving social mobility, and addressing skills gaps using local talent. The importance of the FE sector is reflected in the attention it is now receiving.

In the last year we have seen the excellent capability that already exists. I congratulate the Grimsby Institute, Dudley College, and St John Rigby RC Sixth Form College on joining, within the reporting period, the 13% of General FE Colleges and 36% sixth-form colleges that are Ofsted 'Outstanding'. It is not external factors that drive performance, but strong leadership and governance,

robust planning, and creating capable and well managed teams of staff. This can be seen in colleges that achieve exceptional results in areas where incomes and employment are significantly below national average.

My role as FE Commissioner has so far had three priorities. First enabling colleges assessed as Ofsted 'Inadequate' to secure improvement. Second, addressing financial failure. Third, where appropriate, strengthening the resilience of colleges through structural change. In each priority area we have seen major progress, while challenges remain.

We have seen great progress in improving colleges with quality issues - of the 14 colleges and other providers that were Ofsted 'Inadequate' as of 1 September 2016, 13 either improved the grade, or merged with a stronger college, by 31 August 2017. There have also been fewer new Ofsted inspections with an outcome of 'Inadequate'. On financial health we have seen good progress in strengthening those colleges that were weakest one year ago.

Successful mergers have identified substantial savings, which can be reinvested in delivery for learners and employers, and have brought hugely strengthened leadership to a number of colleges. I congratulate those involved – college governors and leaders.

While the restructuring process is achieving substantial results, it has not been straightforward. My team has led structure and prospects appraisals in a number of cases where the original outcome has needed to be adjusted. In some cases, better solutions have become available. Restructuring is challenging, and each merger that has succeeded has demonstrated real commitment from the colleges involved.

In July, the Secretary of State for Education announced that the FE Commissioner role would be expanded. This will involve earlier engagement with colleges that need to improve quality, or have significant risks to financial health. I will also be supported by an FE Principals Reference Group. This will both enable me to more effectively consult and

engage with current leaders on improvement, and will feed practitioner insight into policy design – critical at a time of major reform.

The creation of National Leaders of Further Education (Principals with track records of securing improvement and achieving excellent results), and the new Strategic College Improvement Fund, will accelerate improvement. It will mean I will be working in partnership with some of the best current college leaders.

The extended FE Commissioner remit addresses two challenges. First, while there are fewer Ofsted ‘Inadequate’ colleges, there are too many that are Ofsted ‘Requires Improvement’. Some have remained ‘Requires Improvement’ for substantial periods. We need to bring greater capacity, resources, and focus, to accelerate improvement.

Second, there remain a number of colleges that need to improve their financial health, including some that remained standalone following the area reviews. It is vital that colleges carefully review forward financial plans – including testing income assumptions. There remains an opportunity for colleges, while the Restructuring Facility is available, to access support to put them in a strong position ahead of the introduction of the insolvency regime and the end of exceptional financial support. Governing bodies have an essential role in testing the robustness of each college’s position.

Earlier engagement with colleges will be different to my team’s current role. We will work with college leadership teams through diagnostic assessments to look at the challenges they face, and how they can achieve more rapid improvement – including through access to the Strategic College Improvement Fund and National Leaders. There will be some cases where we find there are serious and pressing concerns, and stronger action is required. I expect this to be the exception, and that, over time, earlier action will reduce the impact on learners, and the need for intervention.

The areas of leadership and governance which create success remain consistent. It is essential to have a costed curriculum plan, setting out the margin by course. Boards must have the right balance of expertise. There should be multiple channels of information to the board, with clear RAG rated performance measures; board members should engage with the next tier of management on curriculum and finance. Over optimistic forecasting and a failure of governors to challenge leadership teams are a consistent trend in colleges that enter financial difficulty. Every college needs to sustain a relentless focus on teaching, learning, and assessment.

It is a privilege to serve as Further Education Commissioner. While my work has brought me into contact with colleges in difficulty, I have also seen some truly excellent leadership – including in colleges on an improving trajectory. The next year will be one of change and opportunity – I am looking forward to it.

Richard Atkins CBE

Further Education Commissioner

Reporting Period

This report covers the period 1 September 2016 to 31 August 2017 inclusive, and relates to the work of the FE Commissioner and his team of Deputies and Advisers within this period.

Section 1: Quality Improvement

General FE colleges, sixth-form colleges, and local authority adult learning providers are referred to the FE Commissioner for formal intervention where they have been graded 'Inadequate' by Ofsted, or have failed to meet minimum standards in a curriculum area.

Existing interventions – review of progress

As at 31 August 2016, 14 colleges and other relevant providers were assessed by Ofsted as 'Inadequate' in their last inspection, 13 of these colleges were assessed by the FE Commissioner's team, either before or during the reporting period, which made recommendations for improvement and then regularly monitored progress¹.

As of 31 August 2017, 13 of these relevant providers are no longer in Ofsted 'Inadequate' status, and 1 was in the process of merging with a stronger partner. Of the 13 colleges no longer in Ofsted 'Inadequate' status, 5 have improved to 'Requires Improvement', 3 to 'Good', and 5 have merged with a stronger partner.

New interventions for failures in quality of delivery

In the period covered by this report, 5 general FE colleges, 1 sixth-form college, 2 local authority providers, and 1 specialist FE college, that qualify for FE Commissioner intervention, received Ofsted 'Inadequate' grades². These were all placed into FE Commissioner intervention, either before or during the reporting period³.

The FE Commissioner has made targeted recommendations based on detailed assessments of colleges in intervention. Recommendations have focussed on the following areas:

- Good quality management information, which is presented transparently to the board for regular monitoring, with use of traffic lights indicators and sector benchmarks.
- A strong focus on, and championing of, the student experience.

¹ One college inherited an Ofsted 'inadequate' grade after taking provision from a college that was in FE Commissioner intervention, and was split up as a result. Therefore, this college was not considered to be in intervention, despite its inadequate rating, and improved to 'Requires Improvement' in the reporting year.

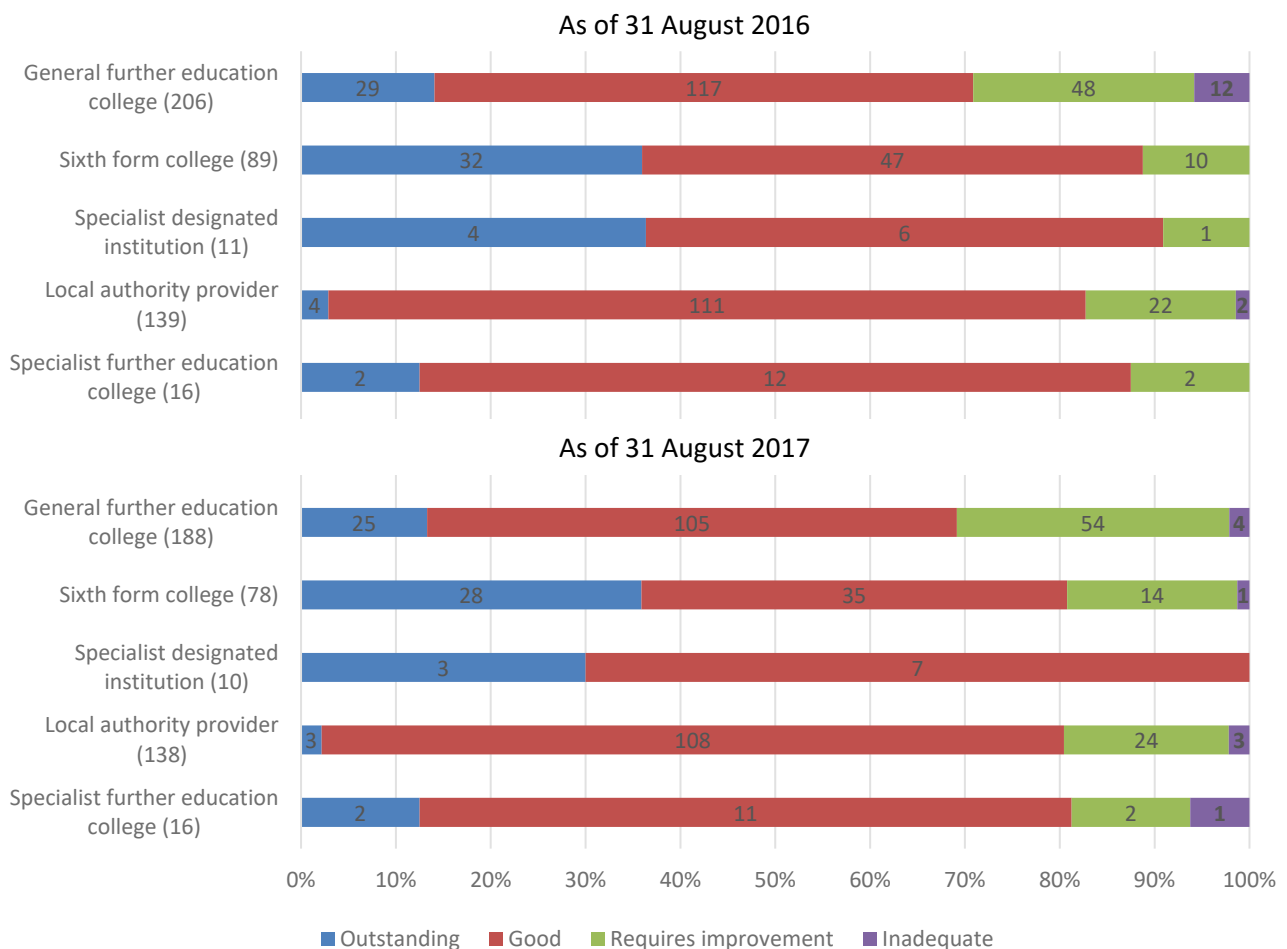
² One further relevant provider was given an Ofsted 'Inadequate' rating. However, this organisation transferred provision to another provider before the FE Commissioner intervened.

³ One was already in intervention from before the reporting period due to a previous Ofsted 'Inadequate' grade; one was in intervention from before the reporting period due to finance issues, and two were put into FE Commissioner intervention within the reporting period due to finance issues before getting an Ofsted 'Inadequate' grade.

- A costed curriculum plan, which shows cost margins on each course. While colleges can take strategic decision to cross subsidise courses, these should be carefully considered.
- Strengthening the leadership and governance of institutions (discussed further in Section 3).
- A robust performance management system.
- A relentless focus of governors and senior leaders on improving teaching, learning, and assessment.

The position of the sector as a whole

Figure 1: Colleges' and other FE providers' last Ofsted inspection outcomes



Notes:

In relation to provider types shown, as of August 2016, 3 providers were yet to be inspected; as of August 2017, 2 providers were yet to be inspected.

Source: Ofsted Management Information



While, from a quality perspective, the FE Commissioner has until recently focussed on Ofsted 'Inadequate' colleges, and the number of colleges with this outcome have dropped, the number of colleges with an inspection outcome of 'Requires Improvement' remains high, and has increased since last year (Figure 1).

Of the colleges that have been categorised as 'Requires Improvement' in their latest inspection, many had remained in this status since their previous inspection (in contrast to those graded 'Inadequate', where substantial progress was achieved). This presents a challenge going forward. From 1 September 2016 to 31 August 2017, of the 30 colleges inspected and other relevant providers that were assessed as 'Required Improvement', in their previous inspection, only 12 improved to 'Good' (Table 1).

Recommendations from interventions demonstrate that colleges will benefit substantially from greater learning from best practice, and a stronger focus on moving more rapidly from 'Requires Improvement' to 'Good' and 'Outstanding'.

Table 1: Ofsted Inspection outcomes¹ between 1 September 2016 and 31 August 2017, by previous overall effectiveness and type of inspection

Previous overall effectiveness	Type of inspection(s)	Total number of inspections	Overall effectiveness (number)			
			Outstanding	Good ²	Requires improvement	Inadequate
Outstanding	Full	9	0	6	3	0
Good	Full & Short	98	4	63	26	5
Requires improvement	Full	30	0	12	14	4
Inadequate	Full	11	0	3	7	1
Not previously inspected	Full	2	0	2	0	0
Total		150	4	86	50	10

 Improved to good or outstanding
 Declined to requires improvement or inadequate

1. Includes general FE colleges, sixth-form colleges, local authority providers, specialist designated institutions, specialist FE colleges
2. Includes the overall effectiveness judgement from full inspections and those that remained good after a short inspection that did not convert.

Source: Ofsted Management Information

The announcement by the Secretary of State for Education of the creation of National Leaders for Further Education will see high performing Principals and their teams supporting colleges that need guidance, while the Strategic College Improvement Fund

will provide resources to accelerate improvement, and the FE Commissioner's expanded role will enable earlier diagnosis of the changes that are required⁴.

Case Study – Intervention for quality reasons

The College had been graded as 'Inadequate' by Ofsted during an inspection held in late 2015, and the college entered formal intervention.

Over the previous 15 months, the college's focus had been to steady its financial position. The FE Commissioner noted that 'the distractions of financial recovery and visionary estates regeneration must not over dominate the senior team and the Corporation's focus. The quality improvement agenda is urgent.'

The senior team had changed significantly over the previous two years. The new team had a good range of relevant skills and expertise. When the FE Commissioner assessed the college, it was noted that initial steps had been taken to secure improvement following the Ofsted inspection:

- The Board had a good understanding of what it needs to do to improve but has had insufficient time to effect sustained improvements.
- All of the senior team and several interim and middle managers were actively involved in improving the learner experience with high levels of monitoring and focus on delivery.
- A cultural change programme, course improvement boards, post inspection action plan, and improved performance management (including setting clear objectives) had been put in place.

The FE Commissioner made 14 recommendations for further steps that could be taken to accelerate improvement, which included:

- More support and development for managers, governors, and corporation members.
- Strengthen and increase pace of quality improvement, including by improving learner voice activities.
- Strengthen governance arrangements including: increasing frequency of Quality and Curriculum, and Finance and General Purposes Committees; and more financial expertise on finance committees.

In Spring 2017, Ofsted assessed the college as 'Good', while commenting that 'through a persistent determination to ensure long-term sustainability, leaders, managers and governors have markedly improved the quality of provision, learners' achievements and the financial position of the college.'

⁴ Details of the FE Commissioner's expanded role are set out in *Intervention policy in colleges and expansion of the Further Education Commissioner role*, which can be found on Gov.uk: <https://www.gov.uk/government/publications/fe-colleges-intervention-policy-and-the-fe-commissioner-role>

Section 2: Financial Stability

Education and Skills Funding Agency (ESFA) interventions

The ESFA routinely monitors colleges, and intervenes when they are at risk of having serious financial problems (Table 2).

Table 2: Colleges in ESFA financial intervention¹

Type of college ²	Status as of:		Entering and Leaving Intervention in Reporting Period	
	31 August 2016	31 August 2017	Entered	Removed
General Further Education	40	35	11	16
Sixth-Form	3	3	3	3
Total	43	38	14	19

1. Colleges in ESFA financial intervention are not automatically referred to the FE Commissioner.
2. Unlike FE Commissioner intervention, ESFA Financial Intervention does not cover Local Authority Providers or Specialist Designated Institutions.

Only 5 of the colleges that entered ESFA intervention during the reporting period were removed in the same period; and all of these merged with a stronger college. This highlights the complexity of many financial health issues, and the time it can take to resolve them.

General FE colleges, specialist designated institutions, and specialist FE colleges are generally referred to the FE Commissioner if they have been graded 'Inadequate' for financial health and/or financial management and control by the ESFA.

ESFA Interventions referred to the FE Commissioner

As of 31 August 2016, 16 general FE colleges were in FE Commissioner intervention after a 'financially inadequate' assessment by the ESFA. Of these colleges, 4 moved out of FE Commissioner intervention within the reporting period - all of which merged with a stronger partner.

The fact that 11 more general FE, and sixth-form, colleges were referred to FE Commissioner formal intervention for financial reasons within the reporting year, highlights the need for governing bodies to fully scrutinise and challenge financial plans.

Given the number of interventions that have led to a Structure and Prospects Appraisal, it would be prudent for colleges to consider this, where appropriate, before an intervention becomes necessary. The FE Commissioner is available to lead on a structure and prospects appraisal, to give an independent recommendation based on the experience of leading professionals in the sector, for any college in appropriate circumstances.

The FE Commissioner has made targeted recommendations based on detailed assessments of colleges in intervention. Recommendations have focussed on the following areas:

- A clear costed curriculum plan, setting out margins by course.
- Realistic, prudent and tested targets for income, reflecting demographic change and competitive pressures.
- Spending sufficient board time scrutinising budgets, capital and estate plans, and in-year financial performance.
- Effective recruitment of leadership and management with the right financial skills and experience, and a programme of development to strengthen these skills further.
- Clear benchmarking to monitor performance – in some cases using area review benchmarks.
- A Commissioner led Structure and Prospects Appraisal to review the best long-term structure for meeting learner needs. These have led to mergers and applications to the Restructuring Facility.

As with issues of quality, National Leaders for Further Education will provide helpful support to those colleges that are at risk of getting into serious financial trouble. Earlier diagnosis of financial problems will mean that these can be dealt with before there is need to apply for the Restructuring Facility, or, in the future, becoming insolvent.

Section 3: Strengthening Leadership and Governance

A common theme across all FE Commissioner interventions (quality or financial) has been the need to strengthen leadership and governance.

Recommendations on leadership and governance have focussed on:

- Effective recruitment of governors with the necessary skills to oversee a complex organisation with a high turnover.
- A culture of challenge at Board level, where the executive team welcome and invite scrutiny from non-executive members.
- Commissioning 'National Leaders of Governance' to help with an independent external review of governance.
- Clear reporting to the board, with transparent performance metrics, and use of benchmarking data to compare with sector performance.
- Governors developing their expertise and understanding of the college's management through shadowing curriculum areas, or the finance function, including direct access to middle management.
- Securing suitable mentoring and training programmes for senior leadership, to strengthen skills and capability.

The role of the corporation

College corporations are independent, and the FE Commissioner is not in a position to dismiss Principals or Chairs of Governors (where reserve statutory powers rest with the Secretary of State). However, the FE Commissioner does make recommendations where college corporations should act to strengthen their governing body or leadership team. The corporations of colleges that have been subject to intervention have made the following changes:

- Changing the composition of the governing body, including the Chair.
- Replacing executive members, such as the Principal or Director of Finance.
- Strengthening scrutiny of executive members of board; and financial, improvement and curriculum plans.

All FE Commissioner interventions have demonstrated the pivotal importance of college governance and the corporation in securing improvement.

New appointments

Appointing the right Principal and senior post holders is one of the most important functions for the corporation. The FE Commissioner's work in colleges over the past four years has confirmed that the quality of leadership at any college is the single most critical factor in an institution's success, and consequently the achievement of its learners.

Governors need to take great care in appointing a new Principal, engaging independent professional support and putting in place rigorous assessment procedures for shortlisted candidates. It is particularly important that college boards conduct due diligence on new appointments, including discussions with college associations, former colleges, and the ESFA, as well as reviews of FE Commissioner Reports.

Section 4: Structural Change

In 2015, the government announced the Area Review Programme, aimed at creating an FE system with fewer, more resilient and efficient providers. At the start of the Area Review Programme there were:

- 239 general FE, tertiary, agriculture and horticultural, art, design and performing arts and other government funded colleges
- 93 sixth-form colleges

Area Review Progress

37 locally led Area Reviews took place between September 2015 and March 2017. All 332 colleges were visited and 183 local steering group meetings were held.

It was agreed that 133 colleges would remain as standalone organisations, and 114 colleges would look towards merger⁵.

In the reporting period, there were 23 General FE Colleges and 5 sixth-form college mergers⁶.

At the end of the reporting period, the ESFA had received 22 applications for the restructuring facility, to support restructurings within the college sector. Up to date details of the status of these can be found on gov.uk⁷.

The merger proposals that have been approved for government support have identified substantial savings, all of which can be reinvested in improving outcomes for learners and employers. Mergers have also already brought about strengthened leadership to a number of colleges.

Ongoing challenges

Despite the success of many restructuring exercises, there have been ongoing challenges in implementing Area Reviews. For instance:

- Difficulty in reaching agreement on merger at either senior leader or college governor level.

⁵ In addition, it was agreed that 54 sixth-form colleges would explore the option to become academies.

⁶ In addition, 12 sixth-form colleges converted to academies.

⁷ <https://www.gov.uk/government/publications/post-16-education-and-training-institutions-apply-for-financial-support-for-area-reviews>

- Banks' risk appetite for lending to organisations looking to merge.
- Unsuccessful non-levy apprenticeship procurement.
- Obtaining information on merger partners for due diligence.

In some cases, where mergers have stalled, or a college has made the decision to stay standalone and has subsequently had financial or quality issues, the FE Commissioner team have led or assisted with Structure and Prospects Appraisals.

Case Study – Intervention and structural change for financial reasons

The college triggered FE Commissioner Intervention in early 2017 after its urgent request for government financial support, required to meet its payroll liabilities the following week. Further government financial support was required in subsequent months to pay other creditors.

Despite the Commissioner's concerns around finances the previous year, the college had rejected the Area Review recommendation to merge and opted to remain standalone. It later transpired that this decision was based on overly optimistic financial forecasts.

The FE Commissioner found that governors and senior management were failing to scrutinise financial information and the financial forecasts of the Principal and finance director, which were based on ambitious projects which failed to deliver the forecasted income. To secure a financial recovery and maintain provision in the college, a structural solution was urgently required.

A commissioner led review of merger partners identified a preferred merger partner for the college. In addition to a secure financial footing and broader curriculum offer for learners, implementation of the merger will see improvements to leadership and governance across the merged college. In line with the Commissioner's recommendations, they are also working to improve governance processes until the merger is implemented and are broadening their own curriculum offer to increase income.

It is essential that colleges that opted to remain standalone in the course of the Area Review process carefully challenge their income assumptions and the basis on which that decision was made. There is still a limited opportunity for colleges to apply for the Restructuring Facility to support restructuring. The ongoing Structure and Prospects Appraisals, which the FE Commissioner team is engaged in, demonstrates that this is particularly important in areas where colleges are competing to grow income, but where local demographics mean that this is not possible, given the number of colleges in the area.

Delivery of the insolvency regime will create a new special administration regime for FE and sixth-form colleges with the primary objective of protecting learner provision.



Department
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