

**FE Sector Self Regulation Implementation
Group**

Consultation Questions

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FE SELF REGULATION - CONSULTATION QUESTIONS

Scope and Purpose

- 1.1 This document sets out the questions associated with a proposition designed to achieve the progressive implementation of rigorous and effective self regulation for the FE sector. It is designed to be self standing so that it contains sufficient information to enable the informed reader to answer the questions posed about the objectives of self regulation; the current FE sector landscape; how the proposed arrangements for self regulation would work; the implications of the proposals; and the way forward.
- 1.2 A fuller consultation document together with the template for your answers is available at www.feselfregulation.org.uk .

The Objectives of Self Regulation

- 1.3 Self regulation for the FE sector means that the rules which govern behaviour and the activities which enforce them in the sector (the objectives of which are outlined in Section 2) which are currently undertaken outside the sector, will be administered more effectively and to a far greater extent within the sector where appropriate, by or for the learning providers or organisations which represent them.
- 1.4 However, self regulation is not deemed to be accountable for setting prices, nor demand planning which is the prerogative of Government and following Leitch will be increasingly in the hands of learners and employers.
- 1.5 The objectives of moving to a self regulatory regime in the FE sector, in particular are:
 - To complement, support and strengthen government reforms. In particular, self regulation can provide a key strategy to achieve simplification, by the sector taking accountability for regulatory and other functions which currently lie outside it;
 - To ensure the regulatory framework as a whole is rigorous. A self regulating sector will work in partnership with relevant statutory bodies with a remit to achieve the same objectives. The synergy between intelligent self regulation aligned with an even lighter touch Ofsted and a more strategic LSC will ensure that public accountability of the sector is thorough and effective;
 - New policy requirements will be more quickly, innovatively and creatively implemented as the sector itself will own, communicate and effect change;
 - Government's policy objectives, learners', employers', and UK Plc's economic needs are met continuously over time;

- Self regulation adds value to the move towards less and eventually minimal bureaucracy. This will improve value for money and some early wins will be desirable (see below);
- The sector assumes direct accountability for performance, quality and continuous improvement and its own reputation;
- Standards of further education and learning continuously improve to become consistent, trusted and world class;
- The sector is fully aligned with Public Sector Reform, see Appendix C;
- Poor and declining performance is tackled quickly and effectively and either eliminated or improved, thereby developing real trust in the sector's capacity and capability to take ownership of and resolve these issues; and
- The sector develops an enviable reputation as a mature, accountable skills powerhouse of a successful competitive economy.

QUESTION 1: Are all the key objectives of self regulation covered?

First Phase Proposition

- 1.6 The recently published QIA Improvement Strategy recognised that the sector was best placed to lead on quality improvement, and it is clear that a significant level of resource is deployed in the intervention activities, through contracting third parties to deliver services which are all intended to support the sector, but are designed and contracted outside it. We believe the desired outcomes could be achieved in a very much more streamlined way if they were the direct responsibility of the sector and if the current resources deployed in targeting those outcomes were transferred both to the front line and to a single quality authority within the sector, which would design directly the support required and contract it directly.
- 1.7 The trust and confidence that would be built from self regulation would enable the LSC further to reduce its routine monitoring visits to providers (currently termly). This would release provider resource and enable LSC resource to be focussed and risk-based.
- 1.8 Similarly, the careful development of regulated peer review for colleges and providers integrated with a revised role for Ofsted would create a collaborative approach to continuous quality improvement as opposed to a four year cycle model. This would release provider resource and better focus collaborative effort on any persistent pockets of poor/underperforming provision. There would be significant gains in respect of relationships

and interactions between providers and awarding bodies. While some gains have been made, there are particular concerns that new arrangements involving Sector Skills Councils will be accompanied by more complexity and bureaucracy. Operating on the basis of validation in proportion to confidence and performance would achieve considerable reductions in bureaucracy.

- 1.9 Phase 2 of our work will need to validate that the above benefit will accrue from self regulation. Where validated, these could form some of the early gains from moving towards self regulation in 2007.

QUESTION 2: Subject to validation, do you agree with this 'direction of travel'?

The Current Landscape

- 1.10 The sector consumes over £10 billion of public money each year to achieve the goal of improving the skills of young people and adults to develop a world class workforce and a competitive economy. The supply side of the sector includes FE institutions, private, independent and voluntary sector providers, local authorities and representative bodies. The demand side of the sector, at its highest level UK Plc, comprises learners, public and private employers of all shapes and sizes, and communities.
- 1.11 The strategic and regulatory landscape for the sector currently comprises a highly complex array of organisations, which have evolved through successive iterations. New organisations have been conceived, established, modified or abolished to address specific requirements, disparate objectives and market failure over time. Each organisation has its own specific role(s), but inevitably in a crowded space, there are conflicting aims, confusion, bureaucracy, inefficiency and ineffectiveness.
- 1.12 The impact of the current landscape is that learning providers are approached from all sides by an array of legitimate but not perfectly aligned bodies, each with a valid interest in the Sector, each seeking to fulfil its own specific brief by requiring the learning providers to respond to multi-various requirements. Activities and interests are wide and varied and may be undertaken by more than one of the existing "galaxy of oversight, inspection and accreditation bodies" (Sir Andrew Foster). Not all activities are regulatory and they include external scrutiny, setting standards, codes and definitions, policy advisory, funding allocation and distribution, monitoring, enforcement, inspection, assessment, intervention, leadership, professionalism, values and ethics, governance, accreditation, strategy, demand planning, regional, local and sectoral strategic and operational planning, delivery and provision, consultation, learner engagement, employer engagement, research and evidence, market making, financial assurance, performance management, peer review, quality assurance,

continuous improvement, risk management, qualifications and awards, communication, data production, collection and disclosure.

QUESTION 3: Is the current landscape described fairly?

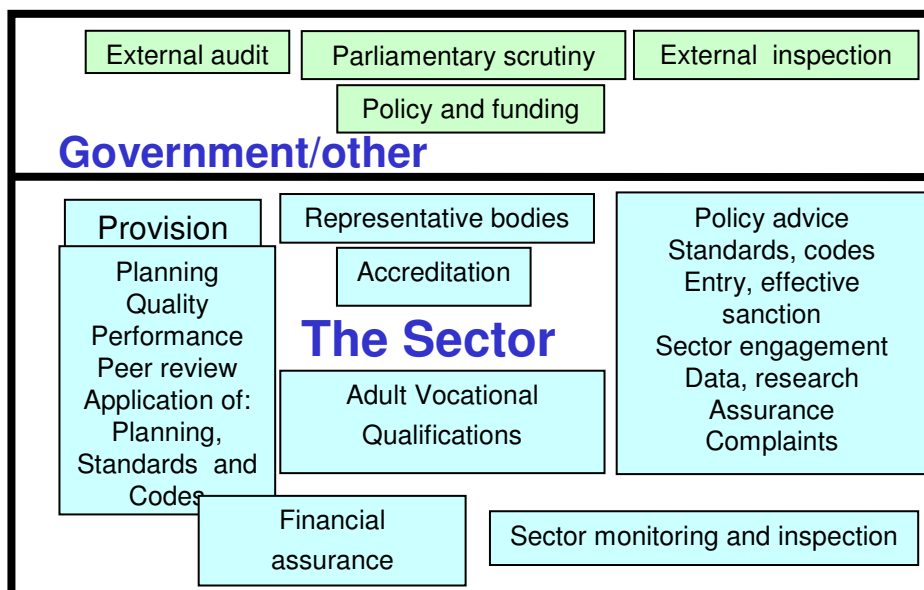
A Self Regulating Model and Its Implementation

- 1.13 A self regulatory model would by definition transfer regulatory functions and other accountabilities from outside of the sector, into the sector itself, to be undertaken by the sector for the benefit of users and stakeholders, not by governmental bodies. Other activities could be significantly reduced and some will not be needed at all in their current form.
- 1.14 A self regulatory model would take accountability for assuring the quality, reputation and success of the sector and regulate the means by which the sector delivers the objectives set for it through a mature relationship with government and by recognising the legitimacy of government's role as the strategic authority to set the vision, address market failure, and intervene on behalf of the disadvantaged in the labour market.

A Far Reaching Proposition

- 1.15 We have analysed other self regulatory and we have found that no single model can simply be imported and copied into the FE sector, none of these models provides a ready made solution. In order to make progress towards self regulation in the FE sector, we are advocating a model which represents the most far reaching self regulatory regime - a new paradigm.
- 1.16 We have illustrated below the far reaching self regulatory model that we advocate. Our starting point therefore is that all regulatory and associated activities transfer into the sector:

A Future Landscape



QUESTION 4: Which functions should be undertaken by the Sector?

QUESTION 5: Is the far reaching model the right one to propose to the SoS?

1.17 There are three options for allocating the functions which will transfer below the line:

- **Option 1- Divided Accountability:** Allocate specific functions respectively to existing organisations within the Sector which currently represent the interests of the providers (AoC, ALP, LANDEX, 157 Group etc.) to work in liaison, and who between them would account for all regulation (either functionally or by type of provider); or
- **Option 2 – Single Accountability:** Allocate all regulatory functions to a new body, set up within the Sector; or
- **Option 3 – Combined Accountability:** Follow a hybrid model, where AoC, ALP, LANDEX and 157 Group work together to create a new jointly 'owned' resource to regulate the sector.

1.18 All three options above have their advantages and disadvantages, but an important prior question is whether one regulatory regime should be applied equally and consistently to all providers, or whether the FE Institutions are regulated differently and separately from other providers. If the former, the allocations of responsibilities would be better transferred to an

independent body, or through the hybrid model to a combined resource, as the first option is more likely to lead to unequal regimes. Our working assumption therefore is that the first option is least attractive.

- 1.19 In option 2, a new, separate, independent body is required, which has the disadvantage of finding a solution in the establishment of a new body, a solution which in the past has led to the overly-bureaucratic landscape we currently see.
- 1.20 We recommend a combined accountabilities approach – option 3.

QUESTION 6: Is the combined accountabilities model the right one?

Strategic Approach to Implementation

- 1.21 We believe that the degree of transfer of functions or the precise definition of what will no longer be required need not be decided now, as the implementation plan and its timing could assist greatly in enabling a more pragmatic transfer of accountability of functions into the sector.
- 1.22 We believe that there is no technical reason why all relevant activities could not transfer into the Sector, with the control over the success of the shift in accountability being managed through timing and milestone management. In other words, implementation would be taken one step at a time as the previous step had proven to be a success and achieved its stated aims. We commend this approach which will mean a phased implementation reflective of change already underway and progressing as each of the agreed changes in regulatory accountabilities are fully embedded.

QUESTION 7: Is this phased approach to implementation right?

Phase 2

- 1.23 Phase 2 should now validate the benefits of moving towards self regulation and present implementation proposals for enabling the sector to have authority for support and intervention to secure improvement, to replace wholly those which currently reside outside the sector. Immediate next steps should be:

Step	Output	How/by When
1	Endorsement and continued support from the Secretary of State	<ul style="list-style-type: none"> Ongoing
2	Outcomes of further consultation with the sector and with stakeholders	<ul style="list-style-type: none"> Four national consultation events in March Website consultation based upon the proposition Consultation outcomes report in early April 2007
3	Outline implementation plan	<ul style="list-style-type: none"> Spring 2007
4	Implications analysis	<ul style="list-style-type: none"> Financial and operational analysis of the functions of current organisations and the detailed implications for them of our recommendations, to validate the benefits outlined in our proposition By June 2007
5	Design of regulatory and other functions	<ul style="list-style-type: none"> Detailed description of how regulatory and other functions should operate given the output from the analysis of Step 4 above By July 2007
6	Full and detailed first phase implementation plan	<ul style="list-style-type: none"> Based on the analysis and design work in steps 4 and 5 above By the end of the academic year 2006/2007

QUESTION 8: Is the content of the proposed Phase 2 right?