



CEL Brief guide

Self-regulation: its history and current status

Purpose

1. The purpose of this paper is to briefly review the history and current status of self-regulation within the further education and skills sector, as the basis for developing our thinking about its implications for the work of the new sector-owned improvement body.

What is self-regulation?

2. The FE Sector Self-Regulation Implementation Group defines self-regulation as a condition where *'the rules which govern behaviour and the activities which enforce them in the sector ... 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'* (Proposition Phase 1, paragraph 1.7. p. 6)

Background

3. The drive to create a self-regulating further education and skills sector may be traced to the Bureaucracy Reduction Task Force, a body created by the LSC in 2001 to, as the name implies, investigate ways to reduce the amount of red tape that FE and skills providers are compelled to negotiate. Sir George Sweeney chaired the task force.

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4. In its final report, *'Extending Trust'*,¹ published in the spring of 2004, the task force concluded that there was a limit to how much regulation could be reduced so long as the sector was subject to external monitoring. But this limit could be overcome were the sector capable of self-regulation: *'In essence, the LSC cannot further cut audit requirements at the moment, but if providers were demonstrably self-regulating...it could in future. The greater the degree and effectiveness of self-regulation the less the LSC would have to do'* (Extending Trust, p. 12)
5. Thus, the task force's proposals included the proposition that *'the challenge of sector self-regulation must be accepted if 'intelligent accountability' and the 'trust relationship' are to be fully realised'* (Extending Trust, p. 6). In furtherance of this, the report included Recommendation 2.i, that *'there should be an active debate across and within FE and, where possible, other sectors about the development of self-regulation procedures, alongside existing statutory requirements, with a view to their early introduction'*.
6. *'Extending Trust'* defined self-regulation as a system where:
 - *ethical standards are set by the professional body*
 - *training and support is given to members*
 - *detailed working level guidance is issued by the professional body; and*
 - *a 'policing' function operates, where the professional body acts as a self-auditor of its members and acts on the results. Action includes disciplining or expelling members.*
7. Another impulse towards self-regulation was a general sense in the sector that it was groaning under growing tangle of regulatory and monitoring organisations. In the 2005 Foster Review², Lord Foster wrote: *'The world of FE college oversight is crowded. There is a galaxy of oversight, inspection and accreditation bodies. They need to be rationalised, co-ordinated and focused. The burden of inspection of FE colleges would be lightened if only one inspecting body held responsibility'* (Foster Review, paragraph 110, p. 27).
8. Foster commented positively about self-regulation in the American community-college sector, saying, *'community colleges appear to achieve a high level of quality and standing without the heavy central control and complex accountability arrangements operating in our FE college system. Removing some of the multiple controls, introducing greater autonomy, self-regulation and peer assessment and developing more trust within the system are features worth considering further'* (Foster Review, p. 86).
9. Foster recommended that *'the QIA and the LSC should develop a new self-assessment model for FE colleges as a foundation for movement towards to self-regulation'*. (Foster Review, p. 28).
10. The next episode in the self-regulation odyssey came at the Association of Colleges (AoC) conference in 2006. Then Education Secretary Alan Johnson delivered a keynote address³,

¹<http://readingroom.lsc.gov.uk/pre2005/quality/performanceachievement/extending-trust.pdf>

² See: <http://www.dfes.gov.uk/furthereducation/uploads/documents/REALISING06.pdf>

³ Download the speech at: http://www.dcsf.gov.uk/speeches/search_detail.cfm?ID=435

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saying that *'further education has the capacity to increase our self confidence, enrich our society and enhance our economy – fertile ground for progressive politics'*. But, he said, the sector needed to be more *'self-sufficient'*.

11. Johnson then stepped up the pace: *'I am challenging you today to develop a proposal for self regulation by spring 2007. The AoC, the 157 Group and others have made a good start. And the Improvement Strategy, which the Quality Improvement Agency will publish around Christmas, will support the drive towards self regulation. But the responsibility for improvement must rest primarily with FE institutions themselves – and one purpose of the legislation is to ensure that this happens'*.

The Path to the Single Voice

12. Responding to the secretary of state's challenge, the LSC established the FE Self Regulation Implementation Group⁴. This group was, and is, chaired by Sir George Sweeney, and includes about 30 other representatives from colleges, learning providers and major FE sector bodies such as the 157 Group, Lifelong Learning UK and the AoC. It also includes two observers from DIUS.
13. The implementation group prepared a proposition on self-regulation for Education Secretary Johnson in February 2007, *'Phase 1: Proposition to the Secretary of State for Education and Skills'*⁵. A consultation on the topic also began on the basis of this paper.
14. This paper established a list of objectives for *'a self-regulatory regime in the FE sector'*, which included:
 - *'To complement, support and strengthen government reforms'*, especially simplification (that is, the reduction of bureaucracy);
 - *'To ensure the regulatory framework as a whole is rigorous'*;
 - To implement new policies *'more quickly, innovatively and creatively'* ;
 - To meet the needs of Government, learners, employers and the economy more effectively;
 - To reduce bureaucracy and thus value for money;
 - To *'assume direct accountability for performance, quality and continuous improvement and its [the FE and skills sector's] own reputation'*;
 - To improve the standard of further education;
 - To align FE with the public-sector reform agenda;
 - To more effectively combat poor performance in the sector
 - To ensure *'the sector develops an enviable reputation as a mature, accountable skills powerhouse of a successful, competitive economy'*
(Proposition Phase 1, paragraph 2.4, p. 8-9)
15. It is worth noting that reducing bureaucracy is mentioned twice in the above set of goals, and it is later described as *'the prize of self-regulation'* (Ibid., paragraph 2.5, p.9)

⁴ <http://www.feselfregulation.org.uk/index.html>

⁵ <http://www.feselfregulation.org.uk/pdfs/SRIG%20Phase%201%20Proposition.pdf>

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16. The initial proposition paper identifies certain regulatory undertakings that would remain the responsibility of Government and external bodies. These are:

- Parliamentary scrutiny;
- Policy and the *'regulator of last resort'* (which would remain with the Government education departments);
- Allocation of public funds;
- External inspection (which would stay with Ofsted);
- External audit (which would continue to be provided by the National Audit Office) (Proposition Phase 1, paragraph 4.11, p. 14)

17. The remaining oversight function would be taken into the sector:

- Accreditations
 - Adult vocational qualifications
 - Monitoring and inspection
 - Financial assurance
 - Standards and codes
 - Entry and effective sanction
- (Proposition Phase 1, chart, p. 14)

18. At this stage, the Implementation Group examined three separate structural models for self-regulation: *'divided accountability'*, where existing organisations are each given part of the regulatory role (one function going to the AoC, one to the 157 Group, etc.); *'single accountability'*, in which a single, separate sector-owned regulatory body is formed; and *'combined accountability'*, in which the sector bodies come together to form a *'new, jointly owned' resource to regulate the sector*. (Ibid., paragraph 4.16, p. 15). It was the *'combined accountability'* model that was eventually recommended (Ibid. paragraph 4.21, page 16). This proposal developed into The Single Voice organisation (of more anon).

19. The second draft of the self-regulation proposal⁶ was sent to DIUS Secretary John Denham in November 2007. In this document, the Self-Regulation Group constructed a fuller picture of what the Single Voice - formally, the Single Voice for Self-Regulation (for Further Education) - would do, who would form it and how it would function in practice.

20. According to the Phase 2 proposals, the Single Voice *'represents the sector in strategic dialogue with government on regulatory matters. It represents and supports providers in interpreting and responding to regulatory directives set by government and national agencies, while in doing so accepting and recognising the distinctive voices of representative bodies from different parts of the sector. It will be responsible for developing, implementing and maintaining the framework for self regulation and developing a rolling programme of activity for this purpose'* (Proposition Phase 2, paragraph 1.1 p. 6)

⁶ See:

<http://www.feselfregulation.org.uk/pdfs/Realising%20Self%20Regulation%20in%20the%20Further%20Education%20Sector%20-%20Phase%202.pdf>

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21. As a legal entity, the Single Voice is an independent company, formed without share capital and governed by a Memorandum of Association. Its board of directors is formed by the chairs or chief executives of several sector bodies, namely:
- ALP (Association of Learning Providers)
 - AoC (Association of Colleges)
 - HOLEX (a national network of local adult learning providers)
 - Landex (Land Based Colleges Aspiring to Excellence)
 - MEG (Mixed Economy Group; a group of 28 colleges that comprise the largest providers of HE education among English FE colleges)
 - NATSPEC (The Association of National Specialist Colleges)
 - NIACE (National Institute of Adult Continuing Education)
 - SFCF (Sixth Form Colleges Forum)
 - 157 Group (a group of the largest FE colleges; the name refers to a paragraph in the Foster Review of further education, and not to the number of members)⁷ (Proposition Phase 2, p.7)
22. The Single Voice *'will establish an overarching code of conduct for providers, to which each provider will be required to adhere'*. (Ibid. p. 7).
23. The Single Voice website (under the menu item 'Self-regulation Aims') identifies five main aims for its work, five strands of endeavour. These can be expressed as:
- *'increasing the autonomy of providers'*
 - *'improving responsiveness to the needs of learners, employers and the wider community'*
 - *'simplifying the regulatory and support frameworks within which providers are required to operate'*.
 - *'recognising the individual and single responsibilities that providers have in securing public funding within the FE system'*
 - *building 'increased confidence and trust in the professional capabilities of those working in the FE sector to manage their own affairs, with reduced levels of external regulation'*.
24. The third of the strands above continues the theme of needing to simplify the plethora of bodies currently overseeing the sector. From its website: *'We envisage a self regulation system characterised by a reduction in the regulatory demands placed on providers and single ownership of the regulatory framework facilitated by the Single Voice'*.
25. The Phase 2 paper reiterates the task group's drive to reduce bureaucracy: *'It [The Single Voice] will be characterised by delivery through the representative bodies. **The Single Voice will not develop into a bureaucracy** [emphasis mine]; rather it will provide opportunities for providers themselves to take ownership of the changes necessary to achieve the aims and objectives set out in this paper. We envisage that a small secretariat function will be necessary to support this work, together with full or part time secondments where this is necessary to provide required expertise'*. (Ibid. p. 7)

⁷ Ioan Morgan was the first chair of the 157 Group.

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26. It is planned that the Single Voice 'assume operational responsibility for' the following bodies pending the outcome of a consultation in spring 2008:

- the Information Authority
 - the Bureaucracy Reduction Group
 - the Communications Practitioner Panel
 - the FE Reputation Group
 - National Learner Panel
 - National Learner Survey
- (Ibid. p. 8)

27. For its first year of existence, the Single Voice chose four key areas on which to focus its work:

- *enhancing the sector's capacity for self improvement*
 - *responsiveness to the needs of learners and employers*
 - *simplification of the regulatory landscape*
 - *provider governance and codes of conduct under self regulation delivered through the representative bodies*
- (Ibid. p. 8)

28. The Single Voice was formally established on 18 December 2007, holding its first meeting that month. The organisation held a second monthly meeting in January, considering work papers on *improvement, self-assessment, peer review and development, and gatekeeping/challenge functions*. (Single Voice website).

29. Between January and March 2006, the Single Voice will conduct a consultation on the machinery of government changes⁸ (MOG), which will aim to orientate the self-regulation system within the larger structural changes that have occurred at Whitehall since the beginning of the Brown Government. Once this consultation is done, a final decision will be taken about absorbing the various panels and bodies listed in paragraph 22 of this paper.

The Single Voice and the new sector-owned improvement body (the successor to CEL and the QIA)

30. Also in January, the Single Voice responded to the consultation on the creation of a sector-owned improvement body from the QIA and CEL.⁹ The merger is part of the simplification of the FE and skills landscape. In the consultation paper on the merger¹⁰, DIUS says that the creation of a single improvement body 'is in direct response' to Foster's call for the improvement sector to be '*rationalised, coordinated and focused*'. The document says the merger '*builds on the merger in 2007 of the Adult Learning Inspectorate (ALI) into the new Ofsted ...*', and adds, '*the quest to achieve simplification and to reduce bureaucracy remain*

⁸ This is the phrase used to refer to the changes in the department structures introduced by Gordon Brown in June 2007 which created the new Department for Innovation, Universities and Skills and the Department for Children, Schools and Families.

⁹ See: http://www.feselfregulation.org.uk/pdfs/Single_Voice_response_to_consultation_-_Improvement_in_the_further_education_sector_-_25_Jan_08.pdf

¹⁰ At: http://www.dius.gov.uk/consultations/documents/DIUS_A4_SectorBooklet_S3.pdf

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significant drivers of policy. The new improvement organisation will bring greater clarity and focus to quality improvement (Consultation Document, p. 6).

31. For the most part, the Single Voice welcomed the creation of a single improvement body, except for one small point. The consultation documents on the merger referred to the new improvement body as the leading force in establishing self-regulation. The Single Voice objected to this, saying, *'The consultation includes statements which refer to the new improvement agency leading the drive to self regulation, and this is clearly considered by 'the Single Voice' to be its role. It therefore wishes to make its position clear that the new sector owned improvement organisation must be led by the sector through 'the Single Voice' organisation'*. (Consultation, p. 1-2).
32. The Single Voice rejected the consultation document's proposal that the Single Voice have *'voting rights'* in the new body. Rather, the Single Voice argued it should choose the new improvement body's board itself (Consultation, p. 2)
33. Governance arrangements are among the issues being discussed as the new chair and chief executive bring the new body into existence.

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Contact the CEL policy team

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