

## Introduction

1. This paper is a brief summary of the Foster Review into the Building Colleges for the Future programme, the primary LSC mechanism for funding capital programmes at FE colleges in England. It summarises Foster's findings and recommendations, and offers some possible implications for the sector.
2. The review, *A Review of the Capital Programme in Further Education*, was published on March 31<sup>st</sup>, 2009<sup>1</sup>. Foster refers, of course, to Sir Andrew Foster, who wrote a landmark review into the role of FE colleges in 2005, which recommended simplification of governance arrangements in the learning and skills sector and greater autonomy for colleges.

## The early history of the capital programme

3. The current Government introduced the first dedicated capital programme for the further education sector, according to John Denham's ministerial statement in response to the Foster Report. *'Between then [1997, when Labour took power] and 2006/07, more than £2 billion has been invested in modernising FE facilities. My Department will spend another £2.3 billion in the current spending review period'* [Denham]. In 2005, the Government announced a further £350 million in capital funding, *'to be to be managed by the LSC across 2008-09 and 2009-10. The aim was to transform the FE estate, enabling step improvements in the capacity and capability of colleges and the quality of their contribution'* (Foster 9).
4. At first, colleges were slow to subscribe to the programme. In 2007-08, not all the available funds were disbursed (Foster 9). *'This was partly because the LSC funding regime specified the staging of projects and required colleges to raise significant proportions of early funding from local resources'*, which meant that a smaller number of large, financially well-endowed colleges were applying, which needed less support from public funds than other colleges (Foster 12). But in the 2008-09 fiscal year, applications for funding surged, until they became a veritable *'tsunami'* (Foster 9), and ultimately to demands for more funding than the LSC had on hand.
5. In the 2008-09 fiscal year, demand for capital funding began to surge. Foster identifies several reasons for this:
  - The success large colleges had with the capital funding programme led smaller, less financially strong colleges to apply. These colleges were more numerous and needed a larger proportion of public funds to complete their projects;

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<sup>1</sup> Read it in full at:

[http://www.dius.gov.uk/news\\_and\\_speeches/announcements/~media/pubs/L/LSC\\_Capital\\_Review\\_a cc](http://www.dius.gov.uk/news_and_speeches/announcements/~media/pubs/L/LSC_Capital_Review_a cc)

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- Increasingly ambitious and expensive projects on the part of the colleges – Foster describes *‘an appetite for iconic buildings, increased social learning space, full IT enablement and whole campus renewal’* (Foster 14), as well as a new focus on sustainable development and green technology;
  - The LSC and ministers actively encouraged colleges to apply;
  - Increased construction costs, due to above-average inflation in the construction industry (remember that property prices were worryingly high until 2008), and ;
  - Concerns about the machinery of government changes, which some college principals thought would divert resources from the further education sector to schools.
6. The economic crisis that broke in the summer and autumn of 2008 also played a role in fuelling the run on the capital programme. Foster said it had a *‘triple effect’*: *‘Colleges were finding it harder to realise their private contribution through borrowing and land sales; as the building industry contracted there was increased capacity to take college work more rapidly through development stages; and some foresaw growing pressure on public sector borrowing, making a tight fiscal settlement likely after 2010’* (Foster 15).

## Warning signs

7. In December 2007, the LSC’s director of property and infrastructure commissioned a report warning that demand for capital funding would outstrip the available supply by £100 million in 2008-09, and *‘if current policies did not change and the tempo of capital projects is maintained, the demand for capital grant payments moves in 2010-11 up to £450 million above the funds available for FE projects’*, calling this *‘unaffordable to the Council’*. But this report *‘was not shared widely at a senior level in either the LSC or in DIUS’* (Foster 16).
8. In April 2008, the LSC’s Capital Policy Group recognised that there were increasing demands being made on the capital budget, and created a Prioritisation Working Group to select which projects should receive priority. This group was supposed to report to the LSC’s national Capital Committee in June 2008; however, *‘no recommendations from the Prioritisation Working Group were put to the national Capital Committee until September 2008’*. Meanwhile, on July 20<sup>th</sup> the LSC approved £1.2 billion worth of capital projects (Foster 17).
9. At the same time, each regional office was required to *‘review their capital strategies’* by July 2008, *‘to identify objectives for investment, assess capital demand and the scale and quality of the existing FE estate in each region, and judge the LSC’s capacity to meet that demand’*. Some regions did not turn in their strategies until September 2008, and these documents tended to be *‘wish lists’* of projects worth £16.1 billion, which the national office assumed would eventually be winnowed down (Foster 17). *‘Yet the scale of project proposals emerging from the pipeline contradicted that view. In the first three quarters of 2008-09 the total value of projects brought forward for approval in detail was 30 percent higher than the figure for the whole of 2007-08’* (Foster 18).

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10. *'The Regions were playing an effective role in scrutinising the building plans, but there was no effective monitoring or control of costs – they had no delegated budgetary responsibility and it was assumed that it was being done centrally'* (Foster 18).
11. By the time the LSC's National Council met in November 2008, it faced £1 billion worth of projects seeking approval. The Council approved some of these, including £44.5 million in projects which had reached the 'application in detail'<sup>2</sup> stage, but it deferred the remainder of the projects for approval at its December meeting.

## Funding freeze

12. By the time the LSC's National Council met on December 17th, *'it was evident that a tsunami of bids had hit the programme, which was not sustainable on existing arrangements'* (Foster 19). The Capital Committee had recommended a further £500 million in funding for projects in November. The council thus decided on that date to suspend all approvals for capital projects for three months, *'to allow a thorough review of all projects in progress and in the pipeline and reveal the true level of demand'* (Foster 19).
13. *'There was no formal and timely communication of this decision to the sector as a whole'*, according to Foster – colleges whose projects were at the application in design stage were informed, but the LSC decided against implementing a *'full-sector communications plan'*, partly because ministers wanted the LSC to develop a more comprehensive plan for addressing the crisis before they made any statements to the sector as a whole.
14. But by January 2009, many colleges were contacting their representative bodies, expressing concerns about the suspension of the capital programme. *'Colleges were upset because of the money committed and at risk (one medium-size college, for example, had spent £4m)'*, and they were also having more difficulty arranging credit due to the recession (Foster 19). LSC regional directors were advised to phone or visit college principals to discuss the freeze, but *'the LSC Chief Executive's reply to the AoC's letter to DIUS, DCSF and the LSC was not shared with the sector until after a Ministerial announcement'* (Foster 19). *'Thus was the programme in crisis and confusion by the end of 2008'*, Foster wrote (Foster 20)

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<sup>2</sup> Approval of a submitted capital programme occurs in two stages: Application in Principle (AiP) *'in which the overall shape, scale, phasing and educational case for the project were agreed'*, and Application in Detail (AiD) *'in which the detailed specification and cost schedule were agreed'* (Foster 13). Confusion between the two stages would cause serious financial problems for many colleges, as Foster details later in his report.

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15. In March 2009, the LSC completed its review of pending projects. The council found that *'253 projects were already underway or fully approved. Eight projects deferred from October were also given the go-ahead. A further 79 projects had already received the first stage of approval in principle, with a requirement of £2.7bn from the LSC. An additional £3bn would be needed for the 65 colleges that had submitted proposals for approval in principle'* (Foster 20). The LSC concluded that there was no way it could fund all of these programmes within the current spending round; thus, it approved the eight projects deferred from October, and put the remaining 144 projects on hold, where they remain at present.

## What went wrong

16. In analysing where the capital programme went wrong, Foster begins by saying that the scheme is a worthy policy, with a *'clear and positive intent'*, which was *'compromised by the manner of its implementation'*. Foster adds: *'The formerly underrated and neglected FE sector already has many reasons to be proud and confident. There are wonderful new facilities, learners in greater numbers are getting a much better experience and making stronger social and economic contributions, and staff morale has been transformed in many places'* (Foster 20).
17. He charged that the LSC practiced poor financial management, saying *'I am not convinced that there has been a clear-sighted appreciation in the LSC of the overall financial picture, the 'pipeline' of ongoing and emerging development projects'* (Foster 22). He added that the LSC failed to adopt an appropriate scheme for *'corporate risk management'*, a failure noted in the council's own internal audits (Foster 24).
18. Foster said that *'overcommitment should have been detected and challenged sooner'* (Foster 21). He identified three major reasons why it was not:
- The lack of *'a fully integrated management approach at the LSC'*. Foster said that communications between the various groups and bodies in the LSC responsible for managing the capital programme were *'undermanaged'*, and that *'the strengths of capital planning and the weaknesses in financial foresight have sat side by side without apparent grip from the overarching general management and corporate governance functions'* (Foster 22);
  - The lack of *'a robust LSC policy framework for making managerial choices'*. Foster hails the demand-led approach: *'it has been greatly welcomed in the field that colleges and their local stakeholders have been free to play the major role in shaping their future directions and facilities'*. But this approach should not have gone unregulated, Foster said: *'This freedom should have been regulated within regional and national frameworks of priorities and associated criteria'* (Foster 23).
  - Finally, Foster states that colleges themselves tended to act as if the Application in Principle stage was equivalent to final approval. Foster called this the *'champagne moment culture'*. Colleges would hire consultants and begin preliminary construction work, *'in the expectation that they would be recouped in the full grant forthcoming with in-detail approval'*. Foster added that he *'was told that local LSC staff implicitly encouraged this approach, although I had no formal evidence of this'* (Foster 23).

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19. Foster also said that the ongoing machinery of government changes had a deleterious effect on the management of the capital programme, arguing that the reforms distracted LSC staff from properly overseeing capital spending. *'The impact of the demise of the LSC and uncertainty about arrangements for the new agencies should not be underestimated'*, he said. *'Many meetings took place about areas of contention and disagreement and the main focus of management was on these issues. In the vernacular, I believe people took their eyes off this ball, so preoccupied were they by these changes in the field of play'* (Foster 24).
20. Foster identified a lack of communication between the LSC and central government departments, and a failure of both to clearly define and delimit their respective roles. He noted that there were numerous meetings between the LSC and DIUS, but that 'no one grasped the nettle' of managing demand for capital monies. He said this 'suggests a lack of clarity about roles and responsibilities' (Foster 25). Furthermore, the LSC failed to communicate effectively with colleges. This was partly because the LSC was not working effectively with DIUS: *'It was unable to provide Ministers with an authoritative statement of the position on the budget and project pipeline, backed by sufficient information to explain the situation clearly and convincingly, and this delayed full and open communication'*. This led to *'anger and disappointment'* in the colleges (Foster 25).

## Recommendations

### Consultation on the funding programme

21. Foster's *'main recommendation'* proposes that *'an open and truthful engagement and consultation process should be launched as soon as possible to find ways forward on the most important and pressing matters'*. The first order of business in this process will *'be to agree how the present demand-led approach to capital management can be supplanted by a needs-based approach with explicit priorities and associated decision criteria'*. The consultation will also have to determine what funds are available for capital improvement, and whether more money can be marshaled to meet demand (Foster 26).
22. The proposed consultation would take the form of a *'panel of college principals'*, which would confer with senior officials from the LSC and DIUS. An independent chair might be appointed. *'The panel should be consulted about priorities and potentially involved in an advisory capacity on how the prioritisation criteria are applied'* (Foster 26). 'A core group of college principals and LSC officials should consult with stakeholders, including the AoC, the 157 Group, the Sixth Form Colleges' Forum, the Local Government Association (LGA), local authorities, Regional Development Agencies and selected others', and this should be done quickly (Foster 27).
23. The panel must have access to *'absolutely accurate information ... to know exactly what schemes are in the pipeline, with detail of their content, rationale, status, readiness and cost'*, and should be provided with *'a preliminary mapping and analysis of the possible range of needs indicators, priority areas and decision criteria'* (Foster 26-7).

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24. At a later stage in the consultation process, when all involved have a better idea of how the capital programme should be managed in future, *'discussions should be held with HM Treasury to locate skills development appropriately within the context of national economic recovery plans'* (Foster 27).

### Machinery of government changes

25. The disruption caused by the machinery of government reforms was, according to Foster, a major factor in the failure of the Building Colleges for the Future programme. His review states that *'it is essential that work of high quality is done now to analyse the working relationships that will be needed in this new landscape'*, and that this work should be performed by the aforementioned consultative panel of principals (Foster 28) *'Those responsible for the design and introduction of the YPLA and the SFA should make sure that internal arrangements are fit for purpose, including compliance with good standards of corporate governance and the capability and capacity to meet or surpass expectations for inter-organisational work'* (Foster 29).
26. The first item in the list of priorities set out for the panel is the drafting of a *'clear capital investment strategy'*. In addition, Foster advises the FE sector to:
- *'review its methods of procurement in order to maximize the effectiveness with which it pursues this strategy'*;
  - commission a *'systematic, external piece of work to compare and contrast the FE capital programme experience with that of other public sector programmes'*;
  - work with the Local Government Association (LGA), Regional Development Agencies (RDAs), local authorities and other groups – such engagement is portrayed as *'make-or-break'* for the sector ;
  - devise a framework for the *'regulatory function'*, specifying *'who will hold the ring and what will be the rules and methods of their engagement'*;
  - Foster identifies a need to *'explore new forms of funding that are innovative but sound'*, if this is possible (Foster 28-9)
27. However, Foster adds: *'If things work well, preserve them. The capital planning function has done sound work under present arrangements. Breaking it up might be conceptually satisfying but practically very unhelpful. This system needs to retain some of its strengths'* (Foster 29).
28. The main body of the report concludes with an assertion that the past six months have been *'difficult'* for the FE sector and that these difficulties have not yet ended. *'The gleam of light, however, is the commitment of those involved in all the organisations'* (Foster 29).
29. A full list of Foster's recommendations can be found in Annex B of the report, pages 32 and 33.

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### LSC and DIUS response

30. In a press release dated April 1<sup>st</sup>, John Denham, the DIUS secretary, stated that *'my department and the LSC will accept all of [Foster's] recommendations'*.
31. A week before the report was published, Mark Haysom, the LSC's chief executive, resigned, citing the problems with the capital funding programme as the reason for his departure. Geoff Russell, formerly of the auditing firm KPMG, was appointed as his interim successor. Russell said *'that his first task was to urgently increase the certainty and clarity around the capital funding programme'*. The new chief executive *'has immediately appointed an external team from the firm Grant Thornton to review the financial data held by the LSC about capital projects'* and *'an external team of property specialists to assist the LSC'*. Russell also appointed a director to assume singular responsibility for the capital programme .
32. The skills secretary also stated that a panel of college principals was being convened by the Association of Colleges (AoC), to define capital funding priorities as recommended by Sir Andrew.
33. Denham stated that the LSC would not permit any college *'to get into a situation where it cannot meet its financial obligations as a result of decisions taken by the LSC on the capital programme'*, and advised any college to contact their local branch of the LSC should they be in any difficulties, to work out a financial plan.
34. The skills secretary's statement also noted Foster's criticisms of the lack of coordination between DIUS and its executive agencies and other non-departmental bodies. *'I have asked the Permanent Secretary to carry out a review of DIUS relationships with our Non-Departmental Public Bodies to ensure that there is clarity about accountability and responsibility'*.
35. Denham promised a further statement on FE after the parliamentary recess (which runs from April 3<sup>rd</sup> to April 20<sup>th</sup>).

### Implications

36. Foster makes it clear that planning and assessment of need is essential in the use of the finite resources for capital projects, rejecting what he describes as a *demand-led* approach. By association Foster's characterisation of the system for capital funding as a *demand-led* approach raises questions about the wider demand-led approach to funding.

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37. The thrust of FE reform over recent years, building on the Leitch proposals, has been towards the demand-led allocation of revenue funding for provision. Starting with a critical report from a House of Commons select committee<sup>3</sup> earlier this year, the ideological underpinning of Leitch has come in for criticism, including his assertion that employer and learner demand alone can provide an economically suitable mix of skills for the nation.
38. Although it is questionable whether the capital allocation system was intended to be demand-led, there are interesting parallels with demand-led funding of provision. Commitments for Train to Gain funding appear now to be outstripping the resources available, having previously been trailing behind targets. Allocation of capital funding too appeared to be below the target levels until fairly recently, leading to extra efforts to commit funding, eventually resulting in over-commitment.
39. This illustrates perhaps the difficulty of applying a quasi market model in an arena where the customer actually draws down public funding from a finite pot. Demand-led is hard to manage in a highly devolved system without either over- or under-commitment, especially where the resource is limited in both volume and in terms of the timescale for spending it.
40. The Commons committee also criticised the machinery of government reforms, saying that they created ‘a system [that] is impenetrable to everyone apart from possibly a few civil servants and a handful of academics’ and added that ‘no-one’s interests are accommodated if users cannot use the system because they do not understand it’ (Re-skilling for Recovery, p. 3). Foster adds to this critique, by arguing that the reforms inhibited the LSC’s ability to manage its affairs in the present: ‘In the vernacular, I believe people took their eyes off the ball, so preoccupied were they by these changes in the field of play [the machinery of government changes]’ (Foster, p. 24).
41. Denham’s pledge to review DIUS’s relationships with its non-departmental public bodies and to ensure clarity about accountability and responsibility is also significant. Foster did indicate that the LSC did not effectively communicate the programme’s problems to DIUS, despite numerous meetings between the two agencies. Although LSIS is not a traditional non-departmental public body, (it is designated as a ‘sector-owned body’ within the public sector), given our funding is mainly from government, it is likely that our accountability arrangements which reflect our sector-ownership, will come under closer scrutiny.
42. DIUS has pledged that no institution will be permitted ‘to get into a situation where it cannot meet its financial obligations as a result of decisions taken by the LSC on the capital programme’. However, colleges are facing other financial challenges with the shortfalls in 14-19 and Train to Gain allocations. The compound impact of these factors, alongside the changes in commissioning from 2010 could create a highly de-stabilising environment and stretch severely the capacity of the sector for adaptability and responsiveness.

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<sup>3</sup> *Re-skilling for recovery*, a report by the House of Commons Select Committee for Innovation, Universities, Science and Skills. It can be read in full at:  
<http://www.publications.parliament.uk/pa/cm200809/cmselect/cmdius/48/48i.pdf>

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43. There is also the question of how the capital funding difficulties will affect learners. Some argue that a failure to provide new buildings will harm recruitment (though the effects of the economic downturn may sustain recruitment levels), or may result in insufficient capacity to deliver - for example on local 14-19 plans. Sion Simon MP, the minister for further education, announced at the LSIS governance conference that he has asked for a review of the impact of the capital funding freeze on learner recruitment and achievement.
44. The Foster report also creates a new body in the sector, the consultative panel of principals. This body is likely to operate for a considerable period of time (though it does not appear that Foster expects it to become a permanent feature of the system) given the significant responsibilities assigned to it, and it may become a new conduit for FE influence over its operating environment. However, it could also further complicate the sector's already crowded governance arrangements. In order to discharge its strategic responsibilities effectively the panel will need appropriate support and resource to enable the principals involved to provide the advice required while dealing with the challenges facing their institutions.
45. Finally, there is some criticism in the report about the 'champagne moments' of celebration being held too early, suggesting shortcomings of college leadership and governance in relation to the capital programme. The implications of this will be widely discussed in order to explore the lessons and learning that can be drawn from the experience, and to inform leadership and governance in dealing with the consequences of the current freeze. LSIS is committed to supporting the development of leadership and governance, and will ensure that the Foster review, its implications and lessons inform and are explored through our services and programmes.

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