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Of interest to FE colleges, FE governing bodies, and other LSC-funded providers within the FE system.

This document is the single equality impact assessment of the LSC’s statutory intervention policy.

To request a large-print version of this document, phone 020 7239 0877.
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Introduction

1. In July 2008, the Learning and Skills Council (LSC) commissioned the Office for Public Management (OPM) to assess the impact of the statutory powers of intervention conferred on the LSC under the Further Education and Training Act 2007. Specifically, this assessment focused on the impact of this policy by race, gender, sexual orientation, age, disability, faith or belief and social class.

2. Following a recent consultation on the policy statement of the statutory powers of intervention, this report provides the findings from the assessment of the impact of these powers, with particular focus on those who might be discriminated against or disadvantaged, and to assess either adverse or positive implications of this policy.

3. This report sets out the key headline findings from this assessment. In the following sections, OPM have set out a brief overview of this policy, their approach to the assessment and the findings from their assessment.
Brief Outline of the Intervention Policy

4 The LSC has recently set out a policy statement for the use of its statutory powers of intervention, which describes its powers to intervene to eliminate underperformance in the further education (FE) sector. The Further Education and Training Act 2007 grants the LSC the power to intervene, which allows it to:

- remove all or any of the members of the governing body;
- appoint new members of the governing body;
- give direction to a governing body including a direction to begin dismissal proceedings against members of staff that it has the power to dismiss; and
- give direction requiring a governing body to make collaboration arrangements (within the meaning of Section 166 of the Education and Inspections Act 2006).

5 This policy is set within the context of a wider drive for improved standards in FE colleges. The FE White Paper, Further Education: Raising Skills, Improving Life Chances¹ set out an ambition to ‘... eliminate inadequate or unsatisfactory provision across the learning and skills sector by 2008 and to have a major impact on those organisations where performance is just satisfactory or not showing any improvement’. This was part of a wider desire to better enable learners to develop the necessary skills for our current economy.

6 The powers of intervention will work alongside increasing self-regulation within the FE sector, with the chair of the FE Sector Self-Regulation Implementation Group (SRIG) working with the LSC to ensure that there is minimal risk to intervention by self-regulation.

7 The LSC policy document, Identifying and Managing Underperformance (January 2007), states that this power will be used where necessary and agreed by the governing body, the principal and the LSC, and the action is deemed proportionate to the risk to learners and to public funding. The LSC policy statement and consultation document (January 2008) restates the commitment to use the power of intervention as a last resort, ‘... when all the other actions to remedy failures have failed, or in cases where there is immediate, serious and exceptional risk to learners and to public funding’.

8 Identifying and Managing Underperformance sets out the minimum levels of performance and triggers for issuing Notices to Improve. This includes a four-stage approach to intervention in underperforming colleges, comprising:

- annual commissioning dialogue;
- identification of underperformance;
- support and challenge; and
- intervention.

9 The policy for use and application of the statutory powers of intervention will be subject to review. Consultation on this policy concluded in May 2008, and the LSC is committed to reviewing the intervention policy periodically, beginning in 2009/10. Furthermore, the implications of this policy on equality and diversity have undergone some initial investigation, with the LSC concluding that there are no implications. Nonetheless, the LSC commissioned a further full single equality impact assessment of this policy.
Outline of Our Approach

10 The following section sets out the approach we employed for this assessment. Our assessment was formed of three main stages:

• review of the documentation;
• scoping interviews with five LSC representatives; and
• consultation with key stakeholders.

Review of the documentation
11 We undertook a rapid review of relevant documents provided to us by the LSC, including policy documents pertaining to intervention, responses to the consultation, the proposed revised intervention policy, and other relevant policy documents. To guide our approach, we also referred to the *Skills Strategy Equality Impact Assessment*, published by the LSC and Department for Education and Skills, and the *Children and Young People’s Bill Equality Impact Assessment*. This review has informed the development of an overarching impact assessment framework, which identifies a number of plausible adverse and beneficial effects of this policy intervention on the different equality strands that we later rated for likelihood of occurring.

Scoping interviews with five LSC representatives
12 We conducted five semi-structured interviews with the LSC officers listed below. The officers have responsibility for the development and strategic overview of the intervention policy, as well as being regional leads who may be tasked with invoking the power of intervention.

• Trish Bugg, Regional Director of Learning and Quality, LSC East of England
• Henry Ball, Regional Director, LSC South East
• Lesley Davies, Director of the LSC Framework for Excellence and Quality
• Karen Murray, LSC Quality Assurance Director
• Cathy Robinson, LSC Council Solicitor.

Consultation with key stakeholders
13 We have conducted 13 semi-structured interviews with the following stakeholders. The interview guide is given at Annex A.

• Nancy Jenkins, Clerk to the Governors, Liverpool Community College
• Wally Brown, Principal, Liverpool Community College
• Nigel Chambers, Clerk to the Governors, Aylesbury College
• Lowell Williams, Principal, Sandwell College
• Robin Landman, Chief Executive, Network for Black Professionals
• Sue Dutton, Deputy Chief Executive, Association of Colleges
• Nadine Carter, Association for College Management
• Peter Pendle, Chief Executive, Association for College Management
• Dan Taubman, University and College Union
• Seth Atkin, University and College Union
• Chris Nicholas, University and College Union
• Sir George Sweeney, Chair of the FE Self-Regulation Implementation Group (SRIG)
• Sue Witham, Sixth Form Colleges’ Forum.
Our Impact Assessment Framework

14 We developed an overarching impact assessment framework, which identifies a number of plausible benefits and adverse effects associated with the policy which we derived from a desk review and scoping interviews.

15 Our framework seeks to quantify and assess the extent to which plausible benefits and adverse effects are likely to arise from this policy. In defining ‘plausible benefits’ and ‘adverse effects’, we have made specific reference to Section 3 of the LSC’s Equality Impact Assessment Framework (December 2007) and the following guiding questions:

- Does or could the policy have an adverse impact?
- Does or could the policy be unlawfully discriminatory?
- What opportunities are there to use the policy proactively to promote equality of opportunity?

16 Each of the main issues emerging from our analysis has an ‘impact rating’ (a number from one to five, with five being ‘to a great extent’ and one being ‘not at all’) indicating how serious the effect of this issue could be on equality and diversity. These ratings were discussed with stakeholders during the interviews, and stakeholders were encouraged to give each issue they raised an impact rating.

17 The final ratings assigned in this report are based on a combination of stakeholder ratings and desk research carried out by OPM to assess the likelihood and severity of the issues raised in interviews. This research ensures that impact ratings are supported by an evidence base that qualifies the opinions of key stakeholders.

18 We recognise that there are a number of inherent limitations in this exercise. The extent to which we can isolate the impact of this policy intervention from other unforeseen external factors, such as changes in policy or shifting patterns of demand in provision, is limited. We are dependent on the ability of stakeholders and evidence from the desk-based analysis to accurately account for the impact of extraneous changes in making an assessment on the impact of this policy. Nonetheless, our approach does allow us to offer robust, credible and compelling conclusions on the likely impact of this policy. In addition, we have endeavoured to ensure that the stakeholders are representative of a cross-section of stakeholders within the FE sector to ensure that we have a comprehensive understanding from the viewpoint of a range of interested parties.
Recommendations

19 This review has enabled us to identify a range of recommendations for limiting any adverse impact that the powers of intervention could have on equality and diversity. The recommendations focus on the more serious issues identified during research, particularly those with an impact rating of two and above.

Providing support for staff

20 Stakeholders suggested that staff would feel acutely vulnerable during the use of powers of intervention, particularly staff in less visible equality groups (e.g. lesbian, gay, bisexual and transsexual (LGBT) staff or staff with mental health conditions) and more junior staff, who might assume that their positions are more precarious. During intervention, it will therefore be imperative that FE institutions develop support mechanisms for staff. This could involve individuals or organisations (e.g. unions) being tasked with providing support, or it could involve the FE college creating a support plan that clearly sets out how staff would be supported during the process. As much information as possible about the intervention should be made available to staff at all levels to ensure that they feel both aware and involved in the process.

Extending the role of representative bodies

21 According to research, junior staff are more likely to be from equality groups (particularly black or minority ethnic (BME)) and may therefore feel vulnerable during intervention. To assuage the concern of these staff, FE institutions and the LSC should consider supporting the role of representative bodies, such as Single Voice, to communicate to relevant stakeholders during the process of invoking the powers of intervention. This could be done through strengthening their links to unions and staff networks. This will give staff the opportunity to share their concerns with an external organisation as well as feeling involved in the process.

Articulating the importance of equality and diversity

22 Using the powers of intervention to direct a governing body to begin dismissal proceedings against members of staff, such as a principal, could create a leadership vacuum, particularly if the principal was removed for poor performance in the face of working with students from disadvantaged backgrounds. Indeed, the removal of such a principal could send out negative messages about the importance of equality and diversity to staff and students alike. Although this scenario is unlikely, if it does occur, LSC officers responsible for intervention should have a process in place for articulating the importance of equality and diversity to staff and students – particularly in the instance of removing a popular leader who is considered strong on equality and diversity. The need to support leaders who champion equality is especially important as statistics on the background of FE college principals suggest that only 1 per cent of principals are from a BME background.

Mapping staff and learner profiles

23 One of the most serious concerns raised by stakeholders was the possibility of FE institutions changing the demographic of students they target. It is possible, according to some stakeholders, that colleges currently working with learners considered to be lower achievers – who are themselves more likely to be from disadvantaged communities – might choose to attract students from more affluent backgrounds to drive up performance and thereby avoid actions by the LSC that may ultimately result in the LSC invoking the powers of intervention. The LSC could conduct further research on how intervention affects the student and staff profile of an FE college by mapping existing student and staff profiles against student and staff profiles two years on from the point of intervention. This would highlight any change in the diversity of the student or staff body after intervention had taken place and then allow the LSC to do further research into the cause of this change (i.e. to investigate whether it was related to intervention).
Intervention as a tool for strengthening equality and diversity

Stakeholders were asked whether the powers of intervention provided any opportunities for promoting equality and diversity. One suggestion made by multiple stakeholders was to use the powers of intervention as a tool to encourage increased equality and diversity in FE colleges that are underperforming in this area. The LSC could develop processes that link the powers of intervention with maintaining and improving equality and diversity in FE colleges. This would involve prioritising equality and diversity as a factor in performance, and using the powers of intervention as a lever for improving equality and diversity within FE colleges that are deemed to be underperforming in this area.
Impact of Policy

25 This section of the report examines the perceived potential impact of the statutory intervention policy, identifying a number of critical issues for consideration. Each issue identified has an ‘impact rating’ (a number from one to five, with five being ‘to a great extent’ and one being ‘not at all’) indicating how serious the effect of this issue could be on equality and diversity. These ratings were discussed with stakeholders during the interviews.

Impact of policy on equality and diversity

26 The LSC’s powers of intervention, devolved from the Secretary of State, have been considered controversial from their inception. Discussions about the policy have tended to focus on, or sway towards, the appropriateness of the LSC acting as the intervener, rather than on the outcomes and impacts of the policy itself. One of the overarching aims of this assessment was to encourage stakeholders to move beyond the existence of the policy and into the processes that the policy covers.

27 Although there are still concerns about the LSC’s new powers, stakeholders were generally happy to focus on the impact the policy could have on equality and diversity. The views of LSC staff who took part in interviews were valuable in articulating the LSC’s own opinions on how the policy might affect equality and diversity, and what measures have been taken or will be taken to avoid this.

28 Similarly to the LSC’s initial consultation on the intervention policy, stakeholders found it difficult to identify many instances of intervention impacting on equality and diversity among staff or students of FE colleges which have not already been addressed. However, this report outlines a few issues for further thought, such as the potential for colleges that take on high proportions of disadvantaged students to be unduly penalised for underperformance, or the impact of intervention on LGBT staff – some of whom are already nervous because of their status being seen as a low priority in the wider context of equality and diversity. Interviewees concurred that these were not issues for serious concern, but rather areas that need further consideration. Indeed, stakeholders do think the actual use of intervention powers will present some risks and challenges for the FE sector, maintaining and improving equality and diversity was not among the most pressing.

Equality and diversity isn’t something I’ve really thought a lot about when it comes to intervention. If a college is underperforming, that needs to be sorted, and getting it sorted is in the interests of all students.

External stakeholder

Staff

29 When considering the potential equality and diversity impact of intervention on staff, interviewees tended to assume that ‘staff’ referred to two distinct groups: senior staff, including principals, top management and governors, and other staff such as teachers, support staff and administrative staff. There could be minor impacts on equality and diversity for both staff groups, but it was felt that the negative impact would be more likely to be felt among the second group (teachers etc.). One stakeholder pointed out that the intervention policy automatically has the potential to impact on some of the equalities strands in the FE sector more than in other sectors, such as the police or local government, ‘simply because the FE sector employs more women and BME people’.

Staffing hierarchies (impact rating 1.5)

30 There is potential for the fear that an intervention could trigger in senior staff and managers to negatively impact on more junior staff, and in turn to disproportionately affect particular groups of staff.

31 Two stakeholders identified the possibility of discrimination towards staff in junior positions as a result of intervention. In a situation where an FE college has experienced an intervention, senior management might begin restructuring in a manner that included job losses. One external stakeholder raised the possibility of a ‘last in, first out’ policy being adopted, which would, in all likelihood, mean staff in junior positions would suffer. As staff in junior positions ‘are more likely to be from BME groups than those in higher positions’, this would mean that BME staff could be more likely to lose their jobs. This could similarly affect female staff, who are also less likely to be in senior management roles or on the board of governors, and more likely to be among junior staff. There could also be an impact where a provider had recently made good progress in improving the representativeness of its workforce.
To mitigate this risk, LSC employees responsible for intervention should communicate the importance of equality and diversity to senior staff, and representative bodies (e.g. unions and Single Voice) should be involved in the intervention process. The intervention policy already makes some provision for the involvement of representative bodies, which was viewed as a positive step by interviewees.

While concerns about the powers of intervention having a greater impact on junior staff than senior staff are understandable, it is worth noting that, as BME staff are most seriously under-represented in senior management (only 1 per cent of FE college principals are BME), then this might put them under serious pressure, or result in losing some of the few BME staff currently in a senior role.

**Stress and vulnerability among LGBT and disabled staff (impact rating 2.5)**

There was similarly concern raised about the potential of intervention to impact on less ‘visible’ areas of equality, such as LGBT staff and staff with ‘hidden’ mental health conditions. Such staff might already be experiencing stress as a result of discrimination, harassment or from hiding their sexuality or disability; the stress of intervention might be enough to ‘push them over the edge’. This would particularly be the case if the college leadership responded to intervention by behaving in a more draconian manner, e.g. observing lessons very regularly, thus adding to staff stress. Research has suggested that staff within less visible equality groups are already likely to feel marginalised because their situations are forgotten or not considered. Research by the University of Edinburgh showed that staff with mental health conditions are unlikely to have been ‘considered’ during work on equalities. Thus, any development that is likely to heighten feelings of marginalisation and stress among these staff groups needs to be considered in the context of creating a supportive environment.

Senior staff in FE colleges should be encouraged to respond to intervention in a balanced and considered manner. Staff from the LSC and departments within an FE college should give extra support to all staff during the latter stages of intervention to ensure that staff are coping with added stress. Examples of such support could include providing staff with opportunities to access a mentor or coach, ensuring that staff are fully and properly briefed, and giving staff time out of their day job to consider the implications of the intervention. This would have the added benefit of improving conditions for all staff and not just those in traditionally disadvantaged groups. The value of mentoring for staff from under-represented groups has been highlighted by the Network for Black Professionals, and has been used in the Black Leadership Initiative (supported by the Centre for Excellence in Leadership), in which mentoring was a part of a more strategic approach to recruiting, retaining and developing BME staff into leadership roles.

**Students**

Broadly, stakeholders were satisfied that the powers of intervention would have more positive than negative impacts on students, including those from traditionally disadvantaged groups. The process of intervention only occurs as a last resort and where there is a serious risk to learners. Thus, it would raise standards in colleges, benefiting all students.

However, external stakeholders had some concerns about how the intervention policy might impact on colleges’ choices about which students they choose to work with. These concerns focused on the possibility of an intervention acting as a ‘punishment’ for FE colleges that worked with students from disadvantaged backgrounds, who may not consistently produce high results.

There were also concerns about the last stage of the policy (removal or replacement of a senior staff member) leaving a leadership gap, which could stall progress on pursuing an equality and diversity agenda through improved performance in the college.

**Disadvantaged students (impact rating 2.5)**

Fear of intervention might affect what type of students FE colleges choose to target. For instance, evidence shows that lower achievers are more likely to be from deprived communities where there is a higher proportion of BME people. These learners in disadvantaged communities might also include adult learners who have come to education late, or LGBT students who have had to move school or college due to bullying. The FE sector does important work in reaching out to students from non-traditional or challenging backgrounds, as documented in Sir Andrew Foster’s review of the future role of FE colleges.

FE colleges have a strong commitment to social inclusion and inclusive learning... They have been particularly successful in helping to achieve government targets for basic skills and have an increasing role in learning for offenders both in custody and in the community. As a result they attract a higher proportion of disadvantaged learners than the local population average.
FE colleges have a vital role in contributing towards the Government’s target for increased participation in further education and the associated attainment targets. Therefore, it is important that measures of performance do not undermine the outreach work that the FE sector currently undertakes, and thus restrict possible opportunities for learners. Minimum levels of performance measure success according to qualification achievement. To date, minimum levels have been relatively low, but with progressive increases this focus could result in colleges seeking to minimise failure, and as such, they may seek to move away from working with groups considered to be low achievers, thus disadvantaging students within equalities groups. There should be further consideration of how to avoid this happening, which could include more in-depth monitoring of the current learner profile of FE colleges, which would allow comparisons to be made of learner profiles before and after intervention, were intervention ever to take place.

In some underperforming colleges there has been positive recruitment for challenging students. These colleges are trying to be creative and helping those who otherwise wouldn’t have a chance. A blanket approach to underperformance could discriminate or disadvantage these marginalised groups.

**Leadership vacuum (impact rating 2.5)**

Two external stakeholders made the related point that, for some FE colleges that are struggling to perform in areas where there are high numbers of learners from groups which traditionally underperform, the leadership team – while struggling to improve results – may have strong commitments to equality and diversity. Therefore, the removal of members of the leadership team could have a negative impact on equality and diversity, or at least send negative messages to students and staff about the value of leaders who prioritise equality and diversity. This would particularly be the case in colleges that have BME principals. With only 1 per cent of principals being from BME backgrounds, the removal of such a principal could send out very negative messages about the importance of equality and diversity.

Where intervention occurs, it will therefore be vital to articulate the importance of equality and diversity to students and staff, and make sure that a commitment to equality and diversity is reflected as far as possible in the choice of replacement staff.

However, it should be noted that stakeholders who were interviewed thought that if a principal was underperforming to the extent that intervention was necessary, concerns about equality and diversity should not outweigh the importance of improving the situation. One stakeholder suggested that, in fact, a failure to intervene in underperforming colleges could represent the most serious threat for students within the equalities strands, particularly BME students. This is because failing to intervene in underperforming colleges working in deprived areas will disproportionately affect BME learners, a high percentage of whom live in these deprived areas. Failing to intervene is effectively failing the students of that college. It is worth noting that this point was most strongly emphasised by stakeholders working in FE colleges.

**Opportunities for promoting equality and diversity**

Stakeholders struggled to find many examples of how the intervention policy could actively promote equality and diversity, although a few comments were made, which are outlined below.

**Using powers of intervention to prioritise equality and diversity**

The most significant means for promoting equality and diversity through the powers of intervention would be using the powers as a tool for enforcing certain equalities standards. The LSC could consider using powers of intervention in FE institutions that were seriously underperforming in terms of equality and diversity, either in terms of learner or workforce profiles or in terms of learner achievement. This would have to be carefully managed within agreed standards and with the local context in mind; however, it is an area that merits further consideration. It provides the most realistic means of using the powers of intervention for the promotion of equality and diversity, with many of the stakeholders supporting the LSC in considering this issue in the future.

**Raising standards**

The LSC’s powers of intervention should encourage FE colleges to raise their standards, particularly around leadership. Whether or not this results in replacing governors, principals or other senior members of staff, the emphasis on strong leadership should benefit equality and diversity because of the strong link between the two.

There is a correlation between strong leadership and equality and diversity, so the powers of intervention should actually be positive for diversity.
Equality and diversity through staff replacement

According to research, only 5.56 per cent of FE college governors are BME\(^7\) and only one third of governors are female.\(^8\) As the majority of governors in FE colleges are therefore white and male, there is scope for the final stage of intervention (removal or replacement of a senior staff member) to have a positive impact on equality and diversity. This could happen by seeking to replace the removed senior member of staff with someone from an under-represented group, although such action would need to be considered alongside relevant employment and discrimination legislation.

Intervention resulting from failures around equality and diversity

The most serious impact that the intervention policy could have on equality and diversity would depend on the intervention taking place directly as a result of failures around the equality and diversity agenda. If it is possible that a college is subject to intervention because it is making serious failures around equality and diversity, then this would logically have a positive impact on equality and diversity in the long term.
Review and Monitoring of the Policy

49 Stakeholders found it useful to discuss what monitoring arrangements should be in place with regards to equality and diversity, particularly around establishing systems for collecting staff and student data which enable the college to gain a better overview of the current picture of staff and students in the FE sector.

Gathering data

50 External stakeholders expressed concerns about the lack of readily available data on equality and diversity in the FE sector. They felt the lack of central data, e.g. knowledge about the current numbers of LGBT or BME governors in FE colleges, would make monitoring the impact of the intervention difficult. For instance, it would be difficult to prove a trend of intervention disproportionately resulting in the dismissal of BME governors without data showing the number of current BME governors.

51 One stakeholder suggested that it would be a useful exercise to gather data that match where an intervention takes place and the level of disadvantage in that area, thereby giving the LSC a clear picture of whether there is a link between intervention and deprived areas. In turn, this would enable the LSC to assess the extent to which some communities are being more exposed to interventions than others, and thus require additional attention and support.

Making it real

52 One external stakeholder suggested that, to assess the real impact of intervention on equality and diversity, an assessment would need to be done in a college that actually experiences intervention. The stakeholder was concerned that, without this real experience, comments were based on instinct rather than empirical data and evidence. However, it should be noted that this is currently not possible as the powers of intervention have never been used.

Diverting emphasis from equality and diversity

53 Stakeholders also thought that the emphasis colleges place on equality and diversity should be monitored before and after interventions have taken place. Two stakeholders suggested that equality and diversity issues might be ‘put on the backburner’ if intervention forced a focus on, for instance, financial issues. FE colleges experiencing intervention should be monitored to ensure that they are able to balance the demands of meeting standards and maintaining a commitment to equality and diversity issues.
Support

54 Stakeholders all agreed that it is important for the LSC to be given the support it needs in ensuring that equality and diversity continue to be of paramount importance in FE colleges, regardless of intervention. Interviewees tended not to be specific about the support or initiatives that should be in place, rather offering their own organisations as points of contact, such as the University and College Union (UCU), Association for College Management (ACM) and Association of Colleges ( AoC).

Training

55 There are opportunities for training around equality and diversity which will support LSC officers tasked with overseeing interventions. Providing training for those with powers around intervention should ensure that equality and diversity are protected and maintained during a period of intervention. It is assumed that the LSC already has training in place around equality and diversity, but should any external body be tasked with assisting the LSC in handling the process of intervention, the LSC should ensure that these individuals have also received adequate equality and diversity training.

Brokering dialogue

56 Staff unions (e.g. UCU) could provide support for the LSC by encouraging dialogue between college staff and LSC officers during a period of intervention. The danger during an intervention is that energy is focused on senior staff (management and governors), with the effect of the intervention on other staff being ignored or forgotten. This could in turn have a negative impact on equality and diversity if particular staff members are feeling under pressure. With unions facilitating dialogue between those tasked with intervention and staff, these complications should be avoided.

57 It should be noted that, to a certain extent, there is already provision for representative bodies to broker dialogue in the case of intervention. Single Voice is able to represent the sector in dialogue around regulation, and other representative bodies can act as mediators in the case of a governing body not responding to the first two stages of intervention. Thus, these powers of representation and mediation need to be extended to dialogue between all staff and the LSC during the latter stages of intervention.
Conclusion

Stakeholder interviews and desk research conducted for this single equality impact assessment suggest that any adverse effects on equality and diversity resulting from the LSC’s powers of intervention will be limited. The powers have never been used, and stakeholders thought it unlikely that the powers would be used often. In the instances when powers may be used, the majority of stakeholders, particularly those working in FE colleges, considered the potential impact of intervention on equality and diversity to be insignificant or limited for two reasons.

- The process leading to intervention (annual commissioning dialogue, identification of underperformance, support and challenge, intervention) would ensure that any intervention was considered and understood, thus providing adequate time to develop staff and student support mechanisms that should prevent any negative impact on equality and diversity.

- As the process leading to intervention is rigorous, at the point of intervention an FE college would have to be seriously underperforming, and the impact of this on students and staff should be of primary importance. Therefore, the need to intervene would outweigh other considerations.

However, alongside the broad consensus that the powers of intervention would not have particular negative impacts on equalities groups, stakeholders were able to identify some areas of concern that should be taken into account, such as intervention heightening states of stress in staff in ‘invisible’ equalities groups (e.g. LGBT staff). Stakeholders also expressed concern that colleges should not be made to focus on performance to the extent of neglecting lower achievers from local deprived communities. These concerns, and others, are covered in depth in this report, given impact ratings based on stakeholder opinion and desk research, then recommendations are provided about how to move forward.

Overall, the single equality impact assessment found that the powers of intervention indicate no serious threat to equality and diversity in FE institutions, but some concerns raised by stakeholders will need to be addressed in more detail.
Annex A: Interview Guides

LSC staff interview guide

Introduction
The Office for Public Management (OPM) has recently been commissioned by the Learning and Skills Council (LSC) to assess the impact of its policy in relation to its powers of intervention in relation to further education (FE) colleges. Our assessment is intended to ensure that the policy for application of the statutory intervention (e.g. removing governing body members, requesting that a governing body considers dismissal proceedings against a senior postholder, which it has the power to do, or directing the governing body to collaborate) does not discriminate against or disadvantage any particular groups.

As part of this assessment, OPM is conducting telephone interviews with external stakeholders and LSC staff with responsibilities relating to the intervention policy.

During this interview, we would like to discuss the impact the intervention policy could have on equality and diversity in FE colleges. This will include the aims and intentions of the intervention policy, what the effects of the policy are likely to be on particular groups (e.g. black and minority ethnic (BME) groups; disability groups; lesbian, gay, bisexual and transexual (LGBT) groups), whether the policy could be considered discriminatory, and whether it provides any opportunities to actively promote equality.

For reference: question 2
The LSC's proposed statutory intervention policy sets out the minimum levels of performance and Notices to Improve. The document sets out a four-stage approach to intervention in underperforming colleges: annual commissioning dialogue, identification of underperformance, support and challenge, and intervention. The latter intervention is aligned to powers set out in Section 56A of the Further and Higher Education Act 1992, later amended by the 2007 Further Education and Training Act. The latter Act grants the LSC the power of intervention to:

- remove all or any of the members of the governing body;
- appoint new members of the governing body; and
- give directions to the governing body, including a direction to begin dismissal proceedings against members of staff that it has the power to dismiss.

Any questions?

Questions

About you
1. Could you briefly describe your role and how long you have been in this position?

The intervention policy
2. What is your understanding of the new policy?

Impact of policy on equality and diversity

Staff
3. On a scale of one to five, with five being 'to a great extent' and one being 'not at all', what do you consider to be the impact of this policy on staff within the following equality strands?
   a. Ethnicity
   b. Disability
   c. Gender
   d. Age
   e. Sexual orientation
   f. Religion or belief.

Why?
4. Is the intervention policy likely to have a greater impact on any of the groups more than other groups? If so, which groups and why?

5. In your view, is this policy likely to impact on relations between the groups? If so, how?
Overall, in your view, is the policy likely to have a positive, adverse or no impact on diversity of staff in general? What impact is it likely to have with respect to the following groups of staff?

a. Principals and senior members of staff
b. Governors
c. Teachers
d. Other non-teaching staff.

Why?

Probe: In the short term? In the long term? Is this an adverse effect or positive effect? Will the impact vary according to seniority of staff?

**Students**

On a scale of one to five, with five being ‘to a great extent’ and one being ‘not at all’, what do you consider to be the impact of this policy on the diversity of students in terms of the following groups?

a. Ethnicity
b. Disability
c. Gender
d. Age
e. Sexual orientation
f. Religion or belief.

Why?

Is the intervention policy likely to have a greater impact on any of the groups more than other groups? If so, which groups and why?

In your view, is this policy likely to impact on relations between the groups? If so, how?

Overall, in your view, is the policy likely to have a positive, adverse or no impact on the diversity of students in general?

Probe: In the short term? In the long term?

In your view, will the policy have any other adverse effects on FE colleges, their staff or students?

Overall, does the intervention policy provide any opportunities for promoting equality and diversity?

Prompt: increase diversity among governors.

**Reviewing and monitoring**

What processes are currently in place to monitor and review the implications of this policy on equality and diversity?

What processes should be in place to monitor and review the implications of this policy on equality and diversity?

If this policy were to have a positive impact on diversity, what would this look like? (Probe for each of the equality strands.)

**Support**

What support or initiatives are currently in place to proactively promote equality of opportunity?

What support or initiatives should be in place to proactively promote equality of opportunity?

**Final question**

Is there anything you would like to add before we close?

Thanks and close.

**LSC stakeholder interview guide**

**Introduction**

The Office for Public Management (OPM) has recently been commissioned by the Learning and Skills Council (LSC) to assess the impact of its policy in relation to its powers of intervention in relation to further education (FE) colleges. Our assessment is intended to ensure that the policy for application of the statutory intervention (e.g. removing governing body members, requesting that a governing body considers dismissal proceedings against a senior postholder, which it has the power to do, or directing the governing body to collaborate) does not discriminate against or disadvantage any particular groups.

As part of this assessment, OPM is conducting telephone interviews with external stakeholders and staff from the LSC with responsibilities relating to the intervention policy.
During this interview, we would like to discuss the impact the intervention policy could have on equality and diversity. This will include the aims and intentions of the intervention policy, what the effects of the policy are likely to be on particular groups (e.g. black or minority ethnic (BME) groups; disability groups; lesbian, gay, bisexual and transsexual (LGBT) groups), whether the policy could be considered discriminatory, and whether it provides any opportunities to actively promote equality.

Any questions?

Questions

About you
1. Could you briefly describe your role and how long you have been in this position?

The intervention policy
2. What is your understanding of the new policy?

Impact of policy on equality and diversity

Staff
3. On a scale of one to five, with five being ‘to a great extent’ and one being ‘not at all’, what do you consider to be the impact of this policy on staff within the following equality strands?
   a. Ethnicity
   b. Disability
   c. Gender
   d. Age
   e. Sexual orientation
   f. Religion or belief.

Why?

4. Is the intervention policy likely to have a greater impact on any of the groups more than other groups? If so, which groups and why?

5. In your view, is this policy likely to impact on relations between the groups? If so, how?

6. Overall, in your view, is the policy likely to have a positive, adverse or no impact on diversity of staff in general? What impact is it likely to have with respect to the following groups of staff?
   a. Principals
   b. Governors
   c. Teachers
   d. Other non-teaching staff.

Why?

Probe: Is this an adverse effect or positive effect? Will the impact vary according to seniority of staff?

Students
7. On a scale of one to five, with five being ‘to a great extent’ and one being ‘not at all’, what do you consider to be the impact of this policy on the diversity of students in terms of the following groups?
   a. Ethnicity
   b. Disability
   c. Gender
   d. Age
   e. Sexual orientation
   f. Religion or belief.

Why?

8. Is the intervention policy likely to have a greater impact on any of the groups more than the other groups? If so, which groups and why?

9. In your view, is this policy likely to impact on relations between the groups? If so, how?

10. Overall, in your view, is the policy likely to have a positive, adverse or no impact on the diversity of students in general?

Probe: In the short term? In the long term?

11. Do you think that the policy will have any other adverse effects on FE colleges, their staff or students?
   a. What support should be in place to prevent the adverse effects?

12. Does the intervention policy provide any opportunities for promoting equality and diversity?

Prompt: increase diversity among governors.
Reviewing and monitoring

13. What processes should be in place to monitor and review the implications of this policy?

a. If this policy were to have a positive impact on diversity, what would this look like? (Probe for each of the equality strands.)

Support

14. What support or initiatives should be in place to proactively promote equality of opportunity?

a. Are there any particular organisations that should support the LSC to ensure that this policy has a positive impact on the diversity of students and staff?

Final questions

15. Is there anything you would like to add before we close?

Thanks and close.
Annex B: References


3. Ibid.


