House of Commons

Innovation, Universities, Science and Skills Committee

Spend, spend, spend? – the mismanagement of the Learning and Skills Council's capital programme in further education colleges

Seventh Report of Session 2008–09

Report, together with formal minutes, oral and written evidence

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Contents

Summary

The Building Colleges for the Future programme was a flagship endeavour for the Department for Innovation, Universities and Skills (DIUS) (as it then was) and the Learning and Skills Council (LSC). Through it the neglected Further Education sector was finally getting the infrastructure it deserved. Many colleges, and through them learners and the wider community, have and will continue to benefit from iconic building projects. But, as we set out in this report, no-one was keeping an eye on the total amount of money which was being committed and the value of applications coming forward. In December 2008 it suddenly dawned on the senior management of DIUS and the LSC that the total potential cost of projects which had received 'Approval in Principle' exceeded the capital budget and many more applications were in the pipeline.

Far from trying to damp down increasing demand in 2008 the LSC had been encouraging it. The extent to which LSC regional staff were actively involved in "bigging up" projects is still a matter of dispute between the colleges and the LSC, but there is no doubt in our minds that the LSC's language—particularly the use of phrases like "once in a generation opportunity" and even in January 2009 "there is a strong association between new buildings and high achievement"—was building up a 'bid now, and bid big' culture among colleges, which contributed to the funding crisis.

This report draws on the excellent work of Sir Andrew Foster who was asked to review the capital programme in January 2009 and pulled no punches with his criticism of DIUS and the LSC. We have also had the opportunity to look forward and assess the steps DIUS (now the Department for Business, Innovation and Skills (DBIS)) and the LSC have taken to move the programme forward. As we considered our Report the LSC announced that 13 colleges have been placed on a shortlist where they may receive money if their bids are scaled down. We analyse how this has been done, and also assess the latest state of discussions about compensation for the vast majority of colleges who will not receive funding for their projects in the near future—an important issue which has not yet been resolved.

There are also wider lessons in this report—both for management of other LSC programmes, such as Train to Gain and adult apprenticeships, and for the Government. We note significant comments made by the then Secretary of State for DIUS about the problems that can be caused by the use of Non-Departmental Public Bodies (such as the LSC), which we recommend should be considered across the whole of government. We consider the tension which can exist between demand-led and needs-based provision, and call for clarification of the concept of "informed demand". We also review how this problem partly arose from a series of Machinery of Government changes and the prospect of the abolition of the LSC in 2010.

While this is a very difficult situation for those colleges which have not received funding it is not without hope. As the Association of Colleges recently stated "colleges have a long history of innovation and resourcefulness that they can tap into when seeking alternative

funding streams, given the chance." There is clear potential for colleges to collaborate with HEFCE or with local authorities, and we note that LSC has begun belatedly to support this joint work—such efforts must continue and be given top priority as a way for the Council to make amends for its mistakes.

1 Introduction

The Committee's inquiry

1. Further Education plays a central role in developing the skills of young people and adults. The recent programme of capital investment run by the Learning and Skills Council (a non-departmental public body (NDPB) of the Department for Business, Innovation and Skills)[1] has had real success in redeveloping more than half of the FE college estate.[2]

2. However, in December 2008, after three years of considerable and welcome expansion, the LSC suddenly froze consideration of applications which were due for decision.[3] On 16 January 2009 colleges which had expected to receive multi-million pound contributions for their projects, having received so-called 'Approval in Principle', [4] were told that "a small number of applications that were due for decision—both in-principle and in-detail—have been deferred from December to March."[5] It began to become clear that as the Rt Hon John Denham MP, the former DIUS Secretary of State, told the House of Commons on 3 February, "many more schemes [were] currently in preparation than [could] be funded in this spending round."[6] On 27 January 2009 Sir Andrew Foster, former Chief Executive of the Audit Commission and author of the major 2005 report on FE, *Realising the Potential*,[7] was appointed to review the capital programme by John Denham and the Chairman of the LSC, Chris Banks CBE.[8] Mark Haysom CBE, the Chief Executive of the LSC, resigned on 23 March, shortly before Sir Andrew Foster's review, *A Review of the Capital Programme in Further Education*, was published on 1 April 2009.[9]

3. We launched our inquiry following an open call for topics for hearings which we called "Subjects for Scrutiny: have your say". The 157 Group, which represents 26 of the largest colleges in England,[10] asked us to investigate what had happened, arguing that "the hearing would add value in giving clarity and transparency to an important issue which needs perspectives, debate and insight from a range of angles to facilitate sector and public confidence in how this issue is being dealt with."[11] We held the first evidence session with Mark Haysom CBE on 13 May and the second with the 157 Group, the Association of

1 The Department for Innovation, Universities and Skills—DIUS—at the time the evidence for this inquiry was taken

2 *A Review of the Capital Programme in Further Education*, Sir Andrew Foster, March 2009, para 8. Referred to in this report as *"the 2009 Foster Review"*

3 Ev 37, para 7 and Annex [Association of Colleges]

4 The 2009 Foster Review notes that "there was a two-stage applications process for projects with a gross cost in excess of £10 million: 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." (p 13)

5 Letter from Mark Haysom to College Principals, 16 January 2009 [not printed]

6 HC Deb, 3 February 2009, col 719

7 *Realising the Potential: a review of the future role of Further Education Colleges*, Sir Andrew Foster, November 2005, Department for Education and Skills

8 *Denham and LSC appoint Sir Andrew Foster to review College building programme finances*, DIUS press release, 27 January 2009

9 *2009 Foster Review*. See also HC Deb, 1 April 2009, col 70WS

10 Ev 40, para 1

11 As above, para 3

Colleges (the representative body for the 369 FE colleges in England, Wales and Northern Ireland),[12] the Learning and Skills Council and the Department for Innovation, Universities and Skills on 20 May. We also held a private meeting with Sir Andrew Foster. We are grateful to all those who submitted written and oral evidence.

4. In this report we draw extensively on the 2009 Foster Review and the evidence we have heard to comment on how Sir Andrew's recommendations are being taken forward. We have not sought to re-run Foster's thorough analysis, but rather to build on it. In our concluding section we set out wider issues that should be noted by other government departments. This inquiry has also taken account of the report published by the National Audit Office in July 2008, *Renewing the physical infrastructure of English further education colleges*[13] and the subsequent Public Accounts Committee hearing in November 2008,[14] on which we comment in Section 6. The Public Accounts Committee Report will be published shortly.

5. Analysing what happened has proved to be a challenging task because the LSC is a complicated organisation with a large number of boards and committees operating at both national and regional levels. The sequence of events is also important. We therefore annex to the report a timeline showing the key events during 2008 and 2009 and append charts from the 2009 Foster Review which show the organisational structure of the LSC.

6. DIUS was merged with the Department for Business, Enterprise and Regulatory Reform (BERR) on 5 June 2009 in a surprise machinery of government change to create a new Department for Business, Innovation and Skills. Thus there are now multiple layers of transition. It has already been announced that the LSC is being wound up in 2010 (subject to the passage of the Apprenticeships, Children, Skills and Learning Bill through Parliament) and from that date:

- local authorities will have responsibility for commissioning and funding all education and training for young people up to the age of 19, with "a new slim-line non-departmental public body, the Young People's Learning Agency (YPLA) [to] support and enable local authorities to carry out their new duties."[15]
- responsibility for post-19 education and training will be transferred to the Chief Executive for Skills Funding who will head up the new Skills Funding Agency (SFA). The Agency will oversee "a new demand-led approach to adult education and training".[16]

7. We expect that the new Skills Funding Agency will be overseen by the Department for Business, Innovation and Skills. We look forward to DBIS's response to this report and

12 Ev 36, para 1

13 National Audit Office, *Renewing the physical infrastructure of English further education colleges*, HC (2007–08) 924, July 2008

14 Uncorrected transcript of oral evidence taken before the Public Accounts Committee on 17 November 2008, HC (2007–08) 1201-i

15 Department for Children, Schools and Families (DCSF), *Apprenticeships, Children, Skills and Learning Bill: summary of proposals in the Bill,* Department for Children, Schools and Families (DCSF)

16 As above

trust that it will work with the LSC speedily to establish transition arrangements in which the FE sector and others can have confidence.

2 Building Colleges for the Future and the 2009 Foster Review

Building Colleges for the Future

8. In 1993 further education colleges were incorporated, allowing them to take control and ownership of their land, buildings and reserves from local authorities.[17] The National Audit Office (NAO) noted that at the time "much of the physical infrastructure was in poor condition, and many buildings required urgent health and safety-related repairs, were unattractive to potential learners, unsuitable for modern learning, inaccessible to people with disabilities and inefficient to run."[18] A survey of the college estate commissioned in 1992 estimated the repair backlog to be £800 million.[19] Despite this, between 1993 and 1996 capital funding was mainly for projects relating to health and safety issues, and for the following two years only "very limited funding" was available.[20]

9. In 1999, the then Department for Education and Skills (DfES) obtained funding for the Further Education Funding Council (FEFC) to distribute to colleges as grants for capital projects.[21] In 2001 the Learning and Skills Council took over from the FEFC. Colleges were "expected [...] to provide the majority of their project costs through disposal of any surplus assets, taking out loans secured on their assets, and use of reserves."[22] Capital funding was also available in the form of private finance or public-private partnerships (PFI/PPP) although "almost all"[23] colleges chose to proceed on a grant-funding basis.

10. Following Sir Andrew Foster's 2005 review of the future role of FE colleges, *Realising the Potential*,[24] the 2005 Budget announced:

> a step change in capital investment in the Further Education (FE) sector [...] Existing plans should enable overall Government support for investment in the FE estate to rise to an estimated £250 million in 2007–08. Budget 2005 announces that an additional £350m of capital investment will be made over 2008–09 to 2009–10 to support the longer-term transformation of the further education sector.[25]

17 National Audit Office, *Renewing the physical infrastructure of English further education colleges*, HC (2007–08) 924, July 2008, Summary, para 2

18 As above

19 National Audit Office, *Renewing the physical infrastructure of English further education colleges*, HC (2007–08) 924, July 2008, para 1.8

20 National Audit Office, *Renewing the physical infrastructure of English further education colleges*, HC (2007–08) 924, July 2008, Summary, para 2

21 As above, para 3

22 As above

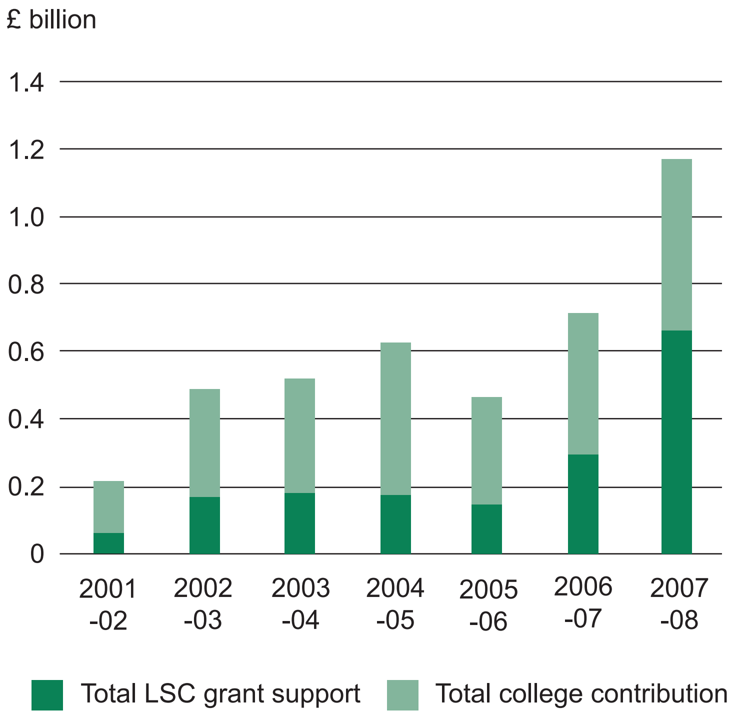
23 As above

24 Department for Education and Skills, *Realising the Potential: a review of the future role of Further Education Colleges*, Sir Andrew Foster, November 2005

25 HM Treasury, *Budget 2005: Investing for our future—fairness and opportunity for Britain's hard-working families,* HC (2004-05) 372, paras 6.54-6.55

11. The Chart below shows how the programme grew between 2001–02 and 2007–08. Between 2001–02 and 2007–08, projects with a total cost of £4.2 billion were approved and the Council's contribution to these was £1.7 billion:[26]

Figure 1: LSC funding of approved capital projects, 2001–02 to 2007–08



Source: National Audit Office analysis of the Learning and Skills Council's project data

Sir Andrew Foster's review

12. Sir Andrew Foster's 2009 *Review of the Capital Programme in Further Education* is a clear analysis of what went wrong during 2008. He set out his terms of reference as "in essence to assess":

- the main causes of the increased demand for capital funding;
- the LSC's management processes and how they could be improved; and
- any further steps that could be taken to ensure that in future the demand for capital funding is kept in line with budgeted resources.[27]

13. Describing the aim of his review as "to put back on track what has generally proved to be an excellent programme of capital investment in the Further Education (FE) sector"[28], Foster set out how it came to be, as he put it, that a "large surge in college proposals […]

26 National Audit Office, *Renewing the physical infrastructure of English further education colleges*, HC (2007–08) 924, July 2008, p 6, Box 5

27 *2009 Foster Review*, Summary, p 4

28 As above, p 3

opened an untenable gap between the resources identified and the cost of projects underway or in the pipeline."[29]

14. The size of this gap was remarkable. As the review continues "[w]hen the LSC completed its review of the project pipeline on 4 March 2009 [...] 79 projects had already received the first stage of approval in principle, with a requirement of **£2.7bn** from the LSC. A further **£3bn** would be needed for the 65 colleges that had submitted proposals for approval in principle."[30] To put these figures into context, the National Projects Director recently stated "the current plan [is] for the LSC to approve projects in June 2009 that required **£500 million** in grant, in the expectation that their total costs would be around £750 million",[31] [our emphasis] referring in June 2009 to "a potential budget of up to £515 million.[32]

Foster's analysis

15. Foster states that "proposals [after the 2005 Budget] at first remained stubbornly behind the curve of the total capital budget"[33] but "by early 2008, powerful drivers were increasing both the amount of grant support required from the LSC, and the speed at which proposals were being brought forward for approval".[34] These drivers were:

- "The good news about the success of the programme had spread. Colleges that had been sceptical or wary at the outset saw the impact on colleges that had been modernised and renewed";
- Colleges applying after the "first wave of 'early implementers'" had "relatively less strong balance sheets and narrower financial margins" and needed a higher proportion of LSC grant support;
- Early successes meant colleges had higher expectations "fuelling increases in both the scale of projects and their cost";
- "The standards of environmental sustainability were also increasing, with a requirement to meet BREEAM [Building Research Establishment Environmental Assessment Method] 'excellent' criteria introduced in March 2008";
- "Inflation in construction industry costs";
- Mindful of "the need to use or lose in-year budgets" the LSC "promoted the programme intensively", according to Foster, "local LSC teams actively solicited projects from colleges and worked with college principals to turn more modest proposals into wholesale upgrading of the entire college estate" (we comment on this in paragraphs 70-77);

29 *2009 Foster Review,* Summary, p 3

30 As above, p 3

31 LSC, Capital Reference Group minutes, 29 April 2009: "assuming an average grant rate between 65% and 70%"

32 LSC, Capital Reference Group minutes, 15 June 2009, para 5.2

33 *2009 Foster Review*, para 11

34 As above, para 13

- Nervousness arose on the part of colleges about two aspects of Machinery of Government changes: Foster states that "The budget split between FE and 16–19 capital after the establishment of DIUS and DCSF had increased nervousness that resources thought ring-fenced for colleges might be diverted to schools" and that colleges also "feared the impact that the establishment of the new YPLA and SFA in 2010 might have on their ability to participate and access funds"; and
- The economic downturn "was having 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." [35]

16. Together, these factors led to an exponential increase in applications and approvals, which Foster refers to as becoming "a veritable tsunami".[36] But the LSC and DIUS did not realise that this rapid increase was happening until it was too late. We explore the reasons for this in the following sections of the report.

17. Foster's analysis seems to have been well received. The memorandum from DIUS stated that it "accepts Sir Andrew's conclusions".[37] The Acting Chief Executive of the LSC said "Andrew Foster's report was extremely helpful to me in that respect. It was a clear analysis and it also made some very sensible recommendations."[38] Mark Haysom, the former LSC Chief Executive, told us that:

> I agree with an awful lot of his analysis. Where I would disagree would be at the margin, and I could argue about individual, small things, but I cannot see any value in that. I would not choose to express things in quite the way he has on occasions, but, fundamentally, I agree with him.[39]

18. **We commend Sir Andrew Foster for his thorough review of the FE capital programme and his perceptive description of events in 2008 and 2009. We have drawn on his work throughout this report.**

35 *2009 Foster Review*, para 13

36 As above, para 2

37 Ev 33, para 8

38 Q 230

39 Q 3

3 Events in 2008

The Capital Affordability Review: failure of management systems

19. As we have already noted, the FE capital programme was somewhat slow to gather momentum after the announcement of increased funding in 2005. But the pace of demand was increasing, and an internal review commissioned in December 2007 and completed in February 2008[40]—the Capital Affordability Review—included the statement "From 2010 to 2013 however, 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. This simply proves that the continuation of the current payment profile of projects is unaffordable to the Council."[41]

20. The Review was commissioned by the LSC's Director of Property and Infrastructure Services[42] and prepared by George Edwards of George Edwards Consulting Limited. It included forecast projections of capital spend under different scenarios and was relatively short (29 paragraphs). The conclusions were:

> The reduction in flexibility of FE Capital budgets will mean, if about £100 m of the FE budget is not restored, that either the FE renewal programme must be slowed down or prioritising or rationing must be introduced; and
>
> These recommended capital policy changes increase the manageability of the capital payments system and if adopted will help to ensure that the Learning and Skills Council can continue to manage its capital budget within the available funds despite the increasing volatility of capital claims from colleges.

21. The Capital Affordability Review had a limited circulation, although it was seen by the NAO[43] as it prepared its report on the programme (see section 6). Despite Mark Haysom's insistence that "I worked very hard in the LSC to try and create a culture which was really open and where people could actually come directly to me with their concerns"[44] both he and Chris Banks, the Chairman of the Council, confirmed that they did not see the Review until much later in 2008, after the scale of the problem had become apparent. Mark Haysom told us "that report was not escalated within our organisation to the extent that it reached my desk. So I was never aware of that report, and that meant that neither I nor senior DIUS officials nor anyone else was aware that that report existed."[45] Chris Banks, similarly, "To be very explicit on that, I was unaware of the existence of that report, I am

40 *2009 Foster Review*, para 15. The Review is published with this Report (Ev 50).

41 As above

42 As above

43 The Review is listed in Appendix Five of the NAO Report ("Learning and Skills Council reviews") which states "The purpose of this review, which reported in February 2008, was to consider the affordability of the current system of capital grant support to further education colleges within the context of the current affordability policy of the Council" and lists "results and action taken" as "The review recommended a number of capital policy changes to increase the manageability of the capital payments system and help to ensure that the Council can continue to manage its capital budget within the available funds. The Council will present the conclusions to the national capital committee and reflect them in updated guidance."

44 Q 20

45 Q 9

afraid, but you should know. The earliest I might have known would be December, it may have been later than that. […] No-one mentioned it or raised it with me."[46]

22. What did happen to the Capital Affordability Review, as is made clear in the 2009 Foster Review, is that it was passed around the LSC's labyrinthine management structure. The Capital Policy Group, after considering the report on 22 April 2008,[47] referred it to the executive Finance and Resources Board in May. A Prioritisation Working Group was also established.[48] David Hughes, then Regional Director for London and Chair of the FRB, and now National Projects Director for the LSC, defended the treatment of the Review, telling us that "I do not think it [the Review] was predicting disaster for the programme. What it said was there were some serious problems on the horizon."[49] He stated that the Finance and Resources Board had referred the matter on to the LSC's Capital Committee:

> there are some actions we need to take, including prioritisation, including limiting the grant paid by the LSC and a number of others that we can see in the report, so we said we need to do that, and we referred that, quite understandably, to the Capital Committee and asked the Capital Committee to take that on. They did not do that until September.[50]

23. The Minutes of that September Capital Committee meeting record that the view was taken on 19 September that "further work" was necessary before strategies "could be finalised":

> The Committee was told that this year is the first time since the LSC was formed a potential overspend against the current capital budget was forecast compared to the potential underspend usually forecast at the same point in previous years [...] The Committee would have to look at how projects are funded in the medium to longer term as the first regional capital strategy returns indicate a significant increase in forecast projects and a peaking of requirements around 2010–11 possibly influenced by the Machinery of Government outcomes. Further work was likely to be required reconciling these estimates with previous years forecasts before the strategies could be finalised.[51]

The Capital Affordability Review and DIUS

24. We turn later in this report to the somewhat troubled relationship between DIUS and the LSC, one of its Non-Departmental Public Bodies (NDPBs). Cabinet Office Guidance from June 2006 notes:

> The term 'NDPB' has been in existence since 1980 when it was coined by Sir Leo Pliatsky in his 'Report on Non Departmental Public Bodies'. An NDPB is described as: 'A body which has a role in the processes of national government, but is not a

46 Q 170

47 *2009 Foster Review*, para 17

48 As above

49 Q 193

50 Q 199

51 LSC, Capital Committee minutes, 19 September 2008, para 3.7

> government department, or part of one, and which accordingly operates to a greater or lesser extent at arm's length from ministers.'[52]

25. The Guidance notes that the "distance [of NDPBs] from government means that the day-to day decisions they make are independent as they are removed from ministers and Civil Servants." However, it adds "Ministers are [...] ultimately responsible to Parliament for a NDPB's independence, its effectiveness and efficiency"[53] and "the relationship between each NDPB and its sponsor department must be clearly defined in a way which supports the appropriate degree of delegation and independence of the NDPB, while assuring the accountable minister and department that financial management arrangements ensure propriety, regularity and value for money, and that risks will be managed."[54]

26. As part of this oversight process DIUS staff had regular meetings with key LSC staff and attended some committees.[55] But, as we were told by Stephen Marston, DIUS Director General of Universities and Skills: "I deeply regret that it [the Capital Affordability Review] was not escalated [...] I was not aware of the report until November."[56] He explained:

> What did happen is it was a member of my staff who attended the meeting—I think it was actually in April—that first looked at the February report [...] I do not think it is quite right to say it was just ignored. I think a number of things followed from it [...] reaction number one to this report was, right, we must sort out the short-term position. The second reaction to it was, 'It is right that we are going to have to think about prioritisation' [...] the bit that we clearly just failed to get right was the speed of understanding that we were at a tipping point, the whole programme was changing and we did not react fast enough.[57]

27. When pressed on why that DIUS official had not alerted senior staff to the contents of the Capital Affordability Review, Stephen Marston replied "For me the critical issue is the confidence to escalate, to err on the side of escalating if you see a problem, even if the group conclusion in that meeting you are attending is, 'It is okay. Let us keep it under review. It is going to be all right.' That is what went wrong."[58]

28. The then Secretary of State told us:

> so far as Ministers are concerned, none of this (and I think this is accepted) reached Ministers until November, and it is also fair to say that the thrust of the concerns that were raised with Ministers in November were more about the phasing of payments and how well they would match the planned capital payments than they actually

52 Cabinet Office, *Public Bodies: A Guide for Departments*, June 2006, Chapter 2, para 2.1

53 Cabinet Office, *Public Bodies: A Guide for Departments*, June 2006, Chapter 2, para 2.2

54 As above, para 3.1.3

55 See Annex and Q 260

56 Q 249

57 As above

58 Q 255

> were about the problem which subsequently emerged, which was the sheer scale of the number of schemes in the pipeline.[59]

Perception that this was an 'in-year' problem

29. Foster notes that work within the LSC in spring 2008 focussed on the in-year financial position of the capital programme, rather than the longer-term[60] and David Hughes linked this point to the issue of the Capital Affordability Review:

> So when we saw this report, it said: you need £100 million in-year to manage the budget. We had a very strong assurance, unofficially, that we would end up with that money.
>
> Q198 Chairman: From whom?
>
> Mr Hughes: From officials.
>
> Q199 Chairman: Your own officials?
>
> Mr Hughes: We were in discussion about a budget [...] in the end there was £110 million brought forward [...] so that foresight was right.[61]

30. This was confirmed by other witnesses from the LSC. As Mark Haysom, former Chief Executive, put it "everyone was focused on trying to solve the in-year issues."[62] Chris Banks, Chairman of the LSC said, similarly, "The key issue that we were looking at within the council actually on an on-going basis was the in-year expenditure, and that is the thing that was being reported as the key pressure point."[63]

31. Mark Haysom added:

> The £110 million was the right information and we could see that very clearly, but the way that we had anticipated managing that £110 million overspend was through end of year flexibilities. That was not something that proved possible, but that situation was resolved when the budget was brought forward from 2010–11. So that in-year problem was resolved during that period.[64]

32. But, as Sir Andrew Foster noted, this "was not just an in-year problem; even had it been so, the scope for using Train to Gain underspends, a possibility that had been discussed, was reduced by the emergence of other DIUS cost pressures at mid-year. A decision to bring forward £110m of capital funding did seem to disguise the underlying problem in-year but merely amplified it for 2009-10."[65]

59 Q 247

60 *2009 Foster Review*, para 18

61 Qq 197–199

62 Q 50

63 Q 170

64 Q 8

65 *2009 Foster Review*, para 22

Conclusion

33. **We conclude that the treatment of the February 2008 Capital Affordability Review demonstrates what was going wrong both within the LSC and between the LSC and DIUS. There were failures in communication within and between the two organisations and a shared—but flawed—assumption was formed that this was an in-year issue that had no long-term implications. A central element in this was the failure of the LSC's then Chief Executive and Chairman to have a process where they regularly considered the future direction of a key programme which was to consume up to 9.2% of the LSC's total budget by 2009–10.**

May—November 2008

34. The 2009 Foster Review sets out what happened during the rest of 2008 in the various LSC groups, boards and committees:

> The LSC's Management Board […] received a paper on capital issues at its meeting on 13 May 2008 warning of increasing pressure on the capital budget and alerting it to expect advice on short and medium term priorities at its meeting on 12 June 2008. No such advice was provided, however, and neither were capital issues discussed at that meeting. Moreover, no recommendations from the Prioritisation Working Group were put to the national Capital Committee until September 2008.[66]
>
> The 30 July Council meeting approved the combined recommendations of the 19 June and 17 July Capital Committee meetings. These determined or recommended 26 FE and 16–19 capital funding applications with a total estimated cost of £1.2bn, including grant support of just over £1bn, payable over the next 5–6 years. The workload of the Capital Committee had become so onerous by June that the Director of Property and Infrastructure requested an extra meeting in August to deal with the large number of projects waiting to be presented.[67]
>
> The Capital Committee met on 19 September 2008 and agreed to recommend to Council 7 Approvals in Principle and 1 Approval in Detail with a total value of £401m. It met again on 22 October 2008 and put forward a further 4 Approvals in Principle and 5 Approvals in Detail with a total value of £530m.[68]
>
> Meanwhile, consideration of project proposals continued. As already noted, the Council had deferred decisions on the recommendations from the October meeting of the Capital Committee to satisfy itself about affordability. However, the November meeting of the Capital Committee agreed to recommend to the December meeting of Council further projects with a value of about £500m (fitting in an extra meeting on 4 December to get through them all).[69]

66 *2009 Foster Review*, para 19

67 As above, para 20

68 As above, para 23

69 As above, para 25

35. Areas of ambiguity remain in the evidence we received about when different parts of the LSC were aware of potential problems. Dr John Blake of Sussex Downs College reported that Phil Head, LSC Director of Infrastructure and Property Services, visited his College in September 2008 to say that phasing might be necessary: "we were told that maybe it [the College's project] needed to be phased so we began to be a little bit concerned about what that meant."[70] It is not clear to us why, given that we were told that, commendably, Phil Head had been responsible for commissioning the Edwards report which gave the first warning signs over the programme, there appears to have been no discussion about looming longer-term problems between him and the then Chief Executive (or Chairman) through 2008.[71] This seems particularly curious given the then Chief Executive's self-proclaimed 'open-door' style.[72]

36. Minutes of the 17 December LSC National Council meeting seem to indicate that concerns over affordability were in existence at the beginning, rather than the end of November, which puts the positive picture painted to the Public Accounts Committee later that month (see section 6) into perspective:

> Council asked that a correction to the report [proposing changes to the management and funding of the FE capital programme] be formally recorded. The report stated that 'At its meeting on 5 November 2008 the Council did not have time to consider and determine the project proposals (both in principle and detailed) recommended at the 22 October Capital Committee meeting'. It was noted and acknowledged that the main underlying reason had been concern over *affordability*.'[73] (emphasis added)

37. The 2009 Foster Review also refers to the November Council meeting as significant:

> When Council met on 5 November 2008 it was presented with Capital Committee project recommendations with costs approaching a further £1bn. Mindful of growing pressures on the capital budget, Council also received an initial report on the future funding and priorities of the capital programme alongside those recommendations from Capital Committee. Council approved the recommendations from September, only £44.5m of which was application in detail, but deferred decisions on October recommendations until its 17 December meeting. Members also requested a report on the funds available in 2008–09 and future years, and a paper forecasting Approval in Principle commitments on the budget across the current and next Comprehensive Spending Review periods.[74]

December 2008

38. In December, as we have noted, the news finally permeated to the top of both the LSC and DIUS that there was a serious problem. Mark Haysom explained that he was "pretty shocked" when the full extent of the LSC's spending commitments became apparent in late

70 Qq 97–102

71 Qq 47–52; Q 157

72 Q 20

73 LSC, National Council minutes, 17 December 2008, para 5.9

74 *2009 Foster Review*, para 24

2008, commenting "the speed with which the situation changed is one of the most extraordinary things about the whole episode."[75]

39. The LSC Council met on 17 December 2008 and agreed to a three-month pause in consents to proceed with Approval in Principle (AiP) and Approval in Detail (AiD) applications. [76] Further mistakes were then made. The Council did not immediately carry out a full-sector communications plan because, Foster reported, Ministers considered "that a full action plan needed to be brought forward about the scale of the problem and how to rectify it, before it should be communicated."[77] The 2009 Foster Review states "The Council wanted full communication but it did not happen", suggesting that the LSC did not have the detailed information available to explain the situation.[78] This meant that there was considerable confusion among colleges in early 2009 (the Association of Colleges referred to "chaotic effects"[79]) which compounded an already difficult situation. Mark Haysom, then Chief Executive, wrote to all college principals on 16 January 2009. The letter stated:

> there has been confusion recently over the future of the programme. I wanted to write to clarify the situation. There is no freeze on the capital funding programme. However, the pace of demand for capital funding has increased as projects and the scale of Government funding required becomes increasingly ambitious. On top of this some colleges are finding their ability to raise their own funds curtailed by the economic downturn […] In light of these factors the LSC has taken the decision to look at the proposals for all capital schemes in the pipeline to assess the likely impact on funding support for individual projects […] As a result of this consideration, a small number of applications that were due for decision—both in-principle and in-detail—have been deferred from December to March. The 253 colleges that have been given approval in detail and either have work underway or have previously been given the final go ahead for works to begin will not be affected. But the LSC will be in contact with colleges that are in the process of submitting bids to advise them on the steps they need to take. [80]

Conclusion

40. **The unprecedented level of capital expenditure on the FE estate between 2005 and 2008 can be regarded as a great achievement by the Government and by the LSC. On the basis of the 2009 Foster Review and the evidence we have taken we conclude that there was a catastrophic mismanagement of the LSC capital budget during 2008 and neglect of oversight by those in the most senior positions in the LSC. The fact that the situation changed quickly does not excuse the lack of recognition of crucial warning signs, in particular the February 2008 Capital Affordability Review.**

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75 Q 6

76 LSC, National Council minutes, 17 December 2008, para 5.7

77 *2009 Foster Review*, para 27

78 As above, para 46

79 Ev 37, para 7

80 Letter from Mark Haysom to College Principals, 16 January 2009 [not printed]

4 Wider issues

41. In our evidence sessions we sought to resolve remaining areas of ambiguity about the chain of events in 2008 and 2009 and also assess how Sir Andrew Foster's recommendations were being taken forward. We focussed our attention on prioritisation, risk management, the role of the National Council and the Chairman of the LSC, communications between the LSC and colleges and, finally, the relationship between the LSC and DIUS.

Lack of a prioritisation mechanism

42. The lack of any clear prioritisation strategy for this programme is clear in several key LSC documents:

- *The LSC Capital Handbook*, published in November 2006, stated "in the event of applications for capital grant exceeding the funds available, the LSC will put in place national moderation arrangements to determine the relative priority to be given to competing applications."[81]; and

- *Building Colleges for the Future: the LSC's National Capital Strategy for 2008–09 to 2010–11*, published in March 2008, stated that the LSC was concerned about colleges' ability to manage major capital schemes and provided a scheme called the Client Capability Enhancement Programme to help them. While the Strategy noted that "changes outlined in this document and the substantial increase in project volumes may all require changes within the LSC as an organisation, in order to deliver an enlarged capital programme"[82] it stated "[t]he LSC will continue to monitor the demand for capital funds. It may introduce criteria to prioritise capital applications according to urgency and according to the timing and nature of payments (should the demand for funds exceed the budget available in any particular year)."[83]

43. Foster rightly identified the lack of "a fully integrated management approach at the LSC. The strengths of capital planning and weaknesses in financial foresight have sat side by side without apparent grip from the overarching general management and corporate governance functions."[84] He stated "Over-commitment should have been detected and challenged sooner [...] If it had been anticipated strategically, the surge could have been mitigated and managed."[85]

44. Foster also referred to the lack of regulation of the demand-led approach and the fact that there was no "robust LSC policy framework for making managerial choices."[86] He

81 LSC, *LSC Capital Handbook,* November 2006, para 32

82 LSC, *Building Colleges for the Future: the LSC's National Capital Strategy for 2008–09 to 2010*–11, March 2008, p 3

83 As above, p 10

84 *2009 Foster Review*, para 39

85 As above, para 38

86 As above, para 39

concluded, damningly, "where has been the routine analysis, projection and reporting of aggregate, year-on-year cost?"[87] Added to this was a cultural short-sightedness, despite the fact that these were long-term projects. Foster referred to a perceived need within the Council "to use or lose in-year budgets"[88] and we have already referred to the perception that the budgetary problems were in-year.[89]

45. Projects were assessed on individual merit and financial viability rather than against the total budget and national need; Foster refers to the "rigorous and diligent" project assessment process at individual project level, but "diametrically poorer quality of overall financial and management information."[90]

46. David Hughes, National Projects Director at the LSC, stated that "we were starting to move towards a prioritisation scheme",[91] but only after it was too late. Mark Haysom made clear what the LSC's perception had been—one in which prioritisation was simply not required:

> the world was pretty much as we had understood it to be for the previous five years where we had a very successful programme that was running within budget and where our biggest challenge was making sure that there were sufficient projects in the pipeline that would come to fruition in a timely fashion so that they could be delivered in future years. And that was the situation right the way through the summer of 2008. That was the situation, incidentally, that was confirmed by a National Audit Office Report at that stage.[92]

47. It is worth noting that other large scale national capital programmes have clearly identified "need" for the funding (rather than being first in the queue) as an important factor to consider. Guidance for Local Authorities on Revising and Resubmitting Expressions of Interest for projects in waves 7 to 15 of Building Schools for the Future, for example, stated:

> BSF was prioritised on the average social and educational need of the groupings of schools proposed by authorities. Eligibility for free school meals was used as proxy for social need, and GCSE results for educational need. In 2004 we announced the first authorities to start in the programme. In early 2005, we gave all authorities an indication of where all their projects were prioritised in the national programme. Further waves were subsequently launched, most recently in June 2008, when 8 authorities joined the programme in an interim wave 6a, selected on readiness to deliver criteria from those prioritised in waves 7 to 9.[93]

87 *2009 Foster Review*, para 37

88 As above, para 13

89 See paras 29-33

90 *2009 Foster Review*, paras 35–36

91 Q 228

92 Q 6

93 DCSF, *Guidance for Local Authorities on Revising and Resubmitting Expressions of Interest for projects in waves 7 to 15 of Building Schools for the Future*, September 2008, para 13

48. The hospital building programme has also in the past been subject to a form of national prioritisation. The guidance for the "2004 prioritisation round" stated:

> The host Strategic Health Authorities will submit SOCs [Strategic Outline Cases] to the Department of Health for prioritisation. These will then be peer-reviewed by other Strategic Health Authorities operating as part of a Technical Group, co-ordinated and guided by the Department of Health. The Technical Group will then report to the Department's Management Board, which will make a prioritisation recommendation to Ministers, who will then decide the relative priority of schemes and announce those schemes that are approved to be further developed.
>
> To be prioritised, schemes must demonstrate compelling evidence of health service need and deliverability. The assessment of health service need will be undertaken by the host Strategic Health Authority, because its role in leading and managing local service strategy makes it best placed to make this assessment. National prioritisation will then focus on the factors that influence the delivery of the scheme, including the quality of stakeholder support, project management arrangements and technical considerations.[94]

49. **The evidence we took revealed a strange world in which staff at the LSC believed prioritisation would not be needed in the short to medium term because the programme had historically been underspending. Hence they could defer difficult decisions, for example on how to rank projects within and across regions, to someone else—perhaps the LSC's successor organisations. But this meant that the programme in the end operated on a first-come, first-served basis, with no consideration given either to need or wider departmental or government policy objectives. Some colleges received funding for iconic buildings when something much cheaper would have served perfectly well. Other worthy projects, perhaps in areas of greater deprivation, will now not be funded at all.**

50. **This should not have happened and must not happen again. We recommend that it should be a requirement for all national capital programmes to have an agreed mechanism for prioritisation built in to them from the start, even if they initially underspend. In this case the perceived need within the LSC to "use or lose in-year budgets" was a key factor in the Council's decision to seek to build up demand in the early stages of the programme, a build-up which proved impossible to manage. Consideration should be given to how to mitigate the tendency to focus on in-year budgets and therefore make short-term decisions, for example enabling greater flexibility to carry-over funds in the early stages of a programme to ensure that growth is managed sustainably.**

Role of the LSC in liaising with the Regions

51. Sir Andrew Foster noted that "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

94 www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4070707?IdcService=GET_FILE&dID=5590&Rendition=Web

delegated budgetary responsibility and it was assumed that it was being done centrally."[95] David Hughes, now National Projects Director at the LSC but Regional Director for the London Region during 2008 and also Chair of the Finance and Resources Board which had had sight of the Capital Affordability Review in May 2008, confirmed that "It was a national budget to which we were pushing through projects, so we had no regional budget."[96]

52. When asked whether the LSC had been consulting the Regional Directors about the scale of applications in the pipeline Mark Haysom explained:

> one of the things that had happened was that we had gone round all of the regions, asking what was in the pipeline and for their best estimate of future demand. And in 2007, I think, the figure that came back was that there was £8 billion worth of activity in the pipeline. One of the things that happened in 2008 is that, when that came back again, and I think that was in the September, having reviewed it, that number had leapt to £16 billion […] we were very anxious about that.[97]

53. The NAO noted that Regional Directors themselves had authority to approve expenditure on projects;[98] according to a 2006 LSC paper, the Capital Committee had delegated authority to determine applications for consent and capital project grant support (including borrowing consent) for projects estimated to cost up to £30 million, the Chief Executive for projects estimated to cost up to £10 million where the Council's grant contribution was 50% or less and Regional Directors for projects estimated to cost up to £5 million where the Council's grant contribution was 35% or less.[99] We were told by the LSC that the Chief Executive had authorised £115.9 million of LSC expenditure between October 2003 and December 2008.[100]

54. **We conclude that the senior management of the LSC made two significant mistakes in dealing with the regions during 2008. They should have been consulting Regional Directors much more frequently about the programme to establish likely overspends, whether or not they were aware at the time of the Edwards report and its implications, and Regional Directors should have been given a responsibility to monitor and report on the number of projects coming through the system.**

Conclusion

55. Mark Haysom's evidence revealed that there had been a general lack of longer-term strategic thinking at the LSC following the announcement of its imminent demise, which may have been one of the reasons why this looming problem was not addressed:

95 *2009 Foster Review*, para 22

96 Q 207

97 Q 67

98 National Audit Office, *Renewing the physical infrastructure of English further education colleges*, HC (2007–08) 924, July 2008, para 2.14

99 LSC (2006) Capital Project Support, Paper LSC 50/2006.See also National Audit Office, *Renewing the physical infrastructure of English further education colleges*, HC (2007-08) 924, July 2008, para 2.14 and Ev 48

100 Ev 48

> the way we were thinking about the future had changed pretty dramatically. We were in the business of steering the organisation towards an end point of April 2010, and that kind of longer-term strategic thinking […] suffered. As a consequence of that the whole organisation becomes focused on that end point rather than managing the way that you would previously.[101]

56. The 2009 Foster Review referred to this as "'eye off ball syndrome' associated with organisational change",[102] stating clearly that "The impact of the demise of the LSC and uncertainty about arrangements for the new agencies should not be underestimated. Many meetings took place about areas of contention and disagreement and the main focus of management was on these issues",[103] concluding:

> Of course it is no good saying that organisational change should be reined in: it has always happened, as circumstances change, and it always will. It is very often essential and inevitable. The point is that the distracting and even blighting impact of change must be anticipated and positively managed at all levels. There is no shortage of wisdom about this in the manuals of management.[104]

Risk management

57. At the same time as these events were unfolding LSC was responding to previous criticism of its risk management systems made by LSC Internal Audit in both 2006–07 and 2007–08. Mark Haysom's 2007–08 *Statement on Internal Control*, published with the LSC's 2007–08 Annual Report and Accounts, stated that "Internal Audit performed a review of risk management during the year which gave a restricted assurance and has resulted in a qualification to the Internal Audit Annual Report. In the last quarter of 2007–08 the failure to properly embed corporate risk management was recognised at the highest level within the LSC as the National Audit Committee reported the matter to the National Council"[105] and added "The assurance provided by Internal Audit has been qualified in regard to risk management […] [T]he 2006–07 Annual Report identified significant action was required across the LSC to properly embed risk management."[106]

58. In response to this, in July 2008, the LSC's Management Group and the National Audit Committee agreed the LSC's top four risks, which were:

- Machinery of Government;
- Finance and Systems;
- Performance: Train to Gain and Apprenticeships; and

101 Q 72

102 *2009 Foster Review*, para 59

103 As above, para 41

104 As above, para 42

105 LSC, Annual Report and Accounts for 2007–08, HC (2007-08) 783, Statement on Internal Control, para 12

106 As above, para 18

- Demand Led Funding: Provider Capacity.[107]

59. The September 2008 Delivery Report added "LSC has a refreshed risk management process which will ensure that there is a clear line of sight between risks identified from across the organisation and the four corporate risks set out above. These risks will be managed by national and regional risk champions and overseen by the Risk Management Board reporting to Management Group. Issues will be escalated to Council as appropriate." The December 2008 Delivery Report (LSC Management Group Report to Council) noted that "EMA and National Apprenticeship Service" had been added to the top risks.[108]

60. But even as a result of all this work the capital programme was not flagged up as a potential major problem. As Chris Banks told us "because of the various changes that were going on and the uncertainty, we did instigate [...] a full review of all of our risk management so that we could get a better grip on it, but you are right, it failed".[109] This review was also mentioned by Mark Haysom:

> we revisited our whole risk management approach during 2008 because it was not as robust as it should have been previously—and the Audit Committee were doing a very good job for the LSC and flagged that up. So I put in place very prompt action to address that and we put in place, what I considered to be, a pretty robust risk management approach. Next question: why was the capital programme not on the risk register? I think, well, I know, because it was seen to be a success, that flipping into, in record time, a situation of over-demand was not seen to be an issue on the radar. I am sorry, but it was not.[110]

61. DIUS was well aware of the problems in risk management at the LSC, and the issue was mentioned in its Accounts for 2007–08:

> The Learning and Skills Council (LSC) is one of the Department's key NDPBs and an area of concern has been identified with regard to the failure to properly embed corporate risk management across the organisation and respond to concerns raised by internal audit in the previous financial year. This has been disclosed in the LSC Statement on Internal Control for 2007–08 and is being addressed as a matter of priority. The LSC has undertaken a redesign of its approach to risk management and is working to achieve prompt and genuine progress in this area for review by the LSC's National Audit Committee.[111]

62. But DIUS chose not to include this specific risk in the table listing risks in Annex 3 of its 2008 Departmental Report. When we scrutinised the Report we were highly critical of the way in which that risk table was put together and the way it differed from the list in the annual accounts, noting:

107 LSC, Delivery Report: LSC Management Group Report to Council, September 2008, p 10

108 As above, p 9

109 Q 181

110 Q 74

111 DIUS, *Resource Accounts 2007–08*, HC (2007–08) 864, p 38

> The risks listed in DIUS's accounts appear to us to be matters for which public officials—and ultimately ministers—have control and should be accountable if they do not address and take all reasonable steps to reduce the risk. We are concerned that the list in the audited accounts has not been reproduced in the list of risks in the Departmental Report. Instead DIUS has produced a list that includes items that are likely to defy accountability.[112]

63. **The fact that the LSC's weak risk management system was being addressed as these events were unfolding, and that even as a result of this the capital programme was not identified as a major potential problem is astounding. In this context we repeat our criticism that DIUS did not place key risks it had identified in its Accounts—including poor risk management at the LSC—in its 2008 Departmental Report.**

The role of the National Council and the Chairman of the LSC

64. The LSC's website states:

> The National Council is the top tier of decision-making in the Learning and Skills Council. The National Council is responsible for all of the functions of the LSC unless it chooses to delegate those functions. It steers LSC strategy and provides leadership to the LSC and delivery system as a whole.
>
> It provides challenge and support to the LSC's chief executive and senior management team, monitors and evaluates the LSC's performance nationally, ensuring that local and regional activity delivers national priorities and targets. Members of the National Council also act as national ambassadors for the LSC and for learning and skills.[113]

65. Chris Banks, the Chairman of the LSC, came with a background in business, having founded Big Thoughts, a company which was set up following a management buy-out from The Coca-Cola company in 2001. He was previously Managing Director of Coca-Cola Great Britain. His post at the LSC is on a part-time basis (approximately two days a week—though he told us he worked more than this[114]) for a salary of around £51,000.[115]

66. We asked Chris Banks a series of questions on his role in the events in 2008 and his decision not to stand down at the same time as the Chief Executive. He explained that the Council was "a corporate body of almost entirely non-executive members plus a chief executive [...] we took the decision early on that we would delegate all the day-to-day operations of the organisation to the executive team, if you like, the experts, and also the people who are working day in day out on the detail of these, and I think it is worth having that model in mind because it is a different model from business or some other agencies or organisations that people have seen."[116]

112 Third Report of the Committee, Session 2008–09, HC 51-I, para 44

113 www.lsc.gov.uk/aboutus/organisation/aboutnationalcouncil/

114 Q 163

115 Q 161

116 Q 153

67. He added that he had been unaware of any problems until the end of 2008, and that as soon as the Council had become aware of the crisis it had acted quickly and decisively.[117] He also acknowledged major failings in the way in which information was dealt with and the fact that, as he noted, "capital was not on the risk register."[118] When asked whether he had considered his own position he told us:

> Of course I did. It would be only natural to, would it not, in the circumstances, and I do want to put on record my personal apologies as well as those of the organisation to all of those people who have been affected by the difficulties that we have had and the consequences to everyone else, but my belief is that, as the day-to-day responsibility for the management of that programme rested with the chief executive and that he has resigned as a result of this, that is the right thing, and my job is to try and ensure that this organisation delivers all that it possibly can between now and the time when it is dissolved in the spring.[119]

68. Cabinet Office guidance notes that the Boards of public bodies have "a collective responsibility for the proper conduct of the body's affairs and for ensuring that staff maintain the strictest standards of financial propriety. Where the Public Body has been set up by statute, the Board has a duty to ensure that the requirements of propriety, regularity and value-for-money are met in its use of public funds."[120] As Chairman of the Council Chris Banks had a responsibility to ensure that the executive team had systems in place to manage key programmes.

69. **We note the points made by Chris Banks about the position of the LSC Council and his own position as Chairman of that Council. While the LSC Council delegated responsibility for management to the executive team it retained a responsibility to provide high-level oversight, set overall strategy and to challenge and question what the management team were doing, and the Chairman of the Council should have been leading the Council in achieving this. The Chairman and the Council clearly failed in this oversight during 2008.**

Communications between the LSC and colleges

70. The 2009 Foster Review alludes to encouragement given by the parts of the LSC to colleges to bring projects forward in the context of a programme which had been underspending. Foster stated that "There was strong encouragement for the programme from Ministers and the LSC Chief Executive throughout 2006 and 2007. Mindful of the need to use or lose in-year budgets, the LSC promoted the programme intensively and supplemented client capability in the sector to support the more cautious cohort. Spurred on by the stated policy of renewing the entire estate, local LSC teams actively solicited projects from colleges and worked with college principals to turn more modest proposals into wholesale upgrading of the entire college estate."[121]

117 Qq 156–159

118 Q 181

119 Q 182

120 Cabinet Office, *Public Bodies: A Guide for Departments*, Chapter 6, para 2.1.1

121 *2009 Foster Review,* Summary, para 13

71. Our evidence session with college representatives provided us with specific examples of this "bigging-up process":

> about three and a half years ago we had a quite modest project of about £8 million to replace one of our sixth form colleges. At the beginning of the LSC process [...] it went up to £30 million, then it went up to £90 million, and at the end it was £175 million, and in the end most of that was a bigging-up process, and that happened through the regional LSC property process.[122] (Dr John Blake, Sussex Downs College)

> To begin with I think he [Mark Haysom] was frustrated with the sector that they were not coming forward fast enough [...] I suspect, although I do not know from the inside, that he [Mark Haysom] sent out instructions, or his team sent out instructions, to the regions and to the local areas for them to go out and talk to the colleges about their plans and asking were these plans transformational enough. I know in the West Midlands, for example, in 2007 we were all invited to share with the local LSC and the regional LSC what our expectations and hopes were, so there was a regional capital plan. What it could have been was a capital plan that was based on need and business case and so on. What I think it was was actually a wish list of what colleges wanted to do [...] I knew what my priorities within the structure were but I was constantly questioned, 'You are missing an opportunity. This is a once-in-a-lifetime opportunity for the sector.' (Graham Moore, Principal of Stoke College and Chair of the 157 Group)[123]

72. Dr Blake continued "I can remember going to a meeting with the LSC in Sussex where all the principals and all the chairs were basically told that they were being too conservative."[124] Martin Doel, Chief Executive of the Association of Colleges, confirmed "Those conversations were still going on [in summer 2008] and that was the National Capital Team coming round to say, 'No, it is not sensible for you to leave part of your estate untouched, you should be coming up with a plan to refurbish the whole of the estate' […] The final thing I would say is a term which has been bandied around a good deal during this period—and I understand it and I was there—is that this was a 'once-in-a-generation rebuild', a 'once-in-a-generation opportunity'."[125]

73. This phrase was also used by Mark Haysom when he gave evidence to us:

> I was giving very clear messages, as were ministers at the time, that this was a once-in-a-generation opportunity to rebuild the capital estate and that what we wanted to do, where it was possible, was to create great buildings and what we did not want to do was to just put up buildings that replicated the existing buildings, just a bit more modern. [126]

Although he also said:

122 Q 110

123 Q 108

124 Q 112

125 Q 120

126 Q 79

> I do not think we were asking people to go from modest to major. The signal that we were giving was, 'If we're going to put up new buildings, can we make sure that they are buildings that are right for the community, right for learners and right for employers and use this opportunity, wherever possible, to create great buildings'. That is the message that consistently went out.[127]

74. We raised these issues with David Hughes. He responded:

> I have heard a lot of anecdotes about this, but I have seen no evidence, and Foster said the same. I have never talked up a project, I have never bigged-up a project. [...] I am absolutely confident that no-one in my team ever did that. What I am clear about is that there was lots of ambition in the sector and there were lots of iconic schemes being put up, and other colleges looked at those and, I think, thought, 'We want one of those.' I do not think we were in the game of saying, 'Go away and re-write and make it two or three times as big.' I certainly have never done that.[128]

75. And when questioned further during the same evidence session:

> Mr Marsden: […] please, for the record, understand that the reason we are asking these questions is that we have had two college representatives before us this morning who have already said exactly what the Chairman has said, that these projects were talked up by regional LSC advisers, and that is why. You must have been an oasis of rectitude compared to the rest.
>
> Mr Hughes: As I said, I can confirm that absolutely we did not do that.[129]

76. He was quoted in LSC London Magazine in January 2009 as saying:

> For the last couple of years we have been accelerating the approval of big capital schemes in colleges across London. We want the colleges in London to be good to look at, good to learn in and offering modern facilities and kit. That's what today's learners demand: exciting, modern, aspirational environments with cutting-edge facilities and carefully designed learning and social spaces […] There's a strong association between new buildings and high achievement.[130]

77. **The extent to which individual colleges were urged to increase the scale of particular projects may be a matter of some debate between the LSC and the colleges themselves. But given the historically cautious expectations of the majority of the FE sector, it is in our view highly unlikely that colleges would have "bigged up" their projects without direct encouragement from regional officers or national directors at the LSC. The evidence appears more than anecdotal that LSC was encouraging bigger and bigger schemes to come forward: the use of phrases such as "once-in-a-generation opportunity" and "a strong association between new buildings and high achievement"**

127 Q 83

128 Q 214

129 Q 225

130 LSC, *the magazine*, January 2009, p 5

was irresponsible and bound to build up excess demand that could not be satisfied and the LSC as a whole, and those individuals involved, should accept responsibility for this.

5 DIUS oversight of the LSC

78. The 2009 Foster Review was damning of DIUS's oversight of the LSC, commenting that "There has been insufficient clarity and understanding around the relationship between the LSC and DIUS, and their respective responsibilities, authority and need for information. Meetings have been frequent but evidently not effective in foreseeing and averting recent difficulties."[131] It added "DIUS monitored the LSC during the period and had most of the information that was actually collected and held centrally by the LSC. Senior staff in DIUS could have probed more actively the robustness of the forward projections of future funding commitments. Their challenge was insufficiently incisive to uncover ongoing flaws in implementation."[132]

79. It is not as if there was a shortage of DIUS oversight. We have already noted that DIUS staff sat on certain LSC committees and groups, as well as the National Council. There were a series of meetings between staff at various levels within the LSC and DIUS throughout the period that the programme was running into difficulties. Ministers also met senior DIUS staff on a number of occasions, as set out in the Annex.

80. So what went wrong? Mark Haysom commented that the tone and state of relations between the two organisations had at the same time intensified and soured after the announcement that the LSC was going to be abolished in 2010:

> To my knowledge, there is nothing that the LSC does, there is no management information that the LSC has, that is not shared with DIUS and the level of scrutiny has always been intense. And, just to return to my comment a moment ago about the Machinery of Government, it had become even more intense thereafter.[133]

> Yes, but they had a perfectly legitimate cause for doing that because they were going to have to pick up responsibility, one way or another, for everything the LSC did from an end date, so it was a perfectly legitimate 'crawling all over', if you like. But the impact of that was a kind of paralysis in terms of the ability of the Learning and Skills Council to take its own decisions.[134]

81. We have already noted that the poor risk management at the LSC was not added to the risk table in the DIUS Departmental Report 2008 (although it was included in the Department's 2007–08 Accounts). This is perhaps indicative of a general failure within DIUS to appreciate warning signs. It is arguable, for example, that the Department should have been more in tune with the tone of discussions within the FE sector. As one of the college representatives pointed out, rumours about the sustainability of the programme were circulating during 2008:

> I think it is fair to say that in the sector before that period there was a general feeling of unease growing because we are all intelligent people, so are the local LSC offices,

131 *2009 Foster Review,* Summary, p 6

132 As above

133 Q 53

134 Q 76

> and so on, and we could see that the volume was building up. I am one of the colleges in that group of 70-odd colleges between approval in principle and approval in detail, and at a meeting in September 2008 we received approval in principle for £96 million and Bradford College, who were also there on the same day, received approval in principle for over £100 million. It does not take a genius to work out that those sorts of figures cannot go on for very long given the finite size of the budget.[135]

And at the National Council meeting in November 2008 Stephen Marston of DIUS was not urging caution, as the Minutes state:

> Members were concerned about the pressure on the capital budget especially given the added pressures of the unstable economy. It was suggested that a clear steer from Ministers was required over whether to continue with capital spend at all costs, or slow down. Stephen Marston commented that Treasury's steer was to bring forward capital spend, especially on the public side. [136]

82. We were told that none of the problems surfaced at a senior level in DIUS until late November/early December (after the Public Accounts Committee hearing on the NAO report).[137] The one point of ambiguity we identified was in the minutes of an LSC External Advisory Group[138] meeting on 30 September 2008, which stated:

> Item 6. Investing in Specialisation: The LSC's Capital Skills Prospectus
>
> 6.1 Laurence Leader presented the LSC's Capital Skills Prospectus to members, who welcomed the general approach.
>
> 6.2 There was a strong governance aspect to this work, with the new Regional Councils taking a lead in considering these proposals.
>
> 6.3 The Prospectus was clear but the proposals were likely to generate a lot of demand, with associated risks. *Ministers were currently considering these risks.* (emphasis added)
>
> 6.4 Reference needed to be made in the document to the increase in demand from learners as a result of capital investment.
>
> 6.5 The focus on specialisation for colleges was a concern, given the current economic situation. [139]

83. When we raised this with the then Secretary of State he told us "I have to say, Chairman, I do not know and I have never known what that refers to."[140]

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135 Q 95

136 LSC, National Council minutes, 4 November 2008, para 4.5

137 See paras 26-28

138 The EAG brings together training providers and sector, College and LSC representatives. Full membership available at http://readingroom.lsc.gov.uk/lsc/National/nat-eagmembership26mar09v30-mar09.pdf

139 LSC, External Advisory Group minutes, 30 September 2008

140 Q 252

84. **We ask the LSC and DBIS to clarify the remark made in the minutes of the LSC External Advisory Group meeting in September 2008 that Ministers were considering risks associated with the FE college capital programme.**

The NDPB Review

85. DIUS stated in its memorandum that "Sir Andrew found that the scrutiny by DIUS of LSC management of the capital programme had been insufficiently rigorous. The Secretary of State therefore asked the Permanent Secretary to carry out a review of the DIUS's relationships with all of its Non-Departmental Public Bodies to ensure that there is clarity about accountability and responsibility. This is underway."[141] The then Secretary of State went further when giving oral evidence to us, pointing to weaknesses in the logic behind NDPBs:

> the theory of NDPBs when they were first set up, that they protect ministers from the political flack when things go wrong, does not appear to work as well as some of us might have liked […] My conclusion is you should use NDPBs where they are necessary, but not otherwise […] I think the SFA will show that we will have simpler decision-making, clearer lines of accountability, and you can never be sure about these things, but a better prospect of making sure this does not happen again.[142]

86. While, as he stressed to us, the new Skills Funding Agency will "not be an NDPB"[143], we note that the Young People's Learning Agency which will work with local authorities is to be "a new slim-line non-departmental public body." [144]

Conclusion

87. **Lessons must be learned by DBIS and across Government from the events at the LSC in 2008. DIUS clearly failed in its oversight duties. As we noted earlier in this Report the same management problems that befell LSC were also there in DIUS—a key official did not report back to more senior staff about the Capital Affordability Review; there was a wider lack of challenge; and a total failure to pick-up messages from the sector (or apply common sense) about the scale of commitments which were being made.**

88. **The then Secretary of State told us that "the theory of NDPBs when they were first set up, that they protect ministers from the political flack when things go wrong, does not appear to work as well as some of us might have liked […] My conclusion is you should use NDPBs where they are necessary, but not otherwise." Events at the LSC show that NDPBs can diffuse political and financial accountability to such an extent that serious problems are not identified or addressed and responsibility for failure is at best unclear. In this case the situation was made worse by the prospect of the NDPB being wound-up; the Department should have realised that this could affect operations**

141 Ev 33, para 12

142 Q 274

143 As above

144 DCSF, *Apprenticeships, Children, Skills and Learning Bill: summary of proposals in the Bill*

and ensured that its oversight was effective. We conclude that a review of the operation of NDPBs not just across DIUS (now DBIS) but the whole of Government is urgently required.

DCSF

89. While DIUS was the LSC's sponsoring department, the Department for Children, Schools and Families is also involved in the college building programme. Mark Haysom suggested that DCSF took a hands-off approach, as revealed in this exchange:

> Q56 Mr Marsden: You mentioned very helpfully the issue of Machinery of Government changes and I want to ask you a straightforward question: given that some 49% of the income into this sector comes from DCSF, although the sponsoring Department is DIUS, did you at any time over that period have discussions formally or informally with officials or ministers in DCSF?
>
> Mr Haysom: About?
>
> Q57 Mr Marsden: About the capital programme?
>
> Mr Haysom: I cannot recollect during 2008 having discussions.
>
> Q58 Mr Marsden: So no discussions with no ----
>
> Mr Haysom: Not about the overall state of the programme.
>
> Q59 Mr Marsden: So no involvement with DCSF at all?
>
> Mr Haysom: There were discussions going on about the fact that we ----
>
> Q60 Mr Marsden: But you never sat down with senior officials at DCSF or met with them informally or discussed informally any of the aspects of the capital programme?
>
> Mr Haysom: We discussed the split that had occurred in the budget and the actual pressures that had happened as a consequence of that and we discussed the fact that we could have been in a situation where there was potentially pressure on one side of the budget and underspend on the other, but, beyond that, we did not have any discussions.

90. In the last part of this exchange Mark Haysom was noting a point discussed in the LSC's Capital Committee in September and October 2008 about the splitting of the capital budget. The Minutes of the Committee meeting on 19 September linked this to the potential overspend, noting "the retrospective splitting and ring-fencing of the capital budget into ringfenced DIUS and DCSF portions, without warning, last November ie retrospectively in-year. Previously the LSC had had a single line capital budget and was able to offset FE capital spend against the 16–19 Capital Fund."[145]

91. The 22 October Capital Committee Minutes noted that:

145 LSC, Capital Committee minutes, 19 September, para 3.7

> The 16–19 Capital Investment fund is now ring-fenced and the previous years underspend on 16–19 capital was retained by DCSF instead of being carried forward.[146]

92. The 157 Group argued that forthcoming changes in the governance of sixth form colleges should mean that "sixth form college applications […] should be transferred to the BSF [Building Schools for the Future] Programme and resources should also be transferred from BSF to BCF to take account of the costs of sixth form college projects already approved under BCF."[147] The memorandum from the Association of Colleges complained that DCSF appeared to have released only £80 million out of a £700 million budget towards Colleges, and added that it was possible that "DIUS capital grants are cross-subsidising pre-19 education."[148] It suggested that, compared to the process that colleges would have to now endure, "the same level of rigour has not been applied in the spending of the capital budgets for school and university modernisation (£18 billion and £2.2 billion respectively in the period 2008 to 2011)"[149] and concluded that "the two Departments need to pool relevant funds into a single college capital budget."[150]

93. **As far as we can see DCSF was a silent partner in this situation, though it is clear that within the LSC the splitting of the capital budget was regarded as a critical factor in making management of the programme more difficult. We note the points made by the 157 Group about the possible transfer of some projects to the Building Schools for the Future programme and urge DBIS and DCSF to work together to establish whether this is an appropriate way forward. We also recommend that the proposal for a single college capital budget using pooled DCSF and DBIS funds is investigated with the outcome of the review reported to Parliament in the form of a Written Ministerial Statement.**

146 LSC, Capital Committee minutes, 22 October, para 6.1

147 Ev 44, para 2.2

148 Ev 37, para 9

149 Ev 37, para 9

150 Ev 38, para 13

6 The NAO report in July 2008

94. Mark Haysom told us that he was responsible for the NAO reviewing the Building Colleges for the Future programme in 2008: "I was the one that suggested that the NAO came in and looked at the capital programme because I felt that it was a programme that was significant, important and that it was something that we could feel good about. They verified that."[151]

95. The 2009 Foster Review notes that the NAO made some positive comments about the programme, with reservations:

> We should perhaps recall the July 2008 NAO report *Renewing the physical infrastructure of further education colleges*. On value for money, it concluded that the joint funding approach, with the Learning and Skills Council providing additional grant funding to colleges, was enabling the sector to make good progress in rationalising its estate, providing facilities that were of high quality and meeting the needs of learners. The report, however, did state the need going forward for careful risk management and providing DIUS with clearer visibility to achieve a smooth transition to the LSC's successor bodies.[152]

96. The NAO concerns about the programme included:

> The organisation and funding of the programme has meant that there has been no national prioritisation of projects, but programme management has improved over time. The Learning and Skills Council initially operated through 47 local Learning and Skills Councils, which might have made it difficult to prioritise projects at a regional or national level. Until it began to fund higher proportions of project costs from about 2004, to build on the strengths of the further education sector early in the capital programme the Council gave priority to projects at colleges that were willing and able to majority fund themselves. In 2006, following internal reorganisation, the Council's regional operations took on planning functions and prepared regional capital strategies that aimed to help target project funding so as to balance educational and property priorities. As a consequence of the initial arrangements, some areas and colleges with the greatest need have not received the highest priority.[153]
>
> Management information on the national programme is inadequate. The Learning and Skills Council relies on spreadsheets for management information, but such systems are not sufficiently robust for a programme of this scale. There are also areas where information needs to be better collated, such as the actual costs of completed projects, contract strategies used and the lessons learned that colleges have identified

151 Q 84

152 *2009 Foster Review,* para 31

153 National Audit Office, *Renewing the physical infrastructure of English further education colleges*, HC (2007–08) 924, July 2008, Summary, para 7

> from their completed projects. The Council is planning to develop a management information and budgeting system that is intended to address these concerns.[154]
>
> Completion of the programme by 2016 will require careful risk management and prioritisation of the capital funds available to the Council's successor bodies. Colleges still to be renewed may be less financially strong or less able to contribute through applying reserves, disposing of assets or raising of loan finance. The cost of renewing the remaining colleges is becoming more expensive, putting the affordability of the programme at risk within the limits of the Learning and Skills Council's capital budgets. The Council will need to consider how best to prioritise funding or encourage colleges to use procurement strategies that require less upfront public funding.[155]
>
> Our assessment of progress in renewing the estate, based on current project costs and grant levels, indicates that achieving the target will be challenging. Assuming the national capital budget is maintained until 2016, to replace the remaining estate with new buildings that conform to the existing cost norms, the Learning and Skills Council is likely to need colleges to provide around half of the funding (which is consistent with estimates prepared separately for the Council). By contrast, the Council support rate for projects approved in principle (i.e. projects that will cost over £10 million) in 2007–08 was 74%. The Council, in consultation with the Department, is considering what changes and possible project prioritisation it will introduce during 2008–09, to make completion of the programme more affordable within the current national budget levels. Colleges may need to find efficiencies, for example through procurement strategies that group projects or by spreading the capital cost over a longer period.[156]

97. However, the comments relating to prioritisation in the recommendations were addressed to the Department, rather than the LSC:

> Given the planned changes to the further education system, the Department needs clearer visibility of the programme to achieve a smooth transition of the programme from the Learning and Skills Council to the successor bodies. The Council has had a key role in managing the capital programme. With the dissolution of the Council by 2010, the Department will need to provide continuity of standards in programme management and the setting of programme targets in a clear policy context. To enhance the Department's oversight, it could commission an independent Gateway Review of the programme before it is handed over to the Council's successor bodies. The Department [DIUS] should also be party to the decision on how best to prioritise future projects for funding.[157]

98. The general tone of the report was positive, as demonstrated by the press notice produced at the time, in which prioritisation was not mentioned:

154 National Audit Office, *Renewing the physical infrastructure of English further education colleges*, HC (2007-08) 924, July 2008, Summary, para 12

155 As above, para 14

156 As above, para 3.3

157 As above, para 22i

> The further education capital programme is enabling colleges in England to make good progress in renewing and rationalising their estate, replacing poor quality buildings with high quality, more suitable facilities. The programme has taken advantage of colleges' accumulated reserves, access to loan funding and scope to dispose of surplus assets. In addition, the Learning and Skills Council approved grants of £1.7 billion towards the £4.2 billion costs of the renewal programme.
>
> Around half of the planned work was completed or underway by the beginning of 2008. The progress of the programme has varied between regions: ranging from only 32% of the estate in Greater London renewed by 2007 compared with 63% in the South West. The variations are in part due to project proposals being developed by the colleges themselves, and differences in the complexity and condition of the regional college estates at the start of the Learning and Skills Council's programme.
>
> Most new buildings are of a high standard, meeting the needs of colleges and learners, and they have been completed on or close to their budget. The earlier projects did not perform well when judged against environmental sustainability criteria, but since 2007 the Learning and Skills Council has required higher environmental standards in new college buildings.
>
> As a result of borrowing to fund the programme, the sector's indebtedness increased to £731 million by 2007, and its interest payable was equivalent to around 1% of its income. Between 2005–06 and 2006–07, the number of colleges that were assessed as being financially weak increased by 21 (from 68 to 89). Whilst this programme is affordable for the sector as a whole, colleges with large debts could be more vulnerable to loss of income if they fail to generate the projected demand for courses.
>
> Tim Burr, head of the National Audit Office, said today:
>
> The capital programme for further education is enabling colleges and the Learning and Skills Council to achieve together what neither could have achieved on their own, and is delivering high quality buildings. The sector has taken on a higher level of debt, and therefore of risk, but the cost should be manageable. If the second half of the programme can maintain the success achieved in the first, further education will be well placed to offer enhanced value for money. [158]

99. Mark Haysom stressed to us that he had taken positive messages from the Report: "Yes, the NAO is not given to praise and I actually thought it was a very positive report […] I felt that it was a programme that was significant, important and that it was something that we could feel good about. They verified that" [159] and also stated that one of the reasons that other warnings were not taken seriously was because of the NAO reassurance:

> At that stage, I understand, the [Finance Performance] Committee there were not convinced that what was being said [in the February 2008 Capital Affordability Review] was robust enough [...] I have to say, that was almost exactly at the time as we received an NAO Report, where they had been crawling all over the organisation,

158 NAO, *Press release – Renewing the physical infrastructure of English further education colleges*, 11 July 2008

159 Q 84

> which found no really immediate cause for concern. There were some very helpful things in that report, but there were no immediate causes for concern.[160]

100. Similarly, the DIUS press notice announcing that Sir Andrew Foster had been commissioned to review the programme noted "Recent National Audit Office and Public Accounts Committee reports have acknowledged the success of the programme"[161] and the Association of Colleges commented that "the NAO praised the management of projects."[162]

101. The Public Accounts Committee took oral evidence on the NAO Report in November 2008 and the version of events presented by LSC and DIUS witnesses was a positive one:

> Mr Watmore: I think the portfolio as a whole is now really well up to speed and the progress is remaining positive on the newer projects.[163]

> Mr Haysom: I think at the moment we are content, given the scale and nature of this project, that we are in good shape.[164]

Although Mark Haysom noted that the volume of projects in the pipeline was increasing:

> Mr Haysom: In the early days, what we were trying to do when we started this programme was to get a build-up of momentum very quickly with this to make sure that we were tackling as many colleges as we could and to encourage those that were going to be more difficult and more complex to come forward and start developing their plans. That is exactly what has happened and I have to say it has worked very well. It is working to the extent that we have huge applications coming through in huge numbers now, and we are having to make sure that we are balancing those very carefully.[165]

> Mr Haysom: It is also true that since this Report was signed off, because the Report captures data up to March, there has been a significant move forward. If I refer you to paragraph 4 on the same page, it talks about £4.2 billion worth of applications. That is now £5.3 billion. It talks about £1.7 billion worth of grants. That is £2.45 billion now. That now equates to 693 capital projects since the beginning of this. That is why I was talking about momentum. We have built momentum very fast and it has been maintained, and there are huge numbers of applications still flowing through the system.[166]

102. **We conclude that, while the NAO rightly identified some of the issues in its July 2008 Report, the facts that the report (1) did not give a sense of the urgency with which a prioritisation mechanism was required and (2) did not put the problem in the context**

160 Q 23

161 *Denham and LSC appoint Sir Andrew Foster to review College building programme finances*, DIUS press release, 27 January 2009

162 Ev 36, para 5

163 Uncorrected transcript of oral evidence taken before the Public Accounts Committee on 17 November 2008, HC 1201-i, Q 1

164 As above, Q 8

165 As above, Q 21

166 As above, Q 22

of poor risk management diluted its impact. The fact that paragraph 14 of the Report's Summary addressed prioritisation in the context of the completion of the programme by 2016 by the LSC's "successor bodies", alongside the positive tone of the press notice, pandered to the view that was then prevalent within the LSC that prioritisation was a medium and longer-term problem, not something that had to be done immediately.

103. **Given the seriousness of the mistakes that were made the NAO report appears in hindsight to be surprisingly positive: we find it hard to reconcile the fundamental problems that became apparent with LSC's capital management, in particular the lack of national prioritisation and planning for this high-cost, high-profile programme, with the tone of the report. This is all the more surprising given that the NAO had sight of the Capital Affordability Review. We conclude that if the NAO had produced a more hard-hitting report in July the worst of the over-commitment would have been averted.**

7 Next steps

104. We were keen that our inquiry, even in the short time available, did not solely consider what had gone wrong, but also looked to the future. The LSC noted that work was underway to implement Sir Andrew Foster's recommendations, as shown in the table below.[167]

Foster review recommendations (in italics) followed by extracts from Learning and Skills Council memorandum

Recommendation 1 *The priority business is to agree how the present demand-led approach can be replaced by a needs-based approach with explicit priorities and choice criteria. These should inform the necessary decisions about the future capital programme.* The LSC support the move to a needs-based approach. We have now worked with stakeholders to develop new criteria and designed a process by which future bids for capital funding will be prioritised. We expect the first stage of the prioritisation process to be finished by the end of June in order for the LSC to approve a small group of college projects to proceed this summer.

Recommendation 2 *To this end there must be an early and open process of engagement and consultation between DIUS, the LSC and the college sector. A panel of college principals should be identified to work with LSC officials and DIUS representatives. This grouping should confer with the Association of Colleges, the Sixth Form Colleges' Forum, the 157 Group, the Local Government Association, local authorities and Regional Development Agencies.* Since the report the LSC have already started a consultation process including the use of a reference panel of college principals and representative college groups convened by the AoC and we are also consulting widely with Regional Development Agencies and local authorities.

Recommendation 3 *The process must be grounded in fully accurate and detailed information about capital schemes in the pipeline. There should also be a preliminary mapping of potential needs indicators to assist the discussion process.* The LSC now has detailed information on all existing capital schemes and those in the pipeline. We have engaged Grant Thornton to independently verify the accuracy of the information currently held. We have also worked with specialist advisers who will independently apply the agreed criteria to projects in the pipeline to provide confidence that the resulting proposals will be fairly determined.

Recommendation 4 *A realistic assessment is required, founded on excellent information, of individual colleges that have incurred expenditure, with high expectations, but have no guarantee of final approval for their proposals. A balanced approach is urgently required to expedite clarification of their position. It should include a process of structured self-assessment against agreed criteria. Experience in other public sector settings suggests this would benefit the colleges themselves and help to move things forward quickly.* This focused on a realistic assessment being required of individual colleges that have incurred expenditure, with high expectations, but have no guarantee of final approval for their proposals. An initial assessment of costs already incurred by colleges with Approval in Principle has been carried out. LSC regional finance teams are working with these colleges to establish their financial position and to address any cash flow issues. The LSC has given a commitment that no college will become insolvent as a result of capital project delays. The LSC and DIUS are developing a policy position on how to deal with the legitimate costs incurred by colleges where their project may not now proceed in the near future.

Recommendation 5 *In order to achieve speedy implementation, it will be essential to have a blended approach of open consultation with the sector, matched by a small dedicated project management group which drives a highly organised programme across LSC and DIUS levels. It must restore confidence with its professional approach and urgency of action. There is a need for balanced reflection and consultation for the first task and excellent project management skills for the second*. In response a joint project team involving LSC and DIUS staff was set up with David Hughes appointed to take personal responsibility for LSC's capital programme, with the additional support of a senior finance director within the LSC. The LSC will be making further changes to the

167 Ev 45

way the capital programme is managed which will help in this transition year from the LSC to the SFA and YPLA. We hope to be able to announce these changes, along with wider management arrangements shortly.

Recommendation 6 *Talks should be held with HM Treasury to reinforce the importance of skills development in the context of national economic recovery and to review resourcing for the continuing capital programme. It is essential that a robust recovery plan is demonstrated.* The Budget on April 22nd saw an announcement of further funding for capital projects.

Recommendation 7 *Future development must take place in the context of a comprehensive and competent financial strategy that supports needs-related planning.* The LSC is working with DIUS, colleges and stakeholders to assess the priority needs for the future. This assessment will provide, by Spring 2010, clarity on future needs and funding requirements. On this basis, a new financial strategy will be developed for the SFA, YPLA and local authorities to take forward in the discussions for the next spending review.

Recommendation 8 *Active consideration must now be given to the future working arrangements of the Skills Funding Agency and the Young People's Learning Agency. Key issues for resolution include: the formulation of a robust investment strategy, the development of best-practice procurement methods in the light of experience in other public sector programmes and approaches to the engagement of partner organisations. The nature and management of their relationship with DIUS and DCSF must be clarified and it will be essential to design a regulatory function that inspires confidence within and beyond the FE sector itself.* Discussions are underway with DIUS, DCSF and local authority representatives about the future arrangements for capital in the Skills Funding Agency and the Young People's Learning Agency. The new arrangements include regulation and oversight of capital by DIUS and DCSF, a new financial strategy and best practice procurement methods.

Future prioritisation of projects

105. On 4 March the then Secretary of State announced in a Written Ministerial Statement that projects at eight colleges which had been deferred at the December Council meeting — Stoke-on-Trent, Coulsdon (Surrey), West Kent, Liverpool, Solihull, Northampton and two in Bolton—had been given Approval in Detail. He added that he had asked the LSC "to consult with the Association of Colleges and the FE sector to advise me on ways of prioritising schemes in the future programme."[168] The Minutes of the LSC Council meeting on 22 April 2009 revealed that there had been some disquiet about how this decision was taken:

> Council members were grateful for the further detail contained in the circulated paper but some felt that they should have been furnished with this information at the time of being asked to approve proposals in order to give full scrutiny to the implications. One member confirmed that he would not have approved the eight projects had this information been available at the time.[169]

106. There is now clearly a very substantial funding gap: David Hughes, National Projects Director stated in April that "the current plan [is] for the LSC to approve projects in June 2009 that required £500 million in grant, in the expectation that their total costs would be around £750 million"[170]; this compares to £2.7 billion of schemes which had already

168 HC Deb, 4 March 2009, col 55WS

169 LSC, National Council minutes, 22 April, para 12.2

170 LSC, Capital Reference Group minutes, 29 April 2009: "assuming an average grant rate between 65% and 70%"

received Approval in Principle and £3 billion of schemes which had bid for Approval in Principle but not yet received it.[171] Hence, as the Association of Colleges put it, "the capital budget will still be insufficient to fund many valuable projects."[172] The LSC admitted in its memorandum that "It is clear that the urgent and greatest need projects will not include the majority of college projects which either have Application in Principle approval, or have been seeking such approval."[173] Hence the need for a rational prioritisation process.

The Capital Reference Group

107. DIUS explained on 5 May 2009 that in "order to determine which projects will be funded, the LSC are consulting with the sector on prioritisation criteria and they have established a reference panel of college principals convened by the Association of Colleges to inform the approach for prioritising schemes."[174] The Capital Reference Group met for the first time on 29 April under the Chairmanship of David Hughes. It included representatives of DIUS, DCSF, LSC, AoC, various FE and sixth form colleges and PriceWaterhouseCoopers (PWC).

108. According to the Minutes of the meeting David Hughes set out the next steps to be taken, noting that "the main purpose of this meeting was to discuss the process for agreeing and applying the new prioritisation criteria." The prioritisation process was also discussed:

> There would be a four stage process: the readiness assessment, the assessment against priorities, a ranking of projects and a fourth stage in which the planned programme would be assessed. […]
>
> The priorities were grouped in five areas with an initial suggestion as to indicative weightings: education and skills impact (currently 20% of the total), contribution to local economic regeneration (15%), co-dependency with third parties (15%), condition of the estate (20%) and value for money (30%). A total of 20 criteria would be used to rank projects within these 5 categories.
>
> The process would be tested in the next few days in a dry run.
>
> The aim was to complete the readiness assessments by 15 May 2009. The aim was then to complete the assessment against priorities by 22 May 2009 so that recommendations could be made to the LSC Capital Committee meeting around the 26 May 2009. The Capital Committee recommendations would be taken to the LSC National Council for authority to proceed on 3 June 2009.[175]

109. The first stage of the process, the "readiness assessment" is also being referred to as the need to be "shovel-ready". Dr John Blake, who was at the 29 April meeting, commented:

171 See para 14

172 Ev 37, para 9

173 Ev 47, para 5.7

174 HC Deb, 5 May 2009, col 160W

175 LSC Capital Reference Group minutes, 29 April 2009, Section 1

> I think they have made a good start in terms of being more open and more transparent and more involving […] They were talking at the first meeting about the process to be used to decide how the extra money that is available this year will be allocated on 3 June at the National Council meeting. It was an objective process. It was much more needs-based than previously. I think if a number of colleagues have got a concern it still has the risk of being about first-come, first-served, which is what we feel has happened so far. Shovel-ready basically means you have to have been lucky in the capricious process that got you this far in the LSC capital funding process to date so the 30 or 40 colleges who were successful may not be the most needy but they may be the ones who just happen to be ready this August.[176]

110. Martin Doel of the Association of Colleges was keen to emphasise that the role of the Capital Reference Group was to draw up criteria rather than choose between competing bids:

> First and foremost, you need to understand the role of the Reference Group. It is to inform the criteria that will be used. It is not to have one set of principals judge upon another set of principals' projects to see which will go forward. It is to produce an objective set of criteria and to inform that process so that they are applied in a way that is fair, transparent and can be seen to be proper.[177]

Outstanding issues

111. The Association of Colleges identified two particular issues in which certainty was urgently required:

- *The extent to which the future budget is already committed*: AoC stated "There is also uncertainty about the extent of forward commitments. It normally takes two to three years to complete a new college building. Some of the £1.2 billion which is now available between 2009 and 2014 has already been committed to projects that have been approved."[178]
- *The full cost of projects in the pipeline*: "There continues to be uncertainty about the full cost of projects in the college capital funding pipeline. On 4 March 2009, John Denham stated that there were 144 projects worth a total of £5.7 billion awaiting decisions. It has since become clear that the LSC undercounted the number of projects and underestimated their cost" [179]

112. The Association of Colleges pointed out in its memorandum that, while making quick decisions could be risky "there are a large number of colleges where quick decisions are essential to ensure that governing bodies and Principals can schedule works in the summer holidays either to start building or to carry out emergency works on abortive projects."[180]

176 Q 142

177 Q 144

178 Ev 37, para 9

179 As above

180 Ev 38, para 10

The 3 June Council meeting

113. When we took evidence on 20 May we were told that the LSC Council meeting on 3 June would be key in taking matters forward. Martin Doel of the Association of Colleges emphasised:

> The line will be how much money there is for allocation on 3 June [...] [T]he next thing we really do need to think about is what happens to all of those colleges that do not receive the go-ahead or the prospect of going ahead? The word we have so far is that there will be no new starts on current plans until 2011, and funding for that is uncertain.[181]

114. This was clearly set out in a letter to college principals written by the acting Chief Executive on 24 April:

> We want to be as inclusive as possible in consulting on this, but also have very tight timescales to meet in order to deal with these urgent issues; our aim is to finalise by 15 May in order to have new projects approved at the 3 June National Council meeting. This is very ambitious and will require close co-operation with all colleges, but it is one which we were keen to offer to Government to secure the new funding.[182]

115. However, after we had taken our oral evidence, there were further delays. The acting Chief Executive wrote an open letter to college principals on 1 June:

> As stated in my letter of 24 April, we had originally intended to have identified new projects to take to the Council meeting on 3 June for approval. However, many more colleges have put forward a case for their projects to be considered as 'shovel ready' than expected, and so unfortunately we are not in a position to ask the Council on 3 June to approve individual projects. The Council will instead consider the evidence from PWC regarding the readiness assessment and the prioritisation process to inform a judgement about which colleges will advance. Therefore, no immediate announcements will be made as to which colleges have gone through to the next stage of the process; we will make that announcement later in the month.[183]

The letter continued:

> that next stage will be a tough value for money challenge to the colleges that come out of the prioritisation process as those with the greatest need. To ensure the largest number of colleges can still benefit from these funds, more colleges will be chosen for that stage than can be funded according to the size of their original bids. The challenge for colleges will therefore be to radically reduce the cost and the scope and sourcing of the funding of their projects. [...] We will expect all colleges on the short list to come back with revised bids and plans by the end of the month, which will need to be capable of implementation this autumn, quickly.

181 Q 146

182 Letter to College Principals from Geoff Russell dated 24 April 2009 [not printed]

183 Letter to College Principals from Geoff Russell dated 1 June 2009 [not printed]

116. And it concluded with an apology:

> I recognise that the LSC is not in an ideal position in relation to this issue, so I want to thank all of you for your understanding and cooperation in helping us to take forward these challenging and urgent tasks.

LSC announcement on 26 June

117. Finally, on 26 June, the LSC announced that 13 Colleges—Barnsley College, Bournville College, Furness College, Hartlepool College of Further Education, Kirklees College, Leyton Sixth Form College, Manchester College—Wythenshawe, North West Kent College, St Helens College, Sandwell College, South Thames College, Tresham Institute of Further and Higher Education, Corby and West Cheshire College—had "progressed to the next stage of the process" and been put on a "shortlist", meaning that they had first passed the readiness assessment and then the application of the five criteria: education and skills impact, contribution to local economic and regeneration priorities, co-dependency, current condition of estate and value for money.[184]

118. The announcement letter, from Chris Banks, confirmed that "for those colleges unsuccessful in this round there is now no prospect of getting their projects funded this CSR" and continued:

> We and our partners in this process are determined to ensure that the funds we have available achieve the greatest possible improvements for learners across the country and maximise the leverage of other funds into the sector. I am acutely aware that there are going to be many sorely disappointed colleges up and down the country which have good projects which we cannot fund in this round and it is imperative that we show them that we have done everything possible to reduce the costs of the 13 which we are inviting to progress.
>
> To ensure these funds have as wide an impact as possible, more projects have been identified at this stage than can be funded according to the size of their original bids. Each college must now substantially reduce the cost and scope of their projects and review other sources of funding.[185]

119. A Written Ministerial Statement made by Kevin Brennan, Minister for FE, Skills, Apprenticeships and Consumer Affairs warned "All 13 colleges will receive funding only if the overall cost is reduced."[186]

Conclusion

120. **As it turns out 2008 was indeed a once-in-a-generation opportunity for FE capital expenditure, though not in the way that the LSC and DIUS intended. We are now left with a situation in which funding is scarce and worthy cases cannot be prioritised. Out of over 180 projects submitted to the LSC—of which a significant proportion had**

184 HC Deb, 29 June 2009, col 73WS

185 Letter from Chris Banks, Chairman of the LSC, 26 June 2009 [not printed]

186 HC Deb, 29 June 2009, col 73WS

received Approval in Principle—only 13 have proceeded to the next stage of consideration. Even they have all been asked to "substantially reduce the cost and scope of their projects and review other sources of funding". For the others there is "no prospect of getting their projects funded this CSR."

121. **This is a difficult situation for all concerned. LSC is making its best efforts to address this prioritisation in a fair way but given the inadequacies of the demand-led process our inquiry has identified, we believe the prioritisation and criteria on which future funding should be committed should take account of all factors relevant to the bids available. This includes the impact of the capital project on the added value of the college's programmes and the vocational development of its student body as well as the impact of the project on the regeneration of the area in which it sits as well as the potential areas from which it recruits its students, not simply the chronological status of bids at the time the programme was put on hold. We therefore have concerns about the application of the readiness gateway which we do not believe should be applied in the future when making decisions about funding.**

122. **LSC must move to a position where it can show its working on the extent to which the existing budget is committed, the value of projects being considered and how projects have been evaluated. It is particularly disappointing that the announcement of further delays was made only two days before the long-anticipated 3 June Council meeting and we recommend that LSC immediately takes steps to set out the timetable for the remainder of the evaluation process.**

Compensation

123. The Association of Colleges stated in its memorandum:

> Colleges in these circumstances have a legitimate claim for compensation from the LSC for money they spent in good faith up to the moratorium in December 2008 and for committed costs that they are still incurring, for example on temporary accommodation. In March 2009, AoC carried out a survey of the 79 Colleges with approvals in principle and another 120 Colleges carrying out feasibility studies to establish some facts. 168 Colleges responded to the survey (an 80% response) and reported the following:

- £215 million in capital expenditure to date on stalled projects;
- £187 million that will be written off in their accounts if projects do not go forward. This will put most Colleges in deficit and wipe out their reserves;
- £269 million in extra costs (maintenance etc) in the next five years.[187]

124. One College with Approval in Principle, West Cheshire, submitted written evidence to us, which set out the cost—both financial and non-financial—of the delays in receiving funding:

187 Ev 39, para 15

> £5 million has already been invested by both the College and the LSC.
>
> Buildings have deteriorated with the majority having a very limited lifespan (probably two years) as per an updated survey undertaken by consultants in 2006. Maintenance programmes have been limited to health and safety activities only as the buildings are due for replacement and this was agreed with the LSC.
>
> The College has already vacated 12,000 square metres in order to build on its footprint due to local political pressure, Green Belt and EMV8 regulations. After discussions with the LSC, feasibility and enabling work has started so the College could meet the agreed planned programme in our applications in principle and in detail (e.g. a substation has been moved). Progress was discussed with the LSC on 14th January 2009 and requested information was subsequently provided to them.
>
> Students are in temporary buildings and off site (virtually all of our 16–19 year olds spend at least some time in temporary accommodation). These are not long term solutions and are costly.[188]

125. We note the 2009 Foster Review's comments that some colleges continued to celebrate provisional approval as if it were final approval, even when the warning signs of a funding shortage had become apparent (Foster refers to this as the "champagne moment" culture.)[189] Graham Moore of the 157 Group stressed:

> If you get approval in principle you then have to spend a large tranche of money to get to approval in detail because this is a fully costed contract where if you get the money you sign the contract and you start work the following day, the 'shovel-ready' concept which we hear about […] In our case it would cost about £5 million. We had spent £2.7 million when we were told to stop and other colleges were in the same situation […] I do not think any corporations felt that they were taking significant risk, in fact it was a requirement: if you wanted to get AiD and you got AiP you could do nothing but spend that money. That was absolutely essential.[190]

126. Discussions about compensation are ongoing. The LSC memorandum stated that "The LSC has given a commitment that no college will become insolvent as a result of capital project delays. The LSC and DIUS are developing a policy position on how to deal with the legitimate costs incurred by colleges where their project may not now proceed in the near future."[191] And a letter from Siôn Simon, then FE Minister, to college principals was placed on the DIUS website in March:

> The LSC monitors financial risk in colleges and there are well established procedures for dealing with any college judged to be at risk. If you are concerned that your college may be at significant risk financially, you should speak to your local LSC who will organise a discussion with their financial advisers and will agree with you a plan

188 Ev 35

189 *2009 Foster Review*, para 39

190 Q 124

191 Ev 45, para 3.6

> to ensure that the college is not put at risk of not being able to meet its financial obligations.[192]

127. Martin Doel of the Association of Colleges stressed the need for clarity:

> The key point for us will be what clarity colleges will have on the funds returned to them and how that will be treated on their balance sheets in order that they can begin to work out their own responses to the situation that they find themselves in and having that clarity going forward.[193]

128. Geoff Russell, the acting LSC Chief Executive, told us:

> The LSC has clear rules that set out what colleges are allowed to spend money on at each of the stages. The external advisers that we have appointed are assessing that very issue for each college and we will have the position for each of them within days. Once we know who is going forward, we will turn to the issue of sunk-costs. We will do it in a sympathetic way, because clearly the LSC shares a great deal of responsibility for this.[194]

129. The Minutes of the Capital Reference Group meeting on 29 April 2009 shed further light on the issues which remain to be resolved:

> David Hughes stated that LSC would pay fee support in line with the usual arrangements but needed to address three issues on sunk and abortive costs:
>
> • accounting for costs incurred. LSC was working with AoC and audit firms on this issue.
>
> • cash flow issues. LSC would use its financial intervention procedures to ensure that colleges in financial difficulty received short-term support.
>
> • the extent of its responsibility for costs incurred before the moratorium. Lambert Smith Hampton would review the position in every college after which further consideration would be given to this issue.
>
> This work would take place in parallel with the assessment process but run slightly behind it. Phil Head added that some of the sunk costs incurred, for example in buying or improving land, would not necessarily be abortive if a project did not happen.
>
> Points made in the subsequent discussion:
>
> Peter Corrigan [Worthing College] said that the systems used by LSC to assess financial health needed to be adjusted to take account of these circumstances.

192 Letter from Siôn Simon MP, Parliamentary Under Secretary of State for Further Education, to College Principals, 23 March 2009 [not printed]

193 Q 130

194 Q 232

> Merydydd David [Reaseheath College] said that some costs incurred after the moratorium, for example on temporary accommodation, were legitimate and consideration should be given to being able to claim some of these costs from the LSC.
>
> Julian Gravatt [Association of Colleges] said that the current plan was for the 2009 accounts direction to colleges to be issued in May 2009. Further guidance on the sunk costs issue might need to be issued in June 2009. [195]

130. The Acting Chief Executive's letter of 1 June confirmed that work was still underway:

> For those projects that will not be taken forward in this stage, we will consider maximising the longer term value of costs incurred, the accounting implications, borrowing flexibilities and other ways to help resolve problems. The latter will include pursuing with stakeholders whether there may be a role for the LSC in encouraging discussions with the sector and private sector financing partners. [196]

131. The matter was discussed again at the Capital Reference Panel Group meeting on 15 June with frank discussions between LSC and college representatives:

> David Hughes explained that LSC finance staff were collecting additional information on costs incurred by colleges to date to allow an assessment of any LSC liability. This process needed to be completed by 30 June. All 209 colleges who had completed questionnaires had been contacted in the last couple of days. He said that LSC would pay its fee contribution in line with the Capital Handbook and had put some funds aside to pay further costs to mitigate the impact of spend on financial health. Phil Head added that a further round of payments for fee contributions would be made on 22 and 29 June 2009—assuming that colleges had supplied the necessary paperwork—and would cover fees incurred up to the end of the LSC 2008–09 financial year (i.e. until 31 March 2009).
>
> John Blake asked how large a contribution would be made by LSC to total project costs. David Hughes said that the policy was still in discussion but the plan might pay a higher share to colleges further down the track. He made it clear that there was not enough money to simply pay for all of the development costs incurred by every college. John Blake pointed out that LSC had taken nine months to assess one college's project. [197]

132. The Ministerial Statement made on 26 June warned that reimbursement of costs would be "limited to those appropriately incurred within the terms of the capital programme." [198]

133. Press reports indicate that the Association of Colleges has been considering legal action, with Martin Doel, Chief Executive, quoted in the Financial Times as stating "I think

195 LSC, Capital Reference Group minutes, 29 April 2009, Section 5

196 Letter to College Principals from Geoff Russell dated 1 June 2009 [not printed]

197 LSC, Capital Reference Group minutes, 15 June 2009, Section 6.1

198 HC Deb, 29 June 2009, col 73WS

we're prepared to look at judicial review as a possible way of addressing some of these issues."[199] The 157 Group memorandum similarly stated "Legal action may be inevitable if college corporations/boards are to fulfil their fiduciary responsibilities."[200] This problem has been anticipated by the LSC, as the Council's December minutes stated "Members asked that a clear action plan be in place to respond to any legal challenges arising from its decision to carryover project approvals from its December 2008 meeting until March 2009."[201]

134. **The commitment that "no college will become insolvent as a result of capital project delays" does not go far enough. DBIS will now need to work with the LSC to ensure that compensation arrangements for sunk costs are settled as a matter of urgency and the presumption must be that those colleges which incurred significant expenditure moving from Approval in Principle towards Approval in Detail have those costs fully reimbursed. Funding for this should not be top-sliced off the overall capital budget.**

Capital Innovation Fund, Small Projects Fund and alternative funding

135. One suggestion made by colleges was that a 'capital innovation fund' should be established "so that people can find alternative means of funding their projects in the meantime, perhaps on a scaled-down size or through refurbishment, in order to meet their essential and immediate needs, and in order to respond to the demands that have been placed on them in the face of the recession."[202] The Association of Colleges expanded on this in its memorandum, arguing for a "small amount of Government funding to support college innovation in the following areas":

- redesign of projects on a more modest scale to meet immediately pressing needs;
- project funding involving a larger amount of borrowing, perhaps supported in some way by a college's home Local Authority;
- sale and leaseback of facilities involving commercial partners;
- shared use of facilities with other education institutions; and
- further examination of the use of HEFCE capital funding for colleges.[203]

136. The NAO Report noted that the LSC and HEFCE had been discussing "how to simplify cross-sector capital procedures"[204] and the Association of Colleges noted that "Many of the schemes which have been delayed are in Colleges which provide a significant

199 *Financial Times*, 14 March 2009, p 4

200 Ev 44, para 2.3

201 LSC, National Council minutes, 17 December 2008, para 5.10

202 Q 146

203 Ev 38, para 11

204 National Audit Office, *Renewing the physical infrastructure of English further education colleges*, HC (2007–08) 924, July 2008, Ev 38, para 1.13

amount of higher education for example City College Norwich, Blackpool and the Fylde College and Grimsby Institute for FE and HE."[205]

137. The latest announcement by the LSC mentioned the possibility of a "small projects fund which would begin this autumn" though it linked this to "savings" in the successful colleges' projects which could be reinvested. It also stated that the LSC was "pursuing other routes of funding by exploring the potential for collective approaches to private financing and borrowing. Early discussions with partners are encouraging and we will again work with the Capital Reference Panel and other groups to move this forward." [206] The Minutes of the Capital Reference Panel on 15 June provided a certain amount of further detail on how a small projects fund would work. David Hughes, National Projects Director explained that "the small fund proposal was designed to support projects on a reduced scale and that the work exploring private financing options might help others." [207]

138. The Minutes of the 15 June meeting confirmed that work was also underway on alternative funding sources:

> Stuart Howie of Price Waterhouse Coopers introduced himself and explained that PwC had been commissioned by LSC to conduct a quick scoping study on alternative funding sources for projects, for example ways to make debt cheaper, asset backed vehicles and possibilities for identifying revenue streams associated with investment. He said that workshops would be held in the following week to explore options. In a brief discussion on the work, members suggested that PwC look at the historic attempts to use PFI in colleges, alumni, loan support funding and guarantees and VAT issues etc.[208]

139. In its response to the announcement the Association of Colleges commented that "AoC wants to help colleges explore alternative ways of funding projects and we will be running a series of events this year to help them do so—including a summit in July. Colleges have a long history of innovation and resourcefulness that they can tap into when seeking alternative funding streams, given the chance." [209]

140. **The Department and the LSC should be making every effort to help those colleges which will not receive funding in this spending round. We therefore endorse the proposal by the Association of Colleges for a small amount of government funding to support colleges in raising alternative finance for their projects and welcome the announcement by the LSC of the creation of a small projects fund. We see the potential involvement of HEFCE as particularly relevant given the ever-increasing amount of HE delivery via Further Education and the growing convergence between Higher Education and FE in the future for which the Capital building programme is designed. We also see considerable potential to involve local authorities in some projects, given firstly the role of FE colleges in local regeneration and skills development, secondly, the**

205 Ev 38, para 11

206 Letter from Chris Banks, Chairman of the LSC, 26 June 2009 [not printed]

207 LSC, Capital Reference Group minutes, 15 June 2009, para 5.2

208 LSC, Capital Reference Group minutes, 15 June 2009, para 7.1

209 Association of Colleges, Press release, *AoC responds to LSC capital programme statement*, 26 June

access local authorities have to capital funding, and, thirdly, the authorities' role in 16–19 provision from 2010. Furthermore, colleges should be assisted to share best practice and contacts or to reduce the overall cost of their projects through shared use or redesign. We recommend that funding both for an innovation fund and for small projects is not contingent on the successful 13 Colleges making savings and is not 'top-sliced' from the LSC capital budget.

8 Conclusions and wider implications

Budget management

141. We were warned that a similar situation could arise again with other budgets managed by the LSC. Graham Moore, Chair of the 157 Group, told us:

> Another issue that I think comes out of the Foster Report is that this can happen again, and we have with Train to Gain at the moment all the signs that we might be in the same sort of situation but under different management and leadership. It is being tackled with a degree of gusto, albeit a bit late, but I think we must learn from Foster about the way in which we deal with these funding issues.[210]

142. Recent advice to providers from the LSC about Train to Gain funding indicates that, indeed, problems had arisen though steps were being taken to address them:

> because of your collective success in delivering to young people and providing Train to Gain, projected demand has increased to a level which if not managed effectively, would be greater than the budget available. This in turn has led to our need to discuss with you your actual and forecast position and to include within that discussion a review of performance.[211]

143. We were advised by Geoff Russell, acting LSC Chief Executive, that he had already made significant changes to the organisation's systems:

> in the private sector it would be unthinkable not to have the chief internal auditor report directly to the chief executive with a dotted line to the chairman of the Audit Committee, and I think it was probably less than two weeks before I was in position before I made that change.[212]

144. **How the LSC now deals with Train to Gain and Adult Apprenticeship funding, where it is again having to introduce additional prioritisation because of potential overcommitment, will need to be monitored closely. We recommend that the new Business, Innovation and Skills Committee maintains our scrutiny of this policy area.**

145. Geoff Russell also rightly identified the tensions between demand-led and needs-based structures, commenting "we need to move from demand-led to needs-based, not just in capital but across our programmes […] We have moved from an environment where it was, 'How much do you want?' to 'This is what you can have. Where is the best place to put it?'"[213] Adding "as to the college programme, you have heard that it was kind of who was

210 Q 151

211 www.lsc.gov.uk/news/latestnews/news-19052009.htm. This subject, along with the FE capital programme, was the subject of a recent edition of the Radio 4 programme 'File on 4'. A transcript of the programme is available at http://news.bbc.co.uk/1/hi/programmes/file_on_4/7427982.stm

212 Q 231

213 Q 239

first in the queue. Clearly we need to move away from that […] I think we have to move in the same direction on all our programmes."[214]

146. But the then Secretary of State maintained the importance of demand-led provision, even if it led to increased risks:

> If you wanted me to pull out, frankly, a generic problem here, we are trying to move the skill system to a much more demand-led and responsive system from a system that most people have regarded as too centralist, bureaucratic and rigid.[215]

147. The Minutes of the 22 April LSC National Council meeting included a summary of a discussion with the Secretaries of State for Children, Schools and Families and Innovation, Universities and Skills. "Comments and requests from members" [of the Council] included the stark statement "Acknowledge the danger of repeating the capital experience with Train to Gain and Sixth Form funding if robust action was not taken in time to manage demand within available resources. Put processes in place to ensure robust future projection to avoid 'surprises'" In responding, the Secretaries of State advised "A more sophisticated demand led approach: 'demand' to mean 'informed demand', not necessarily 'first come first served'."[216]

148. **There is an ongoing tension between demand-led and needs-based provision which needs to be resolved between the LSC and DIUS (now DBIS) and across government more widely. The Secretary of State for Children, Schools and Families and the then Secretary of State for Innovation, Universities and Skills told the LSC Council in April 2009 that they wanted "informed demand" rather than prioritisation on a "first come first served" basis. We ask DBIS to set out precisely what is meant by "informed demand", and how this links to the way in which the LSC and the new Skills Funding Agency and Young People's Learning Agency will manage their programmes.**

Conclusion

149. Perhaps the most telling description of the situation was given to us by the then Secretary of State:

> one of the things I found in discussing this issue is it is sometimes described as though there were a group of people who knew exactly what was going on and they did not tell other people exactly what was going on. I am afraid the problem was there was a group of people that we might have expected to know what was going on who did not themselves have a full grasp of it and, therefore, could not communicate the problem to us.[217]

150. **The programme of capital investment in FE colleges has greatly benefited some colleges, communities and students but in a haphazard manner. We conclude that both DIUS and the LSC are jointly liable for not recognising the weak points of a capital**

214 Q 242

215 Q 251

216 LSC, National Council minutes, 22 April 2009

217 Q 250

programme which suffered from no overall budget and poor management information, but which was being heavily marketed by the LSC to colleges. A heinously complicated management structure within the LSC and the approaching Machinery of Government changes bred a lack of responsibility and gave an air of distraction. Everyone wanted this laudable programme to succeed and so failure became unthinkable. Mark Haysom alluded to this when he said "why was the capital programme not on the risk register? I think, well, I know, because it was seen to be a success, that flipping into, in record time, a situation of over-demand was not seen to be an issue on the radar. I am sorry, but it was not."

151. **We believe that the greater the freedom given to arms-length agencies by Government departments to carry through major public expenditure programmes, the greater the obligation on the senior management of those agencies to observe due diligence over internal reviews of that expenditure. That includes being proactive in flagging up potential major resource problems to the sponsoring Government department. It is clear that this was not done in the case of LSC and DIUS. It is, above all, a sorry story of management within the LSC compounded by failures of government oversight within DIUS which is likely to cost hundreds of millions of pounds.**

152. **Looking forward, the decision-making structure will shortly become even more complicated as the number of organisations involved increases from three (LSC, DIUS, DCSF) to five (Department for Business, Innovation and Skills, DCSF, Local authorities, Skills Funding Agency, Young People's Learning Agency). Both the transition to these new arrangements (which will be led by a new Department) and the new arrangements themselves have the potential to repeat and compound all the problems we have identified throughout this report. The new Department for Business, Innovation and Skills and the new management of the LSC must ensure that this does not happen.**

Conclusions and recommendations

Building Colleges for the Future and the 2009 Foster Review

1. **We commend Sir Andrew Foster for his thorough review of the FE capital programme and his perceptive description of events in 2008 and 2009. We have drawn on his work throughout this report.** (Paragraph 18)

The Capital Affordability Review: failure of management systems

2. We conclude that the treatment of the February 2008 Capital Affordability Review demonstrates what was going wrong both within the LSC and between the LSC and DIUS. There were failures in communication within and between the two organisations and a shared—but flawed—assumption was formed that this was an in-year issue that had no long-term implications. A central element in this was the failure of the LSC's then Chief Executive and Chairman to have a process where they regularly considered the future direction of a key programme which was to consume up to 9.2% of the LSC's total budget by 2009–10. (Paragraph 33)

3. The unprecedented level of capital expenditure on the FE estate between 2005 and 2008 can be regarded as a great achievement by the Government and by the LSC. On the basis of the 2009 Foster Review and the evidence we have taken we conclude that there was a catastrophic mismanagement of the LSC capital budget during 2008 and neglect of oversight by those in the most senior positions in the LSC. The fact that the situation changed quickly does not excuse the lack of recognition of crucial warning signs, in particular the February 2008 Capital Affordability Review. (Paragraph 40)

Lack of a prioritisation mechanism

4. The evidence we took revealed a strange world in which staff at the LSC believed prioritisation would not be needed in the short to medium term because the programme had historically been underspending. Hence they could defer difficult decisions, for example on how to rank projects within and across regions, to someone else—perhaps the LSC's successor organisations. But this meant that the programme in the end operated on a first-come, first-served basis, with no consideration given either to need or wider departmental or government policy objectives. Some colleges received funding for iconic buildings when something much cheaper would have served perfectly well. Other worthy projects, perhaps in areas of greater deprivation, will now not be funded at all. (Paragraph 49)

5. This should not have happened and must not happen again. We recommend that it should be a requirement for all national capital programmes to have an agreed mechanism for prioritisation built in to them from the start, even if they initially underspend. In this case the perceived need within the LSC to "use or lose in-year budgets" was a key factor in the Council's decision to seek to build up demand in the early stages of the programme, a build-up which proved impossible to manage. Consideration should be given to how to mitigate the tendency to focus on in-year

budgets and therefore make short-term decisions, for example enabling greater flexibility to carry-over funds in the early stages of a programme to ensure that growth is managed sustainably. (Paragraph 50)

Role of LSC in liaising with the regions

6. We conclude that the senior management of the LSC made two significant mistakes in dealing with the regions during 2008. They should have been consulting Regional Directors much more frequently about the programme to establish likely overspends, whether or not they were aware at the time of the Edwards report and its implications, and Regional Directors should have been given a responsibility to monitor and report on the number of projects coming through the system. (Paragraph 54)

Risk management

7. The fact that the LSC's weak risk management system was being addressed as these events were unfolding, and that even as a result of this the capital programme was not identified as a major potential problem is astounding. In this context we repeat our criticism that DIUS did not place key risks it had identified in its Accounts—including poor risk management at the LSC—in its 2008 Departmental Report. (Paragraph 63)

The role of the National Council and the Chairman of the LSC

8. We note the points made by Chris Banks about the position of the LSC Council and his own position as Chairman of that Council. While the LSC Council delegated responsibility for management to the executive team it retained a responsibility to provide high-level oversight, set overall strategy and to challenge and question what the management team were doing, and the Chairman of the Council should have been leading the Council in achieving this. The Chairman and the Council clearly failed in this oversight during 2008. (Paragraph 69)

Communications between the LSC and colleges

9. The extent to which individual colleges were urged to increase the scale of particular projects may be a matter of some debate between the LSC and the colleges themselves. But given the historically cautious expectations of the majority of the FE sector, it is in our view highly unlikely that colleges would have "bigged up" their projects without direct encouragement from regional officers or national directors at the LSC. The evidence appears more than anecdotal that LSC was encouraging bigger and bigger schemes to come forward: the use of phrases such as "once-in-a-generation opportunity" and "a strong association between new buildings and high achievement" was irresponsible and bound to build up excess demand that could not be satisfied and the LSC as a whole, and those individuals involved, should accept responsibility for this. (Paragraph 77)

DIUS oversight of the LSC

10. We ask the LSC and DBIS to clarify the remark made in the minutes of the LSC External Advisory Group meeting in September 2008 that Ministers were considering risks associated with the FE College Capital programme. (Paragraph 84)

11. Lessons must be learned by DBIS and across Government from the events at the LSC in 2008. DIUS clearly failed in its oversight duties. As we noted earlier in this Report the same management problems that befell LSC were also there in DIUS—a key official did not report back to more senior staff about the Capital Affordability Review; there was a wider lack of challenge; and a total failure to pick-up messages from the sector (or apply common sense) about the scale of commitments which were being made. (Paragraph 87)

12. The then Secretary of State told us that "the theory of NDPBs when they were first set up, that they protect ministers from the political flack when things go wrong, does not appear to work as well as some of us might have liked […] My conclusion is you should use NDPBs where they are necessary, but not otherwise." Events at the LSC show that NDPBs can diffuse political and financial accountability to such an extent that serious problems are not identified or addressed and responsibility for failure is at best unclear. In this case the situation was made worse by the prospect of the NDPB being wound-up; the Department should have realised that this could affect operations and ensured that its oversight was effective. We conclude that a review of the operation of NDPBs not just across DIUS (now DBIS) but the whole of Government is urgently required. (Paragraph 88)

13. As far as we can see DCSF was a silent partner in this situation, though it is clear that within the LSC the splitting of the capital budget was regarded as a critical factor in making management of the programme more difficult. We note the points made by the 157 Group about the possible transfer of some projects to the Building Schools for the Future programme and urge DBIS and DCSF to work together to establish whether this is an appropriate way forward. We also recommend that the proposal for a single college capital budget using pooled DCSF and DBIS funds is investigated with the outcome of the review reported to Parliament in the form of a Written Ministerial Statement. (Paragraph 93)

The NAO report in July 2008

14. We conclude that, while the NAO rightly identified some of the issues in its July 2008 Report, the facts that the report (1) did not give a sense of the urgency with which a prioritisation mechanism was required and (2) did not put the problem in the context of poor risk management diluted its impact. The fact that paragraph 14 of the Report's Summary addressed prioritisation in the context of the completion of the programme by 2016 by the LSC's "successor bodies", alongside the positive tone of the press notice, pandered to the view that was then prevalent within the LSC that prioritisation was a medium and longer-term problem, not something that had to be done immediately. (Paragraph 102)

15. Given the seriousness of the mistakes that were made the NAO report appears in hindsight to be surprisingly positive: we find it hard to reconcile the fundamental problems that became apparent with LSC's capital management, in particular the lack of national prioritisation and planning for this high-cost, high-profile programme, with the tone of the report. This is all the more surprising given that the NAO had sight of the Capital Affordability Review. We conclude that if the NAO had produced a more hard-hitting report in July the worst of the over-commitment would have been averted. (Paragraph 103)

Next steps

16. As it turns out 2008 was indeed a once-in-a-generation opportunity for FE capital expenditure, though not in the way that the LSC and DIUS intended. We are now left with a situation in which funding is scarce and worthy cases cannot be prioritised. Out of over 180 projects submitted to the LSC—of which a significant proportion had received Approval in Principle—only 13 have proceeded to the next stage of consideration. Even they have all been asked to "substantially reduce the cost and scope of their projects and review other sources of funding". For the others there is "no prospect of getting their projects funded this CSR." (Paragraph 120)

17. This is a difficult situation for all concerned. LSC is making its best efforts to address this prioritisation in a fair way but given the inadequacies of the demand-led process our inquiry has identified, we believe the prioritisation and criteria on which future funding should be committed should take account of all factors relevant to the bids available. This includes the impact of the capital project on the added value of the college's programmes and the vocational development of its student body as well as the impact of the project on the regeneration of the area in which it sits as well as the potential areas from which it recruits its students not simply the chronological status of bids at the time the programme was put on hold. We therefore have concerns about the application of the readiness gateway which we do not believe should be applied in the future when making decisions about funding. (Paragraph 121)

18. LSC must move to a position where it can show its working on the extent to which the existing budget is committed, the value of projects being considered and how projects have been evaluated. It is particularly disappointing that the announcement of further delays was made only two days before the long-anticipated 3 June Council meeting and we recommend that LSC immediately takes steps to set out the timetable for the remainder of the evaluation process. (Paragraph 122)

19. The commitment that "no college will become insolvent as a result of capital project delays" does not go far enough. DBIS will now need to work with the LSC to ensure that compensation arrangements for sunk costs are settled as a matter of urgency and the presumption must be that those colleges which incurred significant expenditure moving from Approval in Principle towards Approval in Detail have those costs fully reimbursed. Funding for this should not be top-sliced off the overall capital budget. (Paragraph 134)

20. The Department and the LSC should be making every effort to help those colleges which will not receive funding in this spending round. We therefore endorse the proposal by the Association of Colleges for a small amount of government funding to support colleges in raising alternative finance for their projects and welcome the announcement by the LSC of the creation of a small projects fund. We see the potential involvement of HEFCE as particularly relevant given the ever-increasing amount of HE delivery via Further Education and the growing convergence between Higher Education and FE in the future for which the Capital building programme is designed. We also see considerable potential to involve local authorities in some projects, given firstly the role of FE colleges in local regeneration and skills development, secondly, the access local authorities have to capital funding, and, thirdly, the authorities' role in 16–19 provision from 2010. Furthermore, colleges should be assisted to share best practice and contacts or to reduce the overall cost of their projects through shared use or redesign. We recommend that funding both for an innovation fund and for small projects is not contingent on the successful 13 Colleges making savings and is not 'top-sliced' from the LSC capital budget. (Paragraph 140)

Conclusions and wider implications

21. How the LSC now deals with Train to Gain and Adult Apprenticeship funding, where it is again having to introduce additional prioritisation because of potential overcommitment, will need to be monitored closely. We recommend that the new Business, Innovation and Skills Committee maintains our scrutiny of this policy area. (Paragraph 144)

22. There is an ongoing tension between demand-led and needs-based provision which needs to be resolved between the LSC and DIUS (now DBIS) and across government more widely. The Secretary of State for Children, Schools and Families and the then Secretary of State for Innovation, Universities and Skills told the LSC Council in April 2009 that they wanted "informed demand" rather than prioritisation on a "first come first served" basis. We ask DBIS to set out precisely what is meant by "informed demand", and how this links to the way in which the LSC and the new Skills Funding Agency and Young People's Learning Agency will manage their programmes. (Paragraph 148)

23. The programme of capital investment in FE Colleges has greatly benefited some colleges, communities and students but in a haphazard manner. We conclude that both DIUS and the LSC are jointly liable for not recognising the weak points of a capital programme which suffered from no overall budget and poor management information, but which was being heavily marketed by the LSC to Colleges. A heinously complicated management structure within the LSC and the approaching Machinery of Government changes bred a lack of responsibility and gave an air of distraction. Everyone wanted this laudable programme to succeed and so failure became unthinkable. Mark Haysom alluded to this when he said "why was the capital programme not on the risk register? I think, well, I know, because it was seen to be a success, that flipping into, in record time, a situation of over-demand was not seen to be an issue on the radar. I am sorry, but it was not." (Paragraph 150)

24. We believe that the greater the freedom given to arms-length agencies by Government departments to carry through major public expenditure programmes, the greater the obligation on the senior management of those agencies to observe due diligence over internal reviews of that expenditure. That includes being proactive in flagging up potential major resource problems to the sponsoring Government department. It is clear that this was not done in the case of LSC and DIUS. It is, above all, a sorry story of management within the LSC compounded by failures of government oversight within DIUS which is likely to cost hundreds of millions of pounds. (Paragraph 151)

25. Looking forward, the decision-making structure will shortly become even more complicated as the number of organisations involved increases from three (LSC, DIUS, DCSF) to five (Department for Business, Innovation and Skills, DCSF, Local authorities, Skills Funding Agency, Young People's Learning Agency). Both the transition to these new arrangements (which will be led by a new Department) and the new arrangements themselves have the potential to repeat and compound all the problems we have identified throughout this report. The new Department for Business, Innovation and Skills and the new management of the LSC must ensure that this does not happen. (Paragraph 152)

Annex: timeline

February 2008	LSC-commissioned Capital Affordability Review completed which states "the continuation of the current payment profile of projects is unaffordable to the Council" (para 19)
March 2008	LSC publishes National Capital Strategy for 2008–09 to 2010–11: "Weighted assessments will be introduced at national, regional and local assessment levels if and when it becomes necessary to prioritise capital applications that already meet or exceed the threshold criteria" (para 42)
22 April 2008	LSC Capital Policy Group refers Capital Affordability Review to LSC Finance and Resources Board, which considers it in May (para 22)
May–June 2008	LSC's Management Board receives a paper on capital issues at its meeting on 13 May 2008 warning of increasing pressure on the capital budget and alerting it to expect advice on short and medium term priorities at its meeting on 12 June 2008. No such advice is provided and neither are capital issues discussed at that meeting (para 34)
June 2008	Workload of the Capital Committee becomes so onerous that the Director of Property and Infrastructure requests an extra meeting in August to deal with the large number of projects waiting to be presented (para 34)
16 June 2008	Ministerial review meeting with the LSC Chairman and Chief Executive takes place (2009 Foster review, para 44): "Ministerial Review meetings are held jointly by the Department for Innovation, Universities and Skills and the Department for Children Schools and Families. Each meeting is chaired by the Parliamentary Under Secretary of State for Further Education, and attended by a Minister from DCSF, the Director of the DIUS Learning and Skills Performance Directorate and a Director from the DCSF Young People's Directorate. The LSC is represented by its LSC National Chair, Chief Executive and its key national directors. Other Ministers and officials from both Departments may also attend depending on the agenda" (Ev 47)
27 June 2008	Post-19 Performance and Finance Group meeting "between senior managers of the LSC and DIUS" (2009 Foster review, para 44)
11 July 2008	National Audit Office report published. Head of NAO states "The sector has taken on a higher level of debt, and therefore of risk, but the cost should be manageable. If the second half of the programme can maintain the success achieved in the first, further education will be well placed to offer enhanced value for money" (paras 94-103)
30 July 2008	LSC Council meeting approves the combined recommendations of the 19 June and 17 July Capital Committee meetings. These determine or recommend 26 FE and 16-19 capital funding applications with a total estimated cost of £1.2bn, including grant support of just over £1bn, payable over the next 5-6 years (para 34)
12 August 2008	"Finance stock-take meeting" involving senior managers in DIUS, LSC Chief Executive and Director of Resources (2009 Foster review, para 44): "Joint DIUS/DCSF financial stock take meetings take place approximately once a quarter. These are official level meetings, and are attended by the Director-General of the DIUS Further Education and Skills Group, the Director General of the DCSF's Young People's Directorate and the LSC Chief Executive. Other officials from both Departments, and from the LSC, may also attend depending on the agenda" (Ev 47)
19 September 2008	Capital Committee meets on 19 September 2008 and agrees to recommend to Council 7 Approvals in Principle (AiPs) and 1 Approval in Detail (AiD) with a total value of £401m. Affordability is discussed: the Minutes of the meeting state "The Committee was told that this year is the first time since the LSC was formed a potential overspend against the current capital budget was forecast compared to the potential underspend usually forecast at the same point in previous years ... The

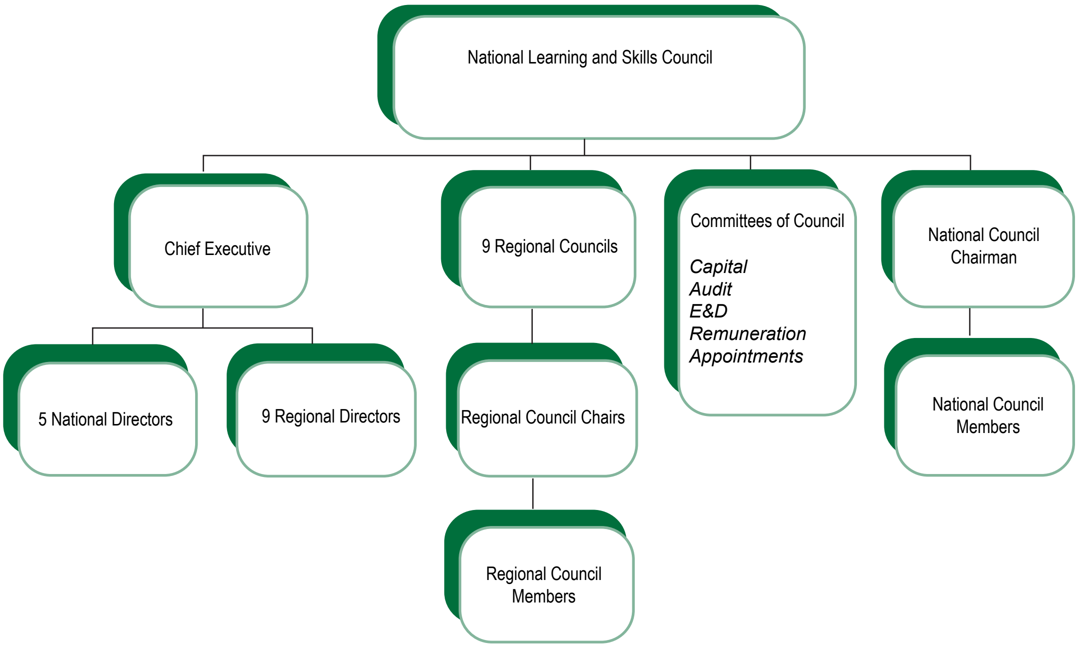
	Committee would have to look at how projects are funded in the medium to longer term as the first regional capital strategy returns indicate a significant increase in forecast projects and a peaking of requirements around 2010–11 possibly influenced by the Machinery of Government outcomes. Further work was likely to be required reconciling these estimates with previous years forecasts before the strategies could be finalised" (para 34)
23 September 2008	Post-19 Performance and Finance Group meeting "between senior managers of the LSC and DIUS" (2009 Foster review, para 44)
30 September 2008	LSC External Advisory Group meets. Considers the LSC Capital Skills Prospectus. Minutes state that "There was a strong governance aspect to this work, with the new Regional Councils taking a lead in considering these proposals. The Prospectus was clear but the proposals were likely to generate a lot of demand, with associated risks. Ministers were currently considering these risks" (para 82)
21 October 2008	Ministerial review with the LSC Chairman and Chief Executive takes place (2009 Foster review, para 44)
22 October 2008	LSC Capital Committee meets and puts forward a further 4 AiPs and 5 AiDs with a total value of £530m (para 34); minutes state "a special submission had been made to DIUS to bring forward funds from future years (when the capital budget increases) to cope with the current exceptional demand for funds [...] The Committee was told that there is a possibility of capital allocations being brought forward to help ease current pressures. There may also be the possibility, given recent announcements by the Government of bidding for additional funds for the capital budget, but it is far from certain that this will happen"
5 November 2008	Council meets. Presented with Capital Committee project recommendations with costs approaching a further £1bn and an initial report on the future funding and priorities of the capital programme. Council approves the recommendations from September, only £44.5m of which was application in detail, but defers decisions on October recommendations until its 17 December meeting. Members also request a report on the funds available in 2008-09 and future years, and a paper forecasting AiP commitments (para 37)
13 November 2008	"Finance stock-take meeting" involving senior managers in DIUS, LSC Chief Executive and Director of Resources (2009 Foster review, para 44)
November—December 2008	Capital Committee agrees to recommend to the December meeting of Council further projects with a value of about £500m (fitting in an extra meeting on 4 December to get through them all)" (para 34)
November 2008	LSC produces a new Capital Skills Prospectus with an introduction from the Secretary of State
17 November 2008	Ian Watmore, Mark Haysom and Ms Susan Pember, Director, FE and Skills Performance Group, DIUS, give oral evidence to Public Accounts Committee on the FE programme (para 101)
20 November 2008	Post-19 Performance and Finance Group meeting "between senior managers of the LSC and DIUS) (2009 Foster review, para 44)
"end of November" 2008	Ministers first alerted to a potential problem with the capital programme (Secretary of State speaking in the House on 12 March 2009)
16 December 2008	Ministerial review with the LSC Chair and Chief Executive takes place. According to the 2009 Foster review (para 44), the capital programme is discussed for the first time at one of these meetings
17 December 2008	LSC Council meets and agrees to a three-month pause in consents to proceed with Approval in Principle (AiP) and Approval in Detail (AiD) applications (para 39)

January 2009	David Hughes, then London Regional Director, is quoted in LSC's 'the magazine' as follows "For the last couple of years we have been accelerating the approval of big capital schemes in colleges across London. We want the colleges in London to be good to look at, good to learn in and offering modern facilities and kit. That's what today's learners demand: exciting, modern, aspirational environments with cutting-edge facilities and carefully designed learning and social spaces […] There's a strong association between new buildings and high achievement" (para 76)
16 January 2009	LSC chief executive, Mark Haysom, writes to all college principals stating that there is no freeze in the programme but that the LSC is reviewing all projects in its pipeline (para 39)
27 January 2009	Sir Andrew Foster commissioned to review the College Building Programme Finances (para 2)
3 February 2009	Secretary of State says during Opposition day debate "There are schemes in the pipeline that have not yet been fully approved, and the LSC has put further approvals on hold until it has assessed the whole programme. The LSC has not yet provided a full analysis of all those schemes, but I need to be frank: many more schemes are currently in preparation than can be funded in this spending round" (para 2)
4 March 2009	LSC Council meets. Following the meeting, John Denham announces that the LSC has decided to give approval to eight capital projects which had been recommended for approval by the LSC Capital Committee (para 105)
23 March 2009	Senior official from DIUS tells the capital summit organised by the AoC that the LSC capital budget for College modernisation is fully committed. Mark Haysom resigns (Ev 40)
1 April 2009	2009 Foster Review published (para 2)
22 April 2009	LSC Council meets. Approves a new process for prioritising projects. Chancellor announces that an increase in capital funding for the LSC of £300 million to enable it to fund a limited number of further projects, starting in 2009/10 (Ev 40)
24 April 2009	Acting LSC Chief Executive, Geoff Russell, writes to all College Principals outlining the process and timetable for prioritising capital projects. His letter explains that the LSC National Council meets on 3 June 2009 and hopes to support £750 million of new schemes (Ev 40)
29 April 2009	Capital Reference Group of Principals and Chairs of governing bodies meets for the first time to review the prioritisation process (para 107)
8 May 2009	Colleges return questionnaires to the LSC indicating the extent to which projects are ready to start in summer 2009 (Ev 40)
1 June 2009	Acting Chief Executive writes to Colleges to say no decisions to be taken on 3 June (para 115)
3 June 2009	LSC National Council meets
15 June 2009	Capital Reference Group meets for the second time
26 June 2009	LSC announces 13 colleges through to next stage of the process (para 117)

Appendix: LSC Organisational charts

LSC organisation, staffing and budgets

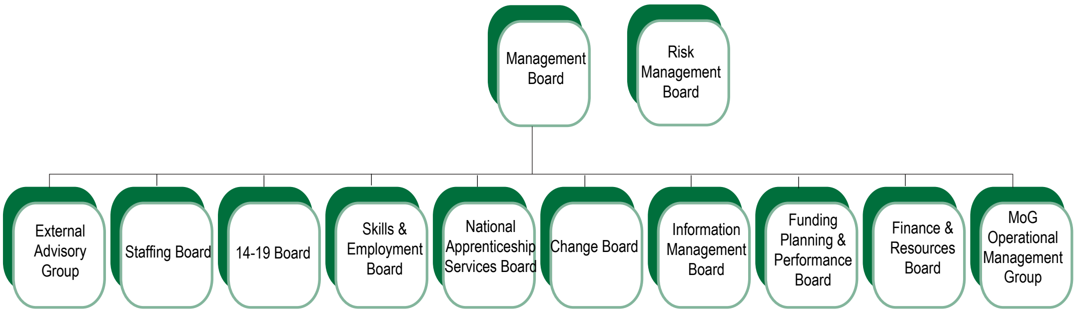
LSC - Corporate Governance Framework



LSC- Top Management Structure

Source: 2009 Foster Review

LSC- Management Board and its Sub-Groups



Source: 2009 Foster Review

Formal Minutes

Monday 6 July 2009

Members present:

Mr Phil Willis, in the Chair

Mr Tim Boswell
Dr Evan Harris
Mr Gordon Marsden
Dr Brian Iddon
Ian Stewart
Graham Stringer

The Committee deliberated.

Draft Report (*Spend, Spend, Spend?–the mismanagement of the Learning and Skills Council's capital programme in further education colleges*), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 152 read and agreed to.

Summary and Annex agreed to.

Papers were appended to the Report as an Appendix.

Resolved, That the Report be the Seventh Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report.

[Adjourned till Wednesday 8 July at 9.00am

Witnesses

List of written evidence

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2008–09

First Report	Re-skilling for recovery: After Leitch, implementing skills and training policies	HC 48–I (HC 365)
Second Report	The Work of the Committee 2007-08	HC 49
Third Report	DIUS's Departmental Report 2008	HC 51–I (HC 383)
Fourth Report	Engineering: turning ideas into reality	HC 50–I (HC 759)
Fifth Report	Pre-appointment hearing with the Chair-elect of the Economic and Social Research Council, Dr Alan Gillespie CBE	HC 505
Sixth Report	Pre-appointment hearing with the Chair-elect of the Biotechnology and Biological Sciences Research Council, Professor Tom Blundell	HC 506

Session 2007-08

First Report	UK Centre for Medical Research and Innovation	HC 185 (HC 459)
Second Report	The work and operation of the Copyright Tribunal	HC 245 (HC 637)
Third Report	Withdrawal of funding for equivalent or lower level qualifications (ELQs)	HC 187–I (HC 638)
Fourth Report	Science Budget Allocations	HC 215 (HC 639)
Fifth Report	Renewable electricity-generation technologies	HC 216–I (HC 1063)
Sixth Report	Biosecurity in UK research laboratories	HC 360–I (HC 1111)
Seventh Report	Pre-legislative Scrutiny of the Draft Apprenticeships Bill	HC 1062–I (HC (2008–09)262)
First Special Report	The Funding of Science and Discovery Centres: Government Response to the Eleventh Report from the Science and Technology Committee, Session 2006–07	HC 214
Second Special Report	The Last Report: Government Response to the Thirteenth Report from the Science and Technology Committee, Session 2006–07	HC 244
Fourth Special Report	Investigating the Oceans: Government Response to the Science and Technology Committee's Tenth Report of Session 2006–07	HC 506 [incorporating HC 469–i]

Oral evidence

Taken before the Innovation, Universities, Science and Skills Committee

on Wednesday 13 May 2009

Members present:

Mr Phil Willis, in the Chair

Mr Tim Boswell	Mr Gordon Marsden
Mr Ian Cawsey	Ian Stewart
Dr Brian Iddon	Graham Stringer

Witness: **Mr Mark Haysom CBE,** former Chief Executive of the Learning and Skills Council, gave evidence.

Q1 Chairman: Could I welcome this morning Mark Haysom CBE, the former Chief Executive of the Learning and Skills Council, to this topical inquiry which the Committee is having on FE college capital expenditure. Could I first, by way of introduction, thank you very much indeed for coming this morning, Mr Haysom. I realise that you are no longer the Chief Executive of the Learning and Skills Council but we thought it was absolutely crucial that we heard your view about events to be able to put them into our inquiry. We are grateful to you. Could I start off by saying the Foster Review has now been completed and I wonder if you agree in principle with the Foster Review and its criticisms of the way the Learning and Skills Council managed the FE capital programme. Do you agree and where do you disagree?

Mr Haysom: Before I get into answering the questions, can I just say, Chairman, I am very grateful for the Committee finding the time to accommodate this session outside of the timetable you had previously agreed. I am grateful for this opportunity. I thought it might be helpful, if it is okay with you, just to make a few remarks to set some context to the questions that you have already started to ask.

Q2 Chairman: As briefly as you can, please, because we are tight on time.

Mr Haysom: I understand that. What I wanted to say was I enjoyed six very successful years at the Learning and Skills Council. We were enormously proud of what we achieved in that time. It was not the most robust organisation when I joined, but working with a group of exceptional people we turned it round and made a very great contribution to employers and learners right across the country. We achieved an awful lot of other things that this Committee will be very aware of, reducing the costs of the administration and so on. That did mean that making my decision to step down as the Chief Executive of the Learning and Skills Council was very, very difficult indeed, as you may imagine. It was a decision that I agonised over, and I am sure the Committee will want to come back to my reasons for making that decision. I thought it would be helpful just to summarise very quickly the two key reasons, which takes me to the answer to your question. The first is that, although I am not personally culpable for what has happened in terms of the difficulties with the capital programme, I am or I was ultimately accountable, as the Chief Executive of the Learning and Skills Council. I put great store by that accountability, I took that very seriously, and I felt that the issues were of such seriousness that I should step down. Those issues, as described by Sir Andrew, I recognise as being fundamentally the right ones. The second reason I decided to step down was that, if you are going to try and manage your way through difficult situations, and it was obvious that there were difficult situations to manage your way through here, then it was very important that I felt that I had the support of ministers and, in particular, of the Secretary of State to do that. And, despite all of the achievements of the Learning and Skills Council, I was not sure that I did have that support at that stage. I felt, in fairness to the Secretary of State, that it was really important that he could choose a Chief Executive to carry the organisation forward and to manage the way through these particular issues, so I wanted to give him that opportunity. The final thing in terms of the capital programme is that, as many of you will be aware, this is a programme that was incredibly close to my heart. When I joined in 2003, I was, frankly, appalled at the physical condition of the FE estate and I got very close to this programme and put a lot of myself into that programme. We were very proud of what had been achieved by what was, fundamentally, a well-managed programme for five of the five and a half years that I was there. I always saw, as the biggest and most enduring part of the legacy of the Learning and Skills Council, what we had done in terms of the physical estate. And it is a great sadness to me that that legacy has been tarnished and that colleges have experienced difficulties as a consequence of what has happened with this programme.

Q3 Chairman: But it, clearly, went wrong, and the Foster Review said it went wrong, so can I bring you back to that central question: do you agree with Foster's conclusions and where, if anywhere, is he wide of the mark?

Mr Haysom: I agree with an awful lot of his analysis. Where I would disagree would be at the margin, and I could argue about individual, small things, but I cannot see any value in that. I would not choose to express things in quite the way he has on occasions, but, fundamentally, I agree with him. I would put greater emphasis on some things than he perhaps has done within that, and I can talk about that if that is helpful.

Q4 Chairman: Well, we will come on to some of that detail, but I think it is important just to establish that you were in agreement, broadly, with the Foster findings.
Mr Haysom: In broad agreement, yes.

Q5 Ian Stewart: Mark, the first thing to say is that I do not think you should assume that this Committee automatically accepts your analysis of your own culpability in this. I think some of us actually think there is a good news story about the LSC about the years you have been in charge, so our questions are not necessarily a confirmation of how you feel personally, but we do have to ask the questions. Now, could you help to clarify when the potential problems with the LSC capital budget were directly brought to your attention?
Mr Haysom: The major issue that Sir Andrew Foster addresses was brought to my attention in December. Up until that point we were dealing with other issues around capital. There were in-year budget pressures that we were seeking to manage and there were other issues with the Department about splitting the budget and so on, but the fundamental issue about whether there was sufficient money left in the budget to take the programme forward only became clear in December.

Q6 Ian Stewart: What was your reaction? What did you do at that point?
Mr Haysom: Well, we were pretty shocked because where we had got to is that, if I can give a bit of background here, the speed with which the situation changed is one of the most extraordinary things about the whole episode. Up until the summer of last year, the world was pretty much as we had understood it to be for the previous five years where we had a very successful programme that was running within budget and where our biggest challenge was making sure that there were sufficient projects in the pipeline that would come to fruition in a timely fashion so that they could be delivered in future years. And that was the situation right the way through the summer of 2008. That was the situation, incidentally, that was confirmed by a National Audit Office Report at that stage.

Q7 Ian Stewart: Did you have any information in 2008?
Mr Haysom: We had an in-year budget pressure of £110 million to manage and we were in active discussion with the Department to manage that.

Q8 Ian Stewart: In hindsight, was that information right or wrong?
Mr Haysom: The £110 million was the right information and we could see that very clearly, but the way that we had anticipated managing that £110 million overspend was through end of year flexibilities. That was not something that proved possible, but that situation was resolved when the budget was brought forward from 2010/11. So that in-year problem was resolved during that period. However, the bigger problem, the problem that we are now here talking about, the first indication that there may have been something that was worrying, in truth, only came in November . . . .

Q9 Chairman: Sorry, but just before you go on to that point, in February 2008 the LSC commissioned the Capital Affordability Review which clearly said, according to Foster, that "the continuation of the current payment profile of projects is unaffordable to the Council". Did that not set warning bells off as early as February?
Mr Haysom: Sorry, I was asked very specifically about when I was aware and that report was not escalated within our organisation to the extent that it reached my desk. So I was never aware of that report, and that meant that neither I nor senior DIUS officials nor anyone else was aware that that report existed.

Q10 Chairman: So a major report which says that it was unaffordable never got as far as your desk, as Chief Executive?
Mr Haysom: It did not, and that is one of the big failures that has occurred here, that failure to escalate that information.

Q11 Chairman: Was that the starting point? Was that the key point?
Mr Haysom: The key point in?

Q12 Chairman: In terms that it had been picked up in February 2008.
Mr Haysom: Yes, if we had been able to identify the issue in February 2008, there would still have been an issue to manage, but it would have been a very different issue to manage.

Q13 Ian Stewart: We are trying to work out what the implication of this situation that you found yourself in was for colleges as well. Now, we are being told that some colleges were aware of this problem as early as October 2008, but others were not. Is that the case and, if it is the case, Mark, why were some of the colleges left in the dark about that?
Mr Haysom: I am not clear how some of the colleges could have been aware in October 2008. Alarm bells may have started ringing for some colleges in November when the Council met to consider applications and at that stage there were concerns or not concerns, but there were questions about, "Hang on, there's an awful lot of applications coming through now and we need to be clear about long-term affordability", so there were no real alarm bells ringing, as such, but there was a genuine—

Q14 Ian Stewart: So you are not aware of any private conversations between people from the LSC and some colleges?
Mr Haysom: I am certainly not aware of that in October.

Q15 Mr Cawsey: As I understand it, for projects which were estimated to cost up to £10 million where the Council's contribution was 50% or less, you had the delegated authority to approve those.
Mr Haysom: Yes.

Q16 Mr Cawsey: What sort of value did you approve?
Mr Haysom: In total, I am sorry, I do not have that information to hand. I can find that for you.

Q17 Mr Cawsey: Could you write to the Committee?
Mr Haysom: I can certainly provide that. The LSC can do it on my behalf because I do not have access to that information.[1]

Q18 Mr Cawsey: Whilst it is not on your watch anymore, I think, as a Committee, we would be interested to hear your views on what should now happen to put things right.
Mr Haysom: I think the recommendations that Sir Andrew makes are, fundamentally, sound, and I obviously discussed those with him at the time and I understand that those actions are being followed through. It is probably more appropriate at your meeting with Geoff Russell, David Hughes and Chris Banks, I think, for them to describe where they have got to with that.

Q19 Graham Stringer: You have repeated, not verbatim, but more or less, the sentiment of your statement when you resigned: "No matter where those mistakes have been made and no matter how many people have been involved in the capital programme, as the Chief Executive of the LSC, I am, of course, finally accountable". That begs a lot of questions. Where were the mistakes made and who should have stepped in?
Mr Haysom: You will understand perhaps that I am not really interested in pointing a finger at individuals within the LSC; I do not think that is helpful at all. What I would say is that I worked with a group of people in the LSC who were extraordinarily dedicated and committed and no one there who was involved in the management of this programme set out to do a bad job, no one there was negligent, they were just overtaken by events. Although, I am sure, they regret that, I really do not want to talk about individuals.

Q20 Mr Boswell: Although they were frightened of bringing forward bad news? There is always a danger about, "Do you want to manage it at our level or do you need to escalate it?"
Mr Haysom: Tim, I worked very hard in the LSC to try and create a culture which was really open and where people could actually come directly to me with their concerns, and I made myself extraordinarily available to the whole organisation where I was out and about with staff and so on. So there was nothing within the organisation that should have led that to have happened. There was a breakdown here that happened and some of that is difficult to explain as to why the report, in particular, was not escalated all the way, but I do not think it was the case of someone being frightened of sharing bad news.

Q21 Ian Stewart: But we have a statutory responsibility to try and review what has gone on.
Mr Haysom: Absolutely, and I understand that.

Q22 Ian Stewart: It is really important that you do not take it in personal terms, but that you really try and answer Graham Stringer's questions.
Mr Haysom: Forgive me, I was not taking it personally at all, not at all. What I was saying is that I do not think it is helpful. Individuals made some mistakes here, and my point is, and I think Sir Andrew says the same thing, that individuals made mistakes, but there is no point in pointing fingers at individuals.
Mr Marsden: But we are trying to establish the line of responsibility and management, Mark. That is not a question of putting blame on individuals, it is trying to understand and analyse the structure of your organisation.

Q23 Graham Stringer: In my experience, and I suppose I have been in charge of a number of capital programmes, most mistakes are a mixture of system mistakes and people mistakes, and it would be remiss of us, as a Committee, not to try and work out what the balance is with that, so I would like to push the question, and I do not expect you to say that it was Fred Bloggs' fault because it was obvious that you have paid the ultimate price in terms of this particular job, but I would like to get a deeper explanation as to why the report in February did not end up on your desk and was not sent to DIUS. What went wrong? Was it a system failure?
Mr Haysom: My understanding, and this is obviously an understanding well after the event, is that what happened was that the report was commissioned by the Director who was responsible and he took that to the Capital Committee, which then existed. We had all sorts of governance boards within the organisation to make sure that there were checks and balances in the organisation, and they did the right thing and took it to the next level, which was the Finance Performance Committee. At that stage, I understand, the Committee there were not convinced that what was being said was robust enough and, at that stage, it broke down. At that point, if it had come forward, then it would have been a different matter, but, I have to say, that was almost exactly at the time as we received an NAO Report, where they had been crawling all over the organisation, which found no really immediate cause for concern. There were some very helpful things in that report, but there were no immediate causes for concern.

Q24 Chairman: But that was in July.
Mr Haysom: Yes, that was in July, but, forgive me, by the time it got to the Finance Performance Board, it was the summer, so—

[1] *See* Ev 48

Q25 Mr Boswell: So it took four months to get one level of escalation?
Mr Haysom: I think the first meeting that considered this was in April, so it was not four months, it was from April.

Q26 Graham Stringer: Did you not think it part of your responsibility, when you knew that there were the different committees in your organisation looking at this report—
Mr Haysom: No, forgive me, I did not know they were looking at that report.

Q27 Graham Stringer: Well, do you not think you should have done?
Mr Haysom: How would I have known? I had not commissioned that report. That had been commissioned by the people in my organisation.

Q28 Graham Stringer: Well, I find that a curious answer and I would like you to expand on it. Are you saying, as Chief Executive, when you have got finance committees and governance committees, that you did not have sight of the papers going to those committees?
Mr Haysom: Forgive me, I was running a £12 billion organisation and I could not possibly have had sight of all the papers going to all the committees.

Q29 Graham Stringer: But the capital programme is a significant part of what you were doing.
Mr Haysom: It was important.

Q30 Graham Stringer: I would not expect you to be reading reports about whether a clerical officer was promoted from whatever grades there were, but I would expect a chief executive to be looking at reports about a major part of your business. I do find it curious and I would just like to know why you were not. You cannot look at everything—
Mr Haysom: No, I cannot look at everything.

Q31 Graham Stringer:—but this is not trivial.
Mr Haysom: It is not trivial and no one would pretend that it is, but it was not the most significant thing that we were doing, by any stretch of the imagination. It was one of many programmes that we were responsible for and I think it needs to be seen in that context. I had run the organisation in a particular way very successfully for six years and I had people in place who were doing those checks and balances and who would bring to me and to the Management Group the papers that were required so that we could then consider them. There is no way that I could reach down right the way into the organisation and be looking at all issues at all times.

Q32 Graham Stringer: Is that still your view, having reflected a great deal on what has happened?
Mr Haysom: Is it still my view that?

Q33 Graham Stringer: That it was the right thing not to have stepped in?
Mr Haysom: Well, the way I managed was that I would be doing performance reviews with different parts of the organisation all the time and I would be scrutinising management information with the executive teams and I would be meeting with them on a regular basis and talking to them about their issues at any given moment so that I had a full understanding of what was going on. And it did not surface. That approach has served me throughout my whole career very, very well and to try and do it the other way round and try and read everything in the organisation to anticipate issues, I am not sure that is do-able.

Q34 Chairman: Mark, are you the senior officer responsible for accounting within the LSC?
Mr Haysom: I was, yes.

Q35 Chairman: On Graham Stringer's question about the capital programme, in this year that we are talking about it was £1.1 billion, but you did not feel that it was necessary for that to be reported directly to you as to whether it was on track?
Mr Haysom: Forgive me, the regular meetings I had were demonstrating that it was on track and I sat on the Council obviously and so on, so it is not that I was in the dark.

Q36 Chairman: You did not make that clear to Graham at all.
Mr Haysom: Forgive me, I am sorry, I thought you were asking a very specific question as to why I did not see that particular report at that particular time and why I did not read the papers from that particular committee.

Q37 Graham Stringer: I was, and I suppose the implication of my question or my understanding is that that report, the Capital Affordability Report, would have been key to understanding what was happening in the capital programme.
Mr Haysom: It would, would it not.

Q38 Graham Stringer: That is why I keep coming back to the point, that do you not think you should have read that report?
Mr Haysom: If I had known it existed, then obviously yes.

Q39 Graham Stringer: So you did not even look at the agendas of the committees?
Mr Haysom: Well, forgive me, but I do not know whether the paper outlines all the remit of the LSC and all the committees that exist, but there is no way that I could have seen all of those.

Q40 Graham Stringer: I just do not accept that, I simply do not. Having sat on top of an organisation probably more complex than the LSC, you can look at all the agendas.
Mr Haysom: Well, the way that I had run an organisation very successfully for many, many years was that I met with the management teams, the executive teams, on a regular basis to review performance and we would sit down and we would

consider all of the issues that were surfacing, and that issue never surfaced. That is the way that I ran the organisation and not by reading agendas.

Q41 Mr Marsden: Mark, can I just follow up the last point. You just said that you met on a regular basis with the management teams and all the rest of it, but what was your relationship with the LSC's management board? How often did you meet them?
Mr Haysom: The Management Group?

Q42 Mr Marsden: The management board.
Mr Haysom: The most senior board that we had was the Management Group and that was a monthly meeting.

Q43 Mr Marsden: Because the LSC's management board received a paper on capital issues at its meeting on 13 May 2008—
Mr Haysom: It did.

Q44 Mr Marsden:—which warned of "increasing pressures on the capital budget—alerting to expect advice on short- and medium-term priorities at the meeting of 12 June". Were you aware of that report?
Mr Haysom: Of course, yes, and we considered that at that meeting, but it was very much focused on those short- and medium-term issues as that was the in-year—

Q45 Mr Boswell: That was the in-year funding?
Mr Haysom:—£110 million.

Q46 Mr Marsden: So you did not hear any alarm bells coming out of that?
Mr Haysom: No. If I had have done, Gordon, then it would have been a very different story.

Q47 Mr Marsden: I want to take you on a little bit in terms of the chronology of this and ask you about your relationship in terms of following through the project because obviously I understand the point that you make, that you cannot micro-manage, and clearly your own style was not to micro-manage, the organisation, and we know that, as part of your tenure, you devolved a great deal of responsibility to the regions and things, and I want to ask you some questions about that. If you were not the person in the LSC who was supposed to be on a day-to-day basis on top of this project, who was and how often did you meet with them?
Mr Haysom: Well, the way this worked is that there was a director directly responsible, the Director for Infrastructure and Property, I think, is the job title, who had done the job very successfully—

Q48 Mr Marsden: That was Phil Head?
Mr Haysom:—through my whole time with the LSC. He, in turn, reported to the Director of Resources, and the Director of Resources was supported by the Finance Director because he had the finance team and was, as well, managing that. So that is the line of management, and then I would be meeting with the Director of Resources on, very often, a daily basis, but certainly weekly and I would be meeting with Phil Head on a very frequent basis during the year.

Q49 Mr Marsden: So, even if you were not aware of some of these pressures, one can assume, unless there was a completely fundamental breakdown of responsibilities within the organisation, that your Director of Resources was and that Phil Head, presumably, certainly was. Did they at no time indicate some of the pressure points which Foster has uncovered and did you at no time ask any questions about them?
Mr Haysom: We talked consistently about the in-year issues that I have described.

Q50 Mr Marsden: So you never got from your Director of Resources any suggestion of the long-term problems that were already being identified in papers within your organisation?
Mr Haysom: I think everyone was focused on trying to solve the in-year issues.

Q51 Mr Marsden: So, in fact, no one, it is fair to say on the basis of what you have said, was looking beyond the short term and the day-to-day?
Mr Haysom: I think that is probably overstating it a bit.

Q52 Mr Marsden: Is it, because I have asked you and I have given you the opportunity to say whether at any time the Director of Resources or your day-to-day Manager, Phil Head, raised those issues with you? You have told us earlier on that you had a culture of openness in your organisation which you had tried to promote in which you wanted people to come to talk to you, so why did these people, who had these burdens potentially on their shoulders for beyond the day-to-day, not come and talk to you about them?
Mr Haysom: I think that is very difficult for me to answer. Given the other pressures that we had been under as an organisation, I think there are some reasons that you could speculate about—such as the fact that the Machinery of Government changes, in particular, had changed some fundamental things about the LSC. You could speculate as to the impact that had had.

Q53 Chairman: Whilst you have answered both to Gordon Marsden and to Graham Stringer about your absence of information on this programme, was there anyone from DIUS who was actually plugged in because, after all, the Permanent Secretary has the overall accounting responsibility for the DIUS budget, of which £1.1 billion seems to be a reasonable amount of money that he should be interested in? Was there someone from DIUS who was actually plugged in at a lower level than chief executive that should have been aware of this programme that was going wrong?
Mr Haysom: To my knowledge, there is nothing that the LSC does, there is no management information that the LSC has, that is not shared with DIUS and the level of scrutiny has always been intense. And,

just to return to my comment a moment ago about the Machinery of Government, it had become even more intense thereafter.

Q54 Chairman: So, and this is really important, Mark, in your view, that information, which was at a lower level in your organisation, including the Capital Affordability Report which appeared in February of 2008, you believe, would have got through to DIUS?
Mr Haysom: I believe that there was a DIUS official who had had sight of that report. I only know that now.

Q55 Chairman: There was a DIUS official?
Mr Haysom: Yes, but it obviously did not surface at a senior level within DIUS.

Q56 Mr Marsden: You mentioned very helpfully the issue of Machinery of Government changes and I want to ask you a straightforward question: given that some 49% of the income into this sector comes from DCSF, although the sponsoring Department is DIUS, did you at any time over that period have discussions formally or informally with officials or ministers in DCSF?
Mr Haysom: About?

Q57 Mr Marsden: About the capital programme?
Mr Haysom: I cannot recollect during 2008 having discussions.

Q58 Mr Marsden: So no discussions with no—
Mr Haysom: Not about the overall state of the programme.

Q59 Mr Marsden: So no involvement with DCSF at all?
Mr Haysom: There were discussions going on about the fact that we—

Q60 Mr Marsden: But you never sat down with senior officials at DCSF or met with them informally or discussed informally any of the aspects of the capital programme?
Mr Haysom: We discussed the split that had occurred in the budget and the actual pressures that had happened as a consequence of that and we discussed the fact that we could have been in a situation where there was potentially pressure on one side of the budget and underspend on the other, but, beyond that, we did not have any discussions.

Q61 Mr Marsden: I want to quote to you something from Andrew Foster's Report where he says that DIUS monitored the LSC during the period, as you have said, and most of the information was actually collected and held centrally by the LSC. "Senior staff", this is what Foster says, "in DIUS could have probed more actively the robustness of the forward projections of future funding commitments". Who do you think the senior staff were that he was referring to there?
Mr Haysom: I do not know who he was referring to there. You would have to ask him.

Q62 Mr Marsden: So let me come on to the ministerial meetings that, we are told, you held, according to Foster, on 16 June, 21 October and 16 December 2008, and only at the 16 December 2008 one was the capital programme discussed. I am picking up, I am afraid, what Graham Stringer and the Chairman have said. Given that this was such a significant part of your overall activities, why were there no discussions at the meetings with DIUS prior to 16 June and 21 October? Did it not occur to you that, since this was a major part of your overall programme, it might be reasonable to put it on the agenda and raise with ministers even the fact that this all appeared to be going well?
Mr Haysom: I think the truth is that, because this programme had been going very well for a very long time, it was felt that there was no need to discuss it on agendas which were always very full. There is a huge range of issues, and you know, as a Committee, the range of issues . . . ..

Q63 Mr Marsden: I am aware of that.
Mr Haysom: The agendas were always very, very full.

Q64 Mr Marsden: I understand that, but let us just take one, 21 October. By 21 October, you had had the Capital Affordability Review, you had had the management board paper, you had had the LSC Council in July, you had had all of these areas and in all of those areas warning signs were coming up. You are telling us that no one in your organisation at any stage indicated any issues there which made you, or made the people putting your agenda together, think, "This might be something we should raise with ministers, even if it's only to clear our backs"?
Mr Haysom: We were talking with ministers about the in-year pressures.

Q65 Mr Marsden: Well, I just want to come to a couple of other points then, if I may, because on November 17 you gave evidence to the Public Accounts Committee, and you gave that evidence alongside Susan Pember, your Director of FE and Skills Performance Group, and also alongside Ian Watmore, the Permanent Secretary, and we have a number of extracts from the uncorrected transcript both of what Ian Watmore said and of what you said. You said, and, in the light of what you have told us today, perhaps it is not surprising, "I think that at the moment we are content, given the scale and nature of this project, that we are in good shape". Now, clearly, you said that in good faith, but again, in preparing for your evidence session with the Public Accounts Committee, did you not discuss it because you must have realised that you would be asked questions about the capital project, so did you not go back to your line managers and say, "I want to know everything about this, the good and the bad. I'm not just there to tell them everything is wonderful, but I need to be prepared for difficult and probing questions; the Public Accounts Committee is not a patsy"? Did you not do any of that? Did you not get any of that in time?

Mr Haysom: Forgive me, yes, of course I did all of that and there were no warning signs and, if there had have been, I would have answered in a very different way. I think I did refer in the Committee to the fact that there had been a very dramatic increase in the number of projects coming forward. I seem to recall that, but I have not gone back to that since.

Q66 Mr Marsden: Again, Mr Watmore gave evidence on that occasion, so did you not have any informal conversations with Mr Watmore before the evidence session? Did he not ask questions about the robustness of the situation? Did that not also act as a prompt within your organisation to ask about where the capital programme was up to?
Mr Haysom: I think, from recollection, that I had one preparatory meeting with Ian when we went through what were identified as the 'major issues' and went through the work that had been done to help us to prepare and to consider that.

Q67 Mr Marsden: I have referred to the regional assessment process and the strength that you put on the regional structure. Did you never at any time ask your regional directors to give you region-by-region reports on the state of their programmes in terms of the committedness of the funding and any potential over-committedness?
Mr Haysom: Yes, you will be aware from Sir Andrew's Report that we did that on a regular basis, and one of the things that had happened was that we had gone round all of the regions, asking what was in the pipeline and for their best estimate of future demand. And in 2007, I think, the figure that came back was that there was £8 billion worth of activity in the pipeline. One of the things that happened in 2008 is that, when that came back again, and I think that was in the September, having reviewed it, that number had leapt to £16 billion. So we were very anxious about that and started to talk about how feasible that was, and it obviously was not going to be manageable, but the NAO Report had looked at the overall affordability of this project within the £8 billion over a period to 2016—

Q68 Mr Marsden: But, Mark, you are a businessman and you ran a highly successful business, I think it was Trinity Mirror, before you came here. If someone comes to you and says that it is £16 billion when they have added up all that aggregate, despite what the NAO or anybody else must have said, did that not lodge a warning light in your mind to ask about some of these issues?
Mr Haysom: Absolutely, and we were saying at that stage, but, forgive me, you are now in a situation where you are in September, I think, but I do not have the information in front of me, and at that stage we were saying, "Well, that is obviously not affordable. We've got to go back to the regions and we've got to work that through to get back to a much more sensible number", so that is what we were saying.

Q69 Mr Marsden: Finally, can you tell me who was at the ministerial meetings in October and December?
Mr Haysom: Which ministers?

Q70 Mr Marsden: Yes.
Mr Haysom: Not off the top of my head, no. I would have to ask the LSC just to confirm that as there was a different cast of ministers at different times.
Mr Marsden: Can you come back to the Committee with that confirmation?

Q71 Chairman: You can ask the LSC for that?
Mr Haysom: Yes.[2]

Q72 Mr Boswell: Briefly, Mark, I think you will appreciate that the main interest of our Committee is not raking over the past, but looking, in this case, for your take on lessons for the future. I have four rather targeted questions and, if I sound to lead, it is in order to try and get a conclusion or response from you. Firstly, it seems to me, from your evidence, that this was seen as a tactical, in-year adjustment situation rather than a strategic or systemic risk to the activities of the capital programme. Is that your understanding and, further, would you say from that that it may well have spooked any later consideration of this as having escalated into a serious risk, that it had been read as one type of problem, but in fact it was another?
Mr Haysom: As I have said, we were entirely focused on trying to resolve that in-year issue and it was seen to be an in-year issue. In terms of the longer-term strategic issue, and this is the point earlier that I touched on with the Machinery of Government, I think actually that the way we were thinking about the future had changed pretty dramatically. We were in the business of steering the organisation towards an end point of April 2010, and that kind of longer-term strategic thinking, I have been thinking about this a lot since I stepped down, suffered. As a consequence of that the whole organisation becomes focused on that end point rather than managing the way that you would previously.

Q73 Mr Boswell: Secondly, are you disturbed historically by the time-lags between the different levels that you have described in your evidence, and is that an important point for the future, that at least, as issues escalate, they escalate reasonably promptly? You are talking about, even on your account, a two-month delay between one level and another.
Mr Haysom: What should happen in any well-run organisation is that, if there is a serious issue which emerges, then it should escalate very quickly indeed, regardless of what the governance structure within that organisation might suggest.

Q74 Mr Boswell: Thirdly, in terms of risk analysis and the boards I sit on, we spend all our time on this, but do you have, or did you have, or should you have had, a traffic light system which is green, steady

[2] *See* Ev 47

state, amber, "We need to be looking at this", and red, the bells are flashing? Do you need a graded assessment?
Mr Haysom: Yes, absolutely, and we revisited our whole risk management approach during 2008 because it was not as robust as it should have been previously—and the Audit Committee were doing a very good job for the LSC and flagged that up. So I put in place very prompt action to address that and we put in place, what I considered to be, a pretty robust risk management approach. Next question: why was the capital programme not on the risk register? I think, well, I know, because it was seen to be a success, that flipping into, in record time, a situation of over-demand was not seen to be an issue on the radar. I am sorry, but it was not.

Q75 Mr Boswell: That is helpful. Lastly, clearly, and you will appreciate that I have sat on the other side of the table from your predecessor in the FEFC on this matter, there is a very complex set of relationships between NDPBs and their sponsoring ministers and also, of course, the stakeholders in the sense of colleges and so forth. On reflection, have you got any messages to relay to the Committee about the ideal future structure of that tripartite relationship? Was there historically a communications problem within the three? Could messages have been sent from the Minister more effectively? What sort of frequency or other mode of communication change is required to effect a quicker readjustment if a situation like this arises in the future?
Mr Haysom: I think that the lessons that I would draw on, in particular, from this is that the relationship with the two departments that we were involved with, from the Machinery of Government changes onwards, changed pretty dramatically and, not surprisingly—

Q76 Mr Boswell: Do you mean they crawled all over you after this particular thing?
Mr Haysom: Yes, but they had a perfectly legitimate cause for doing that because they were going to have to pick up responsibility, one way or another, for everything the LSC did from an end date, so it was a perfectly legitimate 'crawling all over', if you like. But the impact of that was a kind of paralysis in terms of the ability of the Learning and Skills Council to take its own decisions, so I think—

Q77 Mr Boswell: You went from a sort of autonomy to becoming a colony.
Mr Haysom: Well, "autonomy" may actually be overstating it because there has always been an intense level of scrutiny, but there was certainly a much greater feeling of being in control of your own destiny. Whereas, from that point on, everyone was then working towards this end date and towards a pretty complex transition process, and it did change the nature of the whole relationship and it had to, it was inevitable. I do think that, if it were not for the Machinery of Government changes, the situation would have played out in a very different way. I think the Machinery of Government changes had those kinds of impacts in terms of the relationships with the departments, but they also had a huge impact in creating a surge of demand, which is at the root of all of this. Colleges were so anxious to get their projects through in the lifetime of the Learning and Skills Council that the projects came through much more quickly than we had anticipated, and that would not have happened, I do not think, otherwise.

Q78 Chairman: Can I just pick up, finally, one or two very, very brief points, and it is picking straight up from your last comments. In the Westminster Hall debates and questions in the House, I think, it has been fairly clear that many colleges that had modest capital programme aspirations were encouraged to beef them up into mega capital programme aspirations and were given the green light to do so. Was that as a direct result of you, as the Chief Executive of the organisation, telling the organisation, "Get out there and build up these bids"?
Mr Haysom: No, not—

Q79 Chairman: Where did it come from?
Mr Haysom:—not to build up the bids. I was giving very clear messages, as were ministers at the time, that this was a once-in-a-generation opportunity to rebuild the capital estate and that what we wanted to do, where it was possible, was to create great buildings and what we did not want to do was to just put up buildings that replicated the existing buildings, just a bit more modern.

Q80 Chairman: You are saying that this came from ministers to you?
Mr Haysom: No, I am saying that jointly we were saying that this was a fantastic opportunity and ministers were keen to be part of the opportunity. It was something which, as I have said, from 2003 onwards, I was absolutely passionate about.

Q81 Chairman: So ministers were saying this, yet they were not saying to you, "We need to have a handle on the expenditure" as it was going through?
Mr Haysom: Forgive me, but we had a handle on the expenditure all the way through so that every year we had to account for expenditure and we were monitoring that all the way through, and that served us very well right up to the spring/summer of last year, but the world changed at that point and, as Sir Andrew points out, there was this enormous, I think he calls it a "tsunami", but this surge in demand and that was a fundamental change, it was a discontinuity and that—

Q82 Chairman: What I am saying is that that surge, that tsunami of demand, was deliberately engineered by ministers and yourself, as an organisation.
Mr Haysom: I do not think it was "deliberately engineered". We were not engineering a surge in demand. What we were trying to do was to—

Q83 Chairman: If you are asking people to go from modest bids to major bids, is that not engineering it?

Mr Haysom: I do not think we were asking people to go from modest to major. The signal that we were giving was, "If we're going to put up new buildings, can we make sure that they are buildings that are right for the community, right for learners and right for employers and use this opportunity, wherever possible, to create great buildings". That is the message that consistently went out.

Q84 Chairman: The NAO Report in July 2008, were you surprised by it or did you say, "This is a seal of approval for our organisation"?
Mr Haysom: Yes, the NAO is not given to praise and I actually thought it was a very positive report. I was the one that suggested that the NAO came in and looked at the capital programme because I felt that it was a programme that was significant, important and that it was something that we could feel good about. They verified that.

Q85 Chairman: Why did they do such a hopeless job?
Mr Haysom: I do not think they did a hopeless job.

Q86 Chairman: Well, they never picked up the February 2008 document. Does that mean that you did not give it to them? Did you hide the key information from them?
Mr Haysom: I cannot answer that. I obviously did not hide anything from them.

Q87 Chairman: You did not hide anything from them, but, given that clear steer in February and the fact that in-year problems were arising which were causing you significant cause for concern, yet the NAO produce a report which says that everything is hunky-dory?
Mr Haysom: I do not think they actually produced a report which said that everything was hunky-dory. I think they produced a report which was careful and considered.

Q88 Chairman: It did not highlight any of the risks.
Mr Haysom: It talked about the need for prioritisation further down the line. It says, "If you're going to deliver this programme to 2016, you will need to prioritise", so it talked about that. It talked about the fact that we needed more robust management information systems within it as well and it made a number of other recommendations, so I think to characterise it in the way that you are is, frankly, not fair.

Q89 Chairman: Unfair?
Mr Haysom: Yes.
Chairman: Okay, I stand rebuked. On that note, could I thank you very much indeed, Mark Haysom, for coming this morning and say that we are genuinely appreciative of the fact that you found time to come before us.

Wednesday 20 May 2009

Members present:

Mr Phil Willis, in the Chair

Mr Tim Boswell	Mr Gordon Marsden
Dr Evan Harris	Graham Stringer
Dr Brian Iddon	

Witnesses: **Mr Martin Doel,** Chief Executive, Association of Colleges; **Mr Graham Moore,** Principal, Stoke College, and Chair of the 157 Group; and **Dr John Blake,** Sussex Downs College, gave evidence.

Q90 Chairman: Could I very very strongly welcome our first panel of witnesses this morning: Martin Doel, the Chief Executive of the Association of Colleges; and Graham Moore, the Principal of Stoke College and Chair of the 157 Group. Could I say, Graham, this session was as a result of the 157 Group actually putting in a request to the Committee for one of our topical sessions.
Mr Moore: I am ever so glad you mentioned that, Chairman!
Mr Marsden: Be careful what you wish for!
Mr Boswell: So far so good.

Q91 Chairman: And finally, we welcome Dr John Blake, the Principal of Sussex Downs College. We are very tight on time and I am finishing spot on two minutes before ten so if you could be as brief with your answers as possible. I wonder if I could start with you, Martin. When were you told about the problems with the LSC capital programme and who told you?
Mr Doel: The first occasion when I was spoken to about the problems with the capital programme was in December when I received informal notice of the Council decision to suspend the programme.

Q92 Chairman: But we are told that colleges were already informing the AoC, and indeed the 157 Group, as early as October 2008 of problems with the capital programme, so why did you not act on that?
Mr Doel: As represented in October and into the autumn it was about cash flow in terms of availability of funds to pay bills due around capital builds. When we enquired at that time we were advised that this was simply a cash flow issue, there was no question of bills not having been paid.

Q93 Chairman: So you did in fact respond to those comments coming from some of your members?
Mr Doel: We followed up through my Director of Funding and Development, Julian Gravatt, to ask a question about why these bills had not been paid on time.

Q94 Chairman: With the LSC as well as the DIUS?
Mr Doel: No, the LSC only.

Q95 Chairman: What about you, Graham?
Mr Moore: I think there were two stages. Officially we did not know anything until December when the process ground to a halt and there were a lot of rumours and discussions. My colleague down the road at the sixth form college was one of the colleges involved in that process and they were simply told that decisions were being postponed. I think it is fair to say that in the sector before that period there was a general feeling of unease growing because we are all intelligent people, so are the local LSC offices, and so on, and we could see that the volume was building up. I am one of the colleges in that group of 70-odd colleges between approval in principle and approval in detail, and at a meeting in September 2008 we received approval in principle for £96 million and Bradford College, who were also there on the same day, received approval in principle for over £100 million. It does not take a genius to work out that those sorts of figures cannot go on for very long given the finite size of the budget.

Q96 Mr Boswell: Did that not occur to the other side as well?
Mr Moore: You would have to ask the others how they perceived it but it did seem to me that pressure was certainly building up. I think it was perfectly understandable why it had. The early bidders had got quite a lot of reserves and therefore could put a lot into the pot. The more difficult cases, and perhaps one would say the more needy cases, were then coming on stream, places like Bradford, in difficult urban areas without the same sort of reserves, and they were making big demands on the LSC funding pot. However, I would have to say the capital cases were very strong.

Q97 Chairman: John, do you want a quick word here?
Dr Blake: Just as a specific example, the history of last year is interesting for us. In July last year we had a meeting where a £175 million project was basically approved to go through in terms of AiP. In September we were told that maybe it needed to be phased so we began to be a little bit concerned about what that meant. In December you hear rumours that things have happened at National Committee, but it is not in fact until I get back to the college on the first day in January that I get an email telling me that things are on hold. We had obviously taken some prudent decisions internally within the college in order to take account of where we thought things were moving.

Q98 Chairman: You are saying in July there were rumours?

Dr Blake: In July there is a huge tick for a big project, in September there is talk of phasing instead of one large project, but it is not until January that I get a statement saying do not spend any more money, put it on hold.

Q99 Chairman: In terms of the September who was giving you the evil eye at that point?
Dr Blake: That is the LSC process.

Q100 Mr Marsden: Can I just ask on that question, you say it was the LSC process, I am going to press you on that: Phil Head, who was the national organisation guy who went round to all the colleges, did he come to you and was it Phil Head who advised you?
Dr Blake: Yes, he did come to the college.

Q101 Mr Marsden: And was it Phil Head who advised you of the scaling down?
Dr Blake: Yes.

Q102 Mr Boswell: But it was still presented as an in-year adjustment problem?
Dr Blake: It was an adjustment to the scheme that was originally planned so it was still the same scheme but it was in a number of phases rather than one fell swoop.

Q103 Mr Boswell: I wonder if I can ask Martin—and I do not think it is unfair because he has previous experience of administration—it seems to me just looking at this to have been a serious communications problem. First of all, in terms of your present organisation, do you think you could have been more proactive in asking the Department or the LSC, "Houston, we have a problem," and conversely were the mechanisms in place or do you think they could have been improved to make sure that that amber light if not a red light flashed much earlier so that people were not embarrassed in the way that clearly they have been? Is this a failure of structure or is this something else?
Mr Doel: I think it is a failure of structure and process within the LSC which would make it very difficult with the way that they were operating for any external organisation to have any reliable picture of the flow of funds and cash towards the people that were due to receive those monies.

Q104 Mr Boswell: So they were not really in dialogue with you in terms of it?
Mr Doel: The only dialogue that I would have had or oversight that our organisation would have had in terms of capital flows or funds for capital would have been talking directly to our own colleges and collating a picture to understand what was occurring. That is what we sought to do as soon as the suspension was notified.

Q105 Mr Boswell: Only ex post? I think John had said, or perhaps Graham said, that there was beginning to be concern and conversations in the sector, but actually it really did come like a bolt from the blue?
Mr Doel: I would share Graham's view that there was beginning to be some stirring of unease but because of the opaqueness of the way in which the LSC was doing its business at that time—and there was a good deal of opaqueness on many matters, including Train to Gain funding—actually trying to work through that to understand where you are would have been very difficult.

Q106 Mr Boswell: Or to register your own concern?
Mr Doel: And also to go and ask the colleges without due cause at that time would have been to induce more concern, arguably, and also some of them would have been reluctant, even to a trusted member organisation, to give full details of their financial exposure at that stage. It was only when it became clear that there was something serious happening that they became more open to sharing information at the individual institution level, and that then we could begin to form a picture of what we believed to be the seriousness of the situation.

Q107 Chairman: I think we have got a reasonable handle on the chronology but one of the big problems seems to have been this massive bidding up of projects that started off, and you mentioned Bradford as a good example, and I know quite a bit about Bradford, who wanted a fairly modest development and were told to bid up. Where did that culture come from, Graham? Where did that arise? Is it just hearsay?
Mr Moore: I think Mark Haysom led the LSC with a big ambition which he sold to the Government that the FE sector urgently needed modernisation and I think that was one of the key planks on which he led the LSC.

Q108 Chairman: He was right.
Mr Moore: And he was absolutely right. To begin with I think he was frustrated with the sector that they were not coming forward fast enough. They were not prepared to take enough risks as a sector to make this happen, so what he was getting was modest proposals for changes tinkering, if you like, with the estate structure. I suspect, although I do not know from the inside, that he sent out instructions, or his team sent out instructions, to the regions and to the local areas for them to go out and talk to the colleges about their plans and asking were these plans transformational enough. I know in the West Midlands, for example, in 2007 we were all invited to share with the local LSC and the regional LSC what our expectations and hopes were, so there was a regional capital plan. What it could have been was a capital plan that was based on need and business case and so on. What I think it was was actually a wish list of what colleges wanted to do. That was in 2007. It still was not coming through fast enough. I know in my own college we were asked about what should we do. I am always reluctant to say that buildings that are relatively new should go. This is public money we are talking about here. I knew what my priorities within the structure were but I was

constantly questioned, "You are missing an opportunity. This is a once-in-a-lifetime opportunity for the sector."

Q109 Chairman: Let me stop you there because where is the evidence for all of this? We cannot find any evidence that any instruction went from the Learning and Skills Council to the sub-regional learning and skills councils and from them to colleges to say, "This is a letter which says, Mr Moore, we want you to put in a Rolls-Royce proposal rather than . . . "
Mr Moore: That is not how the process works. There is somebody appointed in each local area office who had a remit for capital and it is the way those people in each local office operated with their colleges and the view was, "So-and-so down the road is doing this; are you really doing enough?"

Q110 Chairman: So it is all word of mouth? John, you are about to explain.
Dr Blake: Again just to give an exemplar of it, about three and a half years ago we had a quite modest project of about £8 million to replace one of our sixth form colleges. At the beginning of the LSC process, the point that Graham talked about, it went up to £30 million, then it went up to £90 million, and at the end it was £175 million, and in the end most of that was a bigging-up process, and that happened through the regional LSC property process.

Q111 Chairman: Which division are you in?
Dr Blake: South East Region LSC.

Q112 Chairman: So it was the director?
Dr Blake: The team probably. I can remember going to a meeting with the LSC in Sussex where all the principals and all the chairs were basically told that they were being too conservative.

Q113 Mr Boswell: Is that meeting minuted?
Dr Blake: I have no idea.

Q114 Mr Marsden: Can you just confirm, John, you said it was the regional infrastructure director who gave you this—
Dr Blake: The regional property adviser would visit colleges and would suggest that we should be more aspirational with our projects.

Q115 Mr Marsden: The national Director of Infrastructure and Property, Phil Head, he visited your college?
Dr Blake: Only last August at the point when—

Q116 Mr Marsden: And that was when he was coming to tell you the bad news about scaling down?
Dr Blake: About phasing.

Q117 Mr Marsden: So he never at any stage as far as you are aware—
Dr Blake: Not prior to that, not that I am aware of, no.
Mr Moore: I think the regional estates officers have actually done a very good job within their remit which is to look at the proposals and see whether they make educational sense, to see whether or not the property case is there. I think that process has been done very well by the LSC at that level but it was not within any overall context, it seems to me.

Q118 Mr Marsden: You cannot have projects without a budget, can you?
Mr Moore: And I do not think that regional officers were asked to take account of the budget implications of what they were doing, I think that is the issue.
Mr Doel: Gordon picks up the point about the National Capital Team and I have spoken to several colleges who all say that the National Capital Team came to them and discussed their needs and encouraged them to be forward-looking and properly aspirational, they would have said, in terms of their rebuilds.

Q119 Mr Boswell: Just for the timing of that, that would have been at least 12 months ago?
Mr Doel: That would have been in the summer of last year.

Q120 Mr Boswell: Even right up to the summer of last year?
Mr Doel: Those conversations were still going on and that was the National Capital Team coming round to say, "No, it is not sensible for you to leave part of your estate untouched, you should be coming up with a plan to refurbish the whole of the estate." That may have been through phased development. The other phenomenon which is worth bearing in mind is the connection to merger activity. Several merger proposals would have gone through last year which would have associated capital expenditure in relation to their merger proposals and on those capital expenditure programmes we had several letters to that effect noting the requirement for capital support in order to see through the merger. Those were about providing modern, high-quality buildings, fit for the 21st century and there are statements to those types of effect. The final thing I would say is a term which has been bandied around a good deal during this period—and I understand it and I was there—is that this was a "once-in-a-generation rebuild", a "once-in-a-generation opportunity". I have to say in that period I did raise with the LSC in the middle of last summer the fact that I was not seeing a once-in-a-generation maintenance programme to go with this once-in-a-generation rebuild of the estate. That was the only exchange I had with the LSC about infrastructure matters ahead of September.

Q121 Dr Iddon: Sir Andrew Foster has used the expression there was a "champagne moment" culture and certainly the figures that you have just given, Dr Blake, £8 million for a modest bid up to £175 million, would astonish anybody. Can you explain what they were encouraging you to jump to

at £175 million? What were you bidding for at £8 million that you really needed and what were they preparing to deliver for you at £175 million?
Dr Blake: £8 million was just to replace the worst piece of accommodation at the college, which is a sixth form college called Park College, and the process was essentially to say that this aspirational culture leading to world-class buildings, as Martin was saying, meant that all of our campuses and all of our accommodation stock should be replaced or renewed, and that is how you eventually get to £175 million.

Q122 Dr Iddon: How many colleges would that be?
Dr Blake: That is three sixth form colleges and three parts of the college that deal with 19-plus activity.

Q123 Dr Iddon: It has already been intimated this morning that people realised with the astonishing bids that were being encouraged by the LSC that things could not go on in this way. Do you think the college movement had some responsibility for saying to the LSC, "We are in dreamland here"? Did anybody flag this up as a serious issue?
Mr Moore: Can I say that the issue I think is transparency. If this information had been published and was freely available then there could have been an informed dialogue between the Government, the LSC and colleges. As it was it was all on a one-to-one basis. You were encouraged to think about your needs for your college in your community and you were not encouraged to think about the totality of the picture nationwide. What would you do with colleges around you being encouraged to improve? You would want to make certain that you had the best facilities for your students in your community, so your focus as a college was very much what is the educational case—and we did have to make a strong educational case—what was that going to cost, what would we like to do. Most of those bids were bigger than I think they should have been if we had taken account of the constraints that the budget was placing on us and our expectations for the future. If the expectations for the future were that money would continue to flow then this was a good idea.

Q124 Dr Iddon: Many colleges had proceeded before they got approval in detail and incurred quite considerable costs. Why did they not wait?
Mr Moore: I think it is very important to understand if you want to get to approval in principle you have to have plans at stage C. You have to engage a professional team of architects, civil engineers and so on to get to that point. If you get approval in principle you then have to spend a large tranche of money to get to approval in detail because this is a fully costed contract where if you get the money you sign the contract and you start work the following day, the "shovel-ready" concept which we hear about. That is not done cheaply. In our case it would cost about £5 million. We had spent £2.7 million when we were told to stop and other colleges were in the same situation. Some colleges might have decided to demolish certain life-expired properties in preparation for that work. Their corporations would have known that that was at risk and they would have decided within their budget whether or not they could afford to take that risk. I do not think any corporations felt that they were taking significant risk, in fact it was a requirement: if you wanted to get AiD and you got AiP you could do nothing but spend that money. That was absolutely essential.

Q125 Dr Iddon: Perhaps in coming in, Martin, you can give some estimate of how much money has been, I guess, wasted in some cases by having to stall so many schemes? How much money have we incurred that might have to be incurred again?
Mr Doel: Certainly in the sector, and this is self-reported to us, we estimate that £220 million will have been expended by colleges on capital programmes. If those programmes go forward and that expenditure is capitalised then clearly that money is used. Some part of that, though, if we do not move forward on all those programmes, will be sunk costs.

Q126 Mr Boswell: Can we just unpack what that is. Is that largely the kinds of costs that Graham was talking about, the pre-contract costs for the professionals, consultants and so forth, or in certain cases is it actually for example demolition and building costs?
Mr Doel: In some cases it will be things like land purchases, it will be planning permissions which have limited periods of times, and prefunding. What I would say in terms of the programme as a whole is one of the keys of success in delivering projects at the individual project level on time and to budget has been the fact that money has been committed forward to the tune of somewhere around 15% ,in order to establish cost certainty and delivery. That in itself put colleges in a risky position but on the individual projects did allow them to deliver on time and to spec. It will be a combination of professional fees, plans and enabling works. Also I think you need to take account of the fact that in some of these programmes they are multi-phased developments so therefore the programme was rolling. They were split into those phases, successive AiPs and AiDs, so it made sense to continue these things.

Q127 Mr Boswell: So you had some upfront expenditure?
Mr Doel: Yes, that is right.

Q128 Mr Boswell: As we have opened this issue, it is obviously very important to the inquiry, can I ask you a little bit more how this dialogue is now going on with the LSC and DIUS. I do not think anyone is canvassing for legal action if we can avoid it but is this something that the sector is taking on and having a dialogue on? Is it a matter of negotiation with individual colleges to resolve their issues? To put it crudely, are there writs flying around or is there a hope that there will be an understanding to resolve and, if possible, recover or meet some of these costs?

Mr Doel: We are waiting for greater clarity as to what will be allowed as recoverable costs for colleges. There has not been clear guidance on what will be recoverable for those colleges.

Q129 Mr Boswell: Is that in contrast to the future scoping of the capital?
Mr Doel: The LSC are currently in the process of understanding what costs colleges have committed and what they would consider to have been reasonable in that process up until January.

Q130 Mr Boswell: Have they admitted "liability" at least in terms of reasonable costs?
Mr Doel: They have acknowledged that there is a fees remission scheme that they would observe but where the additional costs and where the balance of remission lies, if you like, we have yet to see. That will be one of the key elements after the forthcoming Council meeting where they may announce further expenditure for some colleges. The key point for us will be what clarity colleges will have on the funds returned to them and how that will be treated on their balance sheets in order that they can begin to work out their own responses to the situation that they find themselves in and having that clarity going forward.

Q131 Mr Boswell: Two very quick and technical issues. One is delivery: is anybody not being taught who would have expected to have been because facilities have been removed in anticipation? That is question one. The other one for time I will do together: is there a possibility that some of this cost recovery that we have just been talking about will come out of the pot of money that was announced in the Budget?
Mr Doel: On the first, I am not aware in this academic year of anyone who is not receiving training or education who would have aspired to have received it. Next year will be more difficult in terms of the plans that colleges will have made in order to expand their provision to meet growing needs, and therefore the hiatus may put a ceiling on their ability to respond, but in most cases colleges are very resilient and responsive and will do the very best to support the communities within which they work. In terms of the allocation of the funds for fees remission and costs, I would have to say that not withstanding there has been greater involvement in the sector representative bodies in the LSC's considerations in this matter, which has been very welcome indeed, I do not have the clarity on what funds would be available in order to remit fees and whether or not that will be part of the extra funds granted within the Budget or part of the LSC's normal running. It is just not capable of being known at this stage.

Q132 Mr Marsden: Graham and John, can I just come back to you on this business of how the whole thing was scaled up and how you were encouraged in a once-in-a-lifetime opportunity, et cetera. Did either of you when that was being communicated to you by LSC officials have it put in the context of your region in the sense of, "It is £500 million going in to our region; you could put a bid in for 70," or whatever? I just want to know whether was any regional context put on this.
Mr Moore: I think there was an attempt to do regional planning but that fell by the wayside as the quantity of bids increased.

Q133 Mr Marsden: No-one ever came to you and said, "You had better put this in because there is only so much money available in our region"?
Mr Moore: I was aware that they built up a regional picture from the individual colleges but it was not the other way round.

Q134 Mr Marsden: I am sorry to press you but you never got any figures?
Mr Moore: We did not.

Q135 Mr Marsden: Was that true of you as well, John?
Dr Blake: We were never aware of any co-ordinated approach like that.
Mr Moore: Chairman, I am very conscious that we are running out of time and there are one or two points that we would like to make if possible which look forward because we have been spending all the time looking backwards.
Chairman: We are coming on to that. We have plenty of time, do not worry!

Q136 Mr Boswell: Just to go back on a point on the structural issue rather than the cost issue. From something Graham said a little bit ago, and the exact words may have escaped me at the time, what I am not clear about is, first of all, whether a concerted dialogue, whether it be on capital or maintenance or tuition costs or current costs, was ever really conducted between the colleges and the LSC, because the inference was that there was no sort of mechanism whereby this could be brokered early on. That is question one. Then there is also an issue which concerned us last week on which we heard evidence, the question about whether the underlying agenda of the wind-up of LSC in 2010 was in a sense playing into this? My question to put it simply is: has there been a face-to-face relationship? If there had been, was there a change in that relationship and, if so, was that change in the relationship occasioned by the fact that the LSC was no longer continuing but was a body in the process of winding down and dissolution?
Mr Doel: Having looked at the evidence of other people to this Committee, and also the Foster Report, even if there had been transparency last year, I am not persuaded that the LSC had the processes and procedures in place to understand where the cash flow was and they were not managing the matter in an effective manner.

Q137 Mr Boswell: Although they are the largest spender?
Mr Doel: I do not think it was managed in an effective manner such that they would be able to communicate a comprehensible picture to the

colleges. Point one. In terms of the winding up of the LSC and in terms of attention being elsewhere, which I think was advanced by some as a significant factor in this, I would put it as a contributory factor. If the risk management processes, cash flow management processes and oversight processes were in place management would have had no alternative but to give attention to what was one of the largest programmes running within the LSC. The failures of the processes in place played into the communications problem, which then played into the inability to communicate the situation to colleges. Having said that, I am still concerned about the lack of transparency and the way the LSC does its business. If I give you an example in that regard. HEFCE publishes within a very short period after each of its Council meetings the full minutes of those meetings in consideration to the sector that they support and fund. The LSC does not. The minutes of the Council meeting in December were only released after a Freedom of Information Act request. I have requested a copy of the minutes of the meeting of the National Council in March and have yet to see the full minutes of that Council meeting despite having requested them. In that regard, even though that is slightly in rear view mirror terms, that speaks to a way in which business is done which is not helpful at all. I do believe the way in which the LSC is now conducting its business is changing in that regard, but it does speak of a lack of transparency in the way that they do their business.

Q138 Chairman: Can I pick up on that, Graham, and really pick up the point that you were trying to make earlier. The Capital Reference Group met on 29 April to actually plan the use of the current remaining capital and also the additional resources which were being put in by the Budget, the extra £300 million. Given the comments that Martin has made and looking forward now are you content that that Capital Reference Group has actually (a) prioritised and (b) given the sector the sorts of assurance it needs in order to be able to now deliver what after all is a pretty exciting overall programme of refurbishment and redevelopment of the FE estate?
Mr Moore: As John is our representative on that group—

Q139 Chairman: John, I should have asked the question of you, it was very remiss of me.
Dr Blake: We have only had one meeting. That is the first thing to say.

Q140 Chairman: This is the April meeting?
Dr Blake: Yes. I think it was a good start. I feel that the new regime in LSC terms is heading in the right direction, without sounding patronising.

Q141 Chairman: Can I interrupt, were the minutes of that meeting published?
Dr Blake: I do not know if they have been published. I have certainly had a copy. I am not sure of the status but I can check that.
Mr Doel: The minutes were published in conjunction with the LSC.

Q142 Mr Boswell: When is your next meeting, because that was only three weeks ago?
Dr Blake: I think it is mid-June. There are some dates being canvassed at the moment, after the LSC meets on 3 June to decide on this first phase of money. I think they have made a good start in terms of being more open and more transparent and more involving. They have still got to produce some of the evidence that has been asked for but at least it has been said that it will be produced. They were talking at the first meeting about the process to be used to decide how the extra money that is available this year will be allocated on 3 June at the National Council meeting. It was an objective process. It was much more needs-based than previously. I think if a number of colleagues have got a concern it still has the risk of being about first-come, first-served, which is what we feel has happened so far. Shovel-ready basically means you have to have been lucky in the capricious process that got you this far in the LSC capital funding process to date so the 30 or 40 colleges who were successful may not be the most needy but they may be the ones who just happen to be ready this August.

Q143 Chairman: Sir Andrew Foster makes that clear in his report, this lack of prioritisation and in fact the issue that Gordon Marsden has been particularly interested in, the regional prioritisation as well, because there are two dimensions to this. Is this new capital group actually looking at the multi-dimensions of delivering a programme?
Dr Blake: Yes, they are making big strides in the direction of having a needs-based system in the way that you describe, but they are dealing with the residue of a system which was not like that, so there is lot of gear changing going on at the moment. I think it will be better in phase two—and phase two is dealing with all the other colleges who are not successful on 3 June—and I think that a more logical, needs-based, regionally assessed process will come out of that. Of course, there is no guarantee of any funding for phase two at all at the moment and I suppose the biggest concern of colleges who are at the Reference Group is where will the funding for phase two ever come from? The other concern—and this is being addressed at the next meeting—is the costs. The £200 million-plus that has been risked with no guarantee of success is going to be talked about at that meeting in terms of a process for paying colleges back in some way. That is positive.

Q144 Chairman: I know you want to comment here, Martin, but could you also address the issue of what I call "overhang" from existing programmes and whether in fact the stuff which the Capital Reference Group are now trying to deal with is actually including the overhang from a programme where clearly the cash flow was going badly wrong?
Mr Doel: First and foremost, you need to understand the role of the Reference Group. It is to inform the criteria that will be used. It is not to have

one set of principals judge upon another set of principals' projects to see which will go forward. It is to produce an objective set of criteria and to inform that process so that they are applied in a way that is fair, transparent and can be seen to be proper.

Q145 Mr Boswell: So it is a kind of working party to draw up a series of guidelines?
Mr Doel: For the criteria and the process, not to judge individually between the programmes because I think that remains the duty and task of the agency appointed by government in order to spend the monies.

Q146 Mr Marsden: That is the lobster pot really into which DIUS tried to draw you originally which you resisted?
Mr Doel: I think it would be inimical for a representative and membership organisation to be judging between each of its members in terms of where funds and resources ought to go. Quite clearly throughout this I have been saying that our role is to inform the process and, if necessary, challenge that process but not to carry out the process, so in that sense it is not deciding how the money will be spent, it is deciding on the criteria that will be applied to how that money is spent. In terms of overhang, I think this manifests itself in terms of the money that will be available on 3 June to be allocated, it will depend on what overhang exists already, and what funds are available in order to pay for new projects to start. In terms of the overhang, it is not visible or transparent to me how much overhang is being carried forward. The line will be how much money there is for allocation on 3 June. As John has said, the next thing we really do need to think about is what happens to all of those colleges that do not receive the go-ahead or the prospect of going ahead? The word we have so far is that there will be no new starts on current plans until 2011, and funding for that is uncertain. There will be a considerable period of another hiatus here and what we are very concerned to ensure is that, first of all, costs remission occurs in that period so that colleges can identify their own way forward and have some certainty in terms of what they plan there, but also what we have been arguing for is a small amount of money for a capital innovation fund so that people can find alternative means of funding their projects in the meantime, perhaps on a scaled-down size or through refurbishment, in order to meet their essential and immediate needs, and in order to respond to the demands that have been placed on them in the face of the recession and 16-19 growth and other factors that apply. It is a long period from now through to 2011 if there is no prospect of moving a significant number of these projects forward.

Q147 Mr Boswell: I think I have understood this but I just want to be clear. What you are saying is that notwithstanding the criteria which are now being developed by the Capital Reference Group the monies which are available are likely to be required to deal with the overhang and that whatever the pressing needs of a new project, at least on the face of it so far, new projects could not be initiated for another two years in effect?
Mr Doel: The amount of money that is going to be used on existing projects going forward is still not transparent to us, so we do not know how much of the monies within the LSC's gift currently will have to be allocated to that and how much will be available for new builds.

Q148 Mr Boswell: But the inference is that new build, as it were, from cold without a previously presented project, may well have to wait a couple of years?
Mr Doel: As presented now and our view within the Capital Reference Group is that there is unlikely to be any further funding allocated until 2011. That may not prove to be the case because there might be economies found with existing programmes and existing works and as funds become available they may be released earlier than that, but what I am concerned about particularly—and I think all of us would be—is what happens after 3 June for those colleges that are not, if you like, in the mix immediately for the allocation of funds? They need to have some clarity and transparency to release what is the innovation within the sector to find alternative solutions to the issue that they face.

Q149 Mr Marsden: I agree that it would be invidious for the AoC to comment on individual projects in the way you described it, and I take what you say about the Capital Reference Group and the provisional nature of what it is doing, but does the AoC agree with what Foster says in his conclusions across the sector that a key element for these criteria must be the regenerative effect and context of the proposals that come forward?
Mr Doel: I think that is as acknowledged by the Capital Reference Group and as by the criteria that are being applied that is one of the factors that is being taken into account, and I think that is right. Weighting between factors will always be an issue. Others might say, "If my building is falling down and I cannot teach my students next year, even though that is not a regenerative effect is also a factor," so these are a complex mix of factors that will apply.

Q150 Mr Marsden: I understand that, but what I am just trying to get out of you is that the AoC are not holding to the principle, I want to be absolutely clear, that first-come, first-served and shovel-ready should be the guiding principle as to where we go now?
Mr Doel: Absolutely not and I have made known my concerns both to DIUS and also to the LSC about the requirement to be shovel-ready and the money being applied only on that criterion at this stage.
Mr Moore: May I just add to that that I think the LSC under Geoff Russell's leadership fully understands the needs-analysis that needs to go on and about the educational case being paramount. There are property issues which have to be taken into account. The 157 Group would argue also that it is not about a little bit for everybody, it is about

proportionality to reflect the size of the task that you are being asked to do by the Government to serve the community. I think things are heading in the right direction. I think the Committee would be missing a trick if it did not actually look going forward at the capital vision for education and how FE fits into that vision. Since the two departments have split apart there is almost a rivalry as to who gets the capital budget, for schools or for colleges. When you actually think about it schools and colleges are often dealing with the same particularly tricky 16-19 issues, increased participation and so on, so there is a real need to think together as two departments on the capital investment.

Q151 Chairman: With the greatest of respect, first of all, that is not part of our immediate remit so I will stop you in mid-flow, but also that has been a problem ever since, quite frankly, the Learning and Skills Council was set up when there was that division post-16. There is nothing new in that case. It was very frustrating for many colleges that you had a Building Schools for the Future programme which did not include colleges even though they were going to have a significant number of the same students. Can I assure you that your thoughts are not lost on this Committee and there is an inevitability that at some time in the future, probably around 2020, that somebody will return to this idea of why have we got two separate departments because we keep coming across the same problems time after time after time, but that is not our fault!

Mr Moore: I appreciate that. Another issue that I think comes out of the Foster Report is that this can happen again, and we have with Train to Gain at the moment all the signs that we might be in the same sort of situation but under different management and leadership. It is being tackled with a degree of gusto, albeit a bit late, but I think we must learn from Foster about the way in which we deal with these funding issues.

Chairman: On that happy thought that the Train to Gain programme might go the same way, we will thank Martin Doel, Graham Moore and Dr John Blake. Thank you very much indeed for being splendid witnesses this morning.

Witnesses: **Mr Chris Banks CBE,** Chairman, **Mr Geoff Russell,** Acting Chief Executive, and **Mr David Hughes,** National Projects Director, Learning and Skills Council, gave evidence.

Q152 Chairman: Can we extend an immediate welcome to our second panel this morning in this topic of inquiry into FE college capital expenditure and, again, explain that we are very tight on time with three-quarters of an hour allocated. Can we welcome Chris Banks, the Chairman of the Learning and Skills Council, Geoff Russell, the Chief Executive of the Learning and Skills Council, and David Hughes, the National Projects Director of the Learning and Skills Council. Welcome to you all and thank you very much, at relatively short notice, for coming to join us this morning. Can I start with you, Chris? Is it all right to call you Chris?

Mr Banks: Yes.

Q153 Chairman: You have run a large company, in fact you have run a number of large companies, and you chair a network for chairs of public bodies to improve efficiency and effectiveness. How could you have presided over such a debacle?

Mr Banks: Thank you Chairman, and thank you for this opportunity. It is worth just reflecting on how the LSC operates. There is the National Council, which is a corporate body of almost entirely non-executive members plus a chief executive, and we took the decision early on that we would delegate all the day-to-day operations of the organisation to the executive team, if you like, the experts, and also the people who are working day in day out on the detail of these, and I think it is worth having that model in mind because it is a different model from business or some other agencies or organisations that people have seen.

Q154 Chairman: With the greatest of respect, which means I am querying what you say—

Mr Banks: I understand.

Q155 Chairman: —if you were the Chairman of a private sector company, irrespective of what your chief executive wanted, would you not want a reporting structure which gave you clarity in terms of the objectives of the organisation and particularly the way they are delivering a multi-billion pound programme?

Mr Banks: Absolutely; I would do.

Q156 Chairman: So did you?

Mr Banks: We did, I did and the council did, and we had an arrangement in place which provided regular reports and updates to the council on what was going on. Clearly what you have seen, and you have heard it from evidence and from Andrew Foster's report as well, the system did not work, it broke, and the mismanagement, if you like, of the capital programme did not come to the attention of the National Council at the right time and in the right way for us to act on it. What did happen, though (and I think this is again worth bearing in mind) is that, in response to questions that the council asked at its November meeting and subsequently at the December meeting, the extent of the problem became clear, and as soon as we knew about it, we did take what was the only appropriate action at the time.

Q157 Chairman: You are talking about November. It was actually in February when people within the organisation were saying, "This is going badly wrong", and a report was coming forward, and yet your structures did not pick that up until very, very late on in the year. Something was not right, was it?

Mr Banks: Clearly that is right; the system failed. I suppose I am trying to make it clear that, as soon as the council was aware of what the issues were, it acted, I think, appropriately and decisively, but you are right, there was quite a long period there where the issue was becoming clearer and clearer to people and we were unsighted on it.

Q158 Chairman: It is like saying we have a crash and we then decide to put seatbelts on, is it not?
Mr Banks: I think to say we slammed on the brakes at the last minute, would be a closer analogy.

Q159 Chairman: So you have not looked through the window yet!
Mr Banks: We were not aware.

Q160 Mr Marsden: Chris can, I confirm: you were appointed chairman in 2004, were you not?
Mr Banks: Yes.

Q161 Mr Marsden: The appointment is a part-time one, approximately two days a week, and the salary for that is approximately 51,000?
Mr Banks: That is correct.

Q162 Mr Marsden: We know with part-time appointments of this sort that sometimes chairmen do a lot more than two days a week. What would you characterise your own weekly involvement with the LSC, in terms of hours, on an average basis?
Mr Banks: I have deliberately taken the view that I do not divide it into days and just say this day and this day are LSC days.

Q163 Mr Marsden: Over a year, is it two days a week, on average, or not?
Mr Banks: It is more.

Q164 Mr Marsden: So you are actually being a fairly hands-on chairman. You have not just been there to titivate?
Mr Banks: No, I am a regular, engaged chair in daily contact with the business.

Q165 Mr Marsden: That is fine. One of the things that we found puzzling, not least when we had the evidence from Mark Haysom, is the disconnect between all these people doing various things—and the Edwards Report is a classic example of them—and nobody seeming to communicate. Mark Haysom told us when he came before us the other week that he had an open-door policy where various people from senior management could drift in and tell him whatever problems they were worried about. Do you have a similar policy?
Mr Banks: I do. It is a different role.

Q166 Mr Marsden: I am aware of that.
Mr Banks: Yes, I am regularly in mainly the London office, but I am regularly in the business and regularly talk, of course, to the chief executive and other members of his team.

Q167 Mr Marsden: Do you have any on-going relationship with Phil Head, the Director of Infrastructure and Projects? How many times would you have met Phil in the course of the year?
Mr Banks: It would be more infrequent than frequent directly with Phil.

Q168 Mr Marsden: How often, roughly?
Mr Banks: Quite infrequently.
Mr Marsden: How often?

Q169 Chairman: Did you ever meet him?
Mr Banks: Yes, I have met Phil. They are more issues based rather than—

Q170 Mr Marsden: I will tell you the reason I am pressing you on that point. We have heard in the previous session about the role of the infrastructure and projects both nationally and locally in terms of talking up this whole process, but we have also heard there were concerns expressed, and when we come on to talk about the Edwards Report we will see how that came about. No-one anywhere in the organisation came and talked to you about the Edwards Report from February until the autumn when it was all out in the open.
Mr Banks: No. To be very explicit on that, I was unaware of the existence of that report, I am afraid, but you should know. The earliest I might have known would be December, it may have been later than that, 2008. So I was not aware of it. No-one mentioned it or raised it with me. The key issue that we were looking at within the council actually on an on-going basis was the in-year expenditure, and that is the thing that was being reported as the key pressure point.

Q171 Mr Marsden: We are very aware of that, but the chief executive is the person who is supposedly looking after all the day-to-day stuff; you have a potential strategic role to look further. Did you not at any stage ask questions about the broader issues beyond the day-to-day stuff?
Mr Banks: The time when that happened, really, was the November period.

Q172 Mr Marsden: So there was no point between February and November where you took your head away from the real problems there were on the in-year budget. There was no time for you to look beyond that.
Mr Banks: Specifically in relation to the capital programme, no, the focus was trying to deal with that and, at the same time, and you know because you have heard it from lots of other people—

Q173 Mr Marsden: Forgive me, you may think this is unfair, but you founded a company called Big Thoughts—we have all been told about your broader achievements in that area—and yet at no time in that period did you appear to have any big thoughts about where you were going beyond the in-year.

20 May 2009 Mr Chris Banks, Mr Geoff Russell and Mr David Hughes

Mr Banks: I think that is unfair actually, but, I think, specifically in relation to the capital programme, one of the main things here, of course, is that this is an ambitious programme overall, as you know.

Q174 Mr Marsden: Indeed; it is 15% of your overall budget?
Mr Banks: Absolutely.[3]

Q175 Mr Marsden: But you did not look beyond the in-house spend?
Mr Banks: No, I and the council signed off and approved the overall capital strategy, which again you may have seen, but it is a paper that came to the council for overall direction, which was to encourage and accelerate the programme of improving the facilities within FE as part of our continuing drive towards improving the skills of people in the country.

Q176 Mr Marsden: Can I ask you a final question as to your relationship with Mark Haysom. Obviously you had formal meetings with him as part of the process. Did you have informal conversations over that period of time at which there was either an opportunity for you to arrange beyond the in-year problems or for him to talk to you about them?
Mr Banks: There were lots of times that we met informally where there would have been that opportunity.

Q177 Mr Marsden: But it never arose?
Mr Banks: No, that is the key point, it did not arise, and, again, it is just a fact, I am afraid, that it was in the November period when we put together the in-year pressure that the council was looking at—

Q178 Mr Marsden: That is when all was revealed.
Mr Banks: —with the growing number of proposals that were coming through, and it was at that point actually that the council and I said, "Hang on, are we sure?"

Q179 Mr Marsden: We understand that, but it was not until November?
Mr Banks: No, it was not. You are right.

Q180 Mr Boswell: Specifically, while we are discussing board responsibilities, before we widen this out, while I understand that it is very commendable that you did not want the board to be micromanaging the organisation, do you not accept that it is a cardinal responsibility of any board which you chair to manage the risks or to have satisfied itself it has got a proper risk management and reporting system?
Mr Banks: Yes.

Q181 Mr Boswell: Therefore, is there an implied criticism of the board that this did not appear to be in place?
Mr Banks: I absolutely do acknowledge that that is a key role of the board, or the council. Again, Andrew Foster was quite explicit here, and I agree with him that the way that we managed risk at that time with the Audit Committee clearly did not do the right job, because capital was not on the risk register at that stage. Again, as I think you also know, because of the various changes that were going on and the uncertainty, we did instigate, prior to the capital issues and prior to the Foster Report, a full review of all of our risk management so that we could get a better grip on it, but you are right, it failed, and that is why we have had to take action there as well.

Q182 Mr Boswell: Given that your CEO walked the plank, did you consider your own position?
Mr Banks: Of course I did. It would be only natural to, would it not, in the circumstances, and I do want to put on record my personal apologies as well as those of the organisation to all of those people who have been affected by the difficulties that we have had and the consequences to everyone else, but my belief is that, as the day-to-day responsibility for the management of that programme rested with the chief executive and that he has resigned as a result of this, that is the right thing, and my job is to try and ensure that this organisation delivers all that it possibly can between now and the time when it is dissolved in the spring.

Q183 Dr Iddon: Mr Banks, you were appointed for two days. Admittedly, you have said you put more than that in. My simple question is: do you think two days is enough, with all of your other commitments whirling around in your head, to manage an organisation like the LSC?
Mr Banks: I am saying really that I put more than two days into it. I think it deserves that, and you will understand, particularly in terms of the very wide remit that the LSC has and the very wide number of stakeholders and partners that we work with, I have been pleased to make that time available and fortunate enough, as an independent businessman rather than working for someone else, to be able to make that time freely and positively available.

Q184 Dr Iddon: Is the answer to my question, no, then, that two days is not enough?
Mr Banks: I think you can do the job in two days if you have to. I just think I could do it better by making more time available, and so I did, and do.

Q185 Graham Stringer: In answer to Tim's question you said that the day-to-day management was the responsibility of the chief executive, but actually when we had the chief executive before us what he said was that he did not know anything about it and that the problems were about communication. As chairman, when there are reports within the system that are screaming that there is a problem, is it not your responsibility to have ensured that there were structures so that you would know about them?

[3] *Note from the witness:* Capital programme expenditure amounted to 4.4% of the LSC's total budget in 2007–08. This figure is expected to rise to 7.2% in 2008–09 and 9.2% in 2009–10.

Mr Banks: Just a word on the word screaming, to pick up on it. I have read the report now—I expect you have as well—and actually I am not sure it says screaming; it does identify the issue.

Q186 Graham Stringer: There is a huge problem building up in your capital programme.
Mr Banks: In answer to your point, I would have expected the management to respond to that and I would have expected, in due course, for Mark or a member of the team to have alerted us, and me personally, to that issue, yes, you are right, and that is part of the failure, I think.

Q187 Graham Stringer: I think you are missing the point. Clearly the chief executive did not think it was his job to read the report, because he told us that when he was here, that he did not want to read all these reports, he left it to other people. The point I am making is should there not have been communication systems in place that said, if you have got a problem, if there is a major report, then it should get into the chief executive's office and into the chairman's office?
Mr Banks: I agree with that, and as a business person and somebody largely in the private sector, the ability to surface, escalate issues, make sure that people are aware of them and then deal with them as quickly as possible is one of the things that enables you to deal with the market better than ever.

Q188 Graham Stringer: Why did you not ensure they were in place: because that really is your responsibility?
Mr Banks: The escalation within the management team, I think, is the responsibility of the chief executive. I can only say that I think that part of the management process would have to be run by the chief executive. I did not know, and I should have known, that those issues were going on and, given my time again, I suspect, like you, I would have asked those questions and tried to put those pieces of data together more quickly, but I think there is a general understanding that the information coming to me and, indeed, other members of the council was really imperfect and did not allow us to us make those connections and, I agree we should have done. It would have been much better.

Q189 Graham Stringer: Hindsight is a very precise science.
Mr Banks: Indeed.

Q190 Graham Stringer: The most precise science there is. We have analysed the communication, the structures, Foster has analysed them, but there is a deeper question that lies behind it, is there not? Should the LSC exist? Should these large capital programmes be dealt with by primaries?
Mr Banks: All I can say, really, is that since the LSC was established, 618 projects have been any initiated or completed, actually, totalling nearly six billion pounds, and 89% of colleges have participated in that programme; so during that period the system, I think, was recognised and acknowledged as working well. I think what went wrong was that the mechanisms that had been used, which were largely about encouraging demand and responding to it, because there was less demand than there were capital funds available, was not changed the at the time when it became clear, or because it did not become clear that the equation was working the other way, and there was then more demand than there was money available. So I think that these organisations can, and this organisation did, run that programme well for a long period of time.

Q191 Graham Stringer: It is really whether you are better. You are in competition with local authorities, which have a democratic mandate, and it is often said that quangos are more effective and that local authorities are patchy as to whether they can do this. This has been a minor catastrophe, has it not? It has perverted the Government's priorities in where money is going within the system. It has meant that projects have been delayed. Do you really think you are better than local authorities at doing it?
Mr Banks: I am afraid I am not really in a position to comment on that because—

Q192 Graham Stringer: It is pretty fundamental, is it not? Should you exist or not?
Mr Banks: ---there is such a wide variety. The reason I got involved in the LSC in the first place, and remember that I was one of the business people who got involved before the LSC was set up, was because the previous system was so much more complicated and difficult and I could see the opportunity for bringing together these various and disparate programmes and activities into one place and I think that over a period of time that has served people well. I think it is now clear that what we have got to try and do as we prepare for a new way of working is just do our bit to make the transition work as well as possible.

Q193 Chairman: Can I turn to you, David Hughes. I think somebody else would like to come in on this, but as a precursor, you have been there throughout this period of time and you, effectively, were the regional director of the LSC London region. You also had a key role chairing the cross-cutting group in terms of this capital programme. So you not only had a key regional role, you were chairing the cross-cutting group that was reporting directly to the board, because you had a seat on the board. Why did you not alert the chief executive to the fact that things were going wrong? Why did you not tell him that the February report, which came to you, was predicting disaster for the programme? Did the buck stop with you?
Mr Hughes: I do not think it was predicting disaster for the programme. What it said was there were some serious problems on the horizon.

Q194 Chairman: Serious problems with a multi-billion pound project.

Mr Hughes: It had two conclusions. It said we needed £100 million for the year 2008/2009, and if you remember that the end of May was the period when we were just talking about the potential underspend on the capital programme—

Q195 Chairman: I am sorry; this was February.
Mr Hughes: No, we saw the report on, I think, 28 May, and at that point we had just been discussing an underspend on the capital programme for 2007/2008. Hindsight is a very precise science, is it not?

Q196 Chairman: I wish I had not said that actually!
Mr Hughes: It is fantastically true, is it not?

Q197 Mr Marsden: Foresight is a rare quality.
Mr Hughes: It is, and we did not have foresight, and that was the mistake we made, but, very clearly, at that point we had been overseeing a programme that for years had been underspending and we had been struggling to get projects through, so the whole setting was very different. It is not an excuse, it is just part of the context. So when we saw this report, it said: you need £100 million in-year to manage the budget. We had a very strong assurance, unofficially, that we would end up with that money.

Q198 Chairman: From whom?
Mr Hughes: From officials.

Q199 Chairman: Your own officials?
Mr Hughes: We were in discussion about a budget that we believed, and in the end there was £110 million brought forward to make sure that we did overspend in-year; so that foresight was right. The second conclusion was: there are some actions we need to take, including prioritisation, including limiting the grant paid by the LSC and a number of others that we can see in the report, so we said we need to do that, and we referred that, quite understandably, to the Capital Committee and asked the Capital Committee to take that on. They did not do that until September. If you look at the Foster Report, Foster says there was a delay of two or three months.

Q200 Chairman: You are passing the buck again.
Mr Hughes: No, I am not passing the buck.

Q201 Chairman: I want to ask you a specific question. You had a key position here. The chief executive's door was always open with the coffee on.
Mr Hughes: Yes.

Q202 Chairman: You wandered in and out regularly.
Mr Hughes: Yes, I met Mark regularly.

Q203 Chairman: Why did you not say to him, "Hey, Mark, there is clearly quite a difficult bit of information we have here. The programme is going up the spout"?
Mr Hughes: It was not going up the spout. Read the report and read the conclusion. The conclusion says: we can manage this with some amendments to the programme.

Q204 Chairman: Did you tell him that?
Mr Hughes: I do not remember whether I had that conversation with him. A year is a long time. I genuinely cannot remember, but we had a report that said: "There are problems on the horizon. You need to do something about it." We said, "We will do something about it", and we had been doing those things; we did it too late.

Q205 Mr Marsden: We interviewed Mark Haysom last week and, obviously, we pressed him on these issues as to why the focus had not been on the capital side of it. He said because he was doing lots of other things as chief executive. Given that this was 15%, or thereabouts, of the entire budget, so I understand, did you have the same priorities as a regional director for it as he had as chief executive?
Mr Hughes: I was overseeing a budget of about 1.9 billion as regional director for London, and I have always accounted for that money absolutely. We would never overspend.

Q206 Mr Marsden: That was not my question.
Mr Hughes: No, but my point is we were overseeing that budget and we did that properly. Within that some of it was capital and we had responsibility for making sure good capital proposals were coming forward, and we did that well.

Q207 Mr Marsden: Can I take you forward on the regional budget issue. As I say, as the Chairman has pointed out, I will not say unique, but you had a very good combination of responsibilities and talents because you were both the regional director but you were also chair of the Finance and Resources Board, so you could see it from both ends of the telescope, if I can put it that way. We have heard from the evidence session previously (and I appreciate now that no college heads came forward from your region) that at no time did they have any sense that their region had an actual budget for the capital programme, it was just a wish-list. What was the situation in your region?
Mr Hughes: It was a national budget to which we were pushing through projects, so we had no regional budget.

Q208 Mr Marsden: You did not have at the back of your mind, or even on a sheet of paper somewhere, "I have got X hundred million pounds for this budget"?
Mr Hughes: It did not work like that.

Q209 Mr Marsden: So you did not have that: understood. There was also reference in the previous evidence session to the role of regional directors of infrastructure projects in talking up this whole exercise, and the rest of it. What was your relationship with your regional director of infrastructure and projects and what advice or feedback did you get from him or her about how they could communicate this programme with colleges?
Mr Hughes: In point of fact, we do not actually have regional directors of infrastructure.

Q210 Mr Marsden: That is what we were told. Let me put it another way. Phil Head is the National Director.
Mr Hughes: Yes.

Q211 Mr Marsden: Who is the regional person who does that?
Mr Hughes: He has nine regional property advisers.

Q212 Mr Marsden: So it is a question of nomenclature?
Mr Hughes: No, it is more than that, because we would work up projects through our management scheme, through our directors, so we were really in contact with colleges making sure that the schemes were proportionate, making sure that they were good value for money, making sure that they were properly devised.

Q213 Mr Marsden: You have a regional property adviser. That is the title?
Mr Hughes: Yes.

Q214 Mr Marsden: Did you have, at any stage, conversations with him along the lines of whether it was reasonable and realistic to advise colleges to go for this once in a lifetime opportunity to build up or anything like that?
Mr Hughes: I have heard a lot of anecdotes about this, but I have seen no evidence, and Foster said the same. I have never talked up a project, I have never bigged-up a project, I have never suggested to a college---. I am absolutely confident that no-one in my team ever did that. What I am clear about is that there was lots of ambition in the sector and there were lots of iconic schemes being put up, and other colleges looked at those and, I think, thought, "We want one of those." I do not think we were in the game of saying, "Go away and re-write and make it two or three times as big." I certainly have never done that.

Q215 Mr Boswell: Conversely, you were not in the game of saying, unless there was some incoherence in the project, at this point we need at least to reflect on the overall implications for the budget or otherwise?
Mr Hughes: On the contrary, at project level I can think of many examples where we have gone back to a college and said, "We think you are being over-ambitious with the size and cost of your project." In London I can think of some examples of that.

Q216 Mr Marsden: Can you clarify something? Who in the LSC physically commissioned the Edwards Report?
Mr Hughes: That was commissioned by Phil.

Q217 Mr Marsden: By Phil Head?
Mr Hughes: Yes.

Q218 Mr Marsden: As Director of Infrastructure and Projects?
Mr Hughes: Yes.

Q219 Mr Marsden: Did you have a conversation? We have not got Phil Head before us, but it seems to me, on the basis of what has been said, that there is an implication there that he was concerned at a very early stage about the potential, not the actual, road crash, and that is one of the reasons why he commissioned this report. When that report had appeared before your committee, did you have formal or informal conversations with him subsequently as to what his thoughts were on it?
Mr Hughes: Yes.

Q220 Mr Marsden: What did he tell you?
Mr Hughes: He shared the concern we had, and there were two concerns: there was the in-year spend which we have and we have always managed and, therefore, the car crash did not quite happen, but the big problem was the focus was on in-year was at the expense of the forecasting of the five-year horizon, and that is the bit we got wrong. I think Foster made it very clear that we got it wrong by a few months. There was a surge of demand halfway through the year, and we missed that.

Q221 Chairman: I cannot let you get away with that, with the greatest of respect. You actually reflected what the Edwards Report says. You are quite right, it is the terms of its conclusions, but I wonder if you ever read the report, because paragraph 21 says this: "From 2010 to 2013, however, if current policies did not change and the tempo of capital projects is maintained, the demand for capital grant payments moves in 2010/2011 up to 450 million above the funds available for FE projects", and it went on to say, "This simply proves that the continuation of the current payment profile of projects is unaffordable to the council." It was not just an in-year problem, the significance of the Edwards Report is that it was saying, unless there was significant change, this is unaffordable.
Mr Hughes: The changes were set out in the recommendations, and we said we need to implement the recommendations and we need to move forward, which is, with respect, what I said earlier.

Q222 Chairman: No.
Mr Hughes: So it is really important. We said two things: we need to manage in-year and we need to do the prioritisation, we need to limit the grant, we need to think about phasing in over five years rather than three, as is set out here.

Q223 Chairman: But it seemed to be that, despite this, the message was going out, and you were a part of this cross-cutting group at the time—you might say it did not happen in London, but it clearly happened everywhere else—that people were told to beef up their projects.
Mr Hughes: I am not sure there is any evidence that that happened.
Chairman: Why did they do it then? Was it osmosis?

Q224 Mr Marsden: Unless you are going to say that the previous witnesses are not being accurate. We have had evidence from the previous session.
Mr Hughes: I missed that; I apologise.

Q225 Mr Marsden: No, we are not saying that, but, please, for the record, understand that the reason we are asking these questions is that we have had two college representatives before us this morning who have already said exactly what the Chairman has said, that these projects were talked up by regional LSC advisers, and that is why. You must have been an oasis of rectitude compared to the rest.
Mr Hughes: As I said, I can confirm that absolutely we did not do that.
Chairman: No. Okay, that is your word and that is exactly right.

Q226 Graham Stringer: When I looked through the whole of the capital project list of what has been agreed and spent and what is likely to be spent, compared to the Building Schools for the Future scheme it seems to me that large capital projects are going to places like Bournemouth and Poole, with a £102 million project, and not to the areas of greatest need and most deprivation. How did you account for that balance in your projects compared to my constituency, inner city Manchester? How was that prioritised against Dorset and Poole or Stockport within Greater Manchester?
Mr Hughes: I think that is what Foster set out; that it was a demand-led scheme. The first schemes that came through got considered—

Q227 Graham Stringer: I know what Foster said.
Mr Hughes: I am just backing him up. They were rigorously assessed at scheme level but they were not assessed in terms of need. That is why we have taken on the Foster recommendation and we are doing a prioritisation against need rather than saying let us have a look at your proposal and check it is fantastic value for money.

Q228 Graham Stringer: Did it not occur to anybody within the LSC that this was a rum way of going about the thing?
Mr Hughes: It did, and that is why we were starting to move towards a prioritisation scheme.

Q229 Dr Iddon: Mr Russell has been very quiet, so we will bring him into the debate, I think. You are an auditor. Is that correct?
Mr Russell: Yes.

Q230 Dr Iddon: What is your perspective, as someone with a fresh pair of eyes, on what went wrong at the LSC during 2008?
Mr Russell: You will forgive me, of course, starting out by saying that I have been focusing most of my attention on the future rather than the past, other than, of course, wanting to make sure that we learn the lessons, and Andrew Foster's report was extremely helpful to me in that respect. It was a clear analysis and it also made some very sensible recommendations. Obviously, I have listened to Chris and David. I think they both touched on what I think are a number of contributory factors to where we are today. Andrew Foster also mentioned (and I suppose this is more in my area of expertise) that the LSC did not have as good a strategic level of financial management, as they should have, and I can only agree with that.

Q231 Dr Iddon: Were the auditing procedures sufficient, in your view, and, if not, have you changed them?
Mr Russell: I do not really think it is an audit issue *per se*. I think what public sector auditors do is not necessarily to assess the strategic level of financial management. Having said that, to answer your question, in the private sector it would be unthinkable not to have the chief internal auditor report directly to the chief executive with a dotted line to the chairman of the Audit Committee, and I think it was probably less than two weeks before I was in position before I made that change.
Dr Iddon: Let me turn now to what might happen to colleges who have lost money that has been laid down for the reasons that the previous panel said, and for the benefit of David Hughes it was for employing architects, surveyors and even, in some cases, demolishing buildings ahead of projects proceeding. The LSC and DIUS are said to be developing a policy position on reimbursing colleges who obviously put money out that they probably needed for other purposes. When will this procedure be finalised and what encouragement can you give to the colleges who have lost money in that way? I am not who sure who to direct that to, but the chief executive or the chairman.

Q232 Chairman: I think probably to the chief executive.
Mr Russell: Andrew Foster recommended that we have a transparent process engaging with the sector. We have done that. I think I probably met with Martin Doel within 45 minutes of my appointment, fortunately he happened to be in the same building, and that was the beginning of a conversation which has continued over the last two months. With regard to your specific question on some costs, Foster recommended that we needed to engage on that front. It is clearly an informed issue. It is important to some degree by who gets to go ahead and who does not. The more that get to go ahead, the smaller the sunk-costs issue will be. The LSC has clear rules that set out what colleges are allowed to spend money on at each of the stages. The external advisers that we have appointed are assessing that very issue for each college and we will have the position for each of them within days. Once we know who is going forward, we will turn to the issue of sunk-costs. We will do it in a sympathetic way, because clearly the LSC shares a great deal of responsibility for this and, as ministers have said, no college is going to be allowed to go bankrupt as a result of capital issues.

Q233 Dr Iddon: So at this point in time you have not any idea what this reimbursement process is going to cost.
Mr Russell: As I said, it will depend on who goes ahead and who does not. I think we have a pretty clear idea of what the total quantum of those sub-costs is.

Q234 Dr Iddon: Are you prepared to say?
Mr Russell: I think various figures are floated around, but my understanding (and I cannot say precisely, I have not seen the analysis) is that it is in the order of a couple of hundred million pounds potentially, but it depends upon who goes ahead and who does not. Clearly, the ones that go ahead, to the extent that they are shovel-ready, are the ones that could well have spent the greatest amounts already, so that might get rid of a fair chunk of the problem. There also has to be a judgment taken based on the analysis as to which colleges, if any, went beyond the guidelines of the LSC and what is a fair way of dealing with those costs.

Q235 Mr Boswell: I have got two quick what might sound like business school questions, but I think they are very germane. Geoff, you have the exquisitely difficult job of a run-up strategy for an organisation which is coming to an end, and this was already announced and applied in your predecessor's time. How do you envisage dealing with that situation, and have you made some changes, in the light of this experience or more generally, as to how you are handling that?
Mr Russell: The answer to the first question, how do I want to deal with it, is as quickly as possible. There was a plan in place when I arrived that said by September we will create shadow YPLA, SFA and people will start engaging with local authorities. Given the size and complexity of this organisation, and it is a huge organisation, plus the additional little problems we are dealing with, this one being an example, it seemed to me that the best way of managing that risk was to accelerate the process of getting ourselves into those new organisations. So even before any new management has been appointed, we have appointed transitional management within the organisation, we are going through the process of allocating people to where they should go and, as soon as humanly and operationally possible, we will try and get those organisations up and running in the most realistic way we can and see where the kinks are.

Q236 Dr Iddon: The second question is: how you manage relationships, and whether those have changed, with your key stakeholders and partners at DIUS and DCSF at one end through to the college sector at the other? How do you see that and how much have you changed it?
Mr Russell: When you are in a crisis, I think the only logical thing to do is to communicate, and communicate, and communicate, and so my job is to be engaging with all our key stakeholders. I have spent lots and lots of time with DIUS and DCSF at a ministerial and official level multiple times a week.

Q237 Dr Iddon: So if Mark Haysom had an open door, your door is even more open, is it?
Mr Russell: I do not wait for people to come in my door.

Q238 Mr Marsden: Do you prowl the corridors?
Mr Russell: In some cases. I am glad not to see all of my regions right now.

Q239 Mr Marsden: Again, a very quick question to you, Geoff, on the basis of what you have heard already about the process having been demand-led, about there not having been a regional budget structure. Obviously you do not know the pot of money you are eventually going to end up with, but are you now looking to having a regional budget structure or a prioritised budget along different priorities as opposed to just a pot of money that is being doled out on a first-come-first-served basis?
Mr Russell: One of the other things that happened quite quickly for me is that I got a copy of Andrew Foster's report. People may take issue with me, but my view is, for all sorts of reasons—the economy, value for money—we need to move from demand-led to needs-based, not just in capital but across our programmes. We also need to get the balance between the very successful regional structure that we have, very good regional relationships right between that and national oversight and co-ordination, not just in capital, which we have done, but in all programmes, because the world has changed. We have moved from an environment where it was, "How much do you want?" to "This is what you can have. Where is the best place to put it?"

Q240 Mr Marsden: So that will mean you having to give a much clearer directive to your regional structures and regional directors as to how they proceed with whatever money is available in future.
Mr Russell: Absolutely. David is in charge of capital nationally. I have someone in charge of Train to Gain nationally. There will be someone in charge of every single programme we have nationally.

Q241 Graham Stringer: Is the implication of what you have just said, apart from the capital programme being demand-led and not need-led, that you accept that the funding methodology for student learning numbers is one view and in the distance sending money towards the areas of greatest need?
Mr Russell: It is partly an issue of semantics. If you ask officials in DIUS what they mean by demand-led, they will say it is where we put the money to where there is a need for it and, therefore, we should respond to those demands. It is a slight change in emphasis, in truth, but I think the change in emphasis is around the fact that we do not have as much money as we have had in the past, so we need to be a little more active in terms of deciding and playing a greater role in decisions about where we want to place our bets.

20 May 2009 Mr Chris Banks, Mr Geoff Russell and Mr David Hughes

Q242 Graham Stringer: So do you accept that the methodology is not sending money towards the areas of greatest need?
Mr Russell: I am not sure I can say that I have the knowledge to look back and say how well bets we have placed in the past have played out. As to the college programme, you have heard that it was kind of who was first in the queue. Clearly we need to move away from that. We have moved away from that in capital; I think we have to move in the same direction on all our programmes.

Q243 Chairman: Chris, one very brief question. Do you have a good relationship with DIUS?
Mr Banks: Personally?

Q244 Chairman: Yes.
Mr Banks: Yes, with officials and, indeed, with ministers. We have always had good, open, lively and frequent contact with them.

Q245 Chairman: Thank you very much indeed. Can I thank you very much indeed. Chris Banks, you have been very straight with us today, Geoff Russell, the Chief Executive, you have been straight with us today, and David Hughes, you have been straight with us today, in case you take any inference from that as the Projects Director. Thank you all very much indeed and thank you for that very quick canter around some very difficult issues.

Witnesses: **Rt Hon John Denham MP,** Secretary of State for Innovation, Universities and Skills, and **Mr Stephen Marston,** Director General, Universities and Skills, gave evidence.

Q246 Chairman: We come to our final session this morning, part of this topical session which was suggested by the 157 Group as part of our open consultation on what the committee should be doing about the FE college capital expenditure. We are particularly grateful to the Right Honourable John Denham MP, Secretary of State for DIUS, for appearing yet again before the committee. You should have a regular slot and a special chair in order to do this! Your ability to give us your time is much appreciated, John, and we thank you very much indeed for that. We welcome, again, an old friend of the committee, Stephen Marston, the Director General of the Department for Innovation, Universities and Skills, someone who looks after universities and skills issues. I wonder if I could start with you, Secretary of State. Are you able to tell us who knew, and when, in DIUS, that things were going wrong with the LSC capital budget and, in particular, who first saw within your department the February Capital Affordability Review document? When did that come to light?
Mr Denham: Chairman, I think it is fair to say that I have not, I am afraid, for the committee, tried to construct a precise week by week timeline, but when that document was produced within the LSC, at that time, or very soon afterwards, it would have been seen by at least one official from my department. As the Foster Report makes clear, there are quite regular interchanges between my officials and the LSC at a number of different levels, and what I think Foster sets out very clearly is that there were opportunities in the LSC, and I guess in my department, if people had done things differently, for action to have been taken earlier. One of the reasons for getting Sir Andrew to produce this report was to understand more clearly what might have happened at an earlier stage. That is not to say (and I did not try and make this judgment and nor did Sir Andrew Foster) that it was glaringly obvious to people that they should have done something different—it is always easier to make those judgments in hindsight—but there is no doubt that, as the discussions went through the LSC, some at least of the information on which people might have acted, had the significance been understood, was shared between the two organisations.

Q247 Chairman: When you have a report, Secretary of State, which actually says that the 2011 budget moves up to £450 million above the funds available, that was a very significant comment within that report and yet the official who saw it within your department did not see fit to actually then say, “Hang on, what are we doing about this?”
Mr Denham: I think, to some extent, Chairman, it would be fair to bring Stephen Marston in on some of the detail of this, but my understanding of that, from all the discussions that we have had and, I think, from those set out in the Foster Report, is that a report was produced which showed potential problems. That was not universally accepted as the only analysis of the situation, but there were continuing discussions about the ability to manage the problem which carried on over a period of time, and those discussions which could have been brought to a head in the early summer were not crystallised and decisions taken. So there is no challenging Sir Andrew’s conclusion that opportunities were missed; the one thing that I would say, in fairness, is that that report appears not to have been accepted universally from the outset as the only possible interpretation of the facts. Just to put it on the record Chairman, so far as Ministers are concerned, none of this (and I think this is accepted) reached Ministers until November, and it is also fair to say that the thrust of the concerns that were raised with Ministers in November were more about the phasing of payments and how well they would match the planned capital payments than they actually were about the problem which subsequently emerged, which was the sheer scale of the number of schemes in the pipeline. So even at that stage, despite all of these discussions, the problem had not been clearly and properly defined in the way that we now understand it.

Q248 Chairman: Can we bring Stephen Marston in here. Were you the responsible officer within DIUS then that should have picked this up?
Mr Marston: As the Director General, yes, all of this was within my area of remit.

Q249 Chairman: Was it brought to your attention?
Mr Marston: No, it was not, I am afraid, and I deeply regret that it was not escalated, but I was not aware of the report until November. What did happen is it was a member of my staff who attended the meeting—I think it was actually in April—that first looked at the February report, and, as the Secretary of State has said, I do not think it is quite right to say it was just ignored. I think a number of things followed from it. People did take the message that there was an issue about whether we had sufficient budget cover in the year in question, the short-term issue, and people did react quickly to that, and that was one of the reasons why we brought forward £110 million spending. So reaction number one to this report was, right, we must sort out the short-term position. The second reaction to it was, "It is right that we are going to have to think about prioritisation", this key finding from Andrew Foster that we were running a demand-led programme and it needed to switch to be a prioritised programme. If you look, for example at the capital strategy document that we issued, it did say hypothetically there might come a time, if demand rises fast enough, where we will have to apply prioritisation. but we were working in the context where we thought what we were dealing with was continuing to need to boost demand on what had been an underspent programme. The bit that we clearly just failed to get right was the speed of understanding that we were at a tipping point, the whole programme was changing and we did not react fast enough.
Chairman: That is a very fine response and we thank you for that, Stephen.

Q250 Mr Boswell: I think Stephen has filled me in, but I want to confirm the impression I am getting that in a sense almost the short-term in-year management problem, which was identified then, and I think that is incontestable, almost distracted people's attention from the long-term. That is not quite consistent with what Stephen said, but is there a sense in which you could say maybe that is over and we are onto the next?
Mr Denham: The understanding that I had from November, when this first came to our attention, was that was seen as a pressing issue, that actually whatever might lie down in the future, which would have to be managed at some point, the real issue we needed to do was short-term; but I think we all have to accept that as this became clear over the next couple of months, nobody had centrally an overall picture of the state of the capital programme, because when things came to a head in December a huge amount of work then had to be done to construct a complete national picture, and one of the things I found in discussing this issue is it is sometimes described as though there were a group of people who knew exactly what was going on and they did not tell other people exactly what was going on. I am afraid the problem was there was a group of people that we might have expected to know what was going on who did not themselves have a full grasp of it and, therefore, could not communicate the problem to us.

Q251 Mr Boswell: Perhaps, in an effort to build empathy, I can say, having sat in the department in a junior capacity, I have had one of these too, but it is a long time ago. With hindsight is there a way of operating a risk-management system within the department dealing with its agencies and mirroring what is or might be done in agencies which makes this less likely to happen: because I am sure, with retrospect, you would express concern that it was not escalated to your level until November but it would have been very much easier to deal with had you known about it some months earlier, and can you actually build in a better system without telling the LSC what to do, at least to make sure that is manageable?
Mr Denham: I think there are, and I think there are two ways that we need to tackle that. One is that we came off the back of the Foster Report, and this was not actually a recommendation directly in Foster, but I asked the Permanent Secretary to carry out a review of all of our accountability arrangements with all of our NDPBs. As you know, Chairman, from your committee's business, we run almost nothing directly. Everything in my department is run through arms' length bodies. Part of that has got to be to clarify the responsibilities of officials from my department who are representatives to those organisations, because Foster was right to say it had never been: are they executive, are they there to intervene, are they there to report back? Those need to be clear, and that piece of work is important. The second thing is that I think we need to build up the capacity to analyse future risks in our overall policy better. If you wanted me to pull out, frankly, a generic problem here, we are trying to move the skill system to a much more demand-led and responsive system from a system that most people have regarded as too centralist, bureaucratic and rigid. The truth is that bureaucratic, centralist and rigid systems are very controllable and I think that one of the things we need to recognise is that, as you move to make it more flexible and more responsive, which is what everybody thinks should happen, you do increase your levels of risk and the delivery of the programme, and I think one of the things that as Secretary of State I will expect the new Permanent Secretary and the board to do is to make sure that we have looked properly at those risks to make sure that we have understood them in advance and we can deal with them with all of our agencies.

Q252 Chairman: John, on this particular programme, back in September 2008 the LSC External Advisory Group minutes said that ministers were considering risks associated with a capital programme. It says ministers were doing

that, so what risks were ministers considering at that point which did not come to your attention until, really, November, December time?
Mr Denham: I have to say, Chairman, I do not know and I have never known what that refers to.

Q253 Mr Marsden: Stephen, can I come back to you about this obviously lamentable situation whereby the person who sat on the policy group did not take it any further? Obviously, I am not asking for the individual's name, but could you tell me what level of responsibility in the Civil Service?
Mr Marston: She was a team leader, depending on the terms you use, a grade seven, or principal.

Q254 Mr Marsden: Would you classify that as someone who was higher grade, middle grade, or what?
Mr Marston: Middle grade.

Q255 Mr Marsden: The reason I am asking that question is it was clearly a key responsibility and, taking on board what the Secretary of State has said about looking to the future, in hindsight is that the sort of grade of official that ought to be sitting on a committee like that which has such key responsibilities?
Mr Marston: I believe it is, because there are lots of committees, lots of groups, lots of meetings, and I do not think this is an issue about the grade or status of the official. For me the critical issue is the confidence to escalate, to err on the side of escalating if you see a problem, even if the group conclusion in that meeting you are attending is, "It is okay. Let us keep it under review. It is going to be all right." That is what went wrong. I do not think it was her status.

Q256 Mr Marsden: I do not want to get hung up on the status, but what I am concerned about is the actual structural process within the Civil Service and DIUS to escalate an overview of that sort of thing. The Secretary of State has rightly said, and we know this as well, that there was some debate as to the validity of the Edwards Report, but would it not in hindsight have been a reasonable thing for your department and for your officials to say, "Look, we have had this report. It is quite alarming. It talks about what policies could cope with this level of demand and makes reference to the continuation of payment profile projects being unaffordable to the council." In private business, I would have thought that would have triggered off at least a second opinion to go back and say, "Do these guys know what they are talking about?", but clearly it did not in your department.
Mr Marston: That is fair. We have touched a bit on what the response was to the report. What my colleague did know was that the conclusion within the LSC was a set of actions that we have talked about, the short-term issue and being ready for prioritisation at some later stage, and an understanding that actually the primary escalation route was through the LSC about the management of the capital programme. I do not say that as any sort of excuse, it is really not meant to be. It is just trying to say there is a dynamic within the two organisations and perhaps we did not make it specific enough who was escalating what in which organisation.

Q257 Mr Marsden: The truth of the matter is that you already knew within the department, over a period of time, that risk management in the LSC was deficient?
Mr Marston: That came out at council level, you are quite right, and, again, there were clearly risks here that we failed to spot, and I do regret that. We thought we were doing our best to understand what the real risks were that we were facing. So we knew there was a risk of in-year budget and we tried to sort it out.

Q258 Mr Marsden: Can I move you on. Of course, the first warning sign was the Edwards Report, but there was also a management board report on 13 May to the LSC warning of increasing pressures both on the capital budget and expecting advice on short and medium-term priorities. Was your department represented on that management board in any shape or form?
Mr Marston: I think one of my deputy directors was represented. There is a capital funding committee that also has a role in this, I think.

Q259 Mr Marsden: Would your deputy director have been at this management board on 13 May 2008?
Mr Marston: I can check that. I am afraid I do not know.

Q260 Mr Marsden: Could you check that and confirm it to the committee?
Mr Marston: Yes, I will.[4]

Q261 Mr Marsden: I want to also move you on to the evidence hearing that the Permanent Secretary attended in November 2008 before the Public Accounts Committee. When we had Mark Haysom before us last week, I asked him questions about the nature of his preparation for that session because, of course, he and the then Permanent Secretary gave the Public Accounts Committee on that occasion the impression that most, if not all, things in the garden were rosy, and they did that perhaps to some extent reflecting the previous NAO report; but I asked Mark Haysom, "You must have realised you would be asked questions about the capital project. Did you not go back to your line managers and say, 'I want to know everything about this—the good and the bad. I am not just there to tell everything is wonderful, but I need to be prepared for difficult probing questions?'" Did you do that with the Permanent Secretary? Did you go through what we

[4] *Footnote by witness*: The LSC Management Group is an internal LSC meeting and there was no DIUS representation either on that date or at its other meetings.
The LSC Finance and Resources Board met on 29 May. That Board does have a DIUS observer and the Deputy Director of the Finance and Performance Division attends. The May Finance and Resources Board considered papers on FE capital including the Edwards Report.

might call a SWOT analysis in business—strengths, weaknesses, opportunities, threats—or did you say, "Look, we ought to look at this because this is 15% of our budget"?
Mr Marston: We certainly did, as we always do, a very thorough briefing and discussion with the Permanent Secretary, but I was looking back at the NAO report yesterday and it is one of the characteristics of this—

Q262 Mr Marsden: Can I not allow you to take us on to the NAO report, interesting though that is, because I am talking very specifically about the appearance before the Public Accounts Committee in November, which, of course, was subsequent to that report. I accept that that report might have lulled a certain sense of security, both into your officials and also into the LSC, but, nevertheless, knowing within your department that there were these other things going around, would it have been reasonable to go back and ask about this Edwards capital report, "Where has it got to?", and all the rest of it?
Mr Marston: When preparing for that PAC hearing, I certainly was personally not aware.

Q263 Mr Marsden: And there was no feed-through mechanism from your officials, medium or higher ranking, to say to you, "The Permanent Secretary really ought to be aware of the on-going issue of this report which has now surfaced in two or three different bits of the LSC." There was no programme percolating up to you to prepare the Permanent Secretary for his session before the Public Accounts Committee.
Mr Marston: Not on that issue, no, because what we thought we were doing was examining, addressing, responding to the findings and conclusions of the Edwards Report.

Q264 Mr Marsden: I am trying to look at future structures. Do you think in hindsight that, when people like the Permanent Secretary appear before committees of that nature, it might be useful if there was a little bit more bottom up in the organisation as well as top down?
Mr Marston: I am sure that is right, yes. We must learn a number of lessons from this whole situation, and that is one of them, that in preparing for that sort of session we need to try and grab hold of all of the information and understanding that we have in the organisation that is relevant to that discussion. It may just be worth saying, though, that even at that stage, even in November, as the Secretary of State has said, understanding the full depth of what was going on was really quite elusive. We knew we had a problem; we really did not at that stage, even then, after all that that happened, know the scale of what was going on.

Q265 Graham Stringer: On that point, you have both said that the conclusions of the Edwards Report were not accepted. Who were they not accepted by, on what basis were they not accepted and did that lack of acceptance get into any briefings to the Permanent Secretary in any way?
Mr Marston: I apologise; I am being unclear. I do not think it is quite right to say, flat out, it was not accepted. It was understood. People received it, they read it, but the follow-up actions they took were as we have described and, with hindsight, they were not the right actions. We should have moved faster, we should have moved more urgently to say this is flagging something potentially very serious, we must understand and we must investigate that, but I do not think it is quite right to say no action was taken.
Mr Denham: What I understood Sir Andrew Foster's report to say was not that it was rejected but that some of its conclusions were challenged; they were debated; people were arguing about the analysis and whether this was the correct description of the problem. I did not mean to suggest that it had been rejected in terms of there is nothing here, but I think the Foster Report actually sets out that there was a debate. One of the critical issues was it was never brought to a head.

Q266 Graham Stringer: I understand the communication issues. What I am trying to get at, perhaps rejection is too strong a word, but what was the evidential basis that that original capital programme report doubted?
Mr Marston: My understanding is that it was on the basis of the information that people had at the time that was very, very far from complete. If you like, the above-the-surface, visible bit of all of this was what was coming through to the capital committee in terms of projects that were quite a long way down the pipeline, and if you look at that bit of the process, certainly what I was seeing in the LSC papers, it had every appearance of being rigorous, robust—all of it was costed, everything was carefully scrutinised, it was all vetted, for value for money. It looked as though it was a secure, robust process of you just took that little chunk of the whole sequence. What I think the Edwards Report was getting at, and we simply did not have the management information to confirm or deny, was right down in the pipeline in the less formal bit, all building up very, very rapidly, and no-one had that bit of information to offset against Edwards. If you just looked at the formal bit, we could still manage, as we have managed, within the budget we had each year. We have not overspent our budget, because the formal bit set against the budget we have is still matching.

Q267 Graham Stringer: John, this is a story of a capital budget essentially getting out of control, and that happens from time to time, but there is another side to it that appals me. How can a Labour Government allow a capital programme to be demand-led so that money is spent—I have got nothing against Poole and Dorset—in great quantities in Poole and Dorset and is not spent in the centre of Manchester or Birmingham? The Building Schools for the Future programme was very clearly focused on areas of deprivation and need. Why did a Labour Government not insist that this capital programme went in that direction?

Mr Denham: Indeed. The history of the capital programme was that in the first few years when the investment began to flow, from about 2001 onwards, the LSC and the Department had actually had great difficulty in spending the capital that was available. There was a need but it was not then that there was a huge flow of schemes coming forward. This may in part be that for a very long period of time the centre had been denied any public sector capital, so the only people who thought about investing were people with land to sell or buildings to sell or they could re-invest. So, going back even two years, the problem was, in part, seen as one of driving up demand, in which case demand-led responding to entrepreneurial colleges was seen as a reasonable thing to do, and within the regions—because one of the problems, we now know, was a very devolved programme—LSC staff engaged with colleges to bring programmes forward. Obviously, the speed at which that worked and the acceleration that took place created a situation where, as Foster has said, the schemes in the pipeline were there on the basis of the demand and not on prioritisation. With hindsight, had we understood how the system was going to accelerate and how demand would exceed supply, we would have taken a different approach, but at the time, going back a year ago, at the beginning of the spending review, when we had the money to talk about, that was not seen as the initial problem. Had we had better feedback on what was already out there, then we would have taken a different view.

Q268 Graham Stringer: That is a slightly strange answer, is it not, because even if the programme needed kick-starting, a Labour Government, surely, would always prioritise areas of greatest need? There is always a finite amount of money, but if you are allowed to be demand-led, then you are going to get some very strange results.

Mr Denham: All of the evidence from the PAC report was that the individual schemes that were coming forward were meeting genuine educational need and were producing good designs and good value for money, and actually I am fairly certain that in Poole and in Dorset there are real educational needs that would be represented by any Labour Government. It is true, the programme has not been limited to, for example, a set of the most deprived constituencies in the country—that is not the approach that we took—but we did take comfort from the independent views of this programme, none of which raised any questions, and the PAC report did not raise any questions that we were diverting capital to areas where it was not really necessary or it was not going to produce good educational results for people who really needed to benefit form it. I am quite prepared to accept, with the benefit of hindsight, given what we know about demand and supply, we could have taken a different approach, and we have now to look at prioritisation of the programme as it goes forward, but I do not think that it was an unreasonable approach to take.

Q269 Graham Stringer: Obviously, where there are young people there is educational demand throughout the country, by definition. Do you think the department should look at its definitions of demand, because we heard from earlier witnesses that there was actually a definitional problem? You can have demand anywhere, but I would say as a Labour MP that we should be looking not just at demand but very acutely at where there is deprivation and need to override that: because, not just on the capital programme, but on the funding methodology and student lending numbers, there is evidence, not that there is not demand, there is clearly demand, but that it is going disproportionately to more affluent areas.

Mr Denham: Can we unpick that? Certainly in prioritising the money that we now have available, issues like those are going to be—and I am not sure what has gone on in previous evidence sessions—clearly among the criteria that now have to be applied to the programme to get fair and acceptable results. So we do have to prioritise it and we do have to take criteria like that into play. We also have to be careful about our definitions. Regeneration is an issue that has often been raised in the House as a criteria. You can actually regenerate a market town or you can regenerate a deprived inner city area, so you have to be clear what you are talking about when you are talking about regeneration, but I think that prioritisation is necessary. I have not seen an analysis yet, it may be the committee has, that suggests that large amounts of money have gone to places where you really would not have wanted to do something. I think we need to say that, whilst this has been a demand-led programme, I have not yet been to see a college that has been done under the programme where I have come away thinking why it is that—

Q270 Chairman: I think the point is, if you look at Bradford, which is one of the most deprived areas, my particular region, the fact that it has got absolutely nothing when it could have got what it wanted in terms of a limited bill, that is the bit, Secretary of State, that we find it very difficult to understand.

Mr Denham: Chairman, there is an issue here that we may need to think about. A demand-led system, or any system actually, even one which has prioritisation, depends on colleges having the capacity to put proposals forward. Colleges, as you know, Chairman (and this is quite important) are independently led and autonomously run and colleges do need to have the initiative to put proposals forward.

Q271 Chairman: They need helping, do they not, Secretary of State?

Mr Denham: They do need helping, but it is quite clear that that is what LSC staff have been doing rather too successfully, actually. Maybe that is part of the criticism. They have been out there encouraging the people to put ideas in, but there has to be 50% at least that comes from the colleges themselves. I would also say, Chairman, that is not a particular reflection on Bradford, because I have not studied the position in Bradford and so I do not want those in Bradford to be taking that as a criticism of those particular colleges. I do not know the situation there in detail.

Q272 Graham Stringer: I will not bore you with the details of where I think the money is going, but I will write to you about it before this committee reports, and I would be grateful for a reply, but I turn to my final question. You said in your opening remarks that you are not in control of very much.
Mr Denham: We do not run very much.

Q273 Graham Stringer: I am sorry.
Mr Denham: I would like to put that on the record. I do not directly run very much, Chairman.

Q274 Graham Stringer: You do not directly run, which makes control difficult, I guess, in those circumstances. From this experience, which is not a happy experience, do you think there is anything to be learnt? Are quangos the way forward or should some of this business be brought back into local authorities? There has always been a competition. Different governments have taken things out of local authorities and open democratic control and they have put them into quangos. That debate will go on for ever. Do you think there is anything to be learnt from this experience?
Mr Denham: Even before this experience we had taken the decision that for adult skills the LSC would be abolished and we would have a skills funding agency which would not be an NDPB, and obviously part of that was stimulated by the machinery of government changes. But when we came to assess what we would want as a replacement, I could not see that the complexities of an arms' length body added anything to the ability to take good decisions. Patently obviously, the theory of NDPBs when they were first set up, that they protect Ministers from the political flack when things go wrong, does not appear to work as well as some of us might have liked, and Mr Boswell is nodding. So you do not get in any way insulated from this because there is an arms' length body, at the end of the day you are still the Minister; and I have been to the House to apologise for this. My conclusion is you should use NDPBs where they are necessary, but not otherwise. I do think on the university side, for a whole host of reasons which I do not want to go into now because we have discussed them just recently, there is an enormous advantage in having the Higher Education Funding Council as a buffer between central government and the universities. But in this area I think the SFA will show that we will have simpler decision-making, clearer lines of accountability, and you can never be sure about these things, but a better prospect of making sure this does not happen again.

Q275 Mr Boswell: I think, by nodding, I have set into the text that you spoke of my experience. Can I advert back to the general interface between the department and LSC? We know that they are a body in run down and they will be transformed, for the reason you have explained. In one of the more colourful phases of evidence, Mark Haysom said that your staff are "crawling all over the LSC", and that is obviously much wider than the engagement with the capital programme which should have taken place. I just wonder if you would comment more generally on how that process is being handled? Will it be handled, as you mentioned, through Stephen or will it be handled by somebody else so there is, as it were, a single point of reference, or is it handled at Secretary of State and Chairman level, and, if I may add to that a final point, there is another player in all this—we have not, of course, had evidence from them before us—and that is DSCF, who have a very strong interest. So in the process of moving from where we were, which I think is acknowledged to be not entirely satisfactory, to where we would like to be in the way that you said, Secretary of State, how is this all being managed? A by-product of that may be that this problem was not picked up as it should have been, but can we have some confidence that there is a coherent view which is taking us from where we were to where we are going to be?
Chairman: Because it could be an even bigger mess.

Q276 Mr Boswell: Somebody already mentioned Train to Gain this morning as an example, although I do not want to lead you into that.
Mr Denham: No, although I actually acknowledged in the debate on Monday that some of the issues about a move towards a more demand-led system when you have fixed budgets are not exactly the same as in this case, but they raise the same questions. How can you free up your system but do it in a way which is still compatible with proper control and public finance? So I acknowledge, Mr Boswell, that we need to be ahead of this. I cannot now recall the context of Mark Haysom's comments. I think there are two issues. There is at the moment, of course, a great deal of discussion between the LSC, my department, DCSF and the emerging YPLA about staffing structures, responsibilities, how finances will work, and so on. So there is a huge amount of engagement that is led day-to-day by Susan Pember, personnel issues and giving staff the chance to choose between a number of different organisations in which they might develop their careers and so on. The second area is that I think, inevitably, for example, the funding of skills, the relative prioritisation, say, that you give to Train to Gain the flexibilities you do or do not give providers, inevitably are of concern to the Department and Ministers because we are accountable for the overall impact of the skills policy, and I am quite sure it is the case that parts of the LSC would say, "I wish they would just give us a cheque at the beginning of the year and tell us to run the best skills policy we can and then come back at the end of the year." It cannot work like that. Indeed, one of the reasons for saying

that when the LSC is replaced we want a skills funding agency just acknowledges the reality that we are bound to take an interest in how money is prioritised and how policies are developed. I wonder if Stephen can say a bit more about the management processes.

Q277 Mr Boswell: That would be helpful.
Mr Marston: On Mr Boswell's specific question on how we are handling the transition to the new structure, my opposite number in DCSF, Lesley Longstone, and I chair a programme board which also involves the LSC chief executive, colleagues and the local authorities, and that is where we try to understand everything that we need to do.

Q278 Mr Boswell: And that has got a risk management system presumably built in?
Mr Marston: Yes, and capital is now on the risk register.

Q279 Dr Iddon: John, what prospects are there still for colleges that have received approval in principle but not in detail for the future?
Mr Denham: As you know, Mr Iddon, we received some extra funding at the Budget—an extra £300 million for this spending review, so that is this current financial year and next—and the ability to plan into the next spending review period which we had not had previously. So that does produce some scope to allow some schemes to go ahead. The position at the moment, as I suspect Mr Russell described to you, is the LSC are developing the criteria which should be used for prioritisation, are currently working through the exercise of how they will apply those to the existing schemes and are looking the schemes that this will be applied to, to make sure that in each case we can get value for money and that the investment that we make in individual schemes strikes the right balance between getting schemes under way and making the best use of money and getting as many schemes as possible into the system.

Q280 Dr Iddon: Thank you. On the question of reimbursement of costs for the colleges that have been stalled and are not likely to get approval in detail, can you give those colleges some assurance as to when they might be reimbursed at this stage?
Mr Denham: The LSC are looking actively at how that should be handled. We have already made, I think, the most important initial commitment that no college will go bust or go under because of the commitments that they have entered into. I cannot today say exactly how we will respond to all of the many different colleges which are in many different circumstances and have taken different actions, but we will stick to that initial commitment we gave. I know the LSC will want to develop its approach for those colleges as swiftly as possible, but, I think, if we can send a message out about the security of the colleges' position at the moment, that is a critical thing to have done at this stage.

Dr Iddon: Finally, I want to pick up Graham's point about need. I must declare an interest. It is not all bad news. We are having all our three colleges replaced and one is open and has proved highly successful.
Chairman: It is always the same, Secretary of State.

Q281 Dr Iddon: My concern is, if we have not looked across the whole of the estate, I know that colleges are autonomous, but there must be some colleges in areas of high need where, for one reason or another, the principal is not thrusting, the management is not thrusting enough, they have not even hit the radar screen yet. Does the LSC have some idea of the condition of the estate outside those that have come into the demand system?
Mr Denham: I am glad you recognised the investment has taken place, because I sometimes feel it is a debate that, although we know that there have been 700 schemes in 330 colleges, you can never find them, but they are there and they are very, very good by and large. Let us be honest about where we are at the moment. We have schemes in a pipeline some of which are in an advanced stage of development and in a position to go ahead, and we have some money which is for this spending review period and for the next few years. In an ideal world, given where we are, you would stop the clock, go back and do a zero-based system of prioritisation, but I think that is just not a possible thing to do. We would end up not spending anything probably for the next two or three years while you did that exercise. I think the honest answer is that for the immediate period we are going to have to work as fairly and transparently as we can on those schemes that we know about in the pipeline which are at an advanced stage of development. What we do want to do is to look into the next spending review period and beyond at how a system which more effectively prioritises people's place in the pipeline can be applied, and I think that is something the college sector as a whole would like us to be able to do, but I think we are going to have to move from where we are to that; we cannot just stop the clock and start again.

Q282 Mr Marsden: Secretary of State, that is understood, and obviously, as one of those who have a college in the pipeline, I would be very interested to see the regeneration and other criteria that come forward, but, again, for the future and the future structure, when you acquire your new permanent secretary, will it be one of your key instructions, discussions, or whatever, to make sure that in future the forward looking nature of things, the risk assessment and the proactive aspects of the organisation in DIUS, are stronger than they have been apparently in this case?
Mr Denham: Yes, they will. As you know, Sir Jon Shortridge starts as the Acting Permanent Secretary on Tuesday next week, and as an Acting Permanent Secretary I do not expect him to make big structural changes. I think we will start from the very beginning for him to come in as a very experienced senior civil servant to look at what we have in place and the way the board works and to make sure that we are taking

the measures that we can now to strengthen or to address any issues within our structure so that when the new Permanent Secretary takes up post—they have not yet been appointed so we have not got a date for that—we have addressed the more obvious issues that need to be addressed.

Mr Marsden: I am sure, Chairman, we will look forward to interviewing the new Permanent Secretary.

Q283 Chairman: We certainly will. Secretary of State, I did give you notice that I would like to ask you a question about the science budget allocation letters. Just for the record, I have let you know that. We accept that you are not going to publish them, but the reason we want to see them is that there is a suggestion that the Government is taking an overly prescriptive role in determining the way the Research Council spend their money. Given the fact that the Osmotherly Rules state, July 2005, that the Government is committed to being as open and as helpful as possible with select committees and that, indeed, during your time as a select committee chairman you received from Charles Clarke, the then Home Secretary, papers which were very sensitive but were relevant to a committee inquiry, could you give us an explanation as to why you are digging your heels in and not allowing the committee to have those on a confidential, not to publish, basis, and will you reconsider?

Mr Denham: Chairman, I would never refuse a request from you to reconsider, so I promise you I will go away and look at it again. The view that I have taken up to now is that it does raise a precedent for the release of papers which were intended to be confidential which I am concerned about. I would say two things. I will go and consider it again, because you have raised it with me quite fairly. I would also say to you, Chairman, this may come as a surprise to my officials, but as we look forward to the next allocation process, which we have already discussed with you as to ways in which we can make that more consultative, perhaps we can find a way which avoids this situation happening again.

Q284 Chairman: When Peter Hain came before the Liaison Committee he made it clear to all the chairs of the select committees that there should be a presumption for disclosure of documents, and I am grateful to you for reconsidering that. This is not an attempt to trap the Secretary of State—I am sure there is absolutely nothing in these innocuous documents—but we would like to see them to complete that piece of the inquiry. Thank you very much indeed.

Mr Denham: Thank you, Chairman.

Written evidence

Memorandum 1

Submission from the Department for Innovation, Universities and Skills

The FE Capital Programme

Background

1. This memorandum refers to the Further Education capital programme and recent events relating to its funding and administration.

2. The purpose of the programme is to support the refurbishment and renewal of the FE college estate. The Learning and Skills Council is responsible for the administration of the programme. DIUS is responsible for policy regarding the programme and for monitoring LSC performance.

3. Since 1997 around £3 billion has been invested in modernising FE facilities. This involved more than 700 projects in 330 colleges, covering the vast majority of the FE estate. Only a small minority of colleges have not received any capital funding.

4. Towards the end of 2008 it became clear to the LSC's governing Council that there had been an unsustainable rise in demand from colleges. The Council therefore decided to defer all approvals of capital projects until detailed work had been undertaken with colleges to establish a fuller understanding of the situation.

5. The deferral did not affect projects that had already been given final approval for funding and which had not yet completed.

The Foster Review

6. The Secretary of State and the chair of the LSC jointly commissioned Sir Andrew Foster to conduct an independent review of the causes of the increased demand for funding, the LSC's internal processes and the lessons to be learnt for the future. His report was published in March 2009.

7. Sir Andrew found that the programme was slow to gather momentum. As recently as in 2007–08 it was under spent. But by 2008–09 the rate at which proposals came forward began to increase. So did their cost, and the share of the cost borne by the LSC. Demand for capital funding began to outstrip supply. And the absence of a proper long term financial strategy and inadequate management, information and monitoring led to delay and confusion in addressing the issue. More detail on the recent history of the further education capital programme is set out in the Foster report.

8. DIUS accepts Sir Andrew's conclusions—in short, that this is an excellent programme which has successfully benefited students and communities—but that it has been mismanaged. This mismanagement resulted in there being substantially more applications in the pipeline than could be funded in this Spending Review period. 79 projects had received the first stage of approval in principle with a funding requirement from the LSC of £2.7 billion and there was a further requirement of £3 billion for proposals that had been submitted for approval in principle.

9. Sir Andrew made several recommendations regarding open and early consultation with the sector and improved information and management. He also said that the priority was "to agree how the present demand-led approach to the programme is replaced by a needs-based approach with explicit priorities and choice criteria." DIUS and LSC accepted the recommendations in full and they are now being implemented.

Changes in the Learning and Skills Council

10. On 23 March, in recognition of the deficiencies in how the LSC had managed the programme, Mark Haysom resigned as Chief Executive. Geoffrey Russell was appointed as acting Chief Executive, with the immediate task of urgently increasing the certainty and clarity around the programme.

11. Geoffrey Russell appointed an external team from Grant Thornton to review the financial data held by the LSC about capital projects. He also appointed a new Director of National Projects to take responsibility for the capital programme and to work with a new sub group of the Council charged with overseeing the programme.

DIUS

12. Sir Andrew found that the scrutiny by DIUS of LSC management of the capital programme had been insufficiently rigorous. The Secretary of State therefore asked the Permanent Secretary to carry out a review of the DIUS's relationships with all of its Non-Departmental Public Bodies to ensure that there is clarity about accountability and responsibility. This is underway.

Budget 2009

13. On 22 April Budget 2009 announced additional capital funding for FE colleges of more than £300 million in the current spending round. In addition, recognising the long-term nature of capital projects, the Government is planning a continuing FE capital investment in future years. The planning assumption is £300 million a year from 2011–12 to 2013–14, to be confirmed at the next Spending Review. This provides a provisional £1.2 billion in total to 2013–14 which should allow around £750 million for new schemes.

14. The additional investment will allow a limited number of projects to be taken forward in this spending round—that is, those that are most urgent and with the greatest needs. It also allows for planning for a limited future programme of projects running into the next Spending Review period based on a stringent assessment both of need and value for money.

Next steps

15. On 24 April Geoffrey Russell wrote to all college principals describing next steps. He set out the proposed new criteria and process for selection of projects to go forward in this spending round. In line with the Foster report, consultation with the college sector is taking place through a panel of college Principals that has been convened with the support of the Association of Colleges. The LSC are also consulting with the Local Government Association and the Regional Development Agencies.

16. In addition to selecting a limited number of projects to go forward in this spending round, the LSC will develop a process for establishing a new needs-based priority list of projects that will be considered for funding in the next spending review period. Projects will not receive approval for funding, however, until after the outcome of the next Spending Review has been announced.

17. The LSC will work with independent property consultants to assess expenditure incurred by colleges in developing projects and how the longer term value of that expenditure can be maximised. That will provide the basis for identifying cases where a contribution to potential liabilities by the LSC is appropriate. Through its normal financial intervention process, the LSC will continue to ensure that no college is unable to meets its financial obligations as a result of decisions on capital projects.

18. For the future, the Government will work to ensure that the arrangements for management of the FE capital programme under the Skills Funding Agency and Young People's Learning Agency reflect the recommendations in the Foster report.

April 2009

Memorandum 2

Submission from West Cheshire College

Summary of Main Points

Any delay would impact on the project in the following ways:

- Delay in providing specialist vocational facilities to support the diplomas, local schools and employers (as we are sole provider in the area).
- Additional expenditure on 12,000 sq metres of temporary accommodation for students, external accommodation rented for specialist areas and costs of storage for specialist equipment.
- Increased costs if the College was forced to retender or redesign because of delays.
- Potential loss of contractor and/or design team if the College is subject to any extended period of delay due to other schemes mobilised/redundancies.
- Remobilisation costs/delays.
- Difficulty binding contractor in to fixed price already agreed.
- Loss of revenue from apprenticeships agreed with contractor in contract.
- Delay to the programme leaving students with a less than satisfactory learning experience.
- Potential expiry of lease on one of the College sites.
- Inability to capitalise expenditure to date leaving the College technically insolvent.
- Inability to discharge planning/106 agreements in a timely manner.

Introduction to West Cheshire College

- West Cheshire College is a specialist vocational college with campuses in Chester and Ellesmere Port. It is a major player in upskilling, reskilling and motivating young people and adults both through employers and as individuals. It currently provides for 20,000 students of which c 3,000 are 14–19 and constitute the major part of the College's income:

- It supports many young people from deprived backgrounds (in 2007–08 32% of 16–18 year olds in College were from deprived wards with over half qualifying for Educational Maintenance Allowance).
- It is the largest provider of apprenticeships and advanced apprenticeships in the area (including a national contract with Unilever).
- It leads on joint curriculum developments, including the new diplomas, most of which are reliant on vocational input and facilities in the college.
- It was one of the first Colleges to gain the Training Quality Standard for excellence in working with employers and works with over 1,000 employers.
- It delivers the vast majority of adult literacy and numeracy qualifications in Cheshire and Warrington.
- Supports local industry on short time working, such as in the motor industry, and with those making people redundant, such as in the finance sector.
- Works closely with Job Centre Plus on several initiatives to reskill the long term unemployed.
- In partnership with MacArthur Glen the College has been awarded one of the first Skills Shops as part of the National Retail Academy.

An Area Study for Chester conducted on behalf of the LSC noted "the College's importance to the local and regional area", commenting on the "clear emphasis on employability, the links made between provision and future employment of learners and its strong commitment to effective partnership working".

Factual Information for the Committee

The project is a single £72.9 million (79% LSC intervention) project involving rationalisation from four campuses to two high quality specialist vocational campuses in Chester (c 6,000 square metres Technologies) and Ellesmere Port (c 21,000 square metres Creative and Service Industries). It is extremely important that the College capital application is dealt with as soon as possible as the College is "at the point of no return" with a preferred contractor on site and having spent c£5 million developing the project so far.

The College received Approval in Detail to renew its campuses in 2005, but was stymied by the action of the local authority. The College has been working on this project for over six years.

- £5 million has already been invested by both the College and the LSC.
- Buildings have deteriorated with the majority having a very limited lifespan (probably two years) as per an updated survey undertaken by consultants in 2006. Maintenance programmes have been limited to health and safety activities only as the buildings are due for replacement and this was agreed with the LSC.
- The College has already vacated 12,000 square metres in order to build on its footprint due to local political pressure, Green Belt and EMV8 regulations. After discussions with the LSC, feasibility and enabling work has started so the College could meet the agreed planned programme in our applications in principle and in detail (eg a substation has been moved). Progress was discussed with the LSC on 14 January 2009 and requested information was subsequently provided to them.
- Students are in temporary buildings and off site (virtually all of our 16–19 year olds spend at least some time in temporary accommodation). These are not long term solutions and are costly.

The College is playing a key role in regeneration activities as it is situated in an area with economic dependence on financial services, automotive manufacturing, retail and tourism.

- *Vauxhalls*—the College is a major provider of its training, upskilling and multiskilling programmes linked to short term working and the delivery of the new Astra.
- *The Bank of America*—the College is the main supplier of its external training including contact centre and management training.
- *The College with Macarthur Glen/Henderson Global* was invited to apply to be a Skills Shop for the National Skills Academy (retail) the "hub" of which will be in Ellesmere Port and the "spokes" in Chester and Northwich and has been successful.

The local authority will not be able to meet its legal obligations to deliver the 14–19 entitlements in West Cheshire as the College is the only source of specialist vocational education and training in the area. Plans for delivery of this entitlement have been drawn up assuming resources will be available from 2010.

- Much of the new Diploma work is being led by the College and relies on College facilities for delivery.
- Local Government Review (recently completed with the establishment of two unitary authorities from April 2009) means the College is in an unknown position in terms of local authority support.
- There is a high risk of refusal if the College has to reapply for planning permission either for renewal of temporary buildings approval or the campuses' developments.

The College is due to be inspected and undoubtedly will not receive a good report especially as addressing accommodation has been an area for improvement in the last two inspections and the accommodation is now worse.

Due to the exceptional nature of the circumstances it finds itself the College's case is as urgent as those 8 Colleges and Rochdale which have recently been agreed. The College faces a short term future in its current accommodation. The LSC has all the information it needs to approve this project. Time is of the essence if the College is to survive.

Recommendations for Inclusion in Committees Report

The College recommends that the committee:

- — Recommends additional funding for capital projects in the FE sector is secured to ensure all projects with AiP can come to fruition quickly.
- — Recognise the urgency of determining the applications of colleges due to have received full approval between January 2009 and March 2009.
- — Recognises that within that group there is pressure to move projects that are on site forward immediately.
- — Recognises the impact on local areas deprived of a fully operational college.
- — Recognises that delay means significant increased costs within a capital budget already under pressure.
- — Recognises the effect on local regeneration (more sharply focussed with the recession).

April 2008

Memorandum 3

Submission from the Association of Colleges (AoC)

Capital Investment for Colleges

Introduction

1. The Association of Colleges (AoC) welcomes the opportunity to contribute to the Committee's inquiry into the funding of College capital projects in England. AoC is the representative body for the 369 further education Colleges in England, Wales and Northern Ireland.

2. Our written evidence covers the following issues:

- — background on the programme to modernise Colleges;
- — the moratorium on new projects; and
- — current issues, including the continuing gap in funding, the need to find innovative ways to support projects, concerns over capital funding for 16–19 education and the issue of compensation for abortive work.

The programme to modernise Colleges

3. Colleges play a vital role in the education system in England. They educate twice as many young people aged 16 to 18 than schools, they train many thousands of apprentices, provide 11% of higher education places and account for 49% of vocational qualifications achieved each year. The 369 Colleges own or manage more than eight million square metres of buildings which are used for education and training.

4. Capital spending by Government, matched by funds raised by Colleges, has largely eradicated the legacy of the 1970s and 1980s and is creating a network of 21st century buildings in every town in England. Investment started a decade ago but was accelerated following the Treasury decision to increase capital funding in 2005 and the publication a year later of a "*Building Colleges for the Future*" strategy (see Annex for timeline).

5. Since 2001, more than 300 Colleges have undertaken 700 projects to rebuild or refurbish their premises. Each project is different but the benefits include:

- — additional places for young people to help ensure that everyone remains learning or training to the age of 18. The average College enrols 10% more young people than five years ago;
- — facilities to give adults the skills they need to get back into work and to fuel an economic recovery;
- — buildings designed by the end-user which will be used flexibly because of the flexible way in which Colleges operate;

— value for money for the taxpayer. All projects are assessed for their economic and financial benefits. The National Audit Office praised the management of projects in July 2008. Private funding raised by Colleges enhances the money spent by Government and fixes the public contribution at 50–80% of costs; and

— employment in the construction industry, including places for apprentices (now a standard contract condition in College projects).

6. There has been a sustained effort by LSC officials to encourage College governing bodies and Principals to be more ambitious with their redevelopment plans. The latest version of the LSC's *Building Colleges for Future*, published in March 2008,[1] sets out ambitious plans to develop well-designed, sustainable buildings with industry standard facilities, capable of meeting growing demand for learning. It also specifically stated that the "changes outlined in the document and the substantial increase in project volumes may all require changes within the LSC as an organisation, in order to deliver an enlarged capital programme".

The moratorium on new projects

7. The programme to modernise Colleges was arrested for four months in December 2008 because of concerns about the budget. The National Council of the LSC suspended approval for all new capital projects pending an internal review of the programme. The decision to suspend decision-making has had chaotic effects. Officials underestimated the consequences of delay on Colleges or the number of Colleges that would be affected. In subsequent months, the Secretary of State for Innovation, Universities and Skills, John Denham, commissioned his own review of the programme from Sir Andrew Foster.

8. Sir Andrew published his report on 1 April 2009 and said that "a good policy has been compromised by its implementation. The policy intent to transform the further education estate is clear and positive. But the implementation approach did not include a robust financial strategy or a regional or national approach to prioritisation." The LSC Chief Executive, Mark Haysom, resigned on 23 March—a week before the report was published.

On 22 April 2009, the Chancellor allocated more money to the capital budget which will allow the LSC to approve a limited number of projects starting in 2009–10. The LSC plans to approve £500 million in capital grant to support new projects worth £750 million at their 3 June National Council meeting. The LSC funding plan assumes that the average grant rate for the approved projects will be 66%.

The continuing budget gap

9. AoC welcomes the decision by HM Treasury to provide an additional £200 million in 2009–10 and £100 million in 2010–11 and to allow DIUS to plan on the assumption that there is £300 million a year for the following three years.[2] However, the capital budget will still be insufficient to fund many valuable projects. There are a number of issues which the Committee may want to explore:

— There continues to be uncertainty about the full cost of projects in the College capital funding pipeline. On 4 March 2009, John Denham stated that there were 144 projects worth a total of £5.7 billion awaiting decisions. It has since become clear that the LSC undercounted the number of projects and underestimated their cost;

— There is also uncertainty about the extent of forward commitments. It normally takes two to three years to complete a new College building. Some of the £1.2 billion which is now available between 2009 and 2014 has already been committed to projects that have been approved;

— Although the LSC has a capital budget of £2.3 billion for the three years between 2008 and 2011, it has to account to two different Departments for the money. The DCSF controls almost £700 million of the budget and appears to have released only £80 million of this towards College projects despite the important role of Colleges in 16–19 education. It is possible that DIUS capital grants are cross-subsidising pre-19 education;

— Colleges will undergo a rigorous assessment process in May 2009 to see if they qualify for a share of £500 million in capital funding. The criteria by which LSC will judge projects was shared with the new LSC-AoC capital reference group on 29 April.[3] The same level of rigour has not been applied in the spending of the capital budgets for school and university modernisation (£18 billion and £2.2 billion respectively in the period 2008–11).

1 http://readingroom.lsc.gov.uk/lsc/National/nat-bulidingcollegesforfuture-mar08.pdf
2 Parliamentary Answer given to Phil Willis MP, *Hansard*, 30 April 2009: column 1477W.
3 Available here http://www.aoc.co.uk/en/Policy_and_Advisory_Work/finance_and_statistics/ capital_funding.cfm

The decision-making timetable

10. After a four month period of delay and confusion, there is now a four week period in which the LSC will assess and prioritise more than 200 College projects. There are a large number of Colleges where quick decisions are essential to ensure that governing bodies and Principals can schedule works in the summer holidays either to start building or to carry out emergency works on abortive projects. However there is also a risk that decisions will be made too quickly in order to meet Treasury timetables. There are four particular risks:

— the process may unduly advantage those Colleges who are further advanced with their projects. After the LSC makes its decisions in June 2009, there may be no further opportunity for Colleges to secure funds until summer 2011;

— colleges and other interested parties may believe that decision-making is being carried out with undue haste to meet a political timetable. This could generate political and legal challenges to decisions;

— there is still no clarity about the planned allocation of LSC funds between new projects and money to stabilise Colleges by dealing with their costs;

— there is no room in the timetable for Colleges or the LSC to find alternative solutions to their development problems, for example by levering in new sources of funds.

Alternative funding routes

11. College redevelopment has been funded in conventional ways this decade through a mixture of Government grants, bank loans, sale of property and cash reserves. The relative simplicity of the funding arrangements may explain the speed with which Colleges have modernised compared to schools. The current economic environment is not a good one for financial experiments but we agree with Sir Andrew Foster that "there will be a need to explore new forms of funding that are innovative and sound". We suggest that it might be useful to allocate a small amount of Government funding to support College innovation in the following areas:

— redesign of projects on a more modest scale to meet immediately pressing needs;

— project funding involving a larger amount of borrowing, perhaps supported in some way by a College's home Local Authority;

— sale and leaseback of facilities involving commercial partners;

— shared use of facilities with other education institutions; and

— further examination of the use of HEFCE capital funding for Colleges. Many of the schemes which have been delayed are in Colleges which provide a significant amount of higher education for example City College Norwich, Blackpool and the Fylde College and Grimsby Institute for FE and HE.

Capital funding for wider uses of the College estate

12. Since June 2007, decision-making about Colleges has been divided between two Government Departments. Although DCSF is the source of 49% of College income, DIUS is the sponsoring department for the 276 Further Education Colleges and responsible for the capital funding of all 369 Colleges including Sixth Form Colleges). A single point of responsibility makes sense but it is possible that the criteria developed to assess projects for the current round of LSC decision-making reflects the immediate concerns of the DIUS further education and skills division simply because DIUS is the route for the money. It is noticeable that the contribution of a project towards learners aged 14–19 counts for only 5% of the score in the assessment. Although Colleges make an important contribution to higher education provision, this does not feature anywhere in the scoring process.

13. AoC suggests the two Departments need to pool relevant funds into a single College capital budget in the interests of making best use of public money to meet educational, social and economic needs.

Compensation for abortive costs

14. A large number of Colleges spent money developing projects on the understanding that they would be able to secure capital funding for part of the costs. Although it was known in spring 2008 that the capital budget was running out, LSC officials continued to encourage Colleges to pursue larger projects, to extend plans to include specialist facilities, to consider redevelopment as part of financial recovery and to make proposed buildings more sustainable.

15. Colleges in these circumstances have a legitimate claim for compensation from the LSC for money they spent in good faith up to the moratorium in December 2008 and for committed costs that they are still incurring, for example on temporary accommodation. In March 2009, AoC carried out a survey of the 79 Colleges with approvals in principle and another 120 Colleges carrying out feasibility studies to establish some facts. 168 Colleges responded to the survey (an 80% response) and reported the following:

— £215 million in capital expenditure to date on stalled projects;

— £187 million that will be written off in their accounts if projects do not go forward. This will put most Colleges in deficit and wipe out their reserves; and

— £269 million in extra costs (maintenance etc) in the next five years.

16. The final reckoning on abortive costs will come to a different figure but we suggest this raises a number of questions for Government:

— A full, fair and fast compensation scheme is needed to deal with individual Colleges. The LSC has promised one-to-one discussions with Colleges but has set no timetable for resolution.

— Mismanagement of the capital budget by the LSC has weakened Colleges at the point where their contribution is important in improving 14–19 education and in helping business and individual respond to the recession. DIUS and DCSF, together need to consider further action to stabilise Colleges and hence enable them to give their best in the face of the recession.

— The shortage of capital funding will make it more difficult for Colleges to reduce running costs. HM Treasury's operational efficiency programme recommends that investment decisions are made which "lead to a more efficient estate in the longer term".[4] Our evidence suggests that many Colleges will not now be able to make these savings.

May 2009

Annex

TIMELINE

On 16 March 2005 the Chancellor of the Exchequer, Gordon Brown, announced an increase in capital investment for the further education sector with a commitment of £350 million in new funding in 2008–09 and 2009–10 on top of the £250 million planned for the 2007–08 financial year.[5]

In July 2005, the LSC national council agreed a capital strategy. This had various updates including a publication on 6 February 2007, Building for skills, a prospectus for the LSC capital programme.[6]

On 16 November 2007 the Secretaries of State for Children Schools and Families and Innovation Universities and Skills (DIUS) jointly published their Grant Letter[7] to the Learning and Skills Council (LSC) which included a £2.3 billion budget for capital spending for the three years 2008–09, 2009–10 and 2010–11. The annual budget rose from £584 million in 2007–08 to £849 million in 2010–11. Just under £700 million of this budget fell under the control of the Department for Children Schools and Families (DCSF).

In March 2008, the Learning and Skills Council published an updated version of the Building Colleges for the Future strategy[8] with a forward from John Denham.

On 17 November 2008, the Public accounts committee took evidence on college capital funding from DIUS permanent secretary Ian Watmore and LSC chief executive, Mark Haysom.[9]

On 17 December 2008, the LSC suspended decision-making on College capital projects. The LSC approves major capital expenditure by Colleges and part-funds projects. This decision was not announced publicly but individual Colleges were contacted and asked to cease incurring commitments.

On 16 January 2009, following growing concern about the programme, LSC Chief Executive, Mark Haysom, wrote to all College Principals stating with information about the LSC review.[10]

On 26 January 2009, following a number of questions in the media and parliament, John Denham and LSC Chair, Chris Banks announced the appointment[11] of Sir Andrew Foster to carry out an independent review of the programme.

On 4 March 2009, the LSC national council met. The LSC has not yet published the minutes of the meeting. Following the meeting, John Denham, announced[12] that the LSC had decided to give approval to eight capital projects which had been recommended for approval by the LSC Capital committee, but which had been stalled at the LSC national council in December. John Denham also confirmed that the LSC has already given 79 Colleges "approval in principle" and that a further 65 Colleges have also submitted bids to the national LSC for "approval in principle".

On 23 March 2009, a senior official from the DIUS told the capital summit organised by the AoC that the LSC capital budget for College modernisation was fully committed.[13]

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4 HM Treasury http://www.hm-treasury.gov.uk/vfm_operational_efficiency.htm
5 HM Treasury, 2005 budget, http://www.hm-treasury.gov.uk/bud_bud05_index.htm
6 http://readingroom.lsc.gov.uk/Lsc/National/nat-411CapitalInvestmentProspectus-pr-060207.pdf
7 http://www.lsc.gov.uk/aboutus/grantletters/
8 http://readingroom.lsc.gov.uk/lsc/National/natbuildingcollegesforfuture-mar08.pd
9 http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpubacc/uc1201-i/uc120102.htm
10 Copy letter available from AoC on request.
11 http://www.dius.gov.uk/news_and_speeches/press_releases/lsc_review
12 http://www.parliament.the-stationery-office.co.uk/pa/ld200809/ldhansrd/text/90304-wms0001.htm
13 Reported in *TES*, 27 March 2009.

On 23 March 2009, LSC Chief Executive, Mark Haysom, resigned, stating that he would take responsibility for the LSC failings in the management of capital. LSC chair, Chris Banks, announced that he was to be replaced by an interim Chief Executive, Geoff Russell.[14]

On 1 April 2009, Sir Andrew Foster published his report, *A review of the capital programme in further education*. This report outlined some serious financial and communication failures in the LSC and DIUS, confirmed the scale of the gap between budget and demand and made some recommendations to take the programme forward. On the same day, John Denham accepted the recommendations of the report.[15]

On 22 April 2009, the LSC national council met and approved a new process for prioritising projects. The LSC has not yet published the minutes of the meeting.

On 22 April 2009, the Chancellor of the Exchequer, Alistair Darling, announced an increase in capital funding for the LSC of £300 million to enable it to fund a limited number of further projects, starting in 2009–10, through the Building Colleges for the Future programme.[16]

On 23 April 2009, John Denham, stated that there was HM Treasury approval for DIUS to plan on the basis that there is £300 million a year from 2011–12 to 2013–14 with final budgets to be confirmed in the next spending review.[17]

On 24 April 2009, acting LSC Chief Executive, Geoff Russell, wrote to all College Principals outlining the process and timetable for prioritising capital projects. His letter explains that the LSC national council meets on 3 June 2009 and hopes to support £750 million of new schemes.

On 29 April 2009, the capital reference group of Principals and Chairs of governing bodies met for the first time to review the process.[18]

On 8 May 2009, Colleges returned questionnaires to the LSC indicating the extent to which their projects were ready to start in summer 2009.[19]

On 3 June 2009, the LSC national council meets.

Memorandum 4

157 Group's initial suggestion in response to the Committee's open call in February for topics suitable for an oral evidence session

DIUS Select Committee Topic for April/May

Capital investment for FE Colleges

1. The 157 Group propose that the DIUS Select Committee take oral evidence on the Capital situation within FE. The 157 Group comprises 26 of the largest GFE Colleges who are rated good or outstanding for leadership, with a combined budget of £I billion pounds, 500,000 learners and 30,000 staff. Our members are committed to raising the reputation and providing leadership for the sector as proposed in the Foster Report.

Our interest in suggesting this topic is to gain a clearer and objective picture of the implications of the current capital situation across the FE sector and to encourage valuable solutions and suggestions for the future. Also to encourage equity of capital funding with other sectors, especially school and universities.

157 Colleges are direct beneficiaries of capital funding from the Government and several 157 Colleges have undertaken significant capital expansion projects.

2. It is timely to do so following several reviews which will be completed by the end of March but the situation will need further clarification to aid resolution of the complex and serious issues involved. Investing in capital build in the public sector is a top priority of the Prime Minister, and is timely within the current recession situation and support to the collapse of the construction industry.

3. The hearing would add value in giving clarity and transparency to an important issue which needs perspectives, debate and insight from a range of angles to facilitate sector and public confidence in how this issue is being dealt with.

Considerable focus and investment on achieving a complete redevelopment ad transformation of the College Estate has been started. FE has been starved of capital funding for many years and needs substantial and sustained investment to provide an appropriate infrastructure to underpin the crucial skills agenda and to raise participation rates particularly for 16–19 year olds.

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[14] http://www.dius.gov.uk/news_and_speeches/press_releases/lsc_acting_ceo
[15] http://www.dius.gov.uk/news_and_speeches/announcements/fe_capital_programme.aspx
[16] HM Treasury http://www.hm-treasury.gov.uk/bud_bud09_index.htm
[17] Confirmed in answer to Parliamentary question 30 April 2009: Column 1477W].
[18] http://www.aoc.co.uk/en/Policy_and_Advisory_Work/finance_and_statistics/capital_funding.cfm
[19] Ditto

This highly popular and crucial investment programme would appear to be in serious jeopardy, the value of the inquiry would be to ensure changes are being made on the best and most appropriate criteria and in line with treatment of other sectors, especially schools.

Substantial funding contributions have to be made by colleges made up from reserves, sale of land and borrowing, all of which has serious and far reaching implications for the future of FE and levels of debt incurred by Colleges in the recession.

All of which are a matter of public interest and concern.

February 2009

Memorandum 5

Submission from the 157 Group

Further Education Capital Funding Inquiry

Summary

1.

- This inquiry is of critical importance to FE Colleges who have been placed in an untenable situation which is affecting learners, communities and the reputation of the sector as a whole.
- Sir Andrew Foster's Report has been widely welcomed by the sector. However key issues of funding availability, transparency and proportionality need further exploration.
- The LSC has contributed significantly in encouraging FE Colleges above their comfort and risk records. There is an urgent need to review LSC financial management and to provide the sector as a whole with a clear breakdown of financial allocations thus far.
- No further public money should be wasted. This means urgently reviewing agreed contractual arrangements and honouring them as a priority.
- FE colleges should not be left "out of pocket", and should be encouraged and rewarded to find alternative routes to transform their own estate and "par down" agreed plans to remove immediate pressure from the central fund.
- The principle of "proportionality" must be central in any agreed way forward.
- 157 Proposed Criteria.

The 157 Group

2. The 157 Group is a membership organisation representing 26 of the largest successful Further Education Colleges in the Learning and Skills Sector. The group was formed in 2006 in response to Sir Andrew Foster's report on the Future of FE Colleges, where he argued that Principals of large successful colleges, where the capacity exists, should play a greater role in policy making and improving the reputation of the sector. The Group has now established itself as a significant and influential voice. We seek to influence policy development in education and related policy areas, act as a peer reference network and support the sector as a whole in quality improvement. The strength and expertise of our providers gives us a particular insight on sector developments, reinforced by our focus on ensuring that decision makers hear directly the voice of the front line senior practitioner. We do not see ourselves as a traditional "lobbying body" but rather an advice and opinion service.

Context

3. The 157 Group are pleased that the IUSS Select Committee has chosen to scrutinise Further Education Capital Funding, currently an issue of critical importance to the Further Education (FE) sector. It is important, first and foremost, to state clearly that the Building Colleges for the Future (BCF) programme was extremely warmly welcomed across the FE sector. In recent years the extensive funding provided through the programme has allowed the transformation of large amounts of the FE estate, with the result that significant parts of our sector now have world class buildings to support already excellent provision. It is therefore more than unfortunate that the unprecedented level of investment in our sector has been overshadowed by recent events.

4. The 157 Group was pleased to contribute to Sir Andrew Foster's Review on Capital. We welcomed the final report and agree that swift and appropriate action, which is both transparent and agreed by the sector, is now the key challenge at hand. We do not therefore wish to use this evidence to conduct a "post mortem" into the events of the last few months. Rather we see this as an opportunity to progress the capital issue, and consequently will use this submission to raise the key immediate priorities, often financial, of our members and share the 157 proposed future criteria for prioritisation. A summary of 157 member individual capital situations is available to the committee upon request.

5. Whilst we wish to be part of a positive dialogue on the future of capital funding, it is worth noting for the record that the recent well publicised failings of the Learning and Skills Council (LSC) in financial management, communication and transparency have placed numerous providers in an untenable situation, and we call upon government and its national agencies to review the relationship between the central LSC office, local LSC offices and DIUS to ensure that such a situation cannot be repeated in future, regardless of government reorganisation.

6. As a group 157 have reached agreement on a set of overarching criteria on which any prioritisation should be based. Whilst we welcome the announcement on Capital funds in the 2009 Budget we continue to seek clarification on how much of the commitment is "new money" and how much will be needed to fulfil the commitment to the eight projects that have been given the go ahead. It is difficult to engage the sector in a discussion on prioritisation without providing a breakdown of the total resources available.

7. Our welcome to the capital funds announced in the budget comes with a significant *caveat*. The £750 million fund allocated to future development projects equates to a tiny proportion of the £5 billion ongoing FE capital bids; figures which do little to still divisions over the future funding of FE and concerns that as colleges are caught between two funding departments, as a result of the Machinery of Government changes, funding pots may be protectively guarded locally and nationally, with the college sector effectively "falling through the cracks". We would urge that serious consideration is given to the proposition of creating an overarching capital plan for education, particularly in the context of a Post MOG landscape.

8. Many FE Colleges have been placed in an impossible position by the miscalculation of funding availability. Significant resources have been spent upon detailed project plans and initiation, whilst large elements of the current estate have been left to deteriorate in the expectation of investment. Colleges now have fewer resources to undertake improvement works themselves and are having to fund the servicing of large loans from the efficiency savings arising from only partial redevelopment of their estates. Both these all too real scenarios are having a negative impact upon current learners, potential recruitment and staff. The role of LSC local offices in requiring colleges to develop extensive redevelopment plans has pushed many providers beyond their normal risk boundaries with moderate and timely plans being expanded into large scale, extensive rebuilds.

9. It is absolutely critical that a collectively agreed resolution is identified and that confidence in a new process of prioritisation and fund management is built across the sectors component parts—individual providers, national agencies and government departments. It should not be underestimated how much recent press coverage has affected the reputation of the sector in the view of potential learners, employers and the broader public, potentially damaging our ability to respond to individuals and employers at this extremely critical time. It is therefore essential that we rebuild the reputation of our facilities and consequently our offer.

10. To some extent every individual college scenario is a "special case" worthy of individual consideration. We note the pragmatic approach of the LSC and their consultants to focus on shovel ready projects to prioritise the current funding and the more measured approach for other projects that may have a high benefit to their communities but are at an earlier stage in the development. The real concern is that currently there is no foreseeable funding for these projects in FE whilst BSF projects will continue.

Key financial issues

11. 157 would stress the importance of applying common sense to the financial challenge ahead. On reflection it is clear that the financial planning of the LSC in relation to capital was fundamentally flawed. It seems now inconceivable that an original funding allocation of £2.7billion could be divided and indeed effectively promised to such a large number of major capital projects. A matter of utmost priority must be stronger financial scrutiny. We would suggest that the LSC needs to review its internal finance capability and ensure that expert personal are in place to oversee and regulate these critical funds.

12. 157, alongside others in the sector, believe that it is absolutely critical that where clear contractual arrangements between providers and contractors exist they are speedily met to prevent further significant amounts of public money being diverted from their original purpose into the hands of lawyers and project managers. At a time of economic downturn the wasting of valuable resources in an attempt to extricate providers from good faith contracts cannot be justified. Whilst 157 centrally and our members have pressed on this issue we are still seeking clarity as to how these issues will be resolved.

13. We would like to see DIUS commit to restoring the *status quo ante*. That is releasing funds to providers to cover the costs they have incurred, in many cases running into millions of pounds, at the encouragement of the LSC, up until this stage. At no stage were individual colleges given access to overall capital data and consequently spent money in good faith on officers' "promise". Morally therefore providers

should be compensated in a transparent and equitable manner. The situation has affected the sector in its entirety and we know that in some cases providers are now close to insolvency. We would of course expect the test of reasonableness to be applied to the risk decisions taken by individual college corporations. The 157 group would want recognition for those colleges who through sound financial management and limited risk taking are seeking support. Equally recognising the size of the challenge some providers are seeking support for creative solutions to improve their own estate and minimise the sector's challenge as a whole.

14. Where appropriate, providers should be allowed to develop elements of their estate using independently raised funding with the assurance government would recognise the significance of such a commitment and acknowledge these in future spending commitments. Such a way forward would lighten the pressure of a backlog of capital projects and, in the act of contracting and building, stimulate the economy in and of itself.

15. The quality of existing estate is a matter of key financial concern. Many "Category B" buildings have been planned for demolition as part of large scale rebuilding plans; these plans must be reviewed in light of the needs of providers with buildings that are both unsuitable and potentially unsafe.

Transparency and proportionality

16. Few within the sector would disagree that the capital process thus far has been far from transparent. Despite wide ranging press coverage and a change in LSC leadership, confusion is still abundant. For example, within the membership of 157, providers have been given varying messages on when feedback on status will be given. A centrally agreed and consistently locally delivered communication strategy must be a priority. Time is also of critical importance. Given the resource investment by colleges and already substantial delays, a quick approval of projects is necessary to prevent planning work, plans and agreements becoming outdated and obsolete.

17. 157 members are frustrated that capital financial data has not been forthcoming. The sector has still not been able to see full lists of spend per capital funding round. It is our assertion that we must understand spending patterns this far in order to move forward. That is, we must get our history right before we decide what the future should be. We call for a definitive statement of spend thus far year by year and future commitments as already agreed. Providing such information would be a valuable step in rebuilding the sectors "ownership" of capital funding.

18. Going forward it is clear that there is a need for a principle of proportionality. 157 members strongly argue that projects should match institution size, supported by the expectation that colleges contribute funds to the project based on realistic and sustainable affordability criteria, to the project themselves. Such a policy would equate to managed risk and the better distribution of funding. We are concerned that one response to the challenge may be to spread remaining capital funds thinly across the sector, assisting a large number of providers with a small improvement programme. It is crucial that institutions needs are assessed independently and that those colleges which have a large estate are not effectively discriminated against in order to generate a simplistic news headline of assisting a large number of providers in an often insignificant way. Additionally any new criteria should recognise the efforts by colleges to actively reduce the size of schemes and limit their agreed plans to alleviate funding pressure.

19. The "first come, first served" approach as identified by Foster must not be replicated. Transparency and sector divided prioritisation criteria are therefore key. 157 have begun to scope such criteria. We are keen to work with partners to co-create and move the situation forward.

157 Proposed Criteria

Overarching Criteria

Once the extent of the government's commitment to BCF is clarified, we propose the following overarching criteria to prioritise college capital applications to ensure that the investment goes to the right colleges for the right reasons.

2.1 Primacy should be given to the quality of the Educational Case

A strongly evidenced Educational Case, which will deliver for communities, learners and employers, must be the key criterion in approving investment, eg:

- projects with an emphasis on 14-19 growth and contribution to key Government targets relating to ROCPA, reduction in NEETs, Foundation Learning Tier development and introduction of Diplomas, etc;
- projects that will have a major impact on educational disadvantage, social inclusion and community cohesion;

— projects which are connected to the successful development of other educational sectors and local and regional economic and social development;

— projects that will promote collaboration and sharing across public services, eg with schools, universities, and community and public facilities, etc.

Acceptance of the centrality of the Educational Case does not mean that the Property Case is not relevant, as eg:

— there are many colleges where essential works are a priority to deal with old and unfit buildings that often have serious health and safety issues; and

— account should be taken of plans for innovative, leading edge buildings which facilitate 21st century learning (ie innovative delivery of integrated learning, skills and related employment services) and score highly in terms of sustainability and environmental impact.

Such property factors should, however, have a secondary impact on the approval process. It is undoubtedly the case that many existing applications have been delayed, disrupted, and made much more expensive by the Property Case being seen as paramount by the LSC

2.2 There must be clear proportionality in the disbursement of capital funds. Large, successful colleges delivering to many thousands of young people, adults and employers should receive capital support in proportion to their size, impact and contribution to meeting national education and training targets. There is clear evidence from the projects already approved, and through those currently in the pipeline, that proportionality has not been sufficiently recognised as a key criterion, with many smaller institutions receiving disproportionate amounts of investment. The financial scope of capital projects should be clearly related to the size of a college's revenue budget.

In this context, two other factors are also significant:

— Sixth Form College applications, given the effect of The Apprenticeships, Skills, Children and Learning Bill 2008–09, should be transferred to the BSF Programme and resources should also be transferred from BSF to BCF to take account of the costs of Sixth Form College projects already approved under BCF.

— If capital funds for BCF do become scarce, then the extension of the programme to non-college and private sector providers is extremely problematic.

2.3 The sharing of financial risk and the impact on College financial health must both be taken into account in the revised LSC model.

— The Secretary of State has said in Parliament that many colleges have been "encouraged" by the LSC to invest significant revenue funding in preparing their capital strategies and projects. It has been estimated that in 2008 alone colleges collectively spent over £100 million on the set-up costs of their capital projects, a figure in excess of the combined surpluses of the same colleges. The total revenue at risk is probably well in excess of £200 million (with members of the 157 Group alone risking upwards of £100 million). Unless some means is found of appropriate reimbursement from the LSC/DIUS, there is a huge risk to the financial stability of many colleges who are well managed and successful institutions. Legal action may be inevitable if college corporations/boards are to fulfil their fiduciary responsibilities.

Extending the building and loan period will put further pressure on colleges for whom the LSC have already identified maximum safe borrowing limits. It will also require a bigger contribution from financial institutions already struggling to respond to market demands and will lead to serious financial issues for some colleges.

2.4 An explicit, criteria driven and open allocation system where decisions are transparent and clearly communicated must be the corner stone of the revised LSC methodology. Much of the difficulties and disaffection that colleges feel with the current system is directly related to poor communications and a reluctance to share the basis of application approvals openly with the sector. We would also comment that the Capital support fund should only be used for supporting capital projects. Exceptional support for other purposes should have its own transparent and separate fund.

May 2009

Memorandum 6

Submission from the Learning and Skills Council (LSC)

1. Introduction

This memorandum refers to the FE capital programme, the events relating to its funding and administration up until the Foster review and the steps now in place to continue the programme.

2. Background

2.1 The purpose of the FE capital programme is to support the refurbishment and renewal of the FE college estate. The LSC is responsible for the administration of this programme.

2.2 During 2008 it became clear there was an unsustainable rise in demand from colleges for capital funding. In December 2008 the decision was taken to defer all approvals of capital projects until detailed work had been undertaken with colleges to establish a fuller understanding of the situation.

2.3 On 23 March Mark Haysom resigned as Chief Executive of the LSC. Geoffrey Russell was immediately appointed as acting Chief Executive with the immediate task to increase the certainty and clarity around the capital programme.

2.4. Geoffrey Russell appointed an external team from Grant Thornton to review the financial data held by the LSC about capital projects. He also appointed a new Director of National Projects to take responsibility for the capital programme and to work with a new sub group of the Council charged with overseeing the programme.

3. The Foster Review

3.1 When concerns were raised about the future of the funding project the chair of the LSC and the Secretary of State, DIUS, jointly commissioned Sir Andrew Foster to conduct an independent review. Sir Andrew was asked to consider the causes of the increased demand for funding, LSC's internal processes and the lessons to be learnt for the future.

3.2 Sir Andrew Foster reported his findings on April 1st. He concluded with eight recommendations:

3.3 Recommendation 1 called for immediate "agreement on how the present demand-led approach can be supplanted by a needs-based approach with explicit priorities and choice criteria." The LSC support the move to a needs-based approach. We have now worked with stakeholders to develop new criteria and designed a process by which future bids for capital funding will be prioritised. We expect the first stage of the prioritisation process to be finished by the end of June in order for the LSC to approve a small group of college projects to proceed this summer. Further information about this process can be found in section 5.

3.4 Recommendation 2 called for "an early and open process of engagement and consultation between DIUS, the LSC and the college sector." Since the report the LSC have already started a consultation process including the use of a reference panel of college principals and representative college groups convened by the AoC and we are also consulting widely with Regional Development Agencies and local authorities.

3.5 Recommendation 3 called for processes to be "grounded in fully accurate and detailed information about capital schemes in the pipeline." He also suggested "there should also be a preliminary mapping of potential needs indicators to assist the discussion process." The LSC now has detailed information on all existing capital schemes and those in the pipeline. We have engaged Grant Thornton to independently verify the accuracy of the information currently held. We have also worked with specialist advisers who will independently apply the agreed criteria to projects in the pipeline to provide confidence that the resulting proposals will be fairly determined.

3.6 Recommendation 4 focused on a realistic assessment being required of individual colleges that have incurred expenditure, with high expectations, but have no guarantee of final approval for their proposals." An initial assessment of costs already incurred by colleges with Approval in Principal has been carried out. LSC regional finance teams are working with these colleges to establish their financial position and to address any cash flow issues. The LSC has given a commitment that no college will become insolvent as a result of capital project delays. The LSC and DIUS are developing a policy position on how to deal with the legitimate costs incurred by colleges where their project may not now proceed in the near future.

3.7 Recommendation 5 stated that in "order to achieve speedy implementation, it will be essential to have a blended approach of open consultation with the sector, matched by a small dedicated project management group which drives a highly organised programme across LSC and DIUS levels." In response a joint project team involving LSC and DIUS staff was set up with David Hughes appointed to take personal responsibility for LSC's capital programme, with the additional support of a senior finance director within the LSC. The LSC will be making further changes to the way the capital programme is managed which will help in this transition year from the LSC to the SFA and YPLA. We hope to be able to announce these changes, along with wider management arrangements shortly.

3.8 Recommendation 6 involved talks being held with HM Treasury. The Budget on April 22nd saw an announcement of further funding for capital projects.

3.9 Recommendation 7 called for "future development to take place in the context of a comprehensive and competent financial strategy that supports needs-related planning." The LSC is working with DIUS, colleges and stakeholders to assess the priority needs for the future. This assessment will provide, by Spring 2010, clarity on future needs and funding requirements. On this basis, a new financial strategy will be developed for the SFA, YPLA and local authorities to take forward in the discussions for the next spending review.

3.10 Recommendation 8 asked for "active consideration to be given to the future working arrangements of the Skills Funding Agency and the Young People's Learning Agency." Discussions are underway with DIUS, DCSF and local authority representatives about the future arrangements for capital in the Skills Funding Agency and the Young Peoples Learning Agency. The new arrangements include regulation and oversight of capital by DIUS and DCSF, a new financial strategy and best practice procurement methods.

4. Budget 2009

4.1 The Budget announced additional capital funding of £300m in the current CSR period. This will allow the LSC to give approval to a limited number of projects starting in 2009–10. Recognising the long-term nature of capital projects, the Government is planning to continue FE capital investment programme in future years, with a planning assumption of £300 million a year from 2011–12 to 2013–14 to be confirmed at the next Spending Review. This provides a provisional £1.2 billion in total to 2013–14. Following the Budget announcement the LSC has written to all College Principals detailing the new funding and how this will be allocated.

4.2 Although such commitments into the next spending round are provisional, this is welcome news and should allow us to develop around £750 million of new schemes. We feel there are three main areas of interest to the Select Committee moving forward.

4.2.1 How we intend to use the needs based criteria in relation to the additional £300 million in 2009–10 and 2010–11 to identify those with the most urgent and greatest need projects, as well as the approach we intend colleges to take in prioritising projects for the next spending review period.

4.2.2 How we support colleges which have incurred costs in developing their project proposal and in anticipation of their project being approved.

4.2.3 How we ensure we deliver greater value for money on capital projects.

5. Next Steps: Prioritising Projects

5.1 To maintain objectivity we have appointed PricewaterhouseCoopers (PwC) to assist in the drafting of the LSC's project selection criteria, as well as in the development of a scoring framework and assessment process which we hope to use for the first time in helping the Council select a group of projects at its meeting on 3 June 2009.

5.2 The Foster report made it clear that the criteria should be needs-based and set in the wider context of learning and skills. The LSC has therefore put together draft criteria to reflect that recommendation.

5.3 The LSC proposes the following criteria are used to prioritise projects. We will be as inclusive as possible in consulting on this, but have very tight timescales to meet in order to deal with these urgent issues; our aim is to finalise by 15 May in order to have new projects selected at the 3 June National Council meeting.

5.4 A key part of the consultation, based on the recommendations in the Foster report, has been discussions with a panel of college Principals convened with the support of the Association of Colleges. This panel met on 29th April and provided important input. We are also consulting with the Local Government Association and the Regional Development Agencies.

5.5 The first stage of prioritisation is readiness, Colleges with project applications awaiting in-principle or detailed approval will be asked if they consider their projects can commence on site within three months or so. To meet this timetable we have appointed property consultants Lambert Smith Hampton (LSH), to review all of the capital applications currently extant. Their first priority is to identify those projects that are ready to be on site and building this summer. Projects which pass through the readiness gateway will then be assessed against the other criteria.

5.6 Criteria. We propose that once readiness is agreed the following criteria are used to prioritise projects:

— Education and skills impact—this criterion assesses the extent to which the project addresses current and future education and skills need and supports industrial activism.

— Contribution to local economic and regeneration priorities—this criterion considers the wider economic and regeneration impact of the project.

— Co-dependency with third parties—this criterion looks at the practical implications of not proceeding with the project and the leverage ratios involved.

— Condition of estate—this criterion evaluates the condition of the existing estate and the impact on learners and the extent to which they are addressed by the project.

— Value for money—this criterion assesses the extent to which the project demonstrates that it has gone through a process to maximise value for money.

5.7 It is clear that the urgent and greatest need projects will not include the majority of college projects which either have Application in Principle approval, or have been seeking such approval. We will therefore have a separate process for these and other new proposals from colleges which will provide us with a new needs-based priority list of projects. That priority list will be used to approve projects as and when funding becomes available in the next spending review period. We expect this prioritisation process to be based on the same criteria set out above.

5.8 We propose a swift, streamlined and transparent selection process for the first round of project prioritisation. This process needs to be completed quickly so that projects can start on site as soon as possible.

6. Next Steps: Incurred Costs

6.1 The LSC recognises that colleges with projects that cannot go forward now for funding in this year or next may have to write off some development expenditures in their accounts. The LSC will work with each college with the help of independent property consultants to assess how the longer term value of expenditures can be maximised, as well as to understand the nature and extent of any liabilities. Through its normal financial intervention process, the LSC will ensure that no college is unable to meet its financial obligations as a result of decisions on capital projects.

6.2 Once we have a full analysis of the costs incurred and their nature, we will be able to identify those cases where a contribution to such costs from the LSC may be justified. The LSC has advised colleges that they should continue to avoid committing any further expenditure on the development of projects where there has not been full approval to go forward.

7. Next Steps: Achieving Greater Value for Money

7.1 As with the urgent and greatest need projects, there is no doubt that there has to be a new focus on achieving value for money as we go forward with this programme. The expectation is that all colleges will consider the scale, scope and costs of their projects very carefully; with limited funds we will want to ensure that we maximise the impact for learners, employers and communities in every project we approve.

7.2 We have instructed Lambert Smith Hampton to review all of the projects in the pipeline that are now unlikely to proceed for the time being so that we can review their scope, scale and timing. We want to have the best possible information to hand to inform the comprehensive spending review next year when there may be a further chance to seek additional funds.

7.3 These college-by-college reviews will include detailed analysis of spending on project costs. This will be an extensive process, as there are potentially more than 150 projects to be considered. The process will include colleges completing a self-assessment questionnaire. Through bringing in consultants we aim to complete the work as quickly and as objectively as possible. In the taxpayers' interest, we will also be very hard nosed in driving for much better value for money.

May 2009

Supplementary evidence from the Learning and Skills Council

1. *The Committee would like to know who was present at the "Ministerial reviews" held on 16 June, 21 October and 16 December; and also who was present at the "finance stock-take" meetings between senior managers in DIUS and the LSC Chief Executive and Director of Resources on 12 August and 13 November 2008 (see para 44 of the Foster review).*

Ministerial Review Meetings

Ministerial Review meetings are held jointly by the Department for Innovation, Universities and Skills and the Department for Children, Schools and Families. Each meeting is chaired by the Parliamentary Under Secretary of State for Further Education, and attended by a Minister from DCSF, the Director of the DIUS Learning and Skills Performance Directorate and a Director from the DCSF Young People's Directorate. The LSC is represented by its LSC National Chair, Chief Executive and its key national directors. Other Ministers and officials from both Departments may also attend depending on the agenda.

Financial Stock Take Meetings

Joint DIUS/DCSF financial stock take meetings take place approximately once a quarter. These are official level meetings, and are attended by the Director-General of the DIUS Further Education and Skills Group, the Director General of the DCSF's Young People's Directorate and the LSC Chief Executive. Other officials from both Departments, and from the LSC, may also attend depending on the agenda.

2. *The Committee would also like to know the total value of the projects authorised by the Chief Executive under his delegated authority for projects under £10 million where the LSC was paying less than 50% of the cost.*

The Chief Executive of the LSC has delegated authority to approve capital projects of below £10 million total project cost and below 50% LSC rate of contribution.

Between October 2003 and December 2008, the total values of the projects approved by the Chief Executive under his delegated authority were £420,643,053 in total project costs and £115,904,615 in LSC contributions.

3. *Further Education Capital Budgets (table on next page).*

The "Other Sector Capital Investment" is Information Learning Technology spend (JANET costs, etc), LEA Loans Liabilities, our own IT System Development Costs and expenditure of Financial Support for Colleges (hence the large increase in 2009–10 where we have made an extra £70 million available to mitigate abortive costs/impact on colleges of the current Capital Position).

Further Education Capital Budgets

Financial Year	*LSC Budget 2007–08 £'000s*	*LSC Planning Assumptions 2008–09 £'000s*	*2009–10 £'000s*	*2010–11 £'000s*	*Treasury Planning Assumptions 2011–12 £'000s*	*2012–13 £'000s*	*2013–14 £'000's*
Original Grant Letter Budget	595,800	694,400	819,800	849,800	tbc	tbc	tbc
Subsequent Amendments:							
Funding Brought Forward							
—Fiscal Stimulus (PBR 2008–09)	0	110,000	0	(110,000)	0	0	0
—Additional Funding (Feb 2009)	0	22,000	(22,000)	0	0	0	0
—Additional Funding (March 2009)	0	10,000	(10,000)	0	0	0	0
Budget 2009							
—Treasury Investment	0	0	167,000	0	300,000	300,000	300,000
—DIUS EYF Stock	0	0	100,000	0	0	0	0
—DIUS/LSC Reprioritisation	0	0	63,000	14,000	0	0	0
DIUS/LSC In-Year Budget Management	36,300	1,900	0	0	0	0	0
Revised Budget Total	**632,100**	**838,300**	**1,117,800**	**753,800**	**300,000**	**300,000**	**300,000**
Of which . . .							
16–18 Capital	166,000	210,000	210,000	240,000	tbc	tbc	tbc
FE Capital Fund	283,000	508,887	717,600	408,100	300,000	300,000	300,000
Specialisation Funds	70,030	47,213	68,000	55,000	tbc	tbc	tbc
Other Sector Capital Investment	113,070	72,200	122,200	50,700	tbc	tbc	tbc
Total	**632,100**	**838,300**	**1,117,800**	**753,800**	**300,000**	**300,000**	**300,000**

Capital 2007–08

	£'000's	Movement to:
Grant Letter	595,800	
LSC Budget Change 10	−4,000	16–18 Sector Rationalisation
LSC Budget Change 20	−10,000	Capital Grants
LSC Budget Change 23	35,000	FE Capital Buildings Systems
LSC Budget Change 23	19,000	Development
Virement 08/NO/108	−3,700	from Assets Capitalised to Systems Development
	632,100	

Source: LSC Financial Planning 15 May 2009.

Annex B

THE AFFORDABILITY OF CAPITAL CONTRIBUTIONS FROM COLLEGES AND FROM THE LEARNING AND SKILLS COUNCIL

Purpose

1. The overall purpose of this paper is to:

— Consider the affordability of the current system of capital support (or capital grant) payments to Further Education Colleges within the context of the current affordability policy of the Council, and in the light of current situation, set out options and recommend policies for consideration by the Council.

Method

2. This paper:

— summarises the background to the current position;

— presents the evidence about:

 — the rising curve of College demand for Capital funds;

 — the future capital contributions likely to arise from Applications in Principle already agreed;

 — the demand curve for capital funds arising from Council contributions;

 — present and discuss a simple simulation model that predicts the future demand for funds from projects agreed now and in the future, taking the pattern of capital payments and slippage into account; and

 — calculate and comment upon the emerging position about college demand for funds, if nothing changes.

— discusses these issues;

— develops capital policy payment options which will alter the relationship between the level of projects agreed and the pattern of payments due;

— proposes a few further calculations on college affordability in the light of these options, and

— recommends capital policy changes that will increase the manageability of the capital payments system and will ensure that the Learning and Skills Council can continue to manage its capital budget within the available funds despite the increasing volatility of capital claims from colleges.

Background

3. The Government has continually funded research into the effects of education upon employability and income.

4. The LSC has conducted research into the effects of new capital investment on the delivery of education and training.

5. The Learning and Skills Council has known for some years that the level of annual capital funds made available to the LSC are programmed to increase significantly.

6. In response to that increase, the LSC developed an "Affordability Policy" which seeks to maximise value for money by requiring each college to borrow an "affordable" loan (which is affordable in that college's circumstances) to help finance the capital project.

7. That affordability concept has a second significance, because the demand for capital funds from colleges must be affordable to the LSC, and the total annual demand for capital funding must be managed within the annual capital funds made available to the Council by the Government.

8. The demand for capital funds has increased significantly in recent years in response to that Affordability Policy, which has created a stable regime for college investment. The two key questions are:

— Are these increases in College capital investments enough to bring the demand for Council capital funds into line with the supply, or are they too much or too little?

— Given the volatility of capital claims arising from capital project slippage (defined as project delivery later than planned) and the rising trend of demand for capital funding, how can LSC policy develop in order to:

  — increase the manageability of the system, while

  — preserving and enhancing the conditions for the rapid capital development of the FE sector?

Evidence

The "Applications in Principle" Projects

9. There were 60 Applications in Principle (AiPs) with a total value of £2,536,270,144 and a projected Council contribution of £1,743,413,183 (68.7%) but a closer analysis of these projects by the Regional Property Advisors led to two of these projects (with a total value of £127,411,067) being re-classified as defunct. That left 58 AiPs with a total value of £2,408,859,077.

10. The RPAs have also conducted a sample analysis of these projects where phasing information is readily available. That analysis shows that:

— AiP projects coming forward for detailed submissions are now expected to have, on average, a 22% price increase above the originally agreed budgets.

— About 14% of the total value of these capital projects have already come forward and have been agreed in detail by the National Capital Committee.

— It is forecast that the future distribution of capital project values arising from AiPs will be:

Table 1

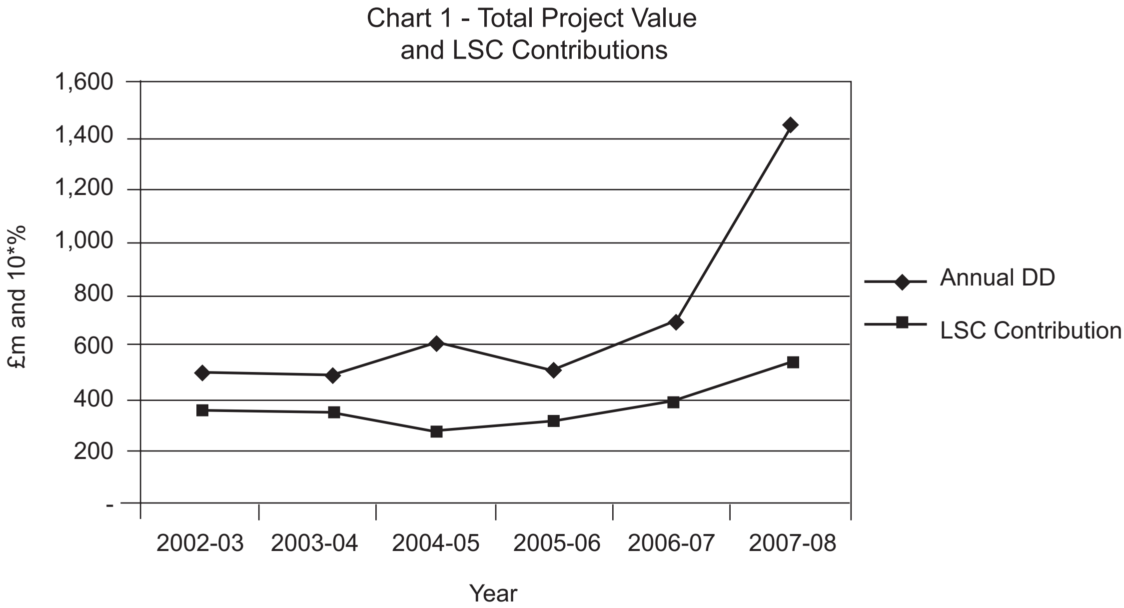
FORECAST ALIP TOTAL BUDGETS 2009–12

			Year Ending	
	2009	*2010*	*2011*	*2012*
% of total	62.1%	17.5%	5.0%	1.4%
£m	1,496	421	121	33
30% slipped	1,047	608	267	104
+22% costs	1,227	742	327	126

The rising curve of College demand for Capital funds

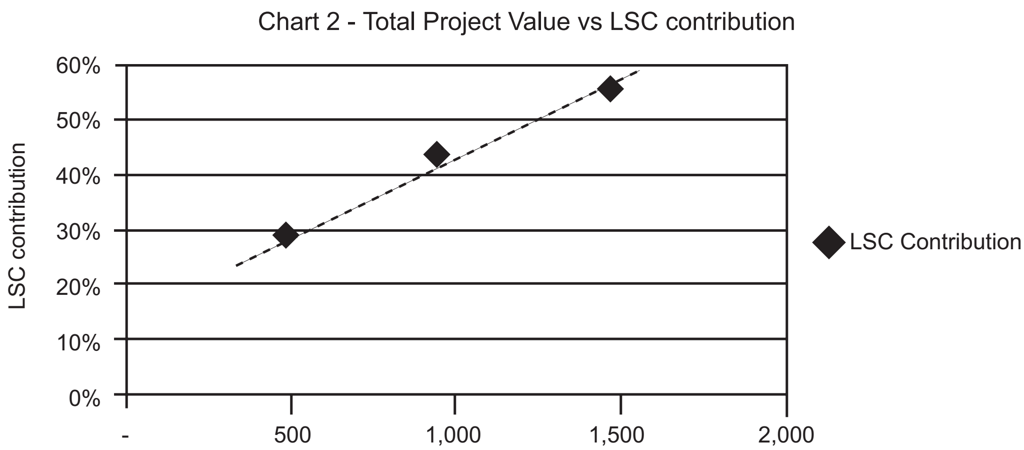
11. From the record of the 2002–08 period, there is an obvious link between the total annual volume of capital projects and the LSC contribution. So long as the average contribution level remained at between 28% and 35%, the annual demand for capital projects ranged around £500 million to £625 million. As the affordability system was flexed in 2006–07 to an average rate of 41%, demand rose to £718 million and when the contribution rose to 59% in 2007–08, demand rose to £1.095 billion for the first nine months of the year and will reach over £1.15 billion in the full year of 2007–08.

12. One way of examining this issue is to plot the increase in the total budget value of all capital projects Agreed in Detail (AiDs) along with the average LSC contribution through the 2002–03 to 2007–08 period. The result is shown in Chart 1 below, where the left hand scale should be the average percentage of Council contribution (£200 million on the left scale is 20% capital contribution on the right scale, £400 million on the left scale is 40% capital contribution on the right scale, and so on). So long as the average contribution level remained at between 28% and 35%, the annual demand for capital projects ranged around £500 million to £625 million. As the affordability system was flexed in 2006–07 to an average rate of 41%, demand rose to £718 million and when the contribution rose to 59% in 2007–08, demand rose to £1.095 billion for the first nine months of the year and will reach over £1.15 billion in the full year of 2007–08. It is clear that higher Council contributions are associated with better affordability of the capital programmes by colleges and hence much higher total project budgets.



13. This point can be made more clearly by graphing the average LSC contribution level against the total value of capital project that year. The results are shown in Chart 2. An approximate line can be drawn through these points, with the equation:

Total Annual Value of Capital Projects = (% CC -15) times 33.



In other words, at a 60% capital contribution, the annual total of project funds agreed can be calculated as:

=(60−15) times 33 = 45 times 33 =£1,485 million.

While at an LSC capital contribution of 30%, total projects agreed becomes:

= (30−15) times 33 = 15 times 33 = £495 million.

The implications of these observations are:

— Every 1% increase in capital grant may be associated with an increase in total capital project value of £33 million and *vice versa*.

— The total level of capital demand can be controlled by increasing or reducing the Council Contribution (for example, a Council contribution of 45% would produce a total annual capital project value of about £1 billion per annum).

— Because the level of capital project demand is linked to the percentage contribution, it is possible further to calculate the approximate annual increase in Council commitments arising from capital demand, as follows:

Council Contribution	30%	45%	60%
Total projects pa (£m)	500	1,000	1,500
Additional Council commitment (£m)	150	450	900

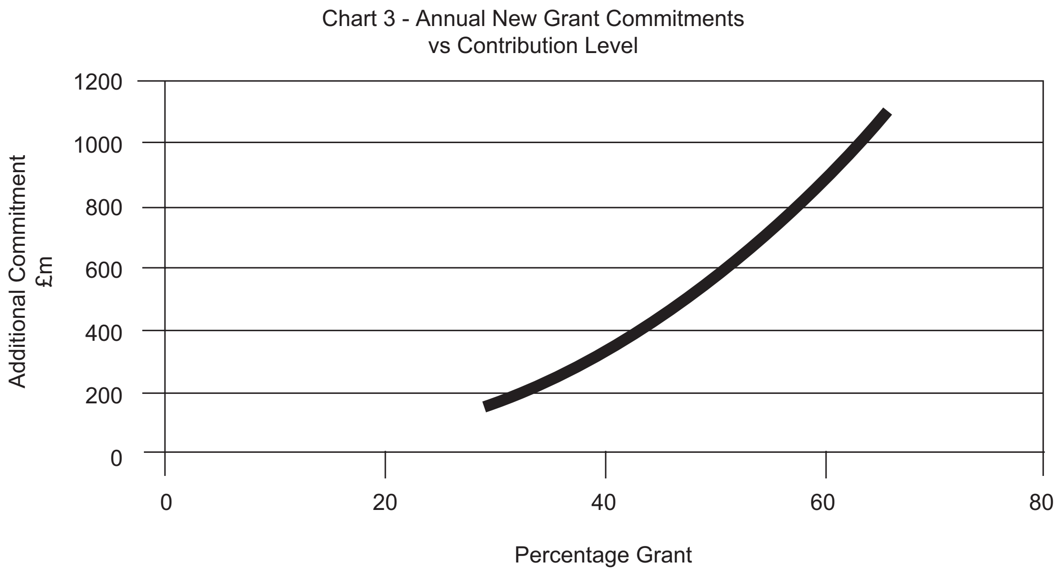
— Because of this linkage, Council commitments increase according to the formula:

(Contribution times (contribution -15) times 30)/100

or if contribution = c

Additional Council grant commitment in £m = (30*c(c-15))/100.

— The graph of that relationship is illustrated in Chart 3 below.



Inputs to the LSC Capital Payments Simulation Model

14. Previously, the LSC has used a simulation model to forecast the total annual demand for capital grants arising from previous capital commitments and the forecast new projects. This is not a simple procedure because:

— For existing payments, slippage shifts the attempted payment of capital grants over three years into a five-year pattern.

— For future payments,

  — forecasts about projects always predict a rush of projects in the near future, and that rush has never materialised in practice,

  — slippage further discounts the future payments into a five year pattern.

The Effect of Slippage

15. The LSC planned payment schedule usually involves payments of 10% in year one with the rest equally divided into the next two subsequent years. But projects are only agreed part way (on average half way) through year one, and during a six month period, at best only about 5% of the grant can be claimed. With 40% year one slippage, this reduces to 3.0% paid in year one, leaving (if the average grant is 60%) 57% to be paid in equal amounts during years one and two, or 28.5% during each year. But if 30% slippage occurs, then only 70% of 23.5% will be paid or about 20%. This leaves 37% for year three, but 30% slippage again reduces that to 26%, leaving 11% for year four, which 30% slippage further reduces to about 7% in year four and 4% in year five. Hence the attempted pattern of payment changes into actual payments as follows:

Table 2

THE EFFECT OF SLIPPAGE ON CAPITAL PAYMENT SCHEDULES

	Year 1	*Year 2*	*Year 3*	*Year 4*	*Year 5*
Attempted	10%	25%	25%		
Observed	3%	20%	26%	7%	4%

Forecast of the LSC Year-end 2007–08

16. An estimates of the year-end expenditure and slippage factor for 2007–08 can be made as follows:

	£m
Current expenditure on capital support grants for period 9	199
Forecast expenditure to year end (=199.43*12/9)+ 65*.03	263
Forecast expenditure and commitments	483
Slippage to year end	45%
Budget	303
Possible FE underspend/acceleration required before year end	20

17. The capital grant commitment of the Council during 2007–08 is summarised at Table 3 below, which shows the starting position of £701 million commitment at the start of the year, reduced by in-year payments of 303 million and increased by new commitments of £690 million (= 60% contribution towards of total projects of £1.16 billion agreed in detail during FY 2007–08) to result in a predicted year end LSC grant commitment of £1,088 million.

Table 3

TOTAL CAPITAL GRANTS DUE 2007–08

	Year Start Commitments	*Paid off in-year*	*New commitments*	*Year end commitments*
2007–08	701	303	690	1,088

18. At first sight it looks as if the repayment rate is about 43% (= 303/701) but that calculation is too high because:

— Capital payments at present are being paid off wherever possible in two years rather than three.

— The £303 million includes accelerated payments of about £120 million, with net claims of £183 million.

— Taking account of these factors, the actual repayment rate of mature projects previously agreed seems to be about 15% to 25% and that implies a four to five year payment period for the average project.

Inputs and Outputs of the Simulation Model

Assumptions

19. From the above considerations, we can calculate the inputs to the simulation model and make estimates of the adequacy of the LSC capital budget against the likely demand. If we assume that:

— The total budget of capital projects could rise, given the evidence, to be as shown in the following table:

2008	*2009*	*2010*	*2011*	*2012*	*2013*	*2014*
1,500	1,400	1,300	1,200	800	600	400

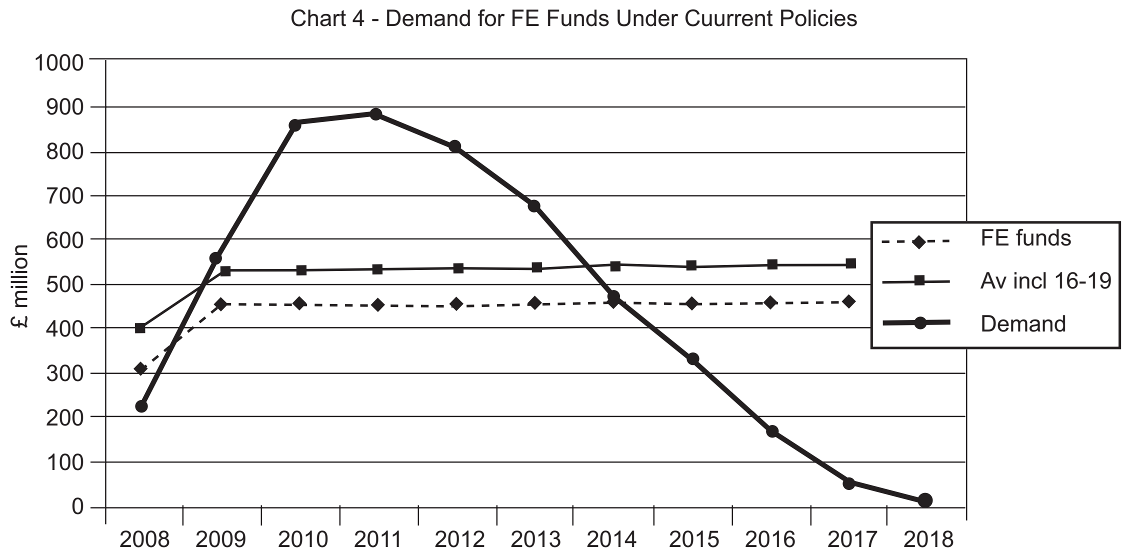
— The attempted payment profile will remain as now (averaging 10%,25%,25%).

— Slippage is likely to average 30% and the effect on Council grant payments is set out at table 2 above.

— Existing commitments will slip to a similar pattern.

We can then calculate the budget shortfall or underspend.

Results—Provisional

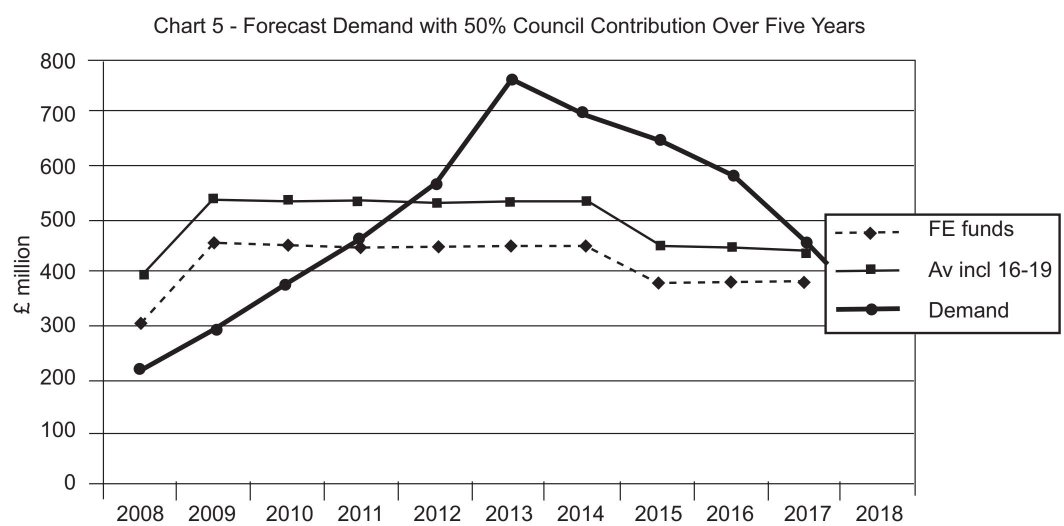


Commentary on Chart 4

20. A reasonable test of any forecasting model is whether it successfully predicts the recent past. At first sight the model fails because the predicted out turn for 2008 is £226 million. However the actual out turn for 2007–08 may be only about £183 million and the only way that claims expenditure may reach about £300 million is because capital projects that are in build are being paid for over two years rather than three. This has a knock-on effect on the following year of 2008–09 and about £120 million of claims that would have been in that year were paid the previous year. Claims during 2008–09 are likely to be within the available FE capital funds because of that effect.

21. From 2010 to 2013 however, 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. This simply proves that the continuation of the current payment profile of projects is unaffordable to the Council.

22. It should be noted that demands for capital funds may not actually decline as illustrated in chart 4 because the demand for funds is only being modelled for the seven year period 2008 to 2014 and the predictions beyond 2014 although they represent Council liabilities may well not reflect future Council policies.



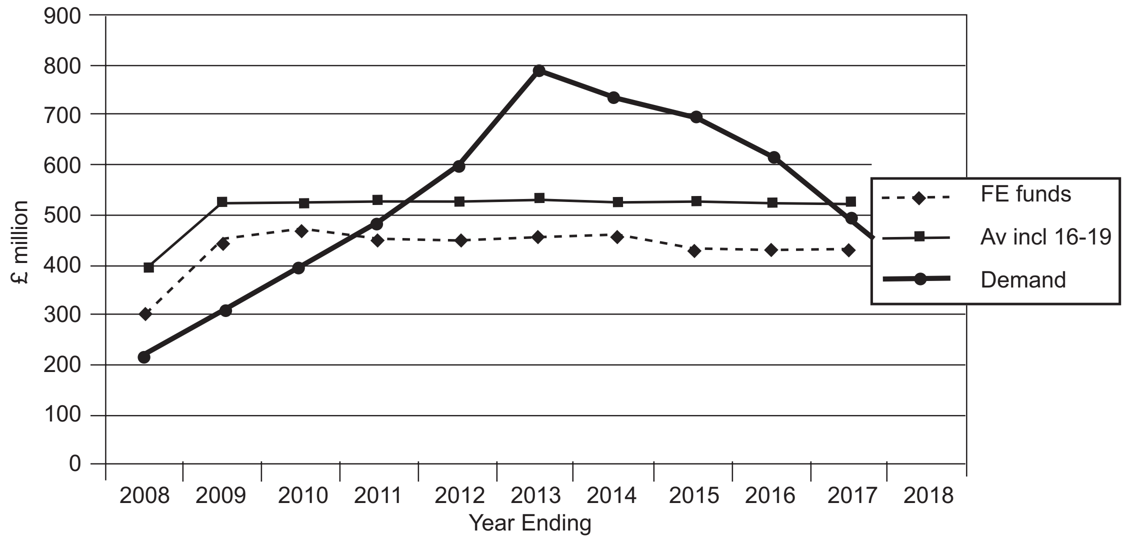
Commentary on Chart 5

23. Suppose that 2008 was not a freak high year for capital projects and that the level of detailed projects agreed rises to and remains at £1,400 million a year. What policies could cope with that level of demand?

24. If capital grant Council contributions reduce to 50% and are paid equally over five years then the pattern of claims payments are as shown in chart 5 above. If the policy of accelerated payments continues, then it can be shown that the entire demand for capital grants can be coped with.

25. A reduction in Council contribution to 50%, however, would probably reduce any funding difficulty to nil because the annual level of capital projects would fall to about £1 billion. That would be undesirable.

Chart 6 - Forecast Demand with 55% Council Contribution Over Five Years



Commentary on Chart 6

26. If we consider the level of contribution and the resulting level of demand from colleges simultaneously, it seems probable that the levels of Council contribution that would meet the availability of funding would be a contribution of 55% to 57%. If payments are equally spread over five years, that would create the headroom to meet all likely capital claims while increasing the manageability of the capital budget system. Chart 6 shows the likely outcome of a 55% to 57% contribution—capital projects averaging £1,350 million a year and accelerated payments in the early years balancing out the funding gap in later years.

Possible policies

27. The following mix of capital project policies is recommended for consideration.

— The average level of Council contribution should be reduced from 60% to about 55% to 57% in order to stabilise capital project demand at a high and sustainable level (of about £1,350 million).

— The Council should increase the manageability of the capital claims system by extending the payment period for all new projects to a five year period.

— The Council should consider offering a slightly increased grant in order to cover the increased interest costs of college loans due to later Council payments.

— Capital projects should not require a College to contribute cash to a project that would reduce College cash days below 50. Higher cash days should be kept in hand to enable higher levels of interim borrowing.

— The Council should continue to reserve the right to payoff projects early if the capital funds available to the LSC so permit.

— The Council should consider making affordability more certain by relating the capital borrowing to an appropriate range of years of college accounts but adjusting the college borrowing percentages required to produce a broadly neutral effect.

— The Council should continue to monitor the slippage level, the level of capital project grants agreed and the effects of these changes in order to feed back further changes into the system as required.

CONCLUSIONS

28. The reduction in flexibility of FE Capital budgets will mean, if about £100m of the FE budget is not restored, that either the FE renewal programme must be slowed down or prioritising or rationing must be introduced.

29. These recommended capital policy changes increase the manageability of the capital payments system and if adopted will help to ensure that the Learning and Skills Council can continue to manage its capital budget within the available funds despite the increasing volatility of capital claims from colleges.

February 2008

Memorandum 7

Letter from Graham Stringer MP, Member, Innovation, Universities, Science and Skills Committee to the Rt Hon John Denham MP, Secretary of State for Innovation, Universities and Skills

Following our exchange at the Innovation, Universities, Science and Skills Committee on Wednesday, I agreed that I would write to you with some examples of where I thought the demand led nature of both the capital and revenue programmes at the Learning and Skills Council had led to relatively affluent areas receiving a disproportionate amount of funding when compared to deprived inner city areas such as Manchester.

I gave the example of Bournemouth and Poole on £102 million, within Greater Manchester, Aquinas College (a small selective Catholic college) has received £40 million and Stockport College has received £20 million with a further £52 million already allocated. This compares starkly with the money allocated for Manchester College. Other obvious examples are East Surrey College on £55 million, Hasting College of Arts and Technology £72 million, Herefordshire College of Technology £30 million, Hertford Regional College £27 million, compared to a trivial £23–4 million for Bradford College. One could go on.

I also mentioned the funding methodology and Student Learner Number (SLN) applications. Our Government's objectives are to intervene and engage where there is disadvantage. Why then does the Learning and Skills Council methodology not support this aim? Manchester College covering the areas of highest deprivation within Greater Manchester has received a much lower ratio than many colleges in Greater Manchester. The Manchester College SLN ratio is 1.32. Colleges covering much more affluent areas receive more funding via this formula: Stockport 1.68; Bury 1.48; Cheadle and Marple 1.65. Other inner city colleges also have similarly lower SLN ratios ie Newcastle on 1.27 and Sheffield on 1.25.

On top of all this, if I use Manchester College as an example again, the Government wants it to increase its learner numbers but its Additional Learning Support (ALS) as a proportion of overall funding has decreased by 10%. This seems perverse when a recent inspection found its ALS to be outstanding.

I am copying this letter to Phil Willis and the Committee Clerk as part of the evidence to our inquiry and I will do similarly to your reply, which I will look forward to.

May 2009

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