

From private to public sector - the impact of college reclassification

13:00 - 14:00

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1

ONS reclassification

In 2012 colleges went from public to private - enabling them to borrow large sums from banks

Following the 2011 Education Act the ONS “recognised that some public sector controls - including over borrowing - had been removed” and as a result from 1 April 2012 colleges were reclassified from the public sector to the NPISH (non-profit institutions serving households) sector.

Ten years on - back to public again

Our “review was prompted by the passage of the Skills and Post-16 Education Act on 28 April 2022, and by updates to the Further and Higher Education Act 1992 (FHEA 1992), since the last classification review in 2012.”

The 2022 Act extends intervention (step-in) powers to “mismanagement” such the Secretary of State can appoint and/or remove members of the relevant institution’s governing body. The Act also “adds an intervention power for failure to meet local needs”.

The ONS also concluded that college subsidiary companies should be reclassified

“FE institutions will be reclassified from the non-profit institutions serving households (NPISH) sector to the central government sector. This comes into effect, retrospectively, from 1 April 1993 for FECs and DIs, and from 1 April 2012 for SFCCs.”

<https://www.ons.gov.uk/economy/nationalaccounts/uksectoraccounts/articles/economicstatisticssectorclassificationupdateandforwardworkplan/november2022>

2

Government response

Written statements - Written questions - x

questions-statements.parliament.uk

UK Parliament

Written questions, answers and statements

UK Parliament > Business > Written questions, answers and statements >

Further Education Update

Statement made on 29 November 2022

Statement UIN HCWS392

Statement made by

Robert Halfon
The Minister of State for Skills, Apprenticeships and Higher Education
Conservative

Halfon
Commons

Statement

Today the Office for National Statistics (ONS) published their decision to reclassify the further education sector and their subsidiaries as part of the central government sector.

<https://questions-statements.parliament.uk/written-statements/detail/2022-11-29/hcws392>

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29 November 2022

Dear College Principal / CEO

RECLASSIFICATION OF THE FURTHER EDUCATION SECTOR IN ENGLAND BY THE OFFICE FOR NATIONAL STATISTICS

I am writing to you following the recent announcement that the Office for National Statistics (ONS) has decided to reclassify colleges and their subsidiaries into the central government sector for financial and accounting purposes.

The ONS is an agency independent of ministers, and periodically reviews the classification of all sectors of the economy for the purposes of National Accounts. For more information on classification please visit the [ONS website](#).

I know you will be keen to understand what this reclassification of colleges and their subsidiaries means for your organisation and subsidiaries, your learners, your local community, and the sector in general. The decision from the ONS is final and in effect from the point of announcement. This means you and your subsidiaries are now treated for financial and accounting purposes as part of the central government sector, with my department as the principal department responsible for ensuring the sector complies with financial and accounting rules. The majority of this is covered under HM Treasury's [managing public money](#) framework and other central government guidance.

Although the managing public money framework is effective from 29 November 2022 there will be significant financial and accounting changes to implement, and so we'll be putting in place transitional arrangements over the next two years, culminating in a sector that complies with all public sector rules by Autumn 2024. ESFA have written to accounting officers to explain how managing public money and other guidance applies. We'll let you know how we'll support you to work as quickly as possible towards complying with the new rules. We recognise that you will need time to fully comply and therefore there will be transitional arrangements in place until August 2024.

We began work to write a new College Financial Handbook. We'll engage with representatives from the sector from the outset, with a view to sharing in draft with colleges and sector bodies in Autumn 2023 for consultation so that you are clear what is expected and build your understanding and support. In parallel, we'll set up the necessary processes and data collection systems to operationalise the new managing public money requirements. The handbook will be finalised for publication in March 2024, ahead of an effective date of August 2024.

There is further information in the full government response document published on gov.uk, setting out how reclassification will affect specific areas. We'll continue to publish comprehensive guidance during the transitional arrangements.

At the outset of the review, we wanted to ensure that if colleges were reclassified, it happened in as seamless a way as possible, maintaining continuity and stability for the sector where possible. We have taken the time to get these changes right, to give you the support that you need as the

<https://lsect.co.uk/wp-content/uploads/2022/12/Halfon-letter-to-College-Principals.pdf>

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29 November 2022

To accounting officers in colleges. Copied to chairs of governing boards

Dear colleague

As many of you will be aware, following a review into the classification of the English college sector for the purposes of national accounts, the Office for National Statistics (ONS) has announced today that it has reclassified colleges into the central government sector. This decision has immediate effect.

The ONS decision encompasses providers that operate within the statutory further education sector as defined under section 81(3) of the Further and Higher Education Act 1992, i.e. Further Education Colleges, Sixth Form Colleges, and Designated Institutions. Related subsidiaries of colleges are also covered by the requirements and processes set out below.

Managing Public Money

Following this reclassification, colleges (and their subsidiaries) are now part of central government. They continue to be self-governing charities regulated by the Secretary of State for Education but are now subject to the framework for financial management set out in [Managing Public Money \(MPM\)](#).

MPM sets out requirements for everyone working in central government to manage and deploy public resources responsibly in the public interest, although much of what it requires can be recognised as common sense and therefore in line with how you already run your college. Some of the MPM requirements are already embedded in your funding agreement.

The mission of colleges to deliver the priorities set out in the [Skills for Jobs white paper](#), and enshrined in the Skills and Post-16 Education Act, has never been more important. Our reforms to funding and accountability ensure that colleges have the freedom to focus on and deliver the best outcomes for learners. ONS' decision to reclassify the sector does not alter these strategic aims. Colleges will continue to play a leadership role in England's skills system, and we will work to make sure that they provide the world leading skills infrastructure that our country needs.

Reclassification to the government sector does mean that there will be new requirements for colleges relating to financial management oversight, principally associated with approvals from DfE set out in [annex A](#). Alongside

<https://lsect.co.uk/wp-content/uploads/2022/12/ESFA-letter-to-College-Principals.pdf>

3

Useful AoC summary and view

DfE's new college oversight plans could be described as academy-style controls with a few commercial features. We believe that colleges work best when they are able to act independently in the interests of the communities they serve and we fear that the extra monitoring will make colleges less fleet of foot in meeting the needs of their students, employers, and communities.

We have and will continue to push DfE to improve and simplify the funding and accountability system but, in this decision, they have taken a simple copy and paste approach from the academy handbook. The development of a new College Finance Handbook might be an opportunity to make progress from this position.

Colleges retain their reserves and the ability to make capital spending and funding decisions. The new permissions and processes required for borrowing could limit college freedom of action and there is a risk governors and leaders will be constantly looking over their shoulders to check what officials think and to seek permissions. We have a specific concern about the speed with which ESFA will act in issuing approvals and we regret the fact that these controls are being introduced with no notice and without consultation.

Reclassification | Association of Colleges

aooc.co.uk/funding-finance/reclassification

AOC ASSOCIATION OF COLLEGES

Reclassification

Colleges are now classified in the public sector

The Office for National Statistics has published its decision on the classification of colleges in the UK National Accounts and its verdict is that all 228 college corporations and designated institutions in England as well as their subsidiaries should be reclassified to the public sector side of the UK national accounts. ONS explain their decision in a short statement which says that this decision is based on the existence of legal powers that have existed since 1992. Because of this, the public sector classification decision is retrospective to April 1993. Government statistics work in mysterious ways.

The government is introducing new controls on borrowing

<https://www.aoc.co.uk/funding-finance/reclassification>

4

Timeline and next steps

Item	Information	Dates
Borrowing consent	<p>Any new commercial debt, including additional usage of existing OD's and RCF's and undrawn existing loans as well as new agreements not completed before 29th November, will require consent from DfE as detailed in the AO letter from David Withey.</p> <p>Amendments to facility agreements from 29 November: No consent required: outside the scope of MPM changes include financial and non-financial covenants, standard wording clauses following underlying legislation changes or other reasons. Consent required: within the scope of MPM changes include the term of a loan, repayment profile change, interest rate change and providing additional security.</p>	From 29 th November
Transaction approvals	<p>Approval from DfE/ESFA will be required for:</p> <ul style="list-style-type: none"> Novel, Contentious or Repercussive transactions, Special payments, Write offs, Indemnities, guarantees and letters of comfort 	From 29 th November
Smoothing of payment profile	Invest £300 million before the end of the current financial year in bringing forward payments in March 2023, with an equivalent reduction in funding for each college between April and July 2023, which is then available to each college between January and March the following year.	March 2023
Capital projects funding	To account for limitations in commercial borrowing, we are adding £150m of capital funding to the capital transformation programme, to be allocated in spring 2023.	From April 2023
Senior pay controls	For new or amended reward packages of £150k or greater, performance bonuses over £17.5k subject to HMT conditions .	From May 2023
Financial handbook	Working with the sector to write the initial draft to be shared with colleges and representative bodies for consultation.	Autumn 2023
	Consultation period to iterate and work with the sector on content and guidance in the handbook ready for publication date.	Autumn 2023 - February 2024
	Finalisation to publish the new handbook in order for colleges to take the actions required to comply with MPM and public sector guidance.	March 2024
	Financial handbook comes into effect.	August 2024
Financial reporting	There will be no immediate changes to year end in FY22-23 or 23-24, and Government will work collaboratively with colleges to agree future arrangements.	FY 2024-25 onwards

For general enquiries, your first point of contact is the Enquiries service [online](#) or via email enquiries.esfa@education.gov.uk. For borrowing requests, contact PMO_Reclassification@education.gov.uk

Source: DfE slide presented on AoC webinar 05/12/22

5

Legal Impact of Changes

1. Impact on current and future borrowing
2. Settlement Agreements
3. Senior Pay
4. Disposal of land
5. Claim settlement parameters
6. Impact on pensions
7. Novel, contentious and repercussive transactions
8. Restructuring/Insolvency Regime
9. FE Handbook
10. Governance and charity law

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6

Future webinars - register at www.lsect.co.uk

- > 7 December - T-level funding
- > 12 December - Using FIS and ILR funding reports
- > 13 December - Making sense of achievement rates
- > 10 January - Apprenticeship Accountability Framework
- > 11 January - Apprenticeships and PDSAT
- > 18 January - Apprenticeship Accountability Framework
- > 22 February - Lsect Annual Data Conference (London)