Response to Proposals on the register of apprenticeship training providers

A submission from the
Association of Colleges: 5 September 2016

Further education colleges provide high-quality technical and professional education and training for young people, adults and employers. They prepare over three million students with valuable employability skills, helping to develop their career opportunities.

Colleges are inspirational places to learn because education and training is delivered by expert teaching staff in industry-standard facilities. From basic skills to postgraduate degrees, colleges offer first rate academic and vocational teaching, in a range of professions including engineering, hospitality, IT, construction and the creative arts.

Background
The Association of Colleges (AoC) represents and promotes 317 colleges in England incorporated under the Further and Higher Education Act 1992.
Further education (FE) colleges provide high-quality technical and professional education and training for young people, adults and employers. They prepare over three million students with valuable employability skills, helping to develop their career opportunities. AoC are responding on behalf of 308 colleges (95%) in membership and have sought their input into this response. Our members currently receive in the region of £550 million in apprenticeship funding from Government each year.

Introduction
We see there being two specific areas in response to both the register and the funding proposals:

1. Issues in transition
2. Issues in 'steady state'.

By 'transition' we mean the period prior to the point when all delivery is on standards, the Institute for Apprentices (IfA) has fully assumed its role and all employers are registered on the Digital Apprenticeship Service (DAS).
We recognise that both these documents concern themselves primarily with 'steady state' issues. We believe that a number of potentially negative outcomes following implementation can be avoided by **taking a more measured approach in the transition period**. We suggest this in order to ensure that we retain a stable platform for continuing and future apprentices, their employers and the delivery sector as we move to steady state. Currently we see this pragmatic approach in the continued funding of frameworks within the transition period, even though there is no intent to continue this when in steady state. We have approached these proposals with the same level of pragmatism.
It is worth noting that rules designed to prevent gaming and fraud can equally frustrate genuine activities designed to effectively meet legitimate need. It is a fine balance to strike between preventing the former and encouraging the latter. Our approach seeks to help achieve this balance by using the transition period to help identify where this balance in approach might best sit to ensure there is sufficient volume in delivery to meet employer demand.

1 Do you agree with the proposal that all organisations wanting to deliver apprenticeship training must apply to the new RoATP, and that they must

directly deliver some apprenticeship training themselves? In what instances do you think it might be difficult to move to this and why?

It is helpful to be able to clearly differentiate between those who deliver apprenticeships and those who do not. There is no doubt that the current system has seen a small amount of undesirable activity in the shape of brokerage and other practices that have done nothing to enhance the quality of apprenticeships.

We believe the changes and restrictions on access to RoATP would mean such undesirable behaviours are not practical or possible. However, we are aware of a number of examples where non-delivering 'managing agent' style relationships exist between providers that have evolved for positive and supportive reasons and we do not believe that such approaches should be lost, as they provide a delivery model that allows for a flexible approach to satisfying employer needs in a model that plays to the strengths of the participants. An example of this can be seen in the attached case study of Eastleigh College's sub-contracted delivery model available at Annex A.

We would suggest that during transition (i.e. prior to the point when all delivery is on standards, the IfA has fully assumed its role and all employers are registered on DAS) apprenticeship training providers who directly deliver some apprenticeships and who also offer a managing agent style service to other non-registered providers be allowed to continue these arrangements.

We would anticipate that activity would be undertaken in the transition period that allowed the model to be adapted to fit with the requirements for steady state. In steady state, we would expect such managing agents to be able to demonstrate an appropriate level of quality in their direct delivery and therefore be on RoATP in their own right.

We recognise that this may create tension in terms of funding flow that would need to be addressed in transition, but do not believe that this would be in any way insurmountable.

In steady state, dependent on the findings in transition, it might be helpful to create further levels of access to RoATP or to further develop thinking on the 'supporting' access route. It might also be helpful to develop a way of registering managing agents (along the lines of registered ATAs) which would give assurance that only genuine models prevail.

2 **Do you agree with the proposition that sub-contractors and supporting providers should be limited to delivering significantly less than half of each apprentice's training and therefore receiving significantly less than half the agreed price for each apprenticeship?**

In short, definitely not. Aside from difficulties in measuring what constitutes half of each apprentice's training, this proposition is highly restrictive and more likely to prevent innovation and flexibility in delivery rather than prevent inappropriate behaviours. We do not believe that it is workable in practice and would prevent, for example, providers coming together to provide a 'one stop shop' for an employer

seeking to contract with a single provider to meet the needs of a diverse range of workforce skills that may be beyond the expertise of a single provider; the logical solution to such a situation would be to appoint a prime contractor to coordinate delivery in which some frameworks might be delivered solely by a sub-contractor. When combined with the requirement for a prime contractor to deliver some frameworks directly there is no need for such an onerous proposition. A key principle should be to continue to let the market determine what works whilst keeping a close eye out for gaming and fraud and applying appropriate responses.

During transition, we would support a more measured approach that is progressively stiffened towards a position closer to that proposed in steady state. This approach is more likely to result in the retention of a more stable provider base that is well positioned to respond effectively to the reforms and employer demand.

3   **Do you agree that this proposition should apply to all providers, including employer-providers wishing to act as a supporting/sub-contracted provider to a main provider?**

The underlying principle should be to treat everyone the same where they are being funded to do the same. Exceptions should be made for common sense exclusions, not because the provider is of a certain type.

There are many scenarios where collaborative working in apprenticeship delivery makes sense for both the employers and apprentices. For example, where an employer wants a 'one off' apprenticeship delivered that is not something the lead provider can deliver or where the relationship is between a university and an FE college. The requirement for the lead provider to be delivering the majority of off-the-job training will prevent such approaches and we do not believe that this will be in the best interests of employers.

In any event, it is hard to imagine how this rule would be enforced as it will be difficult to determine what constitutes the 'majority' in a simple and reliable way. Such a restriction will not encourage the development of new and innovative delivery models which will of course be needed to meet the needs of employers cost effectively.

4   **What merit is there in having a separate 'supporting' application route for providers who only have capacity and capability to deliver parts of apprenticeships on a small scale, in support of the main provider's delivery?**

As these new processes are being introduced, we are unsure about what may happen, but it seems likely that new delivery models will emerge (as long as restrictions to control the market are not too draconian) that may require different types of access or membership of RoATP. This should be left open in transition, kept under review and if appropriate, consulted on.

5   **Do you agree with the proposal for a separate application route for employers wishing to deliver to their own staff?**

This would appear to be a common sense exception. However, should the employer

decide to move to become a full training provider, there should be no short cut to the application route.

6 Do you agree with our proposals for financial health test? If not, in what areas would you suggest we amend our approach?

Yes, it seems sensible to avoid duplication in financial assessment and to apply a risk based approach.

7 What specific questions should we ask providers to determine whether they are a high quality apprenticeship training provider?

Simply using the Ofsted grade for apprenticeship provision is a blunt instrument and does not recognise that some providers may be delivering a strong and effective offer in some sectors whilst they are weak in others. This should be reflected in the information available to an employer, perhaps with a 'flag' on the register; such providers should be dissuaded from taking on new starts in their weak areas. They should be free to continue to promote their effective offers. In transition we would expect such providers to work with SFA to agree both an action plan to improve their weak provision (also agreed with their employers) and to agree subjects where they may continue to promote their offer and take on new starts. We believe that if this approach is not taken, particularly in transition, a lot of strong provision will be lost, particularly in lower volume 'specialist' areas where such providers may well have plans to grow over the coming months in line with the intent of the reforms.
The existing approach used by the inspectorate for grading apprenticeship provision should be reviewed to make it more reflective and supportive of the intent of the apprenticeship reforms.

AoC has concerns regarding the way in which a descriptive process will be used to assess who should and should not be registered. For example, the fact that a member of staff has been in post for a number of years, or has worked with large employers is not indicative of the quality of provision. In steady state we would expect to see strong emphasis on employer and student feedback, but recognise that this might not be possible in the initial transition to RoATP. We propose that the list of information that is set out in paragraph 42 is reviewed and objective measures for judging capacity and capability introduced.

If there are to be questions within the RoATP application process regarding the intended approach to delivery for those who already have acceptable evidence of their success in delivery, then these questions should not be specific to the delivery model – a good provider will adapt the delivery model dependant on the needs of the employer and the students.

8   What evidence of quality, capacity and capability should organisations who are newly established, have no previous experience of delivering apprenticeships or do not have an Ofsted inspection or QAA review on record be asked to provide?

For new entrants we would expect there to be questions within the RoATP application process regarding the intended approach to delivery. These questions should not be specific to the delivery model – a good provider will vary the delivery model dependant

on the needs of the employer and the students. Questions should therefore focus on how the provider will adapt their offer. We would expect this type of questioning to feature strongly in the application process for new entrants.

Such potential providers should be asked their motivations for seeking to enter the market in the first place and they should specifically set out how they :
 I. Identify employer needs.
 II. Identify student needs.
 III. Adapt their offer cost effectively in response.
 IV. Identify sectors to be supported and the range of apprenticeship frameworks and standards likely to be offered.

It would also be helpful to ask such potential providers what other relevant experience they have that leads them to believe they can produce a high quality offer in their chosen sector(s).

Taking up references and 'new' providers being flagged as such on the register should be considered. .

Where the application is from a new delivery body established in response to the reforms (such as joint ventures recommended by area based reviews) we would anticipate the RoATP application process providing the opportunity to provide evidence of successful provision as achieved by the bodies within that new venture.

9 How do we ensure there is sufficient, high quality apprenticeship provision for all employers to access through this register process?

This is a new process to support a new offering that is being funded in a new way. It is hard to imagine how one might model for an answer to this question! We would advise that it would be unhelpful to restrict existing provider access any more than is necessary, particularly when considering the exclusion of existing delivery models and vehicles. We would hope that the final process will not restrict the use of new delivery models and vehicles from being tried and tested in the understandable drive to mitigate against gaming and fraud.

We believe our answers to questions 7 and 8 are also relevant to this question.

10 Do you agree with our proposal to open RoATP four times a year? If not, how often should it be open and why?

We believe a rolling approach to application may be more effective, particularly if SFA wish to keep sufficient providers available to support employer demand. Four openings means that there would be a significant amount of time for those who fail to wait before re-applying. This time lag could well force providers out of the market.
A rolling programme would also allow those on RoATP to update their registration in line with any changes at the point of change. We do not believe that an annual renewal would be needed if the system asked that RoATP be updated when change occurs.

11 Are there any 'unintended consequences' of our planned approach and, if so what are they and how can we avoid them?

As with any major reform there is always the risk of unintended consequences, some of which have been outlined in this response. However, many issues will emerge during the implementation process. With that in mind, we strongly recommend that the transition time (as we define it) be used to slowly stiffen the system in line with the genuine intent of these proposals. Such an approach will allow us to see the impact of the reforms and ensure that they remain in line with the initial intent of these changes.

12 Do you have any final comments about our planned approach?

AoC continue to offer our commitment and support to the Skills Funding Agency (SFA) in the implementation of the reforms and the intent behind them.

AoC is strongly in favour of using the time until we are in true steady state as a further transition period to allow for a considered approach to these fundamental changes. Such an approach will allow stakeholders to assess the potential impact on delivery of the reforms and, in the light of experience, slowly stiffen the approach to achieve the desired intent. We believe that by taking this approach we are less likely to introduce any major unintended consequences that might see us losing some of the very provision that we are seeking to encourage and grow.

Annex A

Eastleigh College's subcontractor network provides a positive multiplier effect into the circular flow of income in local economies (and ultimately the national economy), improving productivity, inward investment and skills levels nationally. The 28 apprenticeship subcontractors working for Eastleigh College operate as individual commercial business units, predominantly in niche areas of provision (at all levels and with all age groups), with the college truly embedded as a strategic partner in Board level decision making and in the operation as a whole. We are far more than a managing agent, purely top slicing a management fee with little to no input. We are their highly valued business partner and we / they have no desire to cease this successful working relationship, and more importantly neither do their / our employers (the college network works with >2,500 employers nationally).

Key benefits include:

1.   With the downsizing of the SFA headcount over the last few years, especially at local level, the college has taken on the role of the SFA with the subcontractor network. The subcontractors have no desire to become a direct contract holder via the new Register of Apprenticeship Organisations given they (a) do not have the expertise in the organisation and it would cost them more than the existing management they pay the college to recruit said expertise; (b) to not have the MIS system/s in place to manage the ILR uploading and have no wish to implement one (as it is cost ineffective) and (c) do not wish to be directly responsible for both external funding body audit and Ofsted inspections, as they rely heavily on the college the steer and support their business to ensure they remain outstanding (in terms of financial health, compliance and quality).

2.   Working with an experienced a highly qualified college based team, with commercial backgrounds, to support their business – described as a "safe pair of hands" by the SFA i.e. 11 years' experience of subcontractor management. We manage the "bureaucracy" i.e. audit, ILR funding claims and quality assurance for a cost effective fee, the subcontractor delivers the training (their specialism) working in partnership with the college to ensure quality is outstanding. Employers and learners receive an outstanding service – see the college's 2015/16 FE Choices scores as evidence (.

3.   Management of funding claims (our subcontractors do not have ILR uploading facilities and under developed MIS systems).

4.   Management of funding rule compliance and ultimately funding body audits – Eastleigh College has achieved a 0% error rating on every external audit undertaken (tested every year) over the last 11 years.

5.   Bidding, business development and growth support – qualified procurement personnel and experienced bid writers support subcontractors to win business i.e. ESF and Local Growth Deal funding. Access to the RCU system is provided to ensure detailed LMI is available and analysed to support development activity.

6.   LEP and local authority communication and development – the college works hard to raise the profile of subcontractors with their local stakeholders.

7.   Branding and marketing of their offer to a wider footprint than achievable as a standalone provider. This will include running national employer roadshows throughout 2017 to launch and support the Levy, supporting subcontractor employers with the new funding system and helping them understand how best to maximise the opportunities that exist.

8.   Financial health monitoring and guidance – qualified accountants work with each subcontractor to provide live support in terms of financial management and health.

9.   Ongoing policy guidance – this is a dedicated function at the college, where all new Government policy is analysed and subcontractors are advised of direction of travel to ensure they stay ahead of the curve in terms of business development.

10.   Robust ROTO support mechanism – we complete this process for our partners (working with their accountants / Board).

11.   New product development – support in developing new Standards, implementing new Standards etc.

12.   Economies of scale in terms of purchasing power (MIS systems, eportfolio platforms etc.)

13.   Quality improvement support with a dedicated Quality and Compliance team attending national standardisation meetings, providing on the ground audit / compliance support and guidance pertaining to the Ofsted Common Inspection Framework i.e. supporting their teaching and learning (through the undertaking of robust lesson and IAG observations)

We would strongly urge Government to retain the managing agent model of subcontracting. It is our belief that the removal of this model will ultimately lead to apprenticeship capacity being lost in the system (as subcontractors struggle to manage the complexity of multiple funding systems and regulations) and a multitude of both poor financial health and poor quality scores being achieved by infant and inexperienced subcontractors. There is absolutely a vital role for lead providers like Eastleigh College to play in the "new world" – please don't let this get lost in the vacuum of constant and evolving policy change. Give subcontractors the choice.