

From the margins to the mainstream: Sixth Form Colleges and academy conversion

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Background

The 93 Sixth Form Colleges in England are an education success story. They outperform school and academy sixth forms while educating more disadvantaged students and receiving less funding. Sixth Form Colleges also offer superior value for money by delivering better outcomes than schools and academies at a lower cost to the public purse¹. All of this is achieved with a greater proportion of students eligible for Free School Meals: 11 per cent of Sixth Form College students were eligible for this benefit at age fifteen compared to 8 per cent of students in academies.

As well-established, effective and efficient institutions rooted in their local communities, Sixth Form Colleges are ideally placed to help the Government meet its objectives for 16-19 education. But since 2010, the sector has been largely ignored by policymakers. While it has been common for politicians to visit countries such as Singapore, Japan and Finland to discover the 'secrets' of their education systems, they have consistently overlooked a home grown success story that has been quietly delivering outstanding results in places such as Darlington, Luton and Brighton.

While no new Sixth Form Colleges have been approved to open in the past five years², 169 new school or academy sixth forms have opened their doors. In the same period, twenty 16-19 free schools have either opened or are in the pre-opening stage³. These trends are likely to continue. The Conservative Party manifesto included a commitment to open at least 500 new free schools and states that *"We will continue to allow all good schools to expand, whether they are maintained schools, academies, free schools or grammar schools."*⁴

Sixth Form Colleges have been marginalised in the rush to increase or expand the number of academies and free schools. A superior product has been displaced by a brand that is more appealing to policymakers. This seems unlikely to change over the next five years, although it was encouraging to hear the Secretary of State for Education say recently that *"what matters is what a young person sees as they walk out of the school gate, not the name they see on the way in."*⁵ What matters is what works, and over a forty year period, Sixth Form Colleges have developed a model of teaching, learning and support that has enabled hundreds of thousands of students to fulfil their potential. But the sector – and the Government's approach to the sector - must evolve if Sixth Form Colleges are to maintain their own high standards and help to drive up performance in schools, academies and free schools.

No man's land

There are huge potential benefits to moving Sixth Form Colleges from the margins of education policy to the mainstream. At present, the sector is marooned in the no man's land between further education and schools/academies/free schools. As a result of the Further and Higher Education Act 1992, Sixth Form Colleges were moved from the schools sector to the further education sector. This was viewed by many as a mistake, and the Apprenticeships, Skills, Children and Learning Act 2009 provided Sixth Form Colleges with their own distinct legal identity, in part to help distinguish them from the rest of further education⁶. While further education colleges are regulated by the Department for Business, Innovation and Skills (BIS), the Department for Education (DfE) regulates Sixth Form Colleges. In practice, there is an unhelpful assumption that BIS is responsible for 'colleges' and DfE for schools and academies. Policy announcements often reflect this and Sixth Form Colleges can be overlooked as a result. For example, it took over two years to confirm that Sixth Form Colleges were eligible for support through the National College for Teaching and Leadership, during which time the sector was unable to access any publically funded improvement support.

On the ground, most Sixth Form Colleges have more in common with schools and academies than they do with further education colleges. Over 90% of the curriculum in Sixth Form Colleges is at Level 3 and almost three quarters of that is A level provision⁷. On the whole, Sixth Form Colleges compete for students (and staff) with schools, academies or each other rather than further education colleges and the majority of Sixth Form College staff hold Qualified Teaching Status (QTS) rather than a further education teaching qualification. In many respects, Sixth Form Colleges (high performing, autonomous and collaborative) were the forerunners of the academy programme.

A new direction

Moving Sixth Form Colleges out of no man's land would enable other providers - particularly 16-19 academies and free schools⁸ - to become part of their education success story. Sixth Form Colleges are at the forefront of developing what has been described as *"the kind of collaborative environment, within a competitive marketplace, that schools need to flourish."*⁹ A recent report published by SFCA evidenced the vital role that Sixth Form Colleges play in driving up standards in their communities through academy sponsorship, supporting failing schools and colleges, and leading teaching school alliances¹⁰.

Many Sixth Form Colleges would like to go further, but they are hampered by their current legal status. For example, Sixth Form Colleges cannot join a Multi Academy Trust (MAT). This means the best performing providers of 16-19 education in England are excluded from participating in this increasingly popular collaborative structure (or even a looser, Umbrella Trust arrangement). At a very basic level, some Sixth Form Colleges have even found it difficult to sponsor an academy – some have been told by brokers that they cannot become sponsors and others have seen their requests for more information ignored.

Operating under an academy trust arrangement would deliver educational benefits to students through the sharing of expertise and good practice. It would deliver financial benefits through shared services and improved purchasing power. And it would also help to address growing concerns about the educational performance and efficiency of small academy sixth forms. Sixth Form Colleges could help to tackle underperformance here either by sharing staff and resources or by absorbing students into their own institution. Within a trust arrangement, the decision to add a sixth form to an academy would be made based on the needs of students in the local area, rather than institutional self-interest.

Conversion would also help the Government to meet some of its high profile policy objectives. For example, an extremely cost-effective way of establishing a significant proportion of the 500 planned free schools would be to treat converting Sixth Form Colleges as 16-19 free schools. Governing bodies of Sixth Form Colleges are comprised of parents, teachers and business leaders that are committed to providing the best possible education to local young people – very much in the spirit of the free school programme.

The Sixth Form Colleges' Association now represents a number of 16-19 free schools and they are under enormous financial pressure – partly because they are unable to cross subsidise from more generous pre-16 funding (like schools and academies) and partly because they do not have – and in some cases will never have – a sufficient number of students to be financially viable in the long term. The average number of students in a Sixth Form College is 1,700. SFCA has a network group of small Sixth Form Colleges (those with fewer than 1,200 students) as these are the institutions in the sector under the greatest financial pressure – most have serious doubts about their short to medium term viability. Given that most 16-19 free schools *when full* will have around 400 students, there is a risk that this group could become a network of white elephants. A further benefit of allowing Sixth Form Colleges to change their status is that they would be able to form much closer collaborative relationships (again, as part of an Umbrella Trust or MAT) with 16-19 free schools – providing the economies of scale necessary to survive and the curriculum breadth necessary to thrive.

Making the change

While it is legally possible for a Sixth Form College to become a 16-19 academy (a Corporation can dissolve itself and then apply for academy status) the DfE is not currently able to consider applications. This is because it has not yet reached a decision on how to deal with the cost of conversion – specifically the £30 million required to reimburse Sixth Form Colleges for their VAT costs each year¹¹ (16-19 academies have their VAT costs refunded by the Government but Sixth Form Colleges do not) and the £126 million¹² required to pay off the sector's debts (as in most circumstances, 16-19 academies are not permitted to borrow money). Given the return on investment that would be secured by academy conversion, these costs are extremely modest. Similar arrangements have been made by the DfE in the past to handle the academy conversion costs of independent schools.

Sixth Form Colleges enjoy a small number of freedoms that 16-19 academies/free schools do not - these include the ability to; borrow money on the open market (although this has become an increasingly theoretical freedom as 16-19 funding declines), charge fees to non-EEA students, and receive direct funding from HEFCE to deliver higher education. Rather than remove these freedoms from Sixth Form Colleges that convert, the Government should consider *extending* these freedoms to 16-19 academies and free schools. Operating on a truly level playing field will help the 16-19 education market to function more effectively and deliver greater benefits to students wherever they choose to study.

The Sixth Form Colleges' Association believes that the issue of academy conversion should be explored with the Government in more detail. This was one of the key conclusions drawn by SFCA Council members at the annual strategy day that took place earlier this month. A snap poll of delegates at the SFCA Summer Conference reflects this view - 68% wanted to explore conversion further, and 90% agreed that closer links should be forged with schools, academies and free schools. Of course, not all Sixth Form Colleges will want to become 16-19 academies, but we believe the *option* to convert should at least be made available. As independent, autonomous institutions, Sixth Form Colleges will make this decision based on the best interests of their learners and local community. SFCA will work hard to ensure that individual Corporations can make an informed choice about conversion through the provision of impartial and accurate information and advice.

Making an informed choice

As a starting point, the table below has been provided by officials at the Department for Education and outlines some of the key differences between Sixth Form Colleges and 16-19 academies/free schools.

	Sixth Form Colleges	16 to 19 academies/free schools
ONS classification	Private Bodies.	Public Bodies and therefore must adhere to the requirements for financial reporting.
Admissions	Not bound by the admissions code. Do not require the Secretary of State's agreement for their admissions arrangements.	Not bound by the admissions code. Admission arrangements must be fair, objective and transparent and must be agreed by the Secretary of State (SoS).
Special Educational Needs and Disability	SEND code of practice ¹³ outlines legal requirements that must be followed without exception and statutory guidance that must be followed by law unless there is a good reason not to.	As SFCs. The policy in relation to admission to, and support for, students with learning difficulties and with disabilities must be agreed with the SoS.
Exclusions	Free to set own exclusions policy. Policies are agreed with Governors, parents and learners and are published on the SFC's website.	The 16 to 19 academies policy on student exclusions must be agreed by the SoS.
Funding	Funded on a lagged learner number basis on a 'grant in aid' basis.	Also funded on lagged learner numbers and at the same per learner rate as SFCs. Funded on a contract for service basis.
Data	Individual Learner Record	Individual Learner Record (some complete school census)
Borrowing	Have the freedom to borrow funds.	Cannot borrow funds unless authorised to do so by SoS.
Charging	Cannot charge fees to UK and EU students but can charge fees to non-EEA nationals.	Cannot charge fees to any students, including non-EEA nationals.
VAT	Not eligible for VAT rebate.	Are eligible for VAT rebate.
Joining an Academy Trust	The SFC Governing body is a body in statute where as an Academy Trust is not. For this reason the two cannot enter into a 'hard' federation (for example a Multi-Academy Trust).	Can join an Academy Trust, including a Multi-Academy Trust.
Sponsoring an Academy	Can act as the sponsor for a sponsored academy.	Can act as a sponsor for another sponsored academy.

The DfE has also made it clear that 16-19 academies/free schools are:

- A distinct type of educational institution. They are legally neither schools nor Further Education Institutions.
- Principally concerned with providing full-time or part-time education suitable to the requirements of 16-19 year olds. Provided this requirement is met, the 16 to 19 academy/free school can cater for students outside of this age range.
- Free to set the pay and conditions for their staff.

Some additional points are worth making:

- The requirement to have admissions, SEND and exclusion policies 'approved by the Secretary of State' can appear daunting. But reports from 16-19 free schools suggest that in reality, this has proved to be a straightforward process involving an email exchange with DfE officials.
- One 16-19 free school has already adopted SFCA terms and conditions of service for its staff, and any Sixth Form College that changed its status could continue to do so.
- Although 16-19 academies/free schools cannot borrow money on the open market, they can, like Sixth Form Colleges, borrow through the Condition Improvement Fund¹⁴ for capital projects. Loans are offered at Public Works Loan Board rates of interest, the same that local authorities can access to invest in their schools.
- HEFCE has confirmed that they cannot provide funding to 16-19 academies/free schools directly, but higher education can be delivered by 16-19 academies/free schools through a franchise arrangement.
- 16-19 free schools/academies are inspected under the same framework as Sixth Form Colleges (further education and skills providers)

Although not the primary driver for academisation, there are some financial benefits to conversion. For example, the average Sixth Form College pays an average of £335,000 per year in VAT. The 2011 Finance Bill introduced Section 33b of the VAT Act 1994, which enacted a VAT refund scheme for academies (including 16-19 academies/free schools). This additional income plus smaller subsidies (for example the contribution made to meeting insurance costs) provides institutions with more funding to invest in the front line education of students. The additional financial reporting¹⁵ required by 16-19 academies/free schools as public sector bodies should be considered in this context.

For some Sixth Form Colleges, the loss of income from charging fees to non-EEA students will act as a significant disincentive to academisation. Although a Sixth Form College that converts could continue to charge fees to students until they complete their course, they could not enrol new fee-paying students.

It is also important to understand that to date, no institution that has academised has reverted back to its original status at a later stage. But the same is true of more than thirty Sixth Form Colleges that have changed their status since 1993 – largely as a result of merger with FE colleges.

Next steps

SFCA has a clear mandate from its members to explore the issue of academy conversion in more detail. We will meet with ministers and officials in the Department for Education and urge them to allow Sixth Form Colleges that wish to convert to do so. Several Sixth Form Colleges (and groups of Sixth Form Colleges) have already volunteered to act as academy pathfinders – a process we have agreed to support. Alongside this, we will make the case for retaining some of the sector's freedoms (e.g. borrowing powers, the ability to charge fees to non-EEA students and receiving direct funding from HEFCE) by extending these freedoms to 16-19 academies and free schools. We will also develop a cost/benefit analysis that evidences the economic impact of academisation.

Academy conversion is not being presented as a panacea to the challenges facing Sixth Form Colleges or Government. But it is a step that should be given serious consideration in the short term – particularly as the Government is looking for 'big ideas' early in this new Parliament and shortly before an important Budget and spending review. This paper has set out the context and key issues in the academisation debate. It is important that Sixth Form College Corporations are aware of these ahead of any potential decision from Government. It is also important that they have access to impartial and accurate information and advice before making a decision on changing status. But to reiterate, this decision would be for individual Corporations to make based on the best interests of young people in their local community.

Enabling Sixth Form Colleges to become 16-19 academies or free schools would be an important step towards moving the sector from the margins of education policy to the mainstream. Sixth Form Colleges make a vital contribution to system-wide improvement in the education system and conversion could unlock the potential of the sector to make an even greater contribution. If the Education and Adoption Bill that was introduced to Parliament this month is passed, the Government estimates that around 1,000 additional schools could become academies and hundreds more 'coasting' schools will be subject to intervention. There is a clear opportunity here for Sixth Form Colleges to extend their reach and help to improve the educational performance and progress of many more young people than the 160,000 students that the sector currently educates.

Please contact SFCA if you wish to discuss any of the issues in this paper in more detail. This document will be updated on a regular basis to reflect feedback and questions from the sector.

References

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- ² Hansard, January 2015:
<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-01-13/220526/>
- ³ List of all free schools, opening or in pre-opening stage:
<https://www.gov.uk/government/publications/free-schools-open-schools-and-successful-applications>
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- ⁷ Directory of Sixth Form Colleges 2013/14, Sixth Form Colleges' Association:
<http://www.sixthformcolleges.org/sites/default/files/SFCA%20Directory%20Analysis%202014.pdf>
- ⁸ The only significant difference between a 16-19 academy and a 16-19 free school is how they are established. Most of the former are existing institutions that have changed their status. Most of the latter are new institutions set up by members of the local community.
- ⁹ O'Shaughnessy, J. Competition Meets Collaboration: Helping school chains address England's long tail of educational failure, Policy Exchange, October 2012:
<http://www.policyexchange.org.uk/publications/category/item/competition-meets-collaboration>
- ¹⁰ Unlocking the potential of Sixth Form Colleges, Sixth Form Colleges' Association, October 2013:
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- ¹¹ Hansard, November 2014:
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- ¹² College accounts academic year 2012 to 2013 data:
<https://www.gov.uk/government/publications/sfa-financial-management-college-accounts>
- ¹³ SEND code of practice: <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>
- ¹⁴ Condition Improvement Fund information:
<https://www.gov.uk/condition-improvement-fund>
- ¹⁵ A summary of the financial returns that academy trusts are required to make can be found here:
<https://www.gov.uk/academies-financial-returns>