

# **Report of the Review of Further Education Governance in Scotland**

**Conducted by  
Professor Russel Griggs OBE**

**Submitted to The Scottish Ministers  
20 January 2012**



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## **Acknowledgements**

When I was invited to lead this review by the Cabinet Secretary for Education and Lifelong Learning he made it clear that he wished it to be undertaken independently of Government. The way in which the review was to be conducted, and the conclusions reached, would be entirely my responsibility and I was delighted to proceed in this way.

However, I was determined that the review would take into account the views of as wide a group of people and organisations as I could connect with, in the time available. These are listed in Annexe A. I also wanted, at the core of the review, a group of people who could provide me with the advice and challenge that is needed, as you become immersed in these projects and sometimes lose sight of all else.

Therefore I cannot thank enough the knowledge, reality and pure common sense that the following have given me throughout this task.

**Dr Mike Cantlay** - Businessman, Chair Visit Scotland and ex-Chair of Forth Valley College

**Graeme Kirkpatrick** - Depute President NUS Scotland and ex-Student Association President and College Governor at Aberdeen College

**Brian Lister OBE** - Principal and Chief Executive, Stevenson College Edinburgh

**Ken Wimbor** - Assistant Secretary with the Educational Institute of Scotland (EIS) and Head of the Organisation Department which includes responsibility for Further and Higher Education within the Institute

And for keeping us all sane, the great team of Scottish Government officials who provided not only assistance but good advice and knowledge as well.

Graeme Malcolm - Administrative Officer, Colleges and Adult Learning Division

Stephen O'Neil - Policy Executive, Colleges and Adult Learning Division

George Reid - Head of the Colleges and FE Student Support Team

I am also delighted that I, and those who have advised me, are as one on the issues and recommendations within the review. This to me is critical, as without the learner and the staff being at the heart of what the sector seeks to do, nothing will be achieved.

We are also issuing the report of the review, at the request of the Cabinet Secretary, slightly later than our initial schedule. We believe that the Cabinet Secretary will now be in a position to consider this report within a timescale which fully matches his

consideration of the responses to the other papers and documents which have recently sought views on specific issues affecting the sector. In seeking to identify the optimum governance arrangements for the FE sector, this report seeks to draw together a very wide range of issues affecting the sector.

Also while we have tried to ignore it as much as possible, we cannot totally put aside the challenges the difficult financial climate that we all find ourselves in at present bring, and will continue to bring for some time to come. In this way we have sought to deliver an integrated and co-ordinated suite of conclusions. Notably, we have made our recommendations on governance in the context of the landscape which we believe needs to exist. We believe this approach has avoided the risk posed by considering issues in isolation, with the consequent risk of moving the sector to the wrong place should we not get the whole package in place at the same time. Therefore, we are flattered that recent consultation papers from Scottish Government and the Scottish Funding Council have included structures and ways of working which reflect the discussions which the review team had with both organisations, and which are consistent with those which this review recommends. We believe however that the creation of a truly cohesive sector rests on the implementation of the full range of recommendations made in this report.

A handwritten signature in black ink, appearing to read 'Russel Griggs', written in a cursive style.

**Professor Russel Griggs OBE**

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## **Executive Summary**

### Context

When the Cabinet Secretary for Education and Lifelong Learning asked me to conduct this review the terms of reference were set out clearly. That remit clearly split the task I was given into two parts

- a) How the sector as a whole should be managed across Scotland
- b) Having decided that, how each College or entity should be governed.

Subsequent to us starting the review a consultation paper 'Putting Learners at the Centre' was published in September 2011, and as a result of that the Cabinet Secretary amended the focus of the remit slightly.

That consultation paper and the subsequent consultation paper on regionalisation set out a suggested new structure for the FE Sector based on a regional model. Before the publication of 'Putting Learners at the Centre' we had already begun to consider a regional model based on our own thoughts and research. The regions, with one exception, set out in the regionalisation consultation paper are those that we would have recommended.

In effect, therefore, for the purposes of the report we will take our first recommendation of the move to a regional model for the College Sector as being accepted and focus more on what that outcome means.

In all that we have recommended though, and at the centre of all we have discussed, is the learner who has to be at the heart of all that is done in the College.

In conducting the review we have tried to look at not just what is needed today but perhaps more importantly what will be needed in the future. What is recommended in this report should only form the base for the College sector to evolve further. It also tries to, as much as it can, ignore the current fiscal environment we all find ourselves in, and recommends a solution that applies in any fiscal environment.

The benefits we believe this new structure will bring will be significant, but without proper investment and management to match that new structure the task risks being done in a manner that delivers the wrong or an incomplete outcome.

Unusually this Executive Summary lists all the recommendations that we make and that is because we believe that it is the totality of those recommendations that will bring the change that is needed, which will not be achieved by implementing only parts.

## Introduction

The structure of governance we have in place today in the College Sector has not really been challenged since 1992.

Governance can only operate within the context and rules which are given. Therefore we need to be absolutely clear that, in all that we write in this report, there is no criticism of current College Boards and Principals implied or indicated. They have operated in the way they felt fitted with what they had been asked to do.

The definition of governance that we have used is

*'it is the framework of rules and practices by which a Board of any form ensures accountability, fairness and transparency in an organisations relationship with its stakeholders and shareholders to ensure they are bought into what the organisation does.'*

Governance in a sector like FE also needs guiding principles and policies in which to operate and in our opinion those have not been clear at a national level for many years. The 'Putting Learners at the Centre' consultation paper published in September starts to provide that national framework so we have used it also as a basis for our review.

## Background

The current structure and governance of the FE Sector in Scotland was set up as a straight Scottish parallel to the Further and Higher Education Act in 1992 in England and Wales. Basically it backed Colleges out of the Local Authorities they were part of, made them independent entities with charitable status, gave them some governance requirements by statute, and then told them to be free, independent and create their own future. Since then we can find nothing that has changed, or sought to change, that situation. Neither, as far as we can ascertain, has anyone re-examined that basic decision to see if what was created in 1992 was or is fit for purpose today.

## What the FE sector looks like today

Currently we have 37 Boards of Management of incorporated Colleges with a further four Colleges which are not incorporated in statute but are publicly funded.

The sector received £693 million in public funding in 2010/2011 which was a real terms increase from that which it received at the turn of the Millennium.

While the sector undoubtedly did produce the innovation which was hoped for post 1992, in recent years it has also given rise to many inequalities. We highlight over 20 in this report, the majority of which we do not believe add value to the learner across Scotland or provide a consistent national approach in areas where perhaps that is

desirable. Focus has remained, for the Colleges, on their own geography without any real focus on what is best for the learners across Scotland.

There also has been no real national direction or policy from Government for many years which can provide the overall guidance and principles that the sector needs, and with 41 different College Boards it has been difficult to establish any real cohesive engagement between Government and the sector as a whole.

The funding mechanism that the sector currently uses also does not help either governance or cohesion.

This, along with other issues surrounding the status of Colleges, has diminished the value that the sector should contribute to the Scottish economy.

We highlight other aspects where the current structure and governance do not bring the outcome that we would all want from the sector, and no-one in the sector that we have consulted has stated that the status quo in the sector should be preserved.

### Structure and Governance of the FE Sector as a whole

The regional structure, we feel, gives the best platform on which to build for the future. On the one hand a more cohesive and consistent sector, while on the other maintaining its links with the communities it serves. It also allows policy to be more nationally managed where that is appropriate.

'Regional' though does mean just that and while we accept that there could be different models of organising the existing Colleges, under this new structure there should only be one Regional Board with the power and control to both receive the funding from Government, via the SFC, and decide how to manage what it then controls.

To achieve that we have put in place a set of recommendations which we feel will together deliver this outcome. However these need to operate together and piecemeal selection will not achieve the desired outcome.

### Recommendations (i)

1. That as soon as is practicable, and if possible by academic year 2013/14, we deliver a new regional structure for the College Sector in Scotland using the regional alignment set out in Annexe J of this report.
2. The Chairs and the Principals/ CEOs and the Student Representatives of all the Colleges, the UHI centre, the Local Authorities, Trade Unions plus any other body that has a key current or potential interest in UHI be given the task, by June 2012, of producing a solution for their area which uses the regional structure and governance proposals from this review as its base.

## Governance of the new Regional Boards

We believe that the new Regional Boards should be distinctly different from what exists today as they are being asked to do different things and also have the capacity to do things differently in many areas.

We therefore believe that the way the Chairs and Boards are appointed be changed to align with that seen elsewhere in the public sector, although we are not recommending that Colleges become public bodies themselves.

We believe that part of the reason why the current governance model is not working as well as it should is the lack of clarity and direction given to Boards in terms of what is expected of them.

To achieve that change we believe means moving to a new place in terms of the way Boards operate, and we recommend that Boards should be given outcomes which they have to achieve and then be judged through a new auditing system to ensure they have achieved them. This will mean that the Boards will be clear of 'the what' in terms of what is being asked of them through the individual outcomes, but will encourage different solutions, and we hope innovation, in 'the how' of those outcomes being achieved.

To achieve that we have listed an initial eighteen outcomes that we believe Boards should be responsible for.

To achieve all that, we have made specific recommendations.

### Recommendations (ii)

3. New Chairs and Boards are recruited and appointed to manage and govern the new regions.
4. The new regional Chairs and Boards be selected using an outcome based approach to determine the skills necessary to carry out their task and once in post each Board should be audited against that set of agreed outcomes.
5. The Chair is appointed in line with the principles and procedures which apply to the public appointments system, though we do not believe that the new regional bodies need be 'public bodies' in the formal sense. We recommend that the appropriate Minister in charge of this sector endorses the appointment.
6. The Chair of the new regional entity, using the principles and procedures of the public appointments system, leads the process of appointing the Board, as set out on pages 28 and 29. That Board should be a maximum of 12 members and contain within that number one member of staff and the elected President of the Student Association to represent the learner.

The latter two would have the same roles and responsibilities as other Board members.

7. Each Regional Chair and Board will be audited annually or at an appropriate time to ensure that they are fulfilling their agreed outcomes. If they are not doing so a programme of action will be put into place to rectify areas of concern or failure. This could ultimately lead to the removal of the Chair and/ or Board if they do not fulfil the required outcomes.
8. Chairs of the individual Regional Boards should be remunerated in the same manner as Chairs of some other public entities.
9. The Principal should attend all Board meetings other than where it would be inappropriate to do so. The Principal though should be involved with the Board on all discussion to do with the creation of the strategy which the Principal and his/her team will have to deliver.
10. By December 2012 Audit Scotland, Education Scotland, and the Scottish Funding Council work together to put in place an auditing framework which will allow the outcomes driven approach pursued by the new Regional Board to be judged and monitored effectively.
11. Repeal of the requirement which remains in the 1992 Act that the Board of Management must contain a nominee of the local enterprise company.
12. Chairs of the Regional Boards should serve one term (4 years), with the option for a further term at the decision of the Minister concerned.
13. Members of a Board of Management should serve for one term, with the option of reappointment for a further term at the decision of the Board. A subsequent term or terms of appointment should thereafter be permissible, but only following open recruitment procedures to fill the vacancy which are consistent with the practice on appointments recommended elsewhere.
14. Repeal of the provision which requires, where a Board member leaves before the completion of her/his term, that the successor's first term of appointment should cover only the 'unexpired' term of the departed Board member.
15. Boards should have the flexibility to make appointments for periods of up to four years, rather than for a fixed period of four years as at present.
16. Boards should be free to make an appointment regardless of the age of the candidate.
17. The current inability of a Board to elect a Chair who is a councillor or a council employee should be removed.

18. A central team is formed to manage the process of change across the sector and work with the new Chairs and Boards, once recruited, to deliver their initial outcomes. The 'FE Change Team' would report to the Cabinet Secretary and his senior officials in terms of its work. It would also control the transition funding that will be needed to achieve these changes. It would be disbanded when the new structure is in place.

For all the above to operate as we believe they should, other items impacting on the sector will have to be addressed and other issues, and bodies, will have to be changed as well.

These include

- What national guidelines and policies need to be in place consistently across Scotland
- How the College sector should be strategically managed at a national level
- How the sector should be funded
- How we move to a more national set of terms and conditions for staff

While we believe that all we recommend should be considered as a whole, we understand that there are practical reasons why it may take time to implement and that everyone may not go at the same pace. Therefore we have recommended how a transition to this new way of working could be achieved encompassing all our recommendations.

To achieve all the above we have added the following specific recommendations.

#### Recommendations (iii)

19. There should be a limit of initially 10% of annual revenue on the surpluses a College is allowed to create for its own use.
20. All reserves held that exceed 10% of annual revenue have to be used for the betterment of the sector overall. That could be either within that region or elsewhere but priority and allocation would be decided by the new FE Strategic Forum at a national level.
21. All current College liquid reserves in excess of 10% of annual revenue are frozen (unless already specifically allocated to projects already underway physically) and central Government uses any excess nationally for the sole purpose of funding the costs of the changes we are recommending and any other changes which may come from the current overall review of post 16 education. This residual sum should be focused on added benefit for the learner in the most appropriate manner.

22. By the end of 2012 decisions on what should be undertaken by Colleges nationally, and consistently across all regions, should be taken. By the end of 2013 further decisions should be taken on how the sector should contribute to national priorities for the coming five years.
23. Student participation and representation become a commitment across the College Sector. Student Associations should be strengthened and become appropriately funded, autonomous and sustainable.
24. A specific sum per learner-head, to mirror the process currently used by some Universities, should be allocated from the regional budget to fund the recommendation above.
25. The FE Strategic Forum [see recommendation 28 below] examines each inequality set out in this report and proposes a solution to each.
26. The regional College becomes a statutory member of the appropriate Community Planning Partnership (CPP) to allow the contribution of the College, in line with Government policy on lifelong learning, to be a fundamental part of community planning.
27. That either through a 'Partnership Group' as recommended to us by EIS in its submission or through another similar structure put in place by the Regional Board, groups are created to give local communities an input into their strategy.
28. The Scottish Government establishes its own leadership and strategic guidance of the sector through the creation of a new FE Strategic Forum which would drive the sector forward and constantly review and evolve the sector in terms of fitness for purpose in a changing educational and economic world.
29. The FE sector moves to an outcomes based funding model where each College is given a small number of outcomes which will fulfil Government policy and aspirations and is then allocated a sum of money to deliver those.
30. Colleges should not be judged on yearly surpluses but on a longer term sustainable financial model.
31. Government takes total responsibility for funding major capital projects in the FE Sector.
32. A central resource is established within Scottish Government that works with Colleges to deliver major capital projects for the FE Sector.

33. Arrangements as set out in section I of this report are put in place to permit a return to national bargaining within the FE Sector in timescales outlined in that section.
34. A new national MIS system be developed and implemented which satisfies all the changes that this new structure for the College Sector will entail.

At the heart of all we have considered is the learner, and we hope we have tested all that we recommend to ensure that the learner benefits. So the learner needs to play a major part in its formation and continuance in as many ways as appropriate.

Finally, as we state at the outset all we have recommended will only put the sector in a position that is fit for purpose today, and evolution must be a key driver for the sector going forward. In education, like many other parts of life today, change is the only certainty.

## A. Context

When the Cabinet Secretary for Education and Lifelong Learning asked me to conduct this review the terms of reference were set out clearly, and are detailed in Annexe B. That remit clearly splits the task I was given into two parts;

- a) How the sector as a whole should be managed across Scotland
- b) Having decided that, how each College or entity should be governed.

Two distinct tasks. You cannot do b) until a) is decided as we will explain later in this report. We will report on each separately.

However, subsequent to our starting the review, a consultation paper 'Putting Learners at the Centre' was published in September 2011. As a result of that the Cabinet Secretary amended the focus of the remit slightly, which is detailed also in Annexe B.

That consultation paper and the subsequent consultation paper on regionalisation set out a suggested new structure for the FE Sector based on a regional model. I should be clear that both before and after the publication of these papers the Cabinet Secretary has made it clear to me that what is said in those should not affect the thinking and recommendations of this review.

However, before the publication of 'Putting Learners at the Centre', we had already begun to consider a regional model based on our own thoughts and research. Also between the publication of 'Putting Learners at the Centre' and the regionalisation consultation paper, we had had discussions with both Scottish Government officials and those from the Scottish Funding Council (SFC) with the result that the regions, with one exception, set out in the regionalisation consultation paper, are those that we would have recommended.

Therefore in terms of the first part of our remit, to do with structure and management of the sector, we will only make comment on this in terms of why we think what we propose right, and not just for the reasons of efficiency which featured strongly in both Government consultation papers.

In effect, for the purposes of this report we have made our initial recommendations based on the assumption that the first of these, namely the move to a regional model for the College sector, will be accepted and will be implemented. This allows this report to focus more on what that outcome means.

## **B. Introduction**

In introducing this review of governance within the Further Education Sector in Scotland, it is important to say at the outset how we have defined the sector. Throughout this report we use both the terms 'FE Sector' and 'College Sector' since both are in common use. We believe that neither term, on its own, fully conveys what the sector is and does. What is commonly described as the 'FE Sector' in Scotland covers much more than just FE, as Colleges also deliver Higher Education (HE) courses on a scale much above that for example of their counterparts elsewhere in the UK. Therefore there is not the separation of FE and HE in Scotland that we see elsewhere. The term 'FE Sector' should therefore be taken as including all levels of teaching and learning which are delivered. Equally, to use exclusively the term 'College Sector' would also be incomplete, and might imply that our focus had been confined to the buildings in which learning is delivered. One of the certainties at present is that more and more learning of all kinds can and will be able to be done elsewhere than in prescribed learning facilities. Therefore for the purposes of this review we refer to this wide sector in ways intended to highlight both the FE and HE learning it delivers, and the infrastructure which supports that.

In conducting the review we have tried to look at not just what is needed today but perhaps more importantly what will be needed in the future. This is to ensure that any new governance model we recommend can be a good base to allow the development and evolution of provision across the College sector over the next decade and beyond, where the only certainty is that there will be change in what and how we all learn.

As we will refer to in more detail later, the structure of governance we have in place today has not really been challenged since 1992. Even then, the incorporation of Colleges involved only a transfer of responsibilities from one part of society to another.

Governance can only operate within the context and rules which are given. Therefore we need to be absolutely clear that, in all that we write in this report, there is no criticism of current College Boards and Principals implied or indicated. They have operated in the way they felt fitted with what they had been asked to do. What we are doing today in the College Sector is what has been asked of it by Government over a long period of time.

Whether the decision in 1992 to introduce the current arrangement was right or wrong in a sense is a fruitless discussion. The aim of the review has been to establish if it is still fit for purpose.

Governance in the College Sector has been improving, but not in a cohesive way.

Therefore while this report does recommend some profound changes for the way the sector is governed this is only because these address questions now being asked. It

is only, as is stated above, the first step on a journey which may be challenged further in the future. We believe this report now provides a simpler and more robust base from which to start.

The report also tries to look outwith and beyond the current fiscal environment in which we find ourselves. We should not be making changes simply because of that. All we recommend here is what we believe is the best for the sector in any fiscal circumstances. However we do recognise that sadly, when fiscal times are good, we tend not to ask the more basic and harder questions around what and how we can improve and deliver better outcomes. We therefore miss the opportunities those times bring us to make them more easily. We as a society and as individual human beings in general tend to wait for the pressures of fiscal restraint to focus on the real issues we should have addressed, but now do in a more difficult environment. There is a strong argument to say that we should have asked these questions fully 20 years ago - and if not then definitely sometime in the last 20 years - but for whatever reason we have not.

However what we need to make clear at the outset is that, for our recommendations to be implemented, this will require funding beyond what has already been allocated for the College Sector. The benefits we believe this new structure will bring will be significant, especially for the learner, but without proper investment and management to match that new structure as a starting point, the task risks being done in a manner that delivers the wrong or an incomplete outcome.

Also, before getting to the specifics of what we were asked to review it is useful to establish what governance is.

There are many definitions of governance which we have examined but below is what we feel is perhaps the simplest.

*'It is the framework of rules and practices by which a Board of any form ensures accountability, fairness and transparency in an organisation's relationship with its stakeholders and shareholders to ensure they are bought into what the organisation does.'*

*The governance framework consists of*

- a) Explicit and implicit contracts between the company and the shareholders/ stakeholders for distribution of responsibilities, rights and rewards*
- b) Procedures for reconciling the sometimes conflicting interests of shareholders/ stakeholders in accordance with their duties, privileges and roles.*
- c) Procedures for proper supervision, control, and information-flows to serve as a system of checks and balances.'*

Governance is also to do with what is being governed and represents the rules that shareholders, funders and others have or should impose in order to fulfil what they require.

Therefore in carrying out our review we have had to cast widely to ensure that we have consulted with all those on whom governance impacts as learners, shareholders and stakeholders of the College Sector. Each in their own way plays a part in determining the most appropriate form of governance which should apply.

We have viewed Government as the main shareholder in the College Sector. We have viewed the SFC as the main funder/ financier who, like any other organisation with such a role, imposes governance restrictions and rules on the organisations being funded. All others we have spoken to, or whose submissions we have considered, we have treated as stakeholders with the exception of the learner. Quite simply the interests of the learner have to be the sole reason we do anything in the sector. We see the learner therefore being in an exclusive category which must see benefit from whatever we recommend.

Also, since many other parts of the UK and places elsewhere in the world have looked at the process of governance in their College sectors, we have looked at their thinking and outcomes. Annexe C lists those reviews which we have examined.

Finally it should be stated quite clearly that the picture we have formed ourselves and, which has been endorsed by many others, is that College provision is a national public service locally delivered and we have tried to enforce and recognise that in this review.

## C. **Background**

The current structure and governance of the FE Sector in Scotland was set up as a straight Scottish parallel to the Further and Higher Education Act 1992 in England and Wales. The rationale for that change was political and it was not justified, as far as we can determine, on the basis of any evidence that this was the correct way to structure or govern the sector in Scotland at that time.

Basically the Further and Higher Education (Scotland) Act 1992 backed Colleges out of the Local Authorities they were part of, made them independent entities with charitable status, gave them some governance requirements by statute, and then told them to be free, independent and create their own future. The political justification was that this independence would make Colleges better placed to focus on and respond to the needs of business. There was other feeling at the time, especially by the trade unions, that this Act was also an attempt to generate some interest in the failing Self-Governing Schools etc. (Scotland) Act 1989 which had only persuaded a very small number of schools to leave Local Authority control. Whatever the reason for the 1992 Act it is clear that there were no wider strategic forces at work.

Annexes D and E set out the processes around the 1992 Act as well as the governance structure from the Act. All this did was to make independent the municipal structure already there, which, when viewed from a national perspective, was itself a piecemeal development. It could be argued that the structure and governance of FE has never been examined or challenged effectively, and this is not simply an omission over the last 20 years or so since the 1992 Act, but before it as well.

Since 1992, again as far as we can determine, no individual, group or part of Scottish Government has gone back and re-examined if the FE Sector we have was or is fit for purpose, or indeed has established what the sector needs. There have been specific reviews on governance in terms of what Boards do, usually subsequent to a Board not performing well, but none across the FE Sector as a whole.

Currently we have 37 Boards of Management of incorporated Colleges which look after in excess of a hundred and fifty buildings across Scotland. There are 4 further Colleges which are not incorporated in statute but which are publicly funded.

It is clear, as has been said to us by many of those we have consulted, that the structure of the College sector and specifically of College Boards is 'odd' or 'peculiar' compared with other formats. Those that audit the sector, for example, find it difficult to compare it readily with others.

In many ways FE governance is self forming and regulating. Each College can itself appoint new Board members through advert and then select their own Chair from

within without any real reference to any other body or source if they do not wish to do so.

Governments of all kinds and colours since 1992 have also not been overly specific until last year in making clear to the College Sector exactly what it wants from it.

Any sector needs a set of overarching guiding principles and policies within which to operate. Without those it is likely to become fragmented with individual parts deciding what these should be. The FE Sector in Scotland currently does not have these.

The consultation paper entitled 'Putting Learners at the Centre' does set out, for the first time, the future policy direction for the sector which Ministers are minded to consider. It would be foolish for us not to take this policy direction into account so Annexe F sets out the specific sections of the consultation paper which we have used as reference points for our thinking. At the heart of those is that the College Sector has to give more emphasis to economic need and employment, while at the same time being fair socially and widening access to all who could and should use it. FE and individual learning access points (LAPs) need to continue to be at the heart of their community, responding to the social and vocational needs for that community, and beyond where appropriate.

We also believe that the outcomes set out in Annexe F are those that operate in any fiscal environment so are key overall outcomes.

A point of contention with one of those outcomes is that employers and indeed industries ought to know what skills they need into the future. However experience from Scotland and indeed many other parts of the world proves they do not always have this knowledge. This is especially true at a time when we are moving into a new economic environment which will be distinctly different in many ways from that which existed before the current economic crisis. Trying to forecast which industries, and in what form, will shape this new and differently managed and run economy will be difficult for those industries themselves so we should not expect the FE Sector to be any better than anyone else in doing this.

Also, while Sector Skills Councils (SSCs) are also supposed to do this, their performance is inconsistent and patchy in what they contribute, and this may become less over time as devolution impacts further. That many SSCs also want now to be deliverers of training in their own right does not help, or may be highly inappropriate, as poachers and gamekeepers seldom walk the same path happily together. Current FE institutions and major companies within key sectors will also say that SSCs can be a hindrance for the learner as well as imposing rules, levels, or levies that are inflexible or take no account of how specific industries have moved on from where they were. While it is not in our remit to make specific recommendations for SSCs other than in terms of any impact they have on the FE Sector as a whole, there is a strong argument for examining whether SSCs any longer serve a purpose

and whether the public funding they use or channel would be better used for the learner elsewhere.

## **D. The Governance of the FE sector as a whole**

### What the FE sector looks like today

Annexe G sets out the position of FE College Boards today in terms of their turnover, student populations, WSUMs (see section below), surpluses, and reserves.

Annexe H sets out the type of income each College generates in terms of its source be it public, in all its forms, or private. It has been difficult to isolate how much of the difference between total individual College income and that which comes from the SFC comes from other 'Governmental' (e.g. Local Authorities, Skills Development Scotland etc.) sources or from private industry, but our conclusion is that from the evidence that we have no College has a significant level of commercially earned income, which could sustain its future on its own. Even if they did, unlike the HE institutions, Colleges would continue to rely on public funding being there. Therefore any commercially earned income that a College does have can only be achieved as a result of the public funding that created and provides the continuing basic support for the College.

The one thing that the sector is not short of is data so we could have examined the sector in many different ways, but feel those set out in the Annexes are the key ones for the purposes of this review. What we can say though from our examination and knowledge is that comparing like with like in this sector is difficult and can be misleading. Not every College can do the things another College does and therefore, for example, comparing surpluses across the sector is not sensible as the ability of each College to generate surpluses at a certain level, regardless of how good their management is, is very varied across Scotland through circumstances, which are, in many cases, outwith the control of the individual College.

We will not comment on the data within those Annexes specifically but recognise that they highlight the differences in size and sustainability across the sector as it is today.

It is clear from what we have learned that one of the reasons that the FE Sector was put in the form it is today was to encourage innovation and a different kind of thinking in the sector. It is clear that initially it did and there are examples of that taking place. There have been a number of College European partnerships achieving additional funding e.g. the West of Scotland Colleges' Partnership (WOSCOP). The College Open Learning Exchange Group (COLEG) which collaboratively produce open and on line material is another example.

However that is now not as certain as it was and there are other issues now which perhaps say that there are downsides to the way the College Sector is structured in Scotland which have created inequalities across the sector.

## Inequalities

What the individualisation of Colleges has done is to create inequalities and differences across Scotland. This in our opinion cannot be good for consistent governance of the sector overall or for the benefit of the learner, particularly where the outcomes for learners should be Scotland wide, not just community specific.

Areas where we see inequalities are:

- **Estates** where different Colleges for various reasons have not achieved the same standard of learning environment across Scotland.
- **Surpluses** where individual Colleges have differing opportunities to create different levels of surpluses through no fault of their own in specific cases other than their geographies. Also surpluses have no bearing on the cash position of the College which again can vary.
- **Reserves** where some Colleges have been able to build up significant reserves while others have not. In many cases this has been unrelated to the standard of management at the College but more to do with the employment and geographical environment within which the college operates.
- **Attainment and retention** where individual Colleges, because of different ways of selecting students, can achieve different results and this in turn can exclude some learners which in other Colleges may not be excluded.
- **Selection of students** where some go for as wide and diverse a learning community as they can, where others choose through a selection process which only picks those likely to attain.
- **Salaries and conditions** where each College has its own terms and conditions for staff so there is great differentiation across the sector for similar posts, and individual pay negotiations for each College.
- **Industrial relations** where each College has its own terms and conditions of staff and therefore has either grown a good industrial relationship history or not.
- **Community deprivation** where some Colleges serve areas of considerably greater social disadvantage than others. While this would probably always be the case no matter how the sector was constructed, the way in which these differences are dealt with by individual Colleges varies greatly.
- **Leadership** where many Boards and Principals will have different views and ideas on what they are there to do and what outcome they will produce.
- **Governance** where individual Boards have different views of themselves and what they are, and what their role is versus the Principal and executive.

Membership of Boards is also very varied dependent mainly on where that Board feel they want to draw their membership from. As one auditor said to us he believes that the FE Sector has some of the best Non Executives across the public sector but some of the least understanding in governance terms of what they are there to do, and of their responsibilities etc. in any consistent form. How Boards recruit and select members also varies across Scotland, as well as who is the Clerk to the Board and whether they are a staff member of the College or an independent appointment.

- **Income streams** where the opportunity to derive additional income streams can be dependent on geography and what the Board wishes to look for as extra revenue.
- **Size** which the Annexes illustrate well; we are not sure however if this is any hindrance to consistency.
- **Financial health** where in some, poor management has led to concerns, or in others where the geography of the College does not allow the generation of surpluses.
- **Community reputation** where the links of Colleges to their local communities can vary in nature and in strength. For example some Colleges place significant weight on access courses and are seen as a key community resource, while others deliver more provision of national significance and may have weaker community links. In defence of some Colleges, not every Local Authority, or indeed community, appears to value their Colleges to the same extent, which is also part of the challenge.
- **Business and community links** where these are very varied across the College sector. In some areas there are a number of Colleges within the same Local Authority area or they compete for the same business sector. Also the fragmented landscape of the sector does not make it easy for industry to get a cohesive view or response from it.
- **Board operation** where, as is stated above this can vary significantly as can their perception of their role. Some Board Members see themselves primarily as Trustees of a charity which is not their primary role at all, while others see their role more akin to Non Executives of a company. Also which members of the College's executive attend Board meetings is very varied. This is acceptable in a sense but we feel the absence of guidance beyond the rules on proceedings set out in the 1992 Act nevertheless runs the risk of leading to bad governance.
- **Internal relationships** where the relationship between the Chair, the Board, and the Principal is key but it is very varied.

- **Student bursaries** where, the way these are handled varies. Some Colleges stop taking in students when they reach the end of the funding the College receives for this purpose. Others continue to enrol students on the assumption that the SFC or Government will make further funding available, or because the College chooses to use its reserves to make up the difference. This has resulted in students from different Colleges getting different bursary levels despite doing the same course and having the same financial circumstances. This could also be a large factor affecting differing retention levels.
- **Learner/ student representation** which is patchy across Colleges with non-autonomous and underfunded associations a key problem.
- **Commercial expansion** which some Colleges have embarked on in areas which make only a marginal impact for the benefit of learners but require a lot of resource to operate.
- **Fee waivers** where the application and utilisation of the fee waiver grant has led to inconsistency at individual College level. We believe that the discretionary component of this grant, unless this is changed, will lead to inequality whatever the structure of the sector.
- **'National' priorities** where it makes sense for some things to be done on a Scotland wide basis. An eLearning framework and basic curriculum information are two good examples where a single, integrated approach should be taken but is not. This is starting to happen, nationally or regionally, but in a lot of areas this is purely because that is what the sector now see as inevitable rather than for the benefit it brings. We make the same comment on the way funding is targeted at these by SFC through competitive bids for certain items rather than enabling collaboration and sharing of good practice.

While some of these inequalities relate to operational issues, all are affected by how Boards operate and the guidance given to them by the Scottish Government, SFC, or indeed by the College's own management. Therefore we believe these inequalities are issues of governance as in the end the Board will be, or should be, involved in each of these decisions, and responsible ultimately for many.

We are sure that those who know the sector well could think of further variations between Colleges. The list above highlights how the individual Colleges have been left to develop in their own way. In some cases, no matter how the sector was configured, differences would still exist. We are not saying that these differences are not always reasonable and desirable but they are haphazard and not controlled or managed in any way. Also better, consistent, and clear guidance from Government and SFC to Boards may well have stopped some of the above.

However we do believe that in some of these examples, there should not be the differences there are and that the sector should have perhaps a set of national guidelines or rules in which it operates. This is discussed later in this report. At the heart of our approach should be the desire to see that the learner is treated fairly and consistently across Scotland.

The independence of Colleges has also kept their focus on their own geographical area and until very recently there has been little formal sharing of best practice. In fact it has also encouraged some unhealthy competition and Colleges have vied for the same learner at times. As one Principal said to us '*rivalry is good but competition can lead to a different place*'.

### National Direction

The large number of College Boards, Chairs, and Principals also means that Government, past and present, has found it difficult to conduct coherent strategic dialogue with a sector now comprising 41 representatives often with different voices and opinions. This is why much has been directed through SFC which as we discuss later may not be the best way for dialogue with the sector to take place.

Indeed a common complaint of Colleges is that Government does not make it clear to the sector what is expected of it. Other countries appear to have the better balance. For example in New Zealand<sup>1</sup> the Government publishes a strategy paper which sets the agenda for the sector. That Government is crystal clear on what it expects from colleges and backs this up by using a funding system which measures an institution's performance against the objectives set out in the strategy and awards funding which rewards those whose performance matches the strategy. There is consequently a very high level of cohesiveness throughout the sector in New Zealand. Interestingly this does not appear to threaten institutional autonomy. An OECD review of New Zealand's tertiary sector praised the system for striking an excellent balance between having a clear, cohesive national strategy passed down from Government and autonomous, entrepreneurial institutions implementing the strategy.

However in the defence of Scottish governments of all hues it also has to be said that meetings within the sector of Chairs and Principals have themselves not always been productive. The ability of the sector to speak with a single or coherent voice has been difficult.

Our discussion with SFC suggests that it has experienced difficulty in achieving its objective of getting coherence across the sector, as this is too difficult within the limits of the levers and instruments at the SFC's disposal.

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<http://www.minedu.govt.nz/NZEducation/EducationPolicies/TertiaryEducation/PolicyAndStrategy/TertiaryEducationStrategy.aspx>

Also both Scottish Enterprise and Skills Development Scotland for some time kept Colleges out of their strategic discussions around skills on the grounds that they were independent entities providing a service for these agencies. Colleges were seen as suppliers not partners. While that has improved there is still not the same strategic involvement of each College across Scotland as perhaps there should be. Since Colleges are a key part of economic development in Scotland, like universities they must be part of the economic thinking process and fully involved in the outcomes of that thinking. Not to do so undervalues the input the College Sector has on Scotland's economy, which is significant.

### Myths and other issues

The number and independence of Colleges has given rise to some myths and issues which need to be laid to rest once and for all. We believe these have corrupted and hindered debate and solutions in the sector for some time.

- a) It does not appear to us that Colleges would lose their charitable status if they changed their corporate status. Within the criteria applied variously by the Office of the Scottish Charity Regulator (OSCR), the Office of National Statistics (ONS), and Her Majesty's Treasury (HMT), Colleges have been deemed to be public sector bodies. Colleges therefore fail to meet one of the standards governing charities in Scotland, namely the 'independence test' which provides that, unless an exemption is given, the constitution of a charity must be free of Ministerial control. The reason Colleges enjoy charitable status is the Ministerial exemption which was applied in 2007. This same exemption could equally be given by Ministers to whatever corporate structure Colleges might adopt.

We believe there has been an excessive focus on what, in our opinion, is the relatively small matter of charitable status, given all the wider challenges that the sector has had. This caused the Government in 2006 to lessen its control over the sector which it did not need to do. In 2006 the power of Ministers to give direction to the Board of a College was removed by the Government of the time in an apparent attempt to convince OSCR to maintain the charitable status of Colleges. However that proved insufficient and the Government therefore used its powers the following year to exempt Colleges from the standard rule that charities must be independent of Ministers. By that time however Ministers had lost a key power. This may not have been beneficial to either Government or the sector as it removed one of the few powers Government had to direct Colleges where it needed to. Given the comments of SFC to which we refer later in this review on the limited powers Government have in this sector it is odd that Ministers gave a key one up for this attempted outcome.

We understand that consideration is still being given to the ability of Colleges to operate successfully within the new 'public sector' classification made by ONS and to the steps which will require to be taken if it is necessary to pursue the reversal of this classification. While we do not know what that final outcome will be, we believe that the changes and recommendations we propose may help this as they may allow the sector to be judged in a different way than it is today, which may be helpful to all.

In our view Colleges probably fit better into the definition around Arm's Length Bodies (ALB) which states that ALBs are

*'Bodies which have a role in the process of Government, but are not a government department, or part of one and which accordingly operate to a greater or lesser extent at arm's length from Ministers but can still be 'controlled' by them.'*

- b) College Board members are not there solely as Trustees of a charity but as Non Executive Board members with responsibility to create the strategy for the College, employ the principal, and monitor the implementation of the strategy.
- c) Principals are not Accounting Officers in the true sense of the public sector definition of the post and have accountability only to the Chief Executive of the SFC for the funding allocated to them.
- d) Charitable Status would not hinder Chairs or Board members being remunerated, within certain limits, if that was felt to be appropriate. It is done elsewhere.

There are also other issues within the sector which affect its governance.

Governance comes from the effect various people have and wish to have on an entity. In the case of FE the key players are Government, SFC, the learner, the employer, the community and the staff. In this sector Government is or should be most aligned with the role the shareholders play elsewhere, and SFC with that of the bank or financier.

Since the creation of SFC's predecessor body in 1999, the Government has appeared to pass on some of its powers. This has given SFC and its predecessor a guidance and governance function of both the funder and shareholder. Whether that is appropriate or correct, or indeed now reflects the situation today is discussed later. The position of other key stakeholders has been mainly through representation on the Boards of Colleges.

However neither staff nor learners believe that this formal involvement has actually brought an increase in participation and we will seek to address this later. In terms of employers and communities we are not convinced that either truly know what they

require and what the strictures of running a College put on that. Nor do we think they have clear views on how they should input, or not, into individual Colleges. We see this as fragmented and different across Scotland. On all of these issues we have offered suggestions which derive from our belief that there are better ways of doing things in this area.

The funding mechanisms operated by the SFC through WSUMs also do not contribute to good governance. The SFC acknowledges this and it could be argued it has therefore not done, or been asked to do, enough to change or rectify this. Chairs and Non Executive Board members, if they are to exercise their duties properly, need to understand how an entity is funded and more importantly how changes to that affect them. In both the case of WSUMs and also bursaries it is clear that this is not the case. In fact it has been said to us that Boards are not 'scared' of the SFC as Boards do not understand what and how the SFC do things. Therefore the Board have to rely almost entirely on the Principal and the management team to inform them of the implications. This reduces the amount of challenge a Board should apply to its management on such issues.

In terms of Colleges that fall below acceptable levels of performance the majority have been on the grounds of financial rather than primarily academic performance. Examples include Inverness and James Watt Colleges, both of which have been the subject of 'Section 22' reports to the Parliament by the Auditor General.

In its official response to this review the SFC points out

*'In terms of powers to intervene with a Board which appears to be falling below acceptable levels of performance, the powers currently in statute relating to this are either very limited (the power of a member of the SFC to attend and address a meeting of a Board) or comparatively draconian (powers of Ministers to remove some or all Board members).'*

Boards of any entity should understand clearly what is wanted of them, and what they are responsible and accountable for, and what happens if they fall short in any of these areas. This is clearly not currently or consistently the case in the FE Sector.

Critically, it is also worth looking at the situation today in terms of the relationship and relationships between the Chair, Board, Principal, and Senior Management Team (SMT).

As is stated above, the way Colleges operate differently across Scotland and this is certainly the case in this specific area.

The Educational Institute of Scotland (EIS) in its formal response to this review stated

*'Many College Boards of Management have become emasculated by powerful College Executive Groups led by powerful Principals'*

We understand why EIS and indeed UNISON, who are the other main union involved in this sector, could see this in the FE Sector. We will set out later we believe that for good governance to operate in this sector the hierarchy has to be set out as follows.

The Chair

The Board

The Principal

The Senior Management Team (SMT)

A large part of the reason this is confused at present is how the Chair is chosen, which is by the Board itself from its own number. The Chair is therefore not truly independent nor is, initially, specifically appointed to carry out that role. This is a very unusual process today in all forms of corporate or public life and shows again the municipal background from which Colleges came. In our discussions with Audit Scotland during the review they described the sector as 'odd and peculiar'. In their view the process used to appoint the Chair does not fit with any of the good practice that other entities of whatever corporate structure adopt. So if we are to move to a sector with improved governance and clear lines of accountability and responsibility that will need to change. Also what these perceptions and inconsistencies have done is build up a lack of trust between Colleges, stakeholders, Government and funders which will need to be dealt with as we move into the new governance structure that we propose in the coming sections of this report. This has put some restraints on the pace at which we think that change can be delivered, which is sad to reflect, but is where we are currently.

Finally in looking at what governance of the sector should look like into the future there are a few issues that need addressed. Specifically the provision for a Local Enterprise Company (LEC) Board member to be part of a College Board needs to be removed since they no longer exist. We need to re-examine the length of term, and number of terms, of Board members. And we need to deal with the current successor arrangements where members leave within their term, the age limit on appointment of Board members, and the anomalies around who can be the Chair of the Board. We will deal with all of these in the sections below.

### The way forward for the FE Sector in Scotland

It is as a result of all the above that we came to the conclusion that the regionalisation model for the FE sector in Scotland was the right one. It is the right model because that is where all the evidence leads, and not just because of fiscal constraints.

However it is clear also that in moving to this new regional governance structure Government should be central in guiding the sector and directing the strategy more perhaps than they have done in the past.

## Regional Structure

The new regional structure is set out in Annexe J

We are heartened that subsequent to our discussions with Government during our review, and subsequent to the initial consultation paper in September, the later consultation by Ministers on the single issue of 'regionalisation' was revised in a way which brought the earlier proposals into line with our own thinking.

Therefore we recommend

**That as soon as is practicable, and if possible by academic year 2013/14, we deliver a new regional structure for the College sector in Scotland using the regional alignment set out in Annexe J of this report.**

Annexe K sets out in rough terms what the base numbers would be for each region using the 2009/2010 data.

It will be clear to those that know the sector well that there is one omission from our own proposals on a new regional structure. This relates to those Colleges that currently are academic partners within the University of the Highlands and Islands (UHI) framework. We have listened to all the parties involved in the debate about how this unique part of the sector should be governed. While HE and FE are delivered in all Colleges across Scotland up to HND and HNC (and occasionally beyond) this is the only geographic area where HE and FE are delivered in their totality up to degree level through a single structure. Whether that is fully joined up between UHI and the Colleges, in terms and FE and HE students being treated the same, is also not clear. However within the time we have had to complete this review we do not believe the knowledge we have been able to gain of the complex issues associated with the UHI network is sufficient for us to make a clear recommendation on the future configuration of Colleges which are academic partners of UHI. That view takes into account not just the unique nature of UHI itself but also the unique influences of Highlands and Islands Enterprise and the Local Councils which happen nowhere else in Scotland in this form or to this degree. Nor do we believe that the review UHI is currently carrying out itself through Capita will fully resolve the governance issues examined by us, since we understand it addresses UHI's own structure and not those of its partners, so we are not convinced that review will move the wider debate on UHI forward as well.

There are clearly differing as well as concurrent views in this area which need to be aired. Any review or solution needs to address this holistically, which is where the challenge lies, rather than in individual bits which we fear will resolve very little. Also there has to be an understanding at the beginning that the configuration of the Colleges in question is not right and will need to change in some form, which we are not sure all parties are bought into either.

Therefore our recommendation in this area is that

**The Chairs and the Principals/ CEOs and the Student Representatives of all the Colleges, the UHI centre, the Local Authorities, Trade Unions plus any other body that has a key current or potential interest in UHI be given the task of by June 2012 producing a solution for their area which uses the regional structure and governance proposals from this review as its base.**

Returning to the new regional structure we are absolutely clear that regionalisation must involve the 'merger' (through whatever route) of all the incorporated Colleges within that region. Simply put, to achieve the benefits that this regionalisation process brings, there can only be one controlling Board for a region with all the funding and power to decide how best to manage the learning access points (LAPs) under its control. This also means that there should be only one 'employer' in the region in terms of staff.

Until recently the sector has shown little desire to come together on any regional, far less national basis, notwithstanding many impressive collaborative initiatives on specific issues. This has led us to the view that left to their own devices Colleges are unlikely themselves to come up with a strategic configuration that is fit for purpose and provides the degree of consistency and control across Scotland which the learner needs.

However this does not mean is that each current College within the region would lose its own identity, or deny its community's ability to make demands of it. Branding and community involvement will be a specific responsibility of the new regional Board and we could see in many cases why the new Regional Boards would wish to keep some of the current identities of individual Colleges the same as they now.

Crucially we believe that you cannot move to a regional structure and then allow the individual parts of those regions to have control over what the regional entity does. This would deny the key benefits which a single regional controlling Board will bring. Without this fundamental recommendation being accepted we are not sure that our other recommendations will work. This could lead to a position which is even more disparate than it is today which would frustrate our overriding aim of having regard to the interests of the learner. How each new style Regional Board then operates within that region is, we believe, open to the degree of flexibility which we set out in the section below.

We have also accepted that the land based Colleges are advanced in their own solution to integration so have left that alone. We would wish them however also to take into account our recommended new ways of operating a Board in the sector, in recognition of the good practice which we believe these bring for all Colleges in Scotland.

## **E. Governance and the new Regional Boards**

In examining how Boards currently operate and how they might in future we were challenged by the following question

*‘Why should we have Boards in the first place and why are they needed.’*

This question challenges, as we should always do, the orthodoxy of structure and how Colleges operate specifically.

However we believe that, in short, Boards exist to ‘look after things’ and to ensure that Colleges are looked after properly and can be seen to be so.

Given those simple but exact criteria we looked at many formulations. We also agreed that the essence of a Board is to create the strategy in line with the overarching priorities of the Government.

### Appointment of Chairs and Boards

Before getting to the specifics of how the above is done we recommend that

**New Chairs and Boards are recruited and appointed to manage and govern the new regions.**

This does not mean that existing Chairs or Board members cannot apply for positions on the new Regional Boards but they would have to apply and go through the new process with everyone else.

Also, as we set out below, we recognise we are asking the new style Regional Boards to do something that is significantly different, and more challenging, from what individual governing bodies do now. We are not sure that, without a far more tightly defined recruitment process, we will get the significant leadership skills required on the Boards.

However we believe that a key requirement of governance should be to have a regard to the achievement of good outcomes. That should be the approach to setting out the key requirements of Boards. It is against those requirements that Boards should be selected and judged going forward. Therefore we recommend that

**The new Regional Chairs and Boards be selected using an outcome based approach to determine the skills necessary to carry out their task and once in post each Board should be audited against that set of agreed outcomes.**

These outcomes are listed in the section on how Boards will operate.

Currently the way of choosing Boards and then Chairs does not easily fit with best practice in any form of corporate governance that we can find. Also like many other things this is done differently between individual Colleges.

Therefore for consistency and continuity with other like entities which receive the majority of their funding from the public sector, and which were set up to be within the public sector in the first place, we recommend

**That the Chair is appointed in line with the principles and procedures which apply to the public appointments system, though we do not believe that the new regional bodies need be ‘public bodies’ in the formal sense. We recommend that the appropriate Minister in charge of this sector endorses the appointment.**

We believe this will create a binding link between the Regional Chair and Government. It signifies clearly that strategic responsibility lies primarily at a national level with regions reflecting that in their own strategies. This relationship of ‘shareholder’ endorsement is no different than would exist in the private sector, especially with publicly quoted companies, where it is unlikely a new Chair would be appointed without the prior endorsement of key shareholders.

In terms of the appointments process to be used, currently what are termed regulated appointments are scrutinised by the Public Appointments Commissioner for Scotland. The code of practice sets out the requirements of the process used to appoint board members. To ensure Ministers comply with the code, the Commissioner’s office scrutinises the approach planned and processes used.

We believe that a Public Appointments Assessor should be created to ensure good practice in appointments to College Boards. The Assessor will not be a member of the interview panel. Their role would be to scrutinise appointment activity, to offer an opinion on code compliance and to intervene where non compliance is observed. A risk assessment would be done on the appointment round to determine how involved the Assessor should be.

While we are not recommending that Colleges should become public bodies we do feel that the above system gives the rigour and transparency that is needed. Within Scottish Government’s Human Resources Directorate there is a team called the HR Public Appointments Centre of Excellence which might be invited to take this process and apply it outwith the public body environment to ensure it is followed.

Therefore we recommend that

**The Chair of the new regional entity, using principles and procedures of the Public Appointments system, leads the process of appointing the Board, as set out below. That Board should be a maximum of 12 members and contain within that number one member of staff and the elected President of the Student Association to represent the learner. The latter two would have the same roles and responsibilities as other Board members.**

While the Chair will be an integral and critical part of the process of appointing the Board they will not be doing it on their own. Following the same procedures as are

used in the Public Appointments system they will have to put together a group of people to work with them to ensure that the appointments are open and transparent and meet the needs of, and have the skills to deliver the outcomes for the region. As well as ensuring that there is a correct balance of skills on the new Regional Boards, we would also wish the group to reflect best practice on diversity, especially in terms of gender and ethnicity, to ensure that the new Regional Boards reflect the diversity of the community they serve. Therefore the group will consist of probably up to six people including officials from Scottish Government, plus also, critically, representatives from the region to be governed, with proper representation of the staff and the learner.

The candidates thus identified as suitable for appointment will then be put to Ministers for endorsement.

#### How the Regional Board will operate

The outcomes for the Chair and the Board are set out below, in the way that they would be given to the Board, and in a way that allows them to form part of an auditing process. This is the basis of a recommendation that

**Each Regional Chair and Board will be audited annually or at an appropriate time to ensure that they are fulfilling their agreed outcomes. If they are not doing so a programme of action will be put into place to rectify areas of concern or failure. This could ultimately lead to the removal of the Chair and/or Board if they do not fulfil the required outcomes.**

- i) The Chair and the Board should employ a Principal to work with them to develop the outcomes set out below and then put in place the regional strategy and then a structure and staff to deliver it.
- ii) The Chair and Board should create an FE strategy for their region which delivers the outcomes Government and the community require. Part of that strategy should be to set out how all stakeholders including learners and staff will be involved in its implementation and review.
- iii) Within the strategy the Chair and Board should create a corporate structure which the Regional Board will put in place, operate and control to provide the best solution for the implementation of the strategy within that region. It should take into account the strengths and weaknesses of what already exists and look at how those strengths, be they in 'brand' or other forms of expertise, can be utilised. The structure should take account of the financial and other guidelines which will have been provided by Government and its agencies on their requirements in the regions. This will allow each region to choose the corporate structure which works best for it without being restricted by anything other than the usual Government rules on the use of public funds given to them. However it has to be clear that the only

'recognised' Board in terms of Government and funding from any source in FE, and control of the region, is the Regional Board and any others would be subordinate to it and under its control.

- iv) The strategy for the region should take into account the views and aspirations of all stakeholders, and of the community, but specifically central would be those of Government and the agencies which operate in this area. The strategy should also recognise the interests of the learner, staff, local industry, and other post 16 education institutions. Each stakeholder will be a formal signatory to the strategy and should participate fully in its formulation and delivery.
- v) The strategy for the region should clearly set out how it will use, manage and control the learning access points (LAPs), and where they fit within the strategy. The strategy should also set out a development plan for LAPs making clear how they might develop and/ or change into the future.
- vi) The strategy for the region should set out how the Board will manage financially the organisation in an effective and sustainable way over time as well as on an annual basis. We do not think that this should necessarily mean that each new entity has to make a surplus all the time. From our examination there is evidence to suggest that currently some Boards appear scared to make a deficit, which may not be a good thing for a variety of reasons. Part of that reluctance may be attributable to the guidance that was given by SFC over the last decade. It might have encouraged only short term thinking and we would wish the new Regional Boards to demonstrate an ability to take account of the longer term and provide a sustainable financial future for the region. This could include spending to save in the knowledge that this may not give a surplus every year.
- vii) The strategy for the region should include how it will deal with HE both in terms of delivery within the College and also in terms of articulation with local HE providers and into the HE sector more widely. The strategy would also cover what other forms of FE and vocational post 16 education are being delivered in the region and how that can best be integrated or partnered to gain extra benefit for the learner.
- viii) The strategy for the region should include how it will work with schools in the region to benefit those still at school and also how it will incorporate the benefits of Curriculum for Excellence into a workable relationship.
- ix) The Board should agree a Business Plan, an annual operating plan and budget with the Principal which delivers the regional strategy as well as manages effectively the funding given to the organisation.

- x) The Chair and the Board should be responsible and accountable for the funding allocated to them and should have in place systems and processes that allow them to monitor and account for its use, measured against the outcomes the funding was given to them for. The Chair and Board will agree with Government and its funding agencies the appropriate processes and procedures to allow the Principal to use the funding in an appropriate manner in the implementation of the regional Strategy.
- xi) The Chair and the Board should put in place an appropriate set of procedures around financial management and delegation which allows both the organisation to run effectively but also maintains the overall accountability of the Board.
- xii) An appropriate committee structure should be put in place under the Board to monitor and advise on specific parts of the governance and operation of the organisation. These should include a mandatory Audit Committee and Nominations Committee, and others to fit with the structure and needs of the region. Committees should be there to inform the Board on key matters and only make decisions in their own right if so delegated by the Board. In establishing who should be members of this committee from beyond the Board, the Board should ensure that it contains representation from those affected by the actions of the Board. Reflecting the need to ensure that there is the correct mix of skills and diversity on the main Regional Board, the same processes in terms of representation should be applied to these committees. Their operation should also be seen to be as transparent as that of the main Board.
- xiii) The Board should put in place processes and procedures to ensure that it can fulfil its role of supporting, monitoring and scrutinising the work of the Principal and senior staff in whatever way it feels appropriate so that the Board can feel accountable, and be held to account, for the decisions made by the Principal and management.
- xiv) The Board should ensure that public funding is applied only on areas or projects that bring benefit directly to the learner.
- xv) The Board should ensure that the learner, staff and other relevant and appropriate stakeholders in that region are involved in the ongoing monitoring and appraisal of the implementation of the strategy.
- xvi) The Board should have in place processes and procedures which allow all members of the Board to attend all parts of the Board meetings other than where an individual is specifically not allowed to do so under a 'Conflicts of Interest' procedure which the Regional Board has in place consistent with the requirements of ethical standards legislation. Conflicts are defined as a situation in which a person has a private or personal interest sufficient to

appear to influence the objective exercise of his or her official duties as a Board member. It is not just about money but about any factors that a reasonable person might think are likely to bias a Board members judgement.

xvii) The Chair specifically, but also the Board, should demonstrate that they are part of an evolving strategic discussion across the FE Sector looking at ways to better guide and manage the Sector. That should include the identification of duplication which adds no value, its eradication and the sharing and use of best practice.

xviii) The Chair and Board should demonstrate that they are part of a national FE Strategy, and contribute effectively to its creation and its delivery.

The above list, we believe, contains the basis of what outcomes should look like for Regional Boards, but we are sure as the process unfolds that others will be added. Indeed the whole essence of our drive to make the College Sector an evolving one would say if that does not happen then the Boards and the sector are not operating in the way we would wish.

Also, fulfilling all the above we feel will require a different type and time commitment of Chair and Board compared to that which exists at the moment. That is why we are recommending that all the Regional Boards should be entirely new entities although in the 'transition' section later in this report we make some recommendations on how that may be achieved.

Also since the Chair's role will be bigger both in terms of geography, in many cases, and in function as well we recommend

**Chairs of the individual Regional Boards should be remunerated in the same manner as Chairs of some other public entities.**

We also feel that moving to the above outcomes driven structure will give much clearer definition of the roles and responsibilities of the new organisations than currently exists and which causes many of the challenges that we have identified.

The Chair is clearly seen as 'the leader' working with the Board to put in place what they are all charged to do. The Principal is the employee of the Board and as such is directly responsible and accountable to them for all that the role of Principal encompasses.

This does not mean that the Chair or the Board are 'executive', as they will remain Non Executive. However this clear delineation will ensure that Chairs and Boards understand what it is that it is they that are responsible and accountable for.

We also discussed at length whether the Principal should or should not be a statutory member of the Board. On one side of the argument there is a good case for stating that the Principal should not as it is difficult to be scrutinised by something

that you are part of. But there is also an argument from the other side to say that to deliver a strategy that you need to be part of the entity and discussions that create it. Much is to do with the relationship and way of working Boards agree is best for them. Therefore within those parameters we recommend that

**The Principal should attend all Board meetings other than where it would be inappropriate to do so. The Principal though should be involved with the Board on all discussion to do with the creation of the strategy which the Principal and his/her team will have to deliver.**

The above decision, though, should be part of the auditing framework that the Chair and Board are judged against.

We believe the list of outcomes for the Boards, and the relationship it infers with others, also forces Chairs and Boards to put in place processes and procedures to make engagement with others really happen, and that this should be part of everyday activity in a way which does not occur at present.

It also ties each region into a national system which we will discuss further later in this report.

The outcomes based approach which we recommend for the new regional governance structure is also auditable. We have not recommended conclusively who does that, but we have discussed both with Audit Scotland, Education Scotland and SFC how that might be done. Each sees the purpose of having measurement in this regard, and is confident that it can put in place the process and procedures that will make this happen. However this will take some time, and therefore we recommend that

**By December 2012 Audit Scotland, Education Scotland, and the Scottish Funding Council work together to put in place an auditing framework which will allow the outcomes driven approach pursued by the new Regional Board to be judged and monitored effectively.**

This will take away a lot of the formal reporting that goes on currently, not all of which we believe is fully understood by Boards. Best practice in all forms of regulation now says that the way to gain maximum benefit and cultural buy-in is to pick the right people to carry out the task in the first place, trust them to get on with what you have asked them to do; then audit them periodically and at random, and if found wanting as a result, have a clear system of either returning to compliance or being removed at the extreme. Audit Scotland is also carrying out pilot exercises with Local Authorities to see how self-evaluation can be built into that process effectively, and once that is established we believe that it would add benefit here as well.

In terms of other key rules for Boards we recommend

**Repeal of the requirement which remains in the 1992 Act that the Board of Management must contain a nominee of the local enterprise company**

This provision dates back to 1992, not long after the creation of Scottish Enterprise and Highlands & Islands Enterprise and their respective networks of local enterprise companies (LECs). It was undoubtedly intended to create a formal link between colleges and the enterprise networks, and was consistent with the view that the governance of the newly-incorporated colleges should be aligned to economic development priorities as well as business.

We understand that despite the abolition of LECs a legislative opportunity has not yet been found to remove this now-redundant requirement. We recommend that this is now undertaken. We do not recommend however that the provision is replaced by any updated requirement that the enterprise networks in their current form should similarly have a statutory place on a college board. We consider that to be in line with the outcome driven approach in which we recommend Boards should be as free as possible to determine their own approach to the outcome-based requirements on them outlined elsewhere in the report. That will inevitably involve maintaining close links with both the business community and the Government's economic development agencies. We do not feel however that this need be prescribed in law.

**Chairs of the Regional Boards should serve one term (four years), with the option for a further term at the decision of the Minister concerned.**

**Members of a Board of Management should serve for one term, with the option of reappointment for a further term at the decision of the Board. A subsequent term or terms of appointment should thereafter be permissible, but only following open recruitment procedures to fill the vacancy which are consistent with the practice on appointments recommended elsewhere.**

Once appointed for an initial four year term, a Board member can currently serve for up to a further two terms without, in our observation, being subject in every case to open recruitment procedures. That means a board member may serve for up to 12 years, only having once at the start been subject to open recruitment procedures.

We believe that Boards need to achieve a more appropriate balance between the retention of experience and expertise on the one hand, and the infusion of new blood on the other. We consider therefore that the extension of the initial term without going to open recruitment should be possible only once, giving a maximum of 8 years that anyone could serve. Thereafter, it may be possible for the same person to seek a further appointment, but only alongside other candidates as part of an open recruitment exercise.

**Repeal of the provision which requires, where a Board member leaves before the completion of her/his term, that the successor's first term of appointment should cover only the 'unexpired' term of the departed board member.**

Our investigation suggests that this provision is widely ignored, or not even understood. We think that it was introduced in 1992 with a view to there being, every four years, a sector-wide exercise of appointments and reappointments. This is clearly not now the case. We therefore recommend that this provision is repealed and combined with the recommendation immediately below.

**Boards should have the flexibility to make appointments for periods of up to four years, rather than for a fixed period of four years as at present.**

Currently boards may appoint new members, or reappoint existing members, only for a fixed period of four years. We see no reason to constrain boards in this way. There may well be circumstances where boards, for a variety of reasons, wish to make an appointment for reasons which could be addressed by appointment for a shorter term. We therefore recommend that boards are given the flexibility to do so if they choose.

**Boards should be free to make an appointment regardless of the age of the candidate.**

Currently boards may not appoint a new member or re-appoint an existing member who is over age 70. We understand the likely thinking in 1992, when this restriction was introduced, was that board members should be of an age which connects with, and have direct knowledge of, the requirements of business. We consider however that the current provision is likely to be open to challenge in terms of age discrimination, but more fundamentally goes against current best practice thinking in this area. People should be appointed to the Board of any entity in terms of their ability to add value to it. Many individuals over 70 now not only sit on Boards but add greatly to the performance of them so we see no reason why this should not apply in the FE Sector as well. Therefore while we do believe that Ministers should seek detailed legal advice on this point, not least to ascertain what is required under age discrimination legislation, we believe that this change should be made regardless of that, in view of the wider benefit it could bring.

**The current inability of a board to elect a Chair, who is a councillor or a council employee, should be removed.**

We understand why the UK government of the day, in 1992, might have sought to ensure that the removal of colleges from local authority control should not risk frustration (however remote that risk might have been) through the appointment of perhaps a senior local authority official or councillor as the Chair of the Board. We consider however that, whatever justification for that rule might then have existed, there is no longer a case for denying the Board the ability to act in accordance with its judgment. We consider, however, that the other restrictions on who may be the Chair [the student association nominated member, the Principal and the staff-elected member] continue to be valid and we propose no change in that respect.

## F. National Guidelines and Policies

In terms of national guidelines and policies these will need to be created in areas such as

- Financial and funding guidelines.
- Levels and use of surpluses and reserves.
- Things that will be decided nationally e.g. eLearning etc.

We will need to take a different approach to how we decide each of these. The first will depend on the type of funding (be this from Scottish Government through SFC, from the EU, Local Authorities, other public agencies like Skills Development Scotland etc.) which is provided. We will make recommendations on this later.

In terms of surpluses and reserves, as we discussed earlier in this review we believe that these have created inconsistencies and inequalities across Scotland which in many cases are to do with geography rather than management. We have two recommendations in this area.

**There should be a limit of initially 10% of annual revenue on the surpluses a College is allowed to create for its own use.**

**All reserves held that exceed 10% of annual revenue have to be used for the betterment of the sector overall. That could be either within that region or elsewhere, but priority and allocation would be decided by the new FE Strategic Forum at a national level.**

The limit of 10% is what we believe should apply, which is based on what we know today. However like much else that we recommend it could and indeed should evolve. Therefore one of the tasks for the new FE Strategic Forum should be to relook at the percentage and review if a different or better formula should be used. We would not wish the basic premise of a cap to be removed but there could be other ways of establishing what it should be.

The latter distribution of funding should be done by a new body consisting of the Chairs of all the regions plus others, which we set out later in this review.

Our basic premise in all of this is that extra resource which could be made available in the sector, by using current College reserves which exceeded the 10% limit, should be used to enhance the experience and the value given to the learner. We believe this to be of the highest priority in Scotland but regret that this has not always been the case to date. We do not think that the experience of the learner has always been the key priority at a national level, nor have decisions about the level of experience we want learners to have in terms of physical learning access points (LAPs).

This approach may be seen by some as discouraging Boards from being entrepreneurial but there is no evidence to suggest that is the case. Northern Ireland has had an agreed limit in place for some years and there is no evidence that it stops innovative thinking, or indeed Colleges generating extra income as well. Indeed it could be argued that not having the ability to generate surpluses in some Colleges has made them more risk averse and conservative whereas opening up the possibility that funding may be available from elsewhere in the sector for good innovation will encourage we hope more to be brave.

We also recommend, if the above recommendation is accepted, that

**All current College liquid reserves in excess of 10% of annual revenue are frozen (unless already specifically allocated to projects already underway physically) and central Government uses any excess nationally for the sole purpose of funding the costs of the changes we are recommending and any other changes which may come from the current overall review of post 16 education. This residual sum should be focussed on added benefit for the learner in the most appropriate manner.**

This is a specific recommendation which would support the change process and the sums in question should be used to fund whatever 'strains' may be challenging that process, but nothing else. In the section below on the future strategic management of the sector we recommend how excess reserves might be used once we have completed this change process.

What this would release is difficult to be precise about, as SFC is not in a position to provide 'real time' data on current College cash reserves or to indicate in every case the purposes for which they might be held. However our conversations with the sector's external auditors lead us to believe that the majority, other than what is held for revaluation purposes, is 'rainy day' reserve rather than for anything specific.

We understand that the total reserves as 31<sup>st</sup> July 2010 (the most recent figures held by SFC) were over £400 million albeit that most of that sum had been allocated by Colleges for revaluation purposes. 10% of total revenue of Colleges at the same time equates to about £75 million. Even if we took over half the reserves out of the equation this would still leave something which could make a significant contribution to supporting all the inevitable changes in the sector and further support learner enhancement. While we have not ourselves been able to calculate what those change costs will be we understand that an estimate of £60 million has been put to these costs.

In terms of what we say above relating to what issues should be considered at a national level, we believe that work is already underway on issues such as eLearning etc. As part of the transition to this proposed new model which we set out below in the 'Transition' section, we recommend that

**By the end of 2012 decisions on what should be undertaken by Colleges nationally, and consistently across all regions, should be taken. By the end of 2013 further decisions should be taken on how the sector should contribute to national priorities for the coming 5 years.**

Within the above we have made reference to eLearning and items around the curriculum that are already being discussed elsewhere. We believe though that consideration of these should go wider and should include such issues as recruitment of learners for example, where is it sustainable to have different methodologies across Scotland.

We have also considered how we manage scarce resource in specific sectors. For example as renewables have become highlighted as a key economic driver for Scotland, many Colleges have striven to become 'Centres' for this area in the absence of a strategic approach. There should be a better and more nationally strategic way of deciding who we want, as a nation, to be our centres of knowledge and excellence in this area and also where funding should be directed. We understand that there will be winners and losers in all these allocations but believe there is scope for better focus and value for money for these initiatives.

Looking further to the future as the new sector which we propose evolves, and its structures with it, we could envisage national back office functions such as HR and Finance being likely areas for discussions, plus perhaps also, for example, after detailed research and consultation, whether the strategy, and marketing for international students would be better done on a national basis. We have no real views on these currently but can see why they might be part of more long term discussions on how the sector might evolve.

Finally, for the outcomes we propose to be achieved, other ways of working will need to be put in place. As we have already stated above, the larger regions and entities we propose will allow larger, better resourced and more significant Students Associations to be established, such as the one at City of Glasgow College. These should give the learner a stronger voice. Therefore we recommend that

**Student participation and representation become a commitment across the College Sector. Student Associations should be strengthened and become appropriately funded, autonomous and sustainable.**

We would expect the new Regional Boards and College senior management to work with NUS Scotland to look at how best practice can be exchanged and used in this area, as well as ensuring that there is a consistent approach and commitment to strengthening student associations. To facilitate this we also recommend that

**A specific sum per learner-head, to mirror the process currently used by some Universities, should be allocated from the regional budget to fund the above recommendation.**

We believe that both the above recommendations will require the NUS to work more closely with both the FE Strategic Forum and Regional Boards to establish and guarantee best practice in this area, while also establishing what the national sum per learner should be, or at least a national way of calculating it.

Given our recommendations on the Regional Board being the entity solely responsible for the use of overall funding within the region, then we see the same being the case for funding controlled by a Students Association for that region, with the strengthened Association also being capable of enhancing representation at a campus level. This will provide a critical mass of independent resource for student representation. Officers of the Association would then be elected within the region to satisfy its 'estate'. NUS Scotland will need to play a key role in this, providing support for the processes and individuals who will operate at regional level.

Both the 1992 Further and Higher Education Act and 1994 Education Act state

*'That Colleges must have a Student Association to represent students' interests to the College and that Student Associations must operate in a fair and democratic manner'*

We would hope that the new regional approach not only allows strong and participative Student Associations to become the norm but would see student participation and representation generally become an even more meaningful part of the sector.

We suggest each Regional Board will need to work out a way of working closer with all the above, and in a way which involve learners and the Student Association far more fully in what the organisation does. This will be the same for staff and again the new Boards need to establish wider and better engagement with staff beyond just membership of the Board.

In the section of this report that set out the inequalities that we currently see in the College Sector today there were other issues around the learner and staff which we feel will need to be addressed so recommend that

**The FE Strategic Forum [see page 41] examines each inequality set out in this report and proposes a solution to each.**

The reason that we are not making our own recommendations on each of the inequalities returns to a key theme from this report in that it is the outcome that is important and there could be variations on how that is achieved. Therefore while we believe that many of the inequalities that we have identified need to be addressed that should be done in the context of the new Regional Board structure and governance that we recommend is put in place.

In terms of other partners the successful achievement of the outcomes required of the Board demands that they must have in place processes and ways of working

with each of its key stakeholders, including those in the school and HE sector. Specifically though we would want the FE sector to be more formally part of the development of the community so would recommend that

**The regional College becomes a statutory member of the appropriate Community Planning Partnership (CPP) to allow the contribution of the College, in line with Government policy on lifelong learning, to be a fundamental part of community planning.**

While some Colleges are members, albeit on a non statutory basis, in other parts of Scotland this is not always the case. We believe regionalisation allows them now to take a much wider view on the one hand, but a more specific view on the other of their responsibilities in this area. So we suggest that Colleges need to be a formal part of this.

This though should not be the sole answer to the Board outcome of ensuring community involvement and participation. Colleges must continue to be at the heart of the community they serve and need to ensure therefore that communities have that input into what they do. Therefore we recommend

**That either through a 'Partnership Group' as recommended to us by EIS in its submission or through another similar structure put in place by the Regional Board groups are created to give local communities an input into their strategy.**

## G. **The Strategic Management of the FE Sector in Scotland at a National Level**

As is stated earlier in this report how the sector has been guided and managed from central Government or its agencies has been seen by us as part of the challenge that the sector has faced.

We also state that we believe that the Scottish Government since devolution has passed too much of its strategic control to the SFC which has made the SFC both poacher and gamekeeper in certain circumstances. We believe that this has created challenges for SFC.

Given the publication of the recent consultation paper 'Putting Learners at the Centre', and taken with other recommendations elsewhere in this review, we believe that the role of SFC has to change. So we recommend that

**The Scottish Government establishes its own leadership and strategic guidance of the sector through the creation of a new FE Strategic Forum which would drive the sector forward and constantly review and evolve the sector in terms of fitness for purpose in a changing educational and economic world.**

The Forum would be chaired by the appropriate senior Government Minister and its membership would be

- The Chairs of the individual FE regions
- A nominee(s) of the STUC to give a staff perspective (which is likely to be from the EIS or UNISON as the main unions representing College employees)
- A representative of the learner through NUS Scotland
- The Chair of Skills Development Scotland
- The Chair of the SFC.
- A representative from the university sector to provide a link to it.
- A representative from the schools sector to recognise the key part it plays in Colleges.
- Any other appropriate representation that was felt necessary, including from industry taking account of both large and small firms.

We discussed whether Principals should be represented on the Forum and concluded they should not. We want to keep this body at a strategic level and not let it fall down into operational issues as many similar Forums tend to do. However we do realise that even at that level there may be issues that the Forum deliberate on which could impact operationally on the individual Colleges. Therefore an initial task

for the Forum is to decide how best to have that operational assistance available to it when required.

The role of the Forum would be to enact what we set out at the beginning of this report, namely that all we can put in place is something that is suitable for today and that the sector must evolve from that base to take account of further developments and opportunities that come from the reconfiguration we propose. Its role would also be to continually look at how College resource could be better and more effectively used for the benefit of the learner and the wider economy.

It would decide on the use of, and also perhaps the methodology of how best to distribute, the extra surpluses that could be available for use at the end of each year.

The Strategic Forum would also act as a focus for deciding on how best to deal with issues around key sectors for example where FE needs to provide help and how best to use the resource available to do that.

What the above says in essence is that SFC should give up some of its policy involvement in the sector and pass it back to Scottish Government or to the Forum itself.

## H. The Funding of the FE Sector

As is stated above in this report everyone we have spoken to, including SFC, agrees that the current model of funding does not lead to good governance. Board members generally cannot understand on their own the impact that changes in the WSUM regime have on their College. The WSUM methodology, like many other things at the time, was put into place quickly in 1992 as the move to the new system of incorporated colleges was done at speed. It was then only a pilot in Fife but was deemed to be an appropriate system to fund the entire sector. At its heart is an assumption that the cost of teaching courses of different type varies and therefore there needed to be a model that reflected that. However it has grown now into a multi layered beast that does not operate well for anyone. Indeed some Principals are even questioning the basis for it in terms of its capacity to reflect the differing cost of courses, saying that this can be accommodated without resorting to this complex structure.

Associated with the funding methodology are the demands that SFC impose on the sector in terms of data gathering to feed the funding organisation. This data collection takes significant time and resource across the sector and we have been unable to see that it yields value which matches that imposition, or contributes to the day to day running of the individual Colleges.

It has also been said to us that SFC apply much more scrutiny to colleges than they do to universities through the funding methodology which applies to that sector.

Therefore, again, no one we have spoken to disagrees that we need a new and simpler method of funding for the sector.

While it is not within our direct remit to recommend what any future funding system should be, we do have a view that there is a fundamental relationship between the funding system and the quality of governance in the sector and it is for that reason that we comment on this.

Having looked at what the options might be our recommendation is that

**The FE sector moves to an outcomes based funding model where each College is given a small number of outcomes which will fulfil Government policy and aspirations and is then allocated a sum of money to deliver those.**

However this is achieved there must also be a way of measuring and comparing past with future outcomes or we will be taking away the ability to make comparisons over time which would not be useful or desirable.

We believe funding should be in terms of a block sum which the College would then use to deliver the outcomes, and to deliver anything else it judges appropriate to support its strategy and benefit the region. The Northern Ireland FLU funding system

has gone partially towards this, recognising that there is a base cost of running a College which all else relies on.

While outcomes should be challenging but simple, they need both to protect the need for real qualifications to be part of the learner achievement and also protect the need to widen access all the time.

Whether the College had achieved its outcomes could be part of the overall audit process that the more general outcome driven approach would entail. So all could be caught in one and would produce a much more focussed and holistic audit process. This would also save valuable resource which is taken up currently by the multitude of audits and compliance demands placed on Colleges.

We believe that a new funding system based on a few simple but challenging outcomes would be the most appropriate to put in place in terms of supporting good governance. It would fit smoothly into our overall view that the sector in all its parts should be outcome driven and evolving.

Also while it may not have been within our direct remit to formally comment on the wider effects of this review, it is clear that both a moving of some of SFC's policy remit back to Scottish Government directly, plus a simpler and less intrusive funding regime, would mean that SFC needed to be restructured and reformed into an entity that reflected this new approach and into a role which would in effect be smaller than today.

Finally, in terms of funding we would like to comment on the way Colleges currently account for themselves and how this affects governance, and tied to this on the way that major capital projects are funded.

As is stated elsewhere in this report there is a feeling across the FE Sector that producing a surplus is key and that not doing so frightens, in a literal sense, many Boards. Our understanding is that this was driven some time ago by the SFC wanting Colleges to improve their financial health, which Colleges took as meaning the need to produce surpluses, building reserves which could be used to re-build ageing estate. At that time the sector was in need of major refurbishment but much of that has now taken place. The emphasis on surpluses has remained.

It is important to say that we are not at all advocating that Colleges or indeed the sector as a whole should be managed or governed in a financially inappropriate way. Indeed we advocate the opposite, in that the sector should be run in a way that is financially sustainable over a long period of time. Our issue is that to achieve that position does not necessarily mean that a surplus has to be achieved every year. There are situations which we can foresee where initial investment may be needed to achieve a longer term goal. This may initially cause the College not to be in surplus but would ultimately benefit from such an approach, as would the learner over time, with the College thereafter returning to surplus.

Focussing on surpluses on their own is also incorrect as they sometime do not mean what they appear to show. Since the sector reports accounts in a standard manner then depreciation and other non-cash items can play a key role in determining whether a College is in surplus or not, as they have no or little bearing on the cash position of the organisation. This is especially true of the many Colleges who in recent years have spent large capital sums on their infrastructure. This as a result can substantially increase their depreciation charge and therefore notionally reduce their surpluses. This is compounded by the fact the Government and its agencies do use surpluses as comparators and in themselves as indicators.

We therefore recommend that

**Colleges should not be judged on yearly surpluses but on a longer term sustainable financial model.**

There is an argument that cash accounting may be a better form of management for Colleges. Given that they have to produce statutory accounts anyway we believe that this may not be possible or desirable. However we do believe that Audit Scotland working with the sector needs to produce a new way in which Colleges will be financially judged and, importantly, compared. This new model should form the basis for the new financial guidelines to be issued to the new regional College Boards.

In doing that we believe that the issue of major capital funding needs to be settled in terms of whose responsibility it is. While the SFC has always retained the ability to approve major rebuilding or renovation proposals by Colleges, decisions have taken account of the ability of individual Colleges to generate reserves to fund those. This is one of the inequalities set out earlier in this report. Therefore our recommendation is that

**Government takes total responsibility for funding major capital projects in the FE Sector.**

Given that we also recommend above that surpluses over a certain limit are returned to the 'centre' for the use of the overall sector, then this does not necessarily mean that Government has to find all new money each time. This would also mean the development of physical learning access points (LAPs) would be prioritised on a Scottish wide basis, which has not been done previously to our understanding. We have not had the time to investigate whether the decision making on this process should be delegated to the new Strategic Forum, as there may be accounting and authority issues involved in that. However what is definite is that the Forum could advise Government on where the priorities should be, and that this should be part of the 'judgement process' on capital requests.

This would mean that Government would allocate no real capital funding to individual Colleges beyond what they need to keep existing LAPs, physical or electronic,

maintained to a standard that is fit for purpose for the learner yet allows movement with technological advancements.

We also believe that due to their nature these capital projects need careful and specialist management which sometimes individual Colleges do not have. This is illustrated by the inconsistency in the success of new College builds in recent years where some have been built on time and within budget but where others have not, providing challenges for the College concerned. To avoid that and to allow College Boards to focus on what they should be, it is recommended that

**A central resource is established within Scottish Government that works with Colleges to deliver major capital projects for the FE sector.**

## I. Terms and Conditions of Staff

At the end of 2010 the College Sector employed approximately 21,800 staff across 41 colleges and 166 different sites from Stranraer to Lerwick ( though we understand that over 1,000 of these posts have been lost during the course of 2011). As is stated earlier in this report, since incorporation in 1992, colleges in Scotland have evolved 41 sets of terms and conditions for staff. By comparison, in the school sector the Scottish Negotiation Committee for Teachers (SNCT) sets employment terms and conditions, and since 2006 a national framework agreement has been in place in higher education, in both cases covering all employees. Only the College Sector has collective bargaining devolved to the institution level.

This devolved arrangement has led to significant disparity in the remuneration paid to individuals performing comparable roles in different colleges. The clearest example of this is the salary range for main grade lecturers. The most recent salary survey published by Scotland's Colleges (March 2011) indicates that the top of the lecturer pay scale across colleges ranges from £32,607 p.a. to £36,839 p.a. with a median for the sector of £33,999 p.a.

We believe that as we move towards a regional structure, where part of its ethos and direction is to evolve even further, then the current system of 'local bargaining' on terms and conditions cannot continue.

We are clear therefore that ultimately we need to move towards a system, like all other parts of the education sector in Scotland, where there are national terms and conditions in this sector which apply across Scotland. To do that we may first need to evaluate what exists and create a more regularised framework for how that could operate. Below are more specific details of the above plus our recommendation and a plan to get us there.

As is stated above, a number of representations have been received during the course of this Review highlighting the inefficiency and waste of time and effort inherent within the current "atomised" bargaining arrangements in the FE sector.

The changes to governance envisaged in this report, along with the Government's proposals for structural change outlined in "*Putting Learners at the Centre*" provide an opportunity to consider afresh the means by which all contractual matters are agreed within the sector.

We are persuaded, therefore, that the FE sector would benefit, in a number of ways, from the re-establishment of a system of national bargaining, covering pay and conditions of service. On this basis we recommend that

**Arrangements as set out below are put in place to permit a return to national bargaining within the FE Sector in time-scales outlined below.**

The new proposed FE Strategic Forum will establish a new National Committee to permit representatives from the Employers and the nationally-recognised Trades Unions to meet and agree contractual issues covering pay and conditions of service. It is envisaged that, unless agreed otherwise, there would be a Negotiating Committee covering lecturing staff and a further Committee covering support staff. It is suggested that committee be known as “The Scottish Negotiating Committee for Further Education (SNCFE)”.

The timetable for the establishment of the new national negotiating machinery would be as follows, which would form part of the operation and outcomes of the new FE Strategic Forum so that they are tied into the ongoing evolution and change in the sector.

No later than April 2012, the 12 regional groupings will identify at least one representative (from each grouping) to form the Management (Employers’) Side of the new Negotiating Committee. The trades unions recognised at national level will elect the Trade Union Side(s) from amongst their members. A number of representatives from the Scottish Government should also be invited to attend meetings of the new committee(s).

No later than December 2012, agreement will be reached on the membership of the Management Side(s) and Trade Union Side(s). Agreement will also be reached on the structure of the Negotiating Committee(s) and the arrangements for respective Management and Trade Union secretariats, and agreement will have to be secured on new Recognition and Procedure Agreement(s).

No later than August 2013, initial agreement will be reached on the mechanisms to secure the phasing of national harmonisation of pay and conditions of service across the sector.

No later than August 2014, final agreement will be secured on national harmonisation of pay and conditions of service, including any final phasing required to implement the national harmonisation of all contractual matters.

The Government should consult with all interested parties at an appropriate time during this process of securing a return to national bargaining, to consider whether additional Government support is required to facilitate and secure final agreement, by August 2014 at the latest.

## J. Other Issues

Much is always made of the need for the FE Sector to provide people for industry, and indeed one of the new focuses in the recent consultation Paper is on Colleges' prioritising learning opportunities which lead to jobs. On the other hand there is much evidence that industry is actually not very good at forecasting what it needs any distance into the future, in terms of how it should respond rapidly to changes in the economy. We suggest that the need for Colleges to promote dynamic change is likely to get greater not less over the coming years as the world adjusts to a new economy and its implications.

We refer at the beginning of this report to questions around the continuance of SSCs in their current form in Scotland due to the very mixed and often negative views that are expressed about them today. These views come from a wide variety of people and organisations including academic institutions of all kinds, public bodies that interface with them, and from industry itself. Some SSCs have moved with the times and others have not, while others want to provide the training as well as advise on it. Given the amount of funding provided to them by Government they cannot be immune from consideration of whether they remain fit for purpose as well.

It is clear that in some parts of Scotland it is easier to respond to local industry needs than in others. Some have key large employers or sectors which dominate, and will continue to dominate that geographic area. Supporting their skills requirements must continue to be a key part of what that community needs. However in large parts of Scotland that is not the case. The majority of the companies involved in those communities are small and look on training even, sometimes, as a competitive threat (in the sense that losing well trained staff to others may present a risk).

We do not believe therefore that there is a single national solution to this interface. That is why we have suggested that a key outcome for each region should be, in terms of its strategy, to stipulate and be judged against how they will interface with and react to local industrial and employer needs. While we accept that the national Industry Advisory Groups (IAG) may well help frame some of that thinking for the future, the only real way to manage that interface on a day to day basis is geographically. It also has to be accepted that in some areas local industry may not want to play a part in that interface as it does not see it as a priority.

Where IAGs can be helpful is in planning new areas and development for the future and deciding where best to focus resource within the FE Sector for maximum impact. This again reduces the burden on individual Boards which may spend, and often have spent, time on looking at new areas uninformed by the evidence that Colleges in truth have, with no real locus or impact.

Finally we believe that the FE Sector has not been used as it could by Government and the wider public sector to be part of the Continuing Professional Development (CPD) process of sectors with which we should expect Colleges to work in

partnership. This is especially true of Local Authorities and NHS Boards, for which Colleges could provide and deliver large parts of the CPD which those sectors contract to others at present. Indeed many Colleges tell us they have found it difficult to engage with their local partners in these sectors even as far as getting onto the tender list.

Given the state of public finances and also now with the larger regional Colleges having a larger footprint across Local Authority and NHS regions we can see no reason why the FE Sector should not be 'first choice' where appropriate for public sector CPD.

## K. Transition

What this review recommends is radical and fundamental change to the FE Sector across Scotland. All will see some change but some more than others, and some will in effect start again in terms of governance and structure.

Having looked at and discussed the process of change with those that have been through this both in Scotland and elsewhere we have come to the conclusion that this is such a big change, that should our recommendations be accepted, it needs to be managed effectively and centrally if it is to achieve the desired outcome. We have also put together a list of what we have seen as best practice in mergers which is Annexe L which we hope can provide useful guidance to others.

Central management does not and will not mean the centre deciding everything, or indeed anything in certain cases, but providing the specialist help and advice to ensure that the move to the new structure is done consistently and with the same help and framework everywhere.

We would recommend therefore that

**A central team is formed to manage the process of change across the sector and work with the new Chairs and Boards, once recruited, to deliver their initial outcomes. The 'FE Change Team' would report to the Cabinet Secretary and his senior officials in terms of its work. It would also control the transition funding that will be needed to achieve these changes. It would be disbanded when the new structure is in place.**

The composition of the team should be from the FE Sector itself, plus specialist help which will be needed in terms of HR and legal advice, SFC, Scottish Government officials, and representatives of both staff and the learner.

In terms of the sector we are in one of these odd moments in time where over the next few years a significant number of experienced Principals are due to retire. The experience of some of these would be invaluable to the Change Team and could be accommodated given that they are moving on anyway.

However even with this team in place there are timescale restraints which would be difficult or wrong to circumvent, namely

- **Chair and Board Appointments** – The appointments process will take 6 months on average to put new Chairs and Boards in place.
- **Appointment of Principal** – If this is done correctly to the process we recommend then it will take at minimum 3 months from the time of the appointment of the Board to appoint a new Principal.
- **Outcomes Auditing** – Having discussed this with both Education Scotland, who are reviewing their inspection framework for the FE Sector in 2012

anyway, as well as Audit Scotland, Education Scotland estimates it would take all of 2012 to develop and put in place an effective system to audit Boards and the sector in the new way we suggest.

- **Funding** – We understand that while there is a drive to put the new regional funding model in place by financial year 2012/13 this will cause challenges for the sector which may make it impossible or not practical in its totality in that year.
- **FE Sector Management Information Systems (MIS)** – Both the changes to funding plus the move to outcome-driven measures for both Boards and funding will mean a fundamental change to the information that Colleges and those auditing them will have to collect. This would be true for the proposed changes to funding as much as it is for the new governance requirements. Since this will require major changes to all the current systems we recommend that

**A new national MIS system be developed and implemented which satisfies all the changes that this new structure for the College Sector will entail.**

- **Legislation** – It is likely that some of our recommendations will need legislation, possibly going as far as the repeal of Part 1 of the Further and Higher Education (Scotland) Act 1992 and its replacement by legislation which incorporates the new style of institution recommended in this report. If that were the case it could take at least a year for those to be implemented.

Therefore, even with this team in place, trying to do everything at once may not be effective or possible. Some of the geographies we have recommended are already moving forward anyway, so will already have a pace of their own which the Change Team will need to now meld into the new way of working we propose. The pace and desire now coming from some should be used as a driver for the others and we should set a target date, once all the above timings are finalised. We believe that academic year 2013/14 should be the initial target for as much as possible to be in place, with 2014/15 being the year for full completion, unless otherwise agreed as the implementation process rolls out.

However accepting all that, we suggest that the Change Team is established as soon as possible and that it follows three paths

- A. With those Colleges that are already in the process of coming together into the regions that we recommend, that the Team works with them to meld what they are currently doing into the new system we recommend. This initial group can also provide a good testing ground for the process so that we can learn from and refine it for the ones that follow. Edinburgh appears the most

advanced at present, and we understand that they would be keen to be part of this process and a 'pilot'.

- B. With those which are either not well advanced or will need to fundamentally rethink where they are, then the Change Team to work with them to put in place the new system that will satisfy their new region.
- C. Where nothing or little is changing in terms of the impact of regionalisation, then the Change Team works with the existing Board to see how other changes can be done in a way that has as little negative impact as possible.

The need to have as little negative impact as possible applies to everywhere, which is why the roles of the existing Chairs and Boards and Chairs are critical in making the change work smoothly.

Also since the new Chairs are the key to the success of the new structure in terms of driving the process, then recruiting them should be a key initial task. This means that even the Chairs of Colleges where there will be no change in the geographic responsibility would also resign as soon as appropriate, so that all the Chairs across the sector are chosen and put in place by the same process and with the same objectives. Whether the entire Boards of those unaffected Colleges should resign as well is an issue on which we are undecided at present as we can see pros and cons in either way. Boards would change but should we allow that to happen naturally, or instead have all of the College Boards recruited in the same manner right away?

We believe that the sector is ready for the change but needs specific dates to aim for if Colleges are all to come together in the way we recommend in as short a time as possible. This will then minimise any disruption of the sector or the learner, which is where we started this report.

## **In Conclusion**

This review has been one of the most interesting that I have been involved with, in that everyone has accepted that the structure and governance of the FE sector as it currently exists is not fit for purpose. It has been too long in the changing, and we needed to move to a better and more reliable, consistent place. However in pursuing that, our discussions highlighted all the reasons why change had not happened in that individuals would have to give up what they had, and would have to change, which would be difficult for some. Given the discontinuity and disharmony in the sector across many issues we believe that this report and its recommendations give a solid and consistent base that can form the foundation on which other things can and will evolve. If in 10 let alone 20 years this review team looked at the FE Sector and it had not further evolved and changed into something better, then we would be disappointed since the key essence of all we recommend would have been lost. Just as the ways in how we can and do learn change, then so should the system providing that. The focus should be more and more on ensuring that its resource is used primarily for the learner, and less at looking after its own structure.

## Annexe A

### MEETINGS UNDERTAKEN BY PROFESSOR GRIGGS

Individual	Title	Organisation
Dr Alasdair Allan MSP	Minister for Learning and Skills	Scottish Government
James Alexander	Policy & Communications Manager	Scottish Council for Development and Industry (SCDI)
Mark Batho	Chief Executive	Scottish Further and Higher Education Funding Council (SFC)
Catherine Bell	Deputy Secretary	Department of Employability and Learning North Ireland (DELNI)
David Belsey	EIS National Officer (Further & Higher Education)	The Educational Institute of Scotland (EIS)
Michael Breslin	Principal	Argyll College UHI
Chris Brown	Partner, Audit and Assurance	Scott-Moncrieff
Sally Brown	Fellow	The Royal Society of Edinburgh
Sir Andrew Cubie CBE FRSE	Chair	Cubie Report (1999)
Angela Cullen	Assistant Director, Performance Audit Group	Audit Scotland
EIS College Board Members	College Board Members	The Educational Institute of Scotland (EIS)
Amy Dalrymple	Policy and Research Manager	Scottish Chambers of Commerce
Mike Devenney	Principal	Moray College UHI
Gary Devlin	Director	Grant Thornton

Heather Dunk	Principal	Kilmarnock College
Jim Ewing	Chair	Stevenson College Edinburgh
Stuart Fancey	Principal Project Officer Post-16 Reform Review	Scottish Government
James Fraser	Principal	University of the Highlands and Islands
Janet Gardner	HM Inspector	HM Inspectorate of Education (HMIE)
David Green	Principal	Lews Castle College UHI
William Hardie	Policy Officer	The Royal Society of Edinburgh
John Henderson	Chief Executive	Scotland's Colleges
Laurence Howells	Director of Learning Policy and Strategy	Scottish Further and Higher Education Funding Council (SFC)
Rob Humphreys	Director	The Open University in Wales
Barbara Hurst	Director of Performance Audit	Audit Scotland
Stuart Inglis	Director	Henderson Loggie
Graham Johnstone	Chairman	Scotland's Colleges Chairs' Congress
John Kemp	Director of Strategic Development	Scottish Further and Higher Education Funding Council (SFC)
Graeme Kirkpatrick	Depute President	NUS Scotland
Lord Jamie Lindsay	Chair	Scottish Agricultural College
Paul Little	Principal	City of Glasgow College
Audrey MacDougall	Head of Employability, Skills and Lifelong Learning Analysis Team	Scottish Government
Karen McAvenue	Head of UKCES, Qualifications and Sector Skills Policy Team	Scottish Government

John McClelland CBE	Chair of Council	Scottish Further and Higher Education Funding Council (SFC)
Professor Jim McDonald	Principal and Vice Chancellor	University of Strathclyde
Linda McKay	Principal	Forth Valley College
Dr Peter McKiernan	Professor of Management	Univeristy of Strathclyde
Linda McTavish CBE	Principal	Anniesland College
Colin Miller	Head of Public Bodies Policy Team	Scottish Government
Thomas Moore	Principal	Perth College UHI
Ken Muir	HM Chief Inspector	HM Inspectorate of Education (HMIE)
Roger Mullin	Senior Partner	Inter-ed International Consultancy
Captain Nigel Palmer OBE	Former Chair	Glasgow College Of Nautical Studies
Emma Phillips	Regional Officer	UNISON
Sue Pinder OBE	Principal and Chief Executive	James Watt College
Jan Polley	Former Assessor	The Office of the Commissioner for Public Appointments in Scotland (OCPAS)
Mark Roberts	Portfolio Manager, Public Reporting Group	Audit Scotland
Willy Roe CBE	Chairman	Highlands and Islands Enterprise
Michael Russell MSP	Cabinet Secretary for Education and Lifelong Learning	Scottish Government
Dr Leslie Sawers	Chief Executive	Scottish Council for Development and Industry (SCDI)
Dr Andrew Scott	Director of Employability, Skills and Lifelong Learning	Scottish Government
Graham Smith	General Secretary	Scottish Trades Union Congress

John Spencer	Principal	Inverness College UHI
Dr Craig Thomson	Principal	Adam Smith College
Ferdinand von Prondzynski	Principal and Vice-Chancellor	Robert Gordon University
David Watt	Director	KPMG LLP
David C Watt	Executive Director	Institute of Directors in Scotland
Cathie Wylie	Partner	Henderson Loggie

## Annexe B

### REMIT OF REVIEW

- **to consider whether current institutional governance arrangements in the college sector in Scotland deliver an appropriate level of democratic accountability given the level of public funding institutions receive; and**
- **to examine the structure of college governance and make recommendations for change, including at sector-wide level, which will support the role of colleges in economic and social development in a highly challenging future financial climate.**

The review to look at in particular, though not exclusively, at a number of specific aspects:

- the composition of a college's governing body, including the need to retain current, or any, statutory requirements;
- whether the college governing body should have the duty to take into account regional and sector-wide considerations in addition to those relating to its own college;
- the board appointment process: the extent to which greater accountability might be required; and how this might be achieved;
- the scope for achieving better links with employers, communities and other stakeholders through a different governance structure, perhaps involving a 'council of stakeholders' and the possible division of the governance structure between 'outer' and 'inner' bodies
- the effectiveness of the board in holding the Principal to account; and
- the relationship between effective college governance and the overall alignment of the college sector.

All the above aspects should be considered in the context that Governance depends, and is interdependent, on a number of issues all of which have been examined and taken into account namely (but not exclusively):

- the objective of the organisation and what its outcomes are supposed to be and who sets those;
- the size of the organisation;
- the corporate structure of the organisation and what controls or regulates that;

- the funding of the organisation and who provides that and what constraints or controls that are put on that; and
- the capacity of the organisation to deliver all the above consistently nationally and locally.

In terms of the FE sector, Government provides both the legislation and direction to Colleges, albeit through a variety of bodies. It and the bodies it controls or instructs should therefore be key stakeholders in providing future context for the review.

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**SUPPLEMENTARY GUIDANCE ON REMIT PROVIDED BY CABINET SECRETARY IN LETTER OF 29 SEPTEMBER 2011**

Dear Russel

**REVIEW OF COLLEGE GOVERNANCE**

When I asked you earlier this year to take on a review of college governance, my fundamental objective was, through your advice, to develop arrangements that brought a transparency, accountability and rigour to the system that brought it into line with the demands of 21st century Scotland. I know that, consistent with this focus on governance, your group has quite reasonably been considering the *shape* of a future college sector, in order that the governance requirements reflect any structural change that might be necessary.

I am very grateful for the work you have undertaken to that end. However, I am afraid that the demands of the Spending Review mean we have had to work faster on the issue of shape and structure than I had at first planned. That is why our pre-legislative paper on post-16 reform proposes a number of regional groupings; and it is why, on 21 September, I wrote to the Scottish Funding Council to ask that they move quickly to a regional approach to commissioning and funding ahead of the next academic year.

This means that I have to ask you to focus your attention to the core issues of governance identified in your remit - though you should of course feel free to discuss with the SFC the nature of its planning for regional commission. I am sorry to have to ask for this slight change of tack that I am afraid is inevitable in the circumstances we face; and I remain very grateful for your efforts, and those of your group, for your continued work. I very much look forward to seeing the outcomes later this year.

MICHAEL RUSSELL  
Cabinet Secretary for Education and Lifelong Learning

## Annexe C

### REFERENCES

In addition to the written and oral submissions and evidence considered by Professor Griggs, this review has been informed by the following sources:

1. *'Report to the SFC Merger Advisory Committee 2006 on Glasgow Metropolitan College'*
2. *'Post Merger Report - Forth Valley College'*
3. *'Post Merger Report - Adam Smith College'*
4. *'Post Merger Evaluation - City of Glasgow College'*
5. *Letter from Mark Batho, Chief Executive of the Scottish Funding Council, giving views on the nature and benefits of a regional model of delivery, offers proposals on the appointment of board chairs and raises the possibility of increasing SFC's power to intervene.*
6. Grant Thornton UK LLP, (2011). *'The Financial Health of the Higher Education Sector 2011'*.

This report is published annually. It analyses the finances of the UK HE sector and identifies current and future trends which may have a significant impact on the sector e.g. tuition fees.

7. KPMG LLP, (2010). *'Delivering Value for Money through Infrastructural Change'*.

This report was commissioned by the Learning and Skills Council. Its purpose is to review the current delivery models of English FE Colleges and to identify options for new delivery structures that could potentially deliver better value for money.

8. The Educational Institute of Scotland, (2009). *'Democratisation of College Boards'*. EIS-FELA Policy Document.
9. Scotland's Colleges, (2007). *'Guidance for Colleges on the Appointment of College Board Members under the Further and Higher Education (Scotland) Act 1992'*.
10. Association of Scotland's Colleges, (2007). *'Summary Guide for College Board Members 2007'*

11. Learning and Skills Improvement Service (LSIS), (2011). *'Case Studies to Support the Review of Governance Arrangements in Wales'*

This is a research paper published to inform the Welsh Review of College Governance. It contains case studies of 8 different models of college governance and identifies 'critical success factors' common to all successful governance models.

- 12 Department for Employment and Learning Northern Ireland (DELNI), (2004). *'Review of Further Education - FE Means Business: A programme for Implementation'*.

This is a consultation paper, published in February 2004, which sets out the findings of an extensive review of FE in Northern Ireland, together with policy proposals for the future of the sector.

- 13 Department for Employment and Learning Northern Ireland (DELNI), (2006). *'FE Means Business: A programme for Implementation'*.

14. Howgego, J, (1993). *'The Incorporation of Further Education Colleges in Scotland. A personal account by Joe Howgego'*.

## Annexe D

### **PUBLICATION (1993) DESCRIBING THE PROCESS OF INCORPORATION**

**(HMI J Howgego)**

**THE INCORPORATION**  
**of**  
**COLLEGES of FURTHER EDUCATION**  
**in**  
**SCOTLAND**

*This booklet provides an account of key events stemming from the Ministerial decision in March 1991 to remove Further Education (FE) colleges in Scotland from Local Authority control and to give them incorporated status. The account finishes at the 1st April 1993, the date on which the legal status of the colleges actually changed. It includes the initial preparation of a White Paper in the first part of 1991, the publication of the consequent Parliamentary Bill, the passing of the Further and Higher Education (Scotland) Act in March 1992, and the quite remarkable range of preparatory activities which were undertaken by the colleges and other agencies - including The Scottish Office Education Department (SOED) - during the remainder of 1992 and the first three months of 1993. The account does not provide any assessment of how well incorporation has progressed since April 1993. That will be the subject of separate reports.*

## **1. The Further Education College system in Scotland**

1.1 At the time of the Ministerial Statement announcing impending changes there were 45 FE Colleges in Scotland. Forty two of these were located on the Mainland and one each in Orkney, Shetland and the island of Lewis. They ranged in size from the small unit in Orkney catering for a few hundred students to the recently created single college based on Aberdeen with over 15,000 students on its books. Then, as now, the FE colleges offered a comprehensive range of education and training. Some were specialist institutions for the land-based industries, the building trades or nautical studies; the great majority provided a wide choice of learning programmes, mainly to meet vocational requirements.

1.2 Just as the programmes themselves were varied, so were the students who made use of the colleges. They ranged from school pupils who participated in link courses designed to give them some experience of vocational education, to mature students returning to education to fulfil either a career or personal need. A significant feature of FE in the late 80s and early 90s was the large increase in older students and a proportionate reduction in those in the 16-19 age group. All colleges strove to a greater or lesser extent to be community institutions, serving not only local industries and commercial interests, which were their traditional clients, but also other groups in the area who could benefit from what they had to offer. Some were officially designated community colleges and were expected to make a particular contribution to social as well as vocational educational needs.

1.3 In order to fulfil this demanding role the FE colleges had to work in close cooperation with many other agencies. To ensure that their vocational role was being well fulfilled they set up course committees of various kinds with representatives of local employers; College Councils included representatives of all those with an interest in the colleges courses; and they sought to keep close contact with other educational providers - the schools, the Community Education Services and Higher Education institutions - who were likely to be dealing with local students in other contexts. It should be noted that both the schools and the Community Education Services were, and remain, under the management of the Local Authorities. Until incorporation FE colleges shared the same control systems and services as these other sectors of education.

1.4 This, then, was the educational sector that was to be given a new autonomy. The colleges were to be accorded a degree of freedom over their own affairs which went far beyond anything which had been possible under previous legislation, and they were to be required to accept the major responsibilities which went with this freedom. It was abundantly clear, well before the 1992 Act became law, that much energetic preparation would be needed if the intentions of the legislation were to be met. So it proved in the event.

## 2. The Ministerial Statement

2.1 On March 21st 1991 the Secretary of State for Scotland announced in the House of Commons that, as from 1st April 1993, the funding of FE colleges in Scotland would pass from the local authorities to central government, and the management of the colleges would become the direct responsibility of the College Councils (later to be re-named Boards of Management). As corporate bodies, the colleges would be vested with the land, buildings and equipment which to date had been under the control and disposition of the authorities. Similar statements covering the colleges in England and Wales were made by the relevant Secretaries of State. The main intention of the proposals was to give colleges a greater degree of freedom to respond to the demands of the labour market: autonomous colleges would be in a better position to offer vocational education as and when it was required; they would work in close co-operation with the newly established Local Enterprise Companies; and they would be encouraged to operate in an entrepreneurial way, seeking business opportunities throughout their catchment areas and competing on the basis of quality as appropriate. The Ministerial statements of 21st March reflected a UK policy; the differences which emerged later between Scotland and the other parts of Britain were introduced to reflect the distinctive features of the Scottish scene. Care was taken throughout, however, to ensure that the major thrusts of the original policy were in no way diluted.

2.2 In The Scottish Office, and indeed throughout the educational world, there was immediate consideration of the implications of the statement. The colleges had already been afforded a degree of independence in previous legislation, including some financial freedom, but what was now proposed went much further. The College Councils, for example, would now be employers, with all the responsibilities which that status entailed; they would own and maintain the college property - not all of which, it must be said, was in prime condition - and they would, above all, have to balance the books year by year without recourse to a regional finance department. Curricular implications were also immediately evident: not all FE courses were strictly vocational; indeed many colleges had been encouraged to take on a powerful community role. How would this role be sustained in a new regime? And others had developed a particular expertise in the further education of students with special needs - an expensive provision which drew in very little by way of fee income. Could this work continue in a situation where colleges might find themselves very close to the budgetary line? At this stage in the debate there was no shortage of questions. The search for satisfactory answers was to take much hard work and ingenuity over the period up to April 1993.

2.3 A consideration in the minds of legislators and civil servants was the timetable for the whole operation. An unknown factor in this was the knowledge that a General Election was pending. It seemed likely at the time that this Election would take place within a year of the

House of Commons statements, making it essential, if the new provisions were to receive the force of law, that all the preparatory work should be undertaken at considerable speed. Within that year it would be necessary to draft a White Paper, submit it for the required consultation, prepare and present a Bill to parliament, take the said Bill through its several stages and ensure that the emerging Act became law. In March 1991 this seemed a daunting prospect, and the price of failure would be a vast amount of wasted effort and a further period of uncertainty in the colleges which could only be harmful.

### **3. The White Paper**

3.1 The first task, therefore, was to prepare a White Paper setting out the context for the reforms and spelling out in greater detail than in the Ministerial Statement the future intentions for the management of colleges. This work was taken on by Division 4 of SOED and began almost immediately after the publication of the Statement. At this stage the operation was internal to the Scottish Office but it involved nevertheless frequent contact with the Department of Education and Science (DES), as it then was, and an active input by HM Inspectors of Schools (FE Division), who were to play a key role at most stages of the legislation and its implementation. At this particular point they were called upon to ensure as far as possible that proposals in the White Paper represented a reasonable set of demands on the FE colleges, and that the implications for the curriculum of organisational proposals were fully taken into account. Given the pressures of time, those involved had to be available for virtually immediate response to queries during this drafting period. In the event the White Paper was drafted, approved by Ministers, printed and published almost exactly two months after the date of the Ministerial Statement.

3.2 It is not proposed to spell out here the detailed contents of the White Paper, which is readily available for reference. Suffice it to say that under its title 'Access and Opportunity' it set out a wide-ranging policy for vocational education and training in the 1990s. It dealt with the Government's overall aims in this field, the future role of the Careers Service, questions of participation and choice and the need for relevant skills and qualifications, as well as the proposed changes in FE colleges. Indeed, the intention to incorporate FE colleges was covered only in the seventh of eight chapters in the document, which was used to serve the wider purpose of setting out government policy for vocational education and training as well as announcing proposed structural change. The sub-title of the White Paper was: 'A Strategy for Education and Training'.

3.3 In the FE chapter, however, many of the details which would eventually be enshrined in legislation were already to be found. The statutory duty to secure the provision of further education was to pass from the education authorities to the Secretary of State; the funding of

further education would be transferred from local to central government; colleges - with the exception of two very small units in Orkney and Shetland - would become incorporated bodies with the full range of responsibilities which this entailed; and a funding mechanism would be devised which would reward in some way effective and efficient colleges. (The way in which this would be done was not indicated at this stage). The White Paper also set out a list of areas of educational activity which would qualify for central funding - in effect a definition of further education. This list (see para 7.24 of the White Paper) was to undergo some refinement as the legislative process continued; it had implications which may not have been fully realised at this early stage.

3.4 It has been stressed earlier that the White Paper was intended to reflect a UK policy for vocational education and training. In the course of its preparation, however, it became clear that it could not match exactly its companion document South of the Border. There were issues relating to the size of the FE system, developments in the colleges themselves and the qualification arrangements in Scotland which required separate provisions. A fundamental difference in the proposals for Scotland was that both recurrent and capital funding for the incorporated colleges was to be by direct grant from The Scottish Office and not, as would be the case in England and Wales, through the intermediary of a Funding Council. The reasons for this were mainly the small size of the system, which could hardly justify the additional layer of bureaucracy, and the depth of experience which was available in The Scottish Office through its funding over many years of the non-university Higher Education sector. A related, and important, Scottish feature was that a defined range of work in FE colleges would be funded by the Secretary of State irrespective of whether it fell into the advanced or non-advanced category. The colleges, rather than the work itself, were being funded. In the DES document it was clear that any advanced work would be covered by grants from a Higher Education Funding Council, thus making FE colleges dependent on two Councils for their financial support. In certain smaller ways too the Scottish document had to differ: the references to the development of new types of vocational qualifications had to take account of the current work of the Scottish Vocational Education Council (SCOTVEC), and important Scottish developments in quality assurance in further education had also to be reflected.

3.5 The White Paper was issued for consultation in the latter half of May 1991. By chance the date of publication coincided with a seminar on financial management involving virtually all the FE college principals in Scotland; it was perhaps not surprising that the organisers had some difficulty during that day in keeping the attention of their audience closely focussed on the topics which were supposed to be under consideration. The White Paper generated considerable interest, and the consultation period, which lasted until 12 July 1991, was a time of great speculation, some of it quite unprofitable, as to the hidden agenda which lay behind the proposals. There was a body of opinion which held that the removal of FE from the domain of the Local Authorities was no more than a way of reducing levels of Community Charge. (As the

White Paper made it clear that the Revenue Support Grant to Authorities would be reduced by an amount which took full account of the change, this argument could not be sustained.) Others believed that the proposals were no more than an attempt to undermine further the power of local government by reducing its range of responsibilities. The reforms were seen by this group as the very opposite of what they were intended to be - a further step in the process towards true delegation of authority to the colleges themselves.

3.6 The formal responses to the consultation were, not surprisingly, mixed. In general the colleges themselves welcomed the prospect of having greater independence and new powers, though there were expressions of caution - no doubt in anticipation of the load of work and responsibility which would accrue to them. The likelihood of closer co-operation with autonomous colleges was warmly welcomed by employers and their organisations. The major certifying bodies, including SCOTVEC, recognised the new impetus which the White Paper would give to vocational qualifications. On the other side, perhaps predictably, the teaching and student unions expressed their opposition as did the Local Authorities and their organisations (The Convention of Scottish Local Authorities and The Association of Directors of Education in Scotland). Even some of the supporters of the proposals commented on what they saw as an excessively tight time-scale for their implementation.

3.7 Among the more detailed comments that were made some were to prove quite insightful. There was concern about the developing field of Community Education, including Adult Basic Education, which took place in a variety of locations, including FE colleges. Who would have the continuing responsibility for this provision, and how would it be funded? There was also some disquiet about the decision that the allocation of bursaries for non-advanced further education would remain the responsibility of the Authorities. Might this give them an effective veto over which courses a college could offer? The notion of colleges being in competition with each other for a perhaps dwindling number of students also left some respondents somewhat uncomfortable. Was this a valid area for competitive activity? Would it lead to the axing of whole areas of college provision to the disadvantage of students and lecturers alike? Needless to say there was also concern about the nature of the funding system which would eventually be applied, and perhaps especially as to how the quality bonus, as it was sometimes described, would be calculated. All these comments proved extremely valuable as the work on the legislation and its implementation proceeded. They gave a useful early warning of those areas which would need close attention, further consultation and sensitive decision.

3.8 The official conclusion based on the consultation was that there was no need for major changes in the policy areas covered by the White Paper. Ministerial statements were made to reassure those concerned about the future of Community Education and about a particular concern regarding transfer of staff. The way was now clear for the preparation of a parliamentary Bill.

#### **4. The Preparation of the Bill**

4.1 The Further and Higher Education (Scotland) Act 1992, as it was eventually called, covered important areas of Higher Education (HE) as well as the incorporation of FE colleges; indeed as the Bill as a whole went through its various stages the HE sections attracted more attention than those dealing with FE. This account considers only the FE provisions, while recognising that there were to be later implications for FE colleges deriving from the changes in the HE sector.

4.2 The time-scale to which officials and their advisers were working made it inevitable that some early drafting of the Bill had to be undertaken even before the consultation on the White Paper was complete. Indeed a sketch of the Bill as a whole was in existence by mid-July 1991, so that it was a somewhat less demanding task than it would otherwise have been to make the necessary adjustments based on the consultation. This was not an attempt to pre-empt the outcomes of consultation; rather it was made necessary by the timetable for the presentation of the Bill to Parliament.

4.3 Officials felt reasonably confident in any case that they were in a position to take matters forward because of the high level of informal consultation which accompanied every stage of this exercise. For several years before the Statements of March 1991, and in support of earlier legislation, there had been regular contacts between Departmental officials on the one side and college principals and Local Authority representatives on the other. These had included management training exercises in which HM Inspectors had played a key role, as well as formal meetings to discuss the progress and implications of earlier legislation. As a result the Department was well attuned to the likely reactions to the new proposals. It was also well placed to seek views on a continuing and informal basis as the exercise proceeded. At the time when the Bill itself was being given its final shape arrangements were made to hold frequent meetings with representatives of the Association of College Principals (APC) as well as with the Association of Directors of Education in Scotland (ADES). These were informal meetings, without agenda or minutes, but with a helpful level of open debate and positive suggestion. It is, perhaps, only in a country of the size of Scotland that informal consultation of this kind can be entered into. (One interesting outcome of the meetings with the college principals was that the title of the governing bodies for incorporated colleges was changed from College Councils to Boards of Management - the suggestion of an individual principal.)

4.4 The sections needing closest consideration as the drafting proceeded were the definition of FE itself, the composition and duties of the college Boards of Management and the range of provisions designed to ensure that the transition from Local Authority to central control

proceeded as smoothly as possible. There was still concern that elements of Community Education might be prejudiced by the proposed changes and there were many redrafts of the relevant Section of the Bill before a formulation was reached which seemed to allow sufficient flexibility to avoid the undermining of valuable developments. At the same time Ministers made statements both North and South of the Border to reassure those concerned about the future of Community Education (in Scotland) and about the position of Adult Education in particular in England and Wales. As far as the Boards were concerned their duties were spelt out in considerable detail (see Section 12 of the Act) so as to make quite clear to prospective Board members what the full range of their responsibilities would be. Decisions were also reached about the composition of Boards: an important provision, for example, was that the college principal would be a full member of the Board. But there would be no automatic place for a Local Authority representative, nor would such a member be entitled to become a Board Chairman. The importance of stressing the future independence of colleges from the Authorities was in a way symbolised by this decision. (In the event the membership of the Boards of almost all colleges have included representatives of the Local Authorities). The transitional arrangements also needed very careful attention. Here there was concern that the transfer of goods and property should proceed with the minimum of difficulty or conflict and that the position of staff who would move from one employer to another was adequately safeguarded. The repercussions of this aspect of the reforms are still evident at the time of writing this account.

4.5 The drafting of a Bill which took full account of a variety of kinds of consultation, and which would, it was felt, command a large measure of public support, was completed in time to have its formal First Reading in the House of Commons early in November 1991

## **5. The Passage of the Bill**

5.1 The debate on the second reading of the Bill took place on 26 November 1991. Not surprisingly, rather more time was devoted to Part II (the HE section) than to Part I. The Secretary of State for Scotland, in presenting the Bill to the House, stressed the Government's intention to break down barriers to access in both further and higher education, and to give FE colleges the freedom they needed to respond to local needs. He sought to alleviate the concerns which had already been expressed during consultation on the White Paper about the position of Adult Education by stressing the duty which Local Authorities would retain to provide Community Education, and by indicating that powers would remain with colleges to make provision in this area. He saw no reason to doubt that the necessary links and co-operation between incorporated colleges and the Authorities would be established. The Opposition saw the Bill as an assault on local democracy; they were not convinced by the Secretary of State's

assurances on the question of Adult and Community Education, which they felt to be put at risk by the proposed legislation; and they regretted the lack of any provision in the Bill for an FE Funding Council to create a buffer between the College Boards and central government. The debate was lengthy, lasting over 5 hours; at its conclusion an Opposition amendment rejecting the Bill was defeated by a majority of 105 and it passed to the Committee stage.

5.2 There were 5 sittings of the Standing Committee set up to debate Part 1 ( the FE Section) of the Bill. Some of the same concerns as had been expressed earlier - in some cases more than once - re-emerged, but at the conclusion of the Committee stage most of the changes made were not of great significance. One exception was that a Section was introduced at Report Stage giving the Secretary of State powers, without further legislation, to set up a Funding Council for further education. A second area which exercised the Committee was the provision of further education for students with learning difficulties, and clauses were introduced which strengthened quite considerably the way in which the duty to make such provision was expressed. Some concession was also made to the position of Local Authorities by placing an obligation on College Boards to consult them about their development plans. No change was made, however, to the provisions about representation on the new Boards.

5.3 Once the formality of the Third Reading had been overtaken the Bill passed to the House of Lords where many of the previous arguments were raised again in this new setting. These included the issue of an FE Funding Council which some Peers wished to see introduced immediately upon incorporation. An interesting and possibly significant event at this stage was the receipt by the Scottish Minister of State for Education of a letter from the Chairman of the Association of College Principals in Scotland stating the Association's opposition to the notion of a Funding Council. This was timely, because it may have prevented lengthy debate in the Lords, or later in the Commons, at a time when any undue delay might have been fatal to the Bill. By now the Dissolution of Parliament in anticipation of the General Election was imminent and speculation was rife as to whether or not the Bill could possibly be approved in the time available.

5.4 In the event the Bill was returned to the Commons with the necessary seal of approval from the Upper House and received Royal Assent on March 16, the day Parliament was dissolved. It has been argued - perhaps tongue in cheek - that the history of Scottish Education in the 1990s would have been very different if 1992 had not been a leap year!

## **6. Planning for Implementation**

6.1 It had been necessary, even before the final passage of the Bill through its various stages, to begin to plan for the implementation of the expected provisions of the Act. This was especially important as regards the change of status of the colleges for which a completely new system of management, both in the Department and in the institutions themselves, was expected to be required. The time-scale was much too tight to allow the Department to wait until the Act had Royal Assent before providing, in part at least, a blueprint for the necessary changes. In any action that was taken at this early stage care was taken to concentrate on matters which were reversible, should the Bill fail to be ratified, and on development work which would be useful whether or not the new legislation reached the Statute Book. It was seen to be valuable, for example, to push forward with work on Unit Costing in colleges which had relevance in the context of the 1989 legislation, as well as being crucially important as colleges began to prepare for possible future changes. Similarly, the development of Computerised Management Information Systems (CMIS) for colleges was needed for effective management whether or not the Bill was approved.

6.2 Soon after the publication of the White Paper arrangements were made for the full-time secondment of a member of HM Inspectorate to Division 4, SOED to analyse the tasks which would have to be carried out and to begin to consider the options available to the Department for the funding of colleges - by far the major responsibility which would fall to the Department when the new legislation came into force. The first job carried out by this secondee was to set out, by September 1991, a comprehensive statement of all the tasks that could be envisaged - assuming the new legislation came into force - in the period up to April 1993. The list was formidable: it included, amongst many other things, the creation of a funding formula, the establishment of a system for capital funding, the design and introduction of a computerised management information system for all colleges, the appointment of new College Councils, the publication of guidelines for development planning in colleges, and an indication of the large amount of staff development which would be required to assist all those concerned to meet their obligations. It was also clear even at this stage that there would be a host of apparently minor matters that would have to be resolved if the transfer of control of the colleges was to proceed smoothly: arrangements for insurance would have to be clarified; the situation of colleges regarding VAT had to be resolved; procedures for dealing with the European Community would certainly change; and colleges would need to know where they stood regarding their charitable status. Most, but not all, of these issues were anticipated in the planning document of September 1991. The next task was to devise a strategy to deal with them and to produce, and publish as soon as it was appropriate to do so, a timetable for implementation.

6.3 The Department was very keen, as in the build up to the Parliamentary Bill, to involve all those who would be affected by the changes in the implementation process. In the course of preparing the implementation plan the idea emerged of establishing a number of Core Groups

whose membership would be drawn from people with a direct interest in the FE sector. These Groups would be asked to make recommendations regarding key aspects of the proposed new arrangements. In the event four such Groups were set up; they were to deal with recurrent funding of colleges, capital funding, management information systems, and staff development. Their members, in every case, would include college principals and other college staff, local authority representatives, HM Inspectors and SOED administrators. The input of these Groups to the process of implementation was enormous. Their existence also ensured, as far as it was possible to do so, that the new FE would not be devised solely by politicians and civil servants; it would be based on ideas emerging from the field, and its initial shape would be powerfully influenced by those who were working in it. For completeness it must be recorded that the co-operation of the Local Authorities in this matter was not immediately forthcoming. ADES had opposed the proposed legislation from the start and the directors were, perhaps not surprisingly, reluctant at first to collaborate in a process which would reduce their own influence. As preparations continued, however, there was a growing acceptance of the inevitability of change and most Authorities allowed their officers to play a full part in the work of the Groups. The story of the implementation process is, in considerable measure, an account of the work and deliberations of these Core Groups.

6.4 Two other important steps were taken in this early planning phase. One was a decision, based on a review of the staff and expertise available in the Department, to employ external consultants to advise on certain key aspects of the proposed changes; the second was to engage as soon as possible in discussions with COSLA about the transfer of funds from local to central government which would be required to allow the new FE funding arrangements to be set up. In the event external consultants played an increasingly important role as implementation proceeded. A firm was employed well before the legislation had the force of law to develop a manual of guidance for unit costing in colleges. This decision was fully in line with the policy of not taking steps which depended entirely on the new Act for their relevance - the work on unit costing was urgently needed even in the context of the 1989 legislation; it had redoubled importance in the context of 1993. At a later stage consultants were heavily involved in the development of CMIS, and in reviewing the financial control systems of colleges as they approached the April 1993 deadline. In the context of capital funding a firm of surveyors undertook a selective review of the state of college buildings to assist in the estimate of future capital requirements. Regarding the discussions with COSLA on transfer of funds it should be recorded simply that they had to be initiated well before April 1992, even at the risk of being abortive, so that work in the Authorities and in the colleges on plans and budgets for 1993-94 could proceed. In the event agreement on the basis for transfer was reached in time for the required decisions to be taken.

6.5 At this time the FE Inspectorate was also considering, in discussion with the administrative Division, how it could best contribute to the process of implementation. In order

to play a full part in earlier college developments based on the 1989 Act HM Inspectors had already strengthened their College HMI system under which each inspector in the FE team had time allocated to maintain close contact with a small number of colleges (usually 4-5). This arrangement proved invaluable as implementation progressed, allowing HM Inspectors to provide first line advice to individual colleges and also to keep the Department informed about the state of preparedness of colleges and give early warning of any incipient problems. HM Inspectors had been engaged, prior to the emergence of the new Bill, in a large body of work on performance indicators in FE. The base document 'Measuring Up' had been published in 1989 and work was in full swing on the technical report 'On Target' which was intended to support colleges as they began to develop their own quality assurance systems. All this had a heightened relevance as ever greater autonomy for the colleges was envisaged. Members of the Inspectorate were also to be found, throughout the period of implementation, in the Core Groups, in discussions with ADES, at the many seminars and conferences which were organised and as workers behind the scenes on most aspects of the new arrangements.

6.6 It was perhaps even more essential, once the legislation was in place, to ensure that the colleges themselves were as fully prepared as possible for their new responsibilities. In March 1992 the Department invited colleges to prepare and submit within two months an Action Plan setting out their own intentions and preparations for the period leading up to incorporation. Funding had been secured by the Department which enabled them to offer a sum of £2.3m in total in support of these Action Plans. The drafting of plans was facilitated by the production and issue of an Incorporation Audit Pack to all colleges and many colleges took the opportunity to discuss drafts of their plan with their College HMI. of the available funds were put to Ministers. The grants to individual colleges were announced in a Press Release in June and colleges, in receiving notification of their allocation, were also sent a letter including a brief critique of their own Action Plan. This was backed up by further discussions, as necessary, with their College Inspector.

6.7 By September 1991, therefore, a broad implementation plan was in place. The members of the Core Groups were being approached and the necessary financial discussions were in hand, or being initiated. By mid-1992 the colleges themselves had their own plans as a basis for development and had access to funds designated specifically for that purpose. The whole process was overseen by a small FE Implementation Group, chaired by the Under Secretary, which received and acted on progress reports from the various quarters as matters went forward. This Group continued to meet regularly up to the time of the incorporation of colleges in April 1993. It was to this Group that a comprehensive time-table of tasks to be carried out was first submitted in the early autumn of 1991. This time-table was to be revised and reviewed many times over the following year and a half, but this was the document which provided reassurance and challenge to those most closely involved in the implementation process as the months went by.

## 7. Funding the Colleges

7.1 The Core Group on Recurrent Funding at its inception was by no means starting from scratch. A substantial body of work had been undertaken in support of the 1989 legislation which had been intended to enhance the levels of financial expertise in colleges; the Department itself had developed a methodology for funding Institutions of Higher Education; and some regions - notably Fife and Strathclyde - were introducing quite sophisticated funding formulae to replace the almost purely historic systems which had obtained hitherto. There was also the experience South of the Border to draw on. Colleges in England and Wales had for a number of years been required to bid for funds for work-related FE under a system which had not been adopted in Scotland. This, and the fact that the Education Reform Act in England predated the related Scottish legislation by one year, meant that there was a body of experience of funding methods in the English FE colleges which did not exist in Scotland.

7.2 Studies of these various approaches were undertaken within the Department and by members of the Core Group in their search for a rational and practical approach to the funding of FE of colleges in Scotland. Starter papers setting out the main characteristics of the existing systems were laid before the Group at its early meetings, and an attempt was made to distil the most acceptable and successful characteristics of each to form the basis of a new system. Decisions had to be taken about the relative merits of approaches based mainly on Full Time Equivalent (FTE) student numbers, student hours, a calculation of student/ module activity, or approved courses - as well as various combinations of these. At the same time it was clear that no reasonable system could disregard the differences between subjects as far as their relative costs were concerned. There would have to be, therefore, a pattern of weighting of subject or programme areas to take account of these differences. Nor was it likely that the weightings would be identical to those already established for Higher Education. In many cases the subjects could not even be equated to each other. The final, but perhaps most crucial, consideration was that Scottish FE colleges, unlike those South of the Border, offered most of their non-advanced programmes on a modular basis. No course-based funding system could be easily applied in this situation.

7.3 Even when these funding issues were resolved to the satisfaction of the Group there remained other considerations to be taken on board. In FE colleges, unlike the Institutions of Higher Education, there were many students with learning difficulties; indeed some colleges had been designated by their regions as special centres for the provision of programmes for such students. These programmes were expensive to run because of the equipment needed and the necessarily low student/lecturer ratio. This particular issue had, of course, received

close attention during the passage of the parliamentary Bill. The funding of such programmes could not fit neatly into a pattern designed for the generality of college work. Another complication for the Group was that, unlike the Funding Council in England which would fund only FE activity, the intention in Scotland was that the Department would fund the work of the colleges as a whole, in so far as it met the definitions in the Act. The funding formula devised had, therefore, to take account of courses of higher education - a high proportion of the work in many colleges - and a wide range of adult education which might fall into a variety of categories. Finally there had to be decisions on how fee income would be taken into account. Colleges were to be encouraged to seek income-generating work, but not at the expense of distorting their overall provision. Given the complexity of these issues it is perhaps not surprising that they were not all resolved rapidly or with an easy consensus. It soon became clear that it was unlikely that a fully-fledged funding formula would be ready for general application in time for the first year of incorporation.

7.4 After full consideration of the available options the Core Group decided that the most satisfactory basic measurement for funding purposes would be one derived from a unit based on the modules (or module equivalents) taken by each individual student. It came to be known as SUM (Student Unit of Measurement) and drew on features from the established Fife system as well as from the Department's own approach to Higher Education funding. This proposed approach was incorporated in a consultative paper issued by the Department and published in June 1992. The paper was not at this stage complete; it set out the main features of the proposed system but did not deal, for example, with subject weightings which were covered in a later technical paper in the Autumn of 1992. A seminar was held soon after publication to explain the proposals and to allow those concerned to debate the issues. The response at the seminar and through the formal consultation was positive, though it must be said that there were fewer written comments on it than had been expected, given its importance. The time allowed for response was, of course, short (but then, this was the rule, not the exception, throughout this exercise). More positively, the proposals did derive from ideas generated largely by people who would be responsible for operating the system at a later stage and who understood very well the workings of FE colleges. One source of concern, at this stage and later, was the effect that the formula would have on those colleges which served areas of deprivation; they had little opportunity to generate fee income and were, in a sense, being subsidised by the regions to provide a service to their communities. Later applications of the formula would have to take special heed of these concerns.

7.5 The main task of the Core Group on Recurrent Funding was complete once this consultation had been undertaken, but the Group continued to meet - with less frequency - and served as a sounding board for the drafts of various financial documents to be issued by the Department to colleges. The Group also kept an eye on the approach to recurrent funding being taken by the Further Education Funding Council (FEFC) in England, ensuring as far as

possible that no valuable lessons were being missed. It was noted, for example, that the FEFC was proposing to include in its formula specific elements to cover guidance activities at the different stages: entry, on-programme, and exit. The Group also gave close consideration to the likely impact on colleges of the proposed formula. Taking account of their advice Ministers decided towards the end of 1992 that funding during the first year of incorporation would be based on historic data obtained from colleges themselves and from the regions. The decision - in some ways regrettable because it delayed by one year the full implementation of the changes - nonetheless prevented excessive disruption which would certainly have ensued from an immediate introduction of formula funding, and allowed a little more time to refine the formula and respond to the concerns expressed as it was being developed. Colleges were circulated early in 1993 with the resultant figures informing them of their grant for 1993-94. They were also given a shadow budget showing them how the funding would have worked out if the formula in its existing form had been applied.

7.6 The necessary preparatory work for the transfer of the responsibility for capital funding to the Department, though certainly no less important than the work on recurrent funding, was, on the face of it, somewhat less complicated. The procedure used in the Higher Education sector based on bids from colleges which would then be evaluated, leading to an eventual allocation, was readily applicable to the FE colleges. Similarly the key criteria used for allocations - need, value for money, and affordability - were equally valid for FE. The major remaining problem, however, was how, within these criteria, to establish a realistic assessment of building requirements in a sector which was known to be seriously deficient in this respect and then to meet them in an atmosphere of severe financial constraint. In order to obtain an initial estimate of total need all colleges were asked to estimate and justify their requirements for new building projects, maintenance and repair, and renovation; this exercise resulted in an apparent total requirement for capital funding which exceeded by a multiple factor the sum which was expected to be available in the first year of incorporation. Yet the Department's standing in the eyes of college staff would to a large extent depend on its willingness to tackle this perceived shortfall.

7.7 Clearly it was not reasonable to rely entirely on the colleges' self-assessment of their need in this matter and, advised by the Core Group on Capital Funding, the Department took a number of steps in an attempt to arrive at a rational solution to the problem. In the first instance a firm of building consultants was employed to survey a sample of colleges deemed to provide a representative cross-section of the sector as a whole. Their findings were then extrapolated to give an indication of the total needs of all the colleges. These results, together with input from the regions and HM Inspectors and bearing in mind the colleges' own estimates, were used to inform the 1993-94 Public Expenditure Survey. Even this information, however, was insufficient to make defensible allocations to individual colleges and it was decided to undertake, over a slightly longer period, visits to a much larger sample of colleges, using the

services of the Scottish Office Buildings Directorate. About half of the colleges in Scotland were visited on this round, and care was taken to include those colleges which were known to have deficient buildings. These visits were made mainly in the second half of 1992. In some cases, the assessments made in the course of this review revealed even greater shortcomings than had been suggested by the colleges themselves. It was decided at this stage that the only priorities which could be met during 1993-94 would be those deriving from health and safety requirements and essential plant and fabric maintenance. The allocations which were eventually forthcoming for further education capital spending permitted little more than a remedying of the most extreme deficiencies in the colleges.

7.8 Throughout the various stages of these reviews the Core Group on Capital Funding was kept informed and was consulted as necessary. The Group also assisted in the arranging of staff development related to building matters (see also Section 11 below), and advised on new Building Procedure Notes, issued in December 1992 to inform colleges of the steps to be taken when proposing building projects, and on the methodology for preparing Schedules of Accommodation. Finally the Group sought to develop procedures for capital expenditure on equipment. Again it proved possible to make good use of the well-tried methods employed in the Higher Education sector. For FE, however, it was decided to borrow the SUM (Student Unit of Measurement) approach from the recurrent funding mechanism and to employ it to make calculations of need based on student numbers. For the first year of incorporation an allocation for equipment was made based on a fixed amount for each college, irrespective of size, and a further amount based on the SUM calculation. Colleges have, of course, freedom to spend this allocation on any items of capital equipment they judge necessary; they may also augment it, if they wish, from revenue or recurrent funding. They may not, however, divert funds allocated for building projects to other purposes.

7.9 In spite of the modest allocations for capital expenditure, and especially for equipment, the processes involved worked relatively smoothly and colleges were not too surprised at the small sums allocated. It was recognised that constraints on public expenditure in all sectors were extreme, and there was a degree of resignation that FE would be no exception. In one respect, however, the colleges felt particularly hard hit: this was when a decision was made, close to the time of incorporation, that colleges would have to make their own provision for major aspects of insurance cover. This involved them in a rapid re-working of budgets and financial plans to accommodate the quite significant sums involved.

7.10 As with other aspects of the incorporation process the work of the Core Groups on Funding proved immensely valuable to the Department as it prepared to take over the task of allocating significant sums each year to the College Boards. The membership in both cases was crucial. It included college staff, not only at principal level, but also from those who had been dealing very directly with college finances. It also included individual regional officers who

were able to offer advice based on the experience of funding colleges and managing building projects up to that time. This advice was freely given and ensured that mistakes were avoided as new systems for allocation were developed.

## **8. Management Information Systems**

8.1 At the time of the Ministerial Statement in March 1991 the FE colleges in Scotland showed a striking variety in the degree of sophistication of their management systems. Some regions - including the largest, Strathclyde - had encouraged their colleges to install computerised systems for many aspects of management; other individual colleges had introduced quite comprehensive systems of their own. Many others were conscious that they should be taking action on this front but were rather unsure as to what that action should be. It would be fair to say that most colleges had some way to go in this respect, and in no college had a system for financial management been developed - it had not so far been necessary. Even more crucially there was no common system, or even compatible systems, across the colleges. The prospect of incorporated colleges which would be required to operate as independent business concerns and yet would have to be accountable to the Department and to the public for their activities made the development of such systems a very high priority indeed.

8.2 The college principals themselves were well aware of this need and, early in 1991, discussed the question of developing appropriate management systems in the context of their Association meetings. A conference with the title Changing the Culture was organised for May 1991 at which it was intended to explore the many management issues - including computerised management systems - which were becoming urgent. By coincidence, this conference fell at about the same time as the publication of the White Paper 'Access and Opportunity'; its content was thereby given even greater relevance. A key outcome of the conference was a request to the Scottish Further Education Unit (SFEU) to investigate the kinds of systems which would be required in colleges to cover financial management. As a result a joint Working Party, chaired by the APC and with membership from SOED and SFEU was established to explore in detail the field of computerised management information systems. An early conclusion of this Group was that it was not sensible to look at finance in isolation; colleges would eventually need integrated systems covering all the major management functions: finance, personnel, property and curriculum. The Working Party went one stage further by inviting all Scottish colleges to commit themselves to the concept of a single user requirement for CMIS and received a positive response. In the final quarter of 1991 a part-time development officer, supported by the SOED, worked on the preparation of this user requirement which was eventually circulated to colleges for their approval before the end of the year.

8.3 The fourth quarter of 1991 was also the time when the Department's plans for the expected legislative changes were being laid. Fundamental to these plans was the notion of participative development and this was manifested in the setting up of the various Core Groups already mentioned. It was agreed at this stage that the membership of the APC's Working Party should be extended and that it should be incorporated in the Core Group arrangements. The Group retained its APC chairman but new members from the education authorities and from among college experts in CMIS were added. This was a prime example of on-going work, which was clearly relevant to forthcoming needs, being harnessed and supported in the interests of successful implementation of the Act.

8.4 The task facing the Core Group on CMIS and the Department was monumental - greater perhaps than members realised at the time. Not only had user requirements to be finalised but they had, in their turn, to be developed into operational requirements which could form the basis of contracts with suppliers; the existing position in colleges had to be explored in detail so that the most economical ways could be found of converting all colleges to compatible systems (in the inimitable jargon of computer experts: a migration strategy); all those who would be involved in the colleges had to be trained in the necessary skills; and the finance had to be found to meet the very large bills which might be expected.

8.5 It was immediately recognised that there would be a need to call on outside help if there was to be any hope of accomplishing the necessary tasks in time. Consultants were invited to tender for an initial phase of development with a remit which included the verification of the user requirement prepared for the Core Group, its refinement to form a statement of operational requirements, an evaluation of the existing position in colleges, the development of a migration strategy, the provision of a list of possible suppliers for the equipment that would be needed, and participation in the selection process for the eventual suppliers. It is indicative of the sense of urgency that was being felt in this project that the time from the closing date for the tenders to the final award of contract - including the short-listing and interviewing of selected firms - was a mere six days; and the work was expected to start immediately. In January 1992 this contract was awarded to a major firm of consultants and a full-time development officer was appointed as a project manager for the Department.

8.6 Parallel work was undertaken to ensure that finance would be available for the not inconsiderable investment in computer hard- and software that the system was going to need. Because the colleges would be under regional management until the date of incorporation, the agreement of the Regional Councils had to be sought to act as intermediaries for the initial purchases of capital equipment. In practice they were given capital consent to borrow a sum of £2m for this purpose, with the Department agreeing to cover any short-term interest

payments. This agreement was forthcoming; any reservations the regions may have had about the legislation as a whole were set aside in face of the pressing needs of the colleges.

8.7 By February 1992 the draft user requirement had been taken to the stage where it could be issued to all colleges and discussed at a series of consultative workshops which involved the consultants as well as departmental representatives and members of the Core Group. It proved possible by March 1992 to issue a final version of this document by which time the whole FE system had been well alerted to the implications of introducing a country-wide CMIS. Consultants had visited all the colleges; the members of the Core Group had reported back to their own organisations; and HM Inspectors, through their frequent college contacts, had been underlining the message. The responsibility now passing to the colleges was further emphasised by the decision to accept the consultants' proposal to create a number of network teams across the country. Each team would consist of representatives from a group of colleges and would be responsible for the development of CMIS within their group. For each team a host college was nominated which was expected to take the lead in the local development. Funds were made available to establish an electronic mail system to ease communication among the network teams and from the teams to the Department. The teams were directly supported by the consultants and by HM Inspectors. Every college in the country was involved in these arrangements.

8.8 By mid-1992 the final operational requirements for the system had been prepared and it was now possible to invite tenders for the supply of equipment to the 43 colleges involved. Because the eventual purchases were regarded by Treasury as a Government purchase - even though they were being made on behalf of 43 colleges - the procedures used had to comply with specified procedures which included advertising European Community-wide and allowing sufficient time for possible contractors to reply. All this added to the anxiety of the Department and the Core Group about the time-scale for the project, but no short cuts were possible at this stage. The tenders were assessed and a short list was drawn up by the end of July 1992. Meetings were held with the short-listed firms and - not without a number of unforeseen difficulties - a decision was made to offer contracts to three suppliers to equip the colleges with the hardware they needed. The choice of three rather than a single supplier was based on the level and type of equipment already present in the various colleges and the estimated cost of moving to provision which would meet all requirements.

8.9 A further stage of the consultancy was agreed before the end of 1992 to ensure that all colleges would be in a position, by April 1993, to run financial management systems on the hardware which was being installed. At this stage the work of the Core Group was deemed to be complete and it was disbanded. Implementation was now put in the hands of the Department which set up a project structure which conformed to government requirements for major investments of this kind. As before, however, support was offered through the network

teams with specific training in the use of equipment being provided by the suppliers. User assurance groups fed back comments to the Departments project team as final arrangements were made and acceptance testing was undertaken.

8.10 By April 1993 most targets had been met. The great majority of colleges had the necessary hardware and software in place, though in a number of cases it had not been piloted to the extent that would have been desirable; all those with responsibility for the systems had had opportunity to undertake related training; some systems were already running smoothly and caused little concern; in all cases, however, more training and support was still required and there was some way to go before the eventual goal of an integrated management system was to be reached. Some colleges, without being negative in their attitude, maintained parallel manual management systems to cover the possibility of initial hitches.

8.11 The development of CMIS was at one and the same time the most nerve-wracking and most exciting of the series of events leading up to incorporation. It placed enormous stresses on individuals and groups both inside and outwith the Department; it involved considerable sums of money; and it required for its success the commitment of a very large number of people. It might be argued that CMIS in all colleges would have been required with or without incorporation. This may well be true; it would be foolish to speculate, however, as to how long the process might have taken in other circumstances.

## **9. Development Planning**

9.1 The production of development plans incorporating a college's intentions, targets and projects for future years was not common practice prior to the 1989 legislation. Colleges in England and Wales had greater experience in this matter as they had been obliged to produce detailed plans and bids for funds under the work-related FE arrangements referred to earlier. Scottish colleges had a more limited experience based on the extent to which they had been involved in MSC (later Training Agency) projects in the late 80s and early 90s. With the 1989 Act, however, there was a greater degree of delegation of responsibility from the Education Authorities to the colleges, and it was soon evident that more formal forward planning for all the work of the college was needed. Guidance in the production of development plans was well in hand before the publication of the 1991 White Paper, and an initial study on development planning had been commissioned and published by the Department as early as 1989. With the 1992 Act, the submission of regular development plans would become a statutory requirement. Even without this requirement the need to plan in a more formal way became very evident as the implications of incorporated status became ever clearer.

9.2 In anticipation of the passage of the Act the Department felt obliged to take action and, in March 1992, asked all colleges to submit a copy of their current development plan in whatever form it existed. The purpose was to update the information which was already available as a result of the 1989 study and to establish a firm baseline from which further work could be undertaken. The returns were analysed by an outside consultant and a further request to colleges in July for later development plans and financial projections announced that guidance on the production of development plans in the new incorporated environment would soon be forthcoming. The intention throughout was to build on existing work as far as possible rather than create a completely new format with all the additional work which this would incur.

9.3 In order to ensure that the Guidelines were acceptable to colleges the Department decided at this stage to appoint a short-life Working Group, under the chairmanship of a college principal, which was given the task of commenting on a set of draft guidelines and making any other recommendations about assistance which might be useful to colleges in this matter. As a further safeguard the draft guidelines were put out for consultation to all colleges in October 1992.

9.4 Informed by the returns from this consultation, and by the comments from the Working Group, the Department issued its final set of guidelines in January 1993. This document included a statement of the purposes of development plans as they were now envisaged, both for the colleges themselves and for the Department, suggestions for the content of plans, and a timetable for the submission of plans up to 1997. Colleges did have to make changes to their practice hitherto, and some indicated that they would have difficulty in complying with all the details of the Department's requirements at the beginning of the process - some of the returns depended on management systems which were not yet fully operative - but in general they were able to move relatively painlessly into the new style of planning. On the recommendation of the Working Group the Department also appointed an outside consultant with detailed knowledge of similar operations South of the Border to run a series of workshops, starting in March 1993, to offer further support to those responsible for preparing the plans.

## **10. The College Boards of Management**

10.1 A key element in the proposed arrangements for the management of incorporated colleges was to be the College Council in its new form. FE Colleges had had Councils long before the 1992, or even the 1989, legislation was envisaged, but the management responsibilities of these earlier bodies were strictly limited and their effectiveness variable. Under the 1989 Act they took on more clearly defined duties, but they were still heavily dependent on the Education Authorities which retained control of major aspects of finance, were the owners of college property, and remained the employers of all staff in spite of the

College Councils' increased role in staff management. With incorporation all this was to change: the new style College Councils would have full financial freedom and responsibility, would be the employers of staff - with all that this entailed - and would have to manage and maintain the college property and assets. It was in recognition of this greatly enhanced role that the Department accepted, during discussions with college principals, the suggestion that their title should become Boards of Management.

10.2 The composition of the Boards was laid down in the Act, as was the intention that the initial appointments would be made by the Secretary of State. Thereafter Boards would fill vacancies themselves, always staying within the statutory composition. In the first instance shadow Boards would be appointed - to operate from September 1992 - so that colleges would be in a position to make adequate preparations in the period leading up to April 1993. These shadow Boards were to have the same composition as the fully-fledged management bodies which they would become, and were given sufficient powers to enable them to undertake whatever actions were needed to prepare their colleges for incorporation, including the power to recruit staff for this purpose. They were also to have access to information as required from the Education Authorities. Needless to say, a considerable proportion of their time and energy in this build-up period was devoted to negotiations with the regions on such matters as the ownership of property and access to financial information in a form which was of value to them.

10.3 The initial appointment of the shadow Boards was not a straightforward matter. A way had to be found of preparing a list - for each college - of persons who might be approached by the Secretary of State with a view to Board membership. It was decided that the only possible mechanism to achieve this end was through the College Inspector system. College Inspectors held individual discussions with all college principals, the existing College Council chairmen and regional officials and drew up, on the basis of these discussions, a recommended list for each college. These lists were collated and checked by the Administrative Division and put to the Secretary of State for his approval. Each nominee received a personal letter inviting him or her to become a member of the relevant College Board. Overall, this approach to the making of appointments, though expensive of manpower, went smoothly. It demonstrated again the Department's willingness to involve those most directly concerned in the impending changes. All the shadow Boards were in place by the beginning of September and were ready to assume their full range of duties in good time for the incorporation date.

10.4 The interim period - between September 1992 and the end of March 1993 - was not, however, an easy time for the Boards. There was, first of all, a need to familiarise all the Board members with the full range of duties which fell to them. (See Section 11 below). Once this was achieved, and within the flexibility allowed by the Act, each Board had to reach its own *modus operandi*, deciding the extent to which matters would be delegated to college management and which ones would have to be brought back to the full Board; they had to establish their own

sets of sub-committees, bearing in mind the major responsibilities in staff and property management which were now coming their way; they had to make the appointments which they felt necessary to ensure a smooth transition to their new status. These, and other tasks, all had to be completed at a time when the regions were still for most purposes the interim college managers and showed varying levels of readiness to provide Boards with all the information they needed. A particular bone of contention in some cases related to the future ownership of property. There were many instances throughout Scotland where particular buildings had been used for more than one purpose - perhaps partly for FE purposes and partly by a Social Work Department or a school. Claims to future ownership had to be prepared and negotiated. There were even cases where ownership of a particular property was a dubious privilege, and each party was seeking ways to ensure that the liability did not fall in their direction. It is greatly to the credit of the shadow Boards and to regional representatives that the great majority of these potential disputes were resolved before the date of incorporation; it seems likely that only a few will have to pass to the arbitration procedures allowed for in the Act.

10.5 Arguably the most onerous new task falling to the College Boards, and certainly the one most likely to arouse sensitivities was that of acting as employer for the college staff. Not only were Boards to become recruiters of staff and paymasters, they also had the responsibility of deciding on the thorny matter of conditions of service. Staff were assured in legislation that they would transfer to their new employers under the same conditions as before incorporation, but there was no guarantee that these conditions would obtain for all time; it would be for the Boards to introduce changes as they thought fit. There was much concern among staff about the possibility of a variety of sets of conditions in different colleges.

10.6 Even prior to the appointment of the shadow Boards the Chairmen of the College Councils were clearly aware of these concerns, and of the vulnerable position in which they might find themselves. A number of them got together in the summer of 1992 to explore the need to set up an organisation of some kind to represent them and to establish common policies in so far as this was necessary. Initially a group with the title 'Employers' Forum' was set up as an organisation which would take over the management side responsibilities of the Scottish Joint National Committee (FE) which had hitherto been the body which pronounced on matters of pay and conditions of service for FE staff. Membership would be open to all colleges and each would be represented by the principal and the Board chairman. The Department supported the creation of this body and offered financial support for three years (a total of £240,000) after which time it was expected to be self-financing. A final decision to proceed with the organisation was taken at a conference in Elgin in September 1992 involving the newly appointed chairmen of the shadow Boards; an executive committee was elected, and the body was re-named the Employers' Association. In due course a full-time Chief Executive was appointed to run the Association's affairs. The Association was well established before the date of incorporation in April 1993.

## 11. Staff Development

11.1 Every aspect of incorporation made new demands on college staff and college Boards and it was evident from an early stage that a wide-ranging programme of staff development would be needed to underpin the work that had to be done. Even before the publication of the 1991 White Paper a substantial amount of staff development relevant to college management was already in train or had been undertaken: the SFEU had, for example, published manuals on Financial Management, Property Management, Staff Management and Development Planning in support of the 1989 legislation; attention had been paid to the needs of the College Councils, and a comprehensive pack of materials for their guidance was readily available; series of seminars on aspects of college management had also been arranged for college staff at various levels. But all this work needed revision and intensification as the implications of incorporation became clear. In order to identify these demands, and to ensure as far as possible that they were met, the Core Group on Staff Development, meeting for the first time in October 1991, was given the task of drawing up plans for staff development leading up to April 1993. In common with the other Core Groups it was able to draw on the knowledge and experience of college staff (including administrative staff), regional officials and, in this case, the agencies which would have a direct role in providing the necessary training: the SFEU and the Scottish School of Further Education (SSFE).

11.2 The staff development programme which emerged proved to be varied in content and comprehensive in relation to the groups covered. It included regular seminars, a wealth of print material, an incorporation video, an information pack for College Boards, a regularly produced magazine and, as incorporation approached, the creation of a Field Force which was ready to offer assistance to individual colleges on key aspects of their task. The main agency for this centrally-sponsored programme was the SFEU which was allocated specific additional funds to enable it to deliver what was required. A more informal level of support was available through the College Inspector system, referred to in Section 6 above. HM Inspectors were able, in their regular visits to colleges, to discuss the concerns which staff expressed and to participate in local staff development activities; they were also able to feed back to the Department and the Core Group information about these concerns which would influence the central programme as it developed. The third arm of the staff development programme was the range of in-college activities which went on across the country. All colleges mounted their own support programme, often using centrally-based materials and targeting the work according to their own particular perceived needs. Without this effort the central provision would have been of very limited value.

11.3 The seminars which were run by the SFEU on behalf of the Department represented an intensification of the Unit's on-going programme. A series of management topics was identified covering the major new responsibilities - finance, personnel and property - and they were adapted to meet the needs of various groups of staff. Principals continued to have their own programme, and versions were developed to suit their deposes, those in middle management and administrative staff. In the case of administrative staff steps were taken to develop a new professional qualification for them which would facilitate career progression. This was done in recognition of the increasing dependence of the colleges on high grade administrators as they accepted ever greater responsibility for their own affairs.

11.4 The need to keep people as well informed as possible about what was going on was given high priority by the Core Group. The principal way in which the Group sought to meet this need was by publishing, at regular intervals, a magazine with the title 'Countdown' which included a range of articles and information relating to the progress towards incorporation. Multiple copies of this publication were made available free of charge to all colleges in an effort to ensure that all staff had access to authoritative information. Many colleges supplemented this magazine with leaflets of their own, either using existing college publications as a vehicle for the incorporation material or producing new documents devoted entirely to this topic. The SFEU's own regular publication 'Broadcast' also included, among its regular features, much information related to the new legislation. There was no shortage of documentation - indeed some felt there was too much - but there were still complaints that people were being kept in the dark, especially during the early stages of the exercise. Certainly in early 1992 many lecturers in colleges were unsure of the full implications of the proposed changes, as indeed were many others much closer to the action. Any concerns about lack of information after the Act had been passed were much less justifiable.

11.5 A need was recognised by the Core Group to ensure that the new shadow College Boards which came into existence in September 1992 should also have access to relevant information in a form which would be suitable for them. The response was threefold: special seminars for Board chairmen were organised, the information pack which had been designed for the 1989 legislation was fully up-dated, and an information video was commissioned. The last-mentioned was seen also as a possible vehicle for informing a wider audience about the main features of incorporation. Beyond this it was felt, quite legitimately, that the onus of ensuring that all members of College Boards were well informed and trained as necessary lay with the colleges themselves. All colleges took steps to meet this responsibility.

11.6 A particular effort was needed to cover the demands which would be made by the introduction of new management information systems. The planning of an appropriate programme in this area fell mainly to the Core Group on CMIS, as the expert Group, and involved several agencies. The consultants appointed to advise on CMIS provided a range of

training, including regional seminars and in-college support; the suppliers themselves were contracted to provide training in the use of their equipment; and the college network teams (see Section 8 above) were themselves a rich source of staff development, allowing college staff to benefit from each other's experience with the support of consultants and HM Inspectors. In this area, however, the pressure of time was extreme. An adequate programme was mounted for the immediate needs of those most directly involved but a continued programme of training and development is likely to be needed for some time as the various parts of the computerised systems come on stream.

11.7 As the time of incorporation approached it became evident that the remaining development needs of individual colleges differed considerably from one location to another. It was no longer useful to offer general seminars (one representative from each college) - a more customised approach was required. In order to respond to these differing needs it was decided on the advice of the Core Group to create a Field Force - a small cadre of specialists in the various aspects of college management who were ready to visit colleges at their request and to spend sufficient time with them to ensure that any immediate difficulties were overcome. The services of this Field Force were in considerable demand towards the end of 1992 and in the early part of 1993. In effect the Field Force represented a cost free consultancy service as far as the colleges were concerned and made a valuable contribution in those colleges which they visited. Oddly enough some colleges had to be persuaded to make use of the service, feeling no doubt that to do so was some kind of admission of weakness; others which were clearly well ahead with their preparations took very full advantage of this extra bonus.

## **12 Conclusion**

12.1 The two years between March 1991 and April 1993 were of great importance in the history of Scottish post-school education. During that period, alongside the developments in the higher education sector, preparations were made for a major change in further education. Not only were procedures to be different, there had to be what amounted to a culture shift among those who were responsible for running the colleges. They had to be ready to take on board tasks and responsibilities which they had hitherto been able to leave to their managers - the Education Authorities - and for which some would claim they were ill-prepared. True, there had been some move towards autonomy enshrined in the 1989 Education Act, but it was very limited compared with the demands of the 1992 legislation. This was not the first time that the FE sector had been required to submit to rapid change: in the early 1980s the curricular revolution of the 16-19 Action Plan had required a total rethink of approaches to teaching and learning within a period of little more than 18 months. On that occasion it was the teacher in the classroom who was in the firing line of change; this time it was first and foremost college management teams.

12.2 On both occasions, whatever success was achieved resulted above all from two factors: one was the readiness of a large number of people, both in the colleges and in educational administration, to commit themselves fully to the work in hand, and to give unstintingly of their time and energy in order to make the changes work. The second was the extent to which those most affected by change were given the opportunity to take an active part in the developments. In the case of Action Plan large numbers of college lecturers became Development Officers and were the powerhouse of curricular change. When they returned to their colleges they were genuine experts and ensured that those who had been less involved had an easily accessible point of reference when it was needed. In the case of incorporation the existence of, for example, the Core Groups, Network Teams and the Field Force had the same effect.

12.3 That is not to claim that everything went smoothly, or that there may not be problems still to be resolved. This narrative has indicated the points at which there was real concern about lack of progress or very genuine frustrations. And it is inevitable that the early years of incorporation will have their difficult moments. Overall, however, the omens are favourable. In spite of the demands of incorporation colleges have somehow found the time and energy to devote themselves to fostering the quality culture and, through their own Quality Forum, are setting demanding standards for all aspects of college life. Many colleges clearly relish the prospect of more freedom of operation and will respond well to the opportunities which they now have. College Boards contain a remarkable cross-section of members of the Scottish community, and will exert a positive influence on the sector. The elements are in place; only time will tell whether the intentions of Access and Opportunity are fully realised.

J. HOWGEGO September 1993

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## Annexe E

### SCHEDULE 2 TO THE FURTHER AND HIGHER EDUCATION (SCOTLAND) ACT 1992

#### Constitution and proceedings of boards of management

##### *Status*

**1.**

A board of management (in this Schedule referred to as “the board”) shall not—

- (a) be regarded as the servants or agents of the Crown;
  - (b) have any status, immunity or privilege of the Crown,
- and their property shall not be regarded as property of, or held on behalf of, the Crown.

##### *Membership*

**2.**

The board shall consist of not less than ten nor more than sixteen persons.

**3.—**

(1) Subject to paragraph 4 below, this paragraph shall have effect as regards the membership of the board.

(2) The board shall include—

- (a) the person who is, for the time being, the principal of the college;
- (b) a person appointed by being elected by the teaching staff of the college from among their own number;
- (c) a person appointed by being elected by the non-teaching staff of the college from among their own number;
- (d) a person appointed by being nominated by the students' association of the college from among students of the college.

(3) Not less than one half of the total number of members of the board shall be appointed by the board from among persons, not being members of the staff or full-time students of the college, appearing to them to have experience of, and to have shown capacity in, industrial, commercial or employment matters or the practice of any profession; and one such person shall be a person nominated by the local enterprise company for the area in which the college is located.

(4) The remaining members shall be appointed by the board from among persons appearing to them to have, or to represent persons who have, an interest in the work of the college, having regard to the interests of the education authority for the area in which the college is situated in relation to the provision of any form of further education in their area.

(5) In this paragraph, “local enterprise company” means any person with whom an agreement (not being one which has terminated) has been made in pursuance of section 19 of the Enterprise and New Towns (Scotland) Act 1990 by Scottish Enterprise or Highlands and Islands Enterprise for the discharge by that person of any of the functions of Scottish Enterprise or, as the case may be, Highlands and Islands Enterprise.

(6) Any election to be held in pursuance of this paragraph shall be conducted in accordance with rules made by the board after consultation with such persons as appear to the board to be representative of each category of persons entitled to elect a person under this paragraph; and rules made in accordance with this sub-paragraph may be substituted or varied by further such rules.

#### 4.—

(1) This paragraph shall have effect as regards the membership of the board with effect from the first transfer date.

(2) The persons who are, immediately before the first transfer date, the members of the college council for a college of further education by virtue of Schedule 6 to this Act shall become, on that date, the first members of the board of management of the college.

(3) Where a person becomes a member of the board in pursuance of sub-paragraph (2) above, he shall be taken to have become a member of the board in pursuance of the provision of paragraph 3 above in accordance with which, by virtue of paragraph 1 of Schedule 6 to this Act, he became a member of the college council.

(4) Where the number of persons who become the first members of the board in pursuance of sub-paragraph (2) above is less than sixteen, the board may appoint, in accordance with and having regard to the requirements of paragraph 3 above, such additional members as appears to them to be appropriate;  
*provided that the total number of members of the board shall not at any time exceed sixteen.*

(5) As soon as is practicable after the first transfer date and any appointment made under sub-paragraph (4) above, the members of the board shall determine by agreement among them, or failing agreement by ballot, that the persons who occupy the positions on the board mentioned in sub-paragraph (6) below shall hold office for a period of two years.

(6) The positions referred to in sub-paragraph (5) above are seven positions (other than the positions held by the principal and the person appointed by being nominated by the students' association of the college), whether or not at the time the board makes its determination any or all of such positions are occupied, identified in such manner as the board may so determine.

#### *Qualifications and tenure of office*

#### 5.—

(1) Subject to this paragraph and paragraphs 6 to 10 below, a member of the board shall hold and vacate office in accordance with the terms of his appointment, and, on such appointment ceasing, shall be eligible for re-appointment.

(2) Subject to paragraph 4(5) above, a member of the board, other than the person who is, for the time being, the principal of the college and the person appointed by being nominated by the students' association of the college, shall hold office for a period of four years.

(3) The person who is, for the time being, the principal of the college shall remain a member of the board while he is the principal; and nothing in paragraphs 6 to 9 below shall apply to the principal in his capacity as a member of the board.

(4) A person who is appointed by being nominated by the students' association of the college shall hold office until 31st August following his appointment.

(5) A member of the board, other than the principal of the college, may resign his office at any time by giving notice in writing to such person as the board may appoint for the purpose.

#### 6.—

(1) A person shall not be eligible for appointment as a member of the board—  
(a) at any time when he is under the age of sixteen or over the age of seventy; but a person who attains the age of seventy during his appointment shall be entitled to remain in office until his term of office otherwise expires in accordance with this Schedule; or (b) where the total number of years of any previous terms of office (whether or not consecutive) served as a member of that board exceeds eight.

(2) For the purposes of sub-paragraph (1)(b) above, in calculating the number of years served no account shall be taken of any term of office served as a member of a college council.

#### **7.—**

(1) A person is not eligible for appointment as a member of the board if

- (a) he has, within five years of the date his appointment would take effect, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
- (b) his estate has been sequestrated, he has made an arrangement with his creditors, he has been adjudged bankrupt, he has granted a trust deed for his creditors or a composition contract;
- (c) he is incapacitated by mental illness; or
- (d) he has been removed from office by the Secretary of State under section 24 of this Act.

(2) Where a person is disqualified under sub-paragraph (1)(b) above by reason of having had his estate sequestrated, the disqualification shall cease if and when—

- (a) the sequestration of his estate is recalled or reduced; or
- (b) he is discharged under or by virtue of the Bankruptcy (Scotland) Act 1985.

(3) Where a person is disqualified under that sub-paragraph by reason of having been adjudged bankrupt, the disqualification shall cease—

- (a) unless the bankruptcy order made against him is previously annulled, on his discharge from bankruptcy; and
- (b) if the bankruptcy order is so annulled, on the date of the annulment.

(4) Where a person is disqualified under that sub-paragraph by reason of his having made an arrangement with his creditors or granted a trust deed for his creditors or a composition contract, the disqualification shall cease when the arrangement or, as the case may be, trust deed or composition contract is no longer in force.

#### **8.**

If at any time the board are satisfied that any of their members—

- (a) has been convicted as mentioned in sub-paragraph (a) of paragraph 7(1) above or has become a person to whom either of sub-paragraphs (b) and (c) of paragraph 7(1) above applies;
- (b) has been absent, without the permission of the board, from all meetings of the board or any committee of theirs to which he has been appointed for a period longer than six consecutive months; or
- (c) having been appointed in pursuance of paragraph 3(3) above, becomes a full-time student of the college or a member of the staff of the college,

the board shall, by notice given in writing to that person, remove him from office; and thereupon the office shall become vacant.

#### **9.**

If at any time the board are satisfied that any of their members—

- (b) having been appointed by reason of being a student of the college or a member of the staff of the college, ceases to be such student or member of staff; or
- (c) without prejudice to paragraph 8 above, has become unable or unfit to discharge his functions as a member of the board, [ except where such inability or unfitness relates to a contravention or alleged contravention of a member's code as defined in section 3(8) of the Ethical Standards in Public Life etc. (Scotland) Act 2000] <sup>2</sup>

the board may, by notice given in writing to that person, remove him from office; and thereupon the office shall become vacant.

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<sup>2</sup> words inserted by Ethical Standards in Public Life etc. (Scotland) Act 2000 (Modification of Enactments) Order 2003/199 (Scottish SI) Sch. 1 para. 1

**10.—**

- (1) Any casual vacancy among the members of the board may be filled by their appointing a person to fill the vacancy in like manner to that by which the person to be replaced was appointed.
- (2) Notwithstanding paragraph 5 above, a person appointed in pursuance of this paragraph shall hold office until the expiry of the period of office of the person he was appointed to replace.

*Proceedings*

**11.— [...] 2**

*Chairman*

**12.—**

- (1) The board shall appoint one of their members, not being a person who is—
- (a) a student of the college;
  - (b) an employee of the board;
  - (c) the principal for the time being of the college; or
  - (d) a member (whether elected or appointed) or an employee of a local authority, to be chairman.
- (2) The board shall determine the period of appointment of the chairman and may remove him from office as chairman.
- (3) Where the chairman ceases to be a member of the board, he shall cease to be chairman.

*Committees*

**13.—**

- (1) The board may establish committees for any purpose and any such committee may appoint sub-committees.
- (2) Such committees may include persons who are not members of the board; but such persons shall not be entitled to vote at meetings of a committee.
- (3) The principal of the college shall be entitled to attend and speak at any meeting of a committee of the board; but he shall be entitled to vote at such meeting only if he is a member of such committee.
- (4) The board may pay to the members of such committees (whether or not they are also members of the board) such allowances and expenses as they may determine; and any allowances and expenses to be paid by virtue of this sub-paragraph shall be calculated by reference to such criteria as the Secretary of State may determine.
- (5) Any reference in this Schedule to a committee of the board shall include a reference to any sub-committee appointed by such committee.

*Conflict of interest*

**14.— [...] 3**

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**2** repealed by Ethical Standards in Public Life etc. (Scotland) Act 2000 (Modification of Enactments) Order 2003/199 (Scottish SI) Sch. 1 para. 1

**3** repealed by Ethical Standards in Public Life etc. (Scotland) Act 2000 (Modification of Enactments) Order 2003/199 (Scottish SI) Sch. 1 para. 1

*Confidentiality of information*

**15. [...] 4**

*Staff*

**16.**

Subject to section 15 of this Act, the board may appoint on such terms and conditions as they may determine such employees as they think fit.

**17.—**

(1) The board may, in the case of such of its employees or former employees as they may, subject to sub-paragraph (2) below, determine—

(a) pay such pensions, allowances or gratuities to or in respect of those employees;  
(b) make such payments towards provision of such pensions, allowances or gratuities; or (c) make such arrangements for the provision and maintenance of such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities, as they think fit.

(2) Sub-paragraph (1) above shall not apply to any person who becomes an employee of the board under or by virtue of any provision of this Act (other than paragraph 16 above) unless that person, by notice given in writing, informs the board that he wishes it so to apply.

(3) The reference in sub-paragraph (1) above to pensions, allowances or gratuities in respect of employees of the board includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any such employee who suffers loss of office or employment.

*Accounts*

**18.—**

(1) It shall be the duty of the board to keep proper accounts and other records.

(2) The accounts shall be prepared in respect of each financial year in such manner as the Scottish Ministers may direct and the accounts shall be submitted to the Scottish Ministers by such time as they may direct.

[ (2A) The Scottish Ministers shall send the accounts to the Auditor General for Scotland for auditing.

**] 5**

(3) The financial year of the board shall be from 1st April to 31st March.

(4) The Secretary of State may by order provide that the board shall have a different financial year, and an order under this sub-paragraph may make such consequential provision as appears to the Secretary of State to be necessary or expedient.

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**4** repealed by Ethical Standards in Public Life etc. (Scotland) Act 2000 (Modification of Enactments) Order 2003/199 (Scottish SI) Sch. 1 para. 1

**5** added by Public Finance and Accountability (Scotland) Act 2000 asp 1 (Scottish Act) Sch. 4 para. 11(3)(b)

**19.**

The accounts of the board shall be open to the inspection of the Comptroller and Auditor General, but—

- (a) the power conferred by this paragraph; and
- (b) the powers under sections 6 and 8 of the National Audit Act 1983 (examinations into the economy, efficiency and effectiveness of certain bodies and access to documents and information) conferred on the Comptroller and Auditor General by virtue of section 6(3)(c) of that Act, shall be exercisable only in, or in relation to accounts or other documents which relate to, any financial year in which expenditure is incurred by the board in respect of which grants, loans or other payments are made to them under this Part of this Act.

*Execution of documents*

**20.—**

(1) For any purpose other than those mentioned in sub-paragraph (2) below, a document is validly executed by the board if it is signed on their behalf by a member of the board or by their secretary (or any person performing the duties of secretary to the board) or by any person authorised to sign the document on their behalf.

(2) For the purposes of any enactment or rule of law relating to the authentication of documents, a document is validly executed by the board if it is subscribed on their behalf by being executed in accordance with the provisions of sub-paragraph (1) above.

(3) A document which bears to have been executed by the board in accordance with sub-paragraph (2) above shall, in relation to such execution, be a probative document if the subscription of the document bears to have been attested by at least one witness.

*Provision of services*

**21.**

The Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to certain public bodies) shall have effect as if the board were a public body within the meaning of that Act.

## Annexe F

### Extract from Scottish Government Pre-Legislative Paper '*Putting Learners at the Centre*'

#### Key Points for the FE Sector

How the FE sector balances the delivery of crucial economic and social benefits given that social equality and fairness through widening access has to be a key part of what FE should do.

FE should be

- Sustainable: a system that makes optimal use of the resource available
- Open to all: a system that gives all those that can benefit the opportunity to do so, removing barriers to access where they exist.
- Flexible: the post 16 system should offer a wide range of provision in different ways to meet the diverse needs of learners and businesses, demanding collaboration and co-operation between and across all sectors that contribute to learner outcomes and meeting employer needs.
- Learner – centred: funding systems and provision should be designed around the needs of learners and should be simple, transparent and accessible.
- Focussed on jobs and growth: taking account of employment and wider economic needs
- Diverse: encourage and nurture diversity and encourage institutions and providers to focus on the areas where they excel and add most value.
- Excellent: set the highest ambition for learners.
- International: recognised internationally.
- Well led: strong, properly governed institutions which are financially stable and who are leading innovation and change across the post 16 landscape.

Colleges are expected to plan their provision taking into account the needs of their local economy and in partnership with other local agencies in particular Community Planning Partnerships.

Colleges face a difficult challenge in balancing the needs of employers with the aspirations of students and the economics of running financially viable provision.

## Annexe G

### BASE STATISTICS: SCOTLAND'S COLLEGES 2009/2010

Individual Colleges (2009-10)	Total Income (2009-10) £000	FTE Students	WSUMs	Surplus/Deficit (including restructuring, depreciation of tangible fixed assets at valuation and before tax)	Total Reserves (inc. revaluation, restricted and pension reserve)
Aberdeen College	£40,054	8,436	159,369	£1,222	£40,150
Adam Smith	£36,913	6,784	126,732	£889	£26,196
Angus College	£12,623	2,176	46,512	£54	£8,278
Anniesland College	£15,390	2,711	52,212	£46	£19,012
Ayr College	£16,152	2,814	55,744	£409	£8,121
Banff and Buchan College	£12,383	1,922	38,699	-£4,235	£2,331
Barony College	£5,544	373	11,171	£364	£4,137
Borders College	£12,237	1,457	35,428	£414	£709
Cardonald College	£23,110	3,921	79,629	£2,081	£9,103
Carnegie College	£23,690	2,806	58,754	£337	£1,316
Central College of Commerce	£13,367	3,213	49,408	£533	£10,165
Clydebank College	£17,937	3,085	60,415	£666	-£1,155
Coatbridge College	£13,323	1,832	42,265	£1,100	£12,058
Cumbernauld College	£11,466	1,867	36,465	£188	£622
Dumfries and Galloway	£13,588	1,879	42,939	£743	£7,838
Dundee College	£31,131	5,814	108,293	£412	£17,328
Edinburgh Telford College	£32,267	5,909	119,765	£2,155	£27,345
Elmwood College	£11,226	1,345	31,417	£99	£12,508
Forth Valley	£33,553	5,539	119,115	£3,221	£10,597
GCNS	£16,816	2,412	42,978	£357	£19,924
GMC	£27,843	5,247	108,166	£1,792	£31,938
Inverness College	£16,398	1,821	41,053	-£259	£15,440
James Watt College	£38,113	£7,215	156,020	£550	£10,793

Jewel and Esk Valley College	£18,693	3,447	69,781	£1,388	£12,975
John Wheatley College	£10,942	1,597	39,344	£314	£3,676
Kilmarnock College	£14,918	2,663	54,143	£1,092	£13,597
Langside College	£16,691	3,619	53,285	£613	£3,056
Lews Castle College	£7,077	322	8,067	£109	-£2,389
Moray College	£12,191	1,157	26,975	£134	£12,596
Motherwell College	£31,237	4,614	92,718	£1,994	£21,295
Newbattle Abbey	£1,396	0	-	£93	-£6
North Glasgow College	£14,602	2,490	48,981	£736	£5,177
Oatridge Agricultural College	£6,290	524	14,709	£464	£7,762
Orkney	£4,610	216	4,601	-£170	£0
Perth College	£19,527	1,464	32,262	£206	£13,078
Reid Kerr College	£25,271	4,209	84,557	£989	£8,283
Shetland	£3,790	408	5,677	£314	£0
SMO	£5,293	0	-	£49	£1,001
South Lanarkshire College	£12,320	2,306	45,735	£311	£535
Stevenson College	£26,048	4,765	90,082	£1,970	£19,546
Stow College	£14,316	£2,390	44,873	£535	£3,416
The North Highland College	£13,530	1,360	31,444	-£479	£755
West Lothian College	£13,861	2,481	47,041	£1,046	-£10,179

## Annexe H

### BREAKDOWN OF COLLEGE FUNDING 2009-10

Individual Colleges £000s (2009-10)	TOTAL INCOME	SFC recurrent grant	Recurrent Grant as % of Total income	EU Funding (EC grants & Fees from EU students)	EU Funding as % of Total income	Total Funding Council Grants	Total funding council grants as % of Total income
Aberdeen College	£40,054	£24,822	62%	£0	0%	£30,157	75%
Adam Smith	£36,913	£20,958	57%	£0	0%	£27,457	74%
Angus College	£12,623	£7,234	57%	£0	0%	£9,459	75%
Anniesland College	£15,390	£8,382	54%	£6	0%	£12,117	79%
Ayr College	£16,152	£9,389	58%	£0	0%	£12,129	75%
Banff and Buchan College	£12,383	£7,277	59%	£0	0%	£10,081	81%
Barony College	£5,544	£2,264	41%	£3	0.1%	£3,072	55%
Borders College	£12,237	£6,542	53%	£0	0%	£8,985	73%
Cardonald College	£23,110	£12,576	54%	£0	0%	£16,991	74%
Carnegie College	£23,690	£9,432	40%	£32	0.1%	£12,931	55%
Central College of Commerce	£13,367	£7,544	56%	£0	0%	£9,694	73%
Clydebank College	£17,937	£10,396	58%	£0	0%	£13,963	78%
Coatbridge College	£13,323	£6,861	51%	£0	0%	£10,798	81%
Cumbernauld College	£11,466	£6,036	53%	£0	0%	£8,069	70%
Dumfries and Galloway	£13,588	£7,807	57%	£0	0%	£11,205	82%
Dundee College	£31,131	£17,945	58%	£0	0%	£23,361	75%
Edinburgh Telford College	£32,267	£20,009	62%	£0	0%	£24,939	77%
Elmwood College	£11,226	£5,444	48%	£5	0%	£6,867	61%
Forth Valley	£33,553	£19,568	58%	£0	0%	£26,078	78%
GCNS	£16,816	£6,651	40%	£0	0%	£8,607	51%
GMC	£27,843	£15,717	56%	£0	0%	£20,806	75%
Inverness College	£16,398	£7,481	46%	£0	0%	£12,017	73%
James Watt College	£38,113	£27,084	71%	£0	0%	£32,510	85%
Jewel and Esk Valley College	£18,693	£10,443	56%	£0	0%	£14,598	78%

Individual Colleges £000s (2009-10)	TOTAL INCOME	SFC recurrent grant	Recurrent Grant as % of Total income	EU Funding (EC grants & Fees from EU students)	EU Funding as % of Total income	Total Funding Council Grants	Total funding council grants as % of Total income
John Wheatley College	£10,942	£6,953	64%	£0	0%	£9,739	89%
Kilmarnock College	£14,918	£9,364	63%	£0	0%	£12,054	81%
Langside College	£16,691	£8,429	51%	£0	0%	£12,548	75%
Lews Castle College	£7,077	£2,318	33%	£0	0%	£4,316	61%
Moray College	£12,191	£4,915	40%	£0	0%	£8,974	74%
Motherwell College	£31,237	£15,227	49%	£0	0%	£20,913	67%
Newbattle Abbey	£1,396	£676	48%	£0	0%	£676	48%
North Glasgow College	£14,602	£8,321	57%	£0	0%	£11,813	81%
Oatridge Agricultural College	£6,290	£2,717	43%	£33	0.5%	£3,269	52%
Orkney	£4,610	£1,320	29%	£0	0%	£2,198	48%
Perth College	£19,527	£6,046	31%	£41	0.2%	£11,292	58%
Reid Kerr College	£25,271	£13,983	55%	£28	0.1%	£18,151	72%
Shetland	£3,790	£1,590	42%	£0	0%	£2,431	64%
SMO	£5,293	£666	13%	£0	0%	£1,278	24%
South Lanarkshire College	£12,320	£7,137	58%	£20	0.2%	£9,333	76%
Stevenson College	£26,048	£14,851	57%	£0	0%	£19,535	75%
Stow College	£14,316	£7,467	52%	£437	3.1%	£11,022	77%
The North Highland College	£13,530	£6,930	51%	£1	0%	£10,465	77%
West Lothian College	£13,861	£7,450	54%	£0	0%	£10,628	77%

## **Annexe I**

### **PROPOSED REGIONAL STRUCTURE OF THE FE SECTOR**

#### **Ayrshire:**

Ayr College, Kilmarnock College and James Watt Kilwinning Campus

#### **Edinburgh:**

Telford College, Jewel and Esk College and Stevenson College

#### **Fife:**

Adam Smith College and Carnegie College

#### **Glasgow:**

City of Glasgow College, Stow College, Anniesland College, John Wheatley College, North Glasgow College, Cardonald College and Langside College

#### **Lanarkshire:**

Coatbridge College, Cumbernauld College, Motherwell College and South Lanarkshire College

#### **North East :**

Aberdeen College and Banff & Buchan College

#### **Tayside:**

Angus College and Dundee College

#### **West Coast:**

Reid Kerr College, Clydebank College and James Watt College (minus Kilwinning campus)

#### **Forth Valley:**

Forth Valley College and West Lothian College

#### **Borders College:**

No change

#### **Dumfries and Galloway :**

No change

#### **Newbattle:**

No Change

## Annexe J

### ESTIMATED DATA FOR NEW REGIONAL COLLEGES

Regional Colleges (£000)	TOTAL INCOME £000	WSUMs	FTE Students	Surplus/Deficit (including restructuring, depreciation of tangible fixed assets at valuation and before tax) £000	Total Reserves £000
Ayrshire	£47,561	177,821	8,688	£1,739	£26,388
Forth valley & West Lothian	£47,414	119,115	8,020	£4,267	£418
Edinburgh	£77,008	326,668	14,120	£5,513	£59,866
Fife	£60,603	185,486	9,590	£1,226	£27,512
Glasgow	£153,077	518,875	27,600	£7,007	£105,467
Lanarkshire	£68,346	217,183	10,619	£3,593	£34,510
North East	£52,437	198,067	10,358	-£3,013	£42,481
Tayside	£43,754	154,805	7,991	£466	£25,606
West	£64,830	233,059	11,299	£1,967	£13,251
Land Based	£23,060	57,297	2,242	£927	£24,407
Colleges merging with UHI	£82,416	150,079	6,750	-£96	£40,481
Borders College	£12,237	35,428	1,457	£414	£709
Dumfries & Galloway	£13,588	42,939	1,879	£743	£7,838
Newbattle Abbey	£1,396	-	-	£93	-£6

#### NOTES

1. This analysis assumes that the split is made by campus location; however as financial data is not available by campus location, income and expenditure is split by the campus share of the total net weighted sums (WSUM) grant for the college, which reflects the total activity on each campus. As such, financial data for regional colleges which contain parts of individual colleges **must be treated as indicative estimates only**.
2. It is important to note that the figures for total reserves includes a value for pension liability that does not consistently value pension liabilities for certain colleges, which participate in pooled pension schemes such that the liability of an individual institution is not calculated. **Therefore the value for total reserves for the North East, Tayside and the colleges merging with the University of the Highlands and Islands the values for reserves are likely to be overestimated.**
3. The student data used for this analysis only includes students who attracted funding through the SFC formula funding mechanism. Therefore, as Newbattle Abbey is not funded through this formula, there is no available student data for Newbattle Abbey.

## Annexe K

### BEST PRACTICE IN MERGERS

It is suggested that colleges considering merger should take note of the following matters.

- 1 It is important to put in place appropriate governance oversight and merger leadership at an early stage. This may involve existing institutions delegating decision making authority to a shadow board, and operational responsibility to a Principal Designate.
- 2 At an early stage careful consideration should be given to the SFC's guidance circular on mergers<sup>i</sup>.
- 3 Conducting effective due diligence is an essential, but not sufficient, basis for early decision making on the principle and practical issues of merger.
- 4 It is essential to recruit a professional Project Manager to plan and guide the process of merger.
- 5 Since cultural issues, including management, staff and stakeholder working relationships and perceptions are vital matters, an appropriate form of culture study can be beneficial.
- 6 It is very important to put in place a "counterpart" process. In particular, staff carrying out similar roles in merging colleges should be in contact with one another to discuss and provide advice on practical issues that need attending to.
- 7 Where tensions are anticipated at senior levels, such as amongst Boards or Principals, consideration should be given to using the services of an independent facilitator. The SFC will be able to provide advice, and possibly support.
- 8 Good practice suggests the implementation of an effective communication strategy, particularly within merging colleges, is essential. It is necessary to increase the amount of communication and to review the accuracy and quality of communication throughout all stages of the merger process. A useful study has been undertaken into communication matters during recent mergers in Northern Ireland<sup>ii</sup>.
- 9 Mergers cannot be effectively realised by strong senior leadership alone. Staff need to be engaged in the process of identifying the wide range of

practical matters which require to be attended to before merging institutions. This can range from identifying simple needs, such as an internal telephone directory for the new body, to system requirements, such as common enrolment procedures, to more sophisticated needs, such as policy development.

- 10 Where due diligence highlights specific debt issues amongst one of the parties, SFC Guidance on dealing with the debt should be sought as a matter of urgency.
- 11 Key messages for staff and students in relation to pooled expertise, more progression opportunities, improved curriculum offer, greater scale of modern apprentice offer, raising of academic standards and reduced complexity for learners and partners were highlighted as key outputs from a recent mergers partnership conference<sup>iii</sup>.
- 12 Engage students from the start of discussions and allow subject specific student work groups to contribute to shared curriculum outcomes.
- 13 Ensure motive for merger, values underpinning the merger and clear curriculum benefits are communicated both internally and externally and the quality of leadership and management including timescale management are reinforced throughout the process.

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<sup>i</sup> SFC *Guidance to institutions considering merger* accessed in November 2011 at [http://www.sfc.ac.uk/news\\_events\\_circulars/Circulars/2008/SFC4708.aspx](http://www.sfc.ac.uk/news_events_circulars/Circulars/2008/SFC4708.aspx)

<sup>ii</sup> Conlon, R *Meeting the Communication Challenge during College Merger*, Learning and Skills Development Agency, Northern Ireland, 2009.

<sup>iii</sup> Further Education Mergers and Partnerships – Sharing and outsourcing: mutually beneficial collaborations, June 2011



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