

Reinvigorating College Governance: The Scottish Government Response to The Report of the Review of Further Education Governance in Scotland

REINVIGORATING COLLEGE GOVERNANCE: THE SCOTTISH GOVERNMENT RESPONSE TO THE REPORT OF THE REVIEW OF FURTHER EDUCATION GOVERNANCE IN SCOTLAND

1. When I tasked Professor Russell Griggs OBE with reviewing college governance, my fundamental objective was to develop arrangements that brought transparency, accountability and rigour to the system to bring it into line with the demands of 21st century Scotland. I have previously indicated how grateful I am to Professor Griggs and the advisers he personally assembled (Dr Mike Cantlay, Graeme Kirkpatrick, Brian Lister OBE and Ken Wimbor) for such a thorough report.
2. The Scottish Government has a clear purpose to create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. Scotland's colleges have a pivotal role. It's vital therefore that we maximise the contribution colleges make.
3. Strong governance of the sector matters. We entrust those who govern with ensuring that colleges are well led and managed so that they meet their objectives, deliver positive outcomes and provide good value for taxpayers who fund the services. Just as they hold college managers to account for their actions, they too must be accountable for their stewardship of this important public service. Current governance arrangements are fundamentally flawed because they lack public accountability. Professor Griggs, identifies that this is not the fault of individual board members; they have operated properly within the system as it exists. The system as a whole needs reform.
4. By reinvigorating college governance, I want to reinvigorate colleges. This is fundamental to our plans to better meet the needs of learners and employers in a region through a coherent and sustainable curricula offer, with a sharper focus on outcomes; funding based on regional needs; and strong accountability for regional performance.
5. I outlined earlier this year thirteen college regions. Professor Griggs based his report on the premise that every region (other than Highlands and Islands) would have one college. Where possible, that is what I want to see. However, I believe firmly that it is a matter for colleges to come together on their own volition in the best interests of learners.
6. Most colleges are working towards merger. I welcome that because colleges of significant size can lead to better outcomes for students and greater efficiency. I welcome too the closer collaborations that other colleges are working towards for similar reasons. However, even with these mergers and closer collaborations, there will remain regions with more than one college. I have therefore considered the review's recommendations in this light and the corresponding need for a legal framework that sets out clearly the relationship between different links in the chain of accountability: Scottish Ministers, the Scottish Funding Council, regional boards and colleges and local colleges.

7. Going forward, my plans are for each region to have a single body that would:
- a) enter into a regional outcome agreement with the Scottish Funding Council and decide how funding received within the region should be distributed, and how efficiencies should be secured;
 - b) plan college provision strategically across the region;
 - c) provide a focal point for engagement with regional partners; and
 - d) be held to account by the Funding Council for delivering the regional outcome agreement.
8. In single-college regions, the regional body would be the college. In the Highlands and Islands, it would be the University of the Highlands and Islands (UHI)¹. In other multi-college regions, it would be a new statutory regional board.
9. In multi-college regions, UHI or the regional board would also:
- a) determine, with colleges their respective contributions ; and
 - b) hold colleges to account for their contribution to delivering the regional outcome agreement.
10. My plans would see existing incorporated colleges reformed into two types: regional colleges (in single-college regions) and local colleges (in multi-college regions). Regional colleges would have new duties to plan, collaborate and consult. Their boards would be larger than existing boards because of their new strategic role. Local colleges would be smaller. Chaired by their principal, they would focus on the day-to-day management of the college, working under the strategic direction of its regional board.

Regional body	Single-college regions	Multi-college regions	
		Regional college	Regional board
College	Local college		Local college

11. To ensure public accountability, the chair of every regional college and statutory regional board would be appointed by Scottish Ministers. Board members would continue to be appointed by the boards themselves with the approval of their chair (recognising the lead role Professor Griggs identifies for them) and Scottish Ministers; that strikes the right balance between empowering boards to refresh their own membership and giving them the democratic legitimacy they need to carry out their duties. Given their new, more focussed role, college principals would be best placed to chair local college boards. Going forward principals of local colleges would be appointed by regional boards, as would the local colleges' non-executive members.

¹ I have tasked a working group to report to me by the end of September 2012 on the future structure and governance of UHI.

12. Every college and regional board would have staff and student representation; we will look to have corresponding arrangements in UHI. Regional colleges and statutory regional boards would include two staff and up to two student representatives.

13. Ministers have historically appointed the first boards of new colleges. While these reforms would not see the closure of colleges, they do mark a fresh start. Given our new expectations for these boards, it is important that board members are recruited with the needs of the reformed boards in mind. Scottish Ministers would therefore appoint new boards to local and regional colleges when these colleges are first reformed. They would also appoint the first boards of new statutory regional boards.

14. **Annex A** outlines my detailed response to each of Professor Griggs' recommendations.

15. **Annex B** outlines the key features I envisage for the new college regional structure.

16. I intend to introduce legislation to make necessary changes, using where possible existing powers to make secondary legislation to expedite the process of reform.

Michael Russell MSP
Cabinet Secretary for Education and Lifelong Learning

DETAILED SCOTTISH GOVERNMENT RESPONSE TO REPORT OF THE REVIEW OF FURTHER EDUCATION GOVERNANCE IN SCOTLAND²

Recommendations (NOTE: Professor Griggs made his recommendations on the premise that all colleges in a region (other than in Highlands and Islands) would merge. This response takes into account the continue existing of some regions where there will be more than one college. It assumes any necessary changes legislation are made.)		Singe-college regions	Multi-college regions	
		Regional College Board	Regional Board	Local College Board
Regional structure and outcomes				
1	<p>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.</p>	<p>Regions announced on 1 February and 13 March 2012.</p> <p>1 February 2012 News Release http://www.scotland.gov.uk/News/Releases/2012/02/College01022012</p> <p>13 March 2012 News Release http://www.scotland.gov.uk/News/Releases/2012/03/west-lothian13032012</p> <p>Key features of new structures are outlined in Annex B.</p> <p>Expect new structures to be in place during academic year 2013/14.</p>		
2	<p>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.</p>	<p>An initial working group representing the academic partners, UHI and its students association has been established to take forward the principles of the future structure and governance which have now been agreed by UHI and all its academic partners. The local authorities and trade unions will be consulted before any decisions are taken.</p>		
29	<p>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.</p>	<p>The Scottish Funding Council will agree outcome agreements with every region in Scotland as part of the shift to regional planning and funding to meet the needs of learners and employers effectively and on a sustainable basis.</p>		

² <http://www.scotland.gov.uk/Topics/Education/UniversitiesColleges/17135/CollegeGovernanceReview/FEGovernanceReport>

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.	Invited the Scottish Funding Council to work with Audit Scotland and Education Scotland to clarify in one document their different roles and responsibilities.		
Appointments to boards				
3	New Chairs and Boards are recruited and appointed to manage and govern the new regions.	New chairs and boards will initially be appointed by Ministers.	Chairs and boards of first regional boards will be appointed by Ministers. Thereafter appointments will be made by the regional board with the agreement of the chair and Ministers.	Local college boards will be reformed. They will be chaired by college principal. Members will be: 2 others from college senior management team, appointed by principal 1 staff representative 1 student representative New members will initially be appointed by Ministers, thereafter by the regional board.
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.	Appointments will be made on the needs of the board. Ministers may issue guidance to colleges on board composition. College performance will be monitored by SFC through Regional Outcome Agreement	Appointments will be made on the needs of the board. Ministers may issue guidance to regional boards on board composition. Board performance will be monitored through ROA. Board will develop a	Appointments will be made on the needs of the board. Board performance will be monitored by regional board through Local Outcome Agreement (LOA). Also – see 7 below.

		(ROA). College will develop a regional plan. Also - see 10 above and 7 below.	regional plan. Also - see 10 above and 7 below.	
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.	Ministers will appoint the chair following principles and procedures of public appointments.	Ministers will appoint the chair following principles and procedures of public appointments.	Principal of college will chair the local college board. Principal will be appointed by regional board.
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.	After initial new appointments, regional college will make appointments with the agreement of the chair and Ministers. Regional college boards will include two staff and up to two student members. These members will have same roles and responsibilities as other board members. Maximum board size will be 18	After initial new appointments, regional board will make appointments with the agreement of the chair and Ministers. Regional boards will include two staff and up to two student members. These members will have same roles and responsibilities as other board members. Maximum board size will be 18.	After initial new appointments, regional board will make appointments with the agreement of the chair and Ministers. Local college boards will include one staff and one student member. These members will have same roles and responsibilities as other board members. Maximum board size will be 11.

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.	Chairs and boards held to account by SFC for ROA. Chairs and boards to be removed by Ministers for reason of board failure (in addition to mismanagement)	Chairs and boards held to account by SFC for ROA. Chairs and boards to be removed by Ministers for reason of board failure or mismanagement	Chairs and boards held to account by regional board for LOA. Chairs and boards to be removed by Ministers for reason of board failure (in addition to mismanagement)
8	Chairs of the individual Regional Boards should be remunerated in the same manner as Chairs of some other public entities.	No evidence that this change is warranted or desired by sector. Ministers to consider on a case by case basis remuneration of chair where evidence of need.	No evidence that this change is warranted or desired by sector. Ministers to consider on a case by case basis remuneration of chair where evidence of need.	N/A
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.	Principal attends board (not a member by right of position).	Principals of local colleges attend board.	Principal chairs the board.
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.	There will be no reserve seat for enterprise bodies as currently constituted.	N/A	There will be no reserve seat for enterprise bodies as currently constituted.
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.	Agreed	Agreed	Principal is the chair
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	Agreed.	Agreed.	Agreed.

	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.	Agreed.	N/A	Agreed.
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.	Agreed.	Agreed.	Agreed (Regional board would make appointments).
16	Boards should be free to make an appointment regardless of the age of the candidate.	Agreed.	Agreed.	Agreed.
17	The current inability of a Board to elect a Chair who is a councillor or a council employee should be removed.	Agreed.	N/A	Agreed.
College surpluses				
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.	Cabinet Secretary for Education and Lifelong Learning will make a further announcement on this.		
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.	Cabinet Secretary for Education and Lifelong Learning will make a further announcement on this.		
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.	Cabinet Secretary for Education and Lifelong Learning will make a further announcement on this.		
30	Colleges should not be judged on yearly surpluses but on a longer term sustainable financial model.	Agreed.		
Capital projects				
31	Government takes total responsibility for funding major capital projects in the FE Sector.	Cabinet Secretary for Education and Lifelong Learning will make a further announcement on this.		
32	A central resource is established within Scottish Government	The Scottish Funding Council has built up an extensive knowledge and		

	that works with Colleges to deliver major capital projects for the FE Sector.	understanding of the sector's needs as well as expertise in the capital management process. The Funding Council will continue to support the sector to deliver major capital projects.
FE Strategic Forum		
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.	Agreed. Will consult the Scottish Funding Council, college sector, STUC, NUS Scotland and business representative organisations on the remit of the Forum, its membership and frequency of meetings.
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.	Establish the Forum by the end of 2012. Expect Forum to give Ministers advice by the end of 2013.
25	The FE Strategic Forum [see recommendation 28] examines each inequality set out in this report and proposes a solution to each.	Agreed.
Student associations		
23	Student participation and representation become a commitment across the College Sector. Student Associations should be strengthened and become appropriately funded, autonomous and sustainable.	Agreed. This will be included in the next Ministerial guidance letter to the Funding Council.
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.	This is a matter for colleges but the Scottish Government is supportive.
Local communities		
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.	<p>Following their review of Community Planning, the Scottish Government and COSLA published on 15 March a Statement of Ambition for Community Planning. The core proposals subsequently agreed by the Scottish Government and COSLA to implement that Statement include:</p> <ul style="list-style-type: none"> • Strengthening duties on individual partners through a new statutory duty on all relevant partners, (whether acting nationally, regionally or locally), to work together to improve outcomes for local communities through participation in community planning partnerships and the provision of resources to deliver the SOA.

		This will require changes to the current legislation on community planning. Decisions have not yet been taken on the detail of any such changes. However, the effect of the changes is expected to be focused on the extent to which each partner contributes substantively to deliver of local outcomes through community planning rather than whether it is included in a statutory list. Any proposed new legislation would be the subject of consultation, which would provide an opportunity for the implications for regional college boards and regional boards to be considered.
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.	Will look to place a duty on regional college boards and regional boards to consult representatives of local communities and of local employers.
Sector-wide issues		
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.	A Change Team comprising members from Scottish Government, the Scottish Funding Council, and college sector has been formed. Its work is supported by a £15m College Transformation Fund.
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.	Tasked the Scottish Funding Council to conduct some initial mapping for this completed work to be passed to FE Strategic Forum on its formation.
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.	Invited Further and Higher Education Sector Oversight Board for ICT to consider further whether support for such investment is justified. Board to report to Ministers by end of August 2012.

**Scottish Government
June 2012**

KEY FEATURES OF NEW COLLEGE REGIONAL STRUCTURE

College Regional Structures	Single-College Regions	Multi-College Regions	
	Regional College	Regional Board	Local College
Function	<ol style="list-style-type: none"> 1) negotiate a Regional Outcome Agreement (ROA) with Scottish Funding Council (SFC) 2) establish the college's strategic direction and aims 3) plan college provision across the region 4) provide a focal point for engagement with regional partners 5) be held to account by SFC for delivering the ROA 	<ol style="list-style-type: none"> 1) negotiate a ROA with SFC 2) establish the strategic direction and aims of the board and of its partner colleges 3) plan college provision across the region 4) allocate funding to colleges, determining with them their respective contributions to the ROA through a local outcome agreement (LOA) with each of them 5) provide such services to one or more of its partner colleges as the regional board may determine, having consulted colleges 6) provide a focal point for engagement with regional partners 7) monitor college performance 8) hold colleges to account for delivering their LOA 9) be held to account by SFC for delivering the ROA 	<ol style="list-style-type: none"> 1) manage the college 2) negotiate a LOA with the regional board 3) be held to account by the regional board for delivering the LOA
Status	Established by statute	Established by statute	Established by statute
Duties	<ol style="list-style-type: none"> 1) secure through exercise of its functions coherent provision of high quality further education and higher education in the region 2) consult and collaborate 	<ol style="list-style-type: none"> 1) secure through exercise of its functions coherent provision of high quality further education and higher education in the region 2) consult and collaborate 	<ol style="list-style-type: none"> 1) manage and conduct their college in accordance with regional plan (endorsed by Ministers) 2) comply with directions issued by

	3) develop a regional plan 4) manage and conduct their college	3) develop a regional plan	Ministers on advice of regional board
New powers	None	Powers to require information from local college boards	None
Receives funding directly from SFC?	Yes. Fundable body.	Yes. Fundable body.	No. Not a fundable body.
SFC functions	Existing functions in respect of fundable bodies.	Existing functions in respect of fundable bodies.	SFC to have function in respect of quality. [Regional board to have similar functions in respect of local college boards as SFC has in respect of fundable bodies].
Chair	Appointed by Ministers	Appointed by Ministers	Chaired by Principal. Principal appointed by regional board
Size	12-18 (existing colleges 10-16)	12-18	5-7
Members	2 staff representatives 1 or 2 student representatives Other board members: <ul style="list-style-type: none"> Initial appointments made by Ministers, thereafter by board itself with agreement of chair and Ministers. College to have regard to any guidance Ministers may issue on board composition. Guidance may be different for different colleges. 	2 staff representatives 1 or 2 student representatives Initial appointments made by Ministers, thereafter by board itself with agreement of chair. Regional board to have regard to any guidance Ministers may issue on board composition. Guidance may be different for different regional boards.	2 others from college senior management team, appointed by principal 1 staff representative 1 student representative Others board members: <ul style="list-style-type: none"> Initial appointments made by Ministers, thereafter by regional board
Attendees	Principal (if not a member)	Principals of partner colleges	Representative of regional board
Removal of board members	Ministers remove any or all	Ministers remove any or all	Ministers remove any or all

	members, including chair for reasons of mismanagement or board failing	members, including chair for reasons of mismanagement or board failing	members, for reasons of mismanagement or board failing. Would not include principal or others from college management team.
<ul style="list-style-type: none"> • Ombudsman • Ethical Standards • Auditor General for Scotland (audit of accounts and inspection of accounts) • Information Commissioner • Equality legislation 	Apply	Apply	Apply

**Scottish Government
June 2012**



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