

Code of Good Governance for Scotland's Colleges

Submission from Colleges Scotland

Colleges Scotland responds to the consultation on the draft 'Code of Good Governance for Scotland's Colleges' on behalf of its members.

Introduction

Following the announcement of the Post-16 Education (Scotland) Bill on 28 December 2012, Colleges Scotland called for an amendment at Stage 2 which would allow a governance code to be developed similar to the code developed by the universities. This would allow the college sector to be empowered to lead and develop its own code of good governance, working in a transparent and open way with the Scottish Government, Scottish Funding Council (SFC), staff, students and key stakeholders. Following the successful amendment of the Bill, we welcome the opportunity to respond to a final draft version of the code.

The college sector appreciates the work of the steering group in ensuring the draft code was developed by adhering to high level principles rather than the listing of detailed regulations and legislations which could easily become outdated. It is recognised that the steering group also developed the code through strong consultation with staff and students. Furthermore, it has been developed to ensure that different governance arrangements across the college sector are included e.g. regional colleges, regional strategic bodies and assigned colleges.

Colleges Scotland has provided a range of comments for further consideration below.

Section A: Leadership and Strategy

A.5 The board is responsible for formulating strategy by identifying strategic priorities and providing direction within a structured planning framework. The board provides overall strategic leadership and takes all final decisions on strategic matters affecting the college.

Distinction between the responsibilities of the regional board and assigned college boards in multi-college regions is required.

A.7 The board is responsible for the development of outcome agreements, in partnership with their regional strategic body as appropriate, which meet the needs of the region and make best use of available funding, consistent with national strategy and agreed with SFC. The board must engage as partners with all stakeholders in the development and agreement of outcome agreements and monitor performance in achieving the agreed outcomes.

The board is required to take cognisance of the locality within which the college sits.

A.11 The board must seek to reflect the make-up of its community through offering maximum opportunity of membership to a range of potential members and removing potential barriers to membership, in partnership with its regional strategic body, as appropriate.

Care will be needed to ensure the skills, knowledge, attributes and experience that a board is asked to have regard to, when appointing an ordinary board member, does not limit the opportunity for a board complement to consist of equality through diversity.

The skills, knowledge, attributes and experience that a board is asked to have regard to, could be seen to be a barrier to some applicants e.g. a young entrepreneur/SME owner.

Although many colleges already advertise through the Public Appointments website, it can be a lengthy process to use this portal and its audience may be limited. The desire is for colleges to continue to use their own advertising/social media channels alongside the Public Appointments website going forward, to ensure the board reflects the make-up of its community.

A.12 The board must appoint one of the independent non-executive members to be the senior independent director to provide a sounding board for the chair and to serve as an intermediary for the other board members and the board secretary when necessary. The senior independent director should also be available where contact through the normal channels of chairman, principal or other board members has failed to resolve an issue or for which such contact is inappropriate.

Further clarification is sought as to the responsibilities of the 'senior independent director'.

Section B: Quality of the Student Experience

B.3 The board must seek to secure coherent provision for students, having regard to other provision in the college's locality. The board must be aware of external local, national and international bodies and their impact on the quality of the student experience, including community planning partners, skills development and enterprise agencies and employer bodies. The board must seek to foster good relationships and ensure that the college works in partnership with external bodies to enhance the student experience, including employability. The board should seek to improve participation.

How participation is measured may differ across Scotland depending on local needs.

B.4 The board must ensure appropriate mechanisms are in place for the effective oversight of the quality of the learning experience and work with other bodies as appropriate to oversee and monitor this. The board must ensure that the college works in partnership with sector quality agencies and other appropriate bodies to support and promote quality enhancement and high quality services for learners.

Clarification is sought in a multi-college region regarding the relationship between the sector quality agencies e.g. QAA and Education Scotland and the regional strategic body and assigned colleges.

Section C: Accountability

C.14 *The board is responsible for ensuring the financial and institutional sustainability of the college. College boards are accountable to the Scottish Funding Council or their Regional Strategic Body for the funding they receive from it. The board must ensure compliance with the SFC/Regional Strategic Body Financial Memorandum and if appropriate aspects of the Scottish Public Finance Manuals.*

The board must ensure compliance with the Financial Memorandum with the SFC and for assigned college boards with the regional strategic body. For colleges reclassified under ONS, aspects of the Scottish Public Finance Manual must also be complied with.

C.20 *Boards must ensure that regional colleges fulfil their statutory duty to consult and collaborate with trades unions and students associations through appropriate mechanisms.*

Regional strategic bodies and assigned colleges also have responsibilities as regards employee relations.

Section D: Effectiveness

D.1 *The chair is responsible for leadership of the board and ensuring its effectiveness in all aspects of its role. The chair is responsible for setting the board's agenda and ensuring that adequate time is available for discussion of all agenda items, particularly strategic issues. The chair must promote a culture of openness and debate by facilitating the effective contribution of all board members and ensuring constructive relations between board members.*

The chair must promote a culture of openness and debate by facilitating the effective contribution of all board members and fostering constructive relations between board members.

D.2 *The whole board is collectively responsible and accountable for all board decisions. Board members must make decisions in the interest of the college as a whole rather than selectively or in the interests or as a representative of a particular constituency.*

The term 'representative' could be misleading. Board members are appointed in their own right and not to represent any constituency.

D.4 *The board must ensure that the respective functions of governance and management, and the roles and responsibilities of the chair, the principal, the board secretary and individual board members, are clearly defined.*

A scheme of delegation to assist with this is reference in C.5.

D.5 *The board must appoint the principal as chief executive of the college, securing approval from the regional strategic body if necessary and must put in place suitable arrangements for monitoring their performance.*

This would ensure clarity of the role.

D.10 The principal has an important role in supporting effective governance. The principal shares responsibility with the chair and the board, supported by the board secretary, for enabling good governance through supporting effective communication and interaction between the board and the rest of the college including staff and students.

It might be clearer to state that the board is responsible for effective good governance, supported by the board secretary.

D.11 *The chair and the principal have a shared responsibility to provide leadership for the organisation as a whole. The principal is the operational interface between the board and the college.*

This recognises the importance of this shared role.

D.14 *The board secretary must directly support the chair in ensuring the board receives appropriate, timely and high quality information in a form that allows it to monitor and scrutinise the college's activities and to challenge performance when required. The board secretary must support the chair in ensuring compliance with all relevant legislative and governance requirements.*

It should be noted that the board secretary supports the entire board; not just the chair.

D.17 The board is responsible for ensuring appropriate arrangements are in place for the conduct of student elections and elections of staff members to the board.

It should be noted that students are nominated onto a board however staff members are elected.

D.21 *The board must keep its effectiveness under annual review and have in place a robust self-evaluation process. There should be externally facilitated evaluation of its effectiveness every three to five years.*

To support the above principle of effective board evaluation, some members have requested support with board evaluation through practical guidance materials.

D.22 The board must agree a process for evaluating the effectiveness of the board chair and the committee chairs. The evaluation of the board chair should normally be led by the vice-chair or senior independent director.

The cycle of externally facilitated board evaluation of effectiveness should occur within a regular timeframe to meet the board appointment timescale.

D.23 The performance of regional college chairs will also be evaluated by the Scottish Government, as regional colleges chairs are appointed by the Scottish Ministers and are personally accountable to them.

It is assumed different arrangements may apply in the Highlands and Islands region as the regional chair is appointed through the UHI. All other regional chairs will be evaluated by the Scottish Government as they were appointed by Scottish Ministers.

Section E: Relationships and Collaboration

E.2 Colleges and regional strategic bodies must ensure effective regional planning, consultation and collaboration following the principles of effective collaborative working: partnership; mutual respect and trust; and working towards commonly agreed outcomes.

Colleges and regional strategic bodies must also ensure effective local planning, consultation and collaboration.

E.10 The board must promote good employee relations and ensure mechanisms are in place for on-going meaningful engagement with staff. The board should have in place appropriate mechanisms to support effective engagement with all staff, with the principal delegated to operationalise the outcome of board decisions, values and ethos to all staff.

The term operationalise is open to interpretation. We would welcome alternative terminology.