



**COLLEGES SCOTLAND
CORPORATE GOVERNANCE CODE**

GOVERNANCE CODE

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Introduction

The purpose of corporate governance is to facilitate effective, entrepreneurial and prudent management that can deliver the long-term success of an organisation.

Corporate governance is about what the board of an organisation does and how it sets the values of the organisation, and is to be distinguished from the day to day operational management of the organisation by executives.

The Code is a guide to a number of key components of effective board practice. It is based on the underlying principles of all good governance: accountability, transparency, probity and focus on the sustainable success of an entity over the longer term.

The Board of Colleges Scotland has chosen to adopt its own Code based on UK Code on Corporate Governance and adopted for the type of organisation it is including the fact it is a charity. The Code does however, give cognisance to the Code of Good Governance issued to the sector in December 2014 where applicable.

It is not a rigid set of rules. It sets out what the Board considers to be good practice in the conduct of its duties. It is recognised that, from time to time, situations may arise which justify non-compliance with this Code if good governance can be achieved by other means. The Board should carefully consider such departures from this Code and explain properly the reasons for such non-compliance. Such reasons should be recorded in minutes of the meeting at which the route of non-compliance was decided. In providing an explanation, the Board should aim to illustrate how its actual practice is consistent with the principle to which the particular provision relates and contributes to good governance.

This Code will be reviewed by the Board on an annual basis and updates documented by a reissue of the Code to all members of the Board.

1 Leadership

1.1 The Board

Main Principles

Colleges Scotland should be headed by an effective Board, which is collectively responsible for the success of Colleges Scotland.

Supporting Provisions

Role of the Board

The Board is collectively responsible for the success of Colleges Scotland. Its key responsibilities are to:

- provide leadership within a framework of prudent and effective controls which enables risk to be assessed and managed;
- set strategy and structure;
- ensure that the necessary financial and human resources are in place for Colleges Scotland to meet its objectives;
- review management performance;
- ensure, in so far as it can, that arrangements are in place to attract, motivate and retain the best quality personnel;
- set Colleges Scotland values and standards;
- ensure that Colleges Scotland operates in a way that is consistent with its charitable purposes.

Specific responsibilities reserved for the Board include:

- setting the strategy of Colleges Scotland;
- approving an annual budget;
- approving year end financial statements;
- the identification and management of the principal business risks;
- the oversight of Colleges Scotland operations and control structures to maintain their integrity and effectiveness;
- reviewing regularly operational performance and updated forecasts for the current year;

- approving the main operating policies and procedures for the control of finance activities and receiving regular reports on these activities;
- regularly reviewing and updating where appropriate this Code;
- retaining primary responsibility for the approval of borrowing, granting securities, guarantees or indemnities, major capital expenditure, major contracts and financing arrangements;
- acquisition, disposal or lease of heritable property;
- reviewing at least annually pension fund arrangements;
- reviewing at least annually insurance and risk management programmes;
- reviewing at least annually the environmental and health and safety performance of Colleges Scotland;
- approving appointments to the Board (including the appointment of Chairman and Vice Chairman) and the appointment of the Secretary to the Board;
- approve the appointment, dismissal of and remuneration for the Chief Executive;
- approve the remuneration of the senior management team
- succession planning within the Board and Colleges Scotland (including responsibility for staffing structure in the strategic sense);
- establishing committees and appointments thereto; and
- compliance with legislation.

1.2 **Decision taking**

Main Principles

All Board members must take decisions objectively in the interests of Colleges Scotland and in pursuance of its charitable objects.

As part of their role as members of the Board, members should constructively challenge and help develop proposals on strategy. Board members should scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance. They should satisfy themselves on the integrity of financial information and that financial controls and systems of risk management are robust and defensible.

Supporting Provisions

- The Board should meet sufficiently regularly to discharge its duties effectively.

- The Board may delegate such of its functions as it determines to committees of the Board and others as set out the Articles of Association of Colleges Scotland.
- The Board should keep a record of the number of meetings of the Board and committees and individual attendance by members at each.
- Where Board members have concerns which cannot be resolved about the running of Colleges Scotland or a proposed action, they should ensure that their concerns are recorded in the Board minutes. On resignation, a Board member should provide a written statement to the Chair, for circulation to the Board, if they have any such concerns.
- The procedural rules for conduct of Board business are set out in Appendix A to this Code.
- Other than the Chair and the Chief Executive, members of the Board shall not speak publically or make any verbal or written representation to government, shareholders, financial institutions, stakeholders and the community without the prior consent of the Chair or the Chief Executive.

1.3 **Division of Responsibilities: Chair, Chief Executive and Secretary to the Board**

Main Principle

There should be a clear division of responsibilities at the head of Colleges Scotland between the running of the Board and the executive responsibility for the running of Colleges Scotland day to day operations. No one individual should have unfettered powers of decision.

Supporting Provisions

1.3.1 **Role of the Chair**

The Chair is responsible for leadership of the Board, ensuring its effectiveness on all aspects of its role. Responsibilities include:

- setting the Board agenda, ensuring Board members receive accurate, timely and clear information and of a quality to enable them to discharge their duties;
- ensuring that sufficient time is allowed for discussion of all agenda items, in particular strategic issues;
- promoting a culture of openness and debate by facilitating the effective contribution of Board members and ensuring constructive relations between Board members and management and staff;

- taking the lead in addressing the development and training needs of individual Board members to ensure that they have the skills and knowledge to fulfil their role on the Board and any Board committee;
- ensuring effective communication with members and stakeholders;
- ensuring the performance of the Board as a whole and its committees is evaluated annually;
- evaluating annually the performance of each Board member in his/her role as a Board Member;
- evaluating and appraising annually the performance of the Chief Executive;
- providing input to the Board in relation to the policy for the remuneration of the Chief Executive and other senior management team members;
- holding meetings with the Board members without management or the company secretary present;
- being available to the Chief Executive to advise on matters relating to strategy and operations; and
- in conjunction with the Chief Executive, representing Colleges Scotland to government, shareholders, financial institutions, stakeholders and the community.

1.3.2 **Role of the Chief Executive**

The Chief Executive is responsible for running the day to day operations of Colleges Scotland and the management and leadership of staff. The Chief Executive acts with the delegated authority of the Board. Responsibilities include:

- developing and implementing Colleges Scotland's Strategic Plan, as determined by the Board, ensuring that strategic and operational objectives set by the Board are achieved;
- reviewing the operational performance and strategic direction of Colleges Scotland and reporting to the Board on a timely basis;
- informing the Board of all relevant factors and developments that may impact on Colleges Scotland and the Board's activities;
- recommending to the Board an annual budget;
- being responsible for allocating and controlling resources within approved budget;

- ensuring a sustainable financial future for Colleges Scotland;
- being accountable to the members of Colleges Scotland proper use of public funds including the review of operational performance and strategic direction;
- managing Colleges Scotland risk management programme including all compliance issues and the environmental, health and safety performance of Colleges Scotland;
- ensuring effective and robust policies and procedures (including financial policies and procedures) are in place and are regularly reviewed;
- approving major contracts in accordance with authority levels delegated;
- maintaining open and effective communication through agreed representation channels for staff.

1.3.3 Delegation to the Chief Executive

The Board recognises the need to empower the Chief Executive so that he or she can effectively discharge the responsibilities given to that role. The Board therefore delegates to the Chief Executive authority to act on its behalf in relation to operational matters in order to discharge the responsibilities of the role of Chief Executive subject to the following:

- the Chief Executive shall have no authority in relation to any matter reserved to the Board, the Chair or the Secretary by virtue of this Code or to any matter reserved to a committee of the Board under the remit of such committee;
- any action must be consistent with the Board's strategy and objectives or any policy set by the Board;
- any action must be consistent with the budget approved by the Board;
- all expenditure (including the entry into contracts and capital expenditure) with a per item value in excess of £100,000 must be approved by the Board or a committee of the Board with authority so to approve;
- the disposal of assets (with a value in excess of £5,000) must be approved by the Board or a committee of the Board with authority so to approve;
- the commencement or settlement of any litigation or claim with a value in excess of £5,000 must be approved by the Board or a committee of the Board with authority so to approve;

- any action must be consistent with the charitable purposes of Colleges Scotland;
- any action which has financial (with a value in excess of £100,000), reputational, strategic or operational risk for the Board or Colleges Scotland must be dealt with by the Board

Notwithstanding the above delegation the Chief Executive reports to the Board and is accountable to the Board for his or her actions. The Chief Executive shall therefore act at all times in a way that is in the best interests of the Board and Colleges Scotland.

The Board shall review this scheme of delegation on an annual basis and may expand or restrict the delegated authority as it deems appropriate.

1.3.4 **Role of the Secretary to the Board**

The Secretary to the Board has the responsibility for guiding the Board in the execution of its tasks. Responsibilities include:

- ensuring the smooth running of the Board and the Board committees by helping set agendas, preparing and presenting papers to the Board and where applicable, to Board committees (some CS Board Committees have separate secretariat support and this is set out in the Committee remit);
- ensuring good information flows within the Board and its committees and between senior management and Board members;
- advising on Board procedures and ensuring that the Board follows them;
- acting as a primary point of contact and source of advice and guidance for, in particular, Board members as regards Colleges Scotland;
- keeping under close review, all legislative, regulatory and governance developments that might affect Colleges Scotland's operations and ensuring that the Board is briefed on these;
- facilitating the induction of new Board members into Colleges Scotland and their roles and responsibilities and assisting in the ongoing training and development of Board members;
- All Board members should have access to the advice and services of the Secretary to the Board.

1.4 **Information**

Main Principle

The Board should be supplied in a timely manner with information in a form and of a quality appropriate to enable it to discharge its duties.

Supporting Provision

Management has an obligation to provide relevant information but Board members should seek clarification or amplification where necessary. Information and data that are important to the Board's understanding of the business and any agenda items will be distributed to the Board before it meets, with sufficient time to allow Board members to give such materials appropriate attention. If the subject matter is too sensitive, the information will be discussed at the meeting.

2 Board composition

2.1 Composition of the Board

Main Principle

The Board and its committees should have the appropriate balance of skills, experience, independence and knowledge of Colleges Scotland to enable them to discharge their respective duties and responsibilities effectively.

Supporting Provisions

- The Board should be of sufficient size that the requirements of Colleges Scotland can be met and that changes to the Board's composition and that of its committees can be managed without undue disruption, and should not be so large as to be unwieldy.
- All Board members should be independent in their judgement.
- The Board should determine whether each member is independent in character and judgement and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the member's judgement. The Board should state its reasons if it determines that a member is independent notwithstanding the existence or circumstances which may appear relevant to its determination, including if the member:
 - has been an employee of Colleges Scotland within the last five years (excluding the Chief Executive);
 - has, or has had within the last three years, a material business relationship with Colleges Scotland either directly, or as a partner, shareholder, director or senior employee of a body (excluding members of Colleges Scotland) that has such a relationship with Colleges Scotland;
 - has received or receives additional remuneration from Colleges Scotland;

- has close family or business ties with any of the Colleges Scotland's advisers, Board members or senior employees;
- has significant links with other Board members through involvement in other companies or bodies (excluding members of Colleges Scotland);
- has served on the Board for more than eight years from the date of his or her first appointment.
- The value of ensuring that committee membership is refreshed and that undue reliance is not placed on particular individuals should be taken into account in deciding chairmanship and membership of committees.
- No one other than the committee chair and members is entitled to be present at a meeting of the audit committee but others may attend at the invitation of the committee.

2.2 **Appointments to the Board**

Main Principle

There should be a formal, rigorous and transparent procedure for the appointment of new Board members to the Board.

Supporting Provisions

- Appointments to the Board should be made on merit and against objective criteria and with due regard for the benefits of diversity on the Board.
- The Board should satisfy itself that plans are in place for orderly succession for appointments to the Board and to the senior management team, so as to maintain an appropriate balance of skills and experience within Colleges Scotland and on the Board and to ensure progressive refreshing of the Board.
- The letter of appointment of Board members should set out the expected time commitment. Board members should undertake that they will have sufficient time to meet what is expected of them. Their other significant commitments should be disclosed to the Board before appointment, with a broad indication of the time involved and the Board should be informed of subsequent changes.

3 Performance

3.1 Induction, Professional Development and Appraisal

Main Principle

All Board members should receive an induction on joining the Board and should regularly update and refresh their skills and knowledge.

Supplementary Provisions

- The Chair of the Board should ensure that the Board members continually update their skills and knowledge and familiarity with Colleges Scotland to fulfil their role both on the Board and on Board committees. Colleges Scotland should provide the necessary resources for developing and updating its Board's knowledge and capabilities.
- To function effectively, all Board members need appropriate knowledge of Colleges Scotland and access to its operations and staff.
- The Chair should ensure that new Board members receive a full, formal and tailored induction on joining the Board.
- The Chair should regularly review and agree with the Board, training and development needs.

3.2 Performance Evaluation

Main Principles

The Board should undertake a formal annual evaluation of compliance with the provisions of this document, its own performance and that of its committees and individual Board members.

Individual evaluation should aim to show whether each Board member continues to contribute effectively and to demonstrate commitment to the role (including commitment of time for Board and committee meetings and any other duties). The Chair should act on the results of the performance evaluation by recognising the strengths and addressing the weaknesses of the Board.

Supporting Provisions

- Evaluation should be carried out at least annually.
- A report should be produced on the outcome of the evaluation with action points being given deadlines for completion.

4 Remuneration

4.1 The Level and Make-up of Remuneration

Main Principle

Levels of remuneration should be sufficient to attract, retain and motivate senior managers of the quality required to run Colleges Scotland successfully; the Board should avoid paying more than is necessary for this purpose..

Supporting Provisions

- Comparisons should be used with caution.
- Performance-related elements of remuneration should be stretching and designed to promote the long term success of Colleges Scotland.
- Sensitivity should be had to pay and employment conditions elsewhere in the organisation especially when determining annual salary increases.

4.2 Procedure

Main Principle

There should be a formal and transparent procedure for developing policy on remuneration and for fixing the remuneration package of the Chief Executive and the senior management team. No member of senior management should be involved in deciding his or her own remuneration.

Supporting Provisions

- Board members (with the exception of the Chief Executive who is paid for his/her role as Chief Executive) shall not be remunerated for performing the office of Board member but shall be entitled to reasonable out of pocket expenses on basis of an expenses policy determined by the Board from time to time.
- The Board has responsibility for setting remuneration for the Chief Executive and other senior managers. Remuneration includes pension rights and any compensation payments.

5 Accountability and Audit

5.1 Financial and Business Reporting

Main Principle

The Board should present a balanced and understandable assessment of Colleges Scotland's position and prospects.

Supporting Provisions

- The Board's responsibility to present a balanced and understandable assessment extends to public reports and reports to regulators (particularly the Office of the Scottish Charity Regulator) as well as to information required to be presented by statutory requirements.

- The Board should explain in the accounts its responsibility for preparing the accounts and there should be a statement by the auditors about their reporting responsibilities.
- In causing the financial statements to be prepared, the Board shall ensure that:
 - suitable accounting policies are selected and applied consistently;
 - judgements and estimates are made that are reasonable and prudent;
 - applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements;
 - the financial statements are prepared on the going concern basis, unless it is inappropriate to presume that Colleges Scotland will continue in operation.
- The Board shall:
 - ensure that there are appropriate financial and management controls in place to safeguard public funds and funds from other sources;
 - safeguard the assets of Colleges Scotland and hence to take reasonable steps to prevent and detect fraud;
 - ensure reasonable steps have been taken to secure the economical, efficient and effective management of Colleges Scotland's resources and expenditure; and
 - ensure sound corporate governance and the proper conduct of the organisation's operations.

5.2 Risk Management and Internal control

Main Principle

The Board is responsible for determining the nature and extent of the significant risks it is willing to take in achieving its strategic objectives. The Board should maintain sound risk management and internal controls systems.

Supporting Provision

- The Board should, at least annually, conduct a review of the effectiveness of Colleges Scotland's risk management and internal control systems. The review should cover all material controls, including financial, operational and compliance controls.

5.3 Audit Committee and Auditors

Main Principle

The Board should establish formal and transparent arrangements for considering how they should apply the risk management and internal control principles and for maintaining an appropriate relationship with Colleges Scotland's auditors.

Supporting Provisions

- The Board should establish an audit committee of at least four members, who should be Board members. The Board should satisfy itself that at least one member of the audit committee has recent and relevant financial experience.
- The main role and responsibilities of the audit committee should be set out in written terms of reference and should include:
 - to monitor the integrity of the financial statements of Colleges Scotland and reviewing significant financial reporting judgements contained in them;
 - to review Colleges Scotland's internal financial controls and to review internal control and risk management systems;
 - to monitor and review the effectiveness of the internal audit activities;
 - to appoint the internal auditors;
 - to review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process, taking into consideration relevant UK professional and regulatory requirements.
- The audit committee should review arrangements by which staff of Colleges Scotland may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The audit committee's objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action.

APPENDIX A

Procedural Rules

1 Chair

- 1.1 The Chair shall be responsible for the general conduct of the meetings and shall, among other things,
- a) preserve order and ensure that every member of the Board has a fair hearing,
 - b) decide on all matters of order, competency and relevancy,
 - c) determine all questions of procedure in reference to which no express provision is made in legislation or under these Procedural Rules.
- 1.2 The ruling of the Chair on all matters within his or her jurisdiction as Chair is final.
- 1.3 In the case of an equality of votes the Chair shall not have the casting vote.

2 Conduct

2.1 At meetings of the board

- a) the Chair, or in his or her absence, the Vice-Chair, shall take the Chair, in the absence of the Chair and Vice-Chair, the members present shall appoint one of their number to be Chair for the meeting
- b) every member of the Board shall address the Chair
- c) the Chair shall be heard without interruption
- d) if any member of the Board disregards the authority of the Chair, or is guilty of obstructive or offensive conduct, a motion may be moved and seconded to suspend the member for the remainder of the meeting; the motion shall be put without discussion and, if carried, such member shall then immediately leave the meeting, and
- e) the Chair shall be entitled, in the event of any disorder arising, to adjourn the meeting to a time he or she may then or afterwards fix.

3 Meetings of the Board

The Board shall normally meet at least four times per year.

4 Notice of Board meetings

Notification to members of the time and place of the meeting, and the business proposed to be transacted at the meeting shall be given by being left at, or sent by post, to the address provided by the member of the Board or by electronic communications to an email address provided by the member of the Board at least three working days before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened.

5 Adjournment of Meeting

5.1 With the agreement of the meeting, the Board may adjourn any meeting to such time as the Chair may then or afterwards fix.

5.2 When an adjourned meeting is resumed, proceedings shall commence at the point at which they were broken off at the adjournment.

6 Quorum

6.1 The quorum for the transaction of the business of the Board may be fixed by the Board Members and unless so fixed at any other number shall be one third of all Board Members, or if at the time the total number of Board Members is not a multiple of three, the quorum shall be determined by dividing the number of Board Members by three and rounding up to the nearest whole number.

6.2 If a quorum is not present, the Chair shall adjourn the meeting for fifteen minutes and, after this time, if a quorum is still not present, the Chair shall have the power to decide to close the meeting or to take such items on the agenda that may require discussion on an advisory basis only, subject to a vote taken by the next quorate meeting by the Board.

6.3 Subject to 6.1, the proceedings of the Board shall not be invalidated by reason of any vacancy among the members, or any defect in the appointment of any member.

7 Order of Business

7.1 The order of business will be determined at the start of the meeting but generally will follow the format contained in the agenda accompanying the notice calling the meeting.

7.2 An exceptional item of business not appearing on the agenda for the meeting may be considered at the end of the meeting provided that the Chair of the meeting is of the opinion that it is relevant, competent and urgent.

8 Conflicts of Interest

8.1 Members should be familiar with the content of and comply with the terms of the Code of Conduct for the members of the Board and complete a Register of Interests form. Any change in a member's circumstances should be notified to the Secretary to the Board and entered into the Register of Interests within one month of the change.

- 8.2 Subject to sub-paragraph 8.5 below, where, whether before or during any meeting of the Board or any Board Committee, any member of the Board or of such Board Committee becomes aware that he or she or any person connected with him or her has a material interest in or relating to any matter to be or being considered by the Board or, as the case may be, the Board Committee, he or she shall declare such interest and withdraw from the meeting during such consideration and shall not vote on any question relating to the matter.
- 8.3 Notwithstanding sub-paragraph 8.2 above, where in relation to any member of the Board or of a Board Committee mentioned in sub-paragraph 8.4 below any matter referred to in that sub-paragraph is to be considered by any meeting of the Board or any Board Committee, he or she shall, unless invited to remain by resolution of the other members of the Board present, withdraw from the meeting during such consideration and shall not vote on any question relating to the matter.
- 8.4 The member of the Board mentioned in sub-paragraph 8.3 above is the Chief Executive in relation to his or her terms and conditions of employment, his or her suspension or dismissal or any other disciplinary measure relating to him or her and the appointment of his or her successor;
- 8.5 Subject to sub-paragraph 8.4 above, nothing in this paragraph shall require the Chief Executive to declare an interest or withdraw from consideration of any matter where his or her interest exists only by reason of his or her being the Chief Executive.]
- 8.6 Section 252(2) of the Companies Act 2006 (meaning of “connected person”) shall apply for the purpose of determining whether a person is connected with a member of the Board or, as the case may be, a member of any Board Committee as it applies for the purpose of determining whether a person is connected with a director of a company shall be construed as if they were references to a member of the Board or, as the case may be, member of such Board Committee.

9 Disclosure of Information

Board and Committee agendas and minutes will not be published on the Colleges Scotland's website.

The Board may, from time-to-time, agree to withhold papers, within the provisions of FOIA, on the grounds of commercial or other confidence or which relate to personnel issues of a confidential nature. Such decisions will be made on a case-by-case basis by a majority of voting members present and the papers noted as “non-disclosure”.

Any requests under the Freedom of Information Act (FOIA) to individual board members should be passed to the company secretary for processing.

10 Approval of Minutes

At each Board meeting the minutes of the previous meeting shall be submitted for approval.

After the minutes have been approved as a correct record of the meeting to which they relate, subject to or without amendment, they shall be signed by the Chair.

11 Voting

- 11.1 Voting shall be by a show of hands or by voice, unless one third of the members present and entitled to vote at the meeting signify their objection. The Board will then require to decide whether the vote should be taken by ballot or by calling the roll or by noting the dissensions in the minutes.
- 11.2 Any member of the Board or a Committee thereof who disagrees with a decision upon which the Board or Committee has voted may require that his or her dissent be recorded in the minute of the relevant meeting.

12 Committees

- 12.1 The Board shall appoint such Committees as it considers necessary.
- 12.2 The Procedural Rules of the Board shall also be Procedural Rules of Board Committees.

13 Suspension of Procedural Rules

Any one or more of these Procedural Rules may be suspended, except where such suspension might lead to an action contrary to law, so long as at least two thirds of the Board members agree to do so.