



Scottish Funding Council

Promoting further and higher education

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Comhairle Maoineachaidh na h-Alba

A' brosnachadh foghlam adhartach agus àrd-ìre

8 December 2015

Gary Cocker
Assistant Clerk
Public Audit Committee
Room T3.60
Scottish Parliament
Edinburgh EH99 1SP

Dear Mr Cocker

Report on the 2012/13 audit of North Glasgow College: Governance and financial stewardship

I am writing in response to your email of 12 October 2015 inviting the Scottish Funding Council to provide a response to the recommendations contained in the above report.

Para 19 The Committee would be grateful for an explanation from the Scottish Funding Council as to why it did not re-issue the guidance to colleges at the time of the mergers

SFC provided support to merging colleges throughout the merger process, which enabled us to provide appropriate advice on all aspects of the merger. This support included providing advice on severance arrangements. In light of the support being offered we did not consider it necessary to re-issue our severance guidance to merging colleges, however we did remind them of its existence. We will, in the event of future mergers, provide specific and clear guidance on severance.

Para 28 We recommend that no Chair of a College Board should also chair that College's Remuneration Committee

We agree with the Committee. SFC will recommend that this is included in supplementary guidance currently being developed by Colleges Scotland's Good Governance Steering Group to support the Code of Good Governance. We will also include guidance around this in SFC's new severance guidance; compliance with this guidance will be a condition of grant.

Para 35 We recommend that it should be a condition of Scottish Funding Council funding that all statutory college committees have designated management and secretariat support. The responsibilities and professionalism expected of that administrative support should also be set out unambiguously

We agree that proper support for both boards and their committees is an important component of good governance; the role of Board Secretary in particular is key. We would propose that this is articulated within supplementary guidance to the Code of Good Governance. Compliance with the Code is already a requirement of the Financial Memorandum between SFC and colleges, and compliance with the Financial Memorandum is a condition of grant.

Para 64 We ... question the effectiveness of the existing sanctions

We agree with the Committee that sanctions available must be meaningful and effective. We consider that the ability to withhold or clawback funding from institutions remains an option, however we would need to take full account of the impact on the students and staff and also on the ongoing operations of the college prior to taking any such action.

As we have noted in our response to the Committee on Coatbridge College, we were frustrated that we were not able to recover funding from those who had taken decisions that were clearly against our guidance. We will be exploring options with the Office of the Scottish Charity Regulator and the Commission on Ethical Standards. Another option – where appropriate – is for Ministers to use their powers to remove boards (or individual board members) where there is evidence of mismanagement. We hope to work with the Cabinet Secretary's College Governance Task Group on how we take these options forward.

Para 70 We note that strengthened supplementary guidance to support the Code of Good Governance for Scotland's Colleges is being developed. We recommend that this guidance should specifically cover Remuneration Committee best practice and the importance of effective support for College Boards and Committees

We agree, and will work with the Good Governance Steering Group to ensure that the guidance covers these important aspects of governance.

We believe it is crucial that improvement of governance in the college sector is led by the sector, with appropriate support from SFC and Scottish Government. Colleges Scotland's role is key to this, led by the Steering Group and supported by the Colleges Development Network and the Board Secretaries lead group.

Para 71 We recommend a review of the sanctions available to the Scottish Funding Council and the Scottish Government for non-compliance with the Scottish Public Finance Manual, the Financial Memorandum with Fundable Bodies in the College Sector or the Code of Good Governance. The review should include input from the Office of the Scottish Charity Regulator and the Commissioner for Ethical Standards in Public Life (Scotland). We request an update from the Scottish Funding Council by the end of year on progress in putting in place effective and meaningful sanctions.

SFC will work with Scottish Government to consider available sanctions and their effectiveness. The College Governance Task Group, which had its first meeting on 16 November 2015, will provide a useful forum to explore a wider range of sanctions that may be available.

In addition, through appropriate engagement and communication with both OSCR and the Ethical Standards Commission, we have made a commitment to exploring other possible sanctions available to these bodies. We will write formally to the Ethical Standards Commission before the end of the year setting out the circumstances around governance weaknesses identified at North Glasgow College and the Commissioner will then consider what further action is appropriate. A meeting is to be arranged between the Office of the Scottish Charity Regulator, SFC and Scottish Government to take forward a discussion about our collective roles and responsibilities in relation to FE and HE governance generally. This discussion will include consideration of OSCR's role as regulator in the event of issues with the behaviour of Board members as charity trustees. We will be happy to update the Committee on the outcome of these discussions early in the New Year.

Para 74 We intend to explore with the Scottish Funding Council how it will monitor future severance agreements and payments made. It is vital that the new arrangements are robust. We will be seeking assurances that there are no gaps around the Scottish Funding Council's ability to take appropriate action to limit payments made.

I have referred previously to the new requirements under the SPFM for colleges to seek SFC's approval for severances. In the event that we did not agree with a proposed severance arrangement, we would not give our approval, and the college should then not make the payment.

Colleges should advise SFC of proposed severances in advance of making any payments; this should guard against inappropriate payments being made. Since reclassification as Central Government Arms-Length Bodies, colleges are also required to provide SFC with an annual certificate of assurance in relation to internal controls. This certificate covers the financial year to 31 March, and includes confirmation that the college has complied with the SPFM during that year.

If a college were to make an unapproved payment, it is important that effective sanctions are available and implemented; this is why further consideration of sanctions, as previously described, is required.

I hope the responses provide you with the information you require. Should you require any clarification or further information please do not hesitate to contact me.

Yours sincerely

Laurence Howells
Chief Executive