

## Audit & Assurance Committee

Date of Meeting	Tuesday 1 October 2024
Paper Title	Review of Governance Framework
Agenda Item	10
Paper Number	AAC1-F
Responsible Officer	Board Secretary
Recommended Status	Disclosable
Action	For Noting

### 1. Executive Summary

**1.1** This report is produced annually to apprise the Committee of any recent changes relating the legislative and regulatory framework within which the Board operates.

### 2. Recommendations

**2.1.** The Committee is invited to **note** the report.

### **3. Background**

- 3.1.** The Committee is kept apprised of financial regulatory matters directly relating to its remit as required over the course of the year. The following chart has been updated with a view to ensuring that the Committee is apprised of developments within the wider governance framework within which GCRB operates.
- 3.2.** The report is not intended as an exhaustive list of all legislation and regulation that applies to GCRB but covers areas that have greater relevance to its activities.
- 3.3.** Depending on the outcome of the current consultation on regional governance in Glasgow and Lanarkshire, there may be challenges in maintaining compliance with all elements of the governance framework as an RSB and Public Authority. Scenario planning is in train. Following an announcement, appropriate planning reports will be brought to committees and Board, and the risk register will be updated, to ensure adequate oversight of compliance and risk during any transition process.

GCRB Governance Framework – Review September 2024

Area of Influence	Legislation/Regulation	Outline Description	Review of Status/Implications
Education Acts	Further & Higher Education (Scotland) Act 1992	Established incorporated colleges (Assigned Colleges); determined constitution, functions and powers	Revised constitution as per amendments to Schedule 2B to the 2005, including TU Board Members and 2 additional non-executive members, came into effect early in 2024.
	Further & Higher Education (Scotland) Act 2005	Established Funding Council and regional governing bodies; determined constitution, functions and powers of Regional Strategic Bodies/Regional Boards; statutory basis for Regional Outcome Agreements, Financial Memorandum, Code of Good Governance, Appointments Guidance.	Revised Appointments Guidance is awaited (to take account of succession planning/co-option, Gender Representation Act, and constitutional changes associated with the introduction of TU members).  Progress is still awaited in several other areas dependent on legislative change, outlined below. All areas have interdependencies with present considerations about the future of multi-college regions and may therefore not be taken forward until decisions have been made including those that will follow the current consultation on Glasgow and Lanarkshire multi-college regions.
	Post-16 Education (Scotland) Act 2013	Amended previous Education Acts to create regional governance structures.	<ul style="list-style-type: none"> <li>- remuneration of assigned college chairs</li> <li>- guidance for SFC/colleges on SFC reviews</li> <li>- SFC rights to address AC meetings</li> <li>- provision for appointing bodies to suspend member</li> </ul>
Ethical Conduct	Ethical Standards in Public Life etc. (Scotland) Act 2000  Register of Interest Regulations 2003	Provided for Code of Conduct for public bodies	No changes to Code during 2023-24.  Advice note for College Sector Boards issued in November 2023 (Board notified).  Advice note for Standards Officers issued April 2024.

			Register of Interest reviewed annually and amended in the interim as notified by Board Members.
	Code of Practice for Ministerial Appointments to Public Bodies 2013	Public Appointments process (applies directly to Regional Chairs and indirectly to Non-Executive Board Member appointments)	No changes in 2023-24.
	Bribery Act 2010	Redefined bribery offences and penalties	Code of Conduct refers to board member duties. Anti-bribery policy last reviewed October 2023.
<b>Charitable Status</b>	Charities Trustee and Investment (Scotland) Act 2005 Associated regulations	Established current legislative framework for Scottish charities and created OSCR.	No change. ACs are charities. GCRB is not a charity but may become one with Ministerial and OSCR consent. Charities (Regulation and Administration) (Scotland) Bill was supported by Scottish Parliament June 2023. Royal Assent now awaited. Purpose of legislation is increasing transparency and OSCR powers, including publication of unredacted accounts online.
<b>Information Protection/ Disclosure</b>	Public Interest Disclosure Act 1998 (as amended by the Enterprise and Regulatory Reform Act 2013)	Made provisions for whistleblowing	There have been no changes to whistleblowing legislation in the past year. GCRB's policy reviewed October 2023.
	Freedom of Information (Scotland) Act 2002	Defined right of access to information and exemptions.	GCRB Publication Scheme reviewed and updated February 2024.
	Re-use of Public Sector Information Regulations 2015  Environmental Information (Scotland) Regulations 2004	Provision under Section 61 of FOI(S)A to regulate on access to environmental information held by public authorities.	GCRB received one information request that fell within the scope of FOI(S)A during 2023-24. A response was issued and no further communication received.

	Inspire (Scotland) Regulations 2009		
	Public Services Reform (Scotland) Act 2010	Placed duties on public authorities to publish information on expenditure >£25k on hospitality/entertainment, overseas travel, PR or consultancy and any staff paid >£150k	Financial Memorandum/SPFM refer. No recent changes.
	Data Protection Act 2018	2018 Act replaced 1998 Act and supplemented GDPR. Provides statutory basis for processing/storing/disclosing personal information.	DPO provided development session to Board in January 2024. DPO has moved on from HEFESTIS and advice awaited on who has assumed DPO function for GCRB.
<b>Finance/ Audit</b>	(Further & Higher Education (Scotland) Act 2005) Financial Memorandum	Defines relationship to SFC and delegation of authority/reporting requirements; revised 2014 to accommodate ONS changes and Post-16 Act. GCRB replicates at AC level.	Review still ongoing SG/SFC. Interdependencies with current review processes. 2014 FM remains extant.
	(Public Finance & Accountability (Scotland) Act 2000) Scottish Public Finance Manual	Comprehensive regulations for public bodies with legal status via the 2000 Act, on which FM draws, which applies post ONS.	Significant changes are reported to Committees/Board by GCRB executive as appropriate. Changes in 2023/24 include revisions to the Internal Control Checklist and to severance arrangements.
	Procurement Reform (Scotland) Act 2014	Defined terms and duties in relation to regulated procurements and contracts.	SPFM refers. GCRB policy compliant with law/regulation.
<b>Safeguard- ing</b>	Protection of Vulnerable Groups (Scotland) Act 2007	Introduced PVG scheme in place of previous disclosure scheme. Ministerial Appointments guidance refers.	No change. GCRB Board Members not formally required to undergo disclosure but it may be appropriate for them to do so/additional terms may be imposed for future appointments.
<b>Community</b>	Community Empowerment Act 2015	Introduced new rights for communities to engage in public	GCRB continues to engage in Community Planning Partnerships across college region.

		authority decision-making, purchase land held by public authorities, etc	
<b>Quality</b>	Scotland Act 1998 2005 Education Act	Established authority for inspectorate with Government Executive Agency status; merger in 2011 of HMIE with LTS created joint authority for curriculum development and inspection. GCRB general duty under 2005 Act refers.	Consultation on funding and skills bodies closed 20 September 2024. Report/recommendations awaited.
<b>Complaints</b>	Scottish Public Services Ombudsman Act 2002 (amended by 2005 Education Act)	Established SPSO to oversee and investigate complaints by members of the public against public bodies. Provided for model complaint handling procedure.	GCRB has compliant complaints policy in place. No complaints received during past year.
<b>Equalities</b>	Equality Acts (Scotland) 2006 and 2010 Equality Regulations 2012 2016 Amendment to Specific Duties	2006 Act was precursor which established Equality & Human Rights Commission (NDPB); 2010 Act Introduced Public Sector Equality Duty; incorporated/replaced all previous anti-discrimination legislation including equal pay (1970 Act mostly superseded by section 5 part 3) 2016 amendment required publication of certain data and diversity succession plan.	GCRB publishes an equality mainstreaming report every two years.  Board diversity succession plan is in place and subject to annual review by NRC in October. No further changes in legislation since last report.
	Gender Representation on Public Boards (Scotland) Act 2018	Introduced requirement to appoint in the interests of 50% female membership of public sector boards where there equally qualified male and female candidates for a vacancy.	Revised sector appointments guidance will refer. GCRB monitors its practice in this regard and is compliant with 2018 Act. No non-executive appointments to GCRB currently planned.

<b>Environment</b>	Climate Change Act 2008 Climate Change (Scotland) Act 2009	Scottish Government has action plan 2018-32; sector activity/compliance monitored by SFC.	GCRB continues to report to SFC as required.
<b>Health &amp; Safety</b>	Health & Safety at Work Act 1974 Subsequent Acts and Regulations Working Time Regulations also regulated by HSE	Main piece of health and safety legislation defined duties to employees and to the public.	Duties are qualified by principle of “so far as is reasonably practicable”; primary requirement is risk assessment and to act on findings. Detail of H&S reporting not included here as primarily responsibility of ACs. Proportionate GCRB H&S policy in place.

#### **4. Risk & Compliance Implications**

**4.1** Robust monitoring arrangements will help to mitigate Risk 013: There is a breach of legislation/ guidance/code of practice and this results in a failure of governance.

**4.2** As noted under 3.2, emerging concerns will be monitored and reported on following the expected announcement on future governance of the region.

#### **5. Financial & Resource Implications**

**5.1.** There are no resource implications arising from this paper.

#### **6. Equalities Implications**

**6.1.** There are no new equalities considerations arising from this paper. The report refers to Equalities requirements.

#### **7. Learner Implications**

**7.1.** There are no direct implications arising from this paper. Robust governance arrangements support GCRB in the delivery of its objectives, which are learner-focused.