

## Nominations & Remuneration Committee

Date of Meeting	Thursday 7 March 2019
Paper Title	Scottish Government Governance Consultation Outcomes
Agenda Item	11
Paper Number	NRC4-F
Responsible Officer	Board Secretary
Status	Disclosable
Action	For Consideration and Decision

### 1. Report Purpose

- 1.1 To apprise the Committee of outcomes of the Scottish Government's 2017 consultation on college governance.

### 2. Recommendations

- 2.1. The Committee is invited to **consider** the information provided and **agree** any further action or recommendations to make to the Board.

### 3. Background

- 3.1. The Scottish Government issued a consultation in April 2017 further to recommendations made by the Good Governance Task Group (the group established in 2016 to report on lessons learned from events at Glasgow Clyde, North Glasgow and Coatbridge Colleges).
- 3.2. The consultation covered a number of areas of potential reform, including the remuneration of assigned college chairs and the inclusion of trade union representatives on college sector boards.
- 3.3. GCRB was one of twenty-eight organisations that responded to the consultation at the time.
- 3.4. The Scottish Government has now communicated its conclusions from the survey. A letter sent to regional chairs on February 18 setting out proposed actions is appended.
- 3.5. The Scottish Government will need to undertake further work to develop guidance on implementation of its proposed actions. The following is an initial consideration of the implications for GCRB, taking items in the order in which they appear in the appended letter.

### 4. Consultation Outcomes

- 4.1 **Partnership working** - It is proposed that two trade union nominees join the board in addition to the elected staff members.

Guidance on implementation will need to set out a process by which this should happen, any implications there may be for the election of staff representatives (for example,

whether trade unions may also nominate official candidates in staff elections), and other areas of potential ambiguity (for example, whether a staff member of an assigned college board may also be a union nominee on the regional board).

A particular challenge for GCRB - which has a smaller proportion of non-executive members than college boards - will be ensuring a balance of non-executive<sup>1</sup> and other members at meetings that will support good governance. As things stand, GCRB's membership must number fifteen to eighteen. Assuming this increases and becomes seventeen to twenty, GCRB could, at a minimum, be operating with seven non-executives, the regional chair, three college chairs, four staff members and two students (ie, eight non-executives if you include the chair, to nine other members).

Ensuring a minimum of 50% non-executive membership on a board is a widely recognised principle of good governance (included in the UK Code on Corporate Governance and observed in current legislation). It is too early to make assumptions, but depending on the legislative change/ministerial guidance that follows on from the initial letter, GCRB may need to consider its own position on that point, and to amend its standing orders to be clear about what constitutes a quorum.

There may also be a concern to address about the level of student representation, given that there is currently parity of engagement for staff and students on the regional board and the proposed change will result in there being twice as many staff as student members.

Once further guidance is available, it will be possible to consider any issues in depth and prepare for implementation.

**4.2 Board appointments** – it is proposed to strengthen guidance on succession planning and multiple candidate appointments and to require vacancies to be advertised on the CDN website. GCRB has good succession planning arrangements in place and will be able to accommodate any further requirements in this area. (Vacancies are already advertised on the CDN website.) Developing collaborative approaches further with the Assigned Colleges (around joint promotion of board vacancies, for example) will support greater improvement in this area. It is anticipated that the new guidance will also address the need to retain “highly regarded” candidates for whom there is no current vacancy without having to ask them to re-apply when a vacancy arises.

**4.3 Training** – CDN's induction programme will be developed to include teamwork. This should be a welcome recommendation, supportive of developing a more meaningful approach to collective responsibility. GCRB undertook some initial development activity focused on teamwork with an external facilitator in August 2018, and may wish to ensure that this remains in its development plan for 2019-20. As a regional board, GCRB must also consider the wider, collaborative regional 'team' and developing its relationship with the college boards.

**4.4 Enhanced guidance** – Guidance will be developed for SFC and colleges to follow in relation to reviews of their eligibility to receive funding. The consultation question asked whether legislation should be changed to require colleges to co-operate with such reviews. This does not directly impact on GCRB, however, it will be important to ensure

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<sup>1</sup> Non-executive members are as defined in the Ministerial guidance on appointments, ie, members appointed through the prescribed non-executive appointment process, who are not the regional chair, a college chair, staff or student member.

that any guidance takes account of the role of the regional body and the need for appropriate communication and engagement with the regional body in undertaking any reviews of assigned colleges.

**4.5 Board meetings** – It is proposed to allow the SFC to attend board meetings of assigned colleges. In the consultation, this item followed the question about colleges co-operating with reviews, and is a natural corollary of the SFC’s powers to review whether a college meets fundable body criteria. Again, the main issue for GCRB will be to ensure that there is recognition of its role and authority in the context of any such review.

**4.6 Auditor General reviews** – this point relates to reviews of non-incorporated colleges and does not affect GCRB at this time.

**4.7 Alignment** – The proposed change will mean that appointing bodies may suspend (as well as remove) members of boards. This is consistent with other public bodies and means that an appointing body may suspend a member or members where, for example, it has serious concerns and needs time to conduct an investigation.

**4.8 Remuneration** – As anticipated, it has been decided that assigned college chairs will be remunerated in future. The rate will be determined by Scottish Ministers. GCRB was firmly supportive of this proposal in responding to the consultation.

**4.9** Outcomes are, for the most part, consistent with the responses that GCRB gave to the consultation.

The one exception is that GCRB did not support the idea of additional trade union members joining boards, for the reasons outlined under 4.1 above. An overall majority of respondents (and twelve of the thirteen colleges/college boards that responded) agreed with GCRB on that point.

GCRB did, however, recognise the important role of trade unions and support their greater involvement in staff elections.

## **5. Risk Analysis**

**5.1** The report is provided for information. Implementation of the proposed changes, however, with particular reference to the extension of the board to include four staff members, may have implications in terms of board balance and further assessment will be needed once the Scottish Government has issued its guidance.

## **6. Legal Implications**

**6.1** There are no further legal implications.

## **7. Resource Implications**

**7.1** There will be resource implications arising from the remuneration of assigned college chairs.

## **8. Equalities Implications**

**8.1** An impact assessment will need to be carried out by the Scottish Government in introducing any significant changes to regulation/policy, which would likely include changes to board constitution and remuneration of chairs.

## **9. Strategic Implications**

- 9.1** This report is not directly relevant to the Regional Outcome Agreement, however, robust governance arrangements are the essential to the effective determination and delivery of GCRB objectives.



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18 February 2019

Dear Convenor,

Colleges make a vital contribution to this Government's commitment to improving the lives and employability of all Scotland's people. Their effective governance is fundamental in securing public value; and in supporting colleges to improve the life chances of their students and the performance of businesses.

In 2016, the then Education Secretary's Good Governance Task Group reported back on the lessons learned at Glasgow Clyde, North Glasgow and Coatbridge Colleges. The Task Group also made a series of recommendations to improve governance in Scotland's colleges around four strategic themes of prevention; self-assessment; external assurance; and sanctions. These recommendations have been taken forward in conjunction with the Good Governance Steering Group which is a cross-sector body with a remit to support-ongoing good governance across the college sector.

Two of the specific recommendations suggested that the Scottish Ministers consult on the introduction of a number of new provisions, either legislatively or administratively, to the college governance framework. The Scottish Government consulted on these recommendations in April and May 2017. The Scottish Government received 39 responses to this consultation – 28 from organisations, including 10 colleges, and 11 from individuals. The majority of the questions consulted on are complex and have required lengthy consideration.

The Scottish Government proposes to take forward a number of proposals where it has been clearly demonstrated that undertaking such an action would improve governance in Scotland's colleges and would not alter the chain of accountability in the sector as introduced by the Post-16 Education (Scotland) Act 2013.

As a result, I am proposing to undertake the following actions as a consequence of this consultation:

- **Partnership working:** introduce two trade union nominees to the boards of incorporated colleges, the Lanarkshire Board and the Glasgow Colleges' Regional Board *in addition* to the existing staff representatives, bringing the college sector into line with changes made in universities by the Higher Education Governance Act 2016.
- **Board appointments:** amend ministerial guidance for college board appointments to:
  - strengthen the guidance on succession planning and multiple candidate appointments, and;
  - require all board vacancies to be advertised on the Colleges Development Network Website.
- **Training:** ask the Colleges Development Network to embed teamwork within the induction training of board members.
- **Enhanced guidance:** develop guidance for the SFC and colleges to follow in relation to any specific reviews undertaken by SFC of colleges under section 7C(7) of the Act (which relate to reviewing statutory criteria for a body to remain eligible for funding).
- **Board meetings:** introducing the ability of SFC to attend the board meetings of assigned colleges.
- **Auditor General reviews:** we will further investigate allowing the Auditor-General for Scotland the ability to conduct economy, efficiency and effectiveness reviews with the non-incorporated colleges that are not part of a local authority.
- **Alignment:** bring colleges into line with other Scottish public bodies where appointing bodies may suspend board members.
- **Remuneration:** remunerate the incorporated, assigned college chairs (bringing them into line with their regional strategic body and regional college colleagues), at a rate to be determined by the Scottish Ministers.

I hope the Committee finds this information useful. Officials will work closely with the Good Governance Steering Group to take forward the implementation of these actions.

I also attach the responses to the public consultation, which will be shortly published on the Scottish Government website.



**RICHARD LOCHHEAD**