



Module 1

Introduction

For suggestions on how to get the most out of these self-study materials, see the booklet on 'Using the materials'.

Preface to Governance Training Materials

At the time of writing the Governance Training Modules, the **Education Act 2011** had been implemented. It abolished the Young People's Learning Agency, with funding for colleges now being administered by either the Education Funding Agency and / or the Skills Funding Agency. It significantly reduced the complexity of colleges' Instrument and Articles of Government, giving them greater flexibility to run their own affairs. The details are included in Schedule 12 of the Act which makes a number of amendments to prior legislation. Section 29b of Schedule 12 states that "the governing body of the institution may modify or replace its instrument of government and articles of government". These must however comply with certain requirements set out in Part 2 of Schedule 4, thereby retaining some of the key responsibilities previously enshrined in legislation. In some cases, the statutory provision for sixth form colleges differs from that of general further education (GFE) colleges with the **Department for Education (DfE)** overseeing the former and the **Department for Business, Innovation and Skills (BIS)** the latter; however all colleges will now be actively considering the changes that affect them and all governors will need to be aware of the implications for their own organisation. At the same time as the Education Act 2011 was passed into law, the Association of Colleges published **The English Colleges' Foundation Code of Governance**.

This voluntary code of practice was developed by the sector following extensive consultation and all GFE colleges have been encouraged formally to adopt it. It has the full support of the government and is seen as "an important milestone in making colleges more locally accountable and in freeing them to respond more effectively to local learners, employers and community partners".

The government's reform plan for the further education and skills system was set out in **New Challenges, New Chances** published on 1 December 2011 and further refined in **Rigour and Responsiveness in Skills** published in April 2013. A **summary of NCNC** is available from LSIS. In November 2011 the final report of the Independent Commission on Colleges in their Communities, **A Dynamic Nucleus**, was published. Alongside New Challenges, New Chances, these two documents establish the foundation for the future development of the further education and skills sector.

The 2013 version of the Governance Training materials incorporate these significant changes to the operation of further education but all governors are recommended to familiarise themselves with and take account of the key documents referred to in this preface. The materials enshrine the six principles set out in the Good Governance Standard for Public Services by the Independent Commission on **Good Governance in Public Services** (2005), to which all governing bodies are referred.

The **Association of Colleges** has also compiled a **Governance Resource Library** which provides a wide range of online resources for governors and which will usefully complement these materials.

The **Learning and Skills Improvement Service** which has produced these updated and much valued governance training modules will cease to exist after August 2013. It is hoped the essential updating of these resources will be regularly carried out by other existing organisations or newly-emerging ones.

Acknowledgements

The first edition of these training materials was published by the Further Education Funding Council in 2000 and further updated and amended in 2002 following the establishment of the Learning and Skills Council in 2002. They were commissioned by LSC in 2002 under the Standards Fund and produced by a partnership of national organisations involved in further education.

This third edition of the training materials has been published by **The Learning and Skills Improvement Service (LSIS)**, as part of the **Leadership Skills for Governance** programme, and incorporates the changes brought about by the Education Act 2011 and government policy initiatives as at January 2013.

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Contents

Introduction	04
Section 01 Introduction: FE and skills	07
Section 02 An overview of governance	12
Section 03 The role and responsibilities of the clerk	21
Section 04 Integrity in working practices	26
Section 05 Rules and procedures of the governing body	28
Section 06 The relationship between the governing body, the clerk and the senior management team	30
Section 07 Putting students at the heart of things	32
Section 08 Governor training and development	34
Section 09 Knowledge and skills of governors	36
Section 10 Governors' information needs	38

Introduction

Welcome to the introduction of the governance training materials. This module is for all new governors and clerks and for those who are more experienced and wish to deepen their understanding of the role and responsibilities of the governing body. The module is divided into short sections. Each one can be studied independently. The module will take two to three hours to complete if you work through all of it. If you are an experienced governor, you may want to skim through this module to help you decide which topic areas to concentrate on in other modules. For newly appointed clerks, this module will provide a useful introduction to their role and a means to work alongside new governors.

Summary of changes to earlier editions

The first edition of the governor training materials was funded by the Further Education Funding Council in 2000. A revised and updated edition was published by the newly formed Learning and Skills Council in 2002. The clerks' training materials were published by the Learning and Skills Development Agency in 2001. Following consultation in 2010 it was clear that a demand existed for updated materials to be available as a flexible training and development resource online. It was further decided to merge the governor and clerk materials. This updated resource has been published by the Learning and Skills Improvement Service (LSIS).

Changes to the machinery of government of the learning and skills sector came into effect on 1 April 2010 when the activities and resources of the Learning and Skills Council (LSC) were transferred to the **Skills Funding Agency (SFA)**. This pre-dated the general election of that year by one month, following which the newly formed Coalition Government proposed radical changes to the further education and skills sector, including reform of funding and regulation. **The Education Act (2011)** which came into effect in April 2012 has formalised many of these changes. **The Department for Education (DfE)** is the lead body for sixth form colleges and **The Department for Business Innovation and Skills (BIS)** leads in relation to general further education colleges and the wider skills sector. **The Education Funding Agency (EFA)**, which is the delivery agency of the DfE, replaced the Young People's Learning Agency (YPLA) from April 2012 and oversees funding for all learners aged 16-18 and for learners aged 16-25 who have learning difficulties and disabilities. The Skills Funding Agency is a partner organisation of BIS and oversees funding for learners aged 19+ as well as Apprenticeships.

In November 2010 the government published two strategy documents, **Skills for Sustainable Growth and Investing in Skills for Sustainable Growth** which mapped out the future direction of the reform of further education for adults aged 19 and over. A consultation paper issued in 2011, **New Challenges New Chances** aimed to take those strategies further during 2012 with a new policy framework. In November 2011 **A Dynamic Nucleus: Colleges at the heart of local communities** was published, identifying the role which colleges currently play and making recommendations.

New Instruments and Articles for the governance of further education institutions were introduced in 2007 aimed at providing greater flexibility and independence for sixth form and general further education colleges. The Education Act 2011 has made further significant changes to increase the freedom governors have, one of which removes the impediment to alter or modify their Instrument and Articles of Government. Governing bodies may now dissolve themselves without the approval of the Secretary of State. Modifications to the Instrument and Articles have been issued to further education colleges and sixth form colleges in England by the relevant secretaries of state. There have been five separate modification orders for sixth form colleges to reflect various types of trust or

foundation relationships. Whilst the new legislation opens the door for colleges to make changes to their Instrument and Articles, many of the existing legal requirements remain. For further details see Module 3: The Main Statutory Framework.

This module uses the college perspective when referring to the principles and practice of governance in the further education and skills sector. It is recognised however, that the FE and skills sector embraces a wide range of providers in addition to colleges. These include those involved with work based learning, adult and community learning, and those supporting the justice system. New forms of provision and organisational arrangements are developing within FE, including private and public partnerships and the involvement of the voluntary sector. Governance arrangements may be different in these cases, but it is hoped that the general principles and practice laid out in the governor training materials will be of general assistance to all organisations and providers.

At the time of writing, the sector is undergoing significant change and transition, initiated in part by a period of tight constraint in public sector funding. This, alongside the policy changes already mentioned, is reflected in the content of this module and the training materials in general.

Aims

By the end of this module you should be able to:

- explain the current reforms in post-16 education and training;
- describe the range of provision in post-16 education and training;
- explain the role and responsibilities of governors;
- summarise the role and responsibilities of the governing body;
- summarise the role and responsibilities of the clerk;
- assess your own knowledge and skills and identify your training requirements;
- understand the clerk's responsibilities in ensuring that governors take part in training and development activities;
- explain the clerk's responsibilities for ensuring public access to information about the work of the governing body;
- know where to find more detailed information on particular topics or procedures; and
- play a full part in the work of the governing body.

Contents

Mark the sections you want to study and tick them off as you complete them.

To do / Done

<input type="checkbox"/>	Section 1	FE and skills
<input type="checkbox"/>	Section 2	An overview of governance
<input type="checkbox"/>	Section 3	The role and responsibilities of the clerk – an introduction
<input type="checkbox"/>	Section 4	Integrity in working practices
<input type="checkbox"/>	Section 5	Rules and procedures of the governing body
<input type="checkbox"/>	Section 6	The relationship between the governing body, the clerk and the senior management team

- ☐ Section 7 Putting students at the heart of things
- ☐ Section 8 Governor training and development
- ☐ Section 9 Knowledge and skills of governors
- ☐ Section 10 Governors' information needs

Working on the self-study activities

These materials have been designed for flexible use. You can work through them with other governors in training and development sessions. You can also work through the sections and activities in your own time and at your own pace if you find it difficult to attend organised training sessions. Governors who have used these materials point out how valuable it is to work on at least some of the suggested activities together with another governor or group of governors, as there is such potential to learn from each other's experience. Clerks will have access to more extensive training and development programmes organised by LSIS but may use these materials as a way of developing and implementing an in-house governance training and development programme. For suggestions on how to organise this kind of support for yourself, see the booklet on 'Using the Materials'.

What you will need

To complete activities in this module you will need to get hold of the following documents from the clerk:

- a copy of or online access to the complete set of governance training materials;
- your organisation's Instrument and Articles of Government (which set out the legal responsibilities of the governing body);
- your governing body's standing orders and code of conduct;
- your governing body's training and development policy;
- your organisation's prospectus, annual report and publicity materials (these should be available from the organisation's website); and
- your governing body's latest self-assessment report (SAR).

Some or all of these documents may be included in your organisation's induction pack for new governors or your governors' handbook.

Section 1

FE and skills

This section provides a brief overview of current developments in the 14-19 and post-19 further education (FE) and skills sector, looks at the range of different colleges and training providers, and helps you to access information about your own organisation.

Reforms in FE and skills

Governors and other staff who are new to the FE and skills sector often find it confusing. This is understandable given the many changes that have taken place over the last 20 years. Between 1870 and 1944 there were approximately 11 Education Acts; since then there have been at least 30 more, the latest of which, The Education Act 2011, received royal assent in November 2011. Before 1992 there was no statutory basis for further education; however it can be traced back well into the 19th century. FE was for many years the brainchild of local authorities when it developed as a way of providing adult and community, technical and vocational education and training beyond the compulsory school leaving age; in other words not part of the national education system in schools or universities. A helpful and brief summary of education changes can be found in [Education in England: a brief history, Gillard, 2011.](#)

The Further and Higher Education Act 1992 established FE colleges as independent corporations and the Further Education Funding Council (FEFC) was set up to fund and oversee the sector. In 2001, following the Learning and Skills Act 2000, the FEFC and Training and Enterprise Councils (TECs) were replaced by the Learning and Skills Council (LSC) which took over their funding responsibilities and those of Local Education Authorities (LEAs) for adult and community education. The FEFC inspectorate and the Training Standards Council (TSC) were replaced by the Office for Standards in Education (Ofsted) and the Adult Learning Inspectorate (ALI), the latter being absorbed into Ofsted in 2007. The Education and Skills Act 2008 had the effect of raising the school leaving age to 17 from 2013 and to 18 from 2015 as recommended in the [Leitch Report.](#)

In 2009 the [Apprenticeships, Skills, Children and Learning Act](#) led to the formation of the Skills Funding Agency and YPLA which between them took over the responsibilities of the Learning and Skills Council (LSC) in April 2010. Following the election of a coalition government in 2010, the Education Act 2011 led to a series of further changes, including the abolition of the YPLA. As of April 2012:

- The Skills Funding Agency is a partner organisation of BIS and exists to fund and promote adult further education and skills training in England. The sector comprises more than 220 FE colleges, 900 independent training providers and up to 2,500 training organisations with which colleges and providers subcontract. It funds all 19+ provision and Apprenticeships in both FE and sixth form colleges. It has an annual budget in excess of £4 billion.
- The Education Fund Agency (EFA) is the DfE's delivery agency for funding and compliance. It provides revenue and capital funding for education for all learners between the ages of 3 and 19 or 3 and 25 for those with learning difficulties and disabilities. It funds building and maintenance programmes for schools, academies, free schools and sixth form colleges. As of October 2012 there were 94 sixth form colleges in England, 14 of which are Roman Catholic colleges. The Education Fund Agency is currently implementing a series of major reforms to the funding of education for 2013-2014 designed to improve fairness and transparency as well as streamline and simplify existing arrangements.

In practice this means that general further education and sixth form colleges will be interacting with both the Skills Funding Agency and Education Funding Agency for funding whilst Skills Funding Agency will be the lead for sixth form college regulation and Education Funding Agency for sixth form colleges.

Types of college

Colleges have a variety of titles such as general further education college, college of technology, tertiary college, sixth-form college, land-based college, college of agriculture, college of art and design, college of further and higher education, special education college, adult college or just plain college. The titles are often a consequence of the college's historical development. It may also be confusing to know that many schools now use the word 'college' as part of their title; though these are not part of the FE sector. As at 1 August 2011 there were 414 FE colleges in the UK, of which 347 were in England, 41 in Scotland, 20 in Wales and 6 in Northern Ireland. In addition there were 72 independent specialist colleges who draw funding from the government. These training materials refer only to English colleges and it may be relevant to note that there were 420 FE colleges in 2001 indicating that there has been a decline of 18 per cent in numbers over the last ten years.

The current classification of colleges is as follows:

- General further education colleges (GFEs), offer a wide range of vocational and, in the case of tertiary colleges, vocational and academic courses both full and part-time. GFEs may also offer significant programmes of adult community and higher education and some now incorporate colleges that were previously land-based. In 2011, 224 colleges were designated as GFEs.
- Sixth-form colleges (SFCs), normally offer a wide range of academic courses but also vocational courses, mostly full-time but also some part-time. In some cases these colleges may offer small programmes of higher education in partnership with other colleges. Sixth-form colleges may also offer adult and community programmes. In 2009 SFCs were granted separate legal status within the provisions of the Further and Higher Education Act 1992 in order to preserve their distinctive contribution to education. In 2011, 94 colleges were designated as SFC.
- Land-based colleges mainly but not exclusively offer courses aimed at land-based industries. These colleges will often provide residential accommodation and programmes of higher education. In 2011, 16 colleges were designated as land-based.
- Art, and design colleges offer art and design courses. In 2011, 3 colleges were designated as art, design and performing arts.
- Specialist designated colleges. In 2011, 10 colleges were designated as specialist.

In 2009/10, there were 4.6 million learners in government-funded FE (excluding schools):

- 76 per cent of learners were aged 19 or over (mostly part-time) and 24 per cent were under 19.
- 55 per cent were female and 45 per cent male.
- 12 per cent declared a learning difficulty, disability or health problem.
- 17.5 per cent of students were from a black or minority ethnic background.

These statistics illustrate the great range and diversity of learners in the FE and skills sector. All colleges differ in the range of courses they offer, their size and their method of operation. However, they draw the bulk of their funding either from the Skills Funding Agency or Education Funding Agency, are run by independent governing bodies and the attendance of students is voluntary. Some colleges have developed significant provision for international students and these will be self-funding.

Courses and other service provision

Colleges offer full-time and part-time courses, which may be academic, vocational or work-related, including:

- higher education courses usually funded through the Higher Education Funding Council (HEFCE). Some colleges are directly funded for their HE whilst others operate as a franchise from a local HE institution. In 2008, FE colleges were granted the right to apply for degree awarding powers;
- specialist courses for industry and commerce;
- training for those on government-sponsored schemes, e.g. national Apprenticeships;
- work-based assessment and collaborative provision with employers;
- specific help for students wishing to improve their basic English and maths skills or to learn English as their second language;
- help for students with special learning needs or particular disability; and
- leisure and general interest courses, not necessarily leading to a qualification. These programmes are sometimes referred to as informal learning or adult and community provision.

The Wolf Report made a number of recommendations regarding the FE and skills curriculum. A summary of the current government reform plan can be found in **New Challenges, New Chances**. The key objective of this plan is to provide relevant and focused learning programmes and qualifications. These issues are explored more thoroughly in Module 8: Curriculum.

In addition to courses, colleges may offer consultancy and advice to industry and commerce, and hire out facilities such as halls, rooms and sports' facilities to external organisations. Some may have training restaurants or farm shops providing a service direct to the general public. These activities can be a significant source of additional funding and in some cases will be run as separate companies.

The powers of further education corporations are set out in the Further and Higher Education Act 1992 and subsequent legislation including the Learning and Skills Act 2000, the Apprenticeships, Skills, Children and Learning Act 2009 and the Education Act 2011. It should be noted that colleges can only do those things which legislation specifically empowers them to do. The principal power is to provide education and, whilst legislation allows colleges to do other things, it also says that any other activities they undertake must be clearly related to carrying out their principal powers.

Your college will offer a wide range of courses. Some colleges offer over a thousand separate courses, full-time, part-time, work-based and online. In 2009/10 there were almost nine thousand 14-and-15 year-old students in further education. Following an announcement by the Secretary of State in December 2012, 14-16 year olds will be admitted to qualifying colleges as permanent full-time students in further education colleges from September 2013. This meets one of the objectives of the Wolf Report that 14-year-olds should have access to vocational programmes taught by vocational specialist teachers. As a governor or clerk you will not be expected to know about all of these courses, but governors will be expected to set the overall educational character, including the values, ethos and strategic direction of the college, and determine the overall pattern of courses.

Size

The size of colleges varies. The smallest may take a few hundred students, the largest over 70,000 students. Budgets may vary from about £2 million to more than £140 million. The proportion of funding received from funding agencies will also vary considerably.

Partnerships and networks

Colleges work closely with other local organisations and will be members of various partnerships, including those associated with schools and academies, other colleges, universities, employers and private training providers and local community and voluntary groups. Your college may also belong to an appropriate national or regional organisation representing its interests. Regional Development Agencies (RDAs) have been significant drivers of regional development since 1998 but will be dissolved in March 2012. Local Enterprise Councils (LEPs) are taking over many of the responsibilities and some of the funding from RDAs. The government strongly supports partnership and collaboration between institutions as a means of ensuring that the needs of college students are best met. In some cases these partnerships become formal federations with implications for governance.

For more information on this aspect of college organisation see Module 7: Collaboration and partnerships.

Some of the organisations with which the college has partnership arrangements might also be seen as competitors because they offer similar services to your college. To develop good working relationships with other organisations and build on your college's strengths, you need to be well informed about the college's character and what makes it unique. This is the purpose of the next activity.

Activity

Information about your college

Your college is unique. Find out the following information by looking through your college's prospectus or website, annual report and publicity materials.

1. What is the total number of college students?
2. How many of these are full-time, part-time or attending full-cost courses?
3. What are the main programme areas or courses in your college?
4. What proportion of these courses are general / academic education, or vocational or work-related education, including Apprenticeships?
5. How many students have learning difficulties and / or disabilities?
6. How many students are from black or ethnic minority communities?
7. How many international students are there?
8. What is the annual budget of the college?
9. What proportion of overall funding is received from Skills Funding Agency or Education Funding Agency? In what ways has the overall funding changed over the last three years?
10. Find out the membership of your Local Enterprise Partnership (LEP). Which organisations are represented? How are governors informed about its progress?
11. With which organisations does your college have close links? Which of these might also be competitors?

Viewpoint

You may need to ask your clerk, other more experienced governors or senior members of staff for help. You might ask the student governors for information about the programmes they are following. This activity should have increased your awareness of your college's unique character, and helped you familiarise yourself with useful sources of information for governors. Keep this information as it will be useful for work on other modules in the governance training materials.

You may also need to speak to the clerk or principal to find out more about local partnerships and other forms of collaboration, including relationships with local or national businesses and their representative organisations. They will also be able to inform you about the key people from Skills Funding Agency or Education Funding Agency who make funding decisions about the college.

Section 2

An overview of governance

2.1 The role and responsibilities of governors

The main business of the governing body is to determine the educational character of the college and ensure its overall well-being and financial solvency. The responsibilities of the governing body are set out in the Instrument and Articles of Government which were first set down in 1992 under the Further and Higher Education Act. They were further amended in 2008 and again by the Education Act 2011.

This Act has relaxed many of the earlier requirements and colleges may now amend or modify their Instrument and Articles subject to a number of qualifications. Many colleges have decided to retain their existing Instrument and Articles which have been modified to ensure compliance with new legislation. An example of a modified set of Instrument and Articles can be found on the [**Association of Colleges \(AoC\) website Library of Resources for Governance**](#). In brief, the responsibilities of the governing body will normally include:

- determining and periodically reviewing the educational character and mission of the institution and overseeing its activities;
- approving the quality strategy of the institution;
- ensuring the solvency of the institution, the effective and efficient use of resources and the safeguarding of assets;
- approving annual estimates of income and expenditure;
- appointing, grading, suspending, dismissing and determining the conditions of service of the holders of senior posts and the clerk; and
- setting a framework for the pay and conditions of service for all other staff.

Generally, the governing body is responsible for the overall functioning of the college. It is responsible for the quality of service to its students, their welfare, the financial health of the college, the proper use of public funds, and for ensuring effective leadership and management. It also has responsibility for setting and monitoring targets for the retention, achievement and success rates of students – ensuring that students continue their studies and achieve their learning goals. In carrying out these responsibilities the governing body will need to take account of national and local strategic priorities.

The governing body is also responsible for monitoring its own performance to ensure it operates to a high standard. [**The English Colleges' Foundation Code of Governance**](#) developed and owned by the sector is voluntary but all colleges are encouraged to adopt it. It includes the following statement: "The governing body should undertake a formal self-evaluation of its effectiveness as frequently as it determines is appropriate, but at least every three years."

Following the national banking crises of recent years, the Financial Reporting Council (FRC) which is responsible for overseeing the application and implementation of the UK Corporate Governance Code, issued [**Guidance on Board Effectiveness**](#) in 2011 which provides specific advice on governance to the private corporate sector. Many of the issues raised are relevant to the public sector and to independent college governing bodies, including the importance of making sure that governing bodies rigorously assess their own performance. Sometimes questionnaires can be circulated to members from which the clerk may draw up a summary. However, increasingly, best

practice requires that self-assessment involves an appraisal of individual contributions as well as collective board processes, the use of peer review and external facilitation.

The legal responsibilities of governing bodies are set out in the Instrument and Articles of Government. Where governors elect to amend these, they must conform with **Schedule 4, part 2 of the Education Act 2011 (which in turn refers to Schedule 12)**. Subject to any such changes, the Instrument will cover membership of the governing body, appointment of the Chair, Vice Chair and clerk, the eligibility of members and proceedings of meetings. The Articles cover the responsibilities of the governing body, the role of committees, the employment of senior post-holders and staff, student matters and audit arrangements. Other responsibilities are agreed with the relevant funding agency as a condition for receiving public funds. A successful college is one that provides a high quality and inclusive educational experience to its students and customers and which is financially secure.

It should also be noted that, as colleges are exempt charities, they are subject to the general requirements of **Charities' legislation** whilst not having to register specifically as a charity.

Members of college governing bodies are voluntary, apart from the principal if she / he elects to be a governor, and are entitled to expenses for travel and subsistence, subject to college policy. In many respects they can be compared to non-executive members of the board of a public company and there are also similarities with the trustees of voluntary bodies and National Health Service boards. However, whilst a board of directors is accountable to its owners – the shareholders – a college governing body is accountable to the community it serves and to the government for its use of public funds. The funds allocated will be subject to a formal financial memorandum which sets out the terms under which the allocations are made. The Secretary of State has powers to intervene in the affairs of a governing body in certain circumstances, including serious criticism by **Ofsted** (the Office for Standards in Education).

The Education Act 2011 has removed the previous right of the Skills Funding Agency to appoint governors where a college is in difficulties, either financial, or arising from a poor inspection report. However, the Secretary of State has reserved the right to intervene directly where circumstances demand. The likely procedure to be adopted in these cases is set out in New Challenges New Chances Appendix 7. Where there are specific, as opposed to general, areas of underperformance, colleges may be subject to a Notice to Improve (NTI) which requires specific actions to be taken by a particular date. These notices may also carry financial sanctions resulting from a withdrawal to support certain programmes. The delivery of an NTI may also trigger support from **The Learning and Skills Improvement Agency (LSIS)**. Whilst funding for this improvement body is to cease in March 2013, proposals are being launched in 2013 for the creation of a professional guild for further education which may assume some of the current work of LSIS. Consultation on this matter will be found on **the BIS website**. The safeguards and support for colleges are all designed to encourage colleges and other providers to improve their performance in the interests of learners.

Activity

Differences between a college governing body and other institutions

1. Write down five key differences between a college and an institution with which you are familiar (e.g. a private sector company, a local authority, a trade union, a school governing body, a board of trustees of a local charity or other public body).
2. What implications might these differences have for the role and responsibilities of college governors?

Viewpoint

1. These are some of the differences you might have noticed:

- Colleges are exempt charities and no-one owns them.
- A college is accountable to the public and largely funded by the taxpayer.
- A college has a unique legal status set out in the Further and Higher Education Act 1992, as amended, and additionally for sixth form colleges in the Apprenticeships, Skills, Children and Learning Act 2009.
- College aims and objectives differ from those of other organisations, e.g. a college's main purpose is to deliver high quality education and training to young people and adults.
- Measuring the success of a college is a complex process.
- The board of a private company quoted on the stock exchange is directly accountable to its shareholders. It seeks to ensure profitability by providing high standards of service to its customers.
- A local authority is run by councillors directly elected by the local population, and is administered by appointed officers.
- A trade union is a voluntary body funded by subscriptions from its members, who may work in the same or similar industry or profession, and represents its members' interests.
- A community organisation is a voluntary body, often a charity run by a board of trustees, which may have a membership base, represent certain interests, or provide a specific service.

2. These differences have important implications for governors. The skills, expertise and experience of individual governors are crucial for ensuring a successful governing body. It is essential for governors to:

- clarify their accountabilities;
- set out clear indicators for measuring the performance of their college and their own performance as a governing body; and
- recognise the college's key contribution to providing lifelong education and training , which will in the long term benefit UK business and economic performance.

Individual governors should ensure they attend meetings of their governing body; prepare adequately for meetings by reading appropriate papers; keep up to date with relevant developments in 14-19 and post-16 education and training generally; maintain a focus on the quality of outcomes for students and get to understand the business of the college.

2.2 The powers of the governing body

The governing body, or board – the legal term is corporation – ‘conducts’ the college. The governing body has the power, amongst others, to:

- provide further education and higher education;
- provide secondary education to 14-16 year olds in school;
- supply goods or services in support of the provision of education;
- conduct an educational institution;
- subscribe for or acquire shares in or securities of a company;
- acquire and dispose of assets;
- borrow money;

- invest money;
- apply for degree awarding powers; and
- innovate.

It also has powers to enter into contracts and make other arrangements to support its main powers. The legal power of the governing body resides with the governing body as a whole, not with individual governors. This places constraints on what you can do as a governor:

- As a corporate body, governors should support decisions taken collectively at formal meetings.
- No governor should speak on behalf of the governing body unless specifically authorised by the governing body.
- All governors share responsibility for decisions.
- All governors must respect confidentiality.

Activity

The duties and powers of governing bodies

To determine the duties and powers of your governing body, you need to look at your college's Instrument and Articles of Government. Governors are not expected to know the detail of the Instrument and Articles. Your clerk will advise you where necessary, but some general knowledge is helpful. Drawing on the documents available to you, answer the questions below:

Does the governing body have the power to do the following?	YES	NO
1. Appoint the college principal.		
2. Appoint a Vice Chair.		
3. Appoint a clerk to the governing body who is also a member of staff.		
4. Ask the principal to act as a temporary clerk in the absence of the clerk.		
5. Invite members of the public to attend a meeting of the governing body.		
6. Authorise payments of travelling and subsistence to governors.		
7. Determine the pay of individual members of staff.		
8. Instruct the principal which courses to run.		
9. Set fee levels for courses.		
10. Determine the success rate levels for the college.		
11. Set up ad hoc groups to advise on estates and quality.		
12. Make minutes of board meetings confidential.		
13. Introduce performance-related pay for senior post-holders.		
14. Delegate approval of the annual estimates of income and expenditure to a committee.		
15. Put out to tender the catering contract for the college's catering facilities.		
16. Dismiss a governor for failing to attend meetings for six months.		
17. Appoint the same company to carry out the internal and external audit.		

18. Dismiss the principal.		
19. Dismiss a member of staff.		
20. Decide not have an audit committee.		
21. Decide not to have a search committee.		
22. Decide not to have a finance committee.		
23. Appoint a governor aged over 70.		
24. Decide to have a governing body with fewer than 12 members.		
25. Decide to appoint a member without the advice of the search committee.		
26. Decide to use video-conferencing for a meeting of the governing body.		

Viewpoint

The Instrument and Articles of Government set out the governing body's responsibilities for the employment of senior post-holders, the determination of the educational character and mission of the college, the importance of openness, and the key financial responsibilities.

- Answers to questions 1, 2, 3, 5, 6, 10, 11, 13, 15, 16, 18, 22, 23 and 26 are 'yes' – these are the responsibilities of the governing body.
- Answers to 4, 7, 8, 9, 12, 14, 17, 20, 21 and 24 are 'no'.
- With regard to question 7, the governing body sets the overall framework for the pay and conditions of staff rather than determining the pay of individual staff. It does, however, determine the pay of senior post-holders. Similarly, the governing body sets the overall policy by which tuition and other fees are determined, rather than the actual fees. See Module 10: Finance and resources for further information.
- Question 12 is not straightforward. In general, the governing body must make public the agenda, minutes and documents of every governing body meeting. However, items concerning a named member of staff or student can be made confidential and the governing body can also decide to treat other items confidentially if there are good reasons (e.g. a sensitive business transaction). See Module 12: The search committee for further information.
- For question 19, the dismissal of a member of staff who is not a senior post-holder is the responsibility of the principal, although the person concerned has the right to appeal to the governing body. In the case of a senior post-holder or the clerk, only the governing body has the power to dismiss. See Module 10: Finance and resources for further information.
- With regard to question 25, the advice of the search committee must be sought before appointing a member except in the case of parent, staff or student members. See Module 12: The search committee for further information.

Activity

Putting legal responsibilities into practice

We can now look at some practical situations where you might need to act on these responsibilities. Read through these examples and note down your responses.

Example 1: Corporate decisions

The governing body – after long and serious debate to which you contributed – comes to a decision that you strongly oppose and which you think is not in the best interests of the college. What action might you take?

Example 2: Monitoring

Between meetings of the governing body, you have received data issued by the college which shows an increase in the number of students dropping out of some programme areas and a reduction in the success rates. This matter is not included on the next agenda of the governing body. What might your response be?

Viewpoint

Example 1: Corporate decisions

The governing body may on occasions come to a decision with which you disagree. An effective governing body is one where individuals are encouraged to express their views forcibly and with vigour. But assuming everyone has an opportunity to participate and that their views have been heard, then a decision of the governing body should be binding on all governors.

If a governor feels unable to support a decision on a matter of principle, e.g. a decision to open discussions on merging with another college, or selling a college asset, there are several possible steps. The governor can:

- record their dissent in the minutes;
- ask to have the matter raised as a separate agenda item at the next meeting;
- or
- as a last resort, resign.

Note that no resolution of the governing body can be overturned at a subsequent meeting unless the matter is a specific item of business. It is not acceptable for a governor to seek to change the decision of the governing body by, for example, airing the disagreement in public, or by lobbying hard to get the decision overturned. The interests of the college and governing body come first. But if the governor considers that the governing body has acted outside its powers in making a decision, the matter would need to be reported to the Skills Funding Agency or Education Funding Agency, usually through the Chair, the principal as accounting officer, or the clerk. This happens very rarely but your college should have a procedure in place, just in case.

In these instances the Chair has an important role to play in making sure that all voices on the governing body have been properly heard and listened to.

Example 2: Monitoring

On the question of an increase in the numbers of students dropping out and a drop in success rates, the governing body will have set targets for student retention, achievement and success rates as part of its annual cycle of meetings. These targets may have been identified as key performance indicators (KPIs) on which you would expect to have regular progress reports. If you have a concern about an item not included on the agenda, the proper course of action is to raise the matter with the Chair or clerk, and ask for it to be included. It is a serious matter if important information is being withheld from a governing body and equally important that all governors are confident of the accuracy of the information they receive. If information is found to have been deliberately withheld or inappropriately amended, the Chair should consider disciplinary action.

2.3 The composition of the governing body and its committees

The Education Act 2011 has given governors maximum freedom in how they structure the board, including the numbers of committees and membership. The minimum number of members is two, a member of staff and a student, with the addition of parent governors in the case of sixth form colleges. The Act is silent on committees, so there is no longer a requirement to have a search committee; the audit committee is a requirement of the financial memorandum which sets out the terms on which funding will be made available. In practice most colleges will wish to retain a search or nominations committee and probably a remuneration committee. See Module 12: The Search Committee for more details. In this respect colleges will wish to be guided by the relevant governance codes including [**The English Colleges Foundation Code of Governance**](#) and [**The UK Corporate Governance Code**](#). Sixth form colleges have elected to rely on existing Instruments and Articles rather than the Foundation Code. As a result of these changes, there will be variations in the numbers and categories of members for different types of college; an example is given below as Figure 1. It is good practice to ensure that an appropriate mix of members exists to make the necessary skills, knowledge and understanding available to the board. Wider stakeholders will also need to have confidence that the board is sufficiently representative of their interests.

Figure 1 Example of a possible governing body membership

Category of member	Number of members in each category	
	Minimum	Maximum
Members		up to 16
Staff	1	3
Students	2	3
Parents	0	2
Principal	1*	1*

*Note that the principal is normally a member of the governing body but may choose not to be.

The minimum total number of members is two for further education colleges and four for sixth form colleges. However, this would be impractical and the Instrument will include a clause as follows: 'The corporation shall consist of any number of additional members who appear to the corporation to have the necessary skills to ensure that the corporation carries out its functions under the Articles of Government'. The relevant article will specify the responsibilities of the corporation, the chief executive and the clerk. In the case of sixth form colleges there is a requirement for parent governors and some former voluntary controlled sixth form colleges to have foundation members nominated from the diocese, trusts and other institutions designated to receive further education funding.

In the case of sixth-form colleges, there is a requirement for at least one parent governor and the number of general members is reduced to 15. Some former voluntary controlled sixth-form colleges may have 'foundation governors' nominated from foundations or trusts and other institutions designated to receive further education funding and so may have slightly different governing bodies; but they will be broadly similar to those of other colleges.

Staff, student and parent governors are elected by their constituent groups. In the case of students and parents, governors may be nominated from the appropriate students' union or association or parents' association. The rules for these procedures may be found in the Instrument of Government.

Why have a range of membership?

A balanced membership of the governing body will ensure that it has the benefit of views from the community it serves, from the business community, from its students and staff and other stakeholders as appropriate. Governors are not representatives of the organisation or constituency from which they come; in other words they should not act or be seen as delegates. All governors are appointed as individuals, including governors who are elected (e.g. by staff, students or parents). They are required to put the interests of the governing body and the college first. They are not allowed to accept a mandate from any other organisation and may have to declare an interest if certain items are being discussed.

Activity

The membership and composition of your own governing body

Find out the composition and membership of your governing body. If your college is a former voluntary controlled sixth-form college or a designated institution, find out its membership and how governors are appointed. In what ways do you think this membership will have an impact on the operation and work of your governing body?

In answering the question, try to find out why the governing body has decided on which governors to appoint. In what ways does the membership represent the interests of the communities the college serves?

Viewpoint

The membership allows for a wide range of types of governor. In making membership decisions, the governing body should seek to reflect the local context and type of courses and other services offered by the college. The greater flexibility now given to governing bodies in choosing whom to appoint means that they need to pay close attention to the communities they serve and how responsive the college is to their needs. Governing bodies should be business-like but not to the exclusion of wider issues of values and community representation.

A broad range of membership may also mean that the governing body has individual members whose expectations or styles of working differ considerably from each other. Student governors may have limited experience of governance and committee processes. However, a broad representation improves the governing body's capacity to gather information, understand different local interests and communicate with the community it serves. Working as a team is an important aspect of governance; training and development of governors should therefore include opportunities for governors to become familiar with the different viewpoints individual members bring to the board.

Committees

As previously noted, governing bodies are no longer required to have committees other than the audit committee. In practice they will probably have more than one committee and the governing body will be required to appoint the membership. They may set up as many committees as they consider appropriate and members can be drawn from within and outside the governing body and college. In some cases a joint committee may be established with other colleges or schools for example where collaborative arrangements are being set up. In this case, the requirements of the **Education and Inspections Act 2006** must be followed. Some colleges use the title 'co-opted' or 'associate governor' as a way of ensuring succession for the permanent membership of the board.

Procedures will need to be in place to deal with disciplinary matters relating to the Chief Executive or principal and this will normally involve the creation of a special committee. The governing body must not delegate the following:

- the determination of the educational character and mission of the college;
- the approval of the annual estimates of income and expenditure;
- the responsibility for ensuring the solvency of the college and safeguarding of its assets;
- the appointment or dismissal of the principal or the clerk to the governing body (including the clerk who may also be a member of staff); or
- the modification or revocation of the articles.

The **audit committee** advises on matters relating to the governing body's audit arrangements and systems of internal control. The committee must consist of at least three people, including one person with relevant financial / audit expertise and may include college employees other than senior post-holders. See Module 11: The audit committee for more detailed information.

Where established, the search committee advises the governing body on the appointment of members other than parent, staff or student members, who will be elected by their constituent bodies. It will be normal for the search committee to publish its rules and procedures on the college website under the provisions of the college's publication scheme.

A **special committee** of the governing body is required when consideration is being given of the case for dismissal and the power to determine an appeal in connection with the dismissal of the principal, the clerk or other senior post-holder. The board is required to make rules specifying the way in which this committee is established and conducted.

Activity

How effective are governing body committees?

- 1 List the committees set up by your governing body and note their remits or terms of reference. Set out three ways in which they report to the governing body.
- 2 In your view, is it better for a governing body to have a wide range of committees, or would you prefer there to be fewer committees, with more detailed work being allocated to task groups? Give three advantages and disadvantages of both systems.

Viewpoint

1. Apart from the audit, and where required, special committees, each governing body will vary in the number of its committees, their remits and the way in which they report. Committees might feed back to the governing body through an official written report by the Chair, or by an overall presentation made by members of the committee. Some governing bodies may receive only the minutes of committees; others might receive a short report with recommendations or direct advice. Where specific powers have been devolved to committees and decisions made, these should be reported back to the governing body. On occasions a committee will want to refer a decision to the board for formal resolution.
2. There is no right answer to this question. Some governing bodies prefer to set up task or ad hoc groups to deal with specific issues, e.g. a capital project, because it enables individual governors to contribute their expertise on a subject. These groups will

be wound up when their task is completed. Others prefer to have standing committees to deal with finance and general purposes, personnel, quality and curriculum or learner engagement matters. Again, the advantage is that governors can become involved in specific aspects of college work and thereby be better informed. The downside is that committees can be time consuming for the clerk, governors and senior staff and their reports may end up dominating the governing body agenda with matters that some governors have already discussed in detail. Small groups of governors may become overly influential as a result of their committee work, to the exclusion of other members. Some colleges have moved to a system whereby they only have the statutory audit and search committees. The advantage is that the whole governing body is engaged in all key aspects of the college's work. The downside may be that the board needs to meet more frequently and the agenda has to be carefully planned to ensure it is manageable. It is good practice for governing bodies to review their structure and procedures from time to time to ensure that they are fit for purpose.

Section 3

The role and responsibilities of the clerk – an introduction

This section describes how the clerk is employed and what the clerk's key responsibilities are. If you are a new clerk, it provides you with the opportunity to review your areas of responsibility and identify potential training or development needs.

Employment of the clerk

The clerk may be described as the professional officer employed by and serving the governing body. The contract of employment will be between the clerk and the governing body. The principal cannot be employed as the clerk. As with senior post-holders, the governing body has direct responsibility for the clerk; it oversees the appointment, grading, suspension and dismissal of the clerk and determines the clerk's pay and conditions. The governing body has direct responsibility for the entire employment of the person who is the clerk if that person also has another post within the college.

Where this is the case, it is usual for the individual to have a single contract of employment but to have separate job descriptions for each post. These should clearly differentiate the responsibilities and accountabilities of the clerk from those of any other post held within the college. The clerk's role may be a full-time or part-time position. It is increasingly common for experienced clerks to service more than one governing body under separate contracts for services.

The clerk's job description should set out:

- your duties and to whom you are responsible;
- arrangements for your appraisal (normally it is the Chair, another governor or a group of governors approved by the governing body who carries out the clerk's appraisal); and
- the amount of time that you are expected to spend on clerkship duties (this will vary depending on the size and nature of the job).

The governing body may decide to appoint a deputy clerk to assist in the clerking duties. The responsibilities of the deputy clerk need to be agreed by the governing body and reflect those of the clerk. It will also be normal for the clerk to have appropriate secretarial support.

The clerk's responsibilities

The clerk's responsibilities are laid down in the Instrument and Articles of Government for colleges which identifies them as advising the governing body:

- with regard to the operation of its powers;
- with regard to procedural matters;
- with regard to the conduct of its business; and
- with regard to matters of governance practice.

In addition the clerk should ensure that the governing body:

- receives and considers appropriate information on the college's finances, curriculum, quality, and student performance;
- sets and regularly monitors targets for enrolments, retention, achievement and success rates and other such key performance indicators as the governing body determines; and
- carries out financial forecasts and monitoring in line with the financial memorandum agreed with the Skills Funding Agency or Education Funding Agency.

Four additional core responsibilities of the clerk are set out in the Instrument and Articles:

- to receive written notice that a member has been disqualified from continuing to hold the office of a member of the governing body;
- to receive written notice that a member wishes to resign from membership of the governing body;
- to maintain a register of the financial interest of members and to make this available during normal office hours at the college to any person wishing to inspect it; and
- to summon meetings of the governing body by sending to members written notice of the meeting and the proposed agenda at least seven calendar days before the meeting.

The actual responsibilities of the clerk are much wider than those listed above and will vary according to the needs of the individual governing body. The checklist in the next activity provides a typical example of the range.

Activity

Key elements of the clerk's responsibilities

1. Which of the responsibilities below do you think are most important for the clerk? Note these with an 'I' in the appropriate tick box.
2. Which activities do you think might pose most risk for the clerk? Note these with an 'R'.

Checklist

The clerk is typically responsible for:

☐
☐

Ensuring the governing body fulfils legal, statutory and public responsibilities.

Providing advice and briefings to the governing body and acting as the reference point

- for enquiries.
- ☐ Determining the calendar of meetings, summoning meetings, preparing agendas, reports and minutes of meetings including committees of the governing body.
- ☐ Ensuring the cycle of business is carried out efficiently and effectively.
- ☐ Ensuring that the governing body receives appropriate information on the college's financial and student performance.
- ☐ Checking the quoracy of meetings of the governing body and committees.
- ☐ Advising the governing body on issues relating to membership.
- ☐ Facilitating communication on governing body matters between the Chair, principal and other senior post-holders.
- ☐ Attending (or by delegation to a named person) all meetings of the governing body and its committees.
- ☐ Holding the college's seal and preparing documentation to be executed under the seal.
- ☐ Providing administrative support to the Chair, committee Chairs and, where appropriate individual governors.
- ☐ Ensuring compliance with the law regarding public access to governors' papers.
- ☐ Ensuring safe custody of the official records of the governing body's business and keeping a record of outstanding business.
- ☐ Administering any scheme for the reimbursement of governors' expenses.
- ☐ Taking appropriate action if and when the governing body, Chair or a committee is at risk of acting outside their powers or proposing unlawful actions.
- ☐ Acting as a correspondent for the governors.
- ☐ Issuing letters of appointment for new governors.
- ☐ Keeping under review standing orders, membership and terms of reference of the committees.
- ☐ Maintaining the register of members' interests (other than financial).
- ☐ Facilitating governor training including the induction of new members.
- ☐ Monitoring the public interest disclosure procedure, suggesting amendments and (where the governing body requires this) being the lead assessor in reviewing the proposed disclosure.
- ☐ Supporting the governing body in the annual self-assessment review of its performance.
- ☐ Contributing to succession planning for the governing body, including the roles of Chair and Vice Chair of the board and its committees.

Viewpoint

Each person will respond differently to this question. It may be argued that all of these responsibilities are crucial for the successful performance of the governing body and the achievement of the clerk's duties. Many will overlap with each other. To fall short in any one responsibility might put at risk the effective governance of the college. Some responsibilities occur regularly, others occur at certain times of the year and some only from time to time.

The clerk will need continually to check the membership of, and attendance at, committees to make sure that the committees are working effectively and have clear reporting lines to the governing body.

Activity

Reviewing your broader responsibilities

Look again through the list of the key responsibilities above. Mark with a '✓' the areas in which you are reasonably confident, mark with 'x' those in which you feel less confident and mark with '?' those about which you require further information. You may also wish to identify other responsibilities that don't appear on the list.

Viewpoint

Doing this activity may have helped you identify areas in which you feel you would like further training or development. Clerks have a range of different backgrounds and experience. Some have a wide knowledge of FE, some have experience in clerking other public bodies, while others are knowledgeable about the law underpinning the responsibilities of governing bodies. Note down any areas you want to clarify or follow up through training in your 'Action planner' form.

Demonstrating your independence

The governing body needs to know that the advice given by the clerk is unbiased and impartial on all occasions. The clerk will need to sign the register of interests in the same way as governors and senior managers. The clerk is the servant of the governing body and when inspectors examine how a college is governed, they will look for evidence of the clerk's independence. This is especially important if the clerk also holds another post within the college. At the same time, the clerk is an important intermediary between the principal and other senior post-holders, the Chair and members of the governing body. The clerk plays an important role in relationship building but should not allow his or her independence to be compromised. The activity below suggests some of the ways in which you might provide evidence of your independence.

Activity

Are you independent?

There are a number of ways in which the clerk can be judged to be independent of the senior management. Can you answer 'yes' to all the questions below?

1. Do you have a clear job description in which independence is identified?
2. Have you completed the register of interests?
3. If you have management duties within the college, do you have a clear written statement clarifying your respective roles of clerk and senior manager?
4. Is your appraisal as clerk undertaken exclusively by the governing body?
5. Could you show an inspector that you provide independent advice to the governing body and work independently from the principal? If the answer is yes, how would you demonstrate this?

Viewpoint

A clerk needs to be able to answer 'yes' to all these questions. The kind of evidence you might provide for an inspector could include your job description, arrangements for your appraisal and

examples of situations where you gave advice directly to the governing body. If this activity has made you aware of further action you could usefully take to demonstrate your independence, note this down in the appropriate section of the 'Action planner'.

Appraisal

Appraisal is a process which allows individuals and those with whom they work, usually their line manager, to review their performance, strengths and weaknesses, identify areas for improvement, training and development needs, and targets to aim for in the future. Because of the pace of change in FE and the need to continually improve the governance process, an annual appraisal of the clerk's performance is a good idea.

There is more information about appraisal in Module 10: Finance and resources. At this point you may find it useful to work through the activity below, which provides a quick checklist of the kind of appraisal arrangements that should be in place in your college.

Activity

Are you independent?

Work through the questions below:

- Has the governing body arranged for your appraisal?
- Who carries out the appraisal?
- How often does it take place?
- Is a formal record of the appraisal agreed and kept by the appraiser and the clerk?
- Does the appraisal include the setting of targets for the year ahead or beyond?
- Is the governing body told when the appraisal takes place and about the outcome?
- Is there a mechanism for a mid-year review of progress?

Viewpoint

There is no single model of good practice for governing bodies. If you found it difficult to answer two or more of the questions above, you might need to remind the governing body of the importance of ensuring a review of your performance and that this review is reported back to them. The review might typically be carried out by the Chair or another governor or group of governors as agreed by the governing body. The principal should not carry out this review.

Getting professional support

The job of a clerk can be an isolated one; there is only one of you in the college. If you have a deputy clerk, you may be able to talk over professional issues together. If you are a newly-appointed clerk, you may want to get professional support by establishing links with other clerks. There will be a network of clerks in your area and there is also a **National Clerks' Network** supported by **the Association of Colleges** and the **Sixth form colleges' forum**. Continuing professional development (CPD) opportunities are available through LSIS, some of which include certification. Further information on support for clerks can be found on the **LSIS Excellence Gateway**.

National organisations organise regular conferences, including the annual LSIS governance conference, workshop and briefings for clerks. These provide useful opportunities to exchange information and good practice. Some clerks have colleagues who are clerks in other colleges, whom they can contact for advice or to share good ideas.

Section 4

Integrity in working practices

The **Committee on Standards in Public Life**, initially chaired by Lord Nolan identified seven key principles for those serving in public life. These are:

- selflessness
- integrity
- objectivity
- accountability
- openness
- honesty
- leadership.

All governors must uphold high standards of public conduct. They are custodians of large amounts of public money and have a key role in determining the education and training of the UK workforce. Inspection reports on governance have shown that governors in most colleges act with integrity. However, there are always a few cases where standards fall below those that are expected. Ofsted continues to regard the role of governors as a key aspect of the leadership of a college and the governing body receives appropriate attention from inspectors.

Governors must ensure that there are no conflicts of interest on any matters being considered by the governing body. The clerk may be alerted to likely conflicts of interest through the register of interest and in serious cases may be in the position of a 'whistle blower'. However, it is the duty of every governor to declare an interest when the occasion arises. Conflicts of interest do not only cover financial matters. The test is whether the governor's individual independent judgement is affected in any way.

Code of conduct and register of members' interests

All governing bodies are required to draw up, and all governors to sign, a code of conduct and register of members' interests. Agreement to sign both of these is a condition of appointment as a governor.

Activity

How is the code of conduct applied?

1. Look over the code of conduct drawn up for your own governing body and note down the key elements.
2. How can individual governors best ensure that they uphold the principles of your code?
3. In what circumstances and to whom would you be expected to declare a conflict of interest?

Viewpoint

1. Your code of conduct is likely to include the seven Nolan principles (above). It may also make reference to the roles and responsibilities of governing bodies, how to behave in meetings, the meaning of openness and confidentiality, and the importance of a collective and corporate view. It may also make reference to the **English Colleges' Foundation Code of Governance**, agreed in 2011.

2. Governors need to be aware of the principles of the code of conduct and of the foundation code, perhaps by keeping a copy close to hand during meetings. It will be important that the governing body provides an account of how governors have upheld the principles contained in the code and that the code of conduct in particular is regularly reviewed and monitored.
3. If governors feel that their independence and judgement might be affected on any item, then they should report this before the meeting to the clerk or to the Chair, or during a meeting to the Chair. If the Chair rules that there is a conflict of interest, the governor may be required to take no further part in the discussion on the item or to leave the meeting for the duration of the agenda item. When in doubt, a governor should always declare an interest. Not all conflicts of interest are financial. For example, you may or be related to a candidate for a senior post-holder's position or to a person seeking membership of the governing body; you may be a member of a trade union seeking recognition in the college; or you may be in a position as a member of a local authority to use information as a governor to shape decisions affecting the college.

Section 5

Rules and procedures of the governing body

Most governing bodies have standing orders. These determine how business is conducted. They might include rules covering membership, the quorum, the holding and organisation of meetings, the appointment of the Chair, the procedure for drawing up the agenda, the work of committees, and how members should behave at meetings. Standing orders are not there to act as a bureaucratic check on what governors do, rather they help the smooth running of meetings. Governors should ensure that they have a copy of their standing orders and are familiar with their contents.

Activity

How useful are standing orders?

1. What are the key elements of the standing orders for your governing body? When were they last reviewed?
2. Standing orders should give you some guidance on the right procedure to deal with the situations below. Read them through and note down what you would do.

Example 1

As a new governor you are unhappy with the way meetings are conducted. They go on far too long in your judgement and are dominated by one or two governors. What steps might you take?

Example 2

You wish to raise a matter at the next meeting of the governing body but it is not covered by the agenda or the papers. How might you do this?

Example 3

A local community group asks you to raise an important matter with the governing body (perhaps concern over unavailability of public transport to the college). What is the appropriate way of dealing with this request?

Viewpoint

1. Standing orders vary from college to college. They normally cover the rules and procedures to help the meetings of your governing body and committees work smoothly. If they include the remit of various committee, they should clarify the purpose of the committees, whether it has an advisory or decision-making role, and whether any powers have been delegated to it from the governing body. The standing orders should be regularly reviewed in the light of experience and to ensure that they take account of legislative changes and the requirements of bodies such as Skills Funding Agency and Education Funding Agency.
2. The correct procedures are outlined below.

Example 1

If you are concerned about the way meetings are conducted, you should raise this concern with the Chair and / or the clerk. You may wish to suggest that the governing body evaluates its own performance, which might include the effectiveness of meetings. Some colleges have a quick evaluation form for completion at the end of every meeting.

Example 2

If you wish to raise a matter at a meeting, you should approach the clerk or the Chair well before the time when papers are due to be sent out. It is not appropriate for an item to be tabled (unless it is an emergency item or concerns an unforeseen event requiring a decision that has occurred since the sending out of the papers) as this will not allow governors time to give the topic careful consideration at the meeting.

Example 3

If you are approached by an outside group to raise an issue with the governing body, the appropriate way of dealing with it is to inform the Chair. It will then be for the Chair to determine how to deal with the issue or whether it should be referred to the principal.

Section 6

The relationship between the governing body, the clerk and the senior management team

An effective working relationship between the governing body and its Chair, the clerk and the senior management team, under the leadership of the principal, is crucial for the success of the college. The responsibilities of the principal complement those of the governing body. The principal makes proposals to the governing body about the educational character and mission of the college, prepares annual estimates of income and expenditure and determines the pay and conditions of staff within the framework set by the governing body (apart from senior post-holders and the clerk).

The principal has the responsibility for the day-to-day leadership and management of the college and for maintaining student discipline. The clerk has defined responsibilities in the Instrument and Articles which relate to governance practice but he / she will also be an important link between the governors and management. The Chair's role is not defined in legislation but is regarded by many as crucial to the successful governance of a college. The relationship between the Chair and the principal is particularly important.

The principal is appointed and employed directly by the governing body, and is its professional adviser and the college's accounting officer. The principal is also a full voting member of the governing body if she or he chooses to be. The governing body appoints senior post-holders and the clerk, determines their pay and conditions, and arranges their appraisal. The governing body will usually delegate to the principal the line management and appraisal of senior post-holders. The clerk will report directly to the governing body and be appraised by the Chair, governor or group of governors appointed to the task.

There is more information on the employment of the principal and senior post-holders and on relationship-building in Module 10: Finance and resources and Module 4: Effective working relationships.

Governance and management

Each governing body needs to define its working relationship with the principal and the senior management or leadership team; this is sometimes referred to as the 'grey area' between management and governance. There is rapid change in the FE and skills sector and education generally and this may have implications for the relationship between the principal and governing body. The college code of governance is intended to promote the development of effective governance where leadership of the governing body is given by the Chair, supported by the principal and by the clerk. It also states that the governing body should ensure that the respective functions of governance and management and the roles and responsibilities of the Chair, the principal and the clerk and individual governors are clearly defined. For this to happen it may be helpful to review the relationships on an annual basis. This review might cover the general style of working, information and key tasks. It might also be useful for the senior management team to clarify what it expects from the governing body.

This exercise might help avoid misunderstanding over the respective roles of governance and management. Effective management will be hindered by governor interference in the day-to-day affairs of the college. On the other hand, a governing body that is completely detached from the work of the college will not be able to carry out its responsibilities effectively. An appropriate balance between interference and detachment needs to be found and this may depend on particular circumstances, e.g. where the college has recently received a poor inspection report.

Key features of a successful relationship are good communication, clarity of roles and responsibilities and are essentially built upon mutual trust and respect, along with regular review and monitoring. Successful colleges have found that building trust between senior managers and governors is most effectively achieved by providing opportunities for the development of informal relationships including away day discussions and interaction. Trust is more difficult to build when formal meetings are the only vehicle available.

Activity

Relationship between governing body, the clerk and principal

1. Write down what you think are the key elements of an effective working relationship between a governing body, the clerk and college principal and senior managers.
2. What in your view are the key differences between interference in the work of the college and taking an interest in the business of the college?

Viewpoint

Your list of key elements might include some of the following:

- a shared common purpose, vision and values;
- a written statement setting out respective roles and responsibilities;
- ensuring the independence of the clerk;
- an annual review of the working relationship;
- appropriate and accurate information received by governors;
- mutual trust and respect;
- high quality leadership from the Chair;
- governors acting as a critical friend and not being afraid to challenge rigorously and even reject management proposals should the occasion arise;
- scrutiny of management that is organised in a way that does not jeopardise effective working relationships with senior managers; and
- understanding the needs of students by listening to the learner voice and putting it at the centre of governor decision-making.

Section 7

Putting students at the heart of things

Colleges are large and complex organisations with many elements to consider. They may have many thousands of students ranging in age from 14 to 90+. Some of these will be engaged on academic programmes, some vocational and others work-based. There may be students from many different ethnic backgrounds and others with specific learning difficulties, part-time students studying for degree qualifications as well as adults attending yoga and Pilates classes. Most colleges identify the needs of their students as the most important aspect of their work and they establish a mission, values and ethos that are appropriate to their activity. However, with ever-present external pressures, including recent reductions in funding, the demands of the inspection system or the extent of local competition, the centrality of the learner can sometimes take a back seat. What is the role of the governing body with regard to students?

Governors will have at least two members of the governing body who have been elected to their position by an appropriate body: students, staff and parents. They are also reminded that they are required by law to “publish the arrangements for obtaining the views of staff and students on the determination and periodic review of the educational character and mission of the institution and the oversight of its activities”. As many students only attend college for two years and even more are part-time, it is difficult for them to play as active a role on the governing body as they might wish. It can also be daunting for student governors to represent the interests of a large student body. The Chair, principal and clerk can play an important part in ensuring the effective involvement of student governors. Here are a few examples:

- Ensure that student elections take place at such a time that the elected representatives can join the board at the beginning of an academic year.
- Involve students fully in governing body debates by making sure they are asked for opinions on key student-related issues.
- Consider the timing of meetings.
- Provide informal opportunities (e.g. at away days) for students to make a contribution.
- Consider establishing a students’ panel to advise governors.
- Provide a good induction programme that gives student governors an opportunity to meet other governors.
- Give student governors specific responsibility for oversight of student voice issues.
- Ensure that the governing body receives well documented evidence of the student experience through face to face meetings, reports and student surveys.

Activity

1. How would you describe the contribution of your college’s student governors? Write down ways in which you think they might be better supported in their role.
2. Arrange to meet your student governors and find out what courses they are following. Prepare a list of questions about their experiences. How has this helped you in understanding your own contribution?
3. If you have parent governors, make a similar arrangement to meet with them and compare the two sets of responses.

Viewpoint

Students and their achievements in your college are the key to your college's success. They may too often be an untapped resource in finding out what the college is best at doing and where it needs to improve. All governors need to make sure they have sufficient contact with and knowledge of their students' college activities. Local governors are in a good position to listen in a broader sense to the local community's opinions of college students. Governors with business experience can make sure that, for example, the views of work-based learners and apprentices are fully represented at the governing body.

Section 8

Governor training and development

Being a governor is a highly responsible position. A governing body has major legal and financial responsibilities. Governors will help determine the future education and training of young people and adults, the success of which makes a vital contribution to the UK economy. It is essential therefore for all governors to undertake training and development to clarify their roles and responsibilities and improve their performance. New governors are expected to take part in training and experienced governors should do the same.

Training programmes are provided by national bodies, including LSIS and the Association of Colleges, and the updating and review of these governor training materials by LSIS is the result of consultation in the sector which demonstrated a real need. Their availability online is intended to support those who prefer to work at home, but they can also be used in support of individually devised college training programmes or programmes designed to involve governors from different colleges. The sharing of experience with governors from other colleges is an important source of development and the identification of best practice. The LSIS Annual Governance Conference is an important focus for governors from across the English post-16 sector.

Ofsted also recognises the important role that governance plays in providing the vision, values, ethos and strategic leadership that every college needs. Where colleges are deemed by Ofsted to be outstanding, this is invariably reflected in their comments on the effectiveness of the governing body. The reverse is equally true. The new **Ofsted common inspection framework** suggests that governors should know more about the curriculum than is frequently the case. A recent Ofsted publication **How colleges improve**, provides good examples of what is currently expected.

Each governing body should draw up a training policy for its governors and produce an annual governor development and improvement plan. This will preferably be the result of an annual review of effectiveness of the governing body. Planned activities might include focused programmes for governors on funding or data issues and involve contributions from external facilitators. Team building and developing the skills of effective monitoring and questioning have proved very successful in many colleges. The policy might include:

- induction for new governors, including an induction pack;
- special training sessions held at the college;
- briefing sessions held before meetings of the governing body;
- input from curriculum leaders in the college at or before meetings;
- residential away days or weekends, which provide opportunities for governors and senior managers to look at the long-term direction of the college, or for personal development;
- a mentor system in which experienced governors provide support and advice to newly appointed governors;
- individual governors linking up with curriculum areas in order to become more familiar with the work of the college; or
- training for governors who have taken on specific roles such as Chair or member of the audit or finance committee, or responsibility for safeguarding or equality and diversity.

The governing body will find it helpful to set an overall budget for investing in its development and carrying out an annual review of the success of the programme. This budget might be held by the clerk who could take responsibility for governor training.

Activity

What can governor training offer?

1. If you are a new governor, what do you think are your major training needs? If you have a busy schedule, how best can these be met?
2. Obtain a copy of your governing body's training policy. Are there any ways in which you feel you can contribute to governor training?

Viewpoint

1. If you are a new governor you will find it useful to identify your own development needs. For example, if you are a governor with financial expertise from the business world, you would need to know more about the college's curriculum and the services it provides. A staff governor may know a lot about the work of the college but need to learn more about budgets and balance sheets. Governors representing different groups or communities will all have different training needs. To ensure the governing body is effective, each governor needs to think of their own training needs as part of the development of the governing body as a whole.
2. Most governors are busy people and your governing body should aim to offer a range of flexible training and development options. You can select modules in this pack for self-study. Some modules may be offered through facilitated training. If you are a newly appointed governor, you could ask the clerk to find an experienced governor willing to act as your mentor. If you are a longstanding governor, it is likely that you will be able to contribute some of your own experience and expertise in helping the development of other governors, for example, by doing a presentation on a subject about which you are knowledgeable, or acting as a mentor to a less experienced governor.

Your clerk will be a useful source of advice in finding out about training opportunities and relevant publications, papers and online opportunities.

Section 9

Knowledge and skills of governors

Governors bring to their governing body a wide range of skills, expertise and experience. The background of governors varies widely. Some have experience of working in a wide range of business settings, and some will have a background in local authorities, trade unions, other public sector organisations or in local community groups with knowledge of local community needs. Some are employees of the college with direct experience of the business of the college and others are students – the direct recipients of the college’s services – or parents of students aged under 19 years. The skills, expertise and experience of all governors need to be combined to the benefit of the college.

The personal qualities which governors have may be expected to include strategic awareness, individual responsibility, sound judgement and communication skills. They should be able to work in a team. Governors will be expected to ensure that they have sufficient time available to devote to the work of the college. It may be helpful for the governing body to agree a person specification for a governor to complement the job description.

The governing body should carry out a skills audit to ensure an appropriate balance of experience and expertise in its membership. For example, your governing body may wish to include those with experience of vocational areas served by your college and of students with learning difficulties and / or disabilities and also some specialist areas such as personnel, finance, capital projects and running a business. The governing body may co-opt specific governors to fill any skill gaps within the governing body.

Activity

What skills and experience does the governing body need?

1. What, in your judgement, are the skills and experience required by your own governing body?
2. Which of the following areas of experience and expertise can you contribute?
 - knowledge of the local community
 - managing personnel
 - financial management
 - property management
 - running a company
 - employers’ training needs
 - experience as a student of the college
 - knowledge of the college’s academic and vocational work
 - knowledge of the needs of students with learning difficulties and / or disabilities
 - other.
3. How best can your governing body ensure that the views of groups not represented on the governing body are taken into account?

Viewpoint

1. Every governor contributes areas of experience, knowledge and skills to the governing body. What is important is that there is a balance of expertise within the governing body as a whole. If you have strong views about weaknesses or gaps in your governing body, consider raising this issue with the clerk or Chair, who might bring this to the attention of the search committee or full governing body.
2. What matters is not the number of areas that you can tick in the checklist, but that each governor is clear about what they can contribute, and that the clerk and Chair know what are the strengths of individual governors. Personal qualities will be as important as specific areas of experience and expertise.
3. To take on board the views of groups in the wider community, the governing body might set up advisory groups of local stakeholders. These could act as a sounding board for ideas. Governors may participate in an annual public meeting at which the governing body presents the college's annual report and is available to answer questions. The college may also hold open days and student awards presentations, which are also useful opportunities to meet members of the community. In addition, individual governors, through their local contacts, will be able to obtain useful feedback on the overall performance of the college that can be passed on to the college senior management team.

Section 10

Governors' information needs

Governors need appropriate information to ensure that they carry out their job effectively. Governors should determine with senior managers the type of information they require and how this information should be presented. Because of the importance of governing bodies being adequately and accurately informed, colleges often err on the side of giving governors too much information rather than too little. Information may be received as part of the agenda for a full governing body meeting, produced for members of committees and task groups, or be general information distributed between members.

The type of information given to governors varies for one governing body to another, depending on discussions between the governors and senior managers. It also depends on the time of year because of the annual cycle of business. However, governors can expect to receive information on the financial health of the college, its academic performance, and other matters relating to the work of the college, such as buildings and estates.

Information must be presented in a way that enables governors to monitor overall performance of the college. Many governing bodies prefer this to be presented in the form of an executive summary clarifying whether the paper is for decision, for information or for noting, with a risk assessment and setting out a number of clear options. To these summaries may be attached more detailed information. Some governing bodies divide the agenda into items requiring decision, reports from committees and working groups, and papers for noting. Statistical data reporting on performance against key performance indicators may be presented in a visual 'dashboard' format.

The agenda and papers should be sent out well in advance of meetings. Unless there are exceptional circumstances, papers should never be tabled. Some colleges have discussed and implemented an e-governance approach to their formal work whereby papers are available electronically and meetings are conducted without paper items.

Activity

What is the quality of papers presented to the governing body?

Read through the minutes of the last two meetings of your governing body.

1. How much of the agenda is devoted to the college curriculum, quality and to its financial health?
2. Comment on the style of papers. Are they written in a way that you can understand?
3. Write down three key features of an effective governing body paper.
4. What information does your governing body require to be effective? What information do you need to be effective as a governor?

Viewpoint

1. The matters considered by your governing body will vary between meetings depending on the time of year and the annual cycle of meetings. The governing body will expect at every meeting a report on the financial health of the college and progress with respect to meeting retention, achievement and success rate targets. The cycle of meetings will set out when the annual budget has to be agreed and the previous year's accounts approved, when the strategic plan has to be approved and arrangements for monitoring progress in financial and academic matters. Governors need to ensure that there is an appropriate balance between, curriculum, quality and financial matters.
2. If you have a problem with style and presentation of the papers – they maybe full of jargon – you should raise this with the Chair or the clerk. If governors cannot understand the content of papers or are unable to understand what it is they are expected to do with the papers, their effectiveness is reduced.
3. A governing body paper should be clearly written and jargon-free and be well- presented with an executive summary. It should set out whether the content is for decision, noting or information. If it is for decision, then there should be a number of clear options set out. Generally it should be as short as possible although it may need to include relevant appendices.
4. The governing body needs accurate information that will enable members to know whether the college is performing to a high standard. Information will be available on finance and academic performance. Financial data should show clearly whether the budget is on target as measured against certain key indicators. See Module 10: Finance and resources for more detailed information.
5. It is important for governors to have the opportunity for strategic discussion as well as the monitoring of performance.

The information that governors receive may be influenced by their governing body's committee structure. For example, the governing body may have set up a finance and / or quality committee. These committees will be able to look in more detail at financial and academic information although there must be effective reporting to the governing body. A task group set up to consider the college's estates strategy may also provide specific information to the full governing body.

The governing body needs to agree on information requirements outside the normal cycle of information. In some colleges, governors are able to access a special governors' page on the college website. Others send governors copies of college newsletters or special updates.

An individual governor will need to receive information relevant to any positions they hold or to membership of committees. The Chair of the governing body or of a committee will need to receive information to enable them to carry out their duties. Members of committees may require background information on the work of the committee. A new governor will require induction material and briefing materials about the duties of a governor. This may take the form of a governors' handbook.

Papers are an essential source of information for the effective working of the governing body but they are not the whole picture. It is useful to think about other ways in which you can quickly get a feel for how the college runs on a day-to-day basis.

Activity

Developing your understanding of how the college operates

1. List what you feel are the important things you need to know about your college
2. What steps do you need to take to ensure you have a good understanding of the way the college operates?

Viewpoint

1. It is important for governors to find out about the work of their college, and to be well informed about its mission and educational character, its values and ethos, the extent of its land and estates, its students and its general curriculum offer. However, governors will not be expected to know the detail of what the college does. The governing body will be most effective if every governor has an appropriate knowledge of the work of the college.
2. Examples of the steps you could take to find out more about how the college operates include:
 - attending college functions such as presentation evenings, annual public meetings, open days and student awards presentations;
 - linking up with curriculum departments / faculties within the college to enable you to meet staff and students in one part of the college;
 - asking to receive regular bulletins distributed by the college;
 - asking for opportunities to meet groups of students from different programme areas;
 - attending presentations by senior staff to the governing body on curriculum areas or other aspects of the college's work; or
 - visiting the college website frequently to keep abreast of the latest news.

If this list has given you useful ideas for developing your own knowledge, discuss them with the clerk or Chair.

Module review

This module has outlined changes in post-14 education and training since incorporation in 1993 and briefly reviewed the work of the governing body and the clerk and their respective roles and responsibilities. The passage of the Education Act 2011 has made significant changes to the governance of colleges and the curriculum is undergoing an equal amount of change.

You will not be expected to know everything about these changes but if you have worked through all the sections in the module you should now be confident that you can:

- Explain some of the recent reforms in post-16 education and training and their impact on your college.
- Describe the range of provision in post-16 education and training.
- Explain the role and responsibilities of college governors.
- Explain the role and responsibilities of the clerk.
- Assess your own knowledge and skills and identify your training requirements.
- Know how to access the governor training programme.
- Know where to find more detailed information on particular topics or procedures.
- Play a full part in the work of the governing body.

If you are not sure that you have achieved a particular goal, look back at the contents list in the introduction to the module. You may find it useful to reread the relevant section.

Summary of key learning points

- As a result of recent legislative changes, the FE, sixth-form college and skills sector is now funded principally by the Education Funding Agency and Skills Funding Agency. The policy environment encourages a range of providers including colleges, academies, studio schools, university technical colleges, school sixth forms and private providers. There is a major focus on skills development and employability relevant to the UK economy.
- Colleges vary considerably in type, size and curriculum offer. They make a key contribution to the effective education and training of young people and adults, including the provision of informal education to local communities.
- The responsibilities, powers and duties of governing bodies are set out in the Instrument and Articles of Government.
- The main responsibilities of the governing body are to determine the educational character of the college, listen to the learner voice, ensure its overall well-being and financial solvency, and monitor its performance.
- Governing bodies may comprise members from business, staff, students and the local community. Sixth-form colleges, which have a separate legal status to general further education colleges, also have parent members and former voluntary controlled sixth-form colleges have foundation members. The principal is a member of the governing body (although she or he may choose not to be) and other members can be co-opted on the basis of their experience and skill.
- Governing bodies are required to have an audit committee and may also establish a search committee and other committees to help them in their work.
- Governing bodies will approve a code of conduct and register of members' interests. FE colleges are expected to adopt formally the **English Colleges' Foundation Code of Governance**.
- Governors should be familiar with their governing body's standing orders.
- An effective working relationship between the governing body, the clerk and the senior management team is crucial for the success of the college. Governing bodies should consider annually reviewing their working relationship with senior managers.

- Governors should agree a training and development policy for the governing body. They can find out about the governor training programme through their clerk. Training and development enhances governors' capacity to contribute to the governing body.
- The governing body should carry out an annual review of its performance and a formal evaluation at least once every three years.
- Students are central to the mission and purpose of colleges. Governing bodies need to have appropriate systems in place to listen and respond to the learner voice.
- Governors bring a wide range of experience, skills and knowledge. The overall expertise within the governing body needs to be well balanced.
- Governors should get to know their college.
- Governors need to ask for clear information at and between meetings to ensure they do a good job. Papers for meetings of the governing body and its committees should be clearly written.

Where next?

You have now completed work on Module 1: Introduction. If there are areas in which you need more guidance or information, they may be covered in other modules. Turn to 'Check your current knowledge and skills' in 'Using the materials'. This self-assessment questionnaire will help you to decide which modules or sections of modules may help to fill these gaps. Tick the useful sections for further study.

If you cannot find the information you need within these materials, turn to the 'Action planner' in 'Using the materials'. Note down what further information, support or guidance you would like. The 'Action planner' gives advice on who may be able to help. Follow up the web links in the modules to support your general knowledge of relevant FE issues.

Putting it into action

We hope that working through this module has raised useful questions, increased your knowledge and awareness of issues and given you ideas for practical action that you would like to follow up. The 'Action planner' in 'Using the materials' contains a section where you can note down any questions or action points that you want to follow up within your own college.

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