

Draft Minute

Chairs' Committee

2pm 23rd May 2016 Boardroom Motherwell Campus

Present: Linda McTavish, Rosemary McKenna, Ronnie Smith, Keith Fulton

In Attendance: Diane McGill, Penny Neish

1. Chair's Welcome

1.1 The Chair welcomed everyone to this meeting of the Chairs' Committee. This committee meets on an ad hoc basis. There are strategic issues which are time critical that arise between Board meetings particularly in periods of rapid change. The Lanarkshire Board has recognised the continuing need for an additional mechanism to best support financial planning, to facilitate and enable quick response to rapidly changing positions and to ensure the best benefit for the college and the communities of Lanarkshire. The Board may delegate authority to a Chairs Group which comprises the Chair of the Board and the Chairs of the sub-committees with reports on decisions coming to the next meeting of the Board. There is a similar arrangement in South Lanarkshire College.

1.2 This meeting had been called primarily to discuss and advise on the process for the review of senior salaries and to inform the work of the Remuneration Committee which was carrying out the review.

2. Apologies and Declaration of Interest

There were apologies from Kenny Anderson. There were no declarations of interest.

3. Minute of the meeting of the 8th February 2016

The minute of the meeting was approved.

4. Review of Senior Salaries

4.1 Linda McTavish informed the Chairs' Committee that it was the intention that there would be training for Remuneration Committees. However, this on line training was not yet available from College's Scotland and the focus of the SFC latest paper was on Voluntary Severance Schemes. The Board Secretary had circulated background papers from the Higher Education and Charities Sector for information as follows:

- **Guidance Note on the operation of Remuneration Committees in Scottish Higher Education.**
- **Illustrative Practice Note 1: Remuneration Committees: Governing Body and Remuneration Committee Practice on Senior Staff Remuneration. March 2015**
- **Report of the Inquiry into Charity Senior Executive Pay and Guidance for Trustees on Setting Remuneration (National Council for Voluntary Organisations April 2014)**

4.2 Linda McTavish informed the committee that the issue was that the salary of the NCL Principal was out of kilter with the pay of other principals in comparable colleges across Scotland. Furthermore, the NCL's Principal's salary had not been reviewed on the merger with Coatbridge College or for the additional responsibilities of assuming the role of Chief Operating Officer for the Regional Strategic Body (RSB). The additional RSB responsibilities would also impact on some members of the NCL SMT.

4.3 Linda McTavish reported to the committee that she had spoken to the following people about this issue:

Scottish Government – Aileen McKechnie (Director of Advanced Learning & Science at Scottish Government)

Scottish Funding Council – Lawrence Howells (Chief Executive), John Kemp and Sharon Drysdale
Audit Scotland- Stuart Nugent Audit Manager

Colleges Scotland – Candy Munro, Jan Polley

The consensus from her discussions was that the process used should be transparent and within guidelines and that the correct salary should be paid for the job. Specific advice from Jan Polley was that there should be an independent report to the Remuneration Committee with an independent assessment and advice to that committee. Staff members should leave the Board meeting for this item from the Remuneration Committee as there would be a conflict of interest. This would not be the case for the student members.

4.4. There is a report which shows salaries across the College Sector. The tables in the report are based on information from Colleges' Scotland and the process for the review will use this as an independent source. A Grid of key criteria which influence the RSB Chief Operating Officer and NCL Principal's Salary has been drafted and this was copied to the Chairs' Committee for comment. It was agreed that this grid will be copied out to the Staff and Student Board members for consultation and comment. The Code of Good Governance states that:

'The Board must ensure a clear process is in place to set and agree personal performance measures for the Principal. This process should seek the views of students and staff. The Chair, on behalf of the Board should monitor, review and record the Principal's performance, at least annually, against the agreed performance measures.'

The Board Secretary will draft an email on behalf of the Chair of the Remuneration Committee to staff and students to consult on the key criteria in the grid.

4.5 It was also agreed that Linda McTavish would consult John Cribben of Colleges' Scotland for the independent review on the process of using the report, the criteria in the grid and the independent advice to the Remuneration Committee.

4.6 The Chairs' Group agreed that it was important that the review was based on assessment criteria and that care had to be taken in any benchmarking with other colleges. The Chair's Group agreed the process of independent review of the report showing national comparators, the key criteria and information in the grid and independent advice to the Remuneration Committee.

5. HMRC and Voluntary Severance Scheme

5.1 The Chair advised the Committee that NCL had followed the practice in Motherwell College in the payment of tax due on voluntary severance i.e. the individual would be responsible. HMRC has now approached NCL for payment of tax due on a number of VS payments. NCL is clarifying the legal advice given and the contents of compromise agreements. NCL is not a tax collection agency and the sum in question is over 200k. It was agreed that this issue should be referred to the Finance Committee meeting on the 6th June 2016.

6. Representative for the Employers Association

The Chair recommended that Brian Gilchrist be the representative on this group and this was agreed by the Committee.

7. Representative for the AMCOL Board

The committee recommended that this should be an NCL Member of staff and the Chair will speak to the NCL Principal.

8. Board Recruitment

The website is being updated and the recruitment will start when this process is completed.

9. AOB: There was no other business

10. Date of the Next Meeting.

This committee is an ad hoc committee and the date of a future meeting will be advised to committee members.

Appendix 1

The Lanarkshire Board

Responsibilities

The responsibilities for The Lanarkshire Board are extracted directly from Schedule 2A of the Post 16 Education Act 2013 and from The Lanarkshire Colleges Order 2014. Schedule 2A defines the functions of the Regional Boards in Glasgow and Lanarkshire and the Lanarkshire Colleges Order 2014 establishes New College Lanarkshire as a Regional College and South Lanarkshire College as an Assigned College.

1. INTERPRETATION

1.1 In this constitution, unless the context otherwise requires:

Board is the regional board specified in Part 1 of schedule 2A to the Post 16 Education) Act 2013;

Act is the Post 16 Education (Scotland) Act 2013;

Order is The Lanarkshire Colleges Order 2014

2005 Act is the Further and Higher Education (Scotland) Act 2005;

1992 Act is the Further and Higher Education (Scotland) Act 1992;

Council is the Scottish Further and Higher Education Funding Council established under section 1 of the Further and Higher Education (Scotland) Act 2005;

2. STATUS

2.1 The Board is a body corporate.

2.2 The Board—

(a) is not a servant or agent of the Crown;

(b) has no status, immunity or privilege of the Crown;

(c) and its property is not to be regarded as property of, or held on behalf of, the Crown.

2.3 The Board is designated in the Act as the Regional Board for Lanarkshire Colleges but will be known as The Lanarkshire Board.

3. OBJECT – GENERAL DUTIES

3.1 It is the duty of a regional strategic body to exercise its functions with a view to securing the coherent provision of a high quality of fundable further and higher education in the localities of its colleges. In doing so, the Regional Strategic Body must have regard to any fundable further education and fundable higher education provided by any other post-16 education bodies in the localities of its colleges.

REGIONAL STRATEGIC BODIES – FUNCTIONS

4. PLANNING

4.1 The Board must plan for—

(a) how it proposes its colleges should provide fundable further education and fundable higher education; and

(b) how it intends to exercise its functions, and the Board's colleges must, where appropriate, have regard to those plans when exercising their functions.

4.2 When making plans, the Board must have regard to the importance of ensuring that funds made available to it under the Act are used as economically, efficiently and effectively as possible.

5. PERFORMANCE MONITORING

5.1 The Board must monitor the performance of its colleges in accordance with section 23G of the 2005 Act as follows:

(1) A regional strategic body must monitor the performance of its colleges.

(2) This may, in particular, include—

(a) monitoring or assessing the quality of fundable further education and fundable higher education provided by its colleges;

(b) monitoring the impact which providing that education has on the wellbeing of—

- (i) the students and former students of its colleges;
 - (ii) the localities in which its colleges are situated; or
 - (iii) Scotland;
- c) monitoring its colleges' financial and other affairs.

(3) A regional strategic body must, when considering whether to take any action under subsection (1), have regard to the desirability of preventing any unnecessary duplication of any action taken, or likely to be taken, by the Scottish Ministers or the Council in relation to the performance of its colleges.

6. PROMOTION OF COUNCIL'S CREDIT AND QUALIFICATION FRAMEWORK

6.1 The Board is to promote the use by its colleges of such credit and qualification framework as the Council may adopt in pursuance of section 14 of the Act.

7. EFFICIENCY STUDIES: ASSIGNED COLLEGES

7.1 The Board may secure the promotion or carrying out of studies designed to improve economy, efficiency and effectiveness in the management or operations of any of its colleges.

7.2 A college must—

- (a) provide any person promoting or carrying out studies by virtue of subsection (1) with such information; and
- (b) make available to the person for inspection such accounts and other documents,

as the person may reasonably require for the purposes of the studies.

8. RIGHT TO ADDRESS COLLEGE MEETINGS

8.1 Where the Board is concerned about any matters relating to the financial support which any of its colleges receives (or might receive) from the Board, a member of the Board is entitled to—

- (a) attend any meeting of the college; and
- (b) address the meeting on those matters.

9. IMPROVEMENT OF ECONOMIC AND SOCIAL WELL-BEING

9.1 The Board is to exercise its functions with a view to improving the economic and social well-being of the localities of its colleges, in accordance with section 23K of the 2005 Act.

(1) In doing so, the regional strategic body is to have regard to—

- (a) social and economic regeneration needs in those localities; and
- (b) social cohesion and social inclusion issues in those localities.

(2) For the purposes of subsection (2) (a), “needs” means needs which appear to the regional strategic body—

- (a) to exist for the time being or be likely to exist in the future; and
- (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.

(4) For the purposes of subsection (2) (b), “issues” means issues which appear to the regional strategic body—

- (a) to exist for the time being or be likely to exist in the future; and
- (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.

10. REGARD TO PARTICULAR MATTERS

(10.1) In exercising its functions, a regional strategic body is to have regard to—

- (a) skills needs in the localities of its colleges;
- (b) issues affecting the economy of the localities of its colleges;
- (c) social and cultural issues in the localities of its colleges; and
- (d) the needs and issues in relation to Scotland identified by the Council for the purposes of section 20(1).

(10.2) In exercising its functions, a regional strategic body is to—

- (a) have regard to the desirability of the achieving of sustainable development; and
- (b) in particular, encourage its colleges to contribute (so far as reasonably practicable for them to do so) to the achievement of sustainable development.

(10.3) In exercising its functions, a regional strategic body is to have regard to the—

- (a) United Kingdom context; and
- (b) international context, in which any of its colleges may carry on its activities.

(10.4) In exercising its functions, a regional strategic body is to have regard to the educational and related needs (including support needs) of persons who are, and the likely educational and related needs (including support needs) of persons who might wish to become, students of any of its colleges.

(10.5) In exercising its functions, a regional strategic body is to—

- (a) have regard to the desirability of enabling, encouraging and improving participation in fundable further education and fundable higher education by persons belonging to any socio-economic group which the regional strategic body reasonably considers to be under-represented in such education; and
- (b) in particular, promote collaboration and sharing of good practice between its colleges in relation to enabling, encouraging and improving such participation.

(10.6) For the purposes of subsection (1)(a), “skills needs” means any requirement or desirability for skills or knowledge which appears to the regional strategic body—

- (a) to exist for the time being or be likely to exist in the future; and
- (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.

(10.7) For the purposes of subsection (1)(b) and (c), “issues” means issues which appear to the regional strategic body—

- (a) to exist for the time being or be likely to exist in the future; and

(b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.

(10.8) For the purposes of subsection (5), a socio-economic group is to be treated as under-represented in fundable further education or fundable higher education if participation in such education by persons in that group is disproportionately low.

(10.9) A regional strategic body may take into account any social or economic characteristics which it considers appropriate when determining which groups are to constitute “socio-economic groups” for the purposes of subsection (5).

(10.10) A regional strategic body is to have regard to the under-represented socio-economic groups identified by the Council for the purposes of section 20(4A) when determining—

(a) which groups are to constitute “socio-economic groups” for the purposes of subsection (5); and

(b) whether a socio-economic group so determined is under-represented in fundable further education or fundable higher education.

11. CONSULTATION AND COLLABORATION

11.1 The Board must, where it considers it appropriate to do so in the exercise of its functions, consult with the persons listed in section 23M of the 2005 Act as follows:

(a) its colleges;

(b) the representatives of—

(i) any trade union recognised by any of its colleges; and

(ii) any other trade union which appears to it to be representative of staff of any of its colleges;

(c) the students’ association of any of its colleges;

(d) the local authorities for the areas in which its colleges are situated;

(e) the governing body of any other post-16 education body which provides fundable further education or fundable higher education in the locality of any of its colleges;

(f) any other regional college or regional strategic body whom it considers likely to have an interest in the matter concerned;

(g) any person who appears to it to be representative of employers in the same locality as any of its colleges;

(h) any person who appears to it to be representative of the interests of any sector for which any of its colleges provides specialist education or training;

(i) The Open University;

(j) The Skills Development Scotland Co. Limited;

(k) the Scottish Qualifications Authority; and

(l) Scottish Enterprise or Highlands and Islands Enterprise (as appropriate).

(11.2) Any particular requirement for consultation imposed on a regional strategic body by virtue of this or any other enactment is without prejudice to subsection (1).

(11.3) A regional strategic body must, so far as is consistent with the proper exercise of its functions, seek to secure the collaboration with the body of any or all of the following persons—

(a) its colleges;

(b) the representatives of any trade union recognised by any of its colleges or which otherwise appears to it to be representative of the staff of any of its colleges;

- (c) the students' associations of its colleges;
- (d) the local authorities for the areas in which its colleges are situated;
- (e) the governing body of any other post-16 education body which provides fundable further education or fundable higher education in the locality of any of its colleges;
- (f) any other regional college or regional strategic body whom it considers it appropriate to collaborate with;
- (g) The Open University;
- (h) The Skills Development Scotland Co. Limited;
- (i) the Scottish Qualifications Authority; and
- (j) Scottish Enterprise or Highlands and Islands Enterprise (as appropriate).

(11.4) The Scottish Ministers may by order modify subsection (1) or (3)—

- (a) by adding or removing persons, or types of persons, to which those provisions apply; or
- (b) varying the description of any such person or type of person.

(11.5) But such an order may not modify paragraph (a), (b) or (c) of subsection (1) or paragraph (a) of subsection (3).

(11.6) A regional strategic body must, in relation to the provision of fundable further education and fundable higher education—

- (a) promote collaboration between its colleges; and
- (b) promote such other collaboration between its colleges and other post-16 education bodies as it considers appropriate.

12. INFORMATION AND DIRECTIONS

12. The Board may give such directions to its colleges, or to any of them, as it considers appropriate, in accordance with section 23N of the 2005 Act as follows:

(12.1) A regional strategic body's colleges must provide the regional strategic body with such information as it may reasonably require for the purposes of or in connection with the exercise of any of its functions.

(12.2) A regional strategic body may give such directions to its colleges, or to any of them, as it considers appropriate.

(12.3) Directions given under this section may be of a general or specific character.

(12.4) Before giving directions under this section, a regional strategic body must consult—

- (a) any college to which the proposed directions relate;
- (b) the representatives of any trade union recognised by such a college or which otherwise appears to the regional strategic body to be representative of its staff; and
- (c) the students' association of every such college.

(12.5) A college must comply with directions given to it under this section.

(12.6) Directions given under this section may be varied or revoked.

(12.7) Nothing in this section allows a regional strategic body—

- (a) to direct a college to transfer any staff, property, rights, liabilities or obligations; or
- (b) to give directions to a college whose governing body is not a board of management established in pursuance of Part 1 of the 1992 Act.

13. TRANSFER OF STAFF AND PROPERTY ETC. (NB –Local Agreement that this will not be used in the Lanarkshire Region)

The Board may require any of its colleges to transfer such of its staff, property, rights, liabilities or obligations, in accordance with section 230 of the 2005 Act as follows:

(13.1) A regional strategic body may require any of its colleges to transfer such of its staff, property, rights, liabilities or obligations as may be specified in the requirement—

- (a) to another of its colleges; or
- (b) to the regional strategic body.

(13.2) Such a requirement may be made—

- (a) for the purpose of transferring responsibility for providing any particular programmes of learning or courses of education from one of the regional strategic body's colleges to another of its colleges;
- (b) for the purpose of transferring responsibility for providing any particular service; or
- (c) for any other purpose relating to the functions of the regional strategic body or any of its colleges.

(3) Before making a requirement under subsection (1), the regional strategic body must consult—

- (a) any college to which the proposed transfer relates;
- (b) the representatives of any trade union recognised by such a college or which otherwise appears to the regional strategic body to be representative of its staff; and
- (c) the students' association of every such college.

(4) Consultation under subsection (3)(a) is to be undertaken with a view to seeking the agreement of the college to the proposed transfer.

(5) A requirement under subsection (1) may make such further provision in relation to the transfer as the regional strategic body considers appropriate.

(6) Any transfer of staff effected by virtue of subsection (1) is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).

(7) All property and rights transferred by virtue of subsection (1) are to be applied for the purpose of the advancement of education.

(8) Subject to subsection (9), a requirement made under subsection (1) is binding on any college to which it relates.

(9) A requirement made under subsection (1) is binding on a college falling within subsection (10) only if the college consents to the making of the requirement.

(10) A college falls within this subsection if—

(a) its governing body is not a board of management established in pursuance of Part 1 of the 1992 Act;

(b) it is the college from which staff, property, rights, liabilities or obligations are to be transferred in pursuance of the requirement and the transfer is to be made to a college whose governing body is not a board of management established in pursuance of Part 1 of the 1992 Act; or

(c) the regional strategic body to which it is assigned is a body included in Part 2 of schedule 2A.

14. ACCOUNTS

14.1 The Board must—

(a) keep proper accounts and accounting records;

(b) prepare a statement of accounts in respect of each yearly period ending on 31 March; and

(c) send the statement of accounts to the Scottish Ministers,

in accordance with such directions as the Scottish Ministers may give.

14.2 The Scottish Ministers must send the statement of accounts to the Auditor General for Scotland for auditing.