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| **FOR DISCUSSION/INFORMATION** | | | |
| Meeting:  **Audit & Risk Committee – 02/09/24** | | | |
| Presented by | **Iain Clark** | | |
| Author/Contact | **Iain Clark** | Department / Unit | **Executive Board** |
| Date Created | **26th August 2024** | Telephone | **Ext 2321** |
| Appendices Attached | **OSCR - Guidance and Good Practice for Charity Trustees June 2024**  **OSCR – Notifiable Events / Concerns April 2024**  **CDN Finance Development Network Steering Group – Going Concern Statements August 2024** | | |
| Disclosable under FOISA | | **OSCR Documents – Yes**  **Others - To be advised** | |

1. **PURPOSE**

To provide an update on the Going Concern concept of Accounting in relation to NCL and Public Sector Accounts.

1. **BACKGROUND**

Given the financial position of NCL, ARC members were concerned around the application of NCL as a Going Concern and sought advice from the external Auditors (Audit Scotland), OSCR and the SFC.

1. **DETAIL**

The report includes updates from:

* 1. Audit Scotland.
  2. Office of the Scottish Charity Regulator (OSCR).
  3. The Scottish Funding Council (SFC) .

1. **STRATEGIC IMPLICATIONS**

The Board retains an overview of NCL governance and compliance.

1. **RISK**

Potentially the College is not trading as a Going Concern and is not declaring this in the Financial Statements. Breach of OSCR Governance.

1. **FINANCIAL IMPLICATIONS**

None.

1. **LEGAL IMPLICATIONS**

Compliance with Charity Act 2005. Compliance with Accounting Standards.

1. **WORKFORCE IMPLICATIONS**

There are no workforce implications.

1. **REPUTATIONAL IMPLICATIONS**

There are potential reputational implications if not compliant.

1. **EQUALITIES IMPLICATIONS**

There are no equalities implications.

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| **CONCLUSIONS/RECOMMENDATIONS**  ARC is asked to note the information contained in this report and raise or discuss any issues. |

**Detail from Summary**

* 1. **View from Audit Scotland**

**After discussion at the ARC on 13th May 2024 a follow-up was requested of Audit Scotland and the response came in an email from Louisa Yule (Audit Scotland) Fri 17/05/2024 13:40**

“Good afternoon Iain and Diane,

Following on from the ARC meeting on Monday, I have followed up on the going concern question raised.

There were no conversations with OSCR on the preparation of the cross-sector going concern guidance.

 I did speak with Professional Support colleagues who did direct me to some guidance around principles for the college/board:

 Being a going concern means being able to use the going concern basis of accounting

 For public bodies, the continued delivery of the service is relevant to the ability to use the going concern basis of accounting; but the continued existence of the public body itself is not relevant (provided the service will continue to be delivered by another public body)

 Paragraph 3.27 of the Accounting for Education and Higher Education SORP notes that colleges normally prepare their financial statements using the going concern basis of accounting. However, it requires the governing body to make its own assessment of the college’s ability to continue to do so. Extract from SORP noted below:

*"Institutions normally prepare their accounts on the basis of being a going concern. The governing body must make its own assessment of the institution’s ability to continue as a going concern to assure itself of the validity of this assumption when preparing the accounts. In making this assessment, an institution’s governing body must take into account all available information about the future for at least, but not limited to, 12 months from the date on which the accounts are approved".*

Audit Scotland's guidance to auditors explains that the FReM’s interpretation of going concern for non-trading entities applies to colleges, i.e. the anticipated continuation of the provision of further education is normally sufficient evidence. The college’s financial position is of course relevant to its own financial sustainability but not to the financial sustainability of the delivery of the further education service. It’s not therefore relevant to the appropriateness of the going concern basis of accounting as even if the Scottish Government wound up that particular college, the assets of that college would simply transfer at their carrying amount to another college or colleges.  Extract of guidance noted below, with the two most relevant paragraphs in bold.

*Going concern basis of accounting is not appropriate*

*Under the going concern basis of accounting, the financial statements are prepared on the assumption that the services delivered by the body will continue for the foreseeable future. Assets and liabilities are recorded on the basis that the body will be able to realise its assets and discharge its liabilities in the normal course of business. This contrasts with a ‘break up’ basis which is required if a body’s operations cease suddenly and consequently the recoverable values of its assets may be significantly less than the carrying amount in the balance sheet.*

***The concept of going concern applies in the public sector but in a different way to the private sector. A key difference is that when assessing whether the going concern basis of accounting is appropriate for a public body, the anticipated continued provision of the services is more relevant to the assessment than the continued existence of the particular body itself. Practice Note 10 provides guidance on applying ISA (UK) 570 Going Concern to the audit of public bodies. Auditors should determine a proportionate approach based on the body’s circumstances and the financial reporting framework.***

***Section 8.2 of the FReM interprets the requirements of IAS 1 in respect of going concern and states that the anticipated continuation of the provision of the service, as evidenced by inclusion of financial provision for that service in published documents, is normally sufficient evidence of going concern.*** ***It also clarifies that bodies with total net liabilities should prepare their financial statements on the going concern basis unless the sponsor department deems that inappropriate.***

*The assessment of whether the going concern basis of accounting is appropriate is therefore very straight-forward in the majority of cases. There is no need for any detailed cash-flow projections that are necessary for a business in the private sector.*

Hope this helps.

Kind regards

Louisa

* 1. **View from OSCR**

**After discussion at the ARC on 13th May 2024 a follow-up a viewpoint was to be sought of OSCR and following a discussion initially between Iain Clark (CRO) and sector colleagues around the role of OSCR and Going Concern, which proved inconclusive, a direct approach was made to OSCR (Alison Adams). This was via email and a follow-up discussion and the response came in an email from Alison Adams (OSCR) Fri 19/07/2024 15:04**

**From:** Alison Adams <[Alison.Adams@oscr.org.uk](mailto:Alison.Adams@oscr.org.uk)>   
**Sent:** 19 July 2024 15:04  
**To:** Iain Clark <[Iain.Clark@nclan.ac.uk](mailto:Iain.Clark@nclan.ac.uk)>  
**Subject:** SC021206 - New College Lanarkshire

**This email contains a link!**

**This email contains a World Wide Web link. Use caution when following links as they could open malicious web sites.**

**If you are unsure about this link then please contact** [**ICTHelpdesk**](mailto:ICTHelpdesk@nclan.ac.uk)

Dear Mr Clark

Thank you for your email.

Unfortunately, as a regulator, we cannot provide specific advice about individual charities and, as such, we would always advise charities to seek their own professional advice.

The charity trustees should follow the advice given by the auditors and sponsor body, or seek further professional advice, if required.

Yours sincerely

Alison Adams

[A close-up of a logo

Description automatically generated](https://www.oscr.org.uk/)**Alison Adams** | Accounts and Annual Returns Officer **Email:** [alison.adams@oscr.org.uk](mailto:alison.adams@oscr.org.uk) | **Tel:** 0131 460 9892

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This is consistent with the OSCR Guidance in the attached documents **OSCR - Guidance and Good Practice for Charity Trustees June 2024; OSCR – Notifiable Events / Concerns April 2024** basically referring the decision to the Auditors (Audit Scotland) and the Sponsor Body (the SFC).

* 1. **View from the Scottish Funding Council (sponsor department)**

The Scottish Funding Council has been consistent in its approach to Going Concern stating that it is up to the individual College and its Auditors, although the FRem does state “*It also clarifies that bodies with total net liabilities should prepare their financial statements on the going concern basis unless the sponsor department deems that inappropriate”.* To date, that has never been the position.

Extracted statements from the Financial Statements laid before Parliament and published have been included for reference. Sector colleagues are unaware of any feedback from the SFC around Going Concern. **CDN Finance Development Network Steering Group – Going Concern Statements August 2024**

* 1. **Summary**

In essence, as per Audit Scotland the College can continue to use the Going Concern concept unless there is any doubt around the continuation of service, irrespective of who delivers that service.