

**Members are advised to retain this report and its appendices during session 2009/10 for reference purposes.**

**JOHN WHEATLEY COLLEGE**

**BOARD OF MANAGEMENT**

**Alternative Sources of Information for Members**

**(up-dated August 2009)**

**Report by Principal**

**1 Introduction**

The purpose of this paper is to advise members of the Board of Management of alternative sources of information to inform their decision-making processes.

It is intended to provide members with strategies to obtain alternative perspectives on policy proposals which are made by the College's management.

**2 Statutory Duties**

Members of the College's Board of Management have a number of statutory duties which are defined in the Further and Higher Education (Scotland) Acts 1992 and 2005. These are also further refined by policy guidance issued, from time-to-time, within the provisions of this legislation by the Scottish Funding Council (SFC). Copies of these Acts can be consulted in the College's libraries and Information Centres at both the Easterhouse Campus and East End Campus.

Members will recall that their primary duty is to act with due diligence to ensure that the interests of the College are protected. They also have statutory obligations to ensure that the College operates within wider statutory frameworks (such as those which apply to the regulation of Employment and Health and Safety).

Members of the Board are not, within the terms of the 1992 Act, personally liable for the actions of the College providing that they have acted reasonably, responsibly, appropriately and in 'good faith'.

Members should take full cognisance of the duties described to them by the Scottish Funding Council's *Financial Memorandum*. This document lays out specifically the extent of their duties as Board Members. A copy of the most up-to-date version of this document is attached as appendix 1 to this document for your information.

The exercise of these duties might, on occasion, require them to challenge or to test the advice being given to them by College staff.

This paper seeks to outline the possible sources of information which might enable members to discharge effectively this role.

Members should also note that the College is a Scottish Registered Charity under the provision of the Charities and Trustees Investment (Scotland) Act 2005 (the College's Charity Regulation Number is SCO21200). Board members are, as a consequence, Trustees of the College as a charity. This legislation sets out their duties in that respect.

### **3 *Advice from the College's Senior Management***

The College's Board of Management and Standing Committees are conducted within a framework laid down by its Constitution (which is set out in Schedule 2 of the Further and Higher Education [Scotland] Act 1992) and by its Standing Orders.

As a general rule the College will always prepare a paper for consideration against each item on the agenda of the Board or its Standing Committees (it will, in these circumstances, be very unusual that members will receive solely a verbal report on any subject being considered at the Board).

Members should be aware that in all cases these documents and Board Reports will include an explicit notice which indicates potential sources of additional or further information. Use should be made of this facility if appropriate.

Furthermore members should also note that the authorship (and typist) of papers is routinely indicated at the foot of all reports prepared for Board discussions. Typically they will appear as:

IG/LM  
John Wheatley College  
X October 2008

The initials on the right will always designate the typist (LM being Lorna McEwan). The author's initials (IG being Ian Graham) will be those on the left. In the case of multiple-authorship a series of initials may occur (e.g. IG/AK/LM – this will indicate that the report has been jointly prepared by IG – Ian Graham and AK – Alex Kirk).

### **4 *Internal Sources of information***

Members should also note that there is a comprehensive range of internal documentation which represents a substantial information resource. This includes:

- the College's Development or Corporate Plan;
- the Board's and College's Register of Interests;
- the Board's Constitution and its Standing Orders;
- the College's Scheme of Delegation;

- the Remits of the Board's Standing Committees and current meeting schedule; and
- the College's current Prospectus and its website ([www.jwheatley.ac.uk](http://www.jwheatley.ac.uk)).

In addition members have already been issued with a copy of the Association of Scottish College's (ASC's) *Guide for Board Members (as revised in 2007 and subsequent amendments)*. That document also provides a useful overview of the role of Board Members in the College's Governance as does the SFC's *Financial Memorandum*.

The Board's Agenda, Minutes and Papers are available in the Libraries and Information Centres at the East End and Easterhouse buildings. Members will, of course, have full access to the services provided by the College's Library and Information Centres. Staff will be delighted to provide any such assistance which might be required. In addition Agendas and approved Minutes of Board and Standing Committee meetings are published on the College website. A copy of the College's Information Publication Schedule is attached as appendix 2 to this report.

Members also routinely have access (remote if required) to the College's intra-net and related services. Further information in this respect can be obtained from Russell Boyd (Associate Principal) on Extension 555.

Furthermore the College runs a Development Programme for its members during each academic year. Members can request the College to include particular topics for these programmes. New members are offered an Induction Programme (attendance at which is open to all Board members).

The annual priorities of these Programmes are normally determined by the Board. The priorities for session 2009/10's Development Programme were laid out in a report which was presented at the Board meeting which took place on 18 May, 2009. A copy of that programme for 2009/10 is attached as appendix 3.

## **5 Advice from External Agencies**

Members may also wish to seek additional advice from External Agencies.

They will recall that the College engages with specialist agencies for advisory services.

These include:

### **i) The Clerk to the Board**

The Clerk to the Board is Roger Stewart (of CDU).

The Clerk to the Board is *independent* of the College's management. The primary role discharged by the Clerk to the Board is that of the provision of advice and guidance in respect of constitutional or matters related to the College's Governance.

The Clerk also plays an important role in the College's 'whistle blowing' procedures (or, more formally, the Public Interest Disclosure Policy).

He also assists the College in processes which appoint new members and, if necessary, the Principal. In addition he also supports Board Members when conducting other business which might lead to possible conflicts of interest for members of the College's management (such as the appointment of Internal Auditors).

Mr Stewart is an important 'resource' for members. He should be able to sign post members to alternative or original sources of information in respect of the College's governance.

The Clerk to the Board can be contacted directly by phone on 0131 552 7467 (in office hours).

He also has a College-based email address this is: [rstewart@jwheatley.ac.uk](mailto:rstewart@jwheatley.ac.uk);

## **ii) The Board's Auditors**

The College has both Internal and External Auditors.

The College's Internal Auditors are appointed by the College and currently are Wylie Bisset.

The senior partner who looks after the College's 'account' is currently Ross McLauchlan. He can be contacted on 0141 566 7000.

Members will recall that Audit Scotland appoints the College's External Auditors.

KPMG has consequently been appointed as the Board's External Auditors. The External Audit Manager is David Watt. He can be contacted on 0141 300 5695;

## **iii) Legal Advisers**

The College currently contracts with two separate legal practices for advice.

It obtains advice on matters related to employment law from Miller Samuel. The primary contact in that organisation is Marie McDonald. She can be contacted on 0141 221 7934.

It obtains other advice from Anderson Fyfe. The primary contact in this respect is Tony Caplan. He can be contacted on 0141 248 4381;

## **iv) Capital Project Managers**

The College usually appoints project managers to oversee the execution of major capital projects.

At present, the College has no major capital project in progress. The East End Campus was 'practically completed' in the early summer 2007;

**v) Health and Safety Consultants**

The College periodically engages external Health and Safety Consultants to undertake compliance testing of its Health and Safety related provision.

In academic session 2009/10 this role is being discharged by ACS Physical Risk Control Ltd.

The primary contact in that organisation is Professor Roger Willey. He can be contacted on 0141 427 5171.

In addition the Scottish Funding Council (SFC) has established an advisory service for both further and higher education in health and safety management. That project, entitled CHASTE, can be contacted at Strathclyde University on 0141 950 3247. The Primary contact in this respect is Donald Blue;

**vi) Insurance Brokerage**

The College engages Marsh as its Insurance Brokers.

The primary contact at Marsh is Sheila Reddux. She can be contacted on 0141 304 4440; and

**vii) Banking Services**

The College's primary Banker is currently the Clydesdale Bank Plc.

Its account manager is James Wales. He can be contacted on 0141 242 4175.

**Members are advised that contacting some of these external advisers may involve a charge being made to the College.**

To avoid possibly unnecessary (and unpredictable) charges being levied, members who might wish to seek information or guidance from these should, in the first instance, discuss the matter they wish to raise with the Chair of the Board (or the Principal, as the College's Chief Officer).

If the issues which they wish to consider relates to the conduct of either the Principal or the Chair advice should, in these circumstances, first be sought from Roger Stewart, the independent Clerk to the Board.

In addition to the above there are other potential sources of advice for members of the Board.

These include:

**i) Scotland's Colleges (which has now replaced the Association of Scotland's Colleges)**

Members can obtain a wide range of advice on matters related to College governance, national policy frameworks and contextual information related to the Further Education Sector from *Scotland's Colleges*.

*Scotland's Colleges'* predecessor organisation (the Association of Scotland's Colleges) commissioned Baker Tilly to produce a guide for College Board Members that document was separately circulated to members early in session 2006/07 and which was further up dated in session 2008/09. These documents have already been circulated to members for their information.

*Scotland's Colleges* periodically runs development/training programmes for Board Members. These will be brought to the attention of members by the Secretary to the Board as appropriate.

The primary contact at *Scotland's Colleges* is Chris Travis the Chief Executive.

The Policy Officer at Scotland's Colleges who supports matters related to the development of Governance is Neil Cuthbert.

*Scotland's Colleges* website is: [www.scotlandscolleges.ac.uk](http://www.scotlandscolleges.ac.uk)

Its telephone number is: 01786 892000;

**ii) The Scottish Funding Council (SFC)**

Members can access a comprehensive range of documentation on the policy framework which applies to the Further Education Sector in Scotland from the Council's website.

This facility also offers guidance on the appropriate Funding Council Officers which might be able to provide specific information or data.

The Council's website is: [www.sfc.ac.uk](http://www.sfc.ac.uk). This is a valuable resource which provides access to key policies which apply to colleges and other helpful sector-wide data (including that which relates specifically to the College).

The SFC also operates the Further Education Development Directorate (FEDD's). This facility seeks to assist colleges individually (and sometimes collectively) to improve the quality of their management and governance. The head of FEDD's is currently Mr Brian Curle.

The SFC's Chief Executive and Scotland's Colleges' Accountable Officer is Mr Mark Batho. The Council's telephone number is 0131 313 6500.

Brian Curle can be also contacted on that number;

**iii) The National Union of Students (NUS)**

NUS (Scotland) provides a comprehensive service on national policy related to post-school education in Scotland.

It also 'hosts' SPARQS (a nationally funded organisation established to improve the quality of student representation in the governance and management of colleges and universities).

NUS (Scotland) can be contacted on 0131 556 6598. Its current President is Liam Burns.

Alternatively its services can be accessed via its web page which is: [www.nusonline.co.uk/scotland/](http://www.nusonline.co.uk/scotland/);

**iv) the BRITE Initiative**

The Scottish Further Education Funding Council maintains a centrally-funded initiative to advise College Boards and senior managers on their responsibilities in respect of access to services by individuals with disabilities.

This includes advice about legislative responsibilities and duties.

The BRITE Initiative can be contacted on 0131 535 4756. The primary contact at BRITE is Alison Cox.

Its web-site is: <http://www.brite.ac.uk/index.htm>;

**v) Her Majesty's Inspectors of Education**

The Scottish Further Education Funding Council engages Her Majesty's Inspectors of Education (HMIE) to monitor and advise on the quality of provision made by Colleges for students and other learners.

HMIE conduct, on behalf of the SFC, an Annual Engagement visit with the College.

In addition HMIE visit colleges for an in-depth Quality Review on a five yearly cycle. The College's next such Review will take place during week beginning 2 November, 2009.

The Inspectorate has nominated HMIE Mr Mitch Brown as the College's primary contact in that organisation (that arrangement may be reviewed during session 2009/10).

He can be contacted on: 01506 600 282;

**vi) the West of Scotland Colleges' European Partnership**

The West of Scotland Colleges' European Partnership (WOSCOPEP) advises the College on issues related to the use of European Structural Funds (such as the European Social Fund [ESF] and the European Regional Development Fund [ERDF]).

The College utilises ESF to provide additional or augmented programmes of vocational training/education to meet European Union Target Groups. It uses ERDF to part-fund capital projects (such as its East End Campus).

The primary contact at WOSCOP is Morag Kerr (its Chief Executive).

She can be contacted on: 0141 559 4786.

WOSCOP's web-site is: <http://www.woscop.co.uk>;

**vii) the Scottish Further Education Unit (SFEU)**

The SFEU is a centrally-funded (by block grant from the Scottish Funding Council) organisation which seeks to lead sector-wide initiation related to the development of all levels of staff in colleges, of teaching/learning best practice and of the post-school curriculum from the end of academic session the work of the SFEU was subsumed into a single sector support agency – Scotland's Colleges.

The Scottish Further Education Unit operates a number of sector-support services for Scottish Colleges. These include those which were formerly undertaken by the Association of Scotland's Colleges (ASC), the Colleges' Open Learning Exchange Group (COLEG) and Scotland's Colleges International (SCI).

The SFEU operates under the banner of Scotland's Colleges. Its Chief Executive is Chris Travis.

He can be contacted on 01236 731 811; and

**viii) the Office of Scottish Charity Regulator (OSCR)**

Members will be aware that John Wheatley College enjoys Charitable Status within the terms of the Charities and Trustee Investment (Scotland) Act.

Members of the Board are consequently also Trustees of the College acting as a Charity.

OSCR regulates Scottish Charities. The head of Charities is Marieke Dwarshuis who can be contacted on 01382 220446.

Members also have possible access to both the Scottish Government's website ([www.scotland.gov.uk](http://www.scotland.gov.uk)) and that of Her Majesty's Inspectors of Education (HMIE) website ([www.hmie.gov.uk](http://www.hmie.gov.uk)) for general information about government policy and the post-school education services. In addition they can have direct access to the Scottish Funding Council's web-site ([SFC.ac.uk](http://SFC.ac.uk)). They can obtain policy up-dates on that site;

**6 The Role of the College's Chief Officer**

The Principal is the College's Chief Officer. He is responsible, in turn, to the Chief Executive (Mark Batho) of the SFC (who acts as the Sector's Accountable Officer).

The Principal as the College's Chief Officer is ultimately responsible, through the SFC's Chief Executive, to the Scottish Parliament for the use made by it of funds provided for the provision of further education in its catchment area.

He also has a duty to the Board to indicate when it (or individual members) may be proposing to make decisions which may be ultra vires (that is beyond the Board's powers or authority).

Members should, at all times, take cognisance of advice provided by the Principal in his role as Chief Officer. They should also bear in mind their statutory obligations to act in 'good faith' when discharging their role as members of the Board. To ignore advice given by the Principal (acting as the College's Chief Officer) might, on some occasion, be considered to be inappropriate and a breach the statutory requirement for them to act in 'good faith' (thereby rendering an individual Board member potentially personally liable for the implications of any such decision).

The Principal (as the College's Chief Officer) also has a duty to report all potentially reckless or otherwise inappropriate decisions made by the Board or its members to his Accountable Officer (Mark Batho, the Chief Executive of the Funding Council).

## **7 Recommendations**

Members of the Board of Management are recommended to note the contents of this report and the alternative sources of external advice which are available to assist then discharge their duties and to request the Principal to up-date this paper for the information of members in August 2009.

## **8 Further Information**

Members can obtain further information on this report from the Principal or Roger Stewart, the Clerk to the Board (on 0131 624 4601).

## **9 Review Period**

This paper requires to be next revised in July / August 2010.

IG/AMcK  
John Wheatley College  
7 July, 2009

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**Financial Memorandum**  
**between**  
**Scottish Further & Higher Education**  
**Funding Council**  
**and**  
**John Wheatley College**

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## **Preamble**

- 1 This memorandum sets out the formal relationship between the Scottish Further & Higher Education Funding Council ('the Council') and John Wheatley College ('the institution'). The foundation of the relationship is provision of funding by the Council to the governing body of the institution, according to statute.
- 2 The constitutional arrangements for the relationship are laid down in the relevant statutes and instruments of governance which establish the autonomy of the institution and the powers and duties of the Council.
- 3 For these arrangements to be effective the Council and the institution have to work in partnership to assist the delivery of the Scottish Executive's policies for further and higher education and to secure best value from the investment of funds derived from Scottish Ministers. The ultimate purpose of all these partnerships, policies and investments is to secure further and higher education in Scotland which meets the nation's economic, social and cultural needs by providing excellent learning opportunities for students and outstanding research. The Council recognises that the institution may also undertake activities and have to comply with legislation and regulation which fall outside the scope of this partnership.

## **Purpose of the memorandum**

- 4 Accordingly, this memorandum sets out the expectations of the institution and the requirements which are a condition of the Council's funding. It also sets out the agreed expectations which the institution, in the spirit of constructive partnership, has a right to have of the Council.

## ***What the institution can expect of the Council***

- 5 The Council will conduct its affairs at all times to the highest accepted standards for public sector bodies. It will act reasonably on the basis of the fullest available evidence and objective analysis. Subject to any legal requirement to observe confidentiality, it will be open and transparent with the institutions it funds and other stakeholders, and will give or be prepared to give a public justification of all its decisions.
- 6 The Council will maintain a policy on openness which sets out the work of the Council, the services it aims to provide and how to complain or appeal if something goes wrong.
- 7 The Council will maintain regular and frequent dialogue with institutions and their representative bodies where it seems appropriate to:
  - (i) promote a shared understanding of the aspirations, needs and concerns of the various stakeholders;
  - (ii) support the beneficial impact of institutions' collaborative activities;and

- (iii) better enable it to provide the information, advice and assistance Scottish Ministers require of it.
- 8 The Council will not substitute its judgements for those which are properly at the discretion of institutions. In particular, the Council will seek to maximise the discretion of institutions to use grants provided by the Council.
- 9 In discharging its duty to monitor and publish the performance of the institution generally and on specific projects, the Council will, as far as possible, rely on the data and information used by the institution for its own purposes.
- 10 The Council will allocate and pay grant to the institution in accordance with current published policies and procedures. The institution will be consulted in advance and given reasonable notice of any significant change to these policies and procedures and of significant changes in overall funding levels.
- 11 The accountable officer of the Council is required to be satisfied that the institution has put in place the organisation and procedures necessary to ensure compliance with this memorandum, including the achievement of best value from funds derived from Scottish Ministers. The Council will obtain evidence from the institution, which will include undertaking reviews (but only by prior arrangement), to provide the assurances required to discharge this responsibility.
- 12 Where the Council has concerns or insufficient information to provide the assurance required, the Council will, in the first instance, seek to resolve matters with the chief executive officer of the institution. Where this has not proved possible, the Council's accountable officer will inform the chair of the governing body and the institution's chief executive officer in writing and without delay of any significant concern of the Council about the conduct of the institution. Only after such notification and where the circumstances warrant it, the Council's accountable officer may suspend the payment of any or all grants to the institution. Where the concern relates to the financial support which the institution receives (or might receive) from the Council, the Council may also use its powers to attend and address a meeting of the governing body.

***What the Council can expect of the institution***

- 13 The following paragraphs state the expectations of the institution and the requirements which are a condition of the Council's funding.
- 14 The Council must be able to rely on the whole system of governance, management and conduct of the institution to safeguard all funds of the institution deriving from Scottish Ministers and to achieve the purposes for which those funds are provided. As a recipient of public funds, the governing body of the institution will strive to achieve at all times good practice in the governance, management and conduct of the institution.

- 15 The governing body will ensure that it has in place and effectively implemented the proper arrangements for governance, leadership and management of the institution as required by statute, its instrument and articles of governance. This includes the appointment of the chief executive officer. As well as being directly accountable to the governing body for the proper conduct of the institution's affairs, the chief executive officer of the institution is also directly accountable to the chief executive officer of the Council for the institution's proper use of funds deriving from Scottish Ministers and its compliance with this memorandum.
- 16 Respecting the primacy of the institution's own statutory and constitutional obligations, the governing body will ensure that:
- (i) there is effective planning and delivery of the institution's education programmes, research and related activities, in accordance with its mission;
  - (ii) it obtains sufficient data and information of a quality to enable it to determine how well the institution is achieving its goals across the full range of its activities and that the institution is adjusting its strategies as necessary for the delivery of these goals. Such information will be made available to the Council on request as necessary for the exercise of its statutory functions;
  - (iii) public funds are used in accordance with relevant legislation and only for the purposes for which they are given;
  - (iv) the institution strives to achieve best value from its use of public funds from all sources;
  - (v) the institution takes appropriate account of Scottish Ministers' priorities as expressed in the Council's further and higher education policies and drawn to the institution's attention by the Council;
  - (vi) the institution is actively engaged in seeking continuously to enhance the quality of its programmes and services and to involve students and other stakeholders in these processes;
  - (vii) there are in place up-to-date and readily accessible procedures for handling complaints by students, staff and others;
  - (viii) its and the institution's activities are conducted in an appropriately open, transparent and fully accountable manner;
  - (ix) the institution plans and manages the deployment of its resources in a sustainable way;
  - (x) it and the institution adheres to the Council's mandatory requirements (as notified to the institution in circular letters) and that the institution takes account of relevant good practice in the management of all its activities and resources including its:

- staff, human resources and industrial relations practices;
- estates and equipment; and
- finances, and risk and internal control procedures.

17 The chief executive officer of the institution must inform the accountable officer of the Council without delay of any circumstance that is having or is likely to have a significant adverse effect on the ability of the institution to maintain its capacity to deliver relevant education programmes, research and related activities.

**John Wheatley College**

**Proposed Board Development Events**

**Session 2009/10**

**a) Corporate Governance 'Refresher' Event**

This session will be led by the Clerk to the Board with input on:

- i) Members' Code of Conduct;
- ii) Declarations of Interest / Register of Interests; and
- iii) the role of Board Members as trustees of a Charity.

There will be small group activities based on 'real life' scenarios to explore Corporate Governance matters in more depth.

**b) College Links with East Glasgow Community Health and Care Partnership (CHCP) and Glasgow Community Planning Partnership Ltd (GCPPL)**

Cllr Jim Coleman will provide a presentation on the partnership relationship between the College and:

- i) East Glasgow CHCP; and
- ii) Glasgow Community Planning Partnership Ltd.

Cllr Coleman is Convenor of East Glasgow CHCP and a Board Member of Glasgow Community Planning Partnership Ltd.

**c) HMIE Review: Improving Scottish Education**

This session is intended to provide members with an overview of the key issues in Scottish Education as identified by HMIE through the course of their external review programme. There will be an emphasis on the findings which relate to Further Education Colleges. The keynote speaker for this event will be HM Senior Chief Inspector of Education.

**d) the new CIPFA / College Governance Standard**

The focus of this event will be on the new CIPFA / College Governance Standard which has been designed to provide College Boards with an audit tool to evaluate their performance taking account of both the On-Board Guidance and the Langlands Report.

**e) Scottish Government Priorities for Colleges**

Michael Cross, Head of Further and Adult Education Division within the Scottish Government, will provide members with an overview of the Government's priorities for the College Sector.

**f) Glasgow City Council's Secondary School Strategy**

Margaret Doran, Executive Director of Children and Families, will provide members with an input on the City Council's Secondary Strategy and its implications for the partnership which the College has with Education Services.

Subject to agreement this may be a joint event with the Boards of Anniesland, Cardonald, Langside and North Glasgow Colleges.