

## **Review of the future role of FE Colleges**

**Chaired by Sir Andrew Foster for Department for  
Education Skills and the Learning and Skills Council**

### **Accountability, Authority and Leadership: A governance perspective**

**By Adrienne Fresko CBE  
and Sue Rubenstein**



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Foresight Partnership Ltd  
12 Welcomes Road  
Kenley  
Surrey CR8 5HD

 020 8660 6465

[www.foresight-partnership.co.uk](http://www.foresight-partnership.co.uk)

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# 1 Executive Summary

It is unarguable that FE college governance has grown consistently more robust and capable in the period since incorporation in 1993. It is, however, also clear that the policy and institutional context within which FE colleges are governed has undergone dramatic change over the same period – and in particular over the past 5 years. The recommendations that we will make in this paper are based on our analysis of the effectiveness of FE college governance *within* this significantly altered policy and institutional context.

Using the Good Governance Standard in Public Services as a framework we have:

- explored the effectiveness of current FE governance arrangements
- identified key issues for consideration
- proposed solutions to the issues identified

It is our conclusion that whilst FE College Governing Bodies (in common with most public bodies) vary considerably across the country in terms of their capacity and capability – on the whole most are discharging their obligations in terms of *stewardship, probity and financial accountability* well.

The issues that we identify in this report therefore relate to the equally crucial '*strategic leadership*' requirements of governing bodies within mature, sophisticated strategic partnerships with other local and regional stakeholders. Governing Bodies of FE colleges tend to identify a core purpose that is strongly concerned with responding to local 'demand' (articulated by funders, learners and employers) and overseeing the delivery of high quality teaching and learning. Whilst this is entirely appropriate it doesn't, in our view, give weight to a wider purpose in delivering important social policy outcomes. In this paper we suggest that Governing Bodies also need to identify their purpose as being about the development of broader skills for future employability and the economy; enhancing economic competitiveness; redressing educational imbalance; and tackling social cohesion outcomes for the wider community in line with Government policy objectives.

In the current institutional landscape this tends to be seen as the role of the Learning and Skills Council. It is however our view that the delivery of this wider strategic purpose is not realistically within the gift of any single 'player'. Drawing on our wide experience of governance in public services we propose instead the development of a 'community of governance' bringing together governance perspectives from across the whole 'local learning and skills economy' to create a broad strategic framework within which organisations can operate.

Our conclusions and recommendations are thus aimed at creating processes and ways of working – both within Governing Bodies and between Governing Bodies and their local partners and stakeholders– that will give impetus and focus to this wider strategic purpose.

## 2 Context and approach

This review of the future role of FE Colleges comes as the latest in a wide range of interventions within the learning and skills sector. In particular the institutional and funding landscape within which FE colleges operate continues to shift and change. In much of our exploration for this paper we have heard about the challenges facing governing bodies to ensure the delivery of high quality, locally responsive teaching and learning. These challenges include ensuring the use and development of appropriate estates, delivering within available resources all in the context of ongoing strategic and funding change.

We have also heard about the sheer multi-faceted complexity of FE delivery and its accountability framework. We hope that a real recognition of this complexity and the history of change is evident both in our analysis of the issues for governing bodies and our recommendations.

We bring a wealth of experience of governance in public services to this exercise and have used comparators from across public services – in particular health and housing - to inform our conclusions (The details of these comparators have been included as Appendix 2). Our specific understanding of the FE sector has been shaped by considerable desk research and interviews with a wide spectrum of key stakeholders from within the FE sector (Principals, Chairs, Clerks, Governors, Local Learning and Skills Councils, the national Learning and Skills Council the Association of Colleges and the Department for Education and Skills).

The term Governing Body and the Corporation are both used, with differing nuances, in the literature. We will use the term Governing Body or GB throughout this paper

### 3 Six Principles of good governance in public services

This think-piece has been informed by the Good Governance Standard in Public Services<sup>1</sup>, and uses its six core principles as a framework for the analysis. The standard was developed to provide overarching guidance on good governance across public services, and was based on extensive research on good governance practice in the public, private and voluntary sectors including a lively contribution from the FE sector. An excerpt of the Good Governance Standard has been included in the appendix to this report. The six core principles are:

- Good governance means focusing on the organisation's purpose and on outcomes for citizen's and users
- Good governance means performing effectively in clearly defined functions and roles
- Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour
- Good governance means taking informed, transparent decisions and managing risk
- Good governance means developing the capacity and capability of the governing body to be effective
- Good governance means engaging stakeholders and making accountability real

#### 3.1 Focusing on the organisation's purpose and on outcomes for citizen's and users

##### How effective are current FE governance arrangements?

We have seen evidence that the Governing Bodies of FE Colleges are increasingly clear about the organisational purpose of their Colleges, and take decisions accordingly. That purpose is largely defined in terms of the provision of responsive education and learning services to local

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<sup>1</sup> Good Governance Standard in Public Services published in January 2005. This was developed by the Independent Commission on Good Governance in Public Services, chaired by Sir Alan Langlands. A full version can be down-loaded from [www.opm.co.uk/icggps](http://www.opm.co.uk/icggps)

learners, responding to the expressed needs of local employers and ensuring the financial standing of the organisation in that context.

This expression of purpose is, however, understandably wide and diverse across different FE Colleges. This diversity, in part, reflects the independent status that FE Colleges were granted following incorporation in 1993, and their ability to choose how to develop the educational character and focus of the College in line with local expressed demand.

The Governing Bodies (GBs) increasingly seek performance information to ensure and assure that educational quality standards are being met and examine student achievement, satisfaction, retention and other *learner* outcome measures. They focus particularly on the financial standing of the organisation and are informed in this by external agencies including audit and inspection.

In systems terms, we would conclude that the focus of GBs is sound in terms of:

- **Inputs:** a particular interest in finance, estates and other infrastructure concerns
- **Processes:** there seem to be effective checks and balances in the system and increasingly sophisticated performance management (although further development of benchmarking could aid GBs)
- **Outputs:** demand is growing, the number of learners in FE Colleges has increased, more adults are achieving basic skills for the first time
- **Outcomes:** growing attention to learner outcomes, such as success rates for learners going through the College system;

It is, however, our perspective that there is less comprehensive evidence of GB's identifying a purpose that is about the development of broader skills for future employability and the economy; redressing educational imbalance; or tackling social cohesion outcomes for the wider community in line with Government policy objectives. The assumption is that achieving these broader social outcomes has been and will continue to be the responsibility of the (Local) Learning and Skills Councils (LLSC).

Indeed, there has been a growing tension about the extent to which GBs have the freedom to determine purpose since the establishment of National and local Learning and Skills Councils, who have an overarching strategic and planning remit. We would agree with the analysis by the Learning and Skills Development Agency, that at the heart of this tension is the unresolved ambiguity about whether colleges are independent businesses or public sector bodies contributing to broader public value.

The consequence of this is that only a minority of GBs (as opposed to College Principals) engage in dialogue with other learning and skills players in their local community to determine strategy and purpose together. It means that the focus on the *learner*, seems to preclude a full focus on *potential learners* in the wider community; it means that the engagement with employers is often limited to those who already have a relationship with FE and not a proactive process of working with employers to help meet future skills gaps. For example, we found virtually no reference to FE College engagement with the Sector Skills Councils except where a college was a centre of vocational excellence.

We would argue that there is space for both FE Colleges and Learning and Skills Councils, along with other players, to share the broader strategic purpose of, for example,

*“ensuring employers have the right skills to support success of their businesses and individuals have the skills they need to be employable and personally fulfilled”.*

It doesn't need to be a zero sum game where the power and influence to achieve these outcomes is seen to rest only with the LSC, for example. Rather power and influence is shared among the

'local learning and skills economy' to achieve this broader purpose, with GBs playing a key part in the process.

It is timely for this ambiguity of purpose to be resolved as clarity of purpose is at the heart of good governance in public services.

## Summary of key issues and proposed solutions

This review is an ideal opportunity to clarify the purposes of FE Colleges. There is a real choice to be made between:

- FE Colleges as essentially independent social businesses with public service contracts to provide further education. These contracts to be mediated through (L)LSCs

or

- FE Colleges as public service organisations with the dual purpose of high quality provision of education and learning but also contributing, as major strategic partners, to the achievement of broader social outcomes such as developing skills for the economy, redressing educational imbalance and social cohesion.

The benefit of the former is that it would provide a clear unambiguous purpose for FE and its GBs, and allow them to maintain a degree of autonomy which is clearly valued. The benefit of the latter would be that it would positively leverage the efforts of all the key players in the local learning and skills economy to deliver the real step change required, particularly as it relates to skills in the economy.

Our steer would be toward the latter, seeing FE as public service organisations with their dual purposes. FE Colleges and their GBs bring a breadth and depth of understanding of the sector, which would complement the planning perspective of (L)LSC's. Putting those perspectives together should generate more energy and creative drive, drawn from multiple perspectives and the resulting solutions are more likely to work. It needn't provide a break on the potential for competition to drive up performance, nor preclude FE Colleges from competing for new areas of work but it would help ensure that the community's *future* skills and learning needs are met equitably and cost effectively.

Clarifying these core purposes will, in turn, enable the governance process to develop further and to be much more focussed on contributing to the step change needed to address these wider strategic outcomes. FE colleges will both shape and be shaped by their environment rather than operating as institutional islands of provision.

It will enable the development of a real '*community of governance*' in the local learning and skills economies, working together to develop a shared sense of strategic purpose and priorities and an opportunity to share risk.

## 3.2 Performing effectively in clearly defined functions and roles

### How effective are current FE governance arrangements?

#### Clarity of functions

On clarity about functions, our research and interviews suggest that the functions of a GB are reasonably well understood at a conceptual level. However, there is a frustration, often cited in consultation responses, about whether in reality, the principle function of the GB of an FE College is stewardship or strategy. This is linked to the point made in the first section about whether FE Colleges have discretion and autonomy in the development of strategy or whether it is now the remit of LLSCs to determine their strategy for them.

We would argue that (as the Good Governance Standard states) the overarching role of the GB is to direct and control the FE College in the public interest. This means that there are three absolutely core functions:

- To establish the College's strategic direction and aims, in conjunction with the executive
- To ensure accountability to the public for the College's performance
- To assure that the organisation is managed with probity and integrity.

So the role is strategy *and* stewardship *and* accountability.

The role does not include operational management.

Of course, as we have already discussed, in establishing the College's strategic direction, it is vital to take account of the wider context, including Government policy mediated through the (L)LSC, and the strategic priorities developed through the proposed 'community of governance'.

The **stewardship function** seems to be generally well-managed by GBs, and Clerks in FE. The audit process and committees, declarations of interest and other checks and balances have been well-developed over the last few years. The Instruments and Articles of Government also focus on these aspects of probity.

In terms of **strategy**, there are a number of indicators that suggest the FE College GBs may not be able to contribute as effectively to strategic development. For example:

- There seems to be too much of a focus on operational detail by many GBs; many FE Colleges have a plethora of standing committees, which meet more frequently than the main board of governors itself. We heard and read many comments about the weight of papers for meetings and the sense of bureaucratic overload. Committee minutes are all reported back to the main board meetings, leaving little space for proper strategic debate. There are, however, examples of good practice in a number of colleges who have strategic away-days with the GB at least once a year.
- The majority of Governors of FE Colleges currently have a relatively low profile in the wider learning and skills economy both locally and nationally. We also heard evidence to suggest that the real power behind strategic development in FE in many FE Colleges, rests with the Principal and his/her executive team. This reliance on executive leadership in strategy development presents a risk. It needs to be both the GB and Principal and his/her executive team working together. This implies the need for more power-sharing in strategic development.

The governance function of 'accountability to the public for the performance of the college' has a number of facets. We will return to the public element later under the sixth principle. Other important facets include effective organisational performance management; and holding the executive to account through appropriate scrutiny and challenge. Our sense is that performance management by GBs has improved significantly. Scrutiny and challenge of internal measures of success is also reasonably sound, although we heard a number of examples of GBs who find it difficult to balance support with sufficient constructive challenge to the executive.

However, there does seem to be room to greatly strengthen the role of GBs in scrutiny and challenge of performance against major strategic priorities in the context of the wider local learning and skills economy. There is a real potential for the GB, in collaboration with boards and GBs of other learning and skills organisations, to identify one or two high priority strategic areas,

and to examine and scrutinise progress in these areas in the round, supported by the independent Clerk.

### Clarity of roles

The Instruments and Articles of Government provide great specificity about numbers and categories of Governors, and the procedures around their appointment, but provide little guidance on the respective governance roles in FE Colleges. The key roles in question being:

- The Chair of Governors
- The Principal
- The Clerk
- Governors (including student governors)

Although there have been a number of examples of role descriptions that have evolved, these have often developed by local initiative or by small working groups.

There is no comprehensive code of good governance for FE that offers a coherent guide to best practice on these roles and what is expected of them across the sector.

There are particular challenges in ensuring that all Governors' perspectives in debate have equal weight. Our research indicated particular concerns about Student Governors being effectively side-lined.

The time expectation is a real tension for Governors. We often heard the refrain – *'but they/ we are only volunteers, and so we need to be reasonable about expectations.'* We would argue that these governance roles are important ones for the future success of FE and its place in society. It is important that Governors are given as much information, guidance and support as possible about how to undertake their roles, but that it is also made clear what the requirements are on them in undertaking the role. We are not necessarily advocating that the roles should be remunerated, as we know that the majority of governors do not support this, but neither do we believe that expectations of governors should be less because they are 'volunteers'. If Governors' time is cherished, and used strategically, if Governors really feel that they can make a difference and not just be asked to approve decisions, and if there is an appropriate process to recompense Governors for expenses, child care costs if relevant and loss of earnings<sup>2</sup> – that will all contribute to motivated, high performing GBs.

Turning to some of the individual roles. FE College GBs are supported by an independent Clerk. This role is a particularly vital one, as the effectiveness of the Clerk can contribute significantly to the effectiveness of the GB, and FE should be commended on the development of this independent support to the board. There are a range of different models used for providing Clerk services, and certainly no commonly agreed role specification. To be effective, Clerks need to be independent, aware, professional and of a high calibre. We would encourage Clerks to continue to develop their skills, through, for example, the ICSA certificate in FE Governance. The Clerk is a vital source of information to the GB.

The relationship between Principal and Chair of Governors is also a vital one. They share the leadership role, in the sense that the Chair leads the board, and the Principal leads the organisation. There seems to be wide variation in the effectiveness of this relationship, with some examples of a strong, respectful but not cosy relationship. However, we also indirectly heard of a number of examples where the Principal was clearly in the driving seat and the Chair

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<sup>2</sup> We recognise that paying loss of earnings can create complications and issues of equity itself, which is why many public service bodies have opted for an annual honorarium.

was to be 'managed', or where the relationship was too cosy, without an appropriate level of constructive challenge. As already mentioned, Chairs of Governors and GBs do not generally have a high profile in the wider learning and skills economy, which affects the influence of the chair in this crucial relationship.

## Relationships between Governors and the public

The constitution of FE Colleges GBs are designed as stakeholder boards, with up to 20 members (FE boards typically average 17-18), drawn from business, staff, students, parents (if students are under 19), Local Authority and community bodies. The Principal is a member unless he/she elects not to be. This sort of arrangement can (and we believe often does) produce role confusion. Are Governors there *'to represent'* their constituency (students, business etc) or are they expected, rather to be able *'to reflect the perspective'* of their constituency. If it is the former, it would suggest that there needs to be well developed mechanisms for each of the stakeholder governors to consult with their constituencies, and to report back on decisions made. It makes corporate decision making on the board difficult. If it is the latter, then they are appointed as individuals, to bring a particular perspective, but not to represent views. They will also bring other governance skills, and contribute equally to corporate decision making.

Although we recognise that the intent is that governors are appointed as individuals, and the Instrument of Government makes reference to that, nonetheless our assessment is that there is role confusion here, and that this needs clarification. We also believe that the strict specificity about numbers of particular categories on each board is not helpful and should be relaxed. Rather, GBs should be enjoined to ensure that there is a broad diversity of perspectives and skills on board, and that these are reflective of (essentially the same) key stakeholder groups as now, but without fixed proportions.

If this approach is adopted, then it will be equally important that there are well developed approaches to stakeholder and public engagement. This will be developed further under the sixth principle.

## Summary of key issues and proposed solutions

The functions of FE College GBs are threefold: strategy; stewardship and accountability. Stewardship has generally been well understood and attended to. There has, however, been a frustration about the extent to which GBs are able to influence strategy, in light of the strategic planning role of the LSCs. We would argue that this continues to be a key role for GBs, and by taking a more active involvement in the local learning and skills economy, and reducing operational focus by streamlining committee structures and ways of working, GBs can become increasingly influential in this area.

Accountability for performance has been improving, but can be strengthened further by more strategic scrutiny and challenge, working within the 'community of governance' to focus on aspects of delivery that are important to achieving broader community and national policy outcomes.

As for roles, there would be real value in a Code of Good Governance for Further Education, which would set out role descriptions for governors, the Clerk, the Principal and the Chair of Governors. The Association of Colleges have also recognised this as a need. There is much good practice to be gleaned from other sectors, particularly the NHS and Housing.

Although FE governors are 'volunteers' their role is nonetheless a crucial one. Their time should be strategically used and support provided to enable them to perform their functions to a high standard. There doesn't seem to be an appetite for remuneration, but it is important that

expenses and moderate loss of earnings<sup>3</sup> are offered, particularly important if seeking to increase the diversity of the GB.

Finally, the stakeholder model of the GB can lead to role confusion. We recommend that it is made even clearer that governors are appointed *to reflect* and not *represent* a range of stakeholder perspectives; that the fixed proportions of different stakeholder groups should be relaxed. The GB should then ensure that there are effective processes for stakeholder engagement.

### 3.3 Promoting Values for the whole organisation and demonstrating the values of good governance

#### How effective are current FE governance arrangements?

##### Promoting values for the whole organisation

Although we have not focused significantly on this principle, our conclusions from our research are that the best GBs do have involvement in setting organisational values as part of the College's strategic planning process, but that for the most part, governors see this as the Principal's role.

As FE College GBs take an increasingly strategic role, we would encourage them to include taking a lead in establishing and promoting values for the organisation and its staff, in partnership with the Principal and his/her executive team.

##### Individual governors upholding good governance values

Our research suggests that FE governors do uphold the seven principles of public life (Nolan principles) in their conduct. This is consistent with the high standards of stewardship, probity and integrity identified in the previous section.

### 3.4 Taking informed transparent decisions and managing risk

#### How effective are current FE governance arrangements?

##### Rigour and transparency about how decisions are taken

In general, we found that the decision making processes were transparent, insofar as key decisions are taken to sub-committees and then ratified by the full GB or taken to the full GB directly. These decisions are supported by documentation and are minuted.

There is a clear statement in the Instruments and Articles about which decisions must be reserved for the full board. It is also important that there are clear delegations of authority below that level, so that it is clear to all involved which decisions may be taken by sub-committees and which delegated to the Principal and executive. We understand that committee terms of reference are reviewed for clarity.

As already mentioned under clarity of functions and roles, standing sub-committees are used quite extensively and often meet more frequently than the full GB. The GB itself is required to meet at least three times a year. Many seem to meet between four and six times a year.

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<sup>3</sup> See note 2

Colleges are required to make minutes and papers available for public inspection on their premises. A number also send them to the local library. A minority publish their minutes and agendas on their website, or indeed have information about board members easily accessible.

### Good quality information and advice

Most of the information received by governors is mediated through the Principal and Clerk. This includes information about the performance of the college as well as the wider policy context including policy briefings.

Chairs, Principals and Clerks do receive a weekly update from the Association of Colleges, but this information is not available directly to governors, unless forwarded to them. As many governors have commented in consultations about the volume of detailed paperwork they receive, there may be the inclination not to burden them with more.

Governors do generally have access to inspection and audit reports and LSC performance data, but it is not so clear whether they have access to comparative and benchmark information about how their college is performing compared to others.

This lack of independent and comparative data sources of information to governors, coupled with the relative isolation of governors in the local learning and skills economy, does not enhance their ability to objectively evaluate how their College is performing and responding to the wider context.

The Association of Colleges (AOC) has been trying to establish web-based communication and e-communication with all Chairs and governors, to provide independent briefings and updates but these initiatives seem to have been met with surprising resistance.

### Effective risk management systems

We saw some evidence that Audit Committees and GBs are increasingly taking risk management and assessment seriously, particularly as it relates to financial governance. This was not a major focus of our review and so we are not able to make a full assessment here.

Some commentators mentioned that risks were being identified now, but that strategies for dealing with them still need further development.

We do see a real opportunity for risk sharing through the development of the Community of Governance approach. For example, if the local learning and skills economy identified a significant skill area that will be required by businesses in the future, but for which there is not an immediate demand, there could be an opportunity for all the partners in the economy to take the initiative and to share the risk.

### Summary of key issues and proposed solutions

A question emerging from this analysis is the extent to which operational decisions are properly delegated to the Principal and his/her executive team. We would recommend streamlining sub-committees with governor involvement, so that executive decisions are properly delegated to the executive.

However, governors do need to have assurance and good quality information about performance if they so delegate. While much of this information is appropriately mediated through the Principal and Clerk, it is also important that governors have access to independent policy briefings and updates, as well as benchmark comparisons. They are currently too reliant on information provided by the Principal or Clerk. Some of this could be made available through web-sites and email alerts. The Association of Colleges are willing to play a more active role in this regard – provided that they have the support of both their membership and the DfES to do so!

FE Colleges GBs will need to continue to focus on risk management but also to identify opportunities for risk sharing in the local learning and skills economy.

## 3.5 Developing the capacity and capability of the governing body to be effective

### How effective are current FE governance arrangements?

#### Skills knowledge and experience

A significant proportion of FE Colleges say that they have governor recruitment problems, although we also recognise that a number of colleges do not have such problems. It may be that the issue is linked to the specificity of stakeholder groups required on GBs. Some FE colleges are exemplars of good practice with active search committees that keep waiting lists of potential governors who are sometimes co-opted onto committees as a precursor to full participation as a governor.

It seems that colleges generally don't advertise and instead tend to rely on search committees. It is not clear whether these committees are provided with guidance about best practice and, therefore, the extent to which they operate with the rigour of other public appointments – for example those regulated by Office of the Commissioner for Public Appointments

One consequence of this may be that ensuring diversity on FE College Governing Bodies does seem to be a significant challenge. The evidence suggests that GB's are predominantly male, white and middle aged with most governors over 50 years old. (Survey by AOC in 2004 revealed 69% male, 86% white British) In terms of attracting women, people from black and minority ethnic groups and those with disabilities, FE colleges seem to be well behind other public bodies such as NHS.

Retention is also apparently an issue and will be the subject of AOC commissioned research. But retention and recruitment go hand in hand. It is important to create a positive image of the role of an FE governor, to demonstrate their ability to make a difference at the local level and to visibly acknowledge the importance of their role at the highest level. The reality, of course, must match the rhetoric!

It is suggested that the Code of Good Governance for FE Colleges recommended earlier also give more comprehensive guidance to search committees based on experience in other public bodies and with the express intention of enhancing diversity on GB's

#### Developing capability and reviewing performance

Induction is currently organised in-house by FE Colleges and their Clerks. This is entirely appropriate but may benefit from being supplemented with national or regional perspectives on role as well as induction into the wider 'community of governance'

We are aware of a new programme for development organised through the Centre for excellence in Leadership in conjunction with AOC. This seems to be a very good initiative – although so far only 300 out of 8000 governors have participated. Although this initiative only started in January 2005, there is a wider question about whether GBs allow development budgets for themselves, and see it as an important investment.

FE College GB's are also to be commended on the practice of annual self assessment. Whilst there does not appear to be an overall and consistent approach used by all GB's (which would assist in providing easily comparable information) the diligence and regularity with which this is carried out – and the role that self assessment plays in setting Board development objectives - is an example to other public bodies.

A minority also undertake individual performance review of governors. This also tends to be in the form of self-assessment. Perhaps more noteworthy however is the absence of a process for performance review of chair of governors or indeed an obvious set of arrangements for how (and by whom) such a review might be carried out.

It is recommended that attention be given to appropriate, supportive and enabling local mechanisms for performance review of Chairs of GB's

### Balance between continuity and renewal

Governors are appointed for a 4 year term but there appears to be no formal limit to the number of terms that a governor may serve. In practice most colleges attempt to limit governors to two terms, although there are many examples of those who do more. This practice is inconsistent with the Nolan principles and good practice in governance broadly and restricts the ability to refresh the thinking on the GB. Consultation responses suggest that there doesn't seem to be an appetite to curtail or constrain the total time served.

Whilst we hear concerns about losing experience and the difficulty of attracting good calibre governors, we believe that the potential for staleness, resistance to change and development of 'group think' is a real risk. We would therefore recommend a maximum of 2 terms of up to 4 years each, with a third only in exceptional circumstances.<sup>4</sup>

In many FE colleges it would seem that Chairs are appointed annually. This is not ideal for continuity and renewal and we believe that a 2-3 year term as Chair is more appropriate.

### Summary of key issues and proposed solutions

The major issues that we have identified here are around the approaches to governor recruitment (particularly in relation to diversity issues), creating and enforcing standards for the number of terms that governors may serve to ensure renewal of the board and approaches to performance management particularly of the Chair. Our recommendations are to:

- Provide more comprehensive guidance to search committees as part of the Code of Governance Practice for FE
- To create a positive image of the role of FE governor, including at the highest level.
- Create appropriate local mechanisms for supportive and enabling performance review of Chairs of Governors, perhaps including perspectives from the (L)LSC.
- Limit the number of terms that governors may serve to two and three in exceptional circumstances<sup>5</sup>
- Set the term of office for Chairs of GB's to be 2-3 years as standard.

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<sup>4</sup> These exceptional circumstances could include allowing a chair to complete their term as chair. It still seems appropriate that no individual should serve more than 12 years in total as both Governor and chair of governors.

<sup>5</sup> See note 4 above

## 3.6 Engaging stakeholders and making accountability real

### How effective are current FE governance arrangements?

FE College Governing Bodies experience real tension in bottoming out the question of to whom they are really accountable. Most will articulate an accountability to current students/learners/parents and indeed they carry out comprehensive student satisfaction surveys. Many colleges also go to some lengths to hear the views of local community stakeholders. Most see a clear line of accountability to the (L)LSC. Crucially, many will point to the considerable tension in discharging accountability both to local community and student interests *and* to the (L)LSC as funder - pointing again to the value in building a 'community of governance; through which such tensions might be explored.

Importantly, as mentioned earlier, the engagement of *governors* (as opposed to managers) with key stakeholders appears to be negligible. Whilst operating within the framework of a 'stakeholder' model GB's seem to make limited use of the sophisticated range of available approaches to building an effective link between governors and the stakeholder groups from which they are drawn. Indeed governors appear to be almost invisible outside of their college context

The fact that an individual governor may have been an employer or may currently be a student is no substitute for effective, transparent processes of stakeholder engagement. Indeed if the 'stakeholder' model is to be sustainable, governing bodies need to be supported in building their profile within the proposed 'community of governance'.

Attention to processes of engagement with staff is also a crucial role. While the prime responsibility for this lies with the Principal, it is important that the GB has a finger on the pulse of staff attitudes and views, as well as key Human Resources indicators.

### Summary of key issues and proposed solutions

Together with clarity around 'purpose' as outlined earlier in this paper, accountability seems to be the really vexed question within the FE sector. Incorporation created an institutional model that provides for considerable autonomy and accountability for governing bodies. More recently this has been added to (some would argue superseded) by the Learning and Skills Council and a planning framework which locates much of the strategic function outside of the governing body. Added to this is the complexity of a large 'stakeholder' board which – to remain legitimate'- must engage meaningfully with the groups from which governors are drawn.

Overarching all of this is the increasingly vehement government requirement for a more direct relationship between the performance of the FE sector and seemingly intractable skills gaps, pockets of low skills/inequality/poverty and economic competitiveness based on skills in an increasingly global world.

It is this relationship (between FE college performance and macro economic requirements) that is the most difficult for any single local stakeholder (Governing Bodies or (L)LSC's or RDA's or LA's etc) to 'hold' in isolation. Making this connection – and reconciling this requirement with local employer and community priorities – requires much more sophistication – both in the functioning of the local 'community of governance' and in the approach to stakeholder engagement.

## 4 Concluding analysis and recommendations

In this section we have summarised our nine recommendations for strengthening the Accountability, Authority and Leadership of FE, taking a clear governance perspective:

## 1. Clarify the organisational purpose(s) for FE and enable the governance process to reflect these purposes in how it operates.

- Our steer is that FE Colleges would be asked to consider themselves Public Service Organisations with dual purposes of:
  - providing high quality training and education to the local community, with a focus on 16 to 19 learners and adult learners.
  - Contributing to delivering broader outcomes for the community, developing skills for the economy; redressing educational imbalance and contributing to social cohesion. Working in collaboration across the local and skills economy to achieve this.
- The Governing bodies would be asked to keep both these core purposes in mind as they steer the organisation, and work through with partners to achieve the second.

## 2. Develop the concept and reality of a community of governance across a local learning and skills economy

- There is an opportunity to develop the concept of a local learning and skills economy, which would have parallels with a local health economy. Key players in a local learning and skills economy would include the (Local) Learning and Skills Council; the FE Colleges including sixth form colleges; schools with 6th forms; Regional Development Agency; education lead members in Local Authorities; chairs of education scrutiny committees. For some sorts of specialist provision, there may need to be a broader, regional focus to the learning and skills economy. (A parallel in the NHS might be found in regional cancer networks or in other forms of specialist health provision).
- Players could include both the leading executives in the respective bodies, but also chairs and senior governors, or members from the governing bodies and boards of these respective organisations. The aim would be to create a community of governance. Those in governance roles bring a broad perspective, an independent view, a connection with the local community and have overall responsibility for the strategic direction of their respective organisations. The benefit would be to bring a multiplicity of perspectives and skills to bear on how to achieve the broader skills development outcomes for the community, and could greatly enhance openness and accountability. This approach becomes particularly relevant if FE Colleges are seen to have the dual purpose of delivery and broader outcomes set out in recommendation one.
- The aim would be to develop a networked approach across the Local Learning and Skills economy to develop a shared sense of longer term strategic direction for the local community as a whole. It would take the concept of Area strategic reviews and extend it further. So all the players would have a positive involvement in the shaping of strategic direction and also have the opportunity to share risks on a more managed basis. It should also contribute to creating more predictability in funding. The strategic alignment that should result, means that each of the respective organisations' own strategic plans will reflect the strategic priorities of the Local Learning and Skills Economy. The involvement of those in governance roles will mean that they will have had a role in shaping the wider strategic framework and will thus see the relevance to their own organisation.
- It would be important not to preclude the development of a choice of providers for learners through this process.

- The (L)LSCs will be central to the success of these communities of governance, but will need to recognise that the implications are that power is more shared with the players in the economy. It should not be seen as a convenient consultation forum, but rather a real strategic decision making forum. Learning Partnerships, which already exist, but do not engage FE College governors, may also be able to play an important facilitative role here. We are aware that a recent evaluation of Learning Partnerships concluded that the area they have been able to make least progress in is that of achieving provider collaboration on provision.
- We are *not* advocating the establishment of new structures to achieve this community of governance but rather new *processes* within the existing institutional arrangements.

**3. Develop a stronger strategic role for FE College Governance to complement the focus on effective stewardship.**

- The Community of Governance approach will enable more strategic engagement of Governing bodies, which in turn will mean that the development of FE College strategy will become more meaningful.
- The ways of working of some GBs may need to change to ensure that there are opportunities for strategic debate and shaping discussions
- The Principal and his/her team will be sharing the process of strategic development of the College, rather than feeling that they always have to lead it.

**4. Streamline the ways of working of Governing Bodies to enable more effective use of governor's time and to support the strategic focus.**

- Keep the number and frequency of standing committees involving governors to a minimum.
- For GBs who only meet three times a year, increase the frequency. Infrequent whole-GB meetings are more likely to lead to more fragmentation, less engagement, a longer learning curve and less effective strategic influence.
- Ensure that time is allocated on formal agendas and at GB away-days for strategic development and effective performance review. This may include alternating decision-making meetings with seminar meetings or away-days to have strategic shaping and review discussions.

**5. Strengthen the effectiveness of scrutiny and challenge with a focus on learning and skills outcomes for the community**

- The GB, in conjunction with governance colleagues from the local learning and skills economy, could agree a focussed programme of scrutiny and challenge, with an emphasis on strategic priorities.
- The areas for focus should be highly prioritised (for example two a year) and be supported by the Clerk and other independent officer support. Where possible comparator information should be made available. For example, examining how the local learning and skills economy has translated the skills implications of an economic/employment priority (of the RDA) into action.

- This is also an important opportunity for governors to hear directly the views of learners, the wider public and key stakeholders (including employers) about performance in these crucial areas.
- It is also an important opportunity for governors to demonstrate their accountability.

## **6. Develop a Further Education wide code of good governance**

- This should be based on a set of clear principles and include best practice guidance to help develop a more consistent, coherent approach
- It would be broader than the Instruments and Articles of Government and could use the Good Governance Standard for Public Services as a framework.
- It would include clarification of roles and responsibilities of key governance players, including: the Chair of Governors; the Principal; Governors and the Clerk
- It would set out what is expected of each role, including model codes of conduct, role descriptions, core person specifications and competency frameworks to ensure a breadth and balance of knowledge and skills
- It would set out good practice approaches to search and selection, including approaches to increase diversity on GBs; define limits to terms of office and numbers of terms of office as standard practice. (We recommend, in line with Nolan recommendations, that a maximum of two terms of up to four years should be the norm, with three terms considered only in exceptional circumstances).
- It would set out advice and good practice for performance review of: the GB as a whole; for the Chair; for the Principal; and guidance on individual self-assessment for governors.
- It would include guidance on induction and development for GB members, building on the leadership Skills for Governance work.

## **7. Information and policy briefings, tailored to governors, to be made independently available**

- Develop the web-based information service for governors<sup>6</sup>, providing alerts, policy updates, briefings and comparative data. This should offer short, punchy accessible analyses.
- Encourage the development of direct email communication for all Chairs and governors, to offer perhaps monthly updates on key developments with hyper- linking to relevant information on the web service.

## **8. Develop Central and Regional recruitment and selection advice, induction programmes and best practice support and profile raising**

- Develop national and regional campaigns to raise the profile of FE College governors and the importance of the role, informed by best practice emerging from the diversity recruitment research.

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<sup>6</sup> [www.fegovernance.org](http://www.fegovernance.org), established by the Centre for Excellence in Leadership and the AOC, offers a good vehicle for this, and could be developed further

- Provide good practice guidance on recruitment and selection, particularly to increase access to diverse candidates, in the spirit of the guidance issued by the Office of the Commissioner for Public Appointments. The AOC could have a key role here. This could also be incorporated in the proposed code of good governance for FE.

#### **9. Consider different models for constitution of GB and for approaches to stakeholder engagement**

- As part of this review, it is also timely to consider how the FE College Governing Body could be further streamlined, to enable more effective, focussed decision making and strategic debate, to ensure governors have the breadth of skills and knowledge needed and to develop a fresh approach to stakeholder engagement. Set out below are three options for consideration.
- **Option 1** – Maintain the status quo in terms of the constitution of the GB but with less prescription in terms of numbers and categories of stakeholder members. Governors' role is to reflect views but not to represent those constituencies. Governors appointed based on their competencies and balance of perspectives. In parallel, the GB should assure the building or development of stakeholder engagement processes for each of the major stakeholder groups.
- **Option 2**- Move to a smaller Governing Body, numbering about 12. This GB would include the Principal as the only executive, with the balance as non-executive governors. As above, governors appointed based on their competencies and balance of perspectives. In parallel, develop a broader-based stakeholder advisory body, to act as a sounding board, – to advise the GB and the executive but not to decide.
- **Option 3**- Move to a smaller Governing Body, numbering about 12, in the form of a unitary board. This GB would include the Principal and 2-3 Senior Execs with the balance as non-executive governors. The latter to be in the majority. As above, governors to be appointed based on their competencies and balance of perspectives. In parallel, develop a broader-based stakeholder advisory group as in option 2.

## 5 Bibliography

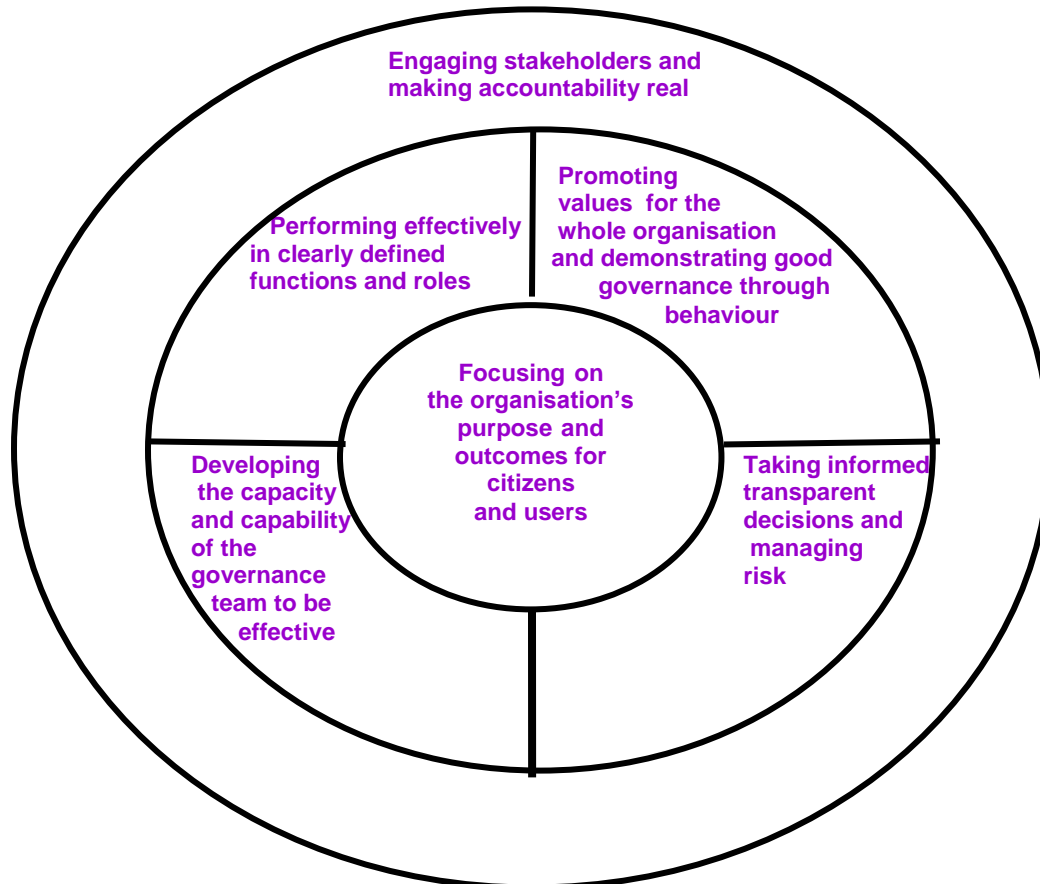
- Applied Issues in Accountability, A contribution to an ESRC series on Public Accountability in the New Institutional Environment, Adrienne Fresko ( February 04)
- Basic Principles of Policy Governance, John and Miriam Mayhew Carver, Jossey-Bass, 1996
- Combined Code on Corporate Governance, Financial Reporting Council, 2003
- Competence and accountability 2004: Code of governance for members of the National Housing Federation
- Dialogue with governors: A strategy to support strong and effective governance. Final Report, Association of Colleges and DfES, July 2004
- Draft for consultation: Revised Instruments and Articles of Association, DfES, 2004
- FE Sector Governance: A Discussion Document, DfES April 2004 and associated background papers
- Good Governance Standard in Public Services, published by Independent Commission on Good Governance for Public Services, January 2005. Background and supporting research papers from the development of this work.
- Good Scrutiny Guide, A pocket guide for public scrutineers, Centre for Public Scrutiny,
- Governing the NHS, A Guide for NHS Boards, NHS Appointments Commission, Department of Health, June 2003
- Guidance to Statutory Instruments and Articles of Government, DfES, March 2001
- LSDA Comments on Review of the Future role of FE Colleges, March 2005
- Making a difference: women in public appointments, Research findings for the Department for Transport, Local Government and the Regions, Adrienne Fresko (OPM), December 2001
- National Evaluation of Learning Partnerships: Final Report, York Consulting Group
- Review of the role and effectiveness of non-executive directors, Derek Higgs, 2003
- Secretary of State's keynote address at Association of Colleges' 9th Annual Conference, November 2004
- Sector Skills Agreements, Skills for Business, Sector Skills Development Agency, 2005
- Securing strategic leadership for the learning and skills sector, Draft Provisional NAO Report, January 2005
- Strategy to Support Strong and effective Governance, AOC, Standards Unit, DfES, July 2004

- The Changing face of college governance, Learning and Skills Development Agency, July 2003
- The Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies, December 2003
- Why Colleges Fail, OFSTED, November 2004
- Why Colleges Succeed, OFSTED, November 2004

## 6 Appendix 1: Excerpt from Good Governance Standard in Public Services

### Principles of good governance

The standard comprises six core principles of good governance, each with its supporting principles.



The supporting principles for each core principle are:

## **1. Good governance means focusing on the organisation's purpose and outcomes for citizens and users**

- 1.1 Being clear about the organisation's purpose and its intended outcomes for citizens and service users
- 1.2 Ensuring that users receive a high quality service
- 1.3 Ensuring that taxpayers receive value for money

## **2. Good governance means performing effectively in clearly defined functions and roles**

- 2.1 Being clear about the functions of the governing body
- 2.2 Being clear about the responsibilities of non-executives and the executive and ensuring those responsibilities are carried out
- 2.3 Being clear about relationships between governors and the public

## **3. Good governance means promoting values that underpin good governance and upholding these through behaviour**

- 3.1 Putting organisational values of good governance into practice
- 3.2 Individual governors behaving in ways that uphold and exemplify effective governance

## **4. Good governance means taking informed, transparent decisions and managing risk**

- 4.1 Being rigorous and transparent about how decisions are taken
- 4.2 Having and using good quality information, advice and support
- 4.3 Making sure that an effective risk management system is in operation

## **5. Good governance means developing the capacity and capability of the governance team to be effective**

- 5.1 Ensuring that appointed and elected governors have the skills and experience they need to perform well
- 5.2 Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group
- 5.3 Striking a balance, in the membership of the governing body, between continuity and renewal

## **6. Good governance means engaging stakeholders and making accountability real**

- 6.1 Understanding formal and informal accountability relationships
- 6.2 Taking an active and planned approach to dialogue with and accountability to the public
- 6.3 Taking an active and planned approach to responsibilities to staff
- 6.4 Engaging effectively with institutional stakeholders

## 7 Appendix 2 : Examples of good practice from other contexts

### Focusing on the organisation's purpose and on outcomes for citizen's and users

There are two other public service areas where there seem to be helpful parallels, both of whom have a complex arrangement of delivery bodies, operating within a broader social and political context. These are NHS Trusts and Housing Associations.

#### NHS Trusts

NHS Trusts operate within a strong national policy framework, set out in the NHS Plan. They have a clear delivery purpose – delivering high quality, safe healthcare to the local population. But they are also expected to contribute to the wider purpose of improving health for the local population. Their boards, which are unitary boards, comprising both executive directors and non-executive directors, have the responsibility for clarifying the purpose of the Trust – but within the wider context of improving health and healthcare for the local population and in line with national policy. In fulfilling their purpose, they are expected to work closely and in partnership with other players in the local health economy, including the Local Authority.

#### Housing Associations

Housing Associations are independent social businesses who have a strong delivery purpose, but whose contracts with government agencies also expect them and their boards to engage fruitfully in debate about achieving broader social objectives.

### Performing Effectively in Clearly Defined functions and roles

#### NHS Bodies

The NHS has increasingly developed its guidance and clarity of governance functions, roles and responsibilities. Many NHS Trust boards would recognise the tension about strategic space, with a number of players influencing the strategic context. The NHS has developed a process of Local Development Planning which is focussed on the strategic priorities for the local health economy, with board members often involved.

Initiatives which may provide some useful parallels to FE include:

- The development of the concept of 'integrated governance' which seeks to pull together all the different streams of governance initiatives in NHS Trusts into a coherent, integrated whole.
- This builds on guidance to boards called 'Governing the NHS, a guide for NHS Boards'. This is published by the NHS Appointments Commission and the Department of Health and sets out the role and duties of NHS boards; the role of the chair; the role of the non-executive; the role of the chief executive; model terms of reference for board committees; functions and accountability relationships and the the role of inspectorate and regulatory systems and the NHS Appointments Commission.

- Centrally and regionally provided programmes of induction for new Chairs of NHS Trusts and new non-executive directors provided by the NHS Appointments Commission which help develop a shared understanding of role, and a network for future liaison. This is then supplemented by locally tailored induction.
- NHS Chairs and non-executive directors receive modest annual honorariums for their work, and not loss of earnings compensation. The size of these honorariums vary somewhat based on the size and complexity of the organisation. Housing Association members have not received remuneration until recently, but this option is now being actively debated.

## Housing Associations

The National Housing Federation has developed a code of governance for Registered Social Landlords (Housing Association) boards, called 'Competence and accountability 2004: Code of governance for members of the National Housing Federation'.

This code sets out governance values, the roles and duties of the board, the role of the chair and members; information provided to board members; numbers on board (generally between 7 and 12), process for recruitment, remuneration levels, terms of office (3 years, with a maximum of 3 terms); terms of reference for core sub-committees and recommends good practice in terms of individual and corporate performance review.

## Local Government

Local Government have developed overview and scrutiny committees, which are cross-party committees, that examine performance in important strategic areas. They have powers to scrutinise LA functions, but also wider functions – such as NHS provision. The overview and scrutiny committees are made up of members who do not hold an executive portfolio on the Council. They are supported by a scrutiny officer.

The Centre for Public Scrutiny provides good practice guidance to a wide range of public service bodies involved in scrutiny, including Local Government.

## Taking Informed Transparent Decisions and managing risk

### NHS

The NHS Confederation, the NHS employers' organisation, has access to email and mailing addresses for all chairs and members of NHS boards. They prepare straightforward, short, easy to read policy briefings for members, which are made available through their website and printed versions are sent to all health bodies. They prepare regular news updates which are emailed to all board members.

They also organise Regional briefing meetings to which all board members in a Region are invited. These are increasingly co-ordinated with training initiatives offered by the NHS Appointments Commission, also on a Regional basis.

The NHS through its regulators (such as the Healthcare Commission) publishes comparator performance ratings for all NHS bodies at least annually. These provide comparator information for board members to see how their Trust is performing against others. Although often controversial, these performance ratings are becoming increasingly sophisticated and therefore useful.

## Developing the capacity and capability of the governing body to be effective

### NHS

- NHS Appointments Commission oversees recruitment and appointment process for all chairs and NEDs to NHS bodies. These appointments are regulated by Office of the Commissioner for Public Appointments. Appointments are advertised nationally or locally, and follow a well developed recruitment process. The NHS has been reasonably successful at achieving diversity on boards.
- NHS Confederation and NHS Appointments Commission offer a range of induction and development opportunities for board members regionally and nationally
- Whole board development and review is offered by a number of providers, including the Board development team (formerly part of Modernisation Agency)

### Housing

- The National Housing Federation compiles a national database of prospective Board members through its 'Get on Board' scheme. Whilst Housing Associations remain responsible for the recruitment and selection of their own board members they make use of this highly differentiated database as part of the process. It should be noted that housing associations also vary hugely in size and remit and have found ways of accommodating this complexity within this scheme.
- The NHF provides considerable guidance and advice to Housing Associations to ensure that rigorous processes are followed that can net a wide diversity of Board members reflecting the diverse communities served.

## 8 Appendix 3: Interviewees, informants and critical friends

Our thanks to all those who have given their time and insights into the development of this think-piece. They are listed below.:

College/ Organisation	Role	Name
Learning and Skills Council	Strategy and Communications Director	Rob Wye
Association of Colleges	Governance Development Manager	Anthony Smythe
Colchester Institute	Chair	David Priest
College of North West London	Principal (and critical friend)	Vicki Fagg
College of North West London	Clerk	Gerry Burnett
Craven College, Yorkshire	Clerk	Joan Matthews
Craven College, Yorkshire	Governor	Michael Noon
Department for Education and Skills	Governance lead, Governance and Organisation team	Vicky Wood
Independent Consultant	Former Principal	Adrian Perry
New College, Nottingham	Principal (and critical friend)	Geoff Hall
North Yorkshire LLSC	Director	David Harbourne
OFSTED	Lead on FE Governance Inspections	Keith Abbott
South Cheshire College	Principal ( and critical friend)	David Collins
South Cheshire College	Chair	Ken Lea
Stratford Upon Avon College	Clerk	David Jackson
Totton College Southampton	Clerk	Ralph Hale
Totton College Southampton	Governor	Phil Jones
Truro College	Principal (and critical friend)	Jonathan Burnett