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# Responsibility and Responsiveness – Stakeholder Review of FE Governance Arrangements



## Information

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# Responsibility and Responsiveness – Stakeholder Review of FE Governance Arrangements

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| <b>Audience</b>            | Further Education Institutions; Local Authorities; ColegauCymru; Governors Wales; Higher Education Funding Council for Wales; Higher Education Wales; National Union of Students (Wales); Unions; Professional Associations; Welsh Local Government Association.  |
| <b>Overview</b>            | This document sets out the findings that have been identified in a review that has been undertaken into the governance of further education institutions in Wales. The contents identifies principles underpinning good practice, identifies and analyses the problems facing governance in FE and proposes a way forward with recommendations. |
| <b>Action required</b>     | None – for information.   |
| <b>Further information</b> | Further information about this document can be obtained from:<br>Jane Ellis<br>Department for Children, Education, Lifelong Learning and Skills<br>Welsh Assembly Government<br>Ffynnon Las<br>The Orchards<br>Ilex Close<br>Llanishen<br>Cardiff<br>CF14 5DZ<br>Tel: 029 2092 6078<br>e-mail: FEGovernanceReview@wales.gsi.gov.uk              |
| <b>Additional copies</b>   | This document can also be accessed from the Welsh Assembly Government website at: <a href="http://www.wales.gov.uk/educationandskills">www.wales.gov.uk/educationandskills</a>  |
| <b>Related documents</b>   | <i>One Wales</i><br><i>Promise and Performance</i><br><i>Skills That Work for Wales Strategy</i><br><i>Transforming Education and Training Provision in Wales</i><br><i>Quality and Effectiveness Framework for post-16 learning in Wales</i>   |

# Responsibility and Responsiveness

## Stakeholder Review of the Governance Arrangements for Further Education Institutions in Wales

March 2010

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# **Responsibility and Responsiveness**

## **Stakeholder Review of the Governance Arrangements for Further Education Institutions in Wales**

### **Purpose of Paper**

- 1. This paper sets out the findings that have been identified in the stakeholder review that has been undertaken into the governance of further education (FE) in Wales. The contents and initial recommendations are based on ideas, emerging concepts and proposals discussed during meetings of the FE Governance Review Group and its sub groups as well as research and evaluation of current issues.**
- 2. The paper identifies the key interlinked principles underpinning good governance in further education; identifies and analyses the problems and issues; and proposes ways forward with recommendations.**
- 3. The organisations covered in the review include the 19 further education colleges in Wales. Four organisations are designated under the Further and Higher Education Act 1992:- St David's Catholic College; Coleg Harlech/WEA (North); the Workers' Education Association (South Wales) and the Young Men's Christian Association Community College. These have different governance arrangements from those of FE colleges. Many of the references in this review are for further education corporations, and while certain recommendations will become mandatory for FE corporations, the tenets underpinning best practice will apply equally to all institutions.**

## Background

4. In April 2009 the then Deputy Minister for Skills, John Griffiths, announced the Welsh Assembly Government's (the Assembly Government's) intention to carry out a review of the governance arrangement of FEIs as part of our general determination to transform the landscape of post-16 education in Wales in both FEIs and schools.

5. Context information in relation to the Review into FE governance arrangements from *One Wales* and the Webb Report is included at **Appendix 1**.

6. To take forward the review, a Task and Finish Review Group (the Review Group) was established to advise on options for reform. Its overall purpose was to provide the Deputy Minister with a set of practical options for improving existing governance arrangements. Membership of the Review Group and its Terms of Reference is attached at **Appendix 2**.

## Challenges Facing Governance in FE

7. Research has highlighted the obstacles, difficulties and barriers limiting effectiveness in the public sector<sup>1</sup>. The Further Education Review Group and the Accountability and Effectiveness Sub Group considered this research and agreed that these difficulties also applied to current governance in FE. In summary the difficulties were:-

- the need for clearer and better defined lines of accountability to central government so as to ensure that the institution is meeting national imperatives and responding to need;
- the increased need for, and emphasis on, network and multi agency working which stretch and weaken capacity to scrutinise strategic direction and executive decision making;
- the need to ensure responsiveness to meet the needs of an increasing and wider range of learners and service users such as staff, businesses and community groups;
- the need to renew and enhance mechanisms for supporting, improving and measuring governor effectiveness in the execution of their responsibilities; and
- the need for governors with relevant knowledge, experience and time to fulfil the responsibilities of governance in increasingly complex, service-user focused organizations.

8. The Webb Report<sup>2</sup> identified similar challenges including the need to ensure institutional governor accountability for the effective delivery of network operations and the need for governors to be fully engaged in the evaluation of responsiveness to learner and employer need.

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<sup>1</sup> Rubber Stamped?- Steele J and Parston G-OPM (2003).

<sup>2</sup> Promise and Performance- Webb, Drury and Griffiths Welsh Assembly Government, (2007).

9. Additional concerns raised by the Group or identified in submitted evidence included:

- lack of clarity on the role of part time staff in staff governor elections;
- NUS concerns over student elections;
- the need to ensure support for full engagement for staff and students in governing body decision making processes;
- 35% of colleges (sample of 20) not publishing an annual report; and
- 75% of colleges (sample of 20) no longer hold public meetings.

10. FEIs are integral to the delivery of key components of the Assembly Government's post-16 education and training policies. Effective institutional governance is central to the effective delivery of these policies and critical in ultimately providing the method of accountability to the taxpayer and government:

*'The public (tax payers and service users) have a right to expect that commissioners and service providers using public money are governed well and to see evidence of accountability and public engagement<sup>3</sup>.'*

11. To accomplish this there need to be clear and effective lines of accountability from the college principal and executive team to the governors and from the governors to central government.

### **Principles of good governance**

12. The need for clarity of direction, the codification of existing systems, rules and procedures and recommendations for further improvement, has been accepted by the Review Group and key stakeholders.

13. It is proposed that the following principles provide the underpinning criteria for delivering this:

- i. Accountability for the use of public funds.
- ii. Effective support for, and scrutiny of the institution's senior management.
- iii. Citizen centred responsiveness to students, stakeholders and Wales.

### **Accountability for the use of public funds**

14. The current requirements in respect of the governance and also the management of further education institutions (FEIs) are set out in sections 3(1) and 3 (2) of the Articles of Government of The Further Education Corporations (Replacement of Instrument and Articles of Government) (Wales) Order 2006. These are set out in **Appendix 3** and provide a clear distinction between governance and management, which has been noted during this review into governance. The

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<sup>3</sup> Going Forward with Good Governance-Office of Public Management (OPM) (2007).

Instrument and Articles also include specification on issues including board composition, terms of office, public accessibility, financial matters and audit arrangements. Section 3.1(b) of the Articles of Government states that it is the corporation which has a statutory responsibility for “*the effective and efficient use of resources, the solvency of the institution and the Corporation and for safeguarding their assets.*”

15. Also as deliverers of a public service, FEIs have a responsibility for maximising the public value of taxpayer money<sup>4</sup>. This involves thinking as a means of focusing public services on delivering ends that are endorsed and supported by service users and their communities. Public value theory highlights the importance of taking a more holistic view of the purposes of public services. This will have particular relevance to FEIs’ involvements in networks and their local communities.

16. In addition, the Assembly Government’s Education for Sustainable Development and Global Citizenship (ESDGC) Action Plan 2006, requires FEIs to inform the Assembly Government of steps taken, or to be taken, in support of this agenda. This includes details of their corporate and social responsibility, community involvement and any partnership arrangements that are in place.

17. A commitment to the delivery of relevant national objectives and government policy is also critical. To ensure this a governing body has accountability to government for:

- the probity of the institution - particularly financial management;
- maximising the effectiveness of taxpayer money; and
- monitoring delivery by the institution of national objectives and policies.

18. Methods of accountability have to be rigorous, transparent and proactive. To be effective they have to be based on proactive engagement by government with the institution rather than reactive 'post hoc' monitoring which too often only brings intervention when systems fail. Direct engagement or intervention, when required, should be timely enough to be effective in preventing major problems and resolving issues early. This includes the Assembly Government providing appropriate direction and guidance, supported by effective monitoring procedures.

### **Effective governance of the institution and scrutiny of the senior management**

19. The Articles of Government state under 3(i)a that governors are responsible for the determination of the educational character and mission of the institution and for oversight of its activities, whereas the principal is responsible for the organisation, direction and management of the institution and leadership of the staff.

20. However, the demands on governors are now far more complex. FEIs have to provide an increasingly wide range of services to an increasingly diverse set of learners. FEIs deliver a range of services including Higher Education,

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<sup>4</sup> Public Value and Leadership, Explaining the Implications (Centre for Excellence in Leadership) (2007).

vocational/work based learning, A Levels and community provision as well as business support and knowledge transfer. Increasingly, as emphasised in the Webb Report, FEIs are also expected to work in an environment of collaboration, partnership and planning with a range of other providers and organisations, including other FEIs, schools, higher education institutions, third sector organisations and businesses.

21. The Independent Commission on Good Governance in Public Services summarised these challenges:

*'The governors of our public service organisations face a difficult task. ... They have to bring about positive outcomes for the people who use the services, as well as providing good value for the taxpayers who fund these services. They have to balance the public interest with their accountability to government and an increasingly complex regulatory environment, and motivate front-line staff by making sure that good executive leadership is in place<sup>5</sup>.'*

22. In this complex environment, it is important that boards of governors of FEIs are able to carry out their duty by working within systems and processes that facilitate constructive scrutiny of senior management and support opportunity for shaping and testing the strategic direction of the institution. This in turn demands a management culture of transparency and openness which promotes:

- questioning and robust evaluation by the governors of senior management;
- direct, regular and formal opportunities for dialogue with staff, learners and external stakeholders such as community groups and businesses; and
- a governing body committee structure which systematises scrutiny of key financial, quality and strategic performance indicators – such as evaluation of business plans and outcomes against national policy.

23. It is equally critical that governors have the relevant competencies, experience and knowledge to operate effectively within this role. This demands governors who:

- thoroughly understand how the mission and business objectives of the institution deliver national strategies and public value; and
- can differentiate between governance and management.

24. Although the composition of the governing body is intended to ensure that the views of a wide range of interests are available to the governing body, it is important to note that no governor may be bound by mandates given to him/her by others. The Guide for Governors states *'Each governor must take a view on each matter coming before him/her on the merits of the issue in hand'* and this extends to not just the formal meetings but also working parties and committees looking at particular issues on behalf of the governing body.

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<sup>5</sup> The Good Governance Standard for Public Services-OPM, Rowntree Trust, CIPFA (2004).



## Citizen Centred Responsiveness to Students, Stakeholders and Wales

25. This principle should shape and define much of the work of the institution. It is this principle that is at the heart of the Assembly Government's Citizen Centred Governance Principles (**Appendix 4**) and central to the attainment of One Wales objectives. Delivering it requires compliance with the following:

- a balance of stakeholder interests on the governing body<sup>6</sup>.
- adequate and democratic opportunities for full and part time staff and students.
- representation on the governing body and relevant governance working groups and committees.
- proactive and systematic methods of engaging with and responding to learners, staff, clients and stakeholders.
- transparency in proceedings including publication of all relevant documentation such as minutes, accounts and business plans.

## FE Governance - applying the principles

### Accountability for use of public funds

26. FEIs are directly funded by the Assembly Government. The Assembly Government ensures that financial resources provided to FEIs are utilised effectively through a number of mechanisms including the following:

- Attaching annual terms and conditions to the funding it provides, the Assembly Government has power to require FEIs to respond to its policies.
- FEIs must develop and submit institutional planning documents to the Assembly Government.
- The *Financial memorandum between the Welsh Assembly Government, further education institutions and higher education institutions providing further education*.
- The *Financial Health Monitoring Procedures*.
- The *Further Education Audit Code of Practice*.
- The Assembly Government's Provider, Audit and Governance Section (PAGS) reviews FEIs to provide DCELLS' Additional Accounting Officer with assurance on the adequacy of the overall framework of governance, risk management and control at each institution. PAGS have undertaken reviews of FEIs since 1993, based on a range of detailed work on governance and other areas at each FEI. A fuller list of regulations is set out at **Appendix 5**.

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<sup>6</sup> As defined by the Further And Higher Education Act 1992 s18 and 19 and The Further Education Corporations (Replacement of Instruments and Articles of Government) Order 2006.

27. To provide assurance on the quality of leadership and management and the quality of learning, FEIs are subject to the Assembly's Quality and Effectiveness Framework, and Estyn's Common Inspection Framework. The overall quality is good in FE – 98% of grades awarded for Key Questions 1 - 7 in the inspection cycle 2004/2010 were satisfactory or above. But, where standards are unsatisfactory DCELLS implements an accelerated action plan process where the FEI has to complete an action plan and submit it to DCELLS for approval three months after the inspection. Institutions with unsatisfactory standards or leadership and management are subject to reinspection by Estyn.

28. In terms of intervention, the Assembly Government has significant statutory powers if FEIs are being mismanaged. The Welsh Ministers' statutory powers of intervention are as follows. Article 2 of the Articles of Government of each further education corporation states that the institution shall be conducted in accordance with the Education Acts and any regulations, orders or directions made by the Welsh Ministers. Section 57 of the Further and Higher Education Act 92 (FHEA) gives the Welsh Ministers power to give such directions as they think expedient as to the exercise by a governing body of their powers and performance of their duties, if certain conditions are satisfied. The conditions are set out at section 57(2). Directions may include (a) a direction requiring a governing body to make collaboration arrangements within the meaning of section 166 Education and Inspections Act 2006; and (b) such directions as are necessary to secure that procedures applicable to the consideration of the case for dismissal of a member of staff are given effect to in relation to that member of staff.

29. Section 22 of the Further Education and Training Act 2007 (FETA 2007) inserts a new section 49A into FHEA imposing a duty on governing bodies of institutions in Wales to have regard to guidance given by the Welsh Ministers about consultation with students, people likely to become students or with employers in connection with the taking of decisions affecting them. Section 22 has not yet been commenced.

30. However, despite the powers and mechanisms described above there is still a need to ensure that scrutiny and intervention by government is proactive, allows for early identification of problems and early government engagement. Integral to this, is the need for clarity of understanding in how the powers, systems and mechanisms interlink and operate.

### **Recommendations related to accountability for the use of public funds**

31. It is recommended that:

- i. Welsh Assembly Government/ColegauCymru update the Guide for Governors to reflect changes in primary and secondary legislation since 2000 for holding institutions to account and include recognised examples of good practice.

- ii. Welsh Assembly Government to establish a system of review which evaluates:
  - the level of scrutiny of senior management carried out by governing bodies;
  - the compliance of the institution's strategy and business plan against national policies; and
  - the level of engagement for staff, learners, stakeholders and citizens.
- iii. As in the case of higher education, there needs to be a regular meeting between a representative sample of Chairs of Governors and the Minister for Children, Education and Lifelong Learning. It is recommended that this takes place twice a year.
- iv. Welsh Assembly Government to commence section 22 of FETA 2007 amending FHEA to require consultation by governing bodies of FEIs.
- v. Welsh Assembly Government to review its FE planning processes and issue an annual remit letter to the governing bodies of FEIs and schools with sixth forms with a clear policy steer on the key strategies and priorities they need to deliver.

### **Effective governance of the institution and scrutiny of senior management**

32. FEIs in Wales are large concerns responding to a wide range of clients, offering a broad educational portfolio and requiring considerable sophistication in financial management. The primary issue to be addressed within the principle of effective governance is the need for:

- all institutions to have systems of governance that enable independent and rigorous scrutiny of the senior management of the institution;
- the active promotion by senior management of healthy and open scrutiny by governors; and
- ensuring boards of governors have the relevant competencies, knowledge and understanding to carry out a complex function demanding understanding of financial data, quality systems, national policies and priorities for FE.

### **Recommendations related to effective governance of the institution and scrutiny of senior management**

33. It is recommended that:

- i. Senior management encourage and promote a healthy culture of governor evaluation of senior management and ensure that processes and governing body sub committees are set up to enable governors to carry out their functions effectively and professionally.

- ii. All governing bodies should have a quality committee focusing on the quality of provision delivered by the FEIs, including approving the self-assessment report to the Assembly Government.
- iii. Senior management should ensure that the timescales for the submission of papers which are set out in their Standing Orders are complied with, to enable governors to consistently make their decisions on the basis of timely complete and understandable information.
- iv. Terms of office for governors should not exceed four years, and reappointment for third or more terms should be the exception rather than the rule<sup>7</sup> and be subject to evidence by the Search Committee.
- v. Welsh Assembly Government to update the Governor Training Materials in partnership with ColegauCymru to support effective governor scrutiny, the recruitment, training and assessment of governors; and to provide guidance on best practice in carrying out governor skills audits.
- vi. Welsh Assembly Government to update Clerks' Training Materials to support the role of the clerk in ensuring good governance in FEIs.

### **Systems of network governance**

34. The principle of effective governance also has to tackle the question of governance within networks. As highlighted in the Webb Report, developed in Skills that Work for Wales<sup>8</sup> and detailed in the Transformation Policy<sup>9</sup>, greater partnership working, greater network delivery and greater integration between learning providers is necessary if the current and future aspirations of learners are to be met. Appropriate forms of governance can either help or hinder this objective. The Webb Report pointed out that if network delivery and collaboration were really to be achieved, governance models needed to change so as to encompass both responsibility for institutional performance and accountability for network delivery:

*'Our goal is to move from good and excellent institutions to good and excellent networks, it is necessary to shift governance and leadership to the same paradigms<sup>10</sup>.'*

35. However, there was an opinion within the Review Group that in certain respects progress on networks was still developing and there was a need to await further developments in terms of the outcomes of the Transformation Policy and guidance surrounding it. Nevertheless there was agreement that some guidelines for governance within networks had to be promulgated.

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<sup>7</sup> Nolan Committee's *Second Report on Standards in Public Life*, October 1996

<sup>8</sup> Skills That Work For Wales A Skills and Employment Strategy and Action Plan Welsh Assembly Government (2008)

<sup>9</sup> Transforming Education and Training Provision in Wales Welsh Assembly Government (2208)

<sup>10</sup> Promise and Performance- Webb, Drury and Griffiths Welsh Assembly Government, (2007)

## **Recommendations related to systems of network governance**

36. It is recommended that:

- i. By January 2011 the Welsh Assembly Government produces guidelines on governance in network arrangements, building on good practice identified through the Transformation agenda, to enable governing bodies to work collaboratively in networks and partnerships.
- ii. A member of the local school community or the 14 -19 learning network (whichever is the most appropriate) to become a member of the governing body, through utilising the existing categories set out in the Instrument of Government 2006 (Wales), or an appropriate sub-committee.
- iii. Governing bodies to build on existing relationships with Higher Education Institutions (HEIs) by seeking a senior member of their local HEI to sit on the governing body, or an appropriate sub-committee.

## **Citizen centred responsiveness to students, stakeholders and Wales**

37. A good governing body reflects the community it serves. To do this governing bodies need diversity, bringing together a wide range of people with different personalities, backgrounds, lifestyles, skills and experience. Meeting this principle should be a key activity for FEIs. The primary issues to be addressed within this principle are the need for:

- FEIs to proactively communicate with and encourage the engagement of local business, the local community and citizen interests in the work and activities of the college;
- the voice and representation of staff and learners, full and part-time, to be engaged in governing body activities; and
- ensuring that the 'learner voice' is heard and listened to in the operation and monitoring of quality frameworks and ensuring that learners are not just represented at governing body level, but fully supported in articulating their views.

38. In addition, FEIs in Wales need to take responsibility for meeting the needs of learners in terms of the Welsh language. Specifically, the implementation of the Assembly Government's Welsh Medium Education Strategy (Strategaeth Addysg Cyfrwng Cymraeg) published in Spring 2010.

## **Recommendations related to citizen centred responsiveness to students, stakeholders and Wales**

39. It is recommended that:

- i. each governing body produces an annual report identifying how it meets the needs of the communities it serves and how it meets Assembly Government targets and initiatives;

- ii. Governing body documents eg governing body minutes and annual reports are published and are made available on FEI websites.
- iii. FEIs to develop a specific section for governing bodies on their websites. As a minimum this should identify governors, their specialism, number of meetings and other FEI functions attended.

## **Learner engagement**

40. FEIs should take a proactive role in promoting, supporting and sustaining learner involvement in governance processes - including participation on the governing body. Integral to this is the need for an effective association representing students at the institution which can play its part in promoting learner engagement and has the relevant competence to engage proactively in governance of the institution or school/college partnership.

41. It is recommended that:

- i. Governors engage with students in accordance with the principles set out in DCELLS' Learner Involvement Strategy guidance, published in March 2010.
- ii. FEIs provide the relevant support measures to promote a sustainable and effective association representing all students at the institution: full time, part time, campus, work and community based.
- iii. ColegauCymru to work with the National Union of Students in Wales and Estyn to develop and embed a national development programme for student members of governing bodies.
- iv. ColegauCymru to work with the National Union of Students in Wales and Estyn to develop and implement a methodology for evaluating institutional learner engagement in FEI governance.
- v. Assembly Government to ensure continuity with mechanisms for representation of learner voice in schools, through the provision of detailed guidance and resources to support institutions in developing their strategies for learner involvement.
- vi. FE governing bodies take a proactive role in promoting learner engagement by ensuring:
  - a minimum of two of elected student representatives are members on the governing body and appropriate sub committees.
  - at least one student governor is represented on the quality committee.
  - that governors formally consider and respond to feedback they receive from learners.
  - that mechanisms exist for continuity of student representation; and

- student governors (reflecting all sectors of the student population including part time and work based learners) are engaged in and able to comment on the annual strategic planning and self-assessment processes.

## **Staff Engagement**

42. The college staff represent the central resource in meeting learner need and delivering the objectives of the institution. The competencies, experience and knowledge provided by staff members on the governing body, is an essential part of the 'governor mix' and the strength of the governing body will depend on the quality and variety of individual contributions made to its discussions by each governor. Staff membership on the governing body allows for high levels of staff engagement in, participation in and understanding of college governance and is a central principle underpinning effective college governance.

43. It is recommended that:

- i. Governors seek to promote the practice of good industrial relations and promote staff and learner wellbeing as a key part of promoting excellence.
- ii. ColegauCymru to develop appropriate guidance for colleges on the role of the staff member of a college governing body and appropriate sub-committees. The guidance is to be developed in liaison with appropriate Trade Unions.
- iii. Governing bodies to have a minimum of two staff governors.
- iv. Governing bodies to ensure that the election of staff membership is carried out by a democratic process and fully represents both academic and administrative support staff.
- v. A staff governor training programme is developed by ColegauCymru in association with relevant FE unions, Estyn and the Assembly Government.

44. All of the recommendations arising from the review are set out at **Appendix 6**.

### Background and Context

#### One Wales

*One Wales*, the agreement between the Labour and Plaid Cymru groups in the National Assembly for Wales published in June 2007, states that “*We will make full use of the Webb report into further education in Wales to develop a system that is responsive to the needs of local communities, employers and the local and regional economy. A partnership approach will continue to provide the bedrock of our approach in this area.*”

The agreement also states “*All educational institutions will be strongly encouraged to work together to make the most of their resources and provide the widest possible range of opportunities.*”

#### Promise and Performance

In 2006/07 Sir Adrian Webb was commissioned to undertake an independent review of the further education sector in Wales, its mission and purpose. The resulting report, *Promise and Performance*, was published in December 2007; it made a number of recommendations on a wide range of areas including governance.

These included recommendations in respect of membership, communication with stakeholders and self assessment. The report emphasised the importance of networks and that college governance needs to be accountable for the performance of the institutions and its contribution to networks. Webb recognised the good practice that exists in some FEIs in ensuring governors play an important evaluative part in quality assessment and performance processes, but stressed that this needed to be adopted more generally.



### **Task and Finish Review Group: Membership and Terms of Reference**

**Chair:** John Griffiths, Deputy Minister for Skills<sup>11</sup>

#### **Membership**

1. John Graystone, Colegau Cymru
2. David Jones, Colegau Cymru
3. Brian Robinson, Colegau Cymru
4. Derek Lloyd, Colegau Cymru
5. John Bellis, Colegau Cymru
6. Carole O'Toole, Colegau Cymru
7. Llew Williams, National Union of Students Wales (NUS)
8. Margaret Phelan, University College Union (UCU)
9. David Evans, National Union of Teachers (NUT)
10. Philip Dixon, Association of Teachers and Lecturers (ATL)
11. Ray Wells, Governors Wales
12. Rex Philips, National Association of Schoolmasters and Union of Women Teachers (NASUWT)
13. Julie Lydon, Higher Education Wales (HEW)
14. Elaine Edwards, Undeb Cenedlaethol Athrawon Cymru (UCAC)
15. Frank Ciccotti, National Association of Head Teachers (NAHT)
16. Eddie Gabrielsen, UNISON
17. Rudi Plaut, Confederation of British Industry (CBI)
18. Chris Llewelyn, Welsh Local Government Association (WLGA)
19. Gareth Jones, Association of School and College Leaders (ASCL)
20. Brian Thornton, Association of College Management (ACM)

#### **Observer**

1. Gail Edwards, National Union of Students Wales (NUS)

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<sup>11</sup> The Minister for Children, Education and Lifelong Learning chaired the last meeting of the group in February 2010, following appointment in December 2010.

## **Summary of Terms of Reference**

### **Context**

The Review Group will identify how arrangements to promote greater joint working, collaboration and integration between schools and further education institutions (FEIs) can be developed by evaluating and suggesting change to existing governance arrangements.

The Review Group will:

- consider and evaluate fitness for purpose of existing governance arrangements against the need to create a truly collaborative joined up system of working between FEIs and sixth forms in the delivery of 16-19 education and training;
- identify how governance arrangements for joint working can be further developed to ensure systemic collaboration, co-operation and integration between schools, colleges and local authorities;
- identify current arrangements for securing democratic accountability in the governance of FEIs and, if relevant, provide recommendations for improvement; and
- evaluate the effectiveness of current governance arrangements for facilitating collaboration, partnership and integrated provision between further and higher education institutions and, if relevant, provide recommendations for improvement.

### **Remit**

The Review Group will identify in detail how existing governance arrangements for joint working can be improved upon and propose recommendations in a Report submitted to the Deputy Minister for Skills by Autumn 2009. In the process of carrying out this remit the group will:

- consider existing governance arrangements and evaluate their fitness for purpose against the need to systemically improve joint working between FEIs and sixth forms;
- consider a range of different models for future FE and sixth form governance;
- evaluate existing governance arrangements between FEIs and HEIs for providing higher education provision and consider opportunities for improvement;
- consider the options for change enabled by current legislation and possible need for new legislation; and
- provide the Minister with a set of practical options for improving existing governance arrangements.

## **Evidence, Reporting and Support**

The Review Group will seek input from both the Children Education Lifelong Learning and Skills Ministerial Advisory Group and the Wales Employment and Skills Board at appropriate stages in its review, and will seek comments on draft reports from both groups. The business of the Review Group will be set up where possible to work around members' other commitments.

## **Membership**

The Group will be chaired by the Deputy Minister for Skills, who will appoint members drawn from nominations with the appropriate expertise and experience sought from:

- Relevant school, FE and local authority trades unions.
- Learners including the NUS.
- ColegauCymru.
- College principals.
- Current FE and school governing bodies.
- Appropriate employer interests.
- Higher education.
- The Welsh Local Government Association.

The secretariat for the Group will be provided by officials from DCELLS. Funding is available to commission independent research should that be required.

### **Responsibilities of Corporation and Principal (Extracts from The Further Education Corporations) (Replacement of Instrument and Articles of Government) (Wales) Order 2006.**

1. The Corporation is to be responsible for:
  - a. the determination of the educational character and mission of the institution and for oversight of its activities.
  - b. the effective and efficient use of resources, the solvency of the institution and the Corporation and for safeguarding their assets.
  - c. approving annual estimates of income and expenditure.
  - d. the appointment, grading, appraisal, suspension and determination of the pay and conditions of service of the holders of senior posts and the Clerk (including where the Clerk is, or is to be appointed as, a member of staff, his or her appointment, grading, suspension and determination of his or her pay in his or her capacity as a member of staff).
  - e. the dismissal of the holders of senior posts and the Clerk (including where the Clerk is, or is to be appointed as, a member of staff, his or her Dismissal in his or her capacity as a member of staff).
  - f. setting a framework for the pay and conditions of service of all other staff;
  - g. if there is to be no Academic Board, ensuring that arrangements are in place for advising the Principal on the standards, planning, co-ordination, development and oversight of the academic work of the institution, including arrangements for the admission, assessment and examination of students and the procedures for the expulsion of students for academic reasons.

Subject to the responsibilities of the Corporation, the Principal is to be the Chief Executive of the institution, and responsible for:

- h. making proposals to the Corporation about the educational character and mission of the institution, and for implementing the decisions of the Corporation.
- i. the organisation, direction and management of the institution and leadership of the staff.
- j. the appointment, assignment, grading, appraisal, suspension, and determination, within the framework set by the Corporation, of the pay and conditions of service, of staff other than the holders of senior posts or the Clerk.
- k. the dismissal of staff other than the holders of senior posts or the Clerk.
- l. the determination, after consultation with the Academic Board (if any), or if there is to be no Academic Board, after consultation with the Corporation,

of the institution's academic activities, and the determination of its other activities.

- m. preparing annual estimates of income and expenditure, for consideration and approval by the Corporation, and the management of budget and resources, within the estimates approved by the Corporation.
- n. maintaining student discipline and, within the rules and procedures provided for within these Articles, suspending or expelling students on disciplinary grounds and implementing decisions to expel students for academic reasons.

### Citizen-Centred Governance Principles

- **Putting the citizen first**  
Putting the citizen at the heart of everything and focussing on their needs and experiences; making the organisation's purpose the delivery of a high quality service.
- **Knowing who does what and why**  
Making sure that everyone involved in the delivery chain understands each others' roles and responsibilities and how together they can deliver the best possible outcomes.
- **Engaging with others**  
Working in constructive partnerships to deliver the best outcome for the citizen.
- **Living Public Service Values**  
Being a value-driven organisation, rooted in Nolan principles and high standards of public life and behaviour, including openness, customer service standards, diversity and engaged leadership.
- **Fostering Innovative Delivery**  
Being creative and innovative in the delivery of public services – working from evidence, and taking managed risks to achieve better outcomes.
- **Being a Learning Organisation**  
Always learning and always improving service delivery.
- **Achieving Value for Money**  
Looking after taxpayers' resources properly, and using them carefully to delivery high quality, efficient services.

### Regulations and Control Mechanisms

#### Functions relating to Governance:

- Further and Higher Education Act 1992.
- Various Assembly Measures (e.g. section 116K Education Act 2002 to be inserted by section 14 of the Learning and Skills (Wales) Measure 2009) confer functions on the WAG.
- Instrument and Articles of Government (new version came into effect on 6 April 2006) which contain in particular:
- Power for the Assembly Government to appoint up to two governors.
- Final approval of the Assembly Government to the appointment of the clerk after recommendation from the governing body.
- Financial Memorandum (issued by Assembly Government 1 Jan 2007).
- Financial Health Monitoring Procedures (issued by Assembly Government 1 Jan 2007).
- Accounts Direction 2008/09 (issued by Assembly Government 20 July 2008).
- Further Education Audit Code of Practice (issued by Assembly Government September 2007).
- Collaborative Arrangements (Maintained Schools and Further Education Bodies) (Wales) Regulations 2008 – these regulations allow for the setting up of joint committees between school and college governing bodies.

## Control of Strategy and Funding:

- Conditions of Funding letter issued annually by Assembly Government which includes e.g. requirement to maintain pay parity with schoolteachers; funding can be clawed back if targets not met.
- Proposed Sector Priorities Fund that will ring-fence £40m of FE post-19 funding for specific vocational courses.
- Institutional strategic planning requirements.
- Quality and Effectiveness Framework.
- Estyn inspections.
- Various top sliced funds including Learners with Learning Difficulties and/or Disabilities (LLDD) Supplementary Funding; Financial Contingency Funds (FCF) – FEIs have to account for any funding allocated.
- Work-Based Learning contracts – this funding is allocated on the basis of a competitive bidding round and can be removed if the college does not meet its contractual obligations or meet certain quality thresholds.
- Pathways to Apprenticeships funding – again earmarked for specific activity.

Other funding initiatives such as ProAct and ReAct in which FEIs have to provide clearly defined services in return for specific funding.

Requirement that FEIs maintain pay parity with schoolteachers which is reinforced in conditions of funding letter.



Recommendations of the Stakeholder Review

| <b>Accountability for the use of public funds</b>                                |  |
|--|--|
| 1  | Welsh Assembly Government/ColegauCymru update the Guide for Governors to reflect changes in primary and secondary legislation since 2000 for holding institutions to account and include recognised examples of good practice.   |
| 2  | Welsh Assembly Government to establish a system of review which evaluates: <ul style="list-style-type: none"> <li>• the level of scrutiny of senior management carried out by governing bodies;</li> <li>• the compliance of the institution’s strategy and business plan against national policies; and</li> <li>• the level of engagement for staff, learners, stakeholders and citizens.</li> </ul> |
| 3  | As in the case of higher education, there needs to be a regular meeting between a representative sample of Chairs of Governors and the Minister for Children, Education and Lifelong Learning. It is recommended that this takes place twice a year.   |
| 4  | Welsh Assembly Government to commence section 22 of FETA 2007 amending FHEA to require consultation by governing bodies of FEIs.   |
| 5  | Welsh Assembly Government to review its FE planning processes and issue an annual remit letter to the governing bodies of FEIs and schools with sixth forms to produce a clear policy steer on the key strategies and priorities they need to deliver.   |
| <b>Effective governance of the institution and scrutiny of senior management</b> |  |
| 6  | Senior management in FEIs encourage and promote a healthy culture of governor evaluation of senior management and ensure that processes and governing body sub committees are set up to enable governors to carry out their functions effectively and professionally.  |
| 7  | All governing bodies should have a quality committee focusing on the quality of provision delivered by the FEIS, including approving the self-assessment report to the Assembly Government.  |
| 8  | Senior management in FEIs should ensure that the timescales for the submission of papers which are set out in their Standing Orders are complied with, to enable governors to consistently make their decisions on the basis of timely complete and understandable information.  |
| 9  | Terms of office for governors should not exceed four years, and reappointment for third or more terms should be the exception rather than the rule <sup>12</sup> and be subject to evidence by the Search Committee.   |

<sup>12</sup> Nolan Committee's *Second Report on Standards in Public Life*, October 1996.

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| 10  | Welsh Assembly Government to update the Governor Training Materials in partnership with ColegauCymru to support effective governor scrutiny, the recruitment, training and assessment of governors; and to provide guidance on best practice in carrying out governor skills audits. |
| 11  | Welsh Assembly Government to update Clerks' Training Materials to support the role of the clerk in ensuring good governance in FEIs.   |
| <b>Systems of network governance</b>                                      |  |
| 12  | By January 2011 the Welsh Assembly Government produces guidelines on best practice for governance in network arrangements, building on good practice identified through the Transformation agenda, to enable governing bodies to work collaboratively in networks and partnerships.  |
| 13  | A member of the local school community or the 14 -19 learning network (whichever is the most appropriate) to become a member of the governing body, through utilising the existing categories set out in the Instrument of Government 2006 (Wales), or an appropriate sub-committee. |
| 14  | Governing bodies to build on existing relationships with Higher Education Institutions (HEIs) by seeking a senior member of their local HEI to sit on the governing body, or an appropriate sub-committee.   |
| <b>Citizen centred responsiveness to students, stakeholders and Wales</b> |  |
| 15  | Each governing body produces an annual report identifying how it meets the needs of the communities it serves and how it meets Assembly Government targets and initiatives.  |
| 16  | Governing body documents eg governing body minutes and annual reports are published and are made available on FEI websites.  |
| 17  | FEIs to develop a specific section for governing bodies on their websites. As a minimum this should identify governors, their specialism, number of meetings and other FEI functions attended.   |
| <b>Learner Engagement</b>   |  |
| 18  | Governors engage with students in accordance with the principles set out in DCELLS' Learner Involvement Strategy guidance, which will be published in March 2010.  |
| 19  | FEIs provide the relevant support measures to promote a sustainable and effective association representing all students at the institution: full time, part time, campus, work and community based.  |
| 20  | ColegauCymru to work with the National Union of Students in Wales and Estyn to develop and embed a national development programme for student members of governing bodies.   |
| 21  | ColegauCymru to work with the National Union of Students in Wales and Estyn to develop and implement a methodology for evaluating institutional learner engagement in FEI governance.  |

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|-------------------------|--|
| 22                      | Assembly Government to ensure continuity with mechanisms for representation of learner voice in schools, through the provision of detailed guidance and resources to support institutions in developing their strategies for learner involvement.  |
| 23                      | FE governing bodies take a proactive role in promoting learner engagement by ensuring: <ul style="list-style-type: none"> <li>• a minimum of two of elected student representatives are members on the governing body and appropriate sub committees;</li> <li>• at least one student governor is represented on the quality committee;</li> <li>• that governors formally consider and respond to feedback they receive from learners;</li> <li>• that mechanisms exist for continuity of student representation; and</li> <li>• student governors (reflecting all sectors of the student population including part time and work based learners) are engaged in and able to comment on the annual strategic planning and self-assessment processes.</li> </ul> |
| <b>Staff Engagement</b> |  |
| 24                      | Governors seek to promote the practice of good industrial relations and promote staff and learner wellbeing as a key part of promoting excellence.   |
| 25                      | ColegauCymru to develop appropriate guidance for colleges on the role of the staff member of a college governing body and appropriate sub-committees. The guidance is to be developed in liaison with appropriate Trade Unions.  |
| 26                      | Governing bodies to have a minimum of two staff governors.   |
| 27                      | Governing bodies to ensure that the election of staff membership is carried out by a democratic process and fully represents both academic and administrative support staff.   |
| 28                      | A staff governor training programme is developed by ColegauCymru in association with relevant FE unions, Estyn and the Assembly Government.  |