

Review of Governance and Strategic Leadership

The AoC Governors Council have invited feedback on three key recommendations of Allan Schofield's report. Plumpton College has contributed fully at all stages of the report and we are pleased to have a further opportunity to comment on the issues highlighted by the Governors Council.

Code of Governance for FE Colleges

We strongly support the proposals that the statutory Instrument and Articles should be drastically shortened, with much of the material either dropped as trivial or included in a Code of Practice with which Corporations should either comply or explain their non-compliance in their annual report. We have sent Julian Gravatt a detailed note of the line by line changes to the I&A we would like to see.

We believe that the Code of Governance should also replace many of the mandatory features of the LSC's Audit Code of Practice, including for example the prohibition on any Governor sitting on both the Audit Committee and the Finance Committee. (We agree that in many cases it is inappropriate for the Chair of either Committee to sit on the other, but that should not extend to other Governors: it improves coordination to have some common membership, and it also makes best use of often scarce finance expertise.) There are also aspects of the Financial Memorandum which we would like to see instead dealt with in a Governance Code, e.g. the relationship between the Corporation and the Principal (we have argued widely that it no longer makes sense to designate the Principal an "Accounting Officer" given the primary role now given to the Corporation for all aspects of financial and corporate accountability. With the removal of grant-in-aid as a funding mechanism under the Machinery of Government changes, and with the local authority inserted in the financial chain between the YPLA and the College, we can see no basis at all for retaining a pretence that a Principal is an Accounting Officer, ultimately answerable – like the YPLA but not like the local authority - to the PAC.)

We agree with the Report that the FRC Combined Code and the University Governance Code are good starting points for an FE Governance Code. Basing the FE Code on an existing model like the Combined Code has the advantage that potential business governors will be readily familiar with the obligations it imposes on Boards; at present the morass of statutory and regulatory requirements is difficult for many business governors to understand. Harmonising the detail of an FE Code with that of the University Code would also help to align the Governance practice of the two sectors – a major benefit to those institutions like Plumpton which are engaged in both or have close partnerships with an institution in the other sector.

We share the Governors Council's view of the benefits that such a Code of Practice would bring, and we would like to see early movement. It seems to us that the AoC is well-placed to lead the process of drafting, or at least to offer a forum in which the drafting takes place.

There are three further important points to make. First it is essential that the regulatory provisions which the Code will in future cover are actually withdrawn. The regulatory landscape over the last ten years, as Foster noted, is littered with provisions which have been largely replaced but never withdrawn. Secondly, there needs to be machinery for reviewing the practical working of the Code and for updating it in response to weaknesses or developments in best corporate governance practice elsewhere: again we see a leading role for AoC. Thirdly the Code needs to sit easily with the much more numerous and more informal good

practice notes on particular aspects of governance that we envisage will emerge from peer review processes.

The Machinery of Government Changes

We understand the concerns highlighted by the Schofield report, but as a land-based college serving many local authorities, and with a diverse 14-19/HE/19+ business we have not faced any serious pressures from any one authority to erode the Corporation's autonomy or intrude on our governance arrangements.

What we observe, however, is the point picked up at para 7.39 of the Schofield Report, namely the generally poor quality of the local mechanisms by which local stakeholders can hold a Corporation to account for its performance in meeting local needs. Alongside this, we suspect, is a general failure of Governors to consult external stakeholders as widely as perhaps they should on their regular review of the College's Mission.

Governors have tried to address this over the last three or four years at Plumpton by producing a much fuller and franker Annual Report. We use these reports as a basis for accountability towards our stakeholders for our past performance and for dialogue with them about our future aspirations and what we want from them if we are to succeed. To be honest, we have not yet achieved the richness of dialogue with local authorities that we hoped for – the lateness in settling the nuts and bolts of the new machinery has been a big distraction for both sides – but we continue to push for engagement with them at governor level.

At the same time we have a long-term strategy for managing the College's reputation and for proactively developing strong and open relationships with all our stakeholders, along the lines of para 4.62 of the Schofield Report. We agree with Allan that overseeing this should be an important part of a Corporation's function.

Public Benefit and Corporate Social Responsibility Strategies

We note the Charity Commission's requirement for the demonstration of public benefit. However we have reservations about meeting this requirement as a standalone strategy. The real need, in our view, is to integrate the Charity Commission's regulatory requirements in respect of public benefit with those of the LSC and its successor bodies in respect of wider aspects of college performance, e.g. by including public benefit in the model Casterbridge account directives. We should not be encouraged to offer fragmented responses to fragmented regulation.

We are also cautious about rolling together "public benefit", which is a fairly technical term relating to our charitable purpose, i.e. education, with the much wider impacts implied by corporate social responsibility, which include the safety and environmental impacts of what we do and our social goals in respect of say equality and diversity.

We agree however that a Corporation should be held to account for all these aspects. Our own approach has been to cover all of them in our Strategic Plan and to set out in our Annual Report the long-term targets we have set and the progress we have made against them. That way we have found we are better able to explain the linkage between energy efficiency improvements and the availability of capital grant to achieve them, or the trade-offs between widening participation (public benefit), achievement rates (Ofsted), and the availability of Additional Learning Support (LSC).

Other Recommendations

On Governor remuneration, we hold no particularly strong views for or against. We agree with the recommendation that Colleges who need to remunerate in order to attract, retain or motivate Governors should have the freedom to do so. We believe it would help public confidence if, initially at least, the sum payable to any governor was capped at, say £10,000.

On length of Governorships, we take into account Nolan guidance on the desirability of generally limiting governorship to two terms, i.e. 8 years. We do have one or two governors who have served for longer than this. Their terms are limited to 2 years, and the Search Committee expects strong positive justification for overriding the Nolan guidance. We are comfortable with the recommendation that a limit of 8 years should be set in the Code of Governance on a comply or explain basis, preferably couched in the same terms as the equivalent guidance in the Combined Code.

Recommendations 6 and 8 propose a role description for the Corporation chair and the clerk respectively. We have recently put both in place. We believe the roles are likely to vary as between large and small colleges, between different types of college, and between different governance models (e.g. Carver or traditional). Rather than spending a lot of time trying to agree a single model, as the recommendations propose, we would suggest a requirement in the FE Governance Code that each Corporation should define the two roles at its own college, including the time requirement, and that the AoC Governors Council pulls together a number of possible templates based on what Colleges have actually put in place.