# Board of Management
# Finance and General Purposes Committee

**Date: 17 May 2016**

**Time: 2pm**

**Room: 1074b**

## A G E N D A

| | | | Presented by |
|---|---|---|---|
| 1 | Welcome and Apologies for Absence | | JH |
| 2 | Declaration of Interest | | JH |
| 3 | Minute of Meeting of 1st March 2016 | (attached) | JH |
| 4 | Matters Arising | | |
| | 4.1 Sale of Catherinefield | (verbal) | HP |
| 5 | Transition to FRS102 | | Grant Thornton |
| 6 | Capital Grants and Transition to FRS102 | (report attached) | KH |
| 7 | Scottish Funding Council Financial Memorandum – Additional Requirements | (report attached) | JB |
| | 7a Scottish Funding Council Financial Memorandum | (report attached) | JB |
| | 7b Scottish Funding Council Guidance on seeking approval for severance schemes and settlement agreements | (report attached) | JB |
| 8 | Revised Operation of Severance Payments Policy | (report attached) | HP |
| 9 | Estates Update | (report attached) | HP |
| 10 | Pay Award Update | Verbal | HP |
| 11 | Draft 2016-17 budget | (report attached) | KH |
| 12 | Financial Update March 2016 | (report attached) | KH |
| 13 | Aged Debt Report | (report attached) | KH |
| 14 | Cash Flow Forecasts | (report attached) | KH |
| 15 | Any Other Business | | |
| 16 | Date and Time of Next Meeting - Tuesday 27 September 2016 at 2pm | | |

# Board of Management

**Minute of the Meeting of the Finance and General Purposes Committee of the Board of Management of Dumfries and Galloway College, held on Tuesday 01 March 2016 at 2.00 pm in Room 2009, Dumfries campus.**

| | | |
|---|---|---|
| **Present:** | John Henderson (Chair)<br>Kenny Henry | Ros Francis |
| **In attendance:** | Jannette Brown, Secretary to the Board and Vice Principal Corporate Services & Governance<br>Karen Hunter, Finance Manager<br>Helen Pedley, Director of Organisational Development | |
| **Minute Taker:** | Heather Tinning, Executive Team Assistant | |

## 1 Welcome and Apologies for Absence

The Chair welcomed members to the meeting, including Heather Tinning, Executive Team Assistant, to her first Finance and General Purposes Committee meeting as Minute Taker. Apologies for absence were intimated on behalf of Carol Turnbull and Karen McGahan.

The Secretary to the Board confirmed the meeting was quorate with enough members present to allow decisions to be made.

## 2 Declaration of Interest

Members agreed to declare any declarations of interest as appropriate throughout the meeting.

## 3 Minute of Previous Meeting

The Minute of the Finance and General Purposes Committee held on 08 December 2015 was approved.

## 4 Matters Arising

None.

## 5 Fire, Health and Safety Update

The Director of Organisational Development and Facilities spoke to the report which had been issued, summarising ongoing works over the last couple of months. The Director confirmed that the Health and Safety Officer was still absent from college and that a Consultant had been employed in his absence. Members noted the key themes from recent audits that had been completed in relation to a Fire Audit and a Health and Safety Audit. The Chair thanked the Director for a very full report.

The Chair asked the Director of Organisation Development and Facilities is there were plans in relation to the new build retention. She updated the committee on the state of the radiators and that the retention monies would be used to replace all radiators over the summer.

**5.1 Flooding Update**

The Director of Organisational Development and Facilities also provided an update on the recent flooding in the College, advising that the main areas affected were the service yard and level 00, caused by the unprecedented rainfall and water from the neighbouring fields. The College was closed for one day to all staff and students. Almost all courses in the Building and Engineering were postponed for one week allowing the cleanup crew unhindered access to the area. Members noted minimal disruption to the staff and students owing to the efficient services of the Zurich, college insurers, and the invaluable labour organised by the Loss Adjuster, which allowed works to be completed quicker than anticipated.

**6 Update of the Sale of Catherinefield**

The Director of Organisational Development and Facilities reported on recent discussions with the current tenant in the Catherinefield premises. The Director advised that it was the College's intention not to renew the lease and that the current tenant had been offered first refusal on the purchase of the premises. It is understood that at present the tenant is holding discussions with his bank regarding the purchase. Members noted that recent works had been completed by the College at Catherinefield, in terms of demolition of an outbuilding to create car parking spaces.

Although the Scottish Funding Council (SFC) previously permitted the sale of Catherinefield, the College has been advised because of reclassification the College should seek permission to sell the building.

**Action:** The Director of Organisational Development & Facilities to write to the SFC seeking permission to sell.

The Director of Organisational Development and Facilities left the meeting

**7 Financial Update (inc January Management Accounts)**

The Finance Manager spoke to the report which had been issued. She reminded members that the accounting period has reverted to a July year end. The Finance Manager reported on the budget changes, in particular the contingency set aside for any costs resulting from the flood damage.

Members noted that the Balance sheet was looking positive.

The Vice Principal Corporate Services and Governance reported that Andrew Ewart from Dumfries & Galloway Council will be giving a presentation on the Local Government Pension Scheme/FRS17 implications at the Board meeting on the 8th March. A paper had been sent to Board Members providing a background to the Presentation.

Members noted that the summary had been revised slightly, showing budget changes for the periods against approved budget and forecast for the year.

The Chair thanked the Finance Manager for a comprehensive report.

## 8 Aged Debt Report

The Finance Manager spoke to the report which had been issued. She reported that a substantial amount had been invoiced recently for Complete Training Solutions (CTS) courses, with only a few invoices remaining unpaid. In terms of decrease of student fees outstanding, Scottish Awards Agency for Scotland (SAAS) has now paid the tuition fees, thus making a slight change to the bad debt provision.

Members noted the report.

## 9 Cash Flow Forecasts

The Finance Manager spoke to the report which had been issued. Members noted the new layout of the Forecast, making for easier reading. The Manager reported on the large amount of money due this month from SAAS, amounting to over £1/2m. Following discussion on the amount of cash noted, the Vice Principal Corporate Services & Governance reported that the college must now follow Scottish Funding Council guidance on cash flow which is to keep as low as possible. The Finance Manager reported that the College will be required to move its banking services to the Royal Bank of Scotland in-line with Scottish Government Banking guidance. The College is awaiting a migration date.

Members noted the report.

## 10 Any other Business

No other business.

## 11 Date and Time of Next Meeting

The next meeting of the committee planned to take place on Tuesday 17th May 2016, at 2 pm.

# Dumfries and Galloway College

## Transition to FRS 102

# Contents

# 1. Introduction

## Purpose of this report

This report has been prepared for the benefit of discussion between Grant Thornton and Dumfries and Galloway College (the College). This report highlights the key issues for the College to consider when transitioning to FRS 102 and the revised Statement of Recommended Practice: Accounting for Higher and Further Education 2015 (the FRS 102 SORP).

The College commissioned this report as part of their planning processes in order to identify issues to focus the work for transition.

## Background

The Financial Reporting Council (FRC) published Financial Reporting Standard (FRS) 100 'Application of Financial Reporting Requirements' in November 2012. This outlines the standards which make up the financial reporting framework applicable on a mandatory basis from 1 January 2015.

Further Education establishments are required to apply FRS 102 which had been incorporated in to the revised FRS 102 SORP. The SORP does not deviate from FRS 102 but does provide interpretation in certain areas to aid implementation.

Further education institutions will be required to adopt the new financial reporting regime for accounting periods starting on or after 1 January 2015 with the comparative balance sheet and opening comparatives requiring restatement. For the College this will mean a 1 April 2014 transition date, a 31 July 2015 comparative balance sheet and the first FRS 102 compliant accounts being prepared for July 2016.

Institutions adopting FRS 102 should treat the transition as they would a significant project. There is no doubt that the transition will require time and adequate planning to ensure delivery is achieved.

## Scope of our work

The College requested that we perform work to provide a written report on FRS102 considerations ahead of the implementation of FRS 102 'The Financial Reporting Standard applicable in the UK and Republic of Ireland' and the associated FRS 102 SORP.

At this stage our work has focused on the accounting changes and their impact on the College. From our impact assessment we have outlined key actions we would expect to be undertaken and a timetable for consideration.

It should be noted that the report does not include any specific procedures in relation to the College or assess the readiness for the FRS 102 implementation.

The report contains our assessment of the FRS 102 transition process based on our previous experience of the conversion to IFRS in other public sector bodies. This does not constitute accounting advice and any decisions regarding applicable accounting practices are to be made by management.

# 2. Comparison of the Primary Statements under UK GAAP and the FRS 102 SORP

The objective of any financial statements and related reports is to provide information that gives a true and fair view of the financial performance and financial position of the organisation that is useful to a wide range of users. The key statements used to convey this information are the primary financial statements. In the move from UK GAAP to FRS 102 there are a number of changes required to the primary statements under the new FRS 102 SORP.

| UK GAAP SORP | FRS 102 SORP |
|---|---|
| **Income and Expenditure Account** | **Statement of Comprehensive Income**<br>The revised SORP mandates a single statement disclosing all items of income and expenditure recognised in the period, including items such as unrealised surplus on land and buildings which would previously have been in the *statement of total recognised gains and losses.* |
| **Statement of historical cost surpluses and deficits** | There is no longer a requirement for this statement and therefore no equivalent under FRS 102. |
| **Statement of total recognised gains and losses** | This is now incorporated into the Statement of Comprehensive Income |
| **Balance Sheet** | **Balance sheet**<br>The SORP adaptation of FRS 102 allows this statement to continue to be known as the balance sheet and there are no significant changes to the format of the statement or the required disclosures.<br>There is a requirement for FRS 102 to be applied retrospectively and therefore the College will need to restate their balance sheet at 31 March 2014 so that a FRS 102 transition balance sheet can be prepared as at 1 April 2014. |
| **Cash flow statement** | **Statement of Cash flows**<br>The previous SORP allowed cash flows to be split over up to 9 headings. FRS 102 restricts the headings over operating activities, investing activities and financing activities.<br>In line with the UK GAAP SORP either the direct or indirect method can be used when presenting the statement of cash flows and associated notes. |
| **Reserves note to the accounts** | **Statement of changes in reserves**<br>This has moved from being disclosed within notes to the accounts to a primary statement. This statement should reconcile the carrying amount of reserves at the beginning of a period to the amount at the end of the period.<br>Changes which should be expected within the statement include those arising from the College's surplus/ deficit on the Statement of Comprehensive Income, other comprehensive income, transfers between reserves and release of any capital funds for use in year. |

# 3. Key areas of Impact

| Major impact | Moderate impact | Minimal impact |
|---|---|---|

We set out below the key areas and issues we have identified as being relevant for the College. Our review has been informed by a review of the College's transactions and balances in 2014-15. This is not an exhaustive list of all the changes arising from FRS 102 and is instead our assessment of where there is likely to be an impact to the College. We have provided a high level consideration of potential timing of actions in the transition plan outlined on page 7.

We have outlined the potential impact on the financial statements and the level of resource we would expect to be involved in the action. We have also taken into consideration the impact of the reclassification of the College under the Office of National Statistics decision to move under the central government boundary.

| Area | Value in financial statements £'000 | Actions for consideration |
|---|---|---|
| **Revenue from Government Grants relating to Capital**<br>Under the UK GAAP SORP capital grants given to the College are permitted to be accounted for as a deferred reserve on the balance sheet within the reserves section.<br>The FRS 102 SORP allows a choice in accounting policy between the accruals model or the performance model. The chosen policy must be applied consistently to each class of grant.<br>• The accruals model is the same as the current accounting treatment. Whereby grants relating to assets are recognised in income on a systematic basis over the expected useful life of the asset.<br>• Under the performance model the grant is recognised as income when the performance-related conditions of the grant have ben met. Where a grant does not impose specific performance related conditions the income is recognised when grant proceeds are received or receivable. A grant with unfulfilled performance conditions is held as deferred income until conditions are met.<br>Where the accruals model is utilised the grant is no longer permitted to be held in the reserves section of the balance sheet. This must instead be accounted for as a creditor and within the net assets figure.<br>It is important to note that capital grants for land must be accounted for under the performance model, which will result in a release of on-balance sheet deferred capital grant balances to retained earnings as a transition adjustment.<br>In addition there are increased disclosure requirements around government grants to ensure clarity. | £26,727 | • Review grants attached to assets to determine whether they are government or non-government grants (non government grants are to be treated as a non-exchange transaction as outlined below).<br>• Review the impact of each policy on your government grant revenue streams and select the most appropriate policy.<br>• For those under the performance model identify any grants with performance conditions and assess when they were met.<br>• Calculate impact on balance sheet – opening position as at 1 April 2014 will be required.<br>• The movement of deferred grants from reserves to the creditors section of the balance sheet will significantly reduce the net assets position of the college. The impact on loan covenants should be assessed. |

# Key areas of Impact (continued)

| Area | Value in financial statements £'000 | Actions for consideration |
|---|---|---|
| **Non-exchange revenue transactions**<br>These are transactions where the College receives value but does not necessarily give equal value in exchange. Examples include donations and endowment income or non-government grants.<br>Where such transactions have performance related conditions attached, the performance model must be used to recognise revenue.<br>Endowments and donations are unlikely to have performance related conditions but may have restrictions. They will therefore be recognised on entitlement to the income with an appropriate restricted reserve established if appropriate. | £1,229 | • Review all non-government grants to identify performance conditions<br>• Review all endowments and donations and where there are restrictions ensure they are held in a restricted reserve. |
| **Leased assets**<br>Under FRS 102, there is no rebuttable presumption that where the present value of the minimum lease payment is 90% or more of the fair value of the asset, then the lease is a finance lease.<br>Classification of leases is based on the transfer of substantially all the risks and rewards of ownership and an assessment should be made against qualitative criteria.<br>Lease incentives are released over the lease term, as oppose to the period to the first market rent review.<br>There is also a new requirement to account for any embedded leases, which are those which may exist within a contract where the agreement transfers the right to use assets. | The amount paid in annual rental was £106<br>However, the value of the asset if on a finance lease is unknown. | • Obtain copies of leases from appropriate College departments.<br>• Review of all leases in existence at the transition date (1 April 2014) to determine the correct treatment<br>• Review of all contracts held by the College from the transition date to establish any embedded leases which are currently not recognised<br>• Calculate any delayed recognition of lease incentives for leases contracted after the transition date. |
| **Narrative Reporting**<br>The SORP has replaced the requirement to have an Operating and Financial Review with a requirement to have a Strategic Report in line with the requirements of the Companies Act 2006. The SORP outlines that disclosure of the following items is best practice for all institutions:<br>• Its objectives and strategy for achieving those objectives<br>• Its development and performance throughout the financial year<br>• Its future prospects<br>• A description of the principal risks and uncertainties being faced<br>• Its key performance indicators.<br>However, it should be noted that the FReM has also changed the reporting requirements in year to move away from the Companies Act 2006 and therefore this may take precedence over the requirements of the SORP. We would expect this to be outlined fully in the Scottish Funding Council Accounts Direction 2015-16. | n/a | • The College should begin gathering data for the increased disclosure requirements of the SORP. |

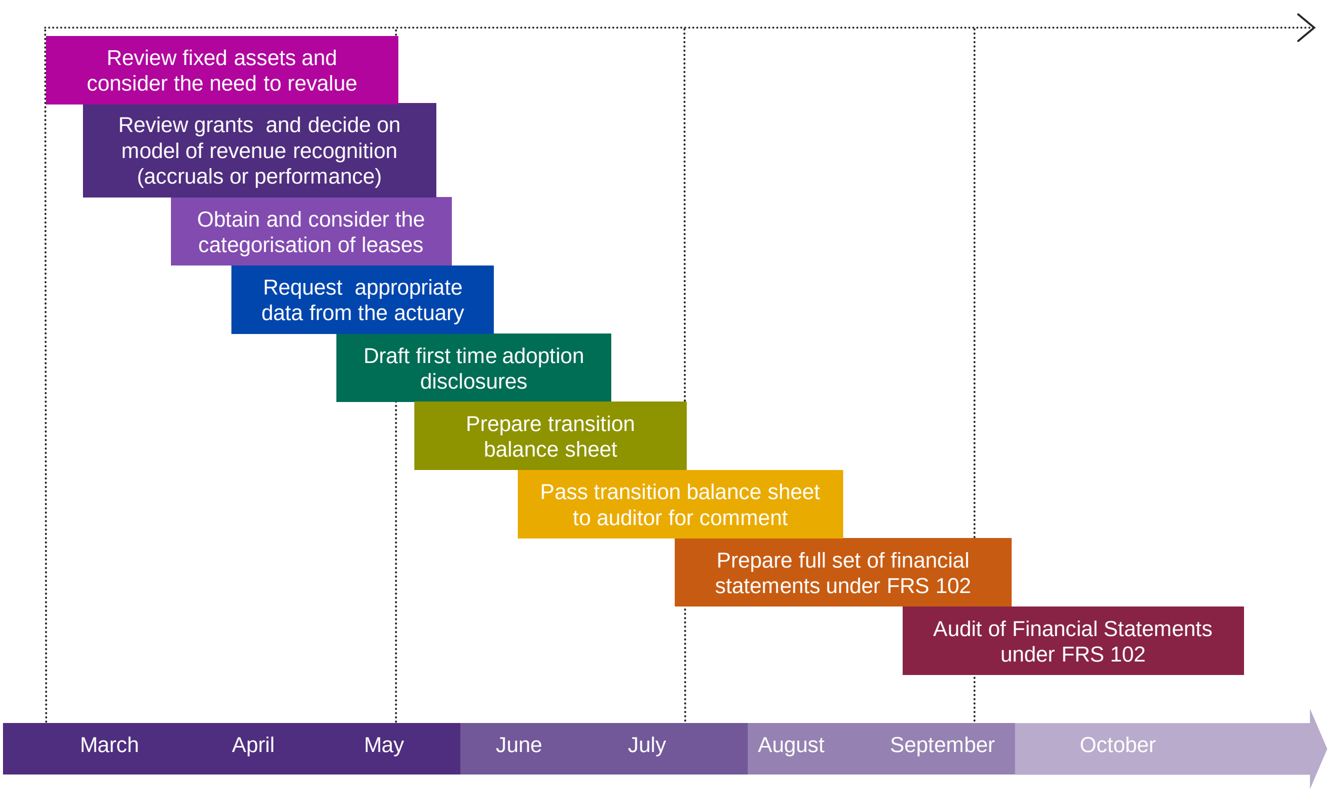
# Key areas of Impact (continued)

| Area | Value in financial statements £'000 | Actions for consideration |
|---|---|---|
| **Defined benefit schemes**<br>The net finance charge includes the interest income on the plan assets and the interest expense on the plan liabilities. Under FRS 102, the interest income is calculated using the discount rate rather than the expected return on the assets. This is likely to result in an increase to the net finance charge | | • Request a revised actuary report for July 2015 and July 2016<br>• Consider the impact on the surplus/ deficit |
| **Property, Plant and Equipment**<br>Under the FRS 102 SORP the College has the option to measure all tangible fixed assets using the cost or revaluation model. However, under the Government Financial Reporting Manual (FReM) there is a requirement for tangible fixed assets to be held at valuation with additional guidance on the valuation process. | £37,953 | • The FReM requirements were in place from 2014-15 and therefore there are no additional requirements arising in 2015-16. |
| **Related party and remuneration disclosures**<br>The definition of a related party includes key management personnel and therefore additional disclosures are required for the total remuneration of those responsible for the operating and financial decisions of the provider. | £415 | • The requirements of this change should have been addressed in the 2014-15 accounts as part of the remuneration report. We would therefore envisage that the only requirement is an update for 2015-16. |
| **Creditors**<br>Additional liabilities are required for short term employee benefits such as holiday pay of accumulating sabbaticals. | £236 | • This should have been conducted as part of the ONS reclassification in 2014-15 financial statements and therefore will only need updated for the 2015-16 position |
| **Accounting Policies**<br>Any changes in policy identified above should be reflected in a revised statement of accounting policies | n/a | • Review and update accounting policies for all changes made to the financial statements |

# 4. Transition Timetable

FRS 102 is effective for accounting periods beginning on or after 1 January 2015. There is a requirement to present comparatives for at least one full financial year and therefore the date of transition for the College would be 1 April 2014. Balances held at 1 April 2014 will need to be adjusted to meet the requirements of FRS 102.

The timeline below identifies steps that the College may want to undertake as part of the transition process. It should be noted this is a guide only and the College should consider whether this is appropriate. The timeline provides only high level actions and should be read in conjunction with the actions outlined in section 3.




Although there is clearly an expected burden on the finance function the transition to FRS 102 requires to be considered from a wider scope and will require input from other departments of the College.

When preparing this plan we have focused on planning for accounting changes, however we would urge the College to consider the impact on the business as a whole. Our experience with other public sector bodies when transitioning to IFRS is that this can have an impact on meeting budget requirements and bank covenants. We would encourage the College to think about the transition from a wider perspective and engage in early conversations with the Scottish Funding Council and banks as appropriate.

# 5. How your auditor can help

## Early engagement

While acting as your auditor we can not advise you of how to account for items, however, we aim take a proactive approach and support the transition to FRS 102. We always aim to work in partnership with our clients and aim to take a collaborative approach when approaching large projects.

We would encourage the College to engage early with us early to discuss their planned approach to the transition to FRS 102.

We would be happy to discuss the College's proposed accounting treatment at an early stage or provide additional training if required.

We have significant experience of guiding public bodies through the transition to IFRS and have found that early review of the transition balance sheet and restated prior year figures greatly improves the efficiency at the year end as any issues are discussed and resolved prior to the full accounts being prepared. If the College would like an early review please get in touch with the local audit team.

## Grant Thornton expertise

Grant Thornton has depth and strength across the Firm so your local audit team will be supported by technical specialists who will be consulted on any complex areas of accounting.

We have a large number of clients across both the Further and Higher Education sectors and can bring our knowledge of best practice to the College to ensure that we consistently add value and support improvement.

Board of Management

# CAPITAL GRANTS AND IMPACT OF TRANSITION TO FRS 102

## 1. PURPOSE OF REPORT

The purpose of this report is to highlight the impact on the College financial statements of the changes in accounting for capital grants following adoption of FRS 102 and the revised Statement of Recommended Practice: Accounting for Higher and Further Education 2015, and the choices available under the new standard, in order to approve an appropriate College policy in accounting for capital grants.

## 2. REPORT

The 'Transition to FRS 102' report from Grant Thornton has highlighted that a key area which will have a major impact for the College in the transition to FRS 102 will be revenue from grants relating to capital.

The value of deferred capital grants is a significant item in the current College balance sheet, and reflects the large proportion of grants which were received for the Crichton building from the Scottish Funding Council, European Regional Development Funds (ERDF) and Crichton Foundation as well as the recent Scottish Colleges Foundation grant for Hospitality developments.

**Government Grants -** Grants received for capital developments from the Scottish Funding Council and ERDF are treated as Government grants under the FRS 102 SORP.

**Non-government grants** – Grants received for capital developments from Crichton Foundation and Scottish Colleges Foundation are treated as non-government grants under the FRS 102 SORP.

Each of these grants, which relate to fixed assets in the College balance sheet, were accounted for as a deferred reserve under UK GAAP with a release of grant to income in the College Income and Expenditure Account over the expected useful life of the asset.

The College balance sheets, which have been prepared under UK GAAP, show total deferred capital grants as follows:

| | **31.03.14** | **31.07.15** | **31.07.16 (Projected)** |
|---|---|---|---|
| Total deferred capital grants | £26,980,000 | £26,727,000 | £25,911,000 |
| Government capital grants (SFC and ERDF) | £25,770,000 | £24,893,000 | £24,135,000 |
| Non-government grants (Crichton Foundation and Scottish Colleges Foundation) | £1,210,000 | £1,834,000 | £1,776,000 |

The value of capital grants released to income is currently accounted for as follows:

| | 31.07.15 | 31.07.16 (Projected) |
|---|---|---|
| Total deferred capital grants | £1,052,000 | £816,000 |
| Government capital grants | £1,004,000 | £758,000 |
| Non-government grants | £48,000 | £58,000 |

The FRS 102 SORP allows a choice in accounting policy between two models in accounting for government grants relating to capital - the Accruals model and the Performance model. The main aspects of each and potential impact on the College financial statements is set out below.

The impact of FRS 102 SORP on other College income streams will also be assessed, as noted in the 'Transition to FRS 102' report from Grant Thornton, but this report covers the impact of grants for capital items.

The layout of the management accounts and budgets will require to be revised for either option, and this will be updated following approval of an appropriate policy. In addition, the 'net depreciation' cash reported in the budget monitoring return to SFC for the fiscal year will be affected by the change in accounting, as the release of capital grants is offset against depreciation charges.

**Accruals Model**

Under the Accruals model, the College would be able to defer the government capital grants in the same way as the current accounting treatment – the grants would be recognised in income on a systematic basis over the expected useful life of the asset, and would offset depreciation charges. Only the portion of non-government grants would require to be accounted for in a different way as noted below.

There would be less of an impact on the College operating results if this model was adopted, as over 90% of deferred grants are government grants in accordance with the FRS 102 SORP, with an annual release to income of £758,000 for the current year.

The impact on the key statements, which comprise the Balance Sheet and Statement of Comprehensive Income, of accounting for the capital government grants under the Accruals model is set out in Appendices 1-A and 1-B.

The College balance sheet (Appendix 1-A) would require the government grant balance to be accounted for as a creditor rather than reserves, which would reduce the net assets position at 31 July 2015 by £24,893,000 to £6,885,000. As the net current assets of the College is low under the 2007 SORP, the initial calculations indicate that transition to the

2015 SORP would show net current liabilities in the Balance Sheet. However, the College has no outstanding loan covenants, or any bank overdraft facilities currently which would be affected by this reduction in net assets.

Non-government capital grants would require to be accounted for under the Performance model, as described below, with fluctuations in income and operating results in those years when non-government capital grants are received, and no annual release of previously deferred balances. The current annual release of non-government capital grants is £58,000.

The Statement of Comprehensive Income (Appendix 1-B) would be as follows:

Re-stated results for the period to 31 July 2015:

- £48,000 decrease in income relating to non-government deferred grants
- £672,000 additional income for the full amount of new capital grants received in the period, relating to Hospitality developments.

Projected results for the year to July 2016;

- £58,000 decrease in income relating to non-government deferred grants

None of the capital grants were received to date have been for land.

**Performance Model**

Under the Performance model, all capital grants would be recognised as income as soon as the performance-related conditions of the grant have been met. This model will show fluctuations in income and operating results in those years when capital grants are received, and no annual release of previously deferred balances from government grants relating to capital will be included in income.

FRS 102 defines a performance-related condition as a condition that requires the performance of a particular level of service or units of output to the delivered, with payment of, or entitlement to, the resources conditional on that performance.

The impact on the Balance Sheet and Statement of Comprehensive Income of accounting for the capital government grants under the Performance model is set out in Appendices 2-A and 2-B.

The College balance sheet (Appendix 2-A) would be re-stated to show previous deferred capital grant balances within reserves, and would have no impact on the net assets position.

The impact on the operating results would be more significant if this model was adopted, and will fluctuate in years where new capital grants are received.

The Statement of Comprehensive Income (Appendix 2-B) would be as follows:

Re-stated results for the period to 31 July 2015:

- £1,052,000 decrease in income relating to total deferred grants
- £800,000 additional income for the full amount of new capital grants received in the period.

Projected results for the year to July 2016;

- £816,000 decrease in income relating to total deferred grants

**Preferred Option**

The Executive Management Team have considered the impact of both options of accounting for government grants on the College financial statements, and recommend that the Accruals Model should be adopted for the following reasons:

- The Accruals model would be more consistent with the current accounting treatment for capital grants;
- The impact on the Statement of Comprehensive Income would be minimised;
- The significant decrease in income under the Performance model would result in a deficit position each year due to no release of deferred grants;
- The impact on SFC budget monitoring and 'net depreciation' costs would be minimised;
- The changes to the Balance Sheet would have less impact, as the College does not have any borrowing or loan covenants.

**3. RECOMMENDATION**

Members are asked to consider the impact of both the Accruals Model and Performance Model in accounting for government grants relating to capital, and approve the recommendation from the Executive Management Team of the Accruals model as the appropriate accounting policy for the College in the transition to FRS 102, on the basis that this will provide some continuity in the College accounts.

**Changes to Balance Sheet - based on Accrual Model** **Appendix 1A**

| | 1 April 2014 | | | 31 July 2015 | | |
|---|---|---|---|---|---|---|
| | **2007 SORP** | ***Effect of transition to 2015 SORP*** | **2015 SORP** | **2007 SORP** | ***Effect of transition to 2015 SORP*** | **2015 SORP** |
| | £'000 | *£'000* | £'000 | £'000 | *£'000* | £'000 |
| **Non-current assets** | | | | | | |
| Fixed Assets | 40,521 | - | 40,521 | 37,953 | - | 37,953 |
| | 40,521 | - | 40,521 | 37,953 | - | 37,953 |
| **Current assets** | | | | | | |
| Trade and other receivables | 1,001 | - | 1,001 | 297 | - | 297 |
| Cash and cash equivalents | 2,127 | - | 2,127 | 2,163 | - | 2,163 |
| | 3,128 | - | 3,128 | 2,460 | - | 2,460 |
| Less: Creditors: amounts falling due within one year | (2,464) | *(747)* | (3,211) | (1,875) | *(758)* | (2,633) |
| **Net current (liabilities)/assets** | 664 | *(747)* | (83) | 585 | *(758)* | (173) |
| **Total assets less current liabilities** | 41,185 | *(747)* | 40,438 | 38,538 | *(758)* | 37,780 |
| recorded within other Comprehensive Income. | | | | | | |
| Creditors: amounts falling due after more than one year | (1,184) | *(25,023)* | (26,207) | (745) | *(24,135)* | (24,880) |
| **Provisions** | | | | | | |
| Provisions for liabilities | (750) | - | (750) | (796) | - | (796) |
| Other pension liability | (3,928) | - | (3,928) | (5,219) | - | (5,219) |
| Other provision | - | - | - | - | - | - |
| **Total net assets** | **35,323** | ***(25,770)*** | **9,553** | **31,778** | ***(24,893)*** | **6,885** |
| **Deferred capital grants** | **26,980** | ***(26,980)*** | **-** | **26,727** | ***(26,727)*** | **-** |
| **Unrestricted Reserves** | | | | | | |
| Income and expenditure reserve - unrestricted | 1,729 | *1,210* | 2,939 | 486 | *1,834* | 2,320 |
| Revaluation reserve | 6,614 | - | 6,614 | 4,565 | - | 4,565 |
| | 8,343 | *1,210* | 9,553 | 5,051 | *1,834* | 6,885 |
| **Total Reserves** | **35,323** | ***(25,770)*** | **9,553** | **31,778** | ***(24,893)*** | **6,885** |

# Board of Management

**Statement of Comprehensive Income - based on Accrual Model** **Appendix 1B**
**for the period ended 31 July 2015**

| | **2007 SORP £'000** | **STRGL Items*** £'000 | *Effect of transition to 2015 SORP £'000* | **2015 SORP £'000** |
|---|---|---|---|---|
| **Income** | | | | |
| Tuition fees and education contracts | 2,271 | - | | 2,271 |
| Funding body grants | 12,906 | - | | 12,906 |
| Other income | 1,705 | - | *624* | 2,329 |
| Investment income | 93 | - | | 93 |
| **Total income before donations and endowments** | 16,975 | - | *624* | 17,599 |
| Donations and endowments | - | - | - | - |
| **Total income** | 16,975 | - | *624* | 17,599 |
| **Expenditure** | | | | |
| Staff costs | 9,878 | - | | 9,878 |
| Fundamental restructuring costs | - | - | | - |
| Other operating expenses | 6,020 | - | | 6,020 |
| Depreciation | 1,579 | - | | 1,579 |
| Interest and other finance costs | - | - | | - |
| **Total expenditure** | 17,477 | - | - | 17,477 |
| Gain/(loss) on disposal of fixed assets | - | - | | - |
| **Surplus before tax** | (502) | - | *624* | 122 |
| Taxation | - | - | | - |
| **Surplus for the period** | (502) | - | *624* | 122 |
| Unrealised surplus on revaluation of land and buildings | - | (1,785) | | (1,785) |
| Actuarial (loss)/gain in respect of pension schemes | - | (1,005) | | (1,005) |
| Change in fair value of hedging financial instruments | - | - | | - |
| **Total comprehensive income for the period** | **(502)** | **(2,790)** | ***624*** | **(2,668)** |

# Board of Management

**Changes to Balance Sheet - based on Performance Model** **Appendix 2A**

| | 1 April 2014 | | | 31 July 2015 | | |
|---|---|---|---|---|---|---|
| | **2007 SORP** | ***Effect of transition to 2015 SORP*** | **2015 SORP** | **2007 SORP** | ***Effect of transition to 2015 SORP*** | **2015 SORP** |
| | £'000 | *£'000* | £'000 | £'000 | *£'000* | £'000 |
| **Non-current assets** | | | | | | |
| Fixed Assets | 40,521 | - | 40,521 | 37,953 | - | 37,953 |
| | 40,521 | - | 40,521 | 37,953 | - | 37,953 |
| **Current assets** | | | | | | |
| Trade and other receivables | 1,001 | - | 1,001 | 297 | - | 297 |
| Cash and cash equivalents | 2,127 | - | 2,127 | 2,163 | - | 2,163 |
| | 3,128 | - | 3,128 | 2,460 | - | 2,460 |
| Less: Creditors: amounts falling due within one year | (2,464) | | (2,464) | (1,875) | | (1,875) |
| **Net current (liabilities)/assets** | 664 | - | 664 | 585 | - | 585 |
| **Total assets less current liabilities** | 41,185 | - | 41,185 | 38,538 | - | 38,538 |
| recorded within other Comprehensive Income. | | | | | | |
| Creditors: amounts falling due after more than one year | (1,184) | | (1,184) | (745) | | (745) |
| **Provisions** | | | | | | |
| Provisions for liabilities | (750) | - | (750) | (796) | - | (796) |
| Other pension liability | (3,928) | - | (3,928) | (5,219) | - | (5,219) |
| Other provision | - | - | - | - | - | - |
| **Total net assets** | **35,323** | **-** | **35,323** | **31,778** | **-** | **31,778** |
| **Deferred capital grants** | **26,980** | ***(26,980)*** | **-** | **26,727** | ***(26,727)*** | **-** |
| **Unrestricted Reserves** | | | | | | |
| Income and expenditure reserve - unrestricted | 1,729 | *26,980* | 28,709 | 486 | *26,727* | 27,213 |
| Revaluation reserve | 6,614 | - | 6,614 | 4,565 | - | 4,565 |
| | 8,343 | *26,980* | 35,323 | 5,051 | *26,727* | 31,778 |
| **Total Reserves** | **35,323** | **-** | **35,323** | **31,778** | **-** | **31,778** |

# Board of Management

**Statement of Comprehensive Income - based on Performance Model** **Appendix 2-B**
**for the period ended 31 July 2015**

| | 2007 SORP £'000 | STRGL Items* £'000 | *Effect of transition to 2015 SORP £'000* | 2015 SORP £'000 |
|---|---|---|---|---|
| **Income** | | | | |
| Tuition fees and education contracts | 2,271 | - | | 2,271 |
| Funding body grants | 12,906 | - | *(876)* | 12,146 |
| Other income | 1,705 | - | *624* | 2,213 |
| Investment income | 93 | - | | 93 |
| **Total income before donations and endowments** | 16,975 | - | *(252)* | 16,723 |
| Donations and endowments | - | - | - | - |
| **Total income** | 16,975 | - | *(252)* | 16,723 |
| **Expenditure** | | | | |
| Staff costs | 9,878 | - | | 9,878 |
| Fundamental restructuring costs | - | - | | - |
| Other operating expenses | 6,020 | - | | 6,020 |
| Depreciation | 1,579 | - | | 1,579 |
| Interest and other finance costs | - | - | | - |
| **Total expenditure** | 17,477 | - | - | 17,477 |
| Gain/(loss) on disposal of fixed assets | - | - | | - |
| **(Deficit) before tax** | (502) | - | *(252)* | (754) |
| Taxation | - | - | | - |
| **(Deficit) for the period** | (502) | - | *(252)* | (754) |
| Unrealised surplus on revaluation of land and buildings | - | (1,785) | | (1,785) |
| Actuarial (loss)/gain in respect of pension schemes | - | (1,005) | | (1,005) |
| Change in fair value of hedging financial instruments | - | - | | - |
| **Total comprehensive income for the period** | **(502)** | **(2,790)** | ***(252)*** | **(3,544)** |

# Board of Management

## SCOTTISH FUNDING COUNCIL FINANCIAL MEMORANDUM – ADDITIONAL REQUIREMENTS

### 1 PURPOSE OF REPORT

The purpose of this report is to summarise the changes to the Scottish Funding Council Financial Memorandum and the Guidance on severance schemes, and the actions which have been taken by the College in complying with the requirements.

### 2 REPORT

The Scottish Funding Council Financial Memorandum (FM) with the College Sector sets out the formal accountability relationship between Scottish Funding Council and colleges, and requirements with which the colleges are expected to comply with in return for payment of grant by Scottish Funding Council.

The previous FM had been introduced in 2006, and as a result of recent changes including implementation of the Post-16 Education (Scotland) Act 2013, the Office for National Statistics (ONS) reclassification of incorporated colleges as public sector bodies, and development of governance on the college sector, a revised FM was introduced. The current FM was issued in December 2014 following consultation with the sector. A copy of the FM is attached to this report.

In addition, Scottish Funding Council have issued ‘Guidance on seeking approval for severance schemes and settlement agreements’ in February 2016 in order to provide further guidance on meeting the requirements of the Scottish Public Finance Manual, which covers all severance schemes and severance payments made under the categories of early severance or retirement, redundancy or settlement agreements. A copy of the guidance is attached to this report, which highlights the key governance issues which should be fully considered.

A number of changes to processes and procedures have already been implemented in order to comply with the requirements of the FM and the Scottish Public Finance Manual, as well as ongoing Board and governance developments.

A summary of the changes which have arisen from Part 3 of the revised Financial Memorandum, specifically the new requirements of the Scottish Public Finance Manual, and the Guidance on severance schemes has been drafted in order to track the actions taken in order to comply with the requirements and the assurances available. The initial Action Tacking summary is attached in the Appendix to this report, for review and discussion by the committee. The report will be revised and updated as further developments are made and key areas become fully compliant.

### 3 RECOMMENDATION

Committee members are asked to review the key changes to the Financial Memorandum and severance schemes and severance payments, and the progress to date towards full compliance.

| **Scottish Funding Council - Financial Memorandum - additional requirements for Regional Colleges and Regional Boards (effective from 01.04.16)** | | | |
|---|---|---|---|
| **Action Reference:** | **Requirement** | ***Action taken/ assurance available*** | **Current Status** |
| **Page 17 para. 5** | **Scottish Public Finance Manual** - The institution must follow the requirements of the Scottish Public Finance Manual, except where any special actions or derogations have been agreed with the Scottish Ministers | *Training undertaken by Finance Manager and other staff as appropriate; 31.07.15 financial statements prepared in accordance with SPFM; budget returns to SFC compliant with SPFM; ongoing developments monitored for action by the Finance Development Network* | Fully compliant |
| **Page 17 para. 8** | **Borrowing -** All borrowing by incorporated colleges will require the approval of the Scottish Ministers. Requests to borrow must be submitted to SFC in the first instance. | *Budget and cash flow processes in place, monitored by EMT; no borrowing requirements forecast for the foreseeable future* | Fully compliant |
| **Page 17 para. 10** | **Cash Management and Banking** - Grant payment will not be made in advance of need, as determined by the level of unrestricted cash reserves and planned expenditure. Unrestricted cash reserves held during the course of the year should be kept to the minimum level consistent with the efficient operation of the institution and the level of funds required to meet any relevant liabilities at the year-end. Grant-in-aid not drawn down by the end of the financial year shall lapse. Grant-in-aid shall not be paid into any restricted reserve held by the institution. Transfers to arms-length foundations are not permitted. | *Cash Flow return process set up by SFC, monitoring of bank balances and cash management procedures all revised to comply with the FM; internal audit review of cash flow process in October '14 for assurance and feedback/ improvement* | Fully compliant |
| **Page 17 para. 11** | **Cash Management and Banking** - Banking arrangements should ensure they offer best value and comply with the banking section of the SPFM. The Scottish Ministers have approved a derogation which delays the move to the Government Baking Service (GBS) to 2016-17 at the earliest. | *Finance Development Network discussions with relevant RBS staff, timetable for the sector transition is currently being discussed, and is expected to be completed by 01.04.17* | Awaiting further information from RBS |
| **Page 18 para. 13** | **Cash Management and Banking** - the institution can operate bank overdraft facilities to assist in managing the timing of income and expenditure through its bank account. Overdrafts should not be used as a means of increasing borrowing. | *Cash Flow forecasts are prepared monthly, and will highlight any future requirement for overdraft facilities* | Fully compliant |
| **Page 18 para. 14-16** | **Contingent Commitments** - the institution must seek SFC's prior written consent if it intends to lend or give a guarantee, indemnity or letter of comfort. The institution must take steps to restrict the contingent liability to a minimum and should undertake a careful appraisal of the risks before accepting any contingent liability. (SFC's written consent is not required for such arrangements if the indemnity is of a standard type contained in contracts and agreements for 'day to day' procurement of goods and services in the normal course of business.) | *EMT review of plans and future developments will highlight any potential issues for discussion with SFC* | Fully compliant |

| | | | |
|---|---|---|---|
| **Page 18 para. 17 and 22** | **Delegated financial limits** - specific delegated financial limits are set out in Appendix A of the Financial Memorandum. The institution must obtain SFC's prior written approval before entering into any undertaking to incur any expenditure that falls out with these delegations. The levels for certain categories of expenditure above which the institution should report annually to SFC are set out in Appendix A of the Financial Memorandum. The report should describe the number of instances and total cost, by category of expenditure. | *Severance payments are covered by actions following SFC's Guidance on seeking approval for severance schemes and settlement agreements' as noted below; other areas are covered by financial statements disclosures and year-end accounting processes . The 2014/15 Severance Scheme was implemented in compliance with SFC's guidance, and any future schemes will comply with the guidance* | Fully compliant |
| **Page 18 para. 18** | **Delegated financial limits -** prior SFC approval must always be obtained before incurring expenditure for any purpose that is, or might be considered, novel, contentious or repercussive or which has or could have significant cost implications. | *EMT review of plans and future developments will highlight any potential issues for discussion with SFC* | Fully compliant |
| **Page 18 para. 20** | **Delegated financial limits** - any frauds that are detected must be reported to SFC as and when they occur. | *Policies are in place for Whistle blowing and Anti-fraud and corruption* | Fully compliant |
| **Page 18 para. 21** | **Delegated financial limits** - the institution must establish appropriate documented internal delegated authority arrangements consistent with the Delegated Authority section of the SPFM and the Financial Memorandum. | *Financial Regulations set out the approval arrangements. The Financial Scheme of Delegation will be incorporated into College Procurement Procdures following the recommendations from an Internal Audit review of procurement* | Fully compliant |
| **Page 19 para. 23** | **Donation of surplus funds to arms-length foundations** - the institution may donate any surplus on its income and expenditure account as at 31 March each year to its arms-length foundation. The donation must take place in the financial year in which it arises, and is subject to sufficient cash and resource cover being available. | *Budget planning and forecasting processes have all been revised from April '14, and any potential commercial surpluses are identified for possible donation to the foundation as appropriate* | Fully compliant |
| **Page 19 para. 26** | **Early departures of staff** - The institution must follow the requirements of the SPFM in determining settlement agreements, severance, early retirement and redundancy arrangements and payments. In addition, the institution must have regard to the principles of good practice in managing early departures of staff contained in Audit Scotland's May 2013 report: Managing early departures from the Scottish public sector. | *Severance payments are covered by actions following SFC's Guidance on seeking approval for severance schemes and settlement agreements' as noted below* | Fully compliant |
| **Page 19 para. 27** | **Early departures of staff** - in line with the requirements of the SPFM, the institution's severance scheme must be approved by SFC. Provided a severance payment is within the parameters of a scheme, which has been approved by the SFC, there will be no need for the institution to seek approval to the individual payment from SFC. | *Severance payments are covered by actions following SFC's Guidance on seeking approval for severance schemes and settlement agreements' as noted below* | Fully compliant |
| **Page 19 para. 28** | **Early departures of staff -** special severance payments in excess of £1,000 must be approved by SFC, except where provision for such payments has been included in a severance scheme approved by SFC. | *Severance payments are covered by actions following SFC's Guidance on seeking approval for severance schemes and settlement agreements' as noted below.* | Fully compliant |

| | | | |
|---|---|---|---|
| **Page 20 para. 29** | **External business and management consultancy contracts** - any external consultancy contracts with a value of more than £100,000 must be approved in advance by the SFC | *Current procurement processes will identify any potential expenditure of this value for further approval as required* | Fully compliant |
| **Page 20 para. 30** | **Impairments, provisions and write-offs** - Assets must be recorded in the Balance Sheet at Depreciated Replacement Cost for Land and Buildings and at Historic Cost less depreciation for Equipment in accordance with the Financial Reporting Manual (FReM). Where an asset, including investments, suffers impairment, it is important that the prospective impairment and background is communicated to the SFC at the earliest possible point in the financial year to determine the budget implications. Any significant movement in existing provisions or the creation of new provisions must be discussed with the SFC. | *The financial statements to 31 July 2015 were prepared in accordance with the FReM, with impairment review being carried out annually as part of the year-end process* | Fully compliant |
| **Page 20 para. 31** | **Impairments, provisions and write-offs** - write-off of bad debt and / or losses score against Resource Departmental Expenditure Limits (DEL) | *Budget return procedures to highlight for SFC information* | Fully compliant |
| **Page 20 para. 32** | **Income generation** - the institution will be able to retain all commercial income, gifts, bequests or donations received. These funds will be in addition to any grant or funding the institution receives from the SFC. | *Budget planning and forecasting processes have all been revised from April '14* | Fully compliant |
| **Page 20 para. 33** | **Insurance -** the Scottish Ministers have agreed a derogation whereby institutions can extend their current commercial insurance arrangements for three years to 31 July 2018 | *Scotland's Colleges to prepare evidence for Scottish Ministers to demonstrate value for money/ feedback to Finance Network* | Fully compliant |
| **Page 20 para. 34** | **Investments** - the institution must not make any investments of a speculative nature without the prior written approval of SFC | *EMT review of plans and future developments will highlight any potential issues for discussion with SFC* | Fully compliant |
| **Page 20 para. 35** | **Procurement and payment -** the institution's procurement processes must reflect the relevant guidance contained in the Advanced Procurement for Universities and Colleges, and relevant policy and advice issued by the Scottish Procurement Directorate. Procurement must be undertaken by appropriately trained and authorised staff and treated as a key component of achieving the institution's objectives consistent with the principles of Best Value, the highest professional standards and any legal requirement | *Procurement Improvement Plan in draft, in order to comply with FM and the Procurement reform Act duties. Internal Audit work in December '15 and February '16 to review and provide assurances and feedback* | Fully compliant |
| **Page 21 para. 36** | **Procurement and payment** - any proposal to award a contract without competition (non-competitive action) must be approved in advance by SFC. Specific delegated authority is given to award a contract without competition for £25,000 or less without advance approval | *Expenditure analysis is currently being carried out as part of the Procurement Improvement Plan; future expenditure plans will be planned in advance, and published on the College Contract Register in accordance with the requirements of the Procurement Reform Act* | Fully compliant |

| **Scottish Funding Council - Guidance on seeking approval for severance schemes and settlement agreements (issued 23.02.16)** | | | |
|---|---|---|---|
| **Action Reference:** | **Requirement** | ***Action taken/ assurance available*** | |
| **Page 5 para. 12** | **Governance** - In considering any severance, colleges must ensure that issues of regularity, propriety and value for money are fully taken into account. In doing so it is important that policies and procedures are established and applied in a timely manner, including: ensuring a business case, including justification and full expected cost, is prepared; decisions are made and approved in accordance with college delegation procedures; and decisions are fully documented and a clear audit trail of evidence supporting the decision is retained; and there is clear evidence of governance oversight | *'Code of Conduct for Members' adopted by the Board in June 2014/ robust training and development undertaken for board members. The 2014/15 Severance Scheme was implemented in compliance with SFC's guidance, and any future schemes will be planned and conducted in accordance with the guidance issued* | Fully compliant |
| **Page 6 para. 13** | **Governance** - the Remuneration Committee must undertake robust scrutiny of proposed severance schemes and settlement agreements before recommending approval to the Board. In order to preserve governance boundaries the Chair of the Remuneration Committee must not be the Chair of the Board | *As above - SFC guidance has already been used to plan and implement the 2014/15 severance scheme, which was subject to robust scrutiny by the Remuneration Committee* | Fully compliant |
| **Page 6 para. 14** | **Governance** - the Remuneration Committee must ensure there is no conflict of interest between those involved in approving severance arrangements and individual beneficiaries of such arrangements | *Already implemented as above* | Fully compliant |
| **Page 15 para. 15** | **Governance -** the Remuneration Committee also has a role in setting remuneration policy and in ensuring contractual terms for staff are not overly generous (e.g. long notice periods) which may result in large payments when employees leave | *Already implemented as above* | Fully compliant |
| **Page 6 para. 16** | **Governance** - Audit Scotland's recent report 'Scotland's colleges 2015' highlights weaknesses in the way some colleges managed and approved senior staff severance arrangements. Auditors at six colleges identified that the handling of severance arrangements fell short of good practice. In two of these cases (North Glasgow College and Coatbridge College) the Auditor General produced a separate statutory report (Section 22) setting out shortcomings in governance and reporting. Colleges should familiarise themselves with the contents of the above reports and the Public Audit Committee reports that were based upon them | *Audit Scotland report to be distributed to Board members for their information* | *Fully compliant* |
| **Page 6 para. 17-18** | **Governance** - SFC should be consulted in all cases where the possibility of compulsory redundancy is being considered. SFC should be notified at the earliest opportunity of such cases. In situations of sensitive or high profile payments, Ministerial views on the terms of the proposed severance will be sought, as and when required, by SFC | *Already implemented as above* | *Fully compliant* |

| | | | |
|---|---|---|---|
| **Page 7 para. 19** | **Key principles** - when considering any severance, colleges must ensure that the following principles are observed:<br>• Public funds must not be used wastefully or to underwrite inequitable or over-generous conditions of service, including severance;<br>• Decisions on severance arrangements and, in particular, limits on payments will be based on the conditions set in the SPFM and this guidance and not on the source(s) of funding;<br>• Notice of termination of appointments must not be delayed in order to generate compensation payments in lieu of notice;<br>• Where appropriate, ex-gratia severance or redundancy packages must be based on the arrangements set out within relevant extant terms and conditions of employment. In particular, prior consideration should be given to the availability of pension and compensation benefits within these conditions;<br>• Special payments must be transparent and negotiated in a way which avoids conflicts of interest;<br>• Offers of subsequent employment or consultancy work must be exceptional and only made where they represent value for money; and<br>• Any undertakings about confidentiality must leave transactions open to proper public scrutiny | *Already implemented as above* | *Fully compliant* |
| **Page 7 para. 22-27** | **Procedures for approval by SFC** - **Voluntary severance scheme applications** are assessed against set criteria which include the business case for releasing a member of staff early and the value for money which can be obtained as a result. The numbers of staff leaving through voluntary severance schemes and the associated costs will be reported in the College's annual accounts. A template setting out justification to business case should be completed for SFC. Schemes must be time limited and linked to a programme of managing early departure. Colleges must seek appropriate legal and independent professional advice in establishing and implementing the scheme, which must be provided for scrutiny by the Remuneration Committee and/ or Board prior to approval of the scheme and arrangements. | *Already implemented as above* | *Fully compliant* |
| **Page 9 para. 33** | **Procedures for approval by SFC - settlement agreements or proposals to secure a voluntary resignation** - settlement agreements should not be a standard feature of voluntary severance schemes. There should always be a presumption against the use of settlement agreements and colleges will have to justify their use. In cases where settlement agreements are part of a voluntary severance scheme, individual approval is required for each agreement and colleges should request approval by completing the template provided by SFC | *Already implemented as above* | *Fully compliant* |

| | | | |
|---|---|---|---|
| **Page 10 para. 36-37** | **Procedures for approval by SFC - Confidentiality clauses** - in seeking approval for the use of a settlement agreement, colleges must indicate whether a confidentiality clause is proposed and, if so, on what grounds. There should be a presumption against the use of confidentiality clauses except in exceptional circumstances. However, either party can request a confidentiality clause be inserted. In such a situation the terms of the clause must be agreed by both parties. Nothing in any confidentiality clause should restrict an individual's right to make a protected disclosure under the Public Interest Disclosures Act 1998. Where a confidentiality clause is included in a settlement agreement, the text should be included in the business case submission to SFC | *Already implemented as above* | *Fully compliant* |
| **Page 10 para. 38** | **Disclosure of information** - any clause in relation to disclosing of information should explicitly note that SFC and the Scottish Government will have sight of the information. SFC will collate the information for submission to the Scottish Government for the purpose of parliamentary scrutiny. A draft clause is included in the Scottish Government's settlement agreement guidance which could be adopted | *Already implemented as above* | *Fully compliant* |
| **Page 11 para. 39** | **Use of standard termination letter** - a standard termination letter or agreement can set out the terms of termination of employment, and an example letter is included in the guidance | *Already implemented as above* | *Fully compliant* |
| **Page 11 para. 42** | **Compulsory redundancies** - Colleges should be aware that the policy of no compulsory redundancies is a key pillar of public sector pay policy which colleges should have regard to (this is a term and condition of grant applied through the SFC 'Financial Memorandum with Fundable Bodies in the College Sector'. Any college considering compulsory redundancies should consult with SFC as early as possible | *Already implemented as above* | *Fully compliant* |
| | | | |

# Financial Memorandum with Fundable Bodies in the College Sector

## Contents

# FINANCIAL MEMORANDUM

## Introduction

### Purpose of this document

1. This Financial Memorandum (FM) sets out the formal relationship between the Scottish Further and Higher Education Funding Council (SFC) and fundable bodies[1] in the college sector, and the requirements with which fundable bodies must comply as a term and condition of grant from SFC.

2. The FM also makes it a term and condition of grant from SFC that Regional Colleges and Regional Boards comply with the requirements of the Scottish Public Finance Manual (SPFM) and sets out the special actions and derogations, which have been agreed with the Scottish Ministers.

### Scope of this document

3. This FM applies to Regional Colleges and other colleges[2], Regional Boards and other Regional Strategic Bodies which receive payment of grant from SFC.

### Definition

4. In this document the term ‘institution’ is used in place of ‘fundable body in the college sector’. The term ‘chief executive officer’ refers to an institution’s Principal or equivalent officer.

### Compliance with the Financial Memorandum

5. The responsibility for ensuring that the institution complies with this FM rests with the governing body of the institution. Questions about the interpretation of the FM may be raised with officers of SFC at any time.

6. Where the institution’s interpretation of the FM differs from that of SFC, the SFC will seek, wherever possible, to reach agreement in a spirit of partnership with the institution. However, the SFC’s interpretation of this FM shall be final.

### Effective date

7. This FM shall take effect from 1 December 2014.

### Structure of this document

8. The FM is in four parts:

---

[1] As defined by the Further and Higher Education Act (Scotland) 2005, as amended by the Post-16 Education Act (Scotland) 2013.

[2] In this context, a college is a fundable post-16 education body that is not a higher education institution.

| | |
|---|---|
| **Part 1**: defines the relationship between SFC and the institution and the responsibilities of each for the proper stewardship of public funds | *Parts 1 and 2 apply to Ayrshire College, Borders College, Dumfries and Galloway College, Dundee and Angus College, Edinburgh College, Fife College, Forth Valley College of Further and Higher Education, Newbattle Abbey College, New College Lanarkshire, North East Scotland College, Sabhal Mòr Ostaig, West College Scotland, West Lothian College, Regional Board for Glasgow Colleges, and the University of the Highlands and Islands* |
| **Part 2**: contains the general requirements that apply to all institutions | |
| **Part 3 (A):** contains additional requirements for Regional Strategic Bodies | *Part 3 (A) applies to Regional Board for Glasgow Colleges, New College Lanarkshire, and the University of the Highlands and Islands.* |
| **Part 3 (B):** contains additional requirements for Regional Colleges and Regional Boards | *Part 3 (B) applies to Ayrshire College, Borders College, Dumfries and Galloway College, Dundee and Angus College, Edinburgh College, Fife College, Forth Valley College of Further and Higher Education, New College Lanarkshire, North East Scotland College, West College Scotland, West Lothian College, and Regional Board for Glasgow Colleges.* |
| **Part 4:** contains additional requirements non-assigned, non-incorporated colleges | *Part 4 applies to Newbattle Abbey College and Sabhal Mòr Ostaig.* |

## Part 1: The relationship between SFC and the institution

### Responsibilities of the Scottish Funding Council

1. SFC is the national, strategic body with responsibility for funding further and higher education, research and other activities in Scotland's colleges, universities and other higher education institutions. Its funding decisions support the Scottish Government's national priorities.

2. SFC is a Non-Departmental Public Body (NDPB) of the Scottish Government and undertakes its functions under the terms of the Further and Higher Education (Scotland) Act 2005 (the 2005 Act), as amended, including by the Post-16 Education (Scotland) Act 2013. In particular, SFC may make grants, loans or other payments to the governing bodies of colleges and Regional Strategic Bodies for the provision of further education, higher education, research and related activities.

3. The legislation also confers certain duties and responsibilities on SFC, including securing coherent, high quality further and higher learning provision, and the undertaking of research.

4. Under the terms of the 2005 Act, SFC may attach terms and conditions to the payment of grant made to institutions. It is a term and condition of grant payment from SFC that the institution's governing body and its designated officers comply with the requirements set out in this FM.

### Accountability

5. SFC is accountable to the Scottish Ministers for the use of public funds provided to it under the terms of the relevant legislation.

6. The Chief Executive of SFC has also been appointed Accountable Officer under the terms of the Public Finance and Accountability (Scotland) Act 2000 and is responsible and accountable to the Scottish Parliament for ensuring that funds provided to SFC are used for the purposes for which they have been given, and in ways that comply with the conditions attached to them. The Accountable Officer has a personal responsibility for the propriety and regularity of the public finances provided to SFC, and for ensuring that funding is used economically, efficiently and effectively.

### Assurance

7. In order to meet his or her responsibilities, the Chief Executive of SFC must be satisfied that the governing body of the institution meets the requirements of this FM as a condition of receiving grant funding from SFC. SFC will therefore

seek financial management and other information from the institution but, as far as possible, will rely on data and information that the institution has produced to meet its own needs. If further information is required, SFC will make a specific request in the context of its commitment to efficient regulation.

8. Where SFC has concerns or insufficient information to provide the assurance required, it will, in the first instance, seek to resolve matters with the chief executive officer of the institution. Where this has not proved possible, or in the case of significant concerns, SFC's Accountable Officer will inform the chair of the governing body and the institution's chief executive officer in writing – and without delay – and will specify what action is required to address these concerns.

9. Where circumstances warrant it, SFC's Accountable Officer may suspend the payment of any or all grants to the institution. SFC may also use its powers to attend and address a meeting of the governing body.

**What the institution can expect of SFC**

10. SFC will conduct its affairs to high standards of corporate governance and public administration. It will maintain a complaints procedure and a separate appeals process for funding decisions.

11. SFC will act reasonably on the basis of the fullest available evidence and objective analysis. Subject to any legal requirement to observe confidentiality, it will be open and transparent with the institution, and with other stakeholders, and will give or be prepared to give a public justification of its decisions.

12. SFC recognises that the institution is an autonomous body. SFC will not substitute its judgements for those which are properly at the discretion of the institution. In particular, SFC will seek to maximise the discretion of the institution to use grants provided to it by SFC.

13. In discharging its responsibilities, SFC will seek to make regulation efficient and effective.

14. SFC will seek at all times to work in a spirit of partnership with the institution, including maintaining regular dialogue with the institution and, where appropriate, its representative bodies. The aim of that partnership will be to help the institution deliver its strategic priorities through the agreement of an Outcome Agreement with SFC, and ensure that SFC can deliver its priorities and undertake its statutory and other functions. SFC recognises that the institution may also undertake activities, and have to comply with legislation and regulation, which may fall outside the scope of this partnership.

15. SFC will allocate and pay grant to the institution in accordance with current published policies and procedures. The institution will be consulted in advance and given reasonable notice of any significant change to these policies and procedures and of significant changes in overall funding levels.

**SFC's governance requirements of the institution**

16. The SFC must be able to rely on the whole system of governance, management and conduct of the institution to safeguard all funds of the institution deriving from the Scottish Ministers and achieve the purposes for which those funds are provided.

17. SFC requires the governing body to comply with the principles of good governance set out in the Code of Good Governance for Scotland's Colleges. SFC also requires the governing body to ensure that:

    - Public funds are used in accordance with relevant legislation, the requirements of this FM and only for the purpose(s) for which they were given. Strategic, Capital or other grant funding must only be used for the purpose for which it is provided by SFC
    - Subject to any legal requirement to observe confidentiality, the institution will be open and transparent with the SFC and other stakeholders, and will give, or be prepared to give, a public justification of its decisions in relation to the use of public funds
    - The institution strives to achieve value-for-money and is economical, efficient and effective in its use of public funding
    - There is effective planning and delivery of the institution's activities in accordance with its mission and its Outcome Agreement agreed with SFC
    - The institution plans and manages its activities to remain sustainable and financially viable. An institution is being managed on a sustainable basis if, year on year, it generates sufficient income to cover its costs and allow for maintenance of and investment in its infrastructure (physical, human and intellectual) at a level which enables it to maintain adaptive capacity necessary to meet future demands
    - The institution has a sound system of internal management and control, including an audit committee, an effective internal audit service, and adequate procedures to prevent fraud or bribery
    - The institution has an effective policy of risk management and risk management arrangements
    - The institution has regular, timely, accurate and adequate information to monitor performance and account for the use of public funds. Such information will be made available to SFC on request, as necessary, for the exercise of its functions and to gain assurance

- The institution is engaged actively in continuously enhancing the quality of its activities and involves students and other stakeholders in these processes

18. As well as being accountable directly to the governing body for the proper conduct of the institution's affairs, the chief executive officer is also accountable directly to SFC's Accountable Officer for the institution's proper use of funds deriving from the Scottish Ministers and its compliance with the requirements of this Financial Memorandum.

19. The chief executive officer of the institution must inform SFC's Accountable Officer without delay of any circumstance that is having, or is likely to have, a significant adverse effect on the ability of the institution to deliver its education programmes, research and other related activity, including delivery of its Outcome Agreement with SFC. He or she must also notify SFC's Accountable Officer of any serious weakness, such as a significant and immediate threat to the institution's financial position, significant fraud or major accounting breakdown or any material non-compliance with any requirement of this FM.

**Revisions to the Financial Memorandum**

20. SFC will make changes to the requirements in this FM only after consulting institutions or their representative bodies.

## Part 2: General requirements

1. Unless otherwise stated, the following general requirements apply to the institution.

### Financial Memorandum

2. It is a term and condition of grant payment from SFC that the governing body of the institution and its designated officers comply with the requirements set out in this FM.

### Post-16 Education Body criteria

3. In undertaking its functions, the governing body of the institution must keep under review and have in place satisfactory provision in relation to the list of matters set out in section 7 (2) of the 2005 Act, as amended by the Post-16 Education (Scotland) Act 2013. This requirement does not apply to Regional Boards as these are not Post-16 Education Bodies.

### Outcome Agreement

4. The institution must deliver its Outcome Agreement with SFC.

### Payment of SFC Strategic, Capital or other Grants

5. Where the SFC makes a payment to the institution of a Strategic, Capital or other grant, the institution will be required to comply with any additional requirements attached to the grant, as well as with this FM.

### Changes to grant payments

6. If the Scottish Ministers revise their payment of grant to SFC, then SFC reserves the right to make in-year adjustments to its payment of grant to the institution. In this case, SFC and the institution may renegotiate the institution's Outcome Agreement.

### Repayment of grant

7. If the institution fails to comply with the requirements of this FM, and any other specific terms and conditions attached to the payment of grant from SFC, it may be required to repay SFC any sums received from it and may be required to pay interest in respect of any period during which a sum due to SFC in accordance with this or any other condition remains unpaid.

8. If, in the reasonable opinion of SFC, any provision set out in this FM is not observed by the institution, SFC will be entitled, in respect of the payment of grant from SFC:

- In the case of funding by way of grant: to require immediate repayment of any and all grants or any part or parts of any grants at any time after the SFC becomes aware of such failure to observe (without prejudice to further demands until the whole of all sums made available by way of grant shall have been paid in full)
- In the case of funding by way of loan (notwithstanding the terms of any agreement attached to the same): to require immediate repayment of the whole or part of each such loan at any time after SFC becomes aware of such failure to observe (without prejudice to further demands until the whole of all sums made available by way of loan shall have been repaid in full).

**Public sector pay policy**

9. The institution must have regard to public sector pay policy set by the Scottish Ministers.

**Tuition fees**

10. Where applicable, the institution must charge student tuition fees at the levels set by the Scottish Ministers under either the Student Fees (Specification) (Scotland) Order 2006 or the Student Fees (Specification) (Scotland) Order 2011, whichever is applicable.[3] However:

    - the tuition fee levels set by the Scottish Ministers under the Student Fees (Specification) (Scotland) Order 2006 do not apply to students who do not have a relevant connection with the United Kingdom and Islands or are not excepted students within the meaning of the Education (Fees and Awards) (Scotland) Regulations 2007; and
    - The tuition fee levels set by the Scottish Ministers under the Student Fees (Specification) (Scotland) Order 2011 do not apply to students who do not have a relevant connection with Scotland or are not excepted students within the meaning of the Education (Fees) (Scotland) Regulations 2011, but any tuition fees charged to students from the rest of the United Kingdom must not exceed £9,000 per year[4].

[3] The level of tuition fees in 2014-15 for full-time undergraduate first degree students is £1,820. The same fee applies for PGDE and PGDipCE courses. A higher medical fee £2,895 applies only to continuing students. For full-time higher education courses at sub-degree level, a fee of £1,285 should be charged.

[4] At the moment, this £9,000 limit is not set by legislation but will be once an order is made under section 9D of the Further and Higher Education (Scotland) Act 2005 (as inserted by the Post-16 Education (Scotland) Act 2013.).

**Disposal of exchequer funded assets**

11. In disposing of exchequer funded assets, the institution must follow the guidance in the relevant procedure notes on the SFC website as amended from time-to-time.

**Student activity**

12. Where appropriate, the institution must provide data returns requested by the SFC by the deadlines and to the standards specified. Our Student Activity Data Guidance for Colleges can be found on the SFC website.

**Student support guidance**

13. Where appropriate, the institution must follow SFC's Student Support Guidance.

**European Social Funds**

14. Where the institution is in receipt of European Social Fund funding, it must follow SFC's ESF guidance.

**Audit and accounting**

15. The governing body must appoint an audit committee and ensure the establishment and maintenance of effective arrangements for the provision of internal and external audit. For incorporated colleges and Regional Boards, Audit Scotland will appoint external auditors.

16. The Audit Committee must produce an annual report to the governing body of the institution.

**Accounts direction**

17. The institution must follow the SFC's current Accounts Direction in the preparation of its annual financial statements.

**Internal audit**

18. The institution must have in place an effective internal audit service. The operation and conduct of the internal audit service must conform to the professional standards of the Chartered Institute of Internal Auditors. For incorporated colleges and Regional Boards, the operation and conduct of internal audit must comply with Public Sector Internal Audit Standards and, where relevant, the Scottish Public Finance Manual.

19. The institution must inform SFC when an internal auditor is appointed and must inform SFC immediately if the internal auditor is removed or departs before the end of their term of office.

20. The internal audit service must provide the governing body and senior management of the institution with an objective assessment of adequacy and effectiveness of risk management, internal control, governance, and value-for-money.

21. The internal audit service must extend its review over all the financial and other management control systems, identified by the audit needs assessment process. It must cover all activities in which the institution has a financial interest, including those not funded by SFC. It must include review of controls – including investment procedures – that protect the institution in its dealings with organisations, such as subsidiaries or associated companies, Arms-Length Foundations, students' associations, and collaborative ventures or joint ventures with third parties.

22. The head of internal audit must produce an annual report for the governing body on its activities during the year. The report must include an opinion on the adequacy and effectiveness of the institution's risk management, internal control, and governance. The report must be presented to the institution's audit committee and a copy sent to SFC.

**Value for money**

23. The institution must have a strategy for reviewing systematically management's arrangements for securing value for money.

24. As part of its internal audit arrangements, the institution must obtain a comprehensive appraisal of management's arrangements for achieving value for money.

**External Audit**

25. The external auditor must be entitled to receive all notices of and other communications relating to any meeting of the governing body which any member of the governing body is entitled to receive. They must also be entitled to attend any such meeting and to be heard at any meeting which they attend, on any part of the business which concerns them as auditors.

26. The external auditor must also be entitled to attend the meeting of the governing body or other appropriate committee at which the institution's annual report and financial statements are presented.

27. The external auditor is expected to attend, as a minimum, any meetings of the audit committee where relevant matters are being considered, such as planned

audit coverage, the audit report on the financial statements and the audit management letter.  It is the responsibility of the secretary to the audit committee to notify the external auditor of such meetings.

28. The external auditors, notwithstanding responsibilities to their clients, are expected to co-operate fully with any enquiries or routine monitoring that the SFC undertakes.

29. The institution must not in any way limit SFC's access to the institution's external auditors.

## Part 3: Additional Requirements for Regional Strategic Bodies, Regional Colleges, and Regional Boards

### Part 3 (A): Additional requirements for Regional Strategic Bodies

1. The following additional requirements apply to Regional Strategic Bodies only:

   - Regional Board for Glasgow Colleges (known as the Glasgow Colleges Regional Board)
   - New College Lanarkshire (known as the Lanarkshire Board)
   - University of the Highlands and Islands.

***Financial Memoranda***

2. The institution must put in place a financial memorandum with each of its assigned colleges, which sets out the formal relationship between the Regional Strategic Body and the assigned college, and which contains the terms and conditions for the use of grant to the assigned college. The financial memoranda should be agreed in advance with SFC's Accountable Officer.

***Scottish Public Finance Manual***

3. The institution must ensure that its assigned incorporated colleges follow the requirements of the SPFM except where any special actions or derogations have been agreed with the Scottish Ministers.

### Part 3 (B): Additional requirements for Regional Colleges and Regional Boards

4. The following additional requirements apply to Regional Colleges and Regional Boards:

   - Ayrshire College
   - Borders College
   - Dumfries and Galloway College
   - Dundee and Angus College
   - Edinburgh College
   - Fife College
   - Forth Valley College of Further and Higher Education
   - North East Scotland College
   - West College Scotland
   - West Lothian College
   - New College Lanarkshire.
   - Regional Board for Glasgow Colleges

*Scottish Public Finance Manual*

5. The institution must follow the requirements of the Scottish Public Finance Manual, except where any special actions or derogations have been agreed with the Scottish Ministers.

6. The derogations and actions in the following paragraphs have been agreed with the Scottish Ministers and must be read in conjunction with the SPFM. Where reference is made to the SPFM, please refer to the relevant section for the detailed requirements.

7. In cases where the SPFM requires bodies to notify or request prior approval from the Scottish Government, the institution must, in the first instance, contact SFC.

*Borrowing*

8. All borrowing by incorporated colleges will require the approval of the Scottish Ministers. Requests to borrow must be submitted to the SFC in the first instance.

9. Under the terms of Schedule 2B to the Further and Higher Education (Scotland) Act 2005, inserted by the Post-16 Education (Scotland) Act 2013, Regional Boards may not borrow money.

*Cash management and banking*

10. Grant payment will not be made in advance of need, as determined by the level of unrestricted cash reserves and planned expenditure. Unrestricted cash reserves held during the course of the year should be kept to the minimum level consistent with the efficient operation of the institution and the level of funds required to meet any relevant liabilities at the year-end. Grant-in-aid not drawn down by the end of the financial year shall lapse. Grant-in-aid shall not be paid into any restricted reserve held by the institution. Transfers to arms-length-foundations are permitted.

11. Banking arrangements should ensure they offer best value and comply with the Banking section of the SPFM. The Scottish Ministers have approved a derogation which delays the move to the Government Banking Service (GBS) to 2016-17 at the earliest.

12. The institution may extend existing banking arrangements provided they are not extended beyond Financial Year 2016-17. Any extension beyond Financial Year 2016-17 requires the agreement of the Scottish Ministers.

13. The institution can operate bank overdraft facilities to assist it in managing the timing of income and expenditure through its bank account. Overdrafts should not be used as a means of increasing borrowing.

***Contingent commitments***

14. The institution must seek SFC's prior written consent if it intends to lend or give a guarantee, indemnity or letter of comfort. The value of the guarantee should be equal to the total contingent liability over the term of the guarantee. In all cases, the institution must take steps to restrict the contingent liability to a minimum and should undertake a careful appraisal of the risks before accepting any contingent liability.

15. The institution should also provide assurance that, in the event of the contingent liability arising, it can be met from within the institution's own resource, or that appropriate insurance cover has been arranged.

16. However, SFC's written consent is not required for such arrangements if the indemnity is of a standard type contained in contracts and agreements for 'day-to-day' procurement of goods and services in the normal course of business.

***Delegated financial limits and annual reporting requirements***

17. The institution's specific delegated financial limits are set out in **Appendix A**. The institution must obtain SFC's prior written approval before entering into any undertaking to incur any expenditure that falls outwith these delegations.

18. Prior SFC approval must always be obtained before incurring expenditure for any purpose that is, or might be considered, novel, contentious or repercussive or which has or could have significant future cost implications.

19. What might be regarded as novel or contentious inevitably involves a degree of judgement. Novel would include proposed expenditure or financial arrangements of a sort not undertaken previously or which is not standard practice. Contentious would include proposed expenditure or financial arrangements where there was any doubt as to its regularity – for example, its compliance with relevant legislation or guidance – or its propriety – for example, compliance with the standards expected of publicly funded bodies or their officials. Proposed expenditure or financial arrangements that might be considered to be sensitive politically would also be regarded as contentious.

20. In addition, any frauds that are detected must be reported to SFC as and when they occur.

21. The institution must establish appropriate documented internal delegated authority arrangements consistent with the Delegated Authority section of the SPFM and this FM.

22. **Appendix A** also sets out the levels for certain categories of expenditure above which the institution should report annually to SFC. The report should describe the number of instances and total cost, by category of expenditure.

***Donation of surplus funds to arms-length foundations***

23. The institution may donate any surplus on its income and expenditure account as at 31 March each year to its arms-length foundation. The donation must take place in the financial year in which it arises, and is subject to sufficient cash and resource cover being available.

***Duties to provide information on certain expenditure as required by The Public Services Reform (Scotland) Act 2010***

24. As soon as is reasonably practicable after the end of each financial year, the institution must publish a statement of any expenditure that it has incurred during that financial year on or in connection with the matters described below.

    - Public relations,
    - Overseas travel,
    - Hospitality and entertainment,
    - External consultancy.

25. As soon as is reasonably practicable after the end of each financial year, the institution must publish a statement specifying the amount, date, payee and subject-matter of any payment, relating to any of the matters listed above, made during that financial year which has a value in excess of £25,000.

***Early departures of staff***

*26.* The institution must follow the requirements of the SPFM in determining settlement agreements, severance, early retirement and redundancy arrangements and payments. In addition, the institution must have regard to the principles of good practice in managing early departures of staff contained in Audit Scotland's May 2013 report: *Managing early departures from the Scottish public sector.*

27. In line with the requirements of the SPFM, the institution's severance scheme must be approved by SFC. Provided a severance payment is within the parameters of a scheme, which has been approved by the SFC, there will be no need for the institution to seek approval to the individual payment from SFC.

28. However, special severance payments in excess of £1,000 must be approved by SFC, except where provision for such payments has been included in a severance scheme approved by SFC. (See Appendix A)

*External business and management consultancy contracts*

29. Any external consultancy contracts with a value of more than £100,000 must be approved in advance by the SFC.

*Impairments, provisions and write-offs*

30. Assets must be recorded in the Balance Sheet at Depreciated Replacement Cost for Land and Buildings and at Historic Cost less depreciation for Equipment in accordance with the Financial Reporting Manual (FReM). Where an asset, including investments, suffers impairment, it is important that the prospective impairment and background is communicated to the SFC at the earliest possible point in the financial year to determine the budget implications. Any significant movement in existing provisions or the creation of new provisions must be discussed with the SFC.

31. Write-off of bad debt and/or losses score against resource Departmental Expenditure Limits (DEL).

*Income generation*

32. The institution will be able to retain all commercial income, gifts, bequests or donations received. These funds will be in addition to any grant or funding the institution receives from the SFC.

*Insurance*

33. The Scottish Ministers have agreed a derogation whereby institutions can extend their current commercial insurance arrangements for three years to 31 July 2018.

*Investments*

34. The institution must not make any investments of a speculative nature without the prior written approval of SFC.

*Procurement and payment*

35. The institution's procurement processes must reflect the relevant guidance contained in the Advanced Procurement for Universities and Colleges, and relevant policy and advice issued by the Scottish Procurement Directorate. Procurement must be undertaken by appropriately trained and authorised staff and treated as a key component of achieving the institution's objectives consistent with the principles of Best Value, the highest professional standards and any legal requirement.

36. Any proposal to award a contract without competition (non-competitive action) must be approved in advance by SFC. Specific delegated authority is given to award a contract without competition for £25,000 or less without advance approval. (See Appendix A)

**Appendix A**

## Delegated financial limits and annual reporting requirements for Regional Colleges and Regional Boards

### Delegated financial limits

| | |
|---|---|
| External Business and management consultancies | £100,000 |
| Special severance payments | £1,000 |
| Operating leases-non property | £250,000 |
| Procurement non-competitive action | £25,000 |

### Annual reporting requirements

| | |
|---|---|
| Extra contractual payments | £5,000 |
| Compensation payments | £5,000 |
| Ex-gratia payments | £1,000 |
| Claims waived or abandoned | £3,000 |
| Write-off of bad debt | £3,000 |
| Losses | £3,000 |
| Overseas student irrecoverable loss | £6,000 |
| Fraud loss | £5,000 |

## Part 4: Additional requirements for non-assigned, non-incorporated colleges

1. The following additional requirements apply to non-assigned, non-incorporated colleges:

   - Newbattle Abbey College
   - Sabhal Mòr Ostaig.

**Insurance**

2. The institution is responsible for taking out and paying for adequate insurance in respect of its assets and activities.

**Granting of security**

3. As a result of a condition in SFC's Framework Document with the Scottish Government, the institution must seek SFC's prior written consent if it intends to offer as security for a loan any land or property which has been provided, improved, or maintained with the aid of grant.

**Capital finance**

4. As a condition of SFC's Framework Document with the Scottish Government, SFC is required to "make provision for the monitoring and control of borrowing by institutions to protect the public investment in institutions and to maintain accountability for the use of exchequer funds". In order that SFC can discharge this requirement, it has in place a threshold for capital finance above which the institution requires SFC's consent to undertake any new borrowing.

5. The governing body of the institution, in line with the Code of Good Governance for Scotland's Colleges, must, as a matter of course, satisfy itself that all of the following requirements on capital finance are met:

   - The institution can demonstrate its ability to repay the finance, and to pay interest thereon, without recourse to requesting additional grant from SFC
   - The institution can demonstrate that its ability to maintain financial and academic viability will not be impaired as a result
   - The institution can demonstrate the value to be generated by the transaction, whether it involves refinancing, or purchase of any new investment or assets, the acquisition of which is to be financed by the borrowing
   - The institution can demonstrate that any such new investment or asset acquisition is in accordance with the institution's strategic plan and, where appropriate, its estate strategy

6. For the purposes of this document, ‘capital finance’ includes borrowing, finance and operating leases, and other schemes, such as private finance initiative projects, non-profit distribution projects, loan support projects and revolving credit facilities where borrowing is the substance of the transaction, in line with relevant accounting standards.

**When the Council’s formal consent is required in respect of capital finance arrangements**

7. The institution must obtain prior written consent from SFC before it undertakes a level of capital finance where the annualised costs of all capital finance (being the sum of the servicing and capital repayment costs of each loan or other arrangements spread evenly over the period of the relevant loan or arrangement) would exceed 4% of

   - Total income as reported in the latest audited financial statements; or
   - The estimated amount of total income for the current year, if that is lower.

8. In assessing total capital finance commitments, the institution must ignore low-value financial commitments, provided that the combined annualised servicing costs of such financial commitments do not exceed 0.5% of total income.

9. A revolving credit facility should be considered in the same way as an overdraft facility; for example, in terms of the institution’s maximum exposure over the term of the facility. An even annual cost of capital finance is assumed, unless the institution can demonstrate otherwise. The institution is required to provide the annualised cost of the capital finance calculation with any request to SFC for borrowing consent.

10. The institution must also seek consent from SFC before raising capital finance on the security of assets in which the Scottish Ministers have an interest. For the purposes of this document, such an interest exists where the institution has used funds provided by the Scottish Ministers to acquire an interest in or to develop any land, building or other asset, and where those funds were provided subject to a condition which has the effect of requiring the institution to obtain Scottish Ministers’ consent before raising capital finance on the security of those assets.

11. The Scottish Ministers have directed that SFC will exercise their functions in relation to any such interests.

12. In seeking SFC’s approval, the institution must demonstrate to SFC, in writing, its compliance with the requirements set out above.

**Contingent commitments**

13. The institution must seek SFC's prior written consent if it intends to lend or give a guarantee, indemnity or letter of comfort. The value of the guarantee should be equal to the total contingent liability over the term of the guarantee. In all cases, the institution must take steps to restrict the contingent liability to a minimum and should undertake a careful appraisal of the risks before accepting any contingent liability.

14. The institution should also provide assurance that, in the event of the contingent liability arising, it can be met from within the institution's own resource, or that appropriate insurance cover has been arranged.

15. However, SFC's written consent is not required for such arrangements if:

    - An actual or effective value is less than 4% of total income as reported in the latest audited financial statements or of the estimated amount of total income for the current year if that is lower; or
    - the indemnity is of a standard type contained in contracts and agreements for 'day-to-day' procurement of goods and services in the normal course of business.

**Severance payments**

16. The institution must adhere to the following principles when taking decisions about severance payments, including settlement agreements:

    - The actions of those taking decisions about severance payments, and those potentially in receipt of such payments, must be governed by the standards of personal conduct set out by the Committee on Standards in Public Life (the Nolan Principles)
    - The governing body must take account of SFC's expectation of the institution in this FM regarding the use of public funds.

17. Based on the principles above, the following requirements must be met:

    - Institutions must have in place a clear policy on severance payments
    - Severance packages must be consistent with the institution's policy and take into account contractual entitlements, for example, salary and period of notice, and any applicable statutory employment entitlements. This means that, when entering into employment contracts, care must be taken not to expose the institution to excessive potential liabilities
    - The institution's policy must include a formal statement of the types of severance arrangements that should be approved by the Remuneration Committee or equivalent and approved formally by the governing body. These must include any severance package that is proposed for a member

of the senior management team, in recognition of the particular level of accountability that is attached to senior management positions, and also any severance package that would exceed a maximum threshold agreed by the governing body

- Where a severance package exceeds the maximum threshold agreed by the governing body, the institution must consult with SFC's Accountable Officer prior to approving the proposed severance package
- The remuneration committee or equivalent, when overseeing and approving severance arrangements for staff, must ensure that all decisions are recorded
- Negotiations about severance packages and payments must be informed, on both sides, by legal advice where appropriate
- When a severance arises following poor performance on the part of an individual, any payment must be proportionate and there should be no perception that poor performance is being rewarded
- Final year salaries must not be inflated simply to boost pension benefits
- Notice of termination of appointments must not be delayed in order to generate entitlement to payments in lieu of notice

18. The institution must ensure its internal auditor includes a regular review of systems for the determination and payment of severance settlements in their strategic audit plan.

19. The institution must seek the view of its external auditor if it plans to make what it considers to be any novel or potentially contentious severance payments, including those that exceed the maximum threshold agreed by the governing body.

20. The institution's external auditor must review severance settlements. Such a review will normally take place after settlements have been agreed (normally as part of their financial statements audit) and should be carried out by senior audit staff because of the complexity and sensitivity of the issues. If final settlements do not materially conform to the terms of this FM, auditors must report the facts to the institution in their management letter, and inform members of the governing body. The auditors must also recommend that the institution informs the SFC immediately.

21. Where there are settlement agreements, and it is felt that a confidentiality clause is necessary, this must not prevent the public interest being served and must be consistent with the institution's whistleblowing policy.


# Guidance on seeking approval for severance schemes and settlement agreements

Issue date: 23 February 2016

Reference: SFC/GD/01/2016

Summary: Guidance to colleges and regional strategic bodies on meeting the requirements in the Scottish Public Finance Manual in relation to severance schemes and settlement agreements.

FAO: Principals and directors of Scotland's colleges and regional strategic bodies

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## Guidance on seeking approval for severance schemes and settlement agreements

### Introduction

1. The purpose of this document is to provide further guidance to colleges and regional strategic bodies on meeting the requirements in the Scottish Public Finance Manual (SPFM) in relation to severance schemes and settlement agreements. These requirements are a term and condition of funding from the Scottish Funding Council (SFC) with which colleges must comply. Incorporated colleges must now obtain prior approval from SFC for all new severance schemes, changes to existing schemes and all settlement agreements. Incorporated colleges have been required to comply with SPFM requirements since 1 April 2014 and this guidance provides additional detail around the process and approvals which are currently in place. The scope of this guidance covers all severance schemes and severance payments made under the categories of early severance or retirement, redundancy or settlement agreements.

### Applicability of guidance

2. This guidance applies to all incorporated colleges funded directly by SFC, and the Regional Board for Glasgow colleges[1] who must follow it as a term and condition of SFC's grant to them. This is in accordance with Part 3(B) of the Financial Memorandum with Fundable Bodies in the College Sector ("the Financial Memorandum")[2], which provides that incorporated colleges and the Regional Board for Glasgow colleges must comply with the requirements of the SPFM, including the provisions relating to settlement agreements, severance, early retirements and redundancy.

3. Regional strategic bodies (RSBs) must require incorporated colleges assigned to them to follow this guidance and this should form a term and condition of their funding of assigned colleges. This is in accordance with Part 3(A) of the Financial Memorandum which requires RSBs to ensure that their assigned incorporated colleges follow the requirements of the SPFM.

4. As a term and condition of grant, non-incorporated, non-assigned colleges are required to comply with Section 4 of the Financial Memorandum with SFC while non-incorporated assigned colleges will be required to comply with the Financial Memorandum with UHI. Non-incorporated colleges are not required

[1] The Board is known informally as the Glasgow Colleges' Regional Board.

[2] http://www.sfc.ac.uk/web/FILES/Guidance_Governance/Financial_Memorandum_with_the_College_Sector_-_1_December_2014.pdf

to comply with the SPFM. However, in negotiating severance payments with staff, non-incorporated colleges are expected to comply with the principles highlighted in this guidance.

5. This guidance replaces that issued by SFC in 2000 (FE/03/00) and 2004 (FE/13/04) for incorporated colleges and Regional Boards.

6. Within the following guidance, references to colleges mean incorporated colleges and the Glasgow Colleges Regional Board as organisations in their own right.

**Requirements under the SPFM**

7. Updated guidance from the Scottish Government on settlement agreements came into force on 1 April 2014.

8. The SPFM requires colleges and regional boards to seek prior approval from SFC for:

- Any new severance scheme;
- Any change to a previously approved scheme;
- Any payment, forming part of any scheme, considered to be sensitive or high profile;
- Any use of settlement agreements; and
- Any payment to an individual in excess of contractual entitlement outwith an approved voluntary severance scheme.

9. In the case of payments by assigned colleges, the regional strategic body will be responsible for obtaining approval from SFC. A flowchart is attached at **Annex A** showing the process to be followed depending on the type of college.

10. Colleges and regional strategic bodies must familiarise themselves with the requirements set out in the SPFM: (http://www.gov.scot/Topics/Government/Finance/spfm/severanceetcterms)

11. It will be particularly important for those committees dealing with severance schemes and arrangements, for example the Remuneration Committee, and the Board to understand the implications of the SPFM. Colleges should ensure that all Board members and appropriate college personnel are provided with a copy of this guidance.

**Governance**

12. In considering any severance, colleges must ensure that issues of regularity, propriety and value for money are fully taken into account. In doing so it is

important that policies and procedures are established and applied in a timely manner, including:

- Ensuring a business case, including justification and **full** expected cost, is prepared;
- Decisions are made and approved in accordance with college delegation procedures;
- Decisions are fully documented and a clear audit trail of evidence supporting the decision is retained; and
- There is clear evidence of governance oversight.

13. The Remuneration Committee, or equivalent Board committee, must undertake robust scrutiny of proposed severance schemes and settlement agreements before recommending approval to the Board. In order to preserve governance boundaries the Chair of the Remuneration Committee must not be the Chair of the Board.

14. The Remuneration Committee, or equivalent Board committee, must ensure there is no conflict of interest between those involved in approving severance arrangements and individual beneficiaries of such arrangements.

15. The Remuneration Committee, or equivalent Board committee, also has a role in setting remuneration policy and in ensuring contractual terms for staff are not overly generous (e.g. long notice periods) which may result in large payments when the employee leaves.

16. Audit Scotland's recent report 'Scotland's colleges 2015'[3] highlights weaknesses in the way some colleges managed and approved senior staff severance arrangements. Auditors at six colleges identified that the handling of severance arrangements fell short of good practice. In two of these cases (North Glasgow College and Coatbridge College) the Auditor General produced a separate statutory report (Section 22) setting out shortcomings in governance and reporting. Colleges should familiarise themselves with the contents of the above reports[4] and the Public Audit Committee reports that were based upon them.

17. SFC should be consulted in all cases where the possibility of compulsory redundancy is being considered. SFC should be notified at the earliest opportunity of such cases.

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[3] http://www.audit-scotland.gov.uk/docs/central/2015/nr_150402_scotlands_colleges.pdf
[4] http://www.audit-scotland.gov.uk/docs/central/2015/s22_150626_coatbridge_college.pdf
http://www.audit-scotland.gov.uk/docs/central/2014/s22_140507_north_glasgow_college.pdf

18. In situations of sensitive or high profile payments, Ministerial views on the terms of the proposed severance will be sought, as and when required, by SFC.

**Key principles**

19. When considering any severance, colleges must ensure that the following principles are observed:

- Public funds must not be used wastefully or to underwrite inequitable or over-generous conditions of service, including severance;
- Decisions on severance arrangements and, in particular, limits on payments will be based on the conditions set in the SPFM and this guidance and **not** on the source(s) of funding;
- Notice of termination of appointments must not be delayed in order to generate compensation payments in lieu of notice;
- Where appropriate, ex-gratia severance or redundancy packages must be based on the arrangements set out within relevant extant terms and conditions of employment. In particular, prior consideration should be given to the availability of pension and compensation benefits within these conditions;
- Special payments must be transparent and negotiated in a way which avoids conflicts of interest;
- Offers of subsequent employment or consultancy work must be exceptional and only made where they represent value for money; and
- Any undertakings about confidentiality must leave transactions open to proper public scrutiny.

**Procedures for approval by SFC**

20. The procedures for approval depend on whether the application is:

- A voluntary severance scheme
- Settlement agreement or proposal to secure a voluntary resignation

21. More detail of the procedures and assessment by SFC is given in the following paragraphs.

**Voluntary severance schemes**

22. Voluntary severance schemes have standard terms and conditions applying to all those staff who successfully apply to leave under the scheme. Statutory or contractual terms normally provide the bases for such schemes. Voluntary severance schemes are used to manage headcount reductions either across the organisation or in particular areas, and run for a specified length of time. Applications are assessed against set criteria which include the business case

for releasing a member of staff early and the value for money which can be obtained as a result. The numbers of staff leaving through voluntary severance schemes and the associated costs will be reported in colleges’ annual accounts.

23. Colleges should complete the template at **Annex B** setting out details of any proposed voluntary severance scheme or changes to an existing scheme.

24. In setting out the justification or business case for the new or changed scheme, colleges should outline:

- The rationale for introducing/changing the scheme;
- Mitigating action already taken or planned to avoid the need for headcount reductions e.g. recruitment freeze, redeployment, reductions in working hours;
- The terms available under the relevant compensation/pension scheme and the rationale for offering terms other than the contractual minimum;
- The estimated annual costs and savings of the new/revised scheme over the payback period;
- Details of how, by whom and over what timescale the costs of the scheme will be funded;
- The impact that the restructuring/headcount reduction will have on the paybill;
- Any potentially sensitive or high profile cases forming part of the scheme; and
- Confirmation that relevant management and governance procedures have been followed.

25. Severance schemes must be time limited and linked to a programme of managing early departures. Colleges currently operating a voluntary severance scheme must ensure it has an appropriate end date and compare the terms of the scheme against this guidance. SFC will maintain a register of existing schemes. If colleges have any questions about this guidance in relation to a current voluntary severance scheme they should contact SFC.

26. Colleges considering the setup of a voluntary severance scheme must seek appropriate legal and independent professional advice in establishing and implementing the scheme. Such expert advice must be provided for scrutiny by the Remuneration Committee and/or the Board prior to approval of the scheme and arrangements

27. Assigned incorporated colleges must submit the business case to their regional strategic bodies which are required to consider and approve the business case prior to submission to SFC for approval. Minutes of Board meetings approving the scheme should be sent to SFC with the business case.

### *How SFC will appraise an application for setting up a voluntary severance scheme*

28. The SFC's assessment of any proposed severance will look for confirmation that:

    - The principles listed in paragraph 19 have been observed;
    - The business case, including value for money, is clearly set out, includes all related costs (e.g. legal fee for employee to take advice; any associated pension costs) and costs are affordable;
    - The terms of severance packages are appropriate (including checking comparability with the arrangements across the college sector and wider public bodies in Scotland); and
    - Relevant management and governance procedures have been followed.

### Settlement agreements or proposal to secure a voluntary resignation

29. As noted above, colleges require SFC's prior approval in **all** cases where a settlement agreement or non-contractual financial consideration is proposed to secure a voluntary resignation, outwith the terms of an existing and approved scheme.

30. In cases where settlement agreements are part of a voluntary severance scheme, individual approval is required for each agreement and colleges should request approval by completing the template at **Annex C**.

31. Settlement agreements are legally binding contracts entered into by an employer and employee to resolve an employment dispute. Settlement agreements are recognised in law and an accepted part of employment practice. These agreements normally relate to the termination of employment, but they can also be used to settle disputes during employment.

32. The terms of a settlement agreement reflect the circumstances under which the person is leaving and may include a sum for loss of office as well as any contractual payments due to the individual. They are designed to allow individuals to leave the organisation on mutually negotiated terms and avoid potentially protracted and more costly employment disputes.

33. Settlement agreements should not be a standard feature of voluntary severance schemes. There should always be a presumption against the use of settlement agreements and colleges will have to justify their use (see **Annex C**).

34. The Scottish Government submitted a report to the Scottish Parliament's Public Audit Committee in June 2014 [5]on the first year of operation of the new guidance. **Annex E** summarises the key messages from the Scottish Government's report in terms of when settlement agreements can be used and why scrutiny is important.

### *Confidentiality clauses*

35. Settlement agreements may include a voluntary provision whereby the parties agree to keep the agreement itself confidential and not disclose its details to third parties.

36. In seeking approval for the use of a settlement agreement, colleges must indicate whether a confidentiality clause is proposed and, if so, on what grounds. There should be a presumption against the use of confidentiality clauses except in exceptional circumstances. However, either party (i.e. employee or employer) can request a confidentiality clause be inserted. In such a situation the terms of the clause must be agreed by both parties.

37. Nothing in any confidentiality clause should restrict an individual's right to make a protected disclosure under the Public Interest Disclosures Act 1998. Where a confidentiality clause is included in a settlement agreement, the text should be included in the business case submission to SFC.

### *Disclosure of information*

38. Settlement agreements often include a clause in relation to disclosing of information. Any such clause should explicitly note that SFC, Regional Strategic Bodies (where relevant) and the Scottish Government will have sight of the information. SFC will collate the information for submission to the Scottish Government for the purpose of parliamentary scrutiny. The Scottish Government's settlement agreement guidance[6] sets out the following draft clause (which has been adapted to reflect regionalisation) which colleges might choose to adopt:

*"The Scottish Government , SFC and Regional Strategic Board (where relevant) will be entitled to use the fact that an Agreement has been entered into to enable*

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http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/20150603_PE1495_FF_Scottish_Government.pdf

6 http://www.gov.scot/Resource/0045/00454087.pdf

*them to collate and provide information on the number of settlement agreements entered into with the Scottish Government and across the wider public sector and also to provide collated information on the costs involved. The Scottish Government, SFC and Regional Strategic Board (where relevant) will not however disclose the terms or circumstances of the Agreement or the name of the Employee without the written consent of the Employee or as required by the Scottish Parliament solely for the purposes of Parliamentary scrutiny relating to the use of public money or as required by law."*

***Use of standard termination letter***

39. Some colleges have advised SFC that a settlement agreement is necessary in order to set out the terms of the termination of employment. This is not the case. It is necessary to set out the terms of termination of employment, but this can be done through a standard termination letter or agreement. An example of such a letter is included at **Annex D** which colleges may wish to adopt.

***Overview of SFC's assessment of proposals***

40. The request to SFC or RSB as appropriate for approval of a settlement agreement or proposal to secure a voluntary resignation through the offer of a non-contractual financial consideration (outwith an approved scheme) must be in the form of a business case which should include, as a minimum:

- Justification of the need for a settlement agreement;
- An explanation of the circumstances of the case, including the legal assessment of the risk of litigation and likely outcome;
- Confirmation that relevant management and governance procedures have been followed;
- An assessment of the value for money offered by the proposal, including a breakdown of each of the constituent parts of the proposal and any associated contractual elements that may be relevant;
- Any non-financial considerations; and
- Confirmation as to whether the use of a confidentiality clause is proposed in the case.

41. Colleges should use the template provided at **Annex C** to submit business cases, the Employment Information Schedule (**Annex C1**) should also be completed.

**Compulsory redundancies**

42. Colleges should be aware that the policy of no compulsory redundancies is a key pillar of public sector pay policy which colleges should have regard to (this is a term and condition of grant applied through the SFC 'Financial

Memorandum with Fundable Bodies in the College Sector'[7], or its financial memorandum with a regional strategic body).

43. Any college considering compulsory redundancies should consult with SFC or RSB as appropriate as early as possible.

**Procedure for submitting business cases**

44. Business cases must be completed using the templates at **Annex B** or **Annex C,** signed by the College Principal and, where applicable, by the Chief Executive of the regional strategic body and submitted to the Director of Finance at SFC. Receipt of business cases will be acknowledged and processed within five working days (20 where Ministerial views are sought). Colleges should give SFC advance notice of any pending business cases and submit these as early as possible in case further information is required.

**Failure to adhere to the severance requirements**

45. Failure to adhere to the SPFM requirements constitutes non-compliance with the Financial Memorandum with SFC. Should the college breach the Financial Memorandum, SFC will consider various options, including clawback of grant or reductions in future funding. These options will be reviewed in light of any relevant recommendations arising from the College Good Governance Task Group.

**Good practice and learning from poor practice**

46. In addition to complying with the terms of this guidance colleges should look to wider sources of good practice, including reports from the Scottish Parliamentary Audit Committee and Audit Scotland. A list of good practice guidance is set out in **Annex F**. In particular, colleges must have regard to the principles of good practice set out in the Audit Scotland report 'Managing early departures from the Scottish public sector' May 2013[8].

L. MacDonald

**Lorna MacDonald**
Director of Finance

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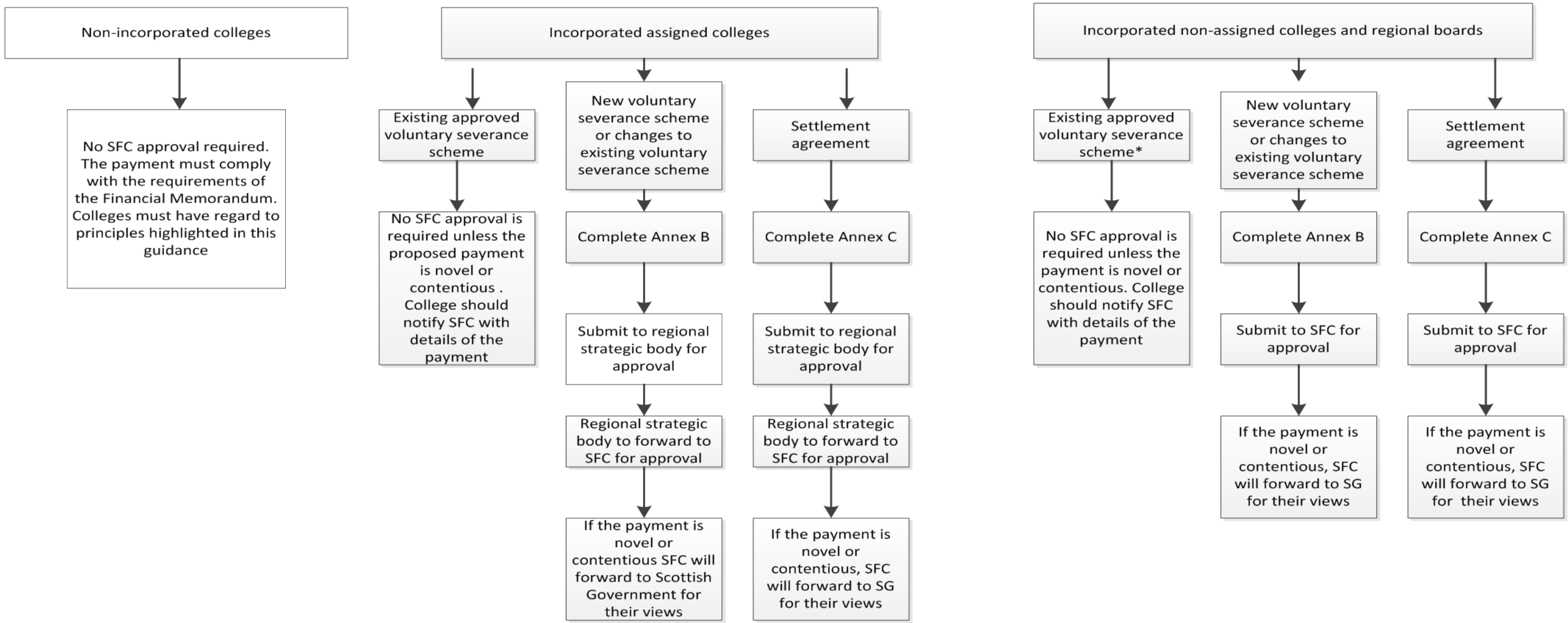
[7] http://www.sfc.ac.uk/web/FILES/Guidance_Governance/Financial_Memorandum_with_the_College_Sector_-_1_December_2014.pdf

[8] http://www.audit-scotland.gov.uk/docs/central/2013/nr_130523_early_departures.pdf

## Annex A

# Process for obtaining approval for severance schemes and settlement agreements




* All existing voluntary severance schemes must have a specified end date

**Annex B**

## Business case for approval for new severance scheme or changes to a previously approved scheme

**Name of college/regional board**

**New scheme or change to existing scheme?**

**End date of scheme**

**Rationale for introducing the scheme or changing old scheme**

**Outline of and confirmation that relevant management and governance procedures have been followed. A copy of the Board or Board committee minute approving the proposed scheme or change to scheme should be provided.**

**What mitigating actions have been taken or are planned to avoid the need for headcount reductions?**

**Outline the key terms proposed under the new/changed scheme and the rationale for offering over the contractual minimum.**

**What are the estimated annual costs and savings of the new/changed scheme over the payback period?**

**How will the full costs of the new/changed scheme be funded?**

**What impact will the headcount reduction have on the recurrent paybill?**

**Are there any potentially sensitive or high profile cases forming part of the scheme?**

**College Principal Signature /Regional Board chief officer**

**Date**

**Regional Board Chief Executive Officer (for assigned college applications only)**

**Date**

**Note:** this form should be completed where a college intends to establish a new scheme or make changes to a previously approved scheme. The form should be sent to the Director of Finance, Scottish Funding Council

Colleges should also refer to the "Settlement agreements, severance, early retirements and redundancy terms" section of the Scottish Public Finance manual at the following link:

http://www.gov.scot/Topics/Government/Finance/spfm/severanceetcterms

## Business case for approval of settlement agreement or proposal to secure a voluntary resignation through the offer of a non-contractual financial consideration

| | |
|---|---|
| **Name of college/regional board** | |
| **Confirm whether this is a proposed settlement agreement or a proposal to offer a non-contractual financial consideration to secure the voluntary resignation of an employee** | |

**Justify the need for a settlement agreement where relevant**

**Background and circumstances of the case**

**Risks arising**

**Outline of and confirmation that the relevant management and governance procedures have been followed. A copy of the Board or Board committee minute approving the proposed settlement agreement or financial payment should be provided.**

**An assessment of the value for money offered by the proposal by reference to the completed (attached) Employment Information Schedule**

**Any non-financial considerations, e.g. where it is desirable to end a person's employment but dismissal is not warranted**

**Confirmation that the principles set out at paragraph 19 of "Guidance on seeking approval for severance schemes and settlement agreements" have been applied.**

| |
|---|
| |

| | |
|---|---|
| **College Principal /Regional Board Chief Officer Signature** | |
| **Date** | |
| **Regional board Chief Executive officer Signature** (for assigned college applications only) | |
| **Date** | |

**Note:** this form should be completed where a college intends to make a settlement agreement or pay an employee an amount in excess of contractual terms. The form should be sent to the Director of Finance at the Scottish Funding Council.

Colleges should also refer to the "Settlement agreements, severance, early retirements and redundancy terms" section of the Scottish Public Finance manual at the following link: http://www.gov.scot/Topics/Government/Finance/spfm/severanceetcterms

**Employment information schedule for business case**

| | | | |
|---|---|---|---|
| **College name:** | | | |
| | | | |
| **Section 1 - Employee detail** | | | |
| | | | |
| **1.1 Employee name** | | | |
| **1.2 Job title** | | | |
| **1.3 Length of continuous service (years/months)** | | | |
| **1.4 Full Time Equivalent** | | | |
| **1.5 Age** | | | |
| **1.6 Current pay grade** | | | |
| **1.7 Contractual notice period** | | | |
| **1.8 Does contract provide for Payment in lieu of notice?** | | | |
| **1.9 Name of pension scheme** | | | |
| | | | |
| **Section 2 - Employment benefits and costs arising through normal course of employment** | | | |
| | | | |
| **Remuneration received by employee before deductions (last 12 months)** | | | |
| **2.1 Current annual salary rate** | | | **£** |
| **2.2 Any other remuneration received over last 12 months (specify)** | | | **£** |
| | | | |
| **Total remuneration received by employee before deductions** | | | **£** |
| | | | |
| **Other benefits received** | | | |
| **2.3 Benefit 1 (specify)** | | | **£** |
| **2.4 Benefit 2 (specify)** | | | **£** |
| | | | |
| **Total other benefits** | | | **£** |
| | | | |

| | | | | | |
|---|---|---|---|---|---|
| **Total remuneration and benefits received by employee before deductions** | | | | | **£** |
| | | | | | |
| **Employer on-costs of remuneration and benefits received** | | | | | |
| **2.5 Employer's Pension Scheme Contributions** | | | | | **£** |
| **2.6 Earnings Related National Insurance Contributions (ERNIC)** | | | | | **£** |
| **2.7 Other (including VAT)** | | | | | **£** |
| | | | | | |
| **Total employer on-costs of remuneration and benefits received** | | | | | **£** |
| | | | | | |
| **Total cost to employer of benefits received by employee** | | | | | **£** |
| | | | | | |
| | | | | | |
| **Section 3 – Contractual Termination costs** | | | | | |
| | | | | | |
| **3.1 Compensation In Lieu of Notice (CILON)** | | | | | **£** |
| **3.2 Payment in lieu of annual leave untaken** | | | | | **£** |
| **3.3 Other (e.g. Time Off In Lieu untaken)** | | | | | **£** |
| **Total** | | | | | **£** |
| | | | | | |
| **3.4 Employer cost of making up any pension shortfall** | | | | | **£** |
| | | | | | |
| **3.5 Other on-costs (specify, if any)** | | | | | **£** |
| | | | | | |
| **Total termination costs** | | | | | **£** |
| | | | | | |
| **Section 4 - Estimate costs of defending a case** | | | | | |
| | | | | | |
| **4.1 Can you confirm whether legal advice has been taken on whether the case should be defended? Please summarise advice given:** | | | | | |
| | | | | | |
| **Section 5 - Non-contractual and ancillary costs** | | | | | |
| | | | | | |
| **5.1 Gross value of any non-contractual sum to be offered** | | | | | **£** |
| **5.2 Net value of any non-contractual sum to be offered after any tax deducted** | | | | | **£** |
| | | | | | |
| **5.3 Other on-costs (N.I., pension)** | | | | | |
| | | | | | |
| **5.4 Maximum value of employee support for legal assistance** | | | | | **£** |

| | | | |
|---|---|---|---|
| | | | |
| **5.5 Other (specify)** | | | **£** |
| **e.g. cost of outplacement support for employee not available through normal course of employment. (Include any VAT)** | | | |
| | | | |
| **5.6 What are the estimated costs of negotiating and concluding an agreement? (Please provide a breakdown of costs – this should not include organisational staff time)** | | | **£** |
| | | | |
| **Total proposed terms of non – contractual element of agreement** | | | **£** |
| | | | |
| **Section 6 - Total costs** | | | |
| | | | |
| **6.1 Contractual termination costs – per Section 3** | | | |
| **6.2 Non-contractual termination cost – per Section 5** | | | |
| **Total** | | | |
| | | | |
| **Section 7– Settlement Agreement** | | | |
| | | | |
| **7.1 Does the settlement agreement include a confidentiality clause? If so, why?**<br><br>**7.2 Please include the text of the confidentiality clause** | | | |
| **NB. Where the costs in section 5 are estimated, SFC should be provided with updated actual costs when these are known.** | | | |

**Annex D**

## Example of standard termination letter

**[Draft letter to the volunteer confirming their severance and giving notice]**

**[To be typed on headed paper and sent out in duplicate with sections in square brackets completed as appropriate and drafting notes removed]**

Dear [◆ ]

**NOTIFICATION OF THE OUTCOME OF THE COLLEGE'S INDIVIDUAL CONSULTATION WITH YOU ABOUT YOUR POTENTIAL VOLUNTARY SEVERANCE**

I am writing to notify you of the outcome of the individual consultation process that has been undertaken with you recently. I have considered all of the issues that we have discussed when we met and the documents that have been provided to you during this process. I have also considered your request to volunteer for severance.

**Voluntary severance**

On the basis of all of the above, I have decided to confirm your severance, and to give you notice of termination of your employment. Your employment will continue until [***insert date***]. That will be your last day of employment with the College.

Although you have volunteered for severance, the College will nevertheless continue to look for suitable alternative employment for you within the College until your employment terminates.

**Time off to look for new employment**

We will allow you reasonable paid time off to look for new employment elsewhere during your notice period. If you do require time off for this purpose, please arrange this with [***insert name and job title***].

[***As you know, we have appointed outplacement consultants, [◆ ], and you can use their services.***]

If you find another job and wish to leave early, we will consider this request, [***subject to the terms of the Severance Policy & Procedure- insert name of policy***]. However, in these circumstances whilst you will receive the severance payments outlined below, you will not receive any payment for the unworked part of your contractual notice period.

**Continuing salary, holiday pay and severance payments**

You will be paid in the normal way up to and including [***insert date***], or earlier if your employment ends prior to this date.

[***You will receive payment in lieu of accrued but untaken holiday up to the date your employment terminates***.] ***OR*** [***You have agreed to take all of your outstanding leave entitlement accrued to the date your employment terminated during your notice period, therefore, no payment will be due on termination in respect of accrued but untaken holiday entitlement***.]

On [***date***], you will receive your severance payments (as outlined in the attached schedule, which you have already had a copy of) directly into your bank account. These payments [***along with the payment in lieu of notice outline below***] will, of course, only be due if your employment terminates on [***date***] for voluntary severance. If your employment terminates for any other reason prior to [***date***] (such as misconduct), you will not be entitled to these payments.

Information about your rights under the [***name of pension scheme***] and any insurance benefits can be obtained from [***name***] on [***phone number or email address***].

**Notice**

As regards a payment in lieu of notice, the situation is as follows. Your notice entitlement is [◆ ] weeks. This means that you will be [***working all of your notice period, and will receive no payment in lieu of notice***] OR [***working for part of your notice period, and will receive a payment in lieu for the remainder of your notice period***]. Your payment in lieu of notice will be [◆ ] weeks' pay, which will be £[◆ ]. This payment will be made to you after deduction of tax. It will be paid directly into your bank account with your severance payments on or around [***date***].

**P45, expenses and return of property**

Your P45 will be sent to you shortly after your last day of employment with the College.

You must submit your final expenses claim by [***date***] and return any keys and College property (including car park pass, ID badge, documents, IT equipment and mobile telephone) to [***name***] by [***date***]. Please be advised that you will not be able to access any College computer networks or files after [***date - termination***] so all arrangements to transfer personal information should be done before then.

**Right of appeal**

You may, if you wish, appeal against the termination of your employment. If you wish to do so, please write to me within seven days from the date of this letter, stating the grounds for your appeal. I will then write to you explaining the appeal procedure.

**Waiver of contractual claims**

The payments referred to in this letter are in full and final settlement of all claims under contract law or common law which you have or may have in the future against the College or any of its associated bodies whether arising from your employment with the College or its termination on [***insert date***], including without limitation claims for breach of contract and wrongful dismissal.

Thank you for your co-operation during this severance process. Please sign, date and return the enclosed copy of this letter within [***seven***] days from the date of this letter to acknowledge receipt and confirm your agreement to the terms of this letter. Of course, if you have any questions about the contents of this letter you would like to discuss before doing so, please do not hesitate to contact me.

I would also like to take this opportunity on behalf of the College to thank you for your service over the years and give you my personal best wishes for the future.

Yours sincerely

[**Name, job title and contact details**]

**SEVERANCE PAYMENTS FOR [INSERT NAME OF EMPLOYEE]**

**Statutory Redundancy Payment** (payable to employees with at least two years' continuous employment).

Start date: [***Date***]

Termination date: [***Date***]

Period of continuous employment: [***Number***] years

Age at termination: [***Number***] years

Gross weekly salary: £[***amount***]

Statutory cap on weekly salary: £[***475 - limit will be updated on 5 April 2016 and each year thereafter so ensure current figure is used***]

[**Number**] years at one and a half times gross weekly salary: £[***amount***]

[**Number**] years at one times gross weekly salary: £[***amount***]

[**Number**] years at half gross weekly salary: £[***amount***]

Total: £[***amount***]

**Voluntary Severance Payment**

[**Set out total figure, the relevant formula, the calculations done to reach that figure and any statutory deductions for payments over £30,000. If no deductions are to be made as the payment is under £30,000 state that the payment will be made free of income tax and national insurance contributions. Refer to any relevant policy which contains the formula for calculating voluntary severance payments**.]

**Annex E**

## Key messages from the Scottish Government Annual report on the use of settlement agreements April 2014 to March 2015[9]

**Settlement agreements are used in circumstances where:**

- The employment relationship has broken down or been significantly impaired;
- The situation cannot be remedied through mediation or other personnel processes; and
- Alternative routes to resolution would involve disproportionate cost at a tribunal or otherwise at law; and impair the functioning of the service.

**Consideration on the use of settlement agreements will take into account:**

- The direct and indirect costs of alternative proceedings and of any other awards that might be made;
- Disruption to the effective and efficient operation of the service caused by an on-going dispute and the resultant stress on individuals; and
- The likely timescales involved, against the need to bring matters to a timely conclusion.

**Scrutiny of settlement agreements by the college and SFC's Accountable Officer is undertaken because:**

- They may involve payments to individuals above and beyond their normal contractual entitlement;
- Parliament and the public will want to be assured that, in all circumstances of the case, their use was appropriate and reasonable; and
- There is a need to ensure their use does not cut across the important protection offered to whistleblowers.

[9] http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/20150603_PE1495_FF_Scottish_Government.pdf

**Annex F**

## Good practice guidance and further information

### Scottish Public Finance Manual

Chapter on Settlement agreements, Severance, Early Retirement and Redundancy Terms:
http://www.gov.scot/Topics/Government/Finance/spfm/severanceetcterms

Scottish Government report to Scottish Parliamentary Audit Committee:
http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/20150603_PE1495_FF_Scottish_Government.pdf

### Scottish Parliamentary Audit Committee reports

http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/93106.aspx

http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/95448.aspx

### Audit Scotland

Report on “Managing early departures from the Scottish public sector” May 2013:
http://www.audit-scotland.gov.uk/docs/central/2013/nr_130523_early_departures.pdf

Report on Scotland’s colleges 2015:
http://www.audit-scotland.gov.uk/docs/central/2015/nr_150402_scotlands_colleges.pdf

Section 22 reports:

http://www.audit-scotland.gov.uk/docs/central/2014/s22_140507_north_glasgow_college.pdf

http://www.audit-scotland.gov.uk/docs/central/2015/s22_150626_coatridge_college.pdf

**Operation of Severance Payments Policy**

## 1 Purpose of the Report

The purpose of this report is to provide the Finance and General Purposes Committee with a revised Operation of Severance Payments Policy for approval.

## 2 Background

In cases of severance due to redundancy or premature retirement, Dumfries and Galloway College is required to have a policy in place applicable to all staff. The Scottish Funding Council Financial Memorandum provides guidance on the content of such a policy and recently provided further guidance in February 2016 (SFC/GD/01/2016) on seeking approval for severance schemes and settlement agreements. The College policy has therefore been updated to reflect the recent guidance.

## 3 Recommendation

Members are asked to note and approve the attached revised policy.

**OPERATION OF SEVERANCE PAYMENTS POLICY**

## 1 Introduction

In cases of severance due to redundancy or premature retirement, Dumfries and Galloway College will apply the following policy to all staff, in accordance with current employment law, duties under the Scottish Funding Council Financial Memorandum with Funding Bodies in the College Sector and Ethical Standards in Public Life Act (2000) in all cases.

## 2 Scope

The guidance applies to all employees of the College

## 3 Responsibilities of the College

3.1 The Principal and Director of Organisational Development and Facilities are responsible for implementation of this policy.

3.2 In exercising their discretion in issuing employees with terms and conditions of employment, the College must act reasonably. This includes using funds from public and other sources only for the purposes for which they were provided. The College has a responsibility to use both public and any 'private' funds in a prudent way that that ensures that issues of regularity, propriety and value for money are fully taken in to account. The Board of Management are responsible for approving any Voluntary Severance Scheme subject to 4.4 below.

3.3 The circumstances leading to termination will determine whether any payment is to be made to an employee on termination of employment.

3.4 Under the Scottish Public Finance Manual and the Scottish Funding Council (SFC) Guidance on seeking approval for severance schemes and settlement agreements the College is required to seek prior approval from the SFC for:

3.4.1 Any new severance scheme;

3.4.2 Any changes to a previously approved scheme;

3.4.3 Any payment, forming part of any scheme, considered to be sensitive or high profile;

3.4.4 Any use of settlement agreements; and

3.4.5 Any payment to an individual in excess of contractual entitlement out with an approved voluntary severance scheme.

3.5 When agreeing a severance package, the college will remit this task to the Remuneration Committee of the Board of Management in the case of a member of the Executive Management Team or where the costs of all elements of a proposed severance payment would amount to more than £60,000. In cases below this limit the matter shall be dealt with by the Principal.

3.6 The Remuneration Committee will generally oversee severance arrangements. It will do so in the context of this policy and SFC Guidance on seeking approval for severance schemes and settlement agreements that sets out general principles covering all severance packages.

## 4 General Policy Statement

The college's general policy is that where a severance payment is to be made, it will not normally exceed the statutory and/or contractual entitlement of the employee. Any exceptional settlements proposed that are in excess of, or otherwise not within such a framework, will be specifically considered by the Remuneration Committee or Principal and formally approved by the Board of Management.

## 5 Negotiating Terms

In general, public funds should only be used to meet contractual and other payments required by current employment law. In exceptional circumstances, and in the interests of the College, agreement may be reached following appropriate consultation with the recognised Trade Unions to enhance payments made.

## 6 Audit

Internal auditors will periodically review the systems for the determination and payment of severance settlements in their strategic audit plan. Payments made to senior staff will be audited by the College External Auditors.

## 7 Distribution

Board of Management
All Staff
Quality Manual

**Finance and General Purpose Committee**

# Estates Update

## 1 Purpose of the Report

The purpose of this report is to provide the Finance and General Purposes Committee with an update on Facilities developments following the previous meeting.

## 2 Break In

On 22 March 2016 the College was broken in to and the money was stolen from the cash machine, approximately £8,000. Upon discovery the police were informed and are continuing with their investigations. No arrests have been made at the time of writing the report. The cash machine has been removed and will be replaced at the beginning of June. On the advice of the police the machine will be relocated to an area where there are several CCTV cameras and security motion detectors. The police will also conduct a security check of the College and advise in relation to any improvements.

## 3 Flood Damage

On 27 January 2016 the College experienced severe flooding of the car park, service yard and lower level. This resulted in the closure of the College for 2 days to all learners to enable the cleaning and sanitisation process to commence. The College remained closed to almost all the construction and engineering learners for a further week. The learners will remain in College for a week following the end of term to ensure that they receive the full teaching for their designated course.

The area has been full cleaned and sanitised with only minimal damage to equipment which has now been replaced. The main staff workroom, 2 classrooms and the catering staff area have wooden floors therefore these needed to be removed and replaced. This was completed during the Easter holidays with no disruption to the learners. In addition the fire alarm detectors fitted to the automatic doors and intumescent strips required replacing and this has also now been complete.

The loss adjuster appointed by the insurers has maintained contact with the College and has advised that the College responded extremely well to the incident. The overall claim will be in the region of £55,000.

## 4 ZEST

The full completion certificate has now been received.

## 5 Timber Store

The replacement timber store was completed on 29 April 2016 with only minor snagging identified.

## 6 Potential Construction Issues

On 8 April 2016 the City of Edinburgh Council made a decision to close schools in their region following the identification of construction issues potentially attributed to Millers Construction. As a result of this information the College has requested McGowan Miller, Construction Consultants, to investigate the concerns on behalf of the College. They are currently in discussion with Topek Ltd (cladding manufacturers) and Asher Associates (Structural Engineers) regarding the issues raised in Edinburgh to identify if there are ay structural concerns at the College.

Scottish Government has also asked that all public bodies provide updates regarding any issues found with their buildings.

## 7 Health and Safety

A thorough health and safety inspection has now been completed for the Dumfries and Stranraer Campus. These have identified a number of areas for improvement which relate to risk assessments, weekly equipment checks and housekeeping. All are being progressed with each department.

The annual fire risk assessment has also been completed for the College and any recommendations are now being actioned. One area identified which will require investment will be to update the fire alarm system at Stranraer Campus.

## 8 Recommendation

Members are asked to note the report.

# Finance and General Purposes Committee

**DRAFT 2016/17 BUDGET**

## 1. PURPOSE OF REPORT

The purpose of this report is to review the initial budget proposals for the 2016/17 financial year, which covers the 12 month period August 2016 to July 2017.

## 2. REPORT

The 2016/17 budget is based on the forecast out-turn for the current academic year, with some adjustments made for known changes. A summary of the income and expenditure is attached, which shows the current forecasts for the 2015/16 academic year and the initial budget for 2016/17. The report shows expenditure met from 'depreciation cash' in 2015/16 separately in order to highlight the underlying operating position.

The budget setting process has been refined from previous years, and now incorporates a continuous review and monitoring of income and expenditure, and forward planning, in order to accommodate Government budget reporting requirements. During 2015/16, the original budget has been revised with changes arising approved by the Executive Management Team and Finance and General Purposes Committee, in order to meet budget targets and re-align plans where necessary.

The 2016/17 budget has been prepared taking into account the operational supplies, services and support required in order to deliver the same level of services as the current year. Detailed discussions have been held with all College budget holders in order to assess any changes planned for 2016/17, and the effect on related income and expenditure for each area.

The draft budget shows income and expenditure for student support funds separately, as those funds are ring-fenced, and can only be used in accordance with rules set by the Scottish Funding Council (SFC) and the Student Awards Agency for Scotland (SAAS). This budget has been prepared on the assumption that student support funding grant will be sufficient to meet demand, but as the mix of students changes each year, and the demand for support can vary significantly between academic years, the forecast expenditure will be updated on a regular basis to highlight any potential shortfall.

SFC have recently confirmed their allocation of core grant and student support funding for 2016/17, which shows a reduction in credit targets of 1% and a net increase in core grant of 1.2%. The change to core grant includes a 1% increase on the activity grant for financial pressures, and an uplift of 2% in the price per credit. SFC have indicated that they will also provide some strategic funding, but the details of this are not yet known.

SFC have indicated that the College sector will be expected to utilise depreciation cash grant in 2016/17 for Government Budgeting and Reporting purposes, with similar priorities as the current year. The net depreciation budget is forecast to be £380,000, in line with the current year, and the cost of the 1% consolidated pay award and increased national insurance costs have been shown as expenditure from depreciation cash in this draft budget.

# Finance and General Purposes Committee

**Key Assumptions**

The key assumptions made for the initial draft figures are as follows:

## Income

**SFC Grant Allocation**
SFC core grant will increase by £102,213 to £8,516,174.

**SFC Projects**
The budget for SFC Project income is lower than the current year as follows:

| | 2015/16 | 2016/17 |
|---|---|---|
| Student Association Project | £ 71,000 | £ 0 |
| DYW | 75,000 | 0 |
| ESOL | 42,756 | 40,000 |
| EMA Admin | 8,000 | 8,000 |
| Total | £196,756 | £ 48,000 |

**Capital maintenance**
The grant award letter from SFC shows a reduction in Capital maintenance grant of £98,404 to £280,538.

**SFC Strategic Funds**
SFC have indicated that Strategic Grant funding may be available to support the uplift for teaching salaries to move towards the top scale, and this has been estimated at £30,000.

**Other Income**
Additional HE courses are planned for 2016/17, and this has been reflected in the increased SAAS fee income.

Other income has been assumed to be at similar levels as the current year forecasts:

| | 2015/16 | 2016/17 |
|---|---|---|
| SAAS fees | £640,000 | £732,000 |
| SDS contracts | 96,000 | 96,000 |
| CTS fees | 188,000 | 200,000 |
| SVQ fees | 90,000 | 90,000 |
| UWS teaching hours | 30,000 | 30,000 |
| UWS re-charges | 80,000 | 80,000 |
| Salary re-charges | 34,000 | 34,000 |
| Other partnership working | 12,000 | 12,000 |
| DGHP course fees | 0 | 40,000 |
| Re-ablement workshop fees | 0 | 20,000 |

**Release of capital grants**
The draft budget includes a release of deferred capital grants as follows:

| | **2015/16** | **2016/17** |
|---|---|---|
| SFC/ ERDF grants | £758,000 | £758,000 |
| Crichton Foundation/ SCF | 58,000 | 58,000 |

The budget treatment of these grants will be updated when the options for accounting for capital grants has been considered.

## Expenditure

**Salaries**
Total salary costs have currently been estimated at £8,208,000, of which £177,000 has been allocated against depreciation cash. The salary figure includes £35,868 for teaching staff increments, £30,000 for staffing contingencies, and £100,000 estimated costs for the increase in the rate of National Insurance.

**Pay Award**
The salary budget figures are based on estimated pay award of 1.5% for support (including cost of 2 days consolidated holiday) and £550 for teaching staff, and uplift for teaching salaries from April 2017 to move towards the top scale and a pay award of 1% for all staff for the period April 2017-July2017.

**Staffing changes**
The increase in total projected staffing costs includes:

| | |
|---|---|
| Development time | £87,000 |
| Increased delivery and new posts | £199,000 |

The increased delivery includes additional schools programmes, new HNC and Diploma courses to meet regional needs, and new day release in supported programmes. The new posts include the Board Secretary, Student Engagement Officer, an increase in Stranraer Princes' Trust to full time, Facilities Manager and an additional Work-Placement Co-ordinator.

**Property costs**
The budget is expected to cover core costs for ongoing estates maintenance and repairs. Any future developments will require to be costed and assessed against budget available. Approximately £330,000 of the donations by the College is still held by the Scottish Colleges Foundation, and an application could be made for grants to fund future development projects.

**Other expenditure**
Supplies and services forecasts are based on 2015/16 budget levels. Some budget has been included for consultancy and other professional fees, including VAT advice, HR, and catering, in line with the current costs.

**Operational Plan**

No funds have been set aside in this draft budget for any operational plan developments. The possible utilisation of depreciation cash funds for operational plan developments during 2016/17 will be explored when further information is available.

**Student Support Funding**
The forecast income and expenditure for student support is based on the SFC budget income for 2016/17, which has been reduced by £92,294 to reflect the decrease in target student numbers. The budget assumes equal levels of income and expenditure, with no overspend arising.

**Assets**
Depreciation and the corresponding release of deferred capital grants have been calculated based on the fixed assets at 31 March 2016. Any changes to fixed assets will impact on depreciation costs.

**Contingency**
£30,000 has been set aside for payroll contingencies, with no general contingency included in the budget at this time.

**Depreciation cash expenditure**
The costs of the 2015/16 consolidated pay award of 1% as well as national insurance increases have been allocated against depreciation cash expenditure in this draft budget. SFC has indicated that the priorities for 2016/17 will be in line with 2015/16 – namely Student Support, Loan repayments, and pay award as well as other cost pressures.

The net depreciation cash for 2016/17 is estimated to be in line with the current year at £380,000.

**Out-turn for the period**
The draft budget shows an underlying break-even out-turn for the year, with costs being met from depreciation cash for the consolidated pay award and national insurance increases as noted above.

Some funds remain with the Scottish Colleges Foundation.

**Review of budget changes**
The budget will be reviewed and updated as the year progresses and further information is available. The Executive Management Team will regularly scrutinise any changes and developments throughout the year, and regular reports will be made at Finance and General Purposes Committee meetings in order to meet budget targets and re-align plans where necessary.

## 3. RECOMMENDATION

The Committee are requested to consider the draft budget for 2016/17 as recommended by Executive Management Team, and approve it pending approval by the Scottish Funding Council of proposals for utilising depreciation cash.

# Finance and General Purposes Committee

**Appendix**

| **INCOME AND EXPENDITURE** | **ACADEMIC YEAR** | | |
|---|---|---|---|
| | **12 month period July to August** | | |
| | **Forecast for 2015/16** | **Budget for 2016/17** | ***Variance*** |
| **INCOME** | **£000** | **£000** | **£000** |
| Grant Income | 9,107 | 8,895 | *(212)* |
| Release of deferred capital grant | 816 | 816 | *(0)* |
| Fee Income | 1,681 | 1,868 | *187* |
| Other Income | 67 | 64 | *(3)* |
| SFC Strategic Fund | - | 30 | *30* |
| **Total Income** | **11,671** | **11,673** | |
| **EXPENDITURE** | | | |
| Gross pay costs | 6,132 | | |
| Pensions | 1,073 | | |
| National Insurance | 441 | | |
| **Total Pay Costs** | **7,646** | **8,031** | *385* |
| Property Costs | 1,051 | 739 | *(312)* |
| Other overheads | 1,776 | 1,703 | *(73)* |
| Depreciation | 1,198 | 1,197 | *(1)* |
| Student Support Contingency | | | |
| **Total Other Costs** | **4,025** | **3,639** | |
| **Total Expenditure** | **11,671** | **11,670** | |
| **UNDERLYING OPERATING SURPLUS/ (DEFICIT)** | **0** | **0** | |
| **DEPRECIATION CASH EXPENDITURE** | **380** | **177** | *(203)* |
| **OVERALL OPERATING SURPLUS/ (DEFICIT)** | **(380)** | **(177)** | |

# Finance and General Purposes Committee

**STUDENT SUPPORT**

| | ACADEMIC YEAR | | | |
|---|---|---|---|---|
| | 12 month period July to August | | | |
| | Forecast for 2015/16 | | Budget for 2016/17 | *Variance* |
| | £000 | | £000 | £000 |
| Income | 2,548 | | 2,442 | **(106)** |
| Expenditure | 2,548 | | 2,442 | **(106)** |
| **Net costs to be met by College** | **0** | | **0** | |

# Financial Update at March 2016

## 1. Changes to Financial Reporting and Budgeting

The budget planning objective for Dumfries and Galloway College following re-classification of the Scottish College Sector within Central Government for budgeting and reporting is now to achieve a balanced budget each year, manage cash balances throughout the year, and maintain broadly the same level of working capital year on year.

The current accounting period is a 12 month period ending on 31 July 2016, and the income and expenditure reports in the attached Appendix include projections from August 2015 to July 2016.

## 2. Budget Changes

Revisions to the budget which were incorporated in the February and March 2016 monthly accounts are:

Grant Income – the forecasts to 31 July have been revised to include a reduction in SFC core grant of £200,000 for the estimated credit shortfall.

Fee income – the forecasts have been revised to incorporate the additional fees received from Construction Skills and SAAS.

Other overheads – additional budget of £110,000 was applied for an approved portion of Operational Plan requests to be purchased before the 31 March budget cut-off.

The budget shows a net operating deficit following these changes. The forecasts to July 2016 include additional expenditure from depreciation cash funds, which gives an overall forecast operating deficit.

## 3. Results to 31st March 2016

### *3.1 Key Performance Indicators*

The Key Performance Indicators for monitoring the out-turn for the year, and working capital position at 31st March 2016 are summarised as follows:

**Income and Expenditure:**

| | | |
|---|---|---|
| Operating Surplus/ deficit as % of income | 2.06% | |
| Non-SFC income as % of total income (including ALF grant income) | 22.56% | |

**Balance Sheet:**

| | | |
|---|---|---|
| Current Assets: Current liabilities | 1.39 | (31.03.15 – 1.21) |
| Days cash to annual expenditure (excluding depreciation) | 56 days | (31.03.15 - 60 days) |

The KPI's indicate that the College is operating with low net assets, in line with the requirements of Central Government budgeting and reporting.

Bank balances were higher than the usual monthly balances due to the balance of SFC core grant received for the budget period to March 2016.

The ratios reflect the decrease in bank balances and Lennartz repayments over the SFC budget reporting period April 2015 to March 2016.

***3.2Income and Expenditure***

Income and expenditure for the period to March 2016 and forecasts to July 2016 are summarised in paragraph 5.

The Scottish Funding Council approved our request to utilise depreciation cash funds to offset the costs of the pay award for 2015/16 as well as the developments including the Beauty Salon refurbishment and car park extension. This has enabled the College to repay a portion of the Scottish Colleges Foundation grant which had been awarded previously to meet those costs, amounting to £240,000.

The Executive Management Team review the management accounts on a regular basis, and revise plans in order to achieve a break-even out-turn to 31 July 2016 for underlying operating activities. The accounts for the eight months to March 2016 show variances from the revised budget as follows:

- Projected grant income reflects the repayment of Scottish Colleges Foundation grant;

- Fee income is higher than the revised budget. CTS fees, income for HE courses and SDS income have all been higher than originally forecast for the period to date;

- Pay costs to date include sickness cover, with further contingencies set aside for the remainder of the year. The forecasts include the costs of the pay award which will be paid with the March salaries;

- Property costs for the period have been offset by the net reduction in future Lennartz costs, and some expenditure has been incurred on IT and other areas in line with the operational plan requests.

The projections indicate that the operating results will show a deficit at 31 July due to the additional expenditure from depreciation funds incurred during the period.

### *3.3 Balance Sheet*

The balance sheet movement for the period between January and March is as follows:

| | March '16 | January '16 | *Movement* |
|---|---|---|---|
| | £000 | £000 | *£000* |
| Fixed Assets | 37,155 | 37,354 | *(199)* |
| Current Assets | 2,691 | 2,889 | *(198)* |
| Current Liabilities | (1,932) | (1,427) | *(505)* |
| Long Term Liabilities | (584) | (584) | *0* |
| Provisions | (796) | (796) | *0* |
| Pension Liability | (5,219) | (5,219) | *0* |
| Net Assets | 31,315 | 32,217 | *(902)* |
| | | | |
| Deferred Capital Grants | (26,183) | (26,319) | *139* |
| Revaluation Reserve | (4,468) | (4,492) | *24* |
| I&E Account | (664) | (1,406) | |
| | (31,315) | (32,217) | |
| | | | |
| Cash at Bank | **1,636** | **1,957** | *(321)* |
| | | | |
| Net current assets | **759** | **1,462** | *(703)* |

**Fixed Assets –** the decrease in fixed assets represents the depreciation charges on the College buildings and other fixed assets.

**Current Assets and Liabilities** – overall bank balances have decreased by £321,000 from January balances. Grant funding from the Scottish Funding Council is drawn when required in order to meet expenditure as it falls due each month, and the monthly claim is calculated based on maintaining a bank balance of £1m on a monthly basis. The claim for March represents the balance of grant due for the budget period August 2015 to 31 March 2016. The amount of SFC grant unclaimed and treated as a debtor at March 2016 amounts to £519,000.

The ratio of current assets to current liabilities has decreased for the period to March 2016, and reflects the decreased bank balances and income outstanding for the period.

The decrease in long-term liabilities reflects the decrease in future Lennartz commitments.

## 4. Student Support

Projections for student support for the 2015/16 academic year have been updated based on current commitments, and take into account the split of grant for the two budget periods to March 2016 and July 2016. The current projections indicate that SFC grant available will cover existing commitments to students for Bursaries, Childcare and Further Education Discretionary funds.

Income and expenditure forecasts for student support funds are as follows:

| STUDENT SUPPORT | PERIODS 1 TO 8 August to March 2016 | | FORECAST - 12 MONTHS TO JULY 2016 August 2015 to July 2016 | | | | |
|---|---|---|---|---|---|---|---|
| | Actual | Revised Budget | Forecast | Revised Budget - March '16 | *Changes for approval* | Revised Budget - May '16 | *Variance from revised budget* |
| | £000 | £000 | £000 | | | £000 | £000 |
| Income | **1,853** | 1,853 | **2,548** | **2,548** | **0** | **2,548** | **0** |
| Expenditure | **1,853** | 1,853 | **2,548** | **2,548** | **0** | **2,548** | **0** |
| **Net costs to be met by College** | **0** | **0** | **0** | **0** | **0** | **0** | **0** |

# Board of Management

## 5. Income and Expenditure Summary

| INCOME AND EXPENDITURE | PERIODS 1 TO 8 August to March 2016 | | 12 MONTHS TO JULY 2016 August 2015 to July 2016 | | | | |
|---|---|---|---|---|---|---|---|
| | Actual | Revised Budget | Forecast * | Revised Budget - March '16 | *Changes for approval* | Revised Budget - May '16 | *Variance* |
| **INCOME** | **£000** | **£000** | **£000** | **£000** | ***£000*** | **£000** | **£000** |
| Grant Income | **6,248** | 6,256 | **9,107** | 9,555 | *(200)* | **9,355** | *248* |
| Release of deferred capital grant | **544** | 544 | **816** | 816 | *0* | **816** | *0* |
| Fee Income | **1,180** | 1,075 | **1,681** | 1,465 | *110* | **1,575** | *(106)* |
| Other Income | **46** | 48 | **67** | 68 | *0* | **68** | *1* |
| | | | | | | | *0* |
| **Total Income** | **8,018** | **7,923** | **11,671** | **11,904** | **(90)** | **11,814** | **143** |
| **EXPENDITURE** | | | | | | | |
| Gross pay costs | **4,102** | 4,063 | **6,228** | 6,189 | *0* | **6,189** | *(39)* |
| Pensions | **725** | 703 | **1,073** | 1,051 | *0* | **1,051** | *(22)* |
| National Insurance | **269** | 263 | **441** | 435 | *0* | **435** | *(6)* |
| **Total Pay Costs** | **5,096** | **5,029** | **7,742** | **7,675** | ***0*** | **7,675** | **(67)** |
| Property Costs | **724** | 964 | **1,195** | 1,325 | *0* | **1,325** | *130* |
| Other overheads | **1,315** | 1,222 | **1,807** | 1,703 | *110* | **1,813** | *6* |
| Depreciation | **798** | 800 | **1,198** | 1,200 | *0* | **1,200** | *2* |
| Adjustment for timing differences * | | | **(31)** | *0* | *0* | **0** | *31* |
| Student Support Contingency | **0** | 0 | | *0* | *0* | **0** | *0* |
| **Total Other Costs** | **2,837** | **2,986** | **4,169** | **4,228** | ***110*** | **4,338** | **169** |
| **Total Expenditure** | **7,933** | **8,015** | **11,911** | **11,903** | **110** | **12,013** | **102** |
| **OPERATING SURPLUS/ (DEFICIT)** | **85** | **(92)** | **(240)** | **1** | **(200)** | **(199)** | **41** |

**** NOTE - The forecast expenditure will be updated as the year progresses with the aim of achieving a break-even out-turn, excluding expenditure of depreciation cash funds***

## 6. Accounting adjustments and changes

The changes arising from the year-end accounting adjustments for pension obligations will continue to have an impact on the results reported in the financial statements in due course.

The transition to prepare financial statements under the International Financial Reporting Standards and the revised Statement of Recommended Practice for Further and Higher Education will also have an impact on the year-end out-turn, which is being reported separately to the Finance and General Purposes Committee.

## 7. Scottish Funding Council Budget out-turn for the fiscal period April 2015 to 31 March 2016

The out-turn against the budget for the fiscal year April 2015 to March 2016 for SFC reporting shows a net underspend for the period of £200,000. The underspend which was reported to Scottish Funding Council in the Resource Return for the fiscal year reflects the different budget and accounting treatment of student support funding. A high portion of student support received for the period April to July 2015 which was higher than the maintenance and other payments made to students during that period.

The 'net depreciation' cash grant for the period amounted to £380,000 which was used to meet the costs of the pay award for the period as well as the developments as noted previously.

## 8 Recommendation

Members are asked to discuss the contents of the financial update.

# Board of Management

## AGED DEBT REPORT

The value of sales invoices issued by the College on an annual basis is relatively small in comparison to total income. The majority of College income relates to grant funding from the Scottish Funding Council, and other grants which are received at agreed stages during the year. Approximately 1,000 invoices are issued each year, which represents less than 10% of college income.

The number of reminder letters issued for late payments each year is relatively low in comparison to total College income. In addition, the debts which are eventually forwarded to debt collection agents to pursue is very small in comparison to the total invoices raised each year.

## AGED BALANCES AS AT 31 MARCH 2016

A breakdown of the aged debtor balances as at 31st March 2016 is as follows:

| | January 2016 Total £ | March 2016 Total £ | Current £ | > 1 mth £ | > 2 mths £ | > 3 mths £ | 3+ £ | *No Debts 3+ |
|---|---|---|---|---|---|---|---|---|
| Client | 36,316 | 17,096 | - | 9,809 | 4,259 | - | 3,028 | 20 |
| Student | 5,438 | 2,750 | - | 1,205 | 704 | - | 841 | 15 |
| Bursary 2014/15 | 419 | 379 | - | - | - | - | 379 | 3 |
| Bursary 2015/16 | 1,154 | 5,934 | 1,985 | 2,796 | 656 | - | 498 | 14 |
| Grand Total | **43,326** | **26,159** | **1,985** | **13,810** | **5,619** | - | **4,746** | **52** |

The total level of debt has decreased by £17,167 or 39.6% since January 2016. This is mainly due to a decrease in client debt in the quarter.

The College continues to ensure that debtor balances are current by following the procedures for reminder letters with difficult cases being referred to the debt collection agents, TNC, to pursue.

# Board of Management

**CLIENT DEBTOR BALANCES**

Client debt has decreased by £19,220 or 53% since January 2016 with the majority of the balance being made up of invoices issued in March. Payment has already been received for a number of invoices which were outstanding at 31 March, with payment expected to be received for the balance in the near future. The older debts have been followed up as part of College procedures.

**STUDENT DEBTOR BALANCES**

The total level of student debt has decreased by £2,688 or 49% since January 2016. Standard reminder letters have been issued to chase these debts, with some of the older ones now being paid by instalments.

**BURSARY DEBTORS**

Bursary debt has increased by £4,780 since January 2016, which includes two larger debts totalling £2,800 that have since been settled. Other debts have been followed up in accordance with procedures with older ones being referred to the collection agency.

**BAD DEBT PROVISION**

At 31 March 2016 the provision in the accounts has been increased to reflect the current level of older balances, and amounts to £2,110. The provision will be reviewed on an ongoing basis.

**DEBT COLLECTION AGENTS**

The total balance currently at the final stage of debt collection amounts to £1455.29 and is being handled by TNC. The balance relates mainly to invoices for bursary overpayments, with a small amount relating to course fees.

**PROPOSED BALANCES TO WRITE-OFF**

There are currently no proposed balances to write off.

# Board of Management

**SUMMARY OF AMOUNTS PREVIOUSLY WRITTEN OFF**

A table below shows the debts written-off in each of the previous six years.

**Summary of amounts previously written-off:**

| Year debt was written-off | Year of original debt: | | | | | |
|---|---|---|---|---|---|---|
| | **2014/15** | **2013/14** | **2012/13** | **2011/12** | **2010/11** | **2009/10** |
| **2015/16** | 1,415.79 | 691.00 | | | | |
| **2014/15** | | 7,025.33 | | | | |
| **2013/14** | | | 8,107.20 | 634.42 | | |
| **2012/13** | | | | 200.00 | | 50.00 |
| **2011/12** | | | | | 2,033.17 | |
| **2010/11** | | | | | 220.00 | 1,237.00 |
| | **1,415.79** | **7,716.33** | **8,107.20** | **834.42** | **2,253.17** | **1,287.00** |

**RECOMMENDATION**

Members are requested to note the debtors balances at 31 March 2016.

Board of Management

# Cash Flow Forecasts

## 1. Purpose of the Report

The purpose of this report is to present the updated 2015-16 Cash Flow forecasts to the Committee and highlight the key aspects for review.

## 2. Report

The Scottish Funding Council (SFC) has established a process to manage the payment of grants to Colleges, in line with Government Financial Reporting and Budgeting requirements. The College has continued to submit a monthly claim to SFC which summarises bank balances and planned expenditure, and highlights cash requirements.

The format of the College's cash flow projections was updated in order to predict cash movements as accurately as possible and forecast cash requirements each month. The report provides details on core College cash movements and Lennartz balances.

The main areas for the Committee to review are the 'Total closing bank balances' each month, and the movement at the SFC budget cut-off periods March and July. The monthly grant claim is calculated in order to provide total forecast bank balances of £1m each month to meet operating expenditure.

Bank balances are higher than originally forecast, due to lower than expected student support payments. Fee income has been higher than expected for the period.

Forecasts show additional grant of £170,000 due from the Scottish Colleges Foundation, and expenditure on Operational Plan developments which have been approved up to July 2016.

## 3. Recommendation

Members are asked to note the forecast movements and closing bank balances in the period.

**Dumfries and Galloway College**

**Cash Flow Projections for 2015-16**

| | Actual | Forecast | Forecast | Forecast | Projected AY 2014-15 |
|---|---|---|---|---|---|
| | Apr-16 | May-16 | Jun-16 | Jul-16 | |
| **May 16 Cashflow** | £000 | £000 | £000 | £000 | £000 |
| **Income** | | | | | |
| **SFC Grants** | | | | | |
| SFC Core Grant | 850,000 | 550,000 | 950,000 | 973,461 | 8,391,155 |
| ESF Funding 50% Core | - | - | - | - | - |
| SFC (Projects Non ERDF) | - | - | - | - | - |
| - SPARQS - Single College Student Association | - | - | - | - | 71,000 |
| Developing Young Workforce | 11,184 | 11,184 | 11,184 | 11,183 | 75,000 |
| **Student Support** | | | | | - |
| Bursary | 165,000 | 160,000 | 161,000 | - | 1,666,737 |
| FE Childcare | 30,550 | 27,500 | 11,091 | - | 266,891 |
| HE Childcare | 3,500 | 3,109 | - | - | 36,109 |
| FE Hardship | 8,500 | 8,000 | 4,901 | - | 85,604 |
| ESF Funding 50% Student Support | - | - | - | - | - |
| Capital Maintenance | - | - | - | - | 378,942 |
| EMA Admin | - | - | - | - | 11,000 |
| EMA Student Maintenance | 24,500 | 24,500 | 24,500 | - | 235,150 |
| ESOL | - | - | - | - | - |
| ESOL (2015-16) | 3,743 | 3,743 | 3,743 | 3,743 | 38,480 |
| ESF | - | - | - | - | - |
| Capital | - | - | - | - | - |
| **Other Income** | | | | | |
| ERDF Grants received | - | - | | - | - |
| Other grant income | | 170,000 | - | - | 320,000 |
| HE Hardship | - | - | - | - | 53,643 |
| SAAS Fees | - | - | - | - | 630,291 |
| Re-charges - UWS/ Gl. Uni/ DGC | 1,760 | 163,445 | 38,240 | - | 259,587 |
| SDS fees | 13,492 | 30,502 | 26,503 | 27,003 | 296,304 |
| Other cash received | 33,203 | 45,000 | 45,000 | 34,500 | 540,119 |
| **Total cash in** | **1,145,432** | **1,196,983** | **1,276,162** | **1,049,890** | **13,356,012** |
| **Expenditure** | | | | | |
| Payroll | 677,037 | 698,914 | 630,000 | 630,000 | 7,620,365 |
| ESOL Salaries | 1,315 | 7,673 | 7,673 | - | 27,738 |
| ESOL | - | - | - | - | - |
| ESOL (2015-16) | - | 4,991 | 4,991 | 4,990 | 15,818 |
| SPARQS Salaries | 2,490 | - | - | - | 38,146 |
| SFC - SPARQS - Single College Student Association | 129 | 21,166 | - | - | 34,176 |
| EMA payments | 15,240 | 16,916 | 16,079 | - | 256,075 |
| Bursary payments (inc. student transport) | 98,239 | 340,087 | 140,000 | - | 1,773,989 |
| ESF Funding - Student Support | - | - | - | - | - |
| FE Childcare | 16,207 | 53,817 | 33,429 | - | 236,328 |
| HE Childcare | 8,042 | 6,000 | 4,245 | - | 93,726 |
| FE Hardship | 7,796 | 11,904 | 8,784 | - | 111,847 |
| HE Hardship | 5,005 | 4,520 | 3,535 | - | 51,760 |
| Other Student Support | - | - | - | - | 2,283 |
| **Student support overspend** | - | - | - | - | - |
| **Depreciation spend - estates developme** | - | - | 270,000 | - | 270,000 |
| PL payments (excl student transport) | 309,667 | 208,286 | 186,184 | 101,684 | 2,461,792 |
| Maintenance costs - from SFC Capital Mai | - | - | - | - | 378,942 |
| Other payments | 12,309 | 10,000 | 9,500 | 9,000 | 205,175 |
| Capital Grant - payments | - | - | - | - | - |
| Retention for Crichton/.payment for Car Pa | - | - | - | - | - |
| **Total cash out** | **1,153,476** | **1,384,274** | **1,314,420** | **745,674** | **13,578,160** |
| **Net cash inflow/(outflow)** | **(8,044)** | **(187,291)** | **(38,258)** | **304,216** | **(222,148)** |
| Balance b/f | 705,215 | 697,171 | 509,880 | 471,622 | 997,140 |
| **Balance c/f** | **697,171** | **509,880** | **471,622** | **775,838** | **774,992** |

**Dumfries and Galloway College**

**Cash Flow Projections for 2015-16**

| **May 16 Cashflow** | **Actual** Apr-16 £000 | **Forecast** May-16 £000 | **Forecast** Jun-16 £000 | **Forecast** Jul-16 £000 | **Projected AY 2014-15** £000 |
|---|---|---|---|---|---|
| **Lennartz:** | | | | | |
| Quarterly payments | - | - | 83,155 | - | **307,576** |
| **Cash outflow** | **-** | **-** | **83,155** | **-** | **307,576** |
| Balance b/f | 886,798 | 886,798 | 886,798 | 803,643 | 1,111,219 |
| **Balance c/f** | **886,798** | **886,798** | **803,643** | **803,643** | **803,643** |

| | | | | | |
|---|---|---|---|---|---|
| **Hospitality Project:** | | | | | |
| SFC - Capital Maintenance | | | | | |
| SFC - Capital element | - | - | - | - | - |
| Income from Foundation (Capital) | - | - | - | - | - |
| **Total cash in** | **-** | **-** | **-** | **-** | **-** |
| Payments made | | | | | - |
| SFC - Capital | - | - | - | - | - |
| Foundation | - | - | 43,921 | - | **55,128** |
| **Cash outflow** | **-** | **-** | **43,921** | **-** | **55,128** |
| **Net cash inflow/(outflow)** | 0 | 0 | (43,921) | 0 | (55,128) |
| Balance b/f | 43,921 | 43,921 | 43,921 | - | 55,128 |
| **Balance c/f** | **43,921** | **43,921** | **-** | **-** | **-** |

| | | | | | |
|---|---|---|---|---|---|
| **Total closing bank balances** | **1,627,890** | **1,440,599** | **1,275,265** | **1,579,481** | **1,578,635** |

## Finance and General Purposes Committee

**Update on Lennartz**

### 1. Introduction

The purpose of this report is to update members on recent developments which may impact on the College's Lennartz agreement with HMRC.

### 2. Background

The 'Lennartz' mechanism was originally an agreement between an organisation and HMRC whereby the organisation was able to reclaim from HMRC a proportion of VAT paid on the purchase of an asset where that asset was used for a combination of business and non-business use, for VAT purposes. Output VAT on the non-business element of income is then repaid to HMRC each quarter over the period of the agreement.

Dumfries and Galloway College reclaimed input VAT of £3.1m of input VAT on the costs of construction for the Crichton building in the period up to July 2009. Quarterly payments under Lennartz are being made with the VAT return, and the amount of payment required is revised annually to take into consideration any changes in the proportion of College business/ non-business income.

Quarterly repayments amount to approximately £83,000, and payments due to completion of the agreement in 2018 amount to £750,000.

The College has previously considered 'unwinding' the Lennartz scheme when the standard rate of VAT increased in 2011, but this was not considered to provide value for money at that time due to the interest charges which would have been applied.

### 3. Current Developments

As reported previously, a test case in England has challenged the legality of HMRC's application of the technical rules and legality of output tax being accounted for on Lennartz arrangements. The case was initially successful at Tribunal, but HMRC appealed the decision to the Court Of Appeal. The Judges are referring the case to the Court of Justice of the European Union for a preliminary ruling before a final decision is made. Grant Thornton's tax department has indicated that it is likely to be a couple of years before the final decision is made.

Seven Scottish colleges have Lennartz agreements, of which four have been involved in mergers, with the original pre-merger colleges having Lennartz schemes. In order to ensure that colleges continue to pay the correct amount of tax and to ensure consistency across the sector, a tender for VAT consultancy work on behalf of all the affected colleges appointed Ernst & Young on a no-win-no fee basis. The agreement with Ernst & Young provides for a fee of 4% of any monies recovered.

Ernst & Young have gathered initial information from all seven Colleges, and have recommended that each college submits a voluntary disclosure in relation to overpaid tax and make a claim covering all Lennartz payments within the four year claim period. This amounts to £1,288,799 for Dumfries and Galloway College. Ernst & Young advised that HMRC is open to Lennartz claims due to changes in legislation, and have highlighted that any delay in submitting a claim will reduce any repayment due to the College.

Ernst & Young's letter has set out the basis of the claim as:

- The application of the Lennartz mechanism and non-business principal by Colleges was wrongly allowed by HMRC;

- HMRC had no right to insist that taxpayers had an obligation to continue with output tax payments following the VNLTO decision in 2009, as there was no requirement in either EU or UK legislation that any tax was due in the circumstances; and

- VAT should not be payable as output tax over recent periods.

One of the seven colleges has previously settled their Lennartz scheme as part of a merger, and has already submitted a claim due to the time limits for Voluntary Disclosure. Ernst & Young are aware that HMRC are currently looking at the claim, and have requested further information. The other colleges are currently considering their options.

Recent discussions have indicated that a retrospective claim for Lennartz payments is unlikely to be upheld by HMRC, and the best outcome would be a reduction in future payments.

The Executive Management Team has reviewed the current position, and will continue to keep a 'watching brief' on any developments to ensure the College is acting within the correct tax and VAT regulations, but consider that the College should not make any claim at the moment for the following reasons:

- Any repayment from HMRC is likely to be remote, based on the case which is currently at the court of Appeal;

- The Dumfries and Galloway College Lennartz agreement only has two years remaining, and funds have been set aside to meet the payments;

- Dumfries and Galloway College has acted in good faith throughout in its dealings with HMRC, and committed to continue to account for output tax to HMRC following the VNLTO case; and

- The potential reputational damage to the College if a claim was to be made, including the College reputation with HMRC, the Scottish Funding Council or the Scottish Government.

The Executive Management Team recommendation is to not to continue with the action at this time. However, if any further developments occur, the Executive Management Team will report back to the Committee and the Board.

## 4. Recommendation

The Committee is asked to consider and approve the action being recommended by the Executive Management Team.