



CORPORATE GOVERNANCE GUIDE

for

Regional Board Members

BORDERS COLLEGE
CORPORATE GOVERNANCE

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1. **INTRODUCTION**

The history of Borders College goes back as far as 1928 as Scotland's oldest Technical College based in Hawick. In 1984, an amalgamation took place of Galashiels Technical College, Henderson Technical College (Hawick), Duns Agricultural Centre and the Agricultural Centre, Newtown St Boswells. On 1 April 1993, under the terms of the Further and Higher Education (Scotland) Act 1992, the College became a body corporate, transferring from the control of the former Borders Regional Council.

The College, in its present form, operates from three different sites, namely Galashiels, Hawick and Newtown St Boswells. It also has an 'outreach' location in Jedburgh as well as providing provision in Peebles and Duns. It employs approximately 330 staff and provides further and higher education to almost 5000 students per year.

The main funding source for the College comes as grant-in-aid from the Scottish Funding Council; in addition a small percentage earned through commercial means. To increase income in 1999 the College set up BC Consultants Ltd, which is a wholly-owned subsidiary company of Borders College; however in 2010 following an internal review it was decided that the work of the company would be incorporated into the main College structure. The company provided staff development, training and consultancy services for corporate customers with the emphasis being on tailoring those services to the specific needs and demands of each customer's particular business. These services have now been incorporated into the College as part of the Business Development Unit.

The College's current Corporate Plan, covering the period 2016 to 2020, sets out five strategic goals which will guide the College's plans towards 2020. During the period of the Plan the College will respond to the needs of the region; deliver successful outcomes for all learners; provide a high quality college experience; grow its business and build sustainability.

The following paragraphs and appendices contain details as to how the College and its Regional Board meet its obligations to ensure an effective management and corporate governance framework. It also contains details of the Board's Standing Orders, Terms of Reference for committees, Code of Conduct and other relevant documents. As with all paper documents they quickly become outdated; however the College website will hold an up to date version of this Guide and the paper version will be updated as and when appropriate.

It is also recommended that Board Members refer to the more extensive information provided in College Development Network's "Guide for Board Members in the College Sector" in relation to governance matters. This Guide was issued in 2015.

2. REGIONAL BOARD STATEMENT OF PRIMARY RESPONSIBILITY

The Board has adopted the following Statement of Primary Responsibilities and will ensure that these responsibilities meet the needs of the College Community as well as key stakeholders.

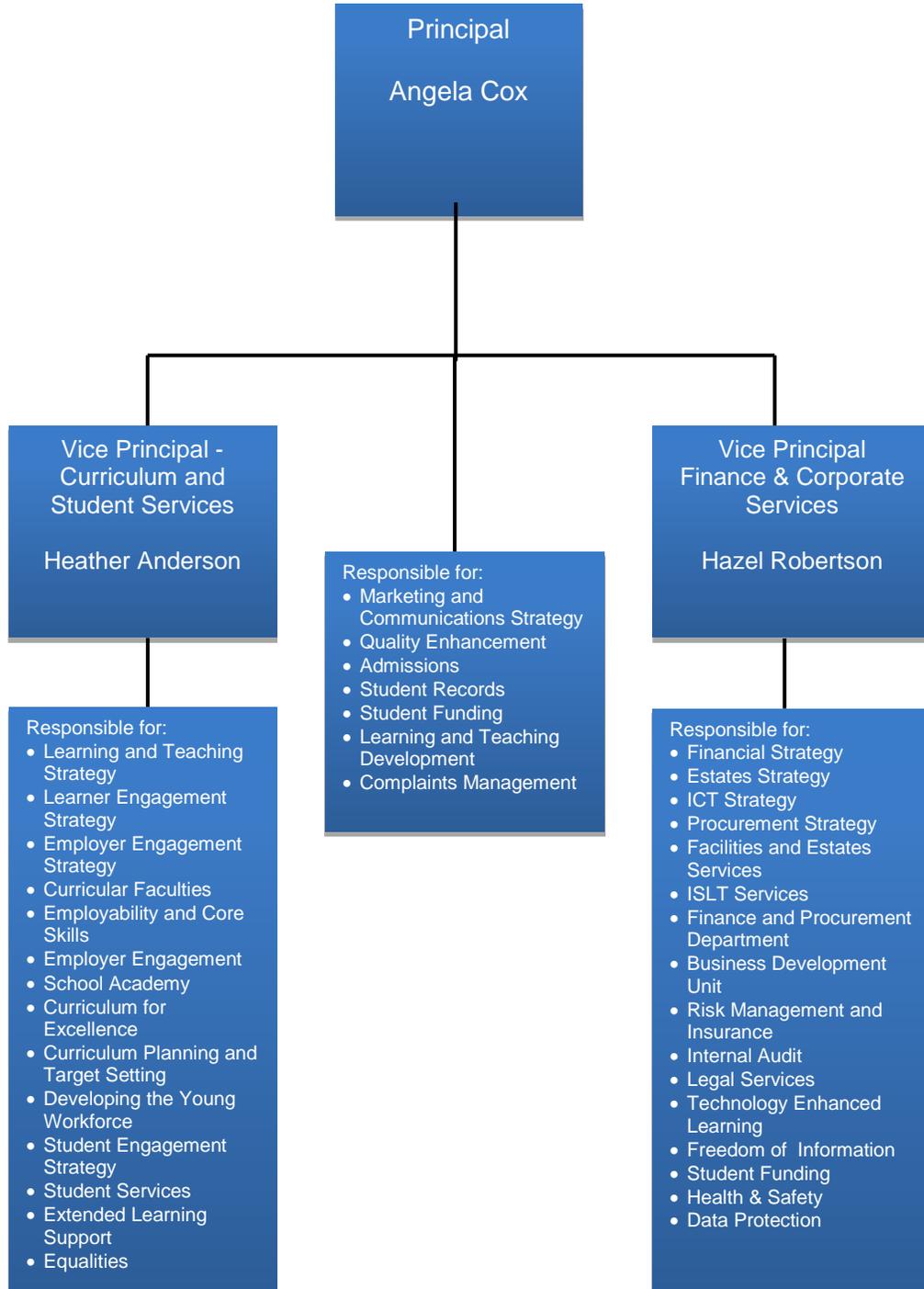
- a. The Board will approve the Mission Statement and Corporate Plan of the College.
- b. The Board will be responsible for approving long-term business plans and key performance indicators (KPIs).
- c. The Board will approve annual budgets and any other financial commitments. They will also approve the College Financial Regulations and the delegated powers contained therein.
- d. The Board will be responsible for appointing the Principal/Chief Executive of the College and putting in place suitable arrangements for monitoring his/her performance.
- e. The Board will ensure the establishment and monitoring of systems of control and accountability, including financial and operational controls and risk assessment, clear procedures for handling internal grievances and managing conflicts of interest.
- f. The Board will monitor college performance against plans and KPIs, which should be, where possible and appropriate, benchmarked against other colleges.

3. REGIONAL BOARD

Details of the current members of the Regional Board are held on the College website www.borderscollege.ac.uk under the section 'About Our College'.

EXECUTIVE TEAM

The Executive Team and their key responsibilities are as follows:



4. **LEGISLATION AND MINISTERIAL GUIDANCE FURTHER AND HIGHER EDUCATION (SCOTLAND) ACT 1992**

The Further and Higher Education (Scotland) Act 1992 (hereinafter referred to as the 1992 Act) is the legislation which, with effect from 1 April 1993, transferred Colleges of Further Education in Scotland from local education authorities to Boards of Management, which are independent corporate bodies. The Act is in effect the Constitution of the College (the Act can be found at www.legislation.gov.uk/ukpga/1992/37/contents).

The specific powers of the Regional Board were listed in Chapter 3 Section 12 (2) of the 1992 Act. Again, in summary, these powers were:-

- the provision/securing of provision of further education;
- to charge fees for such provision;
- to provide financial assistance (including e.g. waiving/reducing fees);
- to receive property, rights liabilities and obligations (for the administration and management of the College);
- to provide necessary College facilities including boarding accommodation and recreational facilities for students and staff and facilities for students with learning difficulties and disabled staff;
- to supply goods and services;
- to acquire, hold and dispose of land and other property;
- to enter contracts, including employment contracts (with teachers and other staff) and contracts to enable the Board to carry out any of the activities which the Board has a duty or power to carry out in terms of the legislation;
- to form/promote or join with others in forming/promoting companies (within the meaning of the Companies Act 2006);
- to borrow sums and grant securities or indemnities (with the consent of the Secretary of State);
- to invest certain sums;
- to raise funds, accept gifts and apply to or hold/administer in trust for the purpose of carrying on any of the activities which the Board have power to carry on (with the consent of the Secretary of State);
- to do all such other things to facilitate or which are incidental or conducive to carrying on any of the activities which the Board have power to carry on.

Schedule 2 of the Act sets out the detailed provisions relative to the constitution and proceedings of the Board itself. The Post 16 Education (Scotland) Act 2013 and subsequent ministerial guidance directs the procedure for appointments of non-executive Board Members. The Act covers:

- Terms and conditions of higher education funding;
- College reorganisation;
- Regional Strategic bodies and Regional Boards including their constitution and management;
- Good governance;
- Duties of Scottish Funding Council;
- Collective bargaining framework

5. **COLLEGE COMMITTEE STRUCTURE**

In terms of Schedule 2, paragraph 13, of the Further and Higher Education (Scotland) Act 1992, the Board of Management may establish committees and, in turn, such committees may appoint sub-committees. Although such committees may include persons who are not members of the Board, such persons are not entitled to vote at meetings of a committee. Similarly, although the Principal is entitled to attend and speak at any meeting of a committee of the Board, s/he is entitled to vote at such meeting only if s/he is a member of the relevant committee.

N.B. Reference to a committee of the Board includes reference to any sub-committee appointed by such committee. Attached at Annexes E to I are copies of the Terms of Reference for Board Committees, which provide details of the various committees of Borders College and the powers delegated by the Board to each committee. Also attached is a copy of the College's Standing Orders which regulate the proceedings and business of the Board and Committees.

6. **ROLES OF BOARD MEMBERS, CHAIR, VICE CHAIR, SENIOR INDEPENDENT MEMBER, PRINCIPAL AND BOARD SECRETARY**

It is important to distinguish between the different roles and responsibilities of the above.

Board Members

The role of a Board Member (with the exception of the Principal) is similar to that of a non-executive company director. The position is an unpaid one, apart from the reimbursement of necessary travel and other reasonable expenses.

Generally there are around 5 Board meetings per annum. The meetings consider either the College's future strategy or current operational matters including its financial position. Board Members are encouraged to attend all meetings and in addition, may be requested to give further advice depending on their individual areas of expertise. Board members are also encouraged to join the several committees which have been set up and to which various powers have been delegated. Terms of reference for these committees are included in this guide.

Board Members are responsible for the approval and overseeing of the College's policy and strategy framework. In addition, the Board has the duty of appointing and monitoring the performance of the Principal who is also the Chief Accounting Officer of the College.

It is one of the main further duties of the Board to ensure that its activities do not bring the name of the College into disrepute and in particular, to ensure that the College remains solvent and that its assets are safeguarded.

Regional Boards have the duty of managing and conducting the College and to ensure that it provides suitable and efficient education for its students, having regard to the provision of education within the area in which the College is situated

and the likely needs of potential students. More details on the specific powers of Board Members under the legislation, to fulfil these duties, are as detailed in paragraph 4 above (Further and Higher Education (Scotland) Act 1992).

The Chair

The Chair's role, having been appointed by Scottish Ministers, is to lead the Board in carrying out its duties and responsibilities in terms of the 1992 Act (as amended) and the Further and Higher Education (Scotland) Act 2005 (as amended) and the Post 16 Education (Scotland) Act 2013. The Chair is remunerated. The performance of the Chair is reviewed annually by Board members in an exercise led by the Senior Independent Member.

The Chair is the main point of contact on the Board for the College Principal and with the Principal will often represent the College in the public domain and respond on matters of media interest.

The Chair provides active and effective leadership, direction, support and guidance to ensure the College delivers, and is committed to delivering its functions effectively in accordance with the aims, policies and priorities of relevant Scottish Ministers.

The Chair provides a strong challenge function, carefully scrutinising planned and underlying assumptions before decisions are taken. This includes challenging members and Executive Team of the College.

The schedule of delegations to the Chair is attached at Annex C.

The Vice Chair

In the absence of the Chair, the Vice Chair shall undertake all duties incumbent on the Chair as set out in the Standing Orders and any other powers which may have been delegated to the Chair by the Board. In the absence of the Chair, the Vice Chair shall preside at any meetings and shall have the same powers as the Chair would have had.

The period of appointment of the Vice Chair shall be four years from their date of appointment or until that person's Board membership ceases; whichever is the earlier.

The Vice Chair may at any time by notice in writing to the Secretary to the Board, resign their respective office as Vice Chair, and/or from the Board itself.

When the Vice Chair ceases to be a member of the Board, he or she shall cease to be the Vice Chair.

In the event of the long term absence of the Chair or that the position is unfilled, the Vice Chair shall with the agreement of Ministers, serve as the Chair until such time as a Chair is appointed by the relevant Minister.

Senior Independent Member

The Senior Independent Member is appointed by the Board as a whole to provide advice and guidance to the Board Chair, as required and on its members' behalf, in order to support good standards of corporate governance and the maintenance of collective responsibility.

Situations in which that advice and guidance may be required include

- a) Leading the annual appraisal of the Board Chair, alone or in conjunction with the Vice Chair, including ensuring
 - i. All Board members have an opportunity to express their views on the Chair's performance over the last year and areas for development over the coming 12 months
 - ii. The Chair is given the opportunity to understand and discuss the collective views with the SIM
 - iii. An annual development plan is agreed with the Chair and the SIM ensures the Board is informed of its content
 - iv. If required, the SIM facilitates the provision of information from the appraisal process to the Chair's appointing body (Scottish Government or the Regional Strategic Body)

- b) Intervening with the Chair, on behalf of the Board, if Board members, the Board Secretary or senior staff are concerned that the Chair's actions are undermining good standards of corporate governance and the maintenance of collective responsibility, including if the Chair
 - i. Is unable to fulfil the responsibilities set out in the letter of appointment
 - ii. Fails to make pertinent information available to the Board as a whole
 - iii. Undermines the collective responsibility of the Board as a whole
 - iv. Acts in a manner which brings the Board into disrepute, including failing to address personal conflicts of interest
 - v. Is unable to work with the Principal to ensure that the staff of the organisation provide the Board with the service required, including adequate sources of information and assurance and delivery of performance

- c) Acting as a sounding board for the Chair in pursuit of good standards of corporate governance and collective responsibility.

Should a SIM ever have serious concerns about the propriety, regularity or governance of the College, and these cannot be resolved satisfactorily with the Chair, they should inform the Scottish Funding Council

The Principal

The Principal is appointed by the Board and on appointment becomes a Member of the Board. His/her salary is determined by the Remuneration Committee of the Board.

The Principal has various management functions; however his/her main duties are to implement the College's corporate plan in order to ensure the efficient and

effective provision of education and training. In addition s/he oversees the development of further income generating business activities for the College.

It is also the duty of the Principal to manage the College's resources and s/he has ultimate responsibility for staffing matters. With regard to College staff, the Principal requires to lead, appoint, assign, grade, appraise, and suspend staff, and discuss and determine pay and conditions of staff.

The Principal should consider discussing his/her ideas with the Board, the Chair or the appropriate committee before taking action on serious or potentially contentious issues which may have a reputational or negative impact on the College.

The schedule of delegations to the Principal is at Annex C

The Board Secretary

The Board Secretary is responsible for the proper conduct of the Board's business. The Board Secretary should not however participate in the discussions and decisions of the Board, although s/he should ensure issues are fully debated and clear decisions are recorded. The Board Secretary should be available to offer advice and guidance on procedural and governance issues when required.

It is important that the Board Secretary preserves independence from the Management of the College.

7. BOARD MEMBER RECRUITMENT

(a) Statutory Provisions

Para. 3(1) of Schedule 2 of the Further and Higher Education (Scotland) Act. 1992 sets the number of Board Members as no fewer than 15 and no more than 18.

The Board shall include –

A Chair appointed by Scottish Ministers
The Principal of the College
2 elected staff representatives (one teaching, one support)
2 student representatives

No fewer than half of the Board Members shall be individuals with experience of/capacity in industrial, commercial, employment matters or the practice of any profession;

The remaining members shall be appointed from persons appearing to have, or to represent persons who have an interest in the work of Borders College.

Qualifications and tenure of office

With the exception of the Principal (who, while holding that appointment remains a Member of the Board), and the Student Officers (whose membership

of the Board lasts for the period of his/her appointment as Student Officer), members of the Board hold office for up to 4 years although they may be extended for a single period of up to 4 years. Such extension requires approval of the Chair and Scottish Ministers.

In addition, Schedule 2 contains detailed provisions which would prevent appointment as a Board Member, e.g. criminal convictions, sequestration or bankruptcy, incapacity due to mental illness, removal from office by the Secretary of State in terms of Section 24 of the Act (which deals with mis-management by Boards).

(b) Policy

The policy and procedure of Borders College for recruitment of new Board Members are contained in the Terms of Reference of the Nominations Committee.

(c) Board Meetings

The meetings of the Regional Board are held on such dates and at such times as the Board may determine. Notice of meetings is given by the Board Secretary to the Regional Board at least 5 days before the date of the meeting and an Agenda specifying the business of the meeting is issued at that time. The rules regulating the proceedings and business of the Board and its Committees and sub-Committees are as set out in the Standing Orders referred to under paragraph 5 above and are found in detail below.

8. CODE OF CONDUCT FOR BOARD MEMBERS

The Code of Conduct for Board Members is attached at Annex B.

As members of a public body, Board Members must ensure that they are familiar with and their actions comply with the provisions of the Code of Conduct.

9. REGISTER OF INTERESTS

The Ethical Standards in Public Life etc (Scotland) Act 1992 sets out "Registerable Interests" which require to be disclosed by Board Members on appointment to the Board and whenever there is any change in circumstances which would require amendment or addition to the Register of Members' Interests in respect of the Board.

Accordingly, Board Members are required to complete the Register of Interests on taking up appointment and thereafter to intimate any subsequent changes/additions to the Board Secretary. The Register of Interests will be made available on the college website and is therefore in the public domain. Details of what constitute Registerable Interests is also set out in the Code of Conduct at Appendix A

In addition, a Register of Gifts is held by the College's Head of Finance and Procurement for the recording of gifts offered to members of the College's management or staff by outside parties. The College also has an anti-Fraud Policy and Corruption Policy which sets out the Regional Board's policy and provides guidance to the College on the action which should be taken when fraud, theft or corruption is suspected involving employees of the College, suppliers/contractors or any third party.

10. COLLEGE POLICIES AND PROCEDURES

There are a large number of College Policies and Procedures dealing with matters such as Health and Safety, Staff and Student Disciplinary matters, Quality issues, Anti-fraud & Corruption Policy, Anti-bribery Policy etc. All College Policies and Procedures can be accessed via the College website www.borderscollege.ac.uk

Following the recommendation of the Committee on Standards in Public Life, Borders College has also introduced a Whistleblowing Policy and Procedure, a copy of which is also on the website. The purpose of such a procedure is to support propriety and openness by allowing concerns of Members of the Board or members of staff to be raised and investigated confidentially within and if necessary, outwith the College. This policy was last updated and approved in 2017 and is consistent with the aims and objectives expressed within the Code of Conduct.

11. SELF ASSESSMENT/EVALUATION FOR THE BOARD

New Members of the Regional Board are provided with governance, induction and training programmes. In addition, regular refresher courses are arranged and details of Governance Courses run by Scotland's colleges are circulated to Board Members.

The Board carries out an annual self evaluation process against compliance with the Code of Good Governance for Scotland's colleges and from this a Board development plan is prepared. In addition these matters are reviewed on a triennial basis by an external party.

The performance of the Chair of the Board is reviewed annually by the Board with this process now being led by the Senior Independent Member. Such evaluation is necessary to ensure that there is some measure that the Board conducts its business in accordance with the Further & Higher Education (Scotland) Act 1992 and fulfils its responsibilities under the Financial Memorandum with the Scottish Funding Council.

Approved by
Regional Board, December 2018

Review date: June 2021