



July 2019

**To: Chairs of Governors at Further Education and Sixth Form Colleges**

Dear colleague

I am taking the unusual step of writing to you in your role as chair of governors because of an [investigation report that we have just published](#) which raises issues in relation to the oversight of the proper use of public funds by college governing bodies.

The report, which has recently been finalised, is of the investigation that was undertaken at Bournville College in 2015 to 2016 following concerns raised at the time. The activities that took place during the period covered by the investigation clearly fell significantly short of the expectations for college governance and oversight of expenditure. While examples such as these are rare, it is incumbent on all of us to be vigilant about identifying and challenging activity or behaviour that appears inappropriate.

The report includes recommendations for consideration by all college governing bodies and I would urge you to take the opportunity to review these with your fellow governors. In addition I would like to draw your attention to the [college accounts direction](#) published in February of this year and would like to take this opportunity to set out how this and other parts of the regulatory framework can support you in upholding the highest standards within your own organisations.

**Regularity, propriety and compliance**

We require you as chair of governors, along with your appointed accounting officer, to sign an annual statement of regularity and propriety (annex B of the college accounts direction) and to disclose any identified material irregularity, impropriety or funding non-compliance. We also require the completion of [a self-assessment questionnaire](#) to help the corporation decide what to include in the statement. We have strengthened this questionnaire and clarified the evidence that should underpin it and I encourage you to use this as a living document rather than a one-off exercise so that you are continually testing yourselves against the standards expected.

Internal policies such as your financial regulations and those covering conflicts of interest and anti-bribery are key elements of your governance framework. We do not prescribe these college-owned policies because you are independent statutory bodies, but they must be sufficiently robust to provide you with the confidence to sign your statement of regularity, propriety and compliance. Where there is a risk that your own policies are being by-passed by the executive we would expect you to

challenge and, if necessary, consider imposing stricter controls until you are confident that governors are being given the right information and opportunities to discuss and agree significant expenditure prior to commitments being made.

### **Audit and assurance**

We also require you provide a statement about how your corporation has met its statutory responsibility for the effective and efficient use of resources, the solvency of the institution and the safeguarding of its assets. Your audit committee has a significant role to play in providing assurance to the corporation on these matters and you should ensure that it has appropriate membership, which does not include the executive, and that sufficient resource is devoted to servicing it and responding to the challenges its members raise. We have set out guidance for audit committees in the [post-16 audit code of practice](#) and I would encourage you to regularly review the remit, membership and effectiveness of your own audit committee.

We do not currently require your audit committee to provide assurance over the management and quality of data returns but I would consider this to be good practice given the fundamental link between data and funding, and the consequences for inaccurate data returns.

The role of external auditors is also important in advising on areas of financial management and governance that require improvement. Where your external auditor makes a recommendation about your financial systems and controls you should ensure that the executive takes appropriate action to put right any shortcomings. We review college auditors' findings each year which show that most colleges achieve good standards however, as set out in the [college oversight](#) policy, a modified or qualified audit opinion will normally lead to intervention. We encourage your external auditors to share good practice, and we regularly meet with audit firms to discuss thematic issues and consider how they can help build knowledge and capacity across the sector.

### **Executive pay**

Colleges need to demonstrate to stakeholders that decisions made on executive pay are evidence-based, proportionate and represent value for money. We have increased our requirements for disclosures around executive pay to support accountability, and to help maintain public confidence and trust. I encourage you to consider adopting the [colleges' senior staff remuneration code](#) (developed by the Association of Colleges' Governors Council) in deciding on fair and appropriate remuneration.

### **Transparency**

As charities it is important that you are open and honest about how your money is spent, your achievements, and your plans for the future. Your audited accounts should be published in an easily accessible place on the college website to demonstrate accountability to your local stakeholders. Your accounts should clearly state which governance code you have adopted and be open about where

governance works and where it can be improved. I would like to remind you that you must inform ESFA of any changes to accounting officer, chair of governors or clerk.

### **Open and collaborative working between governors and executive**

The above points reflect two of the core functions of governors - to exercise effective control and to hold executive leaders to account, but none of this dilutes the responsibilities of your appointed accounting officer to ensure compliance with legal and regulatory requirements. The right balance of skills on the corporation is of course essential, as is being a critical friend to the executive. The best governing bodies operate in a spirit of openness where information including “bad news” is shared frequently and challenge is welcomed by the executive. The FE Commissioner in his recent letter to college principals and chairs highlighted again the need for governors and leaders to recognise and accept potential problems quickly, take early actions and ask for support as soon as possible. He also reiterated advice from his predecessor, Sir David Collins, including the need for clarity on how new initiatives contribute to the core mission of the college, and the value of looking outwards and benchmarking performance against others in the sector. We provide governing bodies with financial dashboards that include a comparison to national averages and we also provide a [financial benchmarking tool](#) which includes reports, trend analysis and access to the underlying datasets. I would urge you to make use of this information to support and challenge your executive.

There are a range of other sources of advice and guidance available to governors including guidance from the charity commission on the [role of trustees](#) and specifically on [making decisions](#), [managing conflicts of interest](#), and [internal financial controls](#). The [FE and sixth form colleges' governance guide](#) published by DfE in November 2018 provides an overview of all aspects of governance and links to further support and I commend this resource to you. I would also remind you that your ESFA territorial lead would be happy to discuss any concerns you may have.

Yours sincerely

**Eileen Milner**

Chief Executive, Education and Skills Funding Agency