



Education & Skills
Funding Agency

College financial handbook 2024

**For college governors, accounting
officers, chief financial officers,
governance professionals and auditors**

Published March 2024

Effective from 1 August 2024

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Summary

This handbook provides an overarching framework for implementation of effective financial management and other controls, consistent with your obligations as public-funded bodies.

Who this publication is for

Read this handbook if you have responsibility for governing, managing or auditing a college or college group.

This guidance is for:

- college governors
- accounting officers
- chief financial officers
- governance professionals
- auditors

Main points

Colleges **must** comply with this handbook as a condition of their accountability agreement.

This handbook makes a number of references to specific statutory obligations. However, the handbook should not be taken as offering legal advice. Where a college needs advice it should take it from its appointed legal advisers.

To provide feedback about this handbook or to contact the Education and Skills Funding Agency (ESFA) for guidance, please use the [customer help portal](#).

Foreword by David Withey, Chief Executive of the Education and Skills Funding Agency



Following the decision of the Office for National Statistics to classify the English college sector to central government from 29 November 2022, the Education and Skills Funding Agency (ESFA) and Department for Education (DfE) worked with the sector to provide clarity on the impact of those changes.

Inevitably, as with any change of this magnitude, the change introduced a degree of uncertainty. However, much remained unchanged in the governance and oversight arrangements for the sector – college corporations remain statutory bodies and exempt charities, with the Secretary of State for Education as the principal charity regulator, are still run by a corporation of governors with the status of charity trustees, and colleges' principal legal relationship with DfE is governed by an accountability agreement. Crucially, colleges remain central to the government's ambition to transform the skills base of the country.

Nevertheless, one significant adjustment related to financial management – as part of the public sector, colleges must now adhere to the government sector's spending rules set out in [Managing public money](#), which is the publication that sets out the requirements for all central government bodies.

ESFA has a significant role to play in assuring Parliament, and our ministers that these rules are being applied correctly and the most important way we do so is through providing certainty to the sector on what the new requirements are and how they apply. We also do this by supporting the sector in the application of these rules in as streamlined and simple a way as possible.

This handbook aims to do exactly that. It seeks to help colleges meet the requirements placed on them by bringing together the key financial requirements in a single place. It does not replace the college framework documents ESFA currently produces each year – the [College accounts direction](#), [College financial planning handbook](#), and [Post-16 audit code of practice](#) – but sits alongside them in what we hope is a cohesive suite of documents that makes it easy for colleges to know what they need to do, and do it well.

This handbook has been developed alongside representatives from the sector and I'd like to thank those representatives for their help in developing the document. Ultimately, this

handbook is for the sector and so we have framed it in a way that we hope will deliver that goal. This has resulted in a principles-based approach rather than a checklist-based one. The handbook communicates what needs to be done rather than how it should be done. It aims also to assist both those practitioners that have a considerable degree of sector-specific expertise and those new to the sector.

Our intention is that we will refresh the handbook annually to capture legal and regulatory changes, best practice, and wider developments in the sector as appropriate. That also gives us an opportunity to continue to engage with the sector to make sure it provides the certainty that we seek. We welcome any feedback users may have.

David Withey

Chief Executive, Education and Skills Funding Agency

Who should read this handbook

This handbook sets out the Department for Education's (DfE's) financial governance, management and control requirements for:

- further education and sixth-form college corporations
- bodies designated as being in the further education sector

It is part of a suite of interlocking publications forming the financial governance, management, financial and assurance framework for colleges, which they must comply with as a condition of their accountability agreement. The other components include:

- [College accounts direction](#)
- [College financial planning handbook](#)
- [Post-16 audit code of practice](#)
- [College oversight: support and intervention](#)

We use the term 'college' to refer to:

- further education and sixth-form college corporations, established under the [Further and Higher Education Act 1992](#)
- institutions designated under Section 28 of the [Further and Higher Education Act 1992](#)
- any subsidiary companies forming part of the parent college group

The handbook may also be of interest to sector and representative organisations such as:

- the Association of Colleges
- the Sixth Form Colleges Association
- the Chartered Institution for Further Education
- the Catholic Education Service
- Mayoral Combined Authorities
- the Greater London Authority
- Local Enterprise Partnerships
- the Office for Students
- local authorities
- employers

Colleges are not the only providers of post-16 education in England. For the avoidance of doubt, this handbook does not apply to:

- 16 to 19 academies
- sixth-form colleges having the legal status of, or forming part of, an academy trust
- local authority-maintained schools with a sixth-form
- 16 to 19 free schools

- University Technical Colleges

The handbook comprises short topics, explaining requirements, as well as elements of good practice.

Read this handbook if you have responsibility for governing, managing or auditing a college or college group. It is effective from 1 August 2024 and will remain in force until updated or replaced.

What the handbook covers

The handbook:

- describes the financial responsibilities of colleges, reflecting their status as charitable corporations acting in the public interest and classified as central government bodies
- explains when colleges **must** obtain advance approval for certain financial transactions - colleges **must** ensure they are familiar with these requirements, as described in [part 5](#)
- balances the need for effective financial management with the freedoms that colleges need over their day-to-day business
- reflects [The Seven Principles of Public Life](#) (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) to which public office holders **must** adhere
- **must** be complied with as a requirement of colleges' accountability agreements with the Secretary of State for Education
- sets out that DfE may take action, in accordance with the framework for [College oversight: support and intervention](#) where there are concerns about a college's compliance with financial management requirements

Where this handbook refers to 'we' or DfE taking action or making a decision, this should be taken to mean officials in the department or the Education and Skills Funding Agency (ESFA) and, potentially, ministers, working together, unless stated otherwise. Where teams are referred to specifically, the expectation is that those teams will be leading on that specific aspect of work.

Terminology when using the handbook

In the handbook:

- '**must**' – means statutory, contractual and other regulatory requirements, such as, but not limited to charitable rules and public sector spending rules.
- '**should**' – means minimum good practice that colleges should apply, unless they can demonstrate that an alternative approach better suits their circumstances

Governors and trustees

Throughout the handbook, the term ‘governors’ is used to refer to those forming the board of the college corporation. Given colleges’ charitable status, the board of governors are also the college’s trustees.

However, in the context of Catholic Sixth Form Colleges the term ‘trustee’ refers to diocesan trustees and so the term ‘trustee’ has not been used, except where it is necessary to consider governors’ charity trustee duties specifically.

Likewise, in the case of designated institutions with the legal character of a company limited by guarantee, the board members are also directors of the company, but the term ‘directors’ is not used in this handbook.

Principal and chief executive

Colleges generally refer to their senior executive leader as a ‘principal’, but the term ‘chief executive’ is sometimes used as well or as an alternative.

The handbook makes reference to the senior executive leader of a college primarily in relation to the responsibilities of the accounting officer, but is not prescriptive concerning the job title.

Chief financial officer

The handbook references the role and responsibilities of the member of the senior leadership team with lead responsibility for financial management. This role is referred to as ‘chief financial officer’, though alternative job titles may be used in practice.

Governance professional

The handbook refers to the college’s governance professional as the role to lead and support governance within the organisation. In some colleges the role may be referred to as:

- ‘head’ or ‘director of governance’
- ‘clerk to the board’
- ‘college clerk’
- ‘clerk to the corporation’
- ‘company secretary’

Part 1: Roles and responsibilities

The duties of key people responsible for running colleges.

The accounting officer

Who is the accounting officer?

- 1.1 In compliance with the college's accountability agreement, the board of governors **must** appoint, in writing, a named individual as accounting officer. This should be the senior executive leader (principal or chief executive) and **must** be a suitable person for the role. The accounting officer should be employed by the college or college group and may be a member of the board. The college **must** obtain prior approval from the Department for Education (DfE) if it is proposing, in exceptional circumstances, to appoint an accounting officer who will not be an employee. The accounting officer of the parent college **must** discharge their responsibilities as accounting officer in respect of all entities within the college group, including any subsidiary companies.
- 1.2 The appointment of an accounting officer does **not** remove the governors' ultimate legal responsibility for the proper conduct and financial operation of the college.

Find out about the [automatic disqualification rules](#) for individuals acting as senior managers or charitable trustees.

What does the accounting officer do?

- 1.3 The accounting officer role carries specific responsibilities for financial matters. It includes a personal responsibility to Parliament, and to the Education and Skills Funding Agency's (ESFA's) accounting officer, for the college's financial resources.
- 1.4 Accounting officers **must** be able to assure Parliament, and the public, of high standards of probity in the management of public funds, particularly [regularity](#), [propriety](#) and [value for money](#).
- 1.5 Accounting officers **must** adhere to [The Seven Principles of Public Life](#).
- 1.6 The accounting officer **must** have oversight of financial transactions, by:
 - ensuring that the college group's property and assets are under the governors' control and measures exist to prevent losses or misuse
 - ensuring bank accounts, financial systems and financial records are operated by more than one person

- keeping full and adequate accounting records to support the college's annual report and accounts

The accounting officer's annual statement

- 1.7 The accounting officer **must** complete and sign a [statement of regularity, propriety and compliance](#) each year and submit this to ESFA with the college's audited annual report and accounts, as set out in the [College accounts direction](#).

The accounting officer's duty to raise concerns

- 1.8 The accounting officer **must** take personal responsibility (which **must not** be delegated) for assuring the board that there is compliance with the accountability agreement and this handbook, though it should be noted that this obligation on the part of the accounting officer does not remove or reduce the responsibility of the governors for oversight of compliance.
- 1.9 The accounting officer **must** formally advise board members in writing if action the board is considering is incompatible with the governing document (for example, instrument and articles of government or articles of association), accountability agreement or this handbook. The accounting officer **must** also formally advise board members in writing if the board fails to act where required by the instrument and articles, accountability agreement or this handbook. Where the board is nevertheless minded to proceed, the accounting officer **must** consider the board's reasons as provided in writing. If the accounting officer is required to implement the board's decision, but still considers the action proposed by the board is in breach of the instrument and articles of government, the accountability agreement or this handbook, the accounting officer **must** notify ESFA's accounting officer as soon as practical in writing.

Find out more about the accounting officer role in chapter 3 of [Managing public money](#).

The chief financial officer

Who is the chief financial officer?

- 1.10 The college **must** appoint a named individual to whom authority for financial management is delegated. This may be a chief financial officer (CFO) or finance director (FD), though the college may combine the financial leadership role with responsibility for other support functions and the job title itself may vary. The CFO should play both a technical and leadership role. The CFO should be employed by the college, and the college should notify DfE in advance if it proposes, in

exceptional circumstances, to appoint a CFO who will not be an employee (even if the contract is temporary).

Skills and experience

- 1.11 The CFO and their finance staff **must** be appropriately qualified or experienced. Colleges **must** assess whether the CFO, and others holding key financial posts, should have a business or accountancy qualification and hold membership of a relevant professional body, dependent on the risk, scale and complexity of financial operations.

The governance professional (clerk to the board)

- 1.12 The college **must** appoint a governance professional to support the board who is someone other than a governor, principal or chief executive of the college. This position need not be held by an employee of the college, and the responsibilities may be undertaken by a third party provider of professional services, if such an arrangement provides a more effective service or better value. The governance professional provides advice to the board with regards to:

- the operation of its powers
- procedural matters
- the conduct of its business
- matters of governance practice

- 1.13 College accountability agreements require that individuals appointed to the position of governance professional **must** have a relevant qualification or equivalent experience.

Disqualification

- 1.14 Colleges must not appoint or retain in post trustees or senior managers who are disqualified under the [Charity Commission's automatic disqualification rules](#). For the avoidance of doubt, these rules apply to (but are not limited to) the positions of accounting officer, CFO and governance professional.

Part 2: Main financial requirements

The financial management requirements for colleges.

Financial oversight

- 2.1 Governors, the accounting officer and executive management **must** maintain robust oversight of the college's finances.
- 2.2 The college corporation **must** take responsibility for the college's financial affairs and for stewardship of assets and **must** use resources effectively, efficiently and economically, to maximise outcomes for learners.

Scheme of financial delegation

- 2.3 The board cannot delegate overall accountability for the college's funds. However, authority to make financial commitments will usually be delegated to various leaders within the college and, if so, the board **must** approve a written scheme of financial delegation (which may be or may form part of the college's financial regulations) that maintains robust internal controls. The scheme of financial delegation **must** be approved by the board, and reviewed by the board:
 - regularly
 - at least once every 3 years
 - when there has been a change in college management or organisational structure (such as a college merger) that would impact the effectiveness of any existing scheme of delegation
- 2.4 The college's governance model **must** ensure effective financial scrutiny and oversight. The board may delegate scrutiny and oversight to a finance committee, though responsibility for approval of budgets, the safeguarding of assets and the financial sustainability of the college cannot be delegated.

Basic control principles

- 2.5 The college **must** have a sound internal control, risk management and assurance framework, comprising:
 - clearly communicated procedures, structures and training of staff
 - appropriate day-to-day supervision and checks by management
 - risk management procedures
 - a programme of internal review overseen by an audit committee, ideally supported by an internal auditor
 - external audit and assurance

2.6 The internal control framework will cover both financial and non-financial elements. But the financial elements of the framework **must**:

- ensure delegated financial authorities are complied with
- maintain appropriate segregation of duties
- coordinate the planning and budgeting process
- apply discipline in, but not limited to, financial management, including managing debtors, creditors, cash flow, monthly balance sheet control account reconciliations, payroll, procurement and submission of individualised learner records (ILRs) and other funding returns and claims
- plan and oversee capital projects
- manage the estate, taking note of the [further education estates planning](#) guide, as appropriate
- manage, oversee, monitor, review, inspect, and verify the existence of all assets (estates and non-estates) and maintain a fixed asset register
- ensure regularity, propriety and value for money in the college's activities
- ensure a risk register is maintained and reviewed by the board, drawing on advice provided to it by the audit committee
- reduce the risk of error, fraud and theft
- deliver independent checking of controls, systems, transactions and risks

Find additional guidance at [Internal financial controls for charities \(CC8\)](#)

Financial planning

Responsibilities of the board

2.7 The board **must**:

- ensure that financial plans are prepared and monitored, satisfying itself that the college or college group remains financially sustainable
- take a longer term view of the college's financial plans, consistent with the requirement to submit budget and forecast information to ESFA in accordance with the [College financial planning handbook](#)

2.8 The board should set and regularly review the college policy for holding reserves. Colleges should refer to the expectations relating to the management of reserves set out in the [FE and sixth-form college corporations: governance guide](#) and in the Charity Commission publication [Charity reserves: building resilience \(CC19\)](#).

Setting a budget

- 2.9 The board, and any separate committee responsible for finance, **must** ensure rigour and scrutiny in budget management, taking into account both recurrent and capital budgets.
- 2.10 In accordance with the [College financial planning handbook](#), the board **must** approve a budget, and any significant changes to it, for its financial year. The board **must** consider the impact the budget will have on the college's future financial sustainability.
- 2.11 The board **must** ensure budget forecasts for the current year and beyond are compiled accurately, based on realistic assumptions, including any in relation to the sustenance of capital assets, and reflect lessons learned from previous years.
- 2.12 The board should challenge the learner number estimates on which the budget is based, as these underpin revenue projections.

Sending your budget to ESFA

- 2.13 The college **must** submit its budget forecast to ESFA, in a form and manner specified by ESFA in the [College financial planning handbook](#) and in accordance with deadlines published annually. This is necessary for ESFA to be able to formally assess the financial health of individual colleges, and of the sector as a whole.

Financial health and intervention

- 2.14 The college's budget information is used by ESFA to formally assess its financial health on the basis of the methodology set out in the [College financial planning handbook](#).
- 2.15 Colleges should consider the [financial benchmarks](#) set out by the Further Education Commissioner (FEC) when setting budgets.

Monitoring the budget

- 2.16 The board **must** ensure appropriate action is being taken to maintain financial viability, including addressing variances between the budget and actual income and expenditure. In discharging this responsibility, boards may find it useful to refer to the FEC's [College management accounts good practice guide](#), which sets out key principles of good practice to support the sector to improve the quality, consistency and effectiveness of in-year reporting of financial performance.
- 2.17 Should signs of financial difficulty emerge, either as an immediate issue or anticipated risk, the college should liaise with DfE. Governors have a duty as

charity trustees to ensure good financial management of their college; this duty is all the more important in the event that a college encounters financial difficulty that could result in insolvency. Colleges should not rely solely on ESFA's financial health assessment, or other review ratings to give an indication of solvency. These will be based on either historical data, which may not reflect the college's current financial performance and position, or on forecasts, as an indicator.

- 2.18 The college **must** select key financial performance indicators and measure its performance against them frequently and regularly, including analysis in its annual strategic report as explained in paragraphs 3.23 to 3.26 of the [Further and Higher Education Statement of Recommended Practice \(SORP\)](#).

Cash and working capital management

- 2.19 The college group **must** manage its cash position robustly, taking into account the working capital requirements of the whole group. It **must** not undertake any new borrowing, including overdrafts, without ESFA consent. It may be required to report on its cash position to ESFA where there are concerns about financial management or financial health. The college **must** advise ESFA in good time of any projected shortfall in working capital that might indicate a requirement for support from ESFA. The college **must** also have accounting processes in place that allow for the separate identification of capital grant receipts, as well as the proceeds of asset disposals.

Procurement and spending decisions

- 2.20 As a public sector entity bound by the requirements of public sector procurement, the college **must** be able to show that public funds have been used as intended by Parliament. This means that steps **must** be taken to ensure that the letting of any contract follows due process, and that appropriate contract monitoring is in place, once a contract has been awarded. This includes when ESFA-funded delivery is subcontracted to a third party. Colleges are accountable for all funded delivery, whether that is delivered directly or through a subcontractor.

Procurement basics

- 2.21 The college **must** ensure that:

- spending has been for the purpose intended
- there is propriety in the use of college funds
- spending decisions represent value for money
- internal delegation levels exist and are applied
- a competitive tendering policy is in place and applied, and the procurement rules and thresholds in the [Public Contracts Regulations 2015](#) (which will be

superceded by the Procurement Act 2023 when it comes into force in October 2024) and [Find a Tender](#) service are observed

- appropriate due diligence is in place
- there is proper monitoring and assurance when the delivery of learning is subcontracted to a third party

In order to achieve these ends, the board should consider approving a procurement policy and keeping it under regular review, or building these requirements into the college financial regulations.

- 2.22 ESFA has produced a [subcontracting standard](#) to provide colleges and other providers with a clear and consistent approach for the delivery of funded provision through subcontracting arrangements. Colleges **must** ensure that any delivery for which they are funded, whether delivered directly or through a third party, meets the necessary standards. All providers who subcontract £100,000 or more within any funding year, **must** engage a reporting accountant to obtain a report which complies with the [Assurance reviews of the subcontracting standard for post-16 providers: framework and guide for reporting accountants](#).

Find additional guidance at ESFA's [assurance reviews of the subcontracting standard for post-16 providers](#), and in annex 4.6 of [Managing public money](#).

Colleges planning to undertake major capital projects should have due regard to HM Treasury's [Green Book](#) on project appraisal and evaluation.

[Managing public money](#) sets out that public sector organisations shall not engage in tax evasion, tax avoidance or tax planning. HMRC's [Introduction to tax avoidance](#) provides further guidance.

Setting executive pay

- 2.23 Colleges **must** adopt one of the following remuneration codes or explain in their annual report and accounts why they have not done so:

- the Association of Colleges' (AoC's) [Colleges' Senior Post Holder Remuneration Code](#)
- for colleges that are registered with the Office for Students (OfS), the [Higher Education Senior Staff Remuneration Code](#) issued by the Committee of University Chairs (CUC)

Any college not adopting one of the codes must set out how its alternative arrangements meet the principles of transparency, accountability, proportionality, understandability, value for money and the extent to which remuneration for senior people is evidence-based. Colleges **must** also follow the requirements to disclose certain matters relating to executive pay set out in the [College accounts direction](#).

Senior pay controls

- 2.24 Colleges are subject to central government senior pay controls. Since 1 May 2023, DfE **must** support remuneration proposals, as noted below, prior to applications being reviewed and agreed by Chief Secretary to the Treasury (through HM Treasury). Further details are provided in the DfE guidance [Apply for FE senior pay approval](#).
- 2.25 For new appointments with proposed remuneration **at or above £150,000**, or the pro rata equivalent for part-time staff or performance-related pay **above £17,500**, approval is required before the post is advertised. For existing staff, approval must be sought in relation to any adjustment of total remuneration or terms and conditions which takes an individual to, or above, the defined threshold.
- 2.26 For existing appointments:
- where remuneration already exceeds £150,000, approval is required for any pay award above 9%, through the Senior Pay Controls application process, before the pay increase is confirmed
 - where current remuneration is below £150,000, approval is required when a pay award of **over** 9% takes it to or above that figure. Approval is not required if a pay increase of **up to and including** 9% takes the remuneration above £150,000.
- 2.27 Before submitting applications colleges should familiarise themselves with:
- HM Treasury's [Guidance for approval of senior pay: Senior pay controls process](#)
 - DfE guidance on [senior pay controls](#)
 - the [DfE approval process](#)

Tax arrangements for senior employees

- 2.28 The college **must** ensure its senior employees' payroll arrangements fully meet their tax obligations and comply with HM Treasury's guidance about the employment arrangements of individuals on the avoidance of tax. This is described in HM Treasury's [Review of the tax arrangements of public sector appointees](#), which explains that senior managers with significant financial responsibilities should be exclusively on payroll, and therefore subject to Pay As You Earn with income tax and NI contributions deducted at source.

Income generation

- 2.29 The college should set fees for its chargeable services at full cost, but can apply an additional rate of return when in a commercial environment. The college **must**

also comply with its subsidy control obligations and should refer to the [UK subsidy control statutory guidance](#) to assist with this. The subsidy control rules are designed to prevent, or at least significantly curtail the extent to which, public authorities, such as colleges, provide financial assistance to businesses in a way that could distort competition.

Risk management

Oversight of risk and the risk register

- 2.30 The college **must** manage risks to ensure its effective operation and **must** maintain a risk register. Overall responsibility for risk management, including ultimate oversight of the risk register, **must** be retained by the board of governors, drawing on advice provided to it by the audit committee. However, other committees may also input into the management of risk, at the discretion of the board. Aside from any review by individual committees, the board itself should review the risk register frequently and **must** conduct a full review least annually. For the avoidance of doubt, the board of governors **must** have ownership of risk management in respect of all entities in the college group, drawing upon appropriate advice, including that of the audit committee.
- 2.31 The college's risk management should cover the full operations and activities of the college, not only financial risks. The management of risks **must** include contingency and business continuity planning. Colleges should also consider any risks associated with delivery of funded provision through a subcontracting arrangement and whether adequate and regular contract monitoring is in place to mitigate such risks.

Insurance

- 2.32 The college **must** have adequate insurance cover in compliance with its statutory and contractual obligations, including that required by its accountability agreement with DfE.

Find out more about [Management of risk: principles and concepts](#), including HM Treasury's suggested structure for a risk register, and the Charity Commission's guidance on how charity trustees can identify, assess and manage risks in [Charities and risk management \(CC26\)](#).

Whistleblowing

Having a procedure

- 2.33 The [Public Interest Disclosure Act](#) protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing. The college **must** have procedures for whistleblowing, to protect staff who report individuals they believe are doing something wrong or illegal.
- 2.34 The governors **must** approve the whistleblowing procedure, review it regularly and publish it on the college's website. The board should:
- state in its policy the process for reporting concerns
 - ensure all staff are aware of:
 - the whistleblowing process
 - how concerns will be managed
 - what protection is available to them, if they report someone
 - what areas of malpractice or wrongdoing are covered in the policy
 - who they can approach to report a concern
- 2.35 The board **must** ensure all concerns raised by whistleblowers are responded to properly and fairly.

Find out more at:

- [Whistleblowing for employees](#), including a definition of whistleblowing
- the whistleblowing charity [Protect \(formerly Public Concern at Work\)](#), which provides confidential independent advice about wrongdoing in the workplace

Provision of information

General information requests

- 2.36 The college **must** provide DfE, or its agents, with information required to meet funding and other regulatory requirements. This information **must** be of sufficient quality, and provided when, and in the form, requested.
- 2.37 College managers and their staff **must** ensure information submitted to DfE and ESFA that affects funding, including learner number returns and funding claims (for both revenue and capital grants) completed by the college and (for college groups with multiple colleges) by constituent colleges, is accurate and complies with funding criteria. This includes when funded delivery is through a subcontracting arrangement.

2.38 Occasionally DfE will require urgent information from the college, usually because of requests to DfE to fulfil its duties to provide information to the Secretary of State and account to Parliament. DfE will act reasonably in requests for information and have regard to costs and timescales of providing it, and its confidentiality. In requesting information, DfE will consider information previously supplied by the college to DfE, or other stakeholders with whom DfE is able to share information.

Governance

2.39 DfE has produced the [FE and sixth-form college corporations: governance guide](#), which sets out the key governance requirements for colleges.

2.40 All colleges **must** comply with at least one of the following governance codes:

- [Charity Governance Code](#) (endorsed by the Charity Commission)
- [Code of Good Governance for English Colleges](#) (developed by Association of Colleges)
- [The UK Corporate Governance Code \(2018\)](#) – colleges that adopt this code are not expected to comply with those requirements that are not relevant to further education and sixth-form college corporations. However, they should have due regard to the principles and guidance insofar as they apply to the further education and charity sectors

2.41 Colleges **must** adopt the code that best reflects their legal structure and operations. If a college does not fully comply with the code adopted, it **must** have due regard to its principles and disclose in its annual report and accounts which aspects of the code it does not comply with, and the reasons for non-compliance.

Avoiding conflicts of interest with related parties

2.42 This part of the handbook deals with goods or services provided by, or to, individuals or organisations related to the college.

Related parties include persons and entities with control or significant influence over the college, and members of the same group (such as parent and subsidiary companies, key management personnel and close family members).

The above description is not comprehensive. Find the full definition in:

- section 33 of [Financial Reporting Standard 102](#)
- section 25 of the [Further and Higher Education SORP](#).

The 'related party transactions' section of ESFA's [College accounts direction](#) provides further information.

Principles applying to related party relationships

2.43 Colleges **must** be even-handed in their relationships with related parties and **must** ensure that:

- governors comply with their duties as charity trustees to avoid, or appropriately manage, any conflicts of interest, so that they act only in the best interests of the college, rather than in their personal or private interest
- they do not accept benefits from third parties and declare any interest in proposed transactions or arrangements
- all governors and senior employees complete the register of interests, in accordance with sections [2.47 to 2.50](#) of this handbook
- no governor, employee or related individual or organisation, uses their connection to the college for personal gain, including payment under terms that are preferential to those that would be offered to an individual or organisation with no connection to the college
- no governor, or party related to a governor, will receive payment for goods or services provided to the college except as provided for by [section 185 of the Charities Act 2011](#)
- there are no payments or other personal benefits to governors, or anyone closely related to them, by the college, other than reasonable out-of-pocket expenses, unless approved in advance by the Charity Commission, and any such payments comply with any relevant agreement with the Secretary of State. Colleges will need to consider these obligations where payments are made to other business entities that employ, or are owned by, the governor (or someone closely connected with them), or in which the governor (or someone closely connected with them) holds a controlling interest

2.44 The board **must** comply with the Charity Commission's guidance for trustees [Trustee expenses and payments \(CC11\)](#). It should also be aware of the Charity Commission's guide to managing conflicts of interest: [Conflicts of interest: a guide for charity trustees.](#) and [Managing conflicts of interest in a charity.](#)

2.45 The board **must** ensure requirements for managing related party transactions are applied across the college group, including any subsidiaries. The board chair and the accounting officer **must** ensure their capacity to control and influence does not conflict with these requirements. They **must** manage personal relationships with related parties to avoid both real and perceived conflicts of interest, promoting integrity and openness in accordance with [The Seven Principles of Public Life](#).

2.46 Colleges **must** recognise that some relationships with related parties may attract greater public scrutiny, such as:

- transactions with individuals in a position of control and influence, including the board chair and accounting officer

- payments to organisations with a profit motive, as opposed to those in the public or voluntary sectors

2.47 The college **must** keep sufficient records and make sufficient disclosures in its annual report and accounts, to show that transactions with these parties, and all other related parties, have been conducted in accordance with the high standards of accountability and transparency required within the public sector.

Managing conflict of interests

2.48 The board **must** have a policy for managing actual and potential conflicts of interest and keep it under regular review.

2.49 The board's register of interests **must** capture relevant business and financial interests of governors and senior employees, including:

- ownership, directorships, partnerships and employments with businesses, including with subsidiaries and joint ventures of the college
- trusteeships and governorships at other educational institutions and charities
- for each interest: the name and nature of the business, the nature of the interest and the date the interest began

2.50 The register **must** be reviewed at least annually and **must** identify relevant interests arising from close family relationships between the college's governors. It **must** also identify relevant interests arising from close family relationships between governors and employees. 'Close family relationships' means a close member of the family, or member of the same household, who may be expected to influence, or be influenced by, the person. This includes, but is not limited to, a child, parent, spouse or civil partner.

2.51 Colleges should consider whether other interests should be registered, and if in doubt should do so. Boards of governors **must** keep their register of interests up to date.

Part 3: The audit committee and internal review

The need for colleges to establish processes to ensure systems are effective and compliant.

The role and responsibilities of the audit committee

3.1 The college **must** establish an audit committee, appointed by the board, to provide independent assurance to the board that its financial and non-financial controls are operating effectively. The role and responsibilities of the committee are detailed in part 2 of the [Post-16 audit code of practice](#). It **must**:

- oversee the college's programme of internal review
- ensure that risks are being addressed appropriately
- report to the board on the adequacy of the college's internal control framework, including financial and non-financial controls and risk management
- provide ESFA with an annual report on its activities

Operating the committee

3.2 The committee **must**:

- have written terms of reference
- agree an annual programme of work
- review the ratings and responses on the risk register to inform the programme of work
- agree who will perform the work
- consider reports at each meeting from those carrying out the programme of internal review
- consider progress in addressing recommendations
- consider outputs from other assurance activities by third parties including funding audits and investigations
- have access to the external auditor, as well as those carrying out internal review, evaluate their plans and reports and also consider their quality

3.3 The committee's oversight **must** extend to the financial and non-financial controls and risks at all constituent colleges, subsidiary companies and any subcontractors (where relevant). This includes controls relating to learner data and funding claims. It **must** also ensure that all recommendation arising both from the programme of internal review or from external audit are followed up effectively.

3.4 In accordance with the [College accounts direction \(CAD\)](#) and the [Post-16 audit code of practice](#), the committee **must** produce an annual report for the board and

accounting officer, summarising the committee's activities relating to the financial year under review, including the issues set out in the CAD.

- 3.5 The annual report to the board **must** be submitted to the board before the statement of corporate governance and internal control in the annual accounts is signed.
- 3.6 The committee **must** also provide a statement which draws upon that annual report, and where appropriate, the work of internal review, and submit it to ESFA with the college's audited annual report and accounts. The statement should include an opinion on the effectiveness of the college's framework of internal control.

Internal review

- 3.7 Colleges **must** have a process in place to deliver a programme of internal review to enable the audit committee to discharge its responsibilities, but there is flexibility for colleges regarding how this is delivered. Although colleges are not required to commission internal auditors, having an internal audit service, which may be supplemented by specialists in particular areas, will assist audit committees in ensuring they have effectively discharged the requirements set out in the [Post-16 audit code of practice](#).
- 3.8 When a college has chosen not to appoint internal auditors, the audit committee **must** explain in its annual report to ESFA how it has discharged its responsibilities to oversee a programme of internal review and obtain the necessary assurances concerning internal control and risk. If internal auditors have been appointed, then they should be members of a relevant professional body.
- 3.9 Colleges should note that the Financial Reporting Council's [Ethical Standard](#) states that a firm providing external audit to an entity shall not also provide internal audit services to it.

ESFA has published [a guide on the scope of work of audit committees and internal auditors in college corporations](#).

Further information on internal audit is available at the [Chartered Institute of Internal Auditors](#) and [Internal Audit Code of Practice](#).

Part 4: Annual accounts and external audit

How colleges **must** report on their finances to give assurance to Parliament and the public about their use of resources.

Preparation and audit of accounts

- 4.1 The college **must** maintain adequate accounting records and prepare an annual report and accounts in line with the [statement of recommended practice: accounting for further and higher education](#) (SORP) and ESFA's [college accounts direction](#).
- 4.2 The accounts **must** be audited in line with the requirements of the [Post-16 audit code of practice](#).
- 4.3 The accounting period of a college will end on 31 July as described in the ESFA's [college accounts direction](#) and its [accountability agreement](#).
- 4.4 The audited report and accounts **must** be:
 - submitted to ESFA by 31 December
 - published on the college's website as soon as possible after the accounts are signed and no later than 31 January
 - provided to anyone who requests a copy
- 4.5 The [college accounts direction handbook](#) and the [Casterbridge model accounts](#) provide guidance to colleges on the preparation of their annual report and accounts. The Casterbridge model complies with the requirements of the Further and Higher Education SORP and the [college accounts direction](#).
- 4.6 Colleges that are registered with the Office for Students (OfS) are subject to the OfS regulatory framework, including the [OfS accounts direction](#).

Find out more about:

[Statement of recommended practice: accounting for further and higher education](#)

[College accounts direction](#)

[Post-16 audit code of practice](#)

[College accounts direction handbook](#)

['Casterbridge' model accounts](#)

External auditors

Appointment of external auditors

- 4.7 In accordance with the [Post-16 audit code of practice](#), colleges **must** appoint an external auditor to give an opinion on whether their annual report and accounts present a true and fair view of the college's financial performance and position. Colleges should retender their external audit contract at least every five years, though for the avoidance of doubt this does not necessarily require a different firm of auditors to be appointed.

The regularity engagement

- 4.8 The external auditor **must** also perform the role of reporting accountant and will provide a conclusion on regularity in accordance with a separate engagement to the opinion on the accounts, the scope of which is set out in the [Post-16 audit code of practice](#). Since the provisions of this handbook form part of the regularity framework for colleges the regularity review performed by the reporting accountant **must** encompass (but will not be limited to) consideration of whether the college has complied with the provisions of this handbook.

Review of regularity

Accounting officer's statement

- 4.9 In accordance with the [college accounts direction](#), an accounting officer's statement of regularity, propriety and compliance **must** be included in the college's annual report and accounts. That statement will encompass compliance with this handbook as well as the other aspects of the framework of authorities that the college **must** follow. The statement is a declaration by the accounting officer that they have met their responsibilities to Parliament for the resources under their control during the year. It includes responsibility to ensure:
- efficient and effective use of resources (value for money)
 - public money is spent for the purposes intended by Parliament (regularity)
 - appropriate standards of conduct, behaviour and corporate governance are maintained (propriety)
- 4.10 The format of the statement is in the [college accounts direction](#). The accounting officer also has responsibility to advise the board of governors and ESFA of instances of irregularity or impropriety, or non-compliance with the accountability agreement or this handbook.

Reporting accountant's review of regularity

- 4.11 In accordance with the [Post-16 audit code of practice](#), a review of the accounting officer's statement of regularity, propriety and compliance **must** be included within the remit of the regularity engagement of the reporting accountant. The reporting accountant's conclusions on regularity **must** be addressed jointly to the college and ESFA.

External audit oversight and findings – the audit committee

- 4.12 The external audit process can support colleges by identifying areas that may require improvement. The board of governors, taking advice from the audit committee, **must** ensure there is an appropriate, reasonable and timely response by the college's management team to findings by external auditors, taking opportunities to strengthen systems of financial management and control.
- 4.13 The audit committee **must** also assure itself as to the quality of the service being provided by the external auditors and, in accordance with the [Post-16 audit code of practice](#), produce an annual report of the committee's conclusions to advise the board on the reappointment or dismissal of the external auditors, and their remuneration.

Part 5: Delegated authorities

The financial freedoms and limits applying to colleges.

Requirement to obtain DfE approval

- 5.1 The college has autonomy over financial transactions arising in the normal course of business. However, some transactions have delegated authority limits beyond which colleges **must** obtain prior approval, regardless of the source of funds. A schedule of delegated authorities is included within this handbook at section [5.43](#). Colleges **must** ensure they are familiar with these requirements. DfE may take action in accordance with the [college oversight: support and intervention](#) framework, where colleges do not obtain the required approval in advance.
- 5.2 In the case of any proposed financial transaction requiring specific approval from a third party with regulatory powers (for example DfE, HM Treasury or the Charity Commission), such approval **must** be sought in writing in advance by the college.
- 5.3 Certain transactions require approval by either DfE, HM Treasury or the Charity Commission, or by more than one of these bodies. Should this be the case, a college should not make separate applications to DfE and the other body DfE will arrange liaison between all the necessary parties.

Colleges should use the DfE [college approvals form](#) to request permission for any transactions beyond their delegated limits.

Disclosure

- 5.4 Irrespective of whether DfE approval is required, in accordance with the [college accounts direction](#), the college **must** disclose aggregate figures for certain transactions in its audited annual report and accounts. Other than what is required under financial reporting standards, the Further and Higher Education SORP and the [college accounts direction](#), such disclosure can be anonymised.

Novel, contentious and repercussive transactions

- 5.5 Novel, contentious and repercussive transactions **must** always be referred to DfE for approval, and the request **must** be made to DfE before the transaction occurs. DfE may refer such transactions to HM Treasury for approval, so colleges should allow sufficient time for proposals to be considered.
 - Novel transactions are those of which the college has no experience or are outside its range of normal business.

- Contentious transactions are those that might cause criticism of the college by Parliament, the public or the media.
- Repercussive transactions are those that may have wider financial implications for the sector, or which appear to create a precedent.

Special payments

5.6 Certain transactions by public bodies may fall outside the usual planned range of activity and may exceed statutory and contractual obligations. These are referred to as special payments (see annex 4.13 of [Managing public money](#)), and they are subject to greater control than other payments. They include:

- staff severance payments
- compensation payments
- ex gratia, extra contractual, extra statutory and extra regulatory payments

Special staff severance payments

5.7 Special staff severance payments are paid to employees outside statutory or contractual requirements when leaving public employment. They are different to ex gratia payments and ex gratia payments which tend to arise in circumstances other than leaving employment

5.8 If a college is considering a staff severance payment above statutory or contractual entitlements, it **must** consider the following issues before making a binding commitment:

- **Consider whether the special staff severance payment is appropriate:** A severance payment may not always be the right approach: for example, severance payments should not be made to staff with poor performance or in cases of misconduct as such cases may give rise to an impression of 'rewards for failure'. DfE and HM Treasury are unlikely to approve such payments. Any payments should always be in the interest of the college, but especially in the interest of the learners.
- **Take and document legal and HR advice:** Appraise any course of action with the associated costs and the likelihood of successfully defending the case at tribunal or through arbitration. If there is a good chance of the college successfully defending any claim, the college **must** demonstrate why this route is not being proposed and instead, a payment to the employee is being recommended. If there is a significant prospect of losing the case, a settlement may be justified, especially if the costs of a defence are likely to be high. However, where a legal assessment suggests the college is likely to be successful, a settlement should not be offered.

- **Clearly document the management and approval process:** This **must** take account of the college's own internal processes and employment law.
- **Consider the appropriate level of payment:** Following any legal advice, can a change from the settlement value be justified? A severance payment is made from the public purse and therefore value for money **must** be demonstrated.
- **Ensure you can support any non-financial considerations with evidence:** For example, that learner performance has been affected by a lack of continuity of tuition due to absence or teaching by temporary staff.
- **Confidentiality clauses:** Colleges **must** ensure that the use of confidentiality clauses associated with staff severance payments do not prevent an individual's right to make disclosures in the public interest (whistleblowing) under the [Public Interest Disclosure Act 1998](#).

5.9 Where the college is considering a staff severance payment including a non-statutory or non-contractual element of £50,000 or more (gross, before income tax or other deductions), or when the proposed special staff severance payment is equivalent to 3 months' salary or more (gross, before income tax or other deductions), DfE's approval **must** be obtained before making any binding offer to staff. DfE may refer such transactions to HM Treasury, so colleges should allow sufficient time for proposals to be considered.

5.10 Colleges should demonstrate value for money by applying the same scrutiny to a payment under £50,000 (or under 3 months' salary) as those over these limits and have a justified business case. Settlements **must** not be accepted unless they satisfy the conditions in this handbook.

5.11 Additionally, in accordance with HM Treasury's Guidance on Public Sector Exit Payments, colleges **must** obtain prior DfE approval before making a special staff severance payment where:

- an exit package which includes a special severance payment is at, or above, £100,000; or
- the employee earns over £150,000

5.12 Examples of approval requirements are as follows:

	DfE approval required for non-statutory/non-contractual severance payment?	
	Member of staff earns <u>up to and including</u> £150k	Member of staff earns <u>over</u> £150k
Non-statutory/non-contractual severance payment of £50k or more	Yes	Yes
Non-statutory/non-contractual severance payment equivalent to at least 3 months' salary	Yes	Yes
Non-statutory/non-contractual severance payment is greater than £0 but under £50k , and/or is under 3 months' salary and:		
a. Total severance payment (sum total of statutory/contractual and non-statutory/non-contractual elements) is under £100k	No	Yes
b. Total severance payment (sum total of statutory/contractual and non-statutory/non-contractual elements) is £100k or more	Yes	Yes

Compensation payments

5.13 Compensation payments provide redress for loss or injury, for example personal injuries, traffic accidents or damage to property. If a college is considering a compensation payment, it **must** base its decision on a careful appraisal, including legal advice where relevant, and ensure value for money.

5.14 Colleges have delegated authority to approve individual compensation payments, provided any non-statutory or non-contractual element is under £50,000. Where the college is considering a non-statutory or non-contractual payment of £50,000 or more, DfE's prior approval **must** be obtained. DfE may refer such transactions to HM Treasury.

5.15 Colleges should consider whether cases reveal concerns about the effectiveness of internal control systems and take steps to correct failings.

Ex gratia, extra-contractual, extra-statutory and extra-regulatory payments

5.16 Ex gratia payments are another type of transaction going beyond statutory or contractual cover, or administrative rules. Such payments are essentially voluntary and are sometimes made as a gesture of goodwill rather than from any formal

obligation. Annex 4.13 of [Managing public money](#) provides examples, including payments to meet hardship caused by official failure or delay, and to avoid legal action due to official inadequacy. Section 106 of the Charities Act 2011 also requires that Charity Commission approval be sought for any proposed ex gratia payments, though colleges need not approach the Charity Commission directly as DfE will arrange any necessary liaison.

- 5.17 Extra-contractual payments are those which, though not legally due under contract, appear to place an obligation on a public sector organisation which the courts might uphold. Typically, these arise from the organisation's action or inaction in relation to a contract. Payments may be extra-contractual, even where there is some doubt about the organisation's liability to pay, for example where the contract provides for arbitration, but a settlement is reached without it. (A payment made as a result of an arbitration award is contractual).
- 5.18 Extra-statutory and extra-regulatory payments are within the broad intention of the statute or regulation, respectively, but go beyond a strict interpretation of its terms.
- 5.19 Ex gratia, extra-contractual, extra-statutory and extra-regulatory payments **must** always be referred to DfE for prior approval, irrespective of the amount. HM Treasury or Charity Commission approval may also be needed. If colleges are in doubt about a proposed transaction, they should seek DfE advice.

Write-offs and entering into liabilities

- 5.20 The college **must** obtain DfE's prior approval for the following transactions beyond the delegated limits described below:
- writing-off debts and losses
 - entering into guarantees or letters of comfort
 - entering into indemnities which are not in the normal course of business
- 5.21 It is important to note that the requirement to obtain such permission by a college extends to any such write-off, guarantee, letter or comfort or indemnity offered to or by any of the college's subsidiaries.
- 5.22 The delegated limits are exceeded when:
- the write-off exceeds 1% of annual income or £45k individually (whichever is smaller)
 - the write-off takes the college's cumulative total write-offs for the academic year beyond 5% of its annual income or £250k (whichever is the smaller)

For these purposes, annual income is defined as the forecast total income for the current year as approved by the college board. The delegated limits are gross,

such as before the impact of any insurance claim that could mitigate the impact of a loss.

5.23 In relation to these limits:

- the college should always pursue recovery of amounts owed to it, including overpayments, or erroneous payments – in practice, however, there will be practical and legal limits to how cases should be handled
- the college should only consider writing-off losses after careful appraisal, including whether all reasonable recovery action has been taken with the debtor
- if the loss or write-off is covered by insurance, the college should first assure itself that the insurers are content that there is no feasible alternative to ceasing recovery action

5.24 In dealing with individual cases, the college **must** always consider the soundness of their internal control systems, the efficiency with which they have been operated, and take any necessary steps to prevent any failings recurring.

5.25 The college **must** keep an accurate record of all amounts lost or written off regardless of value.

5.26 Before considering accepting liabilities by issuing guarantees, a letter of comfort or indemnity, the college should secure value for money by appraising the proposal through assessment of the costs and benefits of relevant options. Boards of governors also need to consider the legal and regulatory requirements of issuing a guarantee or letter of comfort to support a loss-making subsidiary company.

Find out about: [ICAEW advice to charities on loss-making subsidiaries, guarantees and letters of comfort](#)

The Charity Commission has also provided guidance on how charities can engage in trading to raise funds and how to apply income on trading profits: [Trustees trading and tax: how charities may lawfully trade \(CC35\)](#)

Disposal of fixed assets

5.27 Colleges can dispose of fixed assets without DfE's approval subject to the proposed disposal not being novel, contentious or repercussive.

5.28 Except when the college transfers any assets to another charity with the same or similar purposes, it **must** achieve the best price that can reasonably be obtained, while maintaining the principles of regularity, propriety and value for money.

However, there are restrictions regarding how a college may use the proceeds of any fixed asset disposal, depending upon the type of asset.

5.29 In the case of moveable fixed assets (for example non land and buildings, such as vehicles and IT kit) the college **must** consider:

- whether the asset or assets concerned may have been acquired with the assistance of a grant or donation from a third party, including (but not limited to) DfE and whether the conditions of any such grant or donation set terms relating to disposal or the proceeds of disposal, or when an overage arrangement is in place
- whether disposal of such assets is consistent with its asset management policy and that there are plans in place to ensure that:
 - investment in moveable fixed assets is sufficient to ensure the ongoing ability of the college to deliver appropriate provision for learners is not depleted
 - moveable fixed assets can be replaced or upgraded when they reach the end of their economic life

5.30 Subject to addressing the above, the college may apply the proceeds of disposal (if any) at its own discretion subject to the usual considerations as set out in paragraph 5.28 above.

5.31 In the case of land and buildings, the college **must** consider the Charity Commission guidance on [Sales, leases, transfers or mortgages: what trustees need to know about disposing of charity land \(CC28\)](#). The college should also have an estates strategy that underpins the long-term sustainability of the operation. However, it is recognised that over time certain elements of the estate may become redundant, and it may make business sense to disinvest in certain elements of the estate and thereby unlock funds to invest in more relevant capital provision. For that reason, in the case of land and buildings (whether freehold or leasehold), the proceeds of disposal **must** be used for capital reinvestment in further fixed assets or to:

- repay loans, to DfE and to banks
- repay any overpayments of ESFA or DfE grants, or satisfy grant conditions where a repayment to ESFA or DfE is due (for example overage)
- exceptionally, provide working capital for colleges to avoid the risk of insolvency (see para 5.32 below)

5.32 If a college wishes to use the proceeds from the disposal of land and buildings for the purposes of avoiding insolvency (for example, to fund a restructuring programme), then it **must** first seek the approval of DfE. In accordance with the framework for [College oversight: support and intervention](#), colleges should engage with DfE at the earliest practical opportunity to consider available options.

However, given that sale of land and buildings can be particularly protracted, colleges should seek permission to use the proceeds in this way in good time and well in advance of the disposal itself.

- 5.33 In the case of any fixed assets that form part of an endowment fund, the college may be under an obligation to re-invest disposal proceeds in another endowment asset. In such cases the college should take professional advice.
- 5.34 Colleges **must** consider whether any particular disposal could be considered novel, contentious or repercussive. ESFA has produced [guidance](#) on transactions that may be considered as novel, contentious or repercussive which stresses that it is not practical to set out an exhaustive list of examples. But in the case of asset disposals, such instances could include (but are not limited to) sale and lease-back arrangements, disposal of sites that are considered a community amenity and are not intended to be replaced, disposals to a related party, gifts or disposals that are below market value. The perception of the transaction may be as important as its substance, and, in such cases, the college **must** ask DfE for permission for the disposal itself, as well as for the application of the proceeds.
- 5.35 For the avoidance of doubt, by disposal we mean any process whereby an asset passes to a third party such as sale, the granting of a long lease, scrappage, gifting, etc. By proceeds we mean net proceeds, that is after the costs of sale (for example professional fees) and, when relevant, the settlement of any finance secured on the asset, have been deducted.

Leasing

- 5.36 Colleges do not require DfE's prior approval for entering into either finance or operating leases, though colleges **must** ensure any lease maintains the principles of regularity, propriety and value for money.

Gifts

- 5.37 Colleges **must** have a policy and register covering the acceptance of gifts, hospitality, awards, prizes or other benefits that might compromise their judgment or integrity and should ensure all staff are aware of the requirements. As a charity, there are limited circumstances in which a college can make gifts which are not in direct furtherance of its charitable purposes. When making any such gifts, the college **must** ensure the value is modest, is within its financial regulations and scheme of financial delegation, the decision is documented, and achieves propriety and regularity in the use of public funds. If the college is contemplating making a gift to a member of staff, then it should consider potential tax implications. If a college intends to make a gift to a governor, it **must** comply with the guidance set out at paragraph 5.8 of the Charity Commission publication [Trustee expenses and payments \(CC11\)](#).

Borrowing

5.38 Colleges and their subsidiaries **must** obtain ESFA's prior approval for:

- new borrowing from the private sector
- amendments to existing private sector borrowing

regardless of the interest rate chargeable.

5.39 Such borrowing will only be approved in exceptional circumstances. Borrowing which increases private sector interest costs is unlikely to be approved, as private sector lenders face higher financing costs than government which would be passed on to lenders.

5.40 Private sector borrowing refers to any borrowing from commercial lenders and also loans from local authorities or any non-public sector organisations. Existing and future lending from DfE to colleges is excluded.

5.41 Amendments to existing borrowing which may be considered include, but are not limited to:

- changes relating to the term of a loan
- requests to change the length of time to repay the loan
- interest rate change outside the existing agreement terms (including any move between a variable and a fixed interest rate)
- providing additional security
- any other changes to the terms of existing facilities, including covenant changes, which incur a fee by the lender

If the college is in doubt as to whether any proposed change is within scope or not, it should submit a consent request.

5.42 Amendments which do not require DfE consent include:

- providing periodic standard written representations to lenders
- any other changes to the terms of existing facilities, including covenant changes, which do not incur a fee by the lender and are not amendments within the scope of [Managing public money](#) as defined above

Credit cards **must** only be used for business expenditure, and balances cleared before interest accrues.

Summary of freedoms and delegations

5.43 This summary is not a substitute for the full handbook.

Novel, contentious and repercussive	Novel, contentious and repercussive transactions	DfE agreement required.
Special payments	Staff severance and compensation	DfE agreement required if non-statutory/non-contractual element is £50,000 or more, or more than 3 months' salary before tax And DfE agreement required for an exit package which: <ul style="list-style-type: none"> • includes a special severance payment that is at, or above, £100,000; and/or • the employee earns over £150,000.
Special payments	Ex gratia, extra-contractual, extra-statutory and extra-regulatory payments	DfE agreement required.
Write-offs and liabilities	Writing-off debts and losses	DfE consent required if exceeds: <ul style="list-style-type: none"> • 1% of annual income or £45,000 individually; or • 5% of annual income or £250,000 cumulatively
Write-offs and liabilities	Entering into indemnities (beyond the normal course of business), guarantees or letters of comfort.	DfE consent required if exceeds: <ul style="list-style-type: none"> • 1% of annual income or £45,000 individually; or • 5% of annual income or £250,000 cumulatively
Disposal of fixed assets	Land and buildings	Proceeds must be used for capital reinvestment or to pay off debts. DfE agreement required if proceeds are intended to be used to support working capital.
Disposal of fixed assets	Moveable assets	Proceeds may be used at the college's discretion, subject to the usual requirements of regularity, propriety and value for money.
Leasing	Finance and operating leases	DfE agreement not required.
Surpluses	Surplus carry forward	DfE agreement not required.
Borrowing	Loan, overdraft	DfE agreement required.
Borrowing	Credit cards (for business use)	College has full discretion provided interest not incurred.

Part 6: The regulator and intervention

How DfE oversees colleges and may intervene where concerns arise in accordance with the oversight, support and intervention framework.

ESFA oversight

- 6.1 ESFA's accounting officer is accountable to Parliament for how ESFA uses its funds and is personally responsible for the regularity, propriety and value for money of its expenditure, and, by extension, for that of the sector as a whole. Consequently, ESFA's accounting officer may issue a 'dear accounting officer' letter to college accounting officers on an 'as required' in relation to emerging issues concerning accountability, regularity, propriety, value for money and accounting matters.

Access rights

- 6.2 ESFA or its agents may carry out audits and investigations at a college. The college **must** provide ESFA with access to all books, records, information, explanations, assets, premises and staff, and ESFA may take copies of relevant documents.

Investigations: third party documentation

- 6.3 Where ESFA has concerns about financial management and/or governance at a college, it may wish to obtain from third parties information or documentation about the college, which ESFA considers relevant for the purposes of its investigation. Colleges **must** provide ESFA with written authority giving permission for any third party to provide such information and documentation to ESFA or its agents on request of ESFA.

Retention of records

- 6.4 The college **must** retain records to verify provision delivered by it, or its subcontractors, in relation to this handbook and its accountability agreement, for at least six years after the period to which funding relates.

Funding audit

- 6.5 As set out in the [Post-16 audit code of practice](#), funding audits provide assurance to ESFA on learner data provided by a college via its individualised learner record (ILR) to calculate its recurrent funding and establish whether the data is accurate and supported by evidence. The scope and timing of funding audits are determined annually.

Fraud, theft, irregularity and cybercrime

- 6.6 As set out in accountability agreements, contracts with ESFA (and, where relevant, with Mayoral Combined Authorities and the Greater London Authority), and the [Post-16 audit code of practice](#), colleges **must** establish and maintain an adequate system of internal control, to ensure compliance, and to prevent and detect error, irregularities and suspected fraud (including theft, bribery and corruption). To achieve this a college **must** establish and keep up to date an effective and proportionate anti-fraud policy, which sets out the approach to raising awareness, prevention, detection, investigation and sanction (including seeking redress where appropriate) of suspected fraud.
- 6.7 In developing an anti-fraud policy, colleges should consider the nature of the threat faced. The non-exhaustive list below contains suggestions for the main components of such a framework:
- a fraud risk assessment to identify areas most vulnerable to suspected fraud; ESFA has developed a [list of potential fraud indicators](#) to support a review
 - robust and well-designed internal control systems to address vulnerability to fraud and the testing of internal controls ensure that they are operating as intended
 - policies and procedures (such as a whistleblowing policy and a fraud response plan), detailing how to report suspected fraud and the processes to follow when reports are received
 - a fraud loss measurement exercise to evaluate the scale of suspected fraud
- 6.8 The policy should also provide for regular and frequent review of its own effectiveness. The fraud threat is constantly evolving and so colleges **must** ensure that they keep themselves up to date with the risks.
- 6.9 Colleges **must** have procedures in place to ensure any suspected or discovered instance of fraud, cybercrime, theft, bribery, corruption, irregularity, major weakness or breakdown in the accounting or other control framework are identifiable. Where identified, colleges **must** inform the chair of the audit committee, external auditors and internal auditors (if applicable) as soon as practically possible. ESFA, and any other relevant college funder, **must** also be informed as soon as possible when the fraud, or suspected fraud, is significant. Please contact ESFA via the 'allegations' mailbox at: allegations.mailbox@education.gov.uk.
- 6.10 Significant fraud is where there is one or more of the following factors (though this list is not exhaustive):

- the gross amount of the loss (that is before any insurance claim) is in excess of £5,000
- there is likely to be public interest because of the nature of the fraud or the people involved, especially when the fraud is committed by a governor or senior employee, regardless of the amount
- the particulars of the fraud are novel or complex
- the fraud is systematic or unusual in nature

- 6.11 With regard to the reporting of funding error, colleges **must** continue to adhere to the requirements of their accountability agreement and the funding rules.
- 6.12 Fraud's inherent nature means that any fraudulent transaction **must** be irregular and improper. The accounting officer **must** include any significant fraud in their statement of regularity, propriety and compliance.
- 6.13 Fraud, including any suspected or attempted fraud, should be reported to Action Fraud to help identify systematic risks potentially affecting whole sectors (for example cybercrime).
- 6.14 ESFA reserves the right to conduct investigatory work in respect of any college when there are reasonable grounds to believe that fraud or other financial irregularity has occurred. Such grounds may include a notification from the college itself or from other information received. ESFA may involve other authorities, including the police. If such a college is also funded by another public authority, then ESFA and that authority will cooperate to determine which authority will lead the investigation. ESFA will publish [reports on its investigations](#) at colleges.

Cybercrime, penetration testing and cyber ransoms

- 6.15 Colleges **must** also be aware of the risk of cybercrime, put in place proportionate controls and take appropriate action where a cyber security incident has occurred.
- 6.16 Colleges **must** not pay any cyber ransom demands. DfE supports the National Crime Agency's recommendation not to encourage, endorse, or condone the payment of ransom demands. Payment of ransoms has no guarantee of restoring services and may lead to repeat incidents.

Find out more about cybercrime and IT health checks at:

- [National Cyber Security Centre](#)
- [NCSC-Alert Further targeted ransomware attacks on education sector March 2021](#)
- [IT health checks](#)
- [CHECK penetration testing](#)

College oversight, support and intervention

- 6.17 The framework for [college oversight: support and intervention](#) sets out how DfE will work with colleges to identify, at an early stage, any financial and quality issues that might hinder their success. It sets out the support and advice available to colleges when they need it, including from DfE, Further Education Commissioner (FEC) and ESFA. The framework provides that, where there are concerns about financial management or governance in a college, DfE may issue the college with a notice to improve (Ntl).

Find out more about the oversight, support and intervention framework, and intervention notices and reports, at:

[College oversight: support and intervention](#)

[Further education intervention notices and reports](#)

The Secretary of State for Education's statutory intervention powers

- 6.18 The Secretary of State for Education's intervention powers are set out in sections 56A and 56E of the Further and Higher Education Act 1992 (FHEA 1992), as amended by the Skills and Post-16 Education Act 2022. The Act sets out the circumstances in which the powers can be exercised, and the actions that the Secretary of State for Education can take.
- 6.19 Where the Secretary of State for Education has serious concerns about the management of a college, the Secretary of State for Education may take statutory intervention action to address those concerns.
- 6.20 Where one or more of the circumstances for intervention have been met, the Secretary of State for Education can take a number of actions including removal or appointment of members of the governing body. The Secretary of State for Education can also give the governing body a direction as the Secretary of State considers expedient relating to the exercise of their powers and performance of their duties.

Find out more about the Secretary of State for Education's statutory intervention powers at:

[Statutory intervention powers for the FE sector](#)

DfE's work with the Charity Commission for England and Wales

6.21 Where there is a relevant concern, we may refer colleges to the [Charity Commission](#), reflecting the Commission's interest in addressing non-compliance with legal or regulatory requirements or misconduct or mismanagement in the administration of any charity, and in ensuring individuals running the charity (in particular, but not limited to, the trustees) do so in compliance with their legal duties. The Commission may use its regulatory powers as described in its Memorandum of Understanding with DfE.

Find out more about the [Memorandum of Understanding](#) between DfE and the Charity Commission.

National Audit Office and Public Accounts Committee

6.22 NAO has the right to access the accounts and relevant records of a college for inspection, or for value for money studies. The college **must** cooperate with NAO and their contractors and provide help, information and explanation as is reasonable and necessary. NAO's findings are considered by the Public Accounts Committee (PAC). The PAC has the power to call anyone, including past and current accounting officers of a college, to account for the proper use of public funds.

Part 7: Further reading

Review the list of policies, legislation and resources referenced in this handbook.

Accountability

- [Public Accounts Committee](#)

Accounting officer

- [The Accounting Officer's Survival Guide](#)

Annual accounts and audit

- [Accounting for Further and Higher Education](#) (the Further and Higher Education SORP)
- [College Accounts Direction Handbook](#)
- [College Accounts Direction](#)
- [Charity reporting and accounting: the essentials \(CC15d\)](#)
- [Financial Reporting Standard \(FRS\) 102](#)
- [Post-16 Audit Code of Practice](#)

Budget reporting

- [College Financial Forecasting Return](#)
- [College Financial Planning Handbook](#)

Charities

- [Charity publications and information](#)

Conflicts of interest

- [Conflicts of interest: a guide for charity trustees \(CC29\)](#)
- [Managing conflicts of interest in a charity](#)

Executive pay

- [The Colleges Senior Post Holder Remuneration Code](#)

Financial management

- [College management accounts good practice guide](#)
- [Charities and investment matters: a guide for trustees \(CC14\)](#)
- [Managing a charity's finances: planning, managing difficulties and insolvency \(CC12\)](#)
- [Managing public money](#)

Fraud

- [Action Fraud](#)
- [Fraud risk management](#)
- [Fraud Act 2006](#)
- [Protecting charities from harm: compliance toolkit](#)
- [Whistleblowing](#)

Freedom of information

- [Information Commissioner's Office](#)

Funding

- [ILR Data Integrity Guidance](#)

Governance

- [Automatic disqualification of persons as charity trustees or senior managers](#)
- [Changing your charity's governing document \(CC36\)](#) for designated institutions as registered charities
- [Charity finances: trustee essentials \(CC25\)](#)
- [Charity Governance Code](#)
- [Code of Good Governance for English Colleges](#)
- [Further education corporations and sixth-form college corporations: governance guide](#)
- [Good governance standard for public services](#)
- [The Essential Trustee: What you need to know, what you need to do \(CC3\)](#)
- [Trustee board: people and skills](#)
- [Trustee expenses and payments \(CC11\)](#)
- [UK Corporate Governance Code](#)

Internal control

- [Internal financial controls for charities \(CC8\)](#)

Internal audit and audit committees

- [Audit committee handbook](#)
- [FRC guidance on audit committees](#)
- [The scope of work of audit committees and internal auditors in college corporations](#)
- [Internal Audit Code of Practice](#)

Intervention

- [College Oversight: Support and Intervention guide](#)
- [Secretary of State for Education statutory intervention powers for the further education sector](#)

Procurement

- [Business payment practices and performance: reporting requirements](#)
- [Introduction to find a tender](#)
- [Public procurement policy](#)

Risk management

- [Charities and risk management \(CC26\)](#)
- [Orange Book: Management of Risk – Principles and Concepts](#)

Tax

- [Charities and tax](#)
- [Check employment status for tax](#)
- [PAYE: detailed information](#)
- [Review of the tax arrangements of public sector appointees](#)
- [Trustees trading and tax: how charities may lawfully trade \(CC35\)](#)
- [VAT: detailed information](#)
- [VAT registration](#)



Education & Skills
Funding Agency

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