



Department
for Education

FE Commissioner Intervention Assessment Summary Report: Weston College of Further and Higher Education

Date of report: June 2024

Date of publication: April 2025

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Background

Name of College	Weston College of Further and Higher Education
Name of College principal /CEO	Jacqui Ford (Interim)
Name of College Chair	Tim Jackson OBE (Interim)
Type of provision	GFE
Date of visit	05 June 2024
Type of visit	Intervention assessment
Trigger for formal intervention	ESFA investigation leading to Notice to Improve
Further Education Commissioner (FEC) Team members	Shelagh Legrave – FE Commissioner Becky Edwards - FEC Deputy Diane Dimond - FEC Adviser
Location	Knightstone Road, Weston-super-Mare
Apprenticeship training provider	Yes
Latest Ofsted inspection grade	Good, December 2023
Education and Skills Funding Agency (ESFA) Financial Health Grade	2021-22, Outstanding 2022-23, to be confirmed
Latest annual financial turnover	£74 million

Conclusion/Executive summary

Weston College for Further and Higher Education is a successful college which grew in size, reputation and financial strength under the leadership of the previous principal who served for 22 years. This performance led to recognition both for the college and for the principal's leadership in a number of different kitemarks, awards and honours.

During this period, however, there was failure by the board of governors to ensure that the college demonstrated value for money for the public purse and proper accountability for use of public funds, specifically with regard to pay for the senior postholder. The full remuneration package of the previous principal and CEO, as accounting officer, was not fully disclosed in the financial statements, as required by the college accounts direction, nor was it fully declared in the annual finance record. The previous principal was paid over £2.5m more than was properly declared in the accounts in the years 2017-2023, via a variety of bonuses, benefits, allowances and a significant retention payment. The full board of governors did not explicitly ratify the majority of these payments. There is evidence that there was a deliberate policy of maintaining a monthly pensionable salary that was the basis for the annual declaration in the accounts and finance record, which was augmented by additional payments to achieve an undeclared total actual remuneration package. The ESFA as both funder and regulator requires any personal payment to the principal and CEO be fully disclosed in every component part under conditions of grant funding.

This lack of transparency in reporting was facilitated by a culture in which there was minimal disclosure of the previous principal's total remuneration to the full board and by the bypass of normal payroll procedures to make direct payments to the principal. This led to a failure of proper governance processes and to poor decision making around the best use of public funds.

As at the date of this report, there is an ongoing ESFA investigation into other aspects of the college's financial controls.

Recommendations

Recommendation 1: The college must put in place a formal scheme of delegation which clearly sets out the level of full board or committee approval required for key decisions including the remuneration of senior staff. **By end of July 2024**

Recommendation 2: The terms of reference of the remuneration committee should be updated to specify that the decisions on senior pay must be ultimately approved by the full board of governors. **By end of July 2024**

Recommendation 3: Terms of office for governors should normally be limited to two terms of four years, as recommended by the AoC Code of Good Governance and the college's Instruments & Articles should be amended to reflect this. **Immediately**

Recommendation 4: The appointed clerk to the board should hold, or be working towards, a professional clerking qualification. **By end of October 2024**

Recommendation 5: The approval of senior post-holder pay must be based on the whole proposed remuneration package, expressed in monetary figures, and including all bonuses and ancillary payments. The proposed package must be carefully considered in line with sector benchmarks and value for money. Minutes of meetings which record these decisions must be sufficiently detailed to record the impact of the decision on the monetary value of total annual remuneration. Non-confidential Board minutes should be published on the College's website in a timely fashion. **Immediately**

Recommendation 6: The senior leadership of the college should instigate procedures for identifying planned transactions which might require permission under the principles of Managing Public Money, for example reviewing as part of the monthly management accounts. There should be a report on these in an appropriate format as part of regular updates to the board. **By end of July 2024**

Recommendation 7: The annual financial statements must be produced in line with the ESFA college accounts direction and the note on accounting officer emoluments must agree explicitly with the full value of remuneration approved by the board. **Immediately**

Recommendation 8: All salary payments processed by the finance team must follow the standard payroll processing and authorisation procedure and there must be no exceptions for senior post-holders. **Immediately**

Recommendation 9: Board committee structures should follow CUC (Committee of University Chairs) and AoC Code of Good Governance, including that the chair of remuneration should never be the same individual as the chair of the board. **Immediately**

Recommendation 10: There should be a skills audit of the current (as at June 2024) board of governors with a view to ensuring an appropriate breadth of management experience. There should be a qualified accountant on the audit committee at all times. **By end of October 2024**

Recommendation 11: The induction process for governors should be reviewed to ensure clarity on the need for governors to hold college leadership to account. **By end of October 2024**

Recommendation 12: The college should review its policies to ensure it maintains a recently updated personal relationships policy which sets out safeguards, including reporting, on potential conflicts of interest. **By end of July 2024**

Recommendation 13: The board of governors should commission an internal audit to provide full reassurance that no element of the previous principal's remuneration was paid or reported through the separate legal entity of the West of England Institute of Technology. **Internal audit to have been conducted by end of September 2024**

The FEC team will conduct an intervention assessment stocktake visit to review progress against these recommendations.

Governance

Arrangements for governance have been inadequate. The lack of a formal scheme of delegation which sets out appropriately transparent mechanisms for the approval and reporting of senior pay led to the concealment of the full remuneration package received by the college's only senior post-holder over a number of years.

It is a requirement of the college accounts direction Appendix D, as detailed in Section V(e), that all emoluments paid to the accounting officer of a college, including (but not limited to) pension contributions, bonuses, expense allowances and performance-related pay are separately broken down and disclosed in detail in the annual financial statements. It is absolutely clear from this extensive note to the accounts direction that full levels of transparency are required in reporting of senior pay. The governors of the college failed to ensure that these requirements were met, in specific terms as set out in the annual accounts direction, and in wider terms under expectations of transparent conduct in public life, as set out in the Nolan principles, and as required by trustee duties and responsibilities under charity law. They also failed to ensure that the full remuneration package was appropriately recorded in the finance record submitted annually to the ESFA.

The recently appointed interim chair of the board, in conjunction with the current college leadership, are in the process of instigating changes to rectify the control framework which allowed this to occur.

The principal and chair, as at June 2024, are interim appointments. The interim chair is a member of the Further Education Commissioner's team and an experienced leader of FE. The interim principal has been working with the ESFA to bring transparency to the college's reporting and correct poor practice. There is also an interim clerk in role. The permanent chair of the board has stepped aside whilst the intervention process is enacted.

A new permanent principal and CEO has been appointed and is due to start in role in July 2024. The new principal is an experienced National Leader of Further Education (NLFE).

The board of governors is significantly constituted by entirely new members and so has been appropriately refreshed. However, as at June 2024, there are a number of remaining governors (25% of current membership) who have served more than 2 four-year terms. It is recommended that a full skills audit is conducted to ensure that the college has the breadth and experience of leadership required to lead the organisation forward as it embeds.

Leadership arrangements are therefore still in the process of being strengthened and will require further assessment once permanent arrangements are embedded.

It will be critical to the college's removal from intervention that the role of the accounting officer is conducted with expected full transparency on disclosure of all emoluments in accordance with the accounts directive, and that the key governance triumvirate of accounting officer, chair and clerk to the board functions with appropriate openness and effective challenge from the wider board.

Governance of the Institute of Technology

The college is the lead organisation for delivery of the West of England Institute of Technology (IoT). This vehicle is separately constituted as a limited company, which is a wholly owned subsidiary of the college. It has a separate board which includes external partners and has been independently monitored as a distinct legal entity. Although the chair of the board was also the chair of the IoT board, the current college leadership has stated that the IoT transactions were distinct from college operations and have never contained any element of principal's remuneration. Given the separate legal constitution of the IoT, there is no indication that this delivery is directly impacted by the failures of governance set out in this report. However, it would be advisable for the college to commission their internal auditors to provide independent reassurance on the complete separation of the IoT from historic transactions with regard to the principal's pay and regularity.

Governance practice

The historic poor governance structures and practices which allowed the concealment of the full remuneration package of the previous principal include:

Clerking arrangements: The clerks appointed to the board since October 2018 did not hold professional clerking qualifications, which, with an alternative prerequisite of "equivalent experience", became a requirement of funding prescribed by the ESFA accountability agreement from 2021/22 onwards. This may have undermined their effectiveness in ensuring high standards of transparent governance were upheld. There is little evidence in the interviews that we conducted, or in committee minutes, that the current permanent post-holder (as at June 2024) ever challenged instructions to the board which conflicted with good governance.

Approval process for senior postholder pay: there was a small group of trusted governors who made decisions on the previous principal's pay in the remuneration committee. These decisions were not reported in any detail to the full board. The terms of reference of the remuneration committee gave the committee full powers to approve the accounting officer's pay without specifying the need for board ratification. This was contrary to the AoC Code of Governance 2015 that the college had adopted, which provided that the full board must determine the pay and conditions of the principal. (Although the AoC Code was revised in 2019, the substantive requirements for the Board to approve remuneration remained unchanged.) Papers submitted to the remuneration committee did not set out the full salary impact of requested decisions on the principal's bonuses and other emoluments. The previous principal received a variety of bonus payments including performance-related pay, special allowances and for prior year achievement. Proposed bonus payments were usually presented only in percentage terms, but to compound the lack of clarity, the approved percentages were applied to higher historic total remuneration packages rather than the basic pensionable salary declared in the annual financial statements. Some members of the committee expressed surprise at the actual sums of money paid to the previous principal, despite being party to decisions on remuneration of the senior post-holder.

Value for money: whilst some governors, including the chair of the audit committee as at June 2024, recall challenging the large retention payment made to the previous

accounting officer and whether it represented proper use of public funds, they state that they did not see documented independent legal advice to confirm that the payment was contractually due, but relied on the assurance of the chair of the board that this had been received.

In 2018-19, the remuneration committee considered a limited report which set out the proposed basic salary for the previous principal (excluding bonuses and benefits) in comparison with other sector salaries. There is no recent documented evidence that we have seen on whether the payment of large total remuneration packages to the previous principal from 2019-2023 was in the best interest of the college's students, a good use of resources, proportionate and reasonable and good value for money.

Related party disclosures: the son of the previous principal held senior finance roles in the college from September 2019 until May 2023 when he was appointed COO, remaining in that role until January 2024. Arrangements were in place to ensure that he reported to senior leaders other than the principal. There is evidence in the remuneration committee minutes that he resisted requests to pay the retention sum to the accounting officer and supported the finance team in their refusal to pay it.

There is no specific disclosure of this close family relationship in the financial statements, nor is it set out in the annual regularity self-assessment questionnaire.

Length of governor terms: as at June 2024, some governors have served on the board for a number of years beyond the recommended maximum of two terms (8 years). As well as potentially leading to a narrower board skillset and less diversity, a lack of regular externally recruited refreshment of the board membership increases the risk of poor separation between longstanding governance and leadership teams and can reduce effective test and challenge of management practice.

Bypass of normal procedures: in the case of the retention payment (including pension adjustment payment) of £0.909m, the finance team refused to make the payment through normal processes and so the payment was initially made directly by the governors under the authority of the remuneration committee.

Leadership

It is clear from the available evidence that the previous accounting officer of the college believed that the full value of his annual remuneration could be withheld from publication. In this he may have relied to some extent on the review and sign off of the accounting disclosures by the external auditors; however, the auditors were given only partial information to inform the note on principal's emoluments. This partial information was, on at least one occasion, verified as complete by means of a signed statement of the accounting officer.

The processes which were followed to make additional remuneration payments (outside of monthly salary) to the accounting officer fell outside of the normal payroll processes and procedures employed by the college. The payments were made as separate advances, and on at least one occasion, the clerk to the board processed the payment transaction under the approval of the governors because the finance team refused to process it. The instruction to make payment of the actual values of these additional

payments was generally made by the chair via the former clerk, on the authority of the remuneration committee. However, as previously set out, it is unclear whether all members of the remuneration committee understood the implication in cash terms of the bonus and other payments they had approved.

Role of the accounting officer

The role of accounting officer of the college is key to ensuring proper and effective use of public funds and is ultimately accountable to parliament for this stewardship. The role is generally performed by the principal and CEO and any change is contractually required to be notified to the ESFA.

From his appointment in 2001 until 2021/22, the previous principal was the accounting officer. There is a lack of clarity in college documents, including governor minutes, regarding the intentions of the governing body with regard to the holder of this role in 2022/23. This was compounded by several failed recruitment rounds undertaken to recruit his successor. The intention recorded in some minutes (although not in others) appears to be that the principal would resign his role effective from early 2022/23 for the academic year and instead take up a new part-time 'presidential' role, to be employed at the same time as the new principal. The board minutes suggest that the incumbent principal should continue as accounting officer during that time. Since the college failed to recruit a new principal successfully before the start of the 2022/23 academic year, the incumbent principal continued in his substantive role as principal and chief executive, on the same full-time terms and pay conditions as previously, and no declaration of a change of accounting officer was received by the ESFA. The role of accounting officer is therefore deemed to have been fulfilled by the previous principal until he left the college in August 2023.

All of the transactions referred to in this document therefore took place while he was in this role.

Financial regularity – Managing Public Money

Since further education colleges were reclassified into the public sector in November 2022, there has been a requirement to report any unusual transactions to the Department for Education for consent to proceed before making any payments. These include any transactions which are likely to be “novel, contentious or repercussive” and a declaration of any ex-gratia non-contractual payments made by the college. A return was required from all colleges in April 2023 which was a declaration of any payments made in the period from 29 November 2022 to 31 March 2023 which might fall under the scope of required reporting under Managing Public Money. The college completed the return but did not declare a payment made to the previous principal in December 2022 of £369,632.

Financial regularity – specific transactions

Bonus payments for prior year achievement: Prior year bonus payments were approved by the remuneration committee, but were presented as percentage increases rather than actual cash values, meaning that committee members do not appear to have been fully aware of the value of what they were approving. The chair of the board, however, was fully aware of the cash value of the actual prior year bonus transactions

being approved, as evidenced by signed documentation. The increases, which were approved in percentage terms only, were then applied to total previous salary packages. On occasion, actual payments made were effectively balancing payments between actual (lower) salary paid through the year and the uplifted total historic package. From documents on file, and in the view of staff members who processed these transactions, the “prior year achievement” payment appears to have been a mechanism to pay a larger actual annual remuneration package than the monthly pensionable salary which was declared in the principal’s emoluments in the statutory accounts. There is no evidence of annual benchmarking of the value of the balancing bonus payments or the consideration of public value for money in the payment of such large sums. In addition, there was clear guidance available on setting senior pay in the AoC senior post-holders’ remuneration code (since incorporated into the AoC code of governance) which was not adhered to during this process.

Salaries declared in the principal’s emolument note: these consisted of basic pensionable salary, pension contribution and some elements of benefit package. The basic pensionable salary declared was also reduced to reflect a notional percentage, typically 75%-80%, of the salary actually paid in year which was deemed to be spent on Further Education activities (rather than, for example, the MAT which the college ran historically).

Holiday payments: a payment for unused holiday allocation was made to the previous principal for the last three years of his employment, in addition to basic salary, despite the fact that his contract of employment specifically did not allow for such payments.

Car allowance: the previous principal was awarded an annual £15,000 allowance for a fully expensed company car, which was not fully used each year. The final bonus payment of £0.369m made in December 2023 included £0.105m for historic annual unused elements of this car allowance.

Payments to reimburse tax due on pension contributions: the minutes record a decision by the remuneration committee to recompense the previous principal for additional tax suffered on pension contributions due to an error made by a college official in reporting the previous principal’s pension contributions under the Lifetime Allowance. Any payment made to the previous principal in this regard would also be a taxable benefit and subject to the same considerations of value for money for the public purse as any other payment made. A payment of £0.190m (having been grossed up for tax) was made as part of the final “retention” bonus in November 2022. In addition to this, annual payments were made directly to His Majesty’s Revenue and Customs by the college. These were to cover estimated annual tax liabilities incurred by the previous principal in exceeding his annual pension allowance.

Retention payment: a retention agreement was signed by the board of governors in 2011. This allowed for an annual accrual of a retention value for the previous principal on the condition that he remained in role. The calculation was based on a deemed total annual salary package x 10% x number of years’ service and various other conditions being met. The payment of an accrued amount of £0.909m was made in November 2022 as a severance payment, thus attracting a £0.030m tax-free element. The payment included the £0.190m pension adjustment, as set out above. The reasons that the combined payment for retention payment and pension adjustment was made as a

severance payment are unclear. The payment was made whilst the principal was still the accounting officer for the college.

Finance and audit

Two separate audit firms were engaged to work with the college for the external audit of financial statements for 2018-2021 and 2021-2023 respectively.

For the 2020/21 financial year audit, there is evidence that the relevant external auditors discussed the disclosure of an accrual of £0.872m for the retention payment with the college. The accrual supported the eventual payment of £0.909m which included an element relating to retention and an element relating to a correction of the pension error. The audit findings report from 2020/21 stated that the accrual was included in the draft financial statements by the college but not disclosed to the auditors as part of the audit process.

A prior year adjustment of £0.872m was recognised in the 2020/21 financial statements under note 2 of the accounting policies, but this was referred to only generally as “a deferred payment retention scheme” and was not declared as relating to the principal. Neither was this sum separately disclosed in the note on 2020/21 emoluments of the accounting officer, on the basis that it was a prior year adjustment rather than a current year transaction. The current year’s element of the accrual of £0.037m only was shown in the 2020/21 emoluments of the accounting officer.

No further accruals were made in the 2021/22 financial statements, and the statements disclosed a nil accrual in the narrative text on the 2021/22 emoluments of the accounting officer.

The consequence of this was that the total final accrual of £0.872m, disclosed as a prior year adjustment in 2020/21, and carried in the balance sheet in 2021/22, was not clearly shown anywhere in the financial statements as pertaining to the remuneration of the principal as accounting officer. Therefore, although the financial statements may have been technically correct in the accounting treatment of the retention accrual, they did not provide the full transparency on disclosure of senior post-holder emoluments required by the college accounts direction Appendix D.

Regarding the separate annual bonus payments made to the accounting officer, no bonuses were included in the table of emoluments in the published financial statements from 2019-2022. Small value bonuses were included in the text notes to the table of emoluments, but these were substantially less than the values actually paid.

For external audits for the financial years from 2018 to 2022, the two sets of external auditors employed different methodologies to test disclosures in the financial statements on senior post-holder pay. None of the separate annual bonuses paid to the accounting officer during that period were identified at audit for disclosure.

Appendix A – Interviewees

Chair of the corporation
Former clerks to the corporation
Former principal and CEO
Chair of the audit committee
Former chief financial officers
Former governors
Current governors as at June 2024
Current members of the remuneration committee as at June 2024
Past members of the remuneration committee
Past governor and trustee of the college's dissolved Multi Academy Trust
Interim principal
Interim clerk
Interim finance director
Head of finance
External auditors of the college
Internal auditors of the college

Appendix B – Documents reviewed

Terms of Reference for the Remuneration Committee

Financial Regulations, 2017, 2021, 2023

Financial statements 2017-18, 2018-19, 2019-20, 2020-21, 2022-23 (draft)

Finance records 2018-2023

Payroll approval and processing procedures

Remuneration Committee agenda minutes and papers

Remuneration Committee reports to board

Payroll output analysis

Regularity questionnaire for 20/21, 21/22 & 22/23

Annual internal audit report for 20/21, 21/22, 22/23

External review of governance

External audit findings report

Document confirming date of OFS registration

Information derived from the college via auditors commissioned by the ESFA

Correspondence and emails relating to remuneration of the accounting officer