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(b) the Council has informed the Scottish Ministers that a college of further education whose board of management is established in pursuance of this Part is not, or is no longer, a body for which there are suitable provisions, procedures and arrangements of the type described by or under section 7(2) of the 2005 Act.

(2) Where this section applies, the Scottish Ministers may by order—

(a) remove any or all of the members of the board (other than the principal of the college); and

(b) where a removed member was appointed under paragraph 3(2)(a) or (f) or 3A(2)(a) or (f) of Schedule 2, appoint another person in place of the removed member.

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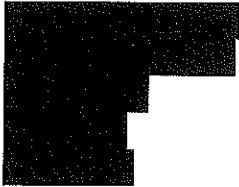
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Advanced Learning and Science Directorate
Aileen McKechnie, Director

T: 0300 244 1264
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3 July 2015

Dear 

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1. The Scottish Funding Council ("the SFC") has provided to the Scottish Ministers its report of its review into aspects of the governance and management of the Board of Management of Glasgow Clyde College ("the Board") under section 7C(7) of the Further and Higher Education (Scotland) Act 2005. I attach a copy of the SFC's report and its accompanying document **Report of Fact Finding Exercise to Support the Scottish Funding Council's Review of Processes, Procedures and Governance at Glasgow Clyde College**²⁸.

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3. The SFC finds that the Board has mismanaged its affairs and recommends as an appropriate response, the Scottish Ministers exercise their powers under section 24 of the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act") to remove the chair of the Board. Under that section (reproduced at the Annex for ease of reference) the Scottish

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1. The Scottish Funding Council ("the SFC") has provided to the Scottish Ministers its report of its review into aspects of the governance and management of the Board of Management of Glasgow Clyde College ("the Board") under section 7C(7) of the Further and Higher Education (Scotland) Act 2005. I attach a copy of the SFC's report and its accompanying document **Report of Fact Finding Exercise to Support the Scottish Funding Council's Review of Processes, Procedures and Governance at Glasgow Clyde College**⁴⁰.

Confidential Nature of Report

2. I would stress that under the Code of Conduct for Board Members adopted by the College, you must always respect the confidential nature of information and comply with a requirement to keep such information private. The SFC's report is sent to you in strictest confidence and must not be given to anyone else.

SFC Findings, Recommendations and Possible Outcomes

3. The SFC finds that the Board has mismanaged its affairs and recommends as an appropriate response, the Scottish Ministers exercise their powers under section 24 of the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act") to remove the chair of the Board. Under that section (reproduced at the Annex for ease of reference) the Scottish

⁴⁰ The SFC has redacted certain parts of its report and its accompanying document. The reasons for this are explained in the SFC paper which is also attached.

Ministers may, by order, remove any or all members of the Board (except the principal). Such an order usually requires to be laid before Parliament for 28 sitting days before coming into force. However, this rule can be breached if Ministers consider that necessary.

4. While the SFC's report recommends the removal of the chair as a proportionate response to its perceived failure of the Board, this is but one possible response if Ministers conclude that there has been board failure on any of the grounds set out in section 24(1) of the 1992 Act, having considered the SFC's report, your comments and all other relevant material. Other possible recourses include:

- the removal of all board members (other than the principal); or a subgroup of board members, with or without including the chair
- implementing a board development plan (as an alternative or in addition to the above).

5. I should add that the SFC recommends that the Scottish Government should consider *suspending* the chair of the Board, pending the completion of a formal process of removal. I can advise that the Scottish Ministers have no powers to suspend the chair of the Board.

Ministers' Consideration

6. Ministers are not obliged to seek your views on matters such as this. With that said, before Ministers reach any conclusion on what action to take, if any, I should welcome your comments on the SFC's report, including on its findings and recommendations. Please attach, where appropriate, any supporting material. I stress again this report and its accompanying document are given to you in strictest confidence.

7. In framing any comments, I should advise that among the matters Ministers will consider are whether the Board:

- aaa) failed or is failing to meet any of the provisions in the SFC **Financial Memorandum with Fundable Bodies in the College Sector**⁴¹ or the **Code of Good Governance for Scotland's Colleges**⁴².
- bbb) permitted or is permitting its chair to act in an executive capacity.
- ccc) failed or is failing to conduct its affairs properly, including by not giving reasonable notice for meetings, not preparing agendas in advance or not properly recording discussions or decisions.
- ddd) failed to constitute properly a Disciplinary Committee.

8. I should welcome your comments by 17 July 2015.

9. In addition to the information I required by 7 July 2015 in my letter of 30 June 2015 to the Board chair, I also request, under section 12(6) of the 1992 Act, that the Board provide to us the following information by 17 July 2015, as that information is required in order for the Scottish Ministers to exercise their powers and perform their duties under Part 1 of that Act –

⁴¹http://www.sfc.ac.uk/web/FILES/Guidance_Governance/Financial_Memorandum_with_the_College_Sector_-_1_December_2014.pdf

⁴²http://www.sfc.ac.uk/web/FILES/GUI_SFCGD182014_Goodpracticeincollegegovernance/Code_of_Good_Governance_for_Scotlands_Colleges.pdf

- nn) A copy of the agenda of every meeting of the Board held in 2015 up to the date of this letter
- oo) A copy of the minute (or draft minute, where appropriate) of every meeting of the Board held in 2015 up to the date of this letter.
- pp) A copy of any document concerning the commissioning of any service in 2015 up to the date of this letter by the chair for either (a) himself in his capacity as chair or (b) for the Board.

10. I am writing in similar terms to other members of the Board. I am also copying this letter and its attachments to the Interim Chair of the Glasgow Colleges' Regional Board (GCRB) for information. For the avoidance of doubt, I have advised the GCRB Interim Chair that she can circulate in hard copy the SFC report and its accompanying document to other members of the GCRB, but only in the strictest of confidence.

Yours sincerely



AILEEN McKECHNIE
Director of Advanced Learning and Science

SECTION 24 OF THE FURTHER AND HIGHER EDUCATION (SCOTLAND) ACT 1992

24 (1) This section applies where -

(a) it appears to the Scottish Ministers that the board of management of any college of further education -

(i) have committed or are committing a serious breach of any term or condition of a grant made to them under section 12 or 12B of the Further and Higher Education (Scotland) Act 2005 ("the 2005 Act");

(ii) have committed or are committing repeated breaches of such terms or conditions;

(iii) have failed, or are failing, to provide or secure the provision of education of such standard as the Scottish Ministers consider appropriate;

(iv) have failed, or are failing, to discharge any of their duties properly; or

(v) have mismanaged, or are mismanaging, their financial or other affairs; or

(b) the Council has informed the Scottish Ministers that a college of further education whose board of management is established in pursuance of this Part is not, or is no longer, a body for which there are suitable provisions, procedures and arrangements of the type described by or under section 7(2) of the 2005 Act.

(2) Where this section applies, the Scottish Ministers may by order—

(a) remove any or all of the members of the board (other than the principal of the college); and

(b) where a removed member was appointed under paragraph 3(2)(a) or (f) or 3A(2)(a) or (f) of Schedule 2, appoint another person in place of the removed member.

(3) Before making an order under subsection (2)(a), the Scottish Ministers must consult the Council.

(4) The Scottish Ministers must give notice of exercise of the power of removal conferred by subsection (2)(a) to the board and the member.

(5) An appointment made under subsection (2)(b) has effect as if made under the provision of Schedule 2 under which the removed member was appointed.

References to "the Council" are references to the Scottish Funding Council

Advanced Learning and Science Directorate
Aileen McKechnie, Director

T: 0300 244 1264
E: directorofadvancedlearningandscience@scotland.gsi.gov.uk



[REDACTED]
Glasgow Colleges' Regional Board
Glasgow Caledonian University
Cowcaddens Road
Glasgow
G4 OBA



3 July 2015

Dear [REDACTED]

SFC REPORT OF REVIEW INTO GOVERNANCE AND MANAGEMENT OF GLASGOW CLYDE COLLEGE

1. The Scottish Funding Council ("the SFC") has provided to the Scottish Ministers its report of its review into aspects of the governance and management of the Board of Management of Glasgow Clyde College ("the Board") under section 7C(7) of the Further and Higher Education (Scotland) Act 2005. I attach a copy of the SFC's report and its accompanying document **Report of Fact Finding Exercise to Support the Scottish Funding Council's Review of Processes, Procedures and Governance at Glasgow Clyde College**⁴³.

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SFC Findings, Recommendations and Possible Outcomes

3. The SFC finds that the Board has mismanaged its affairs and recommends as an appropriate response, the Scottish Ministers exercise their powers under section 24 of the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act") to remove the chair of the Board. Under that section (reproduced at the Annex for ease of reference) the Scottish

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4. While the SFC's report recommends the removal of the chair as a proportionate response to its perceived failure of the Board, this is but one possible response if Ministers conclude that there has been board failure on any of the grounds set out in section 24(1) of the 1992 Act, having considered the SFC's report, your comments and all other relevant material. Other possible recourses include:

- the removal of all board members (other than the principal); or a subgroup of board members, with or without including the chair
- implementing a board development plan (as an alternative or in addition to the above).

5. I should add that the SFC recommends that the Scottish Government should consider *suspending* the chair of the Board, pending the completion of a formal process of removal. I can advise that the Scottish Ministers have no powers to suspend the chair of the Board.

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⁴⁴[http://www.sfc.ac.uk/web/FILES/Guidance Governance/Financial Memorandum with the College Sector - 1 December 2014.pdf](http://www.sfc.ac.uk/web/FILES/Guidance%20Governance/Financial%20Memorandum%20with%20the%20College%20Sector%20-%201%20December%202014.pdf)

⁴⁵[http://www.sfc.ac.uk/web/FILES/GUI_SFCGD182014_Goodpracticeincollegegovernance/Code of Good Governance for Scotland's Colleges.pdf](http://www.sfc.ac.uk/web/FILES/GUI_SFCGD182014_Goodpracticeincollegegovernance/Code%20of%20Good%20Governance%20for%20Scotland's%20Colleges.pdf)

- qq) A copy of the agenda of every meeting of the Board held in 2015 up to the date of this letter
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Yours sincerely



AILEEN McKECHNIE
Director of Advanced Learning and Science

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(b) the Council has informed the Scottish Ministers that a college of further education whose board of management is established in pursuance of this Part is not, or is no longer, a body for which there are suitable provisions, procedures and arrangements of the type described by or under section 7(2) of the 2005 Act.

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References to "the Council" are references to the Scottish Funding Council

GCRB | Glasgow Colleges' Regional Board

Glasgow Caledonian University | Cowcaddens Road | Glasgow G4 0BA | T: +44 (0)141 331 8173

7th May 2015

[REDACTED]
Chair of the Board of Management
Glasgow Clyde College
Cardonald Campus
690 Mosspark Drive
GLASGOW G52 3AY

Dear [REDACTED]

As I said in my introductory email last Friday, I'm looking forward to working with everyone on the Glasgow Colleges' Regional Board and within the assigned colleges. I hope we can build positive relationships that will deliver our shared strategic objectives. I am conscious that there are also pressing operational issues at college level. I am keen that although GCRB's own capacity is very limited, it does all that it can to offer appropriate support to Board colleagues in the assigned colleges in such instances.

As such, I have been considering since last Friday what I as Interim Chair of GCRB as the regional strategic body might be able to offer to assist Glasgow Clyde College Board with the current situation regarding the Principal. I have in the last 48 hours been copied in on correspondence from [REDACTED] of the ASCL and received email requests for action from some other GCRB board members, although I have not been able as I had hoped to discuss it with them directly. All of this has sharpened my focus on what might help you ensure the fair and measured application of due process that we would all hope to see in such delicate circumstances. I fully appreciate the pressure that you and your Board will be feeling at the moment. I know concerns raised around appropriate legal support to the Clyde Board have now been resolved and I hope you will see that as a helpful step, as my Board members were rightly anxious that good legal advice should be available to you.

I acknowledge upfront that I have not been involved to date so my specific knowledge of the matter is limited to the background information to which I have had access since taking up post. Please also rest assured that I completely understand the limited nature of any involvement as neither GCRB nor I as its Interim Chair can or would seek to

become a party to the employer-employee relationship between Glasgow Clyde College and its Principal.

As well as wishing to provide support, I must also be mindful of the issues that do fall within the legitimate interest of the GCRB board and its Interim Chair. These include; the reputation of Glasgow's Colleges and the college sector more widely, the knock-on impacts of any such actions on wider student experiences and attitudes; the indirect impacts of any such high profile circumstances on the perspectives of people who work in and with the college sector and of course on a very prosaic basis, the responsible and effective use of public money within the Glasgow college region. Aware of specific points within [REDACTED] correspondence, it is certainly the case that within the public realm that we operate, we must all avoid actions which will increase any likelihood of future loss at an Employment Tribunal or other legal damages. Therefore you have my full support in anything that you are doing to minimise the risk of such an outcome.

So practically, what thoughts have I had from the information available to me? I am very supportive that your existing process moves forward in a way that is fair and balanced to all parties. A specific issue that has been raised, and which is obviously complicated given the apparent range of parties and witnesses involved, seems to be the composition of the disciplinary panel. I wondered whether consideration had already been given to how this panel might be populated in a different way? This could be an area where GCRB could help facilitate an unconnected involvement. Of course, I fully appreciate such an approach would probably involve adapting your normal processes and therefore would need to be considered by the College Board and then agreed with the Principal. I clearly offer this as a supportive suggestion rather than any form of instruction – the competency of which would be questionable.

Another approach I have seen work elsewhere, might be to explore mediation. Mediation is now a well-recognised alternative approach to dispute resolution. Very clear guidance is available on how mediation works and trained mediators are readily available. It is also the case that mediation is not binding on either party and therefore it is always possible to revert to the existing formal process at any point if necessary.

It may be that you and your Board have already considered these options through the normal governance channels. If such thought has already been given then my offer of support may not be relevant at this point in time and I apologise for adding to your correspondence. I am aware from emails that you have copied me in to, that you yourself are directly involved in the process so I am also copying this to your colleagues on the Clyde Board as in such circumstances the governance responsibilities are usually distributed differently. That way your Board colleagues are aware of my interest in and support for them in achieving a speedy, positive and sustainable outcome from this challenging situation.

Feel free to catch up by phone to discuss these ideas or any alternatives which could help you and the College at this time? I'm working abroad today and [REDACTED] as the GCRB Executive Assistant is on leave so the office is unstaffed and I am trying to manage correspondence direct from my laptop (hence apologies if the GCRB letterhead doesn't quite work). However you can get me directly on my mobile at any point on [REDACTED]

Kind regards,

[REDACTED]
Interim Chair

Copied to Glasgow Clyde College Non Executive Board members and Secretary

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]



Scottish Funding Council

Promoting further and higher education

Our ref: 243325744

Comhairle Maoineachaidh na h-Alba

A' brosnachadh foghlam adhartach agus àrd-ìre

8 May 2015

[REDACTED]
Chair of Glasgow Clyde College

Dear [REDACTED]

I understand that, through Brodies, you have asked that we extend the time limit for interviews with our lawyers, DLA Piper, by one week. I understand that the reason for this request for an extension is related to uncertainty about whether Brodies would be able to advise you.

In the interests of ensuring that we have balanced and comprehensive evidence to base our review, we are prepared to extend the timeline for interviews until the end of next week (15th May).

However, please let me once again confirm that the Council has never taken the position that Brodies could not provide advice to the Board and individual members on the review or any other matter. It is important that this position is understood, particularly by members on the board who may believe the position is or was otherwise.

It might be helpful for me to set out what the Council was seeking to do as regards the procurement of legal advisers:

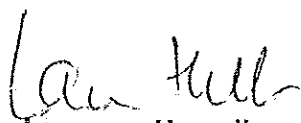
- As a consequence of a request from the College for permission to exceed the limit for non-competitive procurement, we asked the College (on 23rd April) not to commit any further expenditure to that contract until we had time to consider our response to further information from the College.
- We then asked the College some questions on the procurement of Simpson Marwick (on 30th April). We asked that that information be with us by 8th May.
- In that letter (on 30th April) we said "...the SFC is categorically not suggesting that the College should not engage legal advisers to support its work. On the

contrary the SFC consistently recommends that fundable bodies seek expert advice and support from professionals in these types of situations.”

- This position was also verbally confirmed by DLA Piper to Brodies in a call between [REDACTED] and [REDACTED] on 1 May followed up in an email from [REDACTED].
- On 5th May, in response to a request that the College be allowed to continue using [REDACTED] for the disciplinary hearing, we wrote to say that we would consider that, once we had the information we had requested. In that letter we also said that – as we assumed Brodies were the College’s retained lawyers and that that had been properly procured – we had no objection to the College using them. When we were informed (by Brodies) later on 5th May that they had not been procured by competitive action we wrote to the College the following day (6th May) saying that we still had no objection to the College continuing to use Brodies, though we did strongly recommend that the College undertook a competitive procurement process.

It is important to the Council that we correct any misunderstanding you or your Board appear to have that we withdrew legal advice from the College or board members. I hope that this reassures you on that point.

Yours sincerely



Laurence Howells
Chief Executive

Copied to Glasgow Clyde College Board members

Advanced Learning and Science Directorate
Aileen McKechnie, Director

T: 0300 244 1264
E: directorofadvancedlearningandscience@scotland.gsi.gov.uk



[REDACTED]
Chair
Glasgow Clyde College
Cardonald Campus
690 Mosspark Drive
Glasgow
G52 3AY



11 May 2015

Dear [REDACTED]

I am writing on behalf of the Cabinet Secretary for Education and Lifelong Learning following the letter she has received from Brodies LLP, dated 29 April.

[REDACTED]
[REDACTED]
[REDACTED]
I am content to lead such a meeting. I suggest that the other participants should be you, as Chair of Glasgow Clyde College, [REDACTED] as the Interim Chair of Glasgow Colleges Regional Board, and the Chief Executive of the Scottish Funding Council (SFC). [REDACTED]
[REDACTED] I suggest the venue is the Scottish Government's offices in Atlantic Quay, Glasgow.

I should say that in offering this meeting, it is on the understanding that the College resumes its participation in the SFC's review, and that it does so to the timetable sought by the SFC. The Cabinet Secretary is conscious there have been a number of delays throughout the course of the review to date, and is keen to see it conclude as quickly as possible.

My office will be in touch to fix dates.

Yours sincerely

AILEEN McKECHNIE

Advanced Learning and Science Directorate
Aileen McKechnie, Director

T: 0300 244 1264
E: directorofadvancedlearningandscience@scotland.gsi.gov.uk



[REDACTED]
Chair
Glasgow Clyde College
Cardonald Campus
690 Mosspark Drive
Glasgow
G52 3AY

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30 June 2015

Dear [REDACTED]

Thank you for your letter of 22 June in reply to my letter of 4 June.

Unfortunately, I do not consider that I have received sufficient information to assure Ministers about the changes made by the Board of Management of Glasgow Clyde College to its document entitled **Constitution and Articles of Governance**. I therefore request, under section 12(6) of the Further and Higher Education (Scotland) Act 1992, that the Board provide to us the following information by 7 July 2015, as that information is required in order for the Scottish Ministers to exercise their powers and perform their duties under Part 1 of that Act –

- a) any papers presented to the board on this matter;
- b) the period of notice, if any, given to members in connection with this matter;
- c) a copy of the minute (or draft minute) of this part of the meeting, in particular showing whether the Standing Orders of the board were suspended in accordance with paragraph 19 of Appendix 3 if no notice was given to board members of this matter; and
- d) any other relevant papers material to the board's consideration of this matter.

I equally seek the information previously requested in relation to Board assurance about fair, robust and properly-informed decision-making; and in relation to risk management and mitigation.

[REDACTED]

Atlantic Quay, 150 Broomielaw, Glasgow G2 8LU

www.gov.scot



Given the seriousness of this matter, I am copying this letter to all other members of the Board and to the chair of the GCRB.

Yours sincerely



AILEEN McKECHNIE
Director of Advanced Learning and Science



25 February 2015

[REDACTED]
Chair
Glasgow Clyde College
Cardonald Campus
690 Mosspark Drive
Glasgow G52 3AY

Dear [REDACTED]

I am writing to express my disappointment at the treatment of your student President and Vice-President that I and my colleague [REDACTED] witnessed when we attended the Board meeting of Clyde College yesterday.

This is what I observed:

- The student President and Vice-President had been invited to the Board but were told when they arrived that they were to be excluded from the meeting. One of the student Board members explained to me that she had made special arrangements to attend this Board meeting including paying for child care – something very significant given her circumstances.
- I saw no evidence of you expressing concern or sensitivity for them. I saw no evidence of you expressing regret for the fact that they had made unnecessary arrangements to attend the Board meeting.
- The decision of the Board to exclude the students seems to me to be extraordinary. I was given the impression at the meeting by you and the Board Secretary that it was an inevitable consequence of the College's constitution. However, the College's constitution has now been shared with me by NUS Scotland. It is clear that the Board could have chosen to allow the student Board members to stay, and presumably therefore the Board took an active decision to exclude them. I note that the Board chose not to apply the same principle to the staff representatives.

In summary, the Board appears to have taken an active resolution to allow staff representatives to participate in the meeting whilst choosing to exclude the student Board members.

It is, of course, conceivable that there might be exceptional circumstances in which student board members should be excluded, however, in that case I would have expected to see a sensitive conversation explaining those reasons to the students. And in this case I would have expected this to be properly discussed with the student representatives beforehand.

- I observed that the student Board members asked that any public statement made by the College following the Board meeting made it clear that the students had not attended the Board meeting. This seems a reasonable request from the student Board members. However, I note that the statement the Board made did not include such a statement. This seems to be a further example of you and your Board not taking seriously the request of your student Board members.
- Throughout the parts of the event that I observed, I noted that the student Board members remained calm, professional and respectful, whilst being appropriately insistent that their views were heard.

I thought you and your Board's approach was particularly inappropriate given the correspondence you had with me and my staff during the last week about the importance that SFC and Scottish Government attach to student representation and College Boards listening to, respecting and supporting Students Associations and their Presidents.

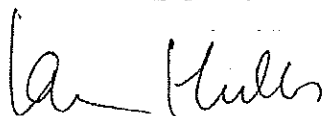
Moreover, the College Sector Good Governance code is extremely clear on the position of student (and staff) board members and states in Section D: Effectiveness:

"Staff and student board members are full board members and bring essential and unique, skills, knowledge and experience to the board. Staff and student board members must not be excluded from board business unless there is a clear conflict of interest, in common with all board members."

I consider, on the face of it, your approach to this to have been inappropriate and that you should personally consider how to remedy this now, and improve it in the future. I consider, from the evidence available to me, that your Board's decision to exclude the student Board members may have breached the College Sector Good Governance code. I therefore require you to provide me with an explanation for your approach.

I wish to receive this information without delay. I would expect to receive it by Friday 27th February.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Laurence Howells'. The signature is fluid and cursive, with the first name 'Laurence' written in a larger, more prominent script than the surname 'Howells'.

Laurence Howells
Chief Executive

cc All Board members of Glasgow Clyde College

22 June 2015



Aileen McKechnie
Director of Advanced Learning & Science
Scottish Government
5 Atlantic Quay
150 Broomielaw
GLASGOW
G2 8LU

Dear Aileen

I refer to your letter of 4 June 2015 and specifically the ministerial concerns set out in Annex A of your letter. I have shared both your letter and this response with the Board.

By way of response to the ministerial concerns I can advise that the Board are handling the disciplinary procedure relating to the College's Principal, in accordance with the specialist employment advice being provided to the Board throughout the process and in line with the ACAS Code of Practice on Disciplinary and Grievance.

The disciplinary investigation has been completed and the disciplinary hearing has been arranged. No decision has been taken in advance of the disciplinary hearing. A disciplinary committee comprising Board members and an external independent party has been established and I can assure the Ministers that the decision-making process of this disciplinary committee will be fair, robust, risk-assessed and properly informed.

You mention that a specific question has been raised by a Glasgow MSP with the Cabinet Secretary. I shall address what I understand to be the concerns below but without further detail of these I cannot respond fully. However these concerns must have been raised with the Glasgow MSP by a Board member who was present at the meeting. I have stressed to all Board members their collective responsibility and accountability under the Code of Good Governance and it is extremely concerning if a Board member who has concerns is not raising this with the Board, and indeed it was not raised at the Board meeting, but is then raising it externally with third parties.

Meeting on 19 May

The meeting on 19 May was an extraordinary meeting which as you know was split into two parts. You attended the first part along of that meeting. The second part of the meeting was for the Board to receive legal advice from Thomtons on the disciplinary process involving the Principal in light of the Board's constitution and standing orders.

Clause 4 of the Standing Orders allows items to be considered for discussion by two-thirds of the members present at the meeting. Clause 2.3.21 allows the Board to amend its Constitution and Articles of Governance (including the Scheme of Delegation and List of Responsibilities).

Thomtons prepared a note of advice which was handed out at the meeting to the Board members in attendance, and this was summarised to the Board. [REDACTED]

Susan H Walsh OBE - Principal and Chief Executive

CARDONALD CAMPUS

Mosspark Drive
Glasgow G52 3AY

Tel: +44 (0)141 272 9000
Fax: +44 (0)141 272 3444

Email: info@glasgowclyde.ac.uk
Web: glasgowclyde.ac.uk



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Board therefore considered the risks both legally and in relation to wider public concern of not making the amendments to the Constitution, and considered that these far outweighed the risks of making the amendments for the reasons stated above.

As such I am confident that the Board did follow its Constitution in making the necessary amendments to ensure that a fair disciplinary process was set up.

Unfortunately I am unable to provide specific assurances *"about addressing the concerns of the students' association"* (paragraph 4 of your letter you referred to your closing remarks in the meeting on 19 May 2015). These concerns have not been communicated either to me as Chair, or to the Board therefore I am unable to respond to these. In paragraph 5 of your letter you indicated that you have *"received correspondence from the full Glasgow Clyde College Students' Association executive team, outlining its concerns about the situation at the college."* We have not had sight of that letter or an indication of its content and therefore if you are able to provide me with a copy of that letter or details of the concerns raised within it, I will provide a response on behalf of the Board.

Yours sincerely

[REDACTED]

Chair of the Board of Management

Advanced Learning and Science Directorate
Aileen McKechnie, Director

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4 June 2015

Dear [REDACTED]

Thank you for your letter of 29 May 2015. As you requested, I have made Ministers aware of its content.

I have outlined below, and attached at Annex A, a précis of the presentation which I gave to your board at the first part of your meeting on 19 May. As I intimated in my letter of 22 May, I was grateful for the opportunity to hear directly from board members and to share the expectations and concerns of Scottish Ministers.

My presentation recognised the difficult journey which the college has been on over recent months; recognised the contribution made by volunteer board members, in colleges and across the wider public sector; and noted the importance of the practice of the nine principles of public life. I outlined the locus and accountabilities of the Scottish Government, the Scottish Funding Council and the Glasgow Colleges' Regional Board respectively. I commented on progress with the Scottish Government's reform agenda; and on the recent Education Scotland review of Clyde College. I closed with an outline of the concerns which Ministers have in relation to assurances about governance and management at the College.

Your letter to me of 29 May suggests that Ministers are impatient for a resolution to matters at Clyde College. I did not suggest any impatience on the part of Ministers, simply concern that the *Code of Good Governance for Scotland's Colleges* was being adhered to; and that board members understood their individual and collective responsibilities for sound decision making. I outlined the detail of the concerns of Scottish Ministers in the course of my presentation to the Board and have included this in the précis attached. You may recollect that my closing remarks outlined quite clearly the concerns of Ministers as they relate to assurances about compliance with the Code of Good Governance; for assurances about transparent, risk-assessed and properly informed decision-making; for assurances about addressing the concerns of the students' association; and a wider concern about the risk that this situation, and the associated press coverage, could impact negatively on the learner experience.

Our concerns about the impact on learners have been augmented in recent days given:

- we have received correspondence from the full Glasgow Clyde College Students' Association executive team, outlining its concerns about the situation at the college;
- our understanding that there were no nominations for the recent student sabbatical elections;
- the fact that three Parliamentary Questions have been asked about governance and leadership at the College;
- and a specific issue raised last week with the Cabinet Secretary by a Glasgow MSP in relation to decisions taken at the second part of the 19 May Board meeting about changes to the Board's document *Constitution and Articles of Governance*. It has been suggested to us that these changes were made in a manner contrary to the College's own Standing Orders.

I have now had the opportunity to discuss the matter again with Ministers. I would confirm that they remain keen to have the assurances I sought on 19 May (and listed in the attached Annex) and which we discussed on 19 May and to which I refer in paragraph 4.

In addition, with reference to the matter raised directly with the Cabinet Secretary about the second part of the 19 May board meeting, Ministers would like an assurance from the Board in relation to any changes made to its document entitled **Constitution and Articles of Governance of the Board of Government and Glasgow Clyde College**, including the period of notice given to board members, fully complied with the college's Standing Orders and the Code of Good Governance.

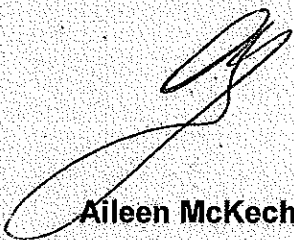
I should be grateful for a response to this request for assurances by 22 June.

Finally, one issue raised by a Board member related to the assurance to be provided by the SFC around general compliance with the Code of Good Governance across the college sector. I have written formally to the Chief Executive to ask for such assurance and will keep you in touch with this matter. I was separately asked to provide a pictogram outlining the relationship between and across the Scottish Government, the SFC, colleges (regional and assigned) and regional boards. This is attached at Annex B.

I hope you and your Board find this letter helpful. I trust that it makes clear the expectations of Scottish Ministers. I should be very happy to discuss further if that would be helpful.

I have copied this letter to [REDACTED] GCRB, given the relationship between Clyde College, as an assigned college, and the Regional Board.

Kind regards,



Aileen McKechnie

Accountabilities

- **Scottish Ministers** are the primary funder of the college sector (via the SFC). They are accountable to the Scottish Parliament for the overall delivery of education and training in Scotland. Ministers have required the SFC to identify good practice principles for colleges and regional strategic bodies – which are now outlined in the good governance code. Ministers also issue guidance on appointments. They have specific powers to make orders, relevant both to the structure of the sector and the performance of boards.
- Accountable to the Scottish Ministers, the SFC is responsible for funding colleges either directly or - going forward in Glasgow - through the GRCB. Until such time as the GRCB assumes its funding role, the SFC oversees the college's delivery of Glasgow's outcome agreement, and its compliance with both the good governance code and the financial memorandum. Irrespective of whether it funds the college directly, the SFC has a duty in relation to the quality of the education provided by the college. It also continues to provide advice to Ministers on whether a college is fit to be funded – in other words it has suitable arrangements for governance and management and other matters specified in criteria set out in the Further and Higher Education (Scotland) Act 2005.
- Accountable to the SFC, the GRCB is responsible for appointments to the college board and for regional planning. It has a duty to monitor the performance of the college assigned to it. When it funds its colleges, it will oversee their individual contribution to Glasgow's outcome agreement and their compliance with both good governance code and the financial memorandum. The regional chair is directly accountable to the Scottish Ministers as they are appointed by Ministers.

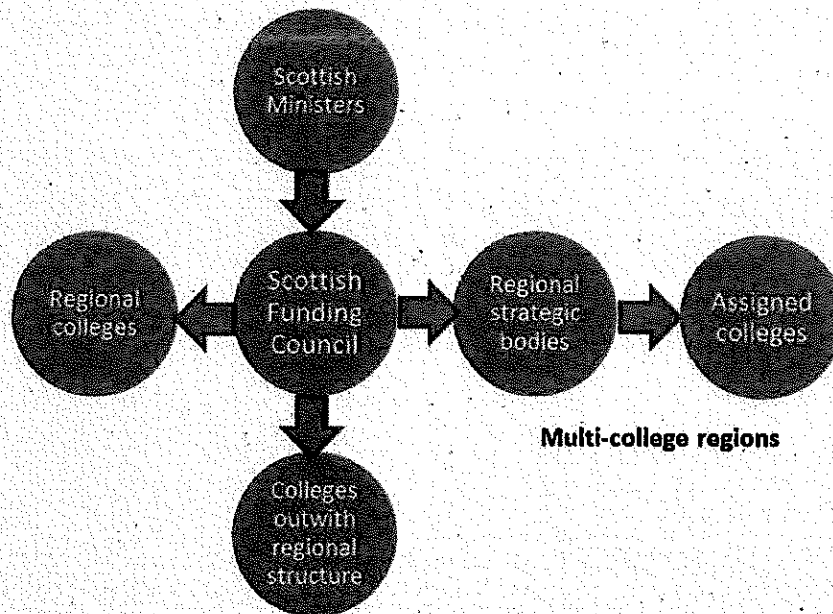
Education Scotland views

- Education Scotland had only recently concluded:
 - the college has in place **effective** arrangements to maintain and enhance the quality of its provision and outcomes for learners and other stakeholders.
 - in relation to quality assurance and enhancement, the college is led well, has sufficiently robust arrangements to address any identified minor weaknesses, and is likely to continue to improve the quality of its services for learners and other stakeholders.

Ministerial Concerns

- Given that backdrop, from our perspective, the concerns we have might be summarised as follows:
 - Ministers expectation of assurance about the due process currently in train in relation to the disciplinary process, given the clearly articulated expectation in the Code about transparent and properly informed decision-making;
 - Ministers desire for assurance that the Board has satisfied itself that its decision-making process is fair, robust, risk-assessed and properly informed;
 - Ministers desire for assurance that the risks associated with this process are clearly understood by the Board; and that appropriate mitigation is in place to support any such risks, again as is clearly outlined in the Code;

- o Ministers desire for assurance that the concerns of the student associations will be addressed; and
- o finally, the risk that all this, and the associated negative press, impacts negatively on the learner experience and that it is damaging to the reputation of the College and the wider FE sector.



To note: SFC still funds the Glasgow assigned colleges directly.

Cabinet Secretary for Education and Lifelong Learning
Angela Constance MSP

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14 September 2015

Dear [REDACTED]

**SECTION 24 OF THE FURTHER AND HIGHER EDUCATION (SCOTLAND) ACT 1992
("THE 1992 ACT")
BOARD OF MANAGEMENT OF GLASGOW CLYDE COLLEGE ("THE BOARD")**

Further to my letter of 9 September, I write following my meeting today with you, [REDACTED] and [REDACTED], which allowed me to hear directly from the Board about its understanding of the current situation. Today's meeting provided the opportunity for the Board to articulate its response to recent challenges, including those arising from the intervention of the Scottish Funding Council (SFC) following the board meeting on 23 February 2015. You made particular comment about the actions of the former student president.

You advised me of a number of lessons identified by the Board over the period, including that the board secretary had wrongly suggested that student members had to be excluded from this Board meeting and that you had apologised to the student members for this. You and your board members outlined your consideration of the Board's plans to move forward, including formalising the position of interim principal; recruiting a new board secretary; completing the review of its constitution; learning lessons from the procurement of services; supporting the student elections; and being joined by new board members, including new student and staff members.

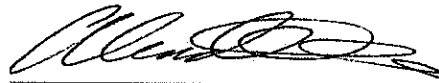
You indicated your view that a number of inaccuracies were contained in my letter of 9 September and that you would respond to these fully in your written response. These include that the College had taken formal action to appoint an acting principal in the absence of the principal on suspension from mid-February; and that there was no wrongful delegation of function to any individual board member in relation to the disciplinary action.

Among the matters discussed, [REDACTED] indicated that it would not be appropriate for the pool of board members to participate in a disciplinary or appeal committee to include a student or staff member.

We agreed that your detailed comments, including any relevant material you consider would be useful in helping me reach a conclusion about the matters outlined in my letter of 9 September, would be provided to me by close on Friday 18 September. As I explained in my letter of 9 September, given the nature of the issues set out in the Annex to that letter, I require your response as a matter of urgency.

I note that you consider that the Board has not received any support from the SFC or from the Scottish Government over the period. However, I would point out that you were offered support on 19 May, but failed to take up that offer. We discussed the engagement of the SFC and the SG with the Board over the period - I attach the timeline which was discussed during our meeting.

I am also copying this letter to the other members of the Board (excluding the Principal); the College's Deputy Principal; the Interim Chair of the Glasgow Colleges' Regional Board (GCRB); the Chair of the SFC; and the Board's solicitors, Brodies.



ANGELA CONSTANCE

TIMELINE

23 February	GCC board meeting attended by SFC CEO
26 February	Letter from SFC to GCC Chair on governance matters
6 March	SFC wrote to college confirming remit of its review
10, 11, 12, 13, 17, 18, 24, 25, 27, 31 March 2, 20, 23, April	Various correspondence between the GCC Chair and the SFC CEO
29 April	Letter from Brodies, on behalf of GCC Board, to Cabinet Secretary
14 May	Director of Advanced Learning and Science (D/ALS) wrote to GCC chair following recent telephone conversation offering a meeting
19 May	D/ALS addressed meeting of GCC board to outline her concerns; board also heard from chair of SFC and interim chair of GCRB.
22 May	D/ALS wrote to GCC chair advising that she remained concerned
29 May	Letter from GCC Chair to D/ALS
1 June	Cabinet Secretary attends GCRB board meeting (with GCC Chair in attendance)
4 June	D/ALS wrote to GCC chair outlining concerns (reply received 22 June)
30 June	D/ALS wrote to GCC chair formally requiring information (reply received 16 July)
1 July	D/ALS spoke to GCC chair by 'phone to discuss SFC report
2 July	D/ALS met GCC chair to discuss SFC report
3 July	D/ALS wrote to GCC chair and other GCC board members seeking
30 July	D/ALS wrote to GCC chair formally requiring further information (reply 7 August)
3 September	GCC sent to D/ALS College's internal auditor's report
9 September	Cabinet Secretary wrote to Chair and Board of GCC
14 September	Cabinet Secretary meets with GCC board members

Advanced Learning and Science Directorate
Colleges, Young Workforce and SFC Sponsorship Division

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28 July 2015

Dear [REDACTED]

STUDENT BOARD MEMBERS

Thank you for the letters dated 16 and 17 July we have received in response to Aileen McKechnie's letters of 30 June and 3 July. We will respond more substantively to this correspondence in due course. However, there is one matter on which, in Aileen's absence on leave, I need to write now.

Paragraph 2.6.4 of the college document entitled **Constitution and Articles of Governance** provides "*The Students' Association's nominee shall hold office until 31 July following his/her appointment unless amended by the Board*".

I must point out that this provision is inconsistent with paragraph 5(2)(b) of Schedule 2 to the Further and Higher Education (Scotland) Act 1992, which provides that student members hold office until 31 August (my emphasis) following appointment. This date has remain unchanged in over 20 years.

I am sure you will appreciate that the legislation takes precedence, and that it does not require to be reflected in the college's document to have effect. I should therefore be grateful if you would confirm by return that the Board recognises this point and, accordingly, that the two student members hold office until 31 August 2015.

I am copying this letter to the College's two student board members and to the Acting Principal.

Yours sincerely

MICHAEL CROSS
Deputy Director, Head of Colleges Division

Advanced Learning and Science Directorate
Aileen McKechnie, Director

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30 July 2015

Dear [REDACTED]

SECTIONS 12(6) AND 24 OF FURTHER AND HIGHER EDUCATION (SCOTLAND) ACT 1992

1. I write further to my letters of 4 and 30 June and 3 July and to the responses I have received from you dated 22 June (to my 4 June letter), Thorntons Law LLP dated 16 July (to my 30 June letter) and Brodies LLP dated 17 July (to my 3 July letter).

2. I am grateful for the information I have received to date. However, more information is necessary for me to obtain a fuller picture of the Board's actions.

3. Accordingly, the Scottish Ministers require, under section 12(6) of the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act"), that the Board provide to us the following information by 7 August 2015, as that information is required in order for the Scottish Ministers to exercise their powers and perform their duties under Part 1 of that Act –

- a) A copy of the paper presented to the Board on 19 May 2015. The letter from Thorntons dated 16 July 2015 advises that it was not provided because it constitutes legal advice to the Board. I should advise that the Board is under a duty to provide this paper to the Scottish Ministers, whether or not it is legal advice.
- b) Any written communication between you and the Board secretary concerning the proposed discussion at the Board meeting on 19 May 2015 on the disciplinary process and/or proposed changes to the document entitled **Constitution and Articles of Governance**.
- c) Any written communication from you or the Board secretary sent to any board member ahead of the Board meeting on 19 May 2015 about this meeting.
- d) A copy of the full minute of the Board meeting on 19 May 2015. The minutes I received do not cover the second part of the meeting, which discussed changes to the document entitled **Constitution and Articles of Governance**.

- e) A copy of the paper that sets out the remit of the disciplinary committee referred to in your letter of 22 June 2015 to me, including any Board paper that confirms that the remit was approved by the Board.
- f) A copy of the minutes of the Board meeting on 26 March 2015, as approved by the Board on 25 June 2015. I have received two versions of the minutes of the 26 March 2015 meeting, but it is not evident whether either were the approved minutes.
- g) A copy of the draft minutes of the Board meeting on 25 June 2015.
- h) A copy of any document concerning the commissioning of any service between 1 January 2015 to 3 July 2015 inclusive by you for either (a) you in your capacity as chair or (b) for the Board. The letter from Brodies dated 17 July 2015 advises that the Board has instructed its internal auditors to carry out a review of the procurement of services during this period and that a copy of the audit report can be provided once available. Notwithstanding this, the Board is under a duty to provide any relevant document to the Scottish Ministers.
- i) A copy of the minutes of any Board meeting approved by the Board on 30 July 2015.

4. For the sake of clarity, I should advise that failure to provide the information required by the Scottish Ministers may be viewed by the Scottish Ministers as a failure by the Board to discharge its duties properly.

5. Finally, I would like to take this opportunity to remind you that we await your reply to the letter dated 28 July 2015 from one of my deputy directors, Michael Cross, about the term of office of student members (attached for ease of reference). Clearly, the subject here means a reply is urgent.

6. I am copying this letter to other members of the Board. I am also copying it to the Interim Chair of the Glasgow Colleges' Regional Board (GCRB).

Yours sincerely



AILEEN McKECHNIE
Director of Advanced Learning and Science

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28 July 2015

Dear [REDACTED]

STUDENT BOARD MEMBERS

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I am copying this letter to the College's two student board members and to the Acting Principal.

Yours sincerely

MICHAEL CROSS
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