

Audit Committee

Date of Meeting	Monday 4 February 2019
Paper Title	Summary of GCRB Authority and Relationships
Agenda Item	7
Paper Number	AC4-C
Responsible Officer	Penny Davis, Board Secretary
Status	Disclosable
Action	For Discussion

1. Report Purpose

- 1.1. Provide a summary of GCRB's powers under legislation, and key regulatory and collaborative relationships.

2. Recommendations

- 2.1 The Committee is invited to **discuss** the report.

3. Background

- 3.1. The Committee requested at its last meeting that a paper be prepared to provide an overview of GCRB's powers under legislation and its key regulatory and collaborative relationships.
- 3.2. GCRB's functions and authority are set out in sections 23E to 23O of the Further and Higher Education (Scotland) Act 2005, which can be found via the following link: <https://www.legislation.gov.uk/asp/2005/6/contents>
- 3.3. GCRB's primary regulator, the Scottish Funding Council, holds GCRB accountable for its use of public funds through the Regional Outcome Agreement (ROA) and sets out financial procedural and other requirements in the Financial Memorandum (FM). GCRB must also comply, as a public body, with the Scottish Public Finance Manual (SPFM). The most significant requirements of the SPFM are incorporated into the FM.
- 3.4. GCRB, in turn, agrees ROA targets with the Assigned Colleges, and issues an FM which replicates the requirements of the SFC's FM at regional level. GCRB also issues a letter of grant to Assigned Colleges, setting out priorities and any additional guidance and conditions of grant.

4. Summary of GCRB Powers

- 4.1. Directly from, or under authority derived from, education legislation, GCRB has authority to:

- determine the education grant to Assigned Colleges; and may revise grants in-year
 - determine the capital grant to ACs
 - address meetings of ACs
 - require information from ACs in accordance with functions
 - appoint the chair and non-executive members of an AC
 - approve the appointment and terms and conditions on appointment of an AC principal
 - issue a general or specific direction it considers appropriate to an AC further to consultation with the AC, its trade unions and students' association (this power does not apply to transfer of staff, property, rights or obligations)
 - require an AC to transfer staff, property, rights or obligations for specified purposes, further to consultation with prescribed list of stakeholders; purposes are:
 - to transfer programs of learning or courses of education (transfer from one AC to another)
 - to transfer services (transfer from one AC to another or to GCRB)
 - any other purpose relating to GCRB's or an AC's functions (transfer from one AC to another or to GCRB).
 - approve consolidated accounts for the region
 - approve business plans for AC voluntary severance schemes/agreements and submit to SFC for final approval (SFC severance guidance)
 - decide to become a charity (with OSCR consent; NB would require Ministerial decision on whether to exclude from ministerial control aspect of charity test)
 - delegate functions to the Chair, a committee or any of its employees.
- 4.2.** Under public finance legislation, the Executive Director is directly accountable to SFC Chief Officer for use of funds and AC principals are directly accountable to the GCRB Executive Director, who may suspend payment of any or all grants to AC.
- 4.3.** While the primary delegation of authority (i.e. for funding/education provision) is from Scottish Government through SFC, there are instances, such as the appointment of the GCRB Chair and Non-Executive Members, where the Scottish Government retains a direct relationship with GCRB or where SFC retains a direct relationship with Assigned Colleges. Scottish Government may require information from GCRB and directly from an Assigned College.

- 4.4. The SFC may conduct efficiency studies of both GCRB and Assigned Colleges and the Scottish Government has the power to remove boards at both regional and AC level.
- 4.5. Several other regulatory bodies have a direct relationship with both GCRB and with the Assigned Colleges (ie, do not operate through SFC/GCRB). These include the following.
- **Audit Scotland:** appoints external auditors; issues accounts direction; may prepare a Section 22 report on GCRB or an AC.
 - **Ethical Standards Commission:** issues model Code of Conduct; may censure/ remove/ban members for up to 5 years for breach of Code.
 - **Scottish Information Commissioner:** regulator for FOI(S)A and EI(S)Rs; issues model publication scheme; may investigate and issue information notices.
 - **UK Information Commissioner:** regulator for DPA/GDPR; may issue monetary penalties up to 20m Euros for breach of regulation.
 - **Scottish Public Services Ombudsman:** regulator for complaints handling; issues model procedure; has investigatory/other powers.
 - **Equality & Human Rights Commission:** issues non-statutory guidance on compliance with Equalities Act duties; monitors compliance and has some legal powers.
- 4.6. Colleges, as charities, are also subject to charities legislation and regulated directly in that respect by the **Office of the Scottish Charities Regulator**.

4.7. Collaborative Relationships

GCRB seeks to work collaboratively with college partners and stakeholders to collectively deliver an efficient and effective regional college system. This includes certain bodies GCRB must consult, where appropriate, in the exercise of its functions. Those bodies are named in Section 23M the 2005 Act, and include **AC boards, students associations, trades unions, local authorities, Scottish Enterprise, the Open University, Skills Development Scotland**, and the **Scottish Qualifications Authority**.

To support joined up regional planning and delivery of coherent regional services, GCRB also works through a range of less formal collaborative structures. This includes internal regional groupings including the **Glasgow Region Student Executive group, Glasgow Colleges Groups**, the six **Curriculum Hubs** groups, **regional trades union group**, the **regional access and inclusion group**, the **regional performance improvement group**, the **regional articulation group**, **regional leads group**, etc.

In addition, GCRB works with groups including external partners such as the **Glasgow ESOL partnership**, the **Glasgow DYW group**, and the **Glasgow universities and colleges access group**.

GCRB also has positions on a number of local authority and community planning groups, including the **Community Planning Partnership Board**, the **Glasgow Partnership for Economic Growth**, the **Glasgow Education and Skills Hub**, the **City-Region Economic Strategy Group**, and the **Glasgow Region Education Services Group**.

5. Risk Analysis

5.1. There are no risks associated with this paper, which is provided for information and to facilitate discussion. As a general observation, consideration of matters concerning GCRB's proper exercise of its powers with its legal and regulatory framework help to mitigate *GCRB Risk 012: There is a breach of legislation/guidance/code of practice and this results in a failure of governance.*

6. Legal Implications

6.1. There are no specific legal implications associated with this paper.

7. Resource Implications

7.1 There are no resource implications associated with this paper.

8. Equalities Implications

8.1. There are no equalities implications associated with this paper.

9. Strategic Implications

9.1. There are no implications specific to the Regional Outcome Agreement or Strategic Plan associated with this paper.