1. **Report Purpose**

1.1. Consideration of the implications of the recent Public Audit Committee report on the 2012-13 audit of North Glasgow College in relation to current board membership.

2. **Recommendations**

2.1. The Committee is invited to **agree** to recommend to the Board that:

- No specific action is required in relation to current board membership.
- The assigned colleges are encouraged to ensure that they have proper arrangements for the provision of appropriate secretariat support to their boards and board committees.

3. **Background**

3.1. At its meeting on 15 December 2014 the Board of GCRB considered a letter from the Scottish Funding Council drawing GCRB’s attention to the 2012-13 audit of North Glasgow College and that GCRB should consider whether there was any implications for board membership. The Board asked the Nominations & Remuneration Committee to consider the matter and report back with any recommendations.

3.2. Now that The Public Audit Committee has published its report (on 13 October 2015), the Committee is able to consider the implications fully. A copy of the Public Audit Committee’s report is attached as an annex.

3.3. Two member of North Glasgow College’s Remuneration Committee are members of the Board of Management of Glasgow Kelvin College (including the Chair of Glasgow Kelvin College, who is also a member of the Board of GCRB). One other person was a member of the Board of Management of North Glasgow College and is a current Board member of Glasgow Kelvin College.

3.4. The Public Audit Committee report has already been considered by the Board of Management of Glasgow Kelvin College at its meeting on 26 October 2015, when it
decided to refer the report to its Audit Committee in order to identify if further improvements to the College’s current corporate governance arrangements are required.

4. Public Audit Committee report

4.1. In relation to North Glasgow College, the Public Audit Committee’s report included the following comments:

- 28. We find it unacceptable that arrangements at North Glasgow College fell short of the required levels of governance and we recommend that no Chair of a College Board should also chair that College’s Remuneration Committee.

- 55. The Remuneration Committee’s decisions about severance arrangements and payments were not reported formally to the Board because the Chair of the Board seems to have been advised, wrongly, that there was no need.

- 57. We accept that the Remuneration Committee was responsible for determining severance payment and arrangements but it is regrettable that it was inadequately supported and unclear as to its obligations and responsibilities. This clearly contributed to the failure in governance.

- 59. We find it unacceptable that there was no audit trail of the Remuneration Committee’s decision-making being reported to the Board. This governance shortfall meant that neither the auditors nor this Committee could be satisfied that the decisions taken were made appropriately and with due consideration.

- 75. We note that in the case of North Glasgow College there was no finding of fraud or illegality; nevertheless the evident poor governance and the lack of openness and transparency in the decision-making process are serious concerns. As a result of these failings there was a lack of accountability in respect of the use of public funds and further public funds were used to investigate fully how decisions were reached.

4.2. In summary, the report:

- Concludes that there was poor governance.

- Highlights a key factor was the lack of proper support for the Remuneration Committee.

- Possibly recognising that lack of support, does not criticise the committee itself, or its ordinary members.

5. Board member terms of appointment

5.1. Board member terms of appointment include the requirement to: promote and adhere to the highest standards of governance, propriety and conduct in the business of the Board, including complying with the financial memoranda; the codes of conduct; and the Code of Good Governance for Scotland’s Colleges.
6. **Consideration**

6.1. Members’ terms of appointment are clear that they are expected to uphold high standards of governance. However, members are not required to research the detailed requirements with which their organisations have to comply in order to meet these standards. Rightly, it is the responsibility of those charged with supporting boards to ensure boards receive the necessary information and advice to enable them to fulfil their roles properly. Consequently, and as already noted, the Public Audit Committee’s report did not criticise the North Glasgow College Remuneration Committee or its ordinary members.

7. **Risk Analysis**

7.1. If the boards of GCRB and the assigned colleges do not conduct their affairs in accordance with the expected standards of governance, there could be widespread negative impact on their effectiveness. Considering the implications of reports such as this is a key element in helping ensure that appropriate governance standards are maintained.

8. **Legal Implications**

8.1. The legal issues associated with this matter are referred to in the paper.

9. **Financial Implications**

9.1. There are no specific financial implications associated with this paper.

10. **Regional Outcome Agreement Implications**

10.1. There are no specific implications for the Regional Outcome Agreement associated with this paper, other than those described in paragraph 7.1 above.
Introduction

1. In May 2014 the Committee began its scrutiny of the Auditor General for Scotland (AGS) report The 2012/13 audit of North Glasgow College: Governance and financial stewardship. The AGS report was based on the audited accounts of North Glasgow College for the year ended 31 July 2013.

2. North Glasgow College merged with John Wheatley College and Stow College in November 2013 to form Glasgow Kelvin College. As part of the merger process, the Principal and Vice Principal of North Glasgow College accepted voluntary severance. The external auditor noted that the arrangements for and the lack of an audit trail for the severance payments to these two most senior members of staff fell short of what was required. In her report, the AGS concluded—

> there was a lack of transparency around the process of agreeing the severance arrangements. The college did not retain the evidence needed to provide assurance that the arrangements were subject to the appropriate scrutiny and approval. As a result it is unclear whether those charged with governance – in this case the college’s Board of Management – considered that the associated costs would provide value for money.

3. The Committee took evidence from the AGS, Audit Scotland and Scott-Moncrieff (the external auditor of North Glasgow College) in May 2014. Over the course of the next year, we sought and considered further written evidence. During that period, Glasgow Kelvin College (the successor college) instructed its own review of the governance of senior management at North Glasgow College. The review was undertaken by Scott-Moncrieff.

4. During the 2013/14 audit of Glasgow Kelvin College, a further North Glasgow College severance agreement arrangement (in respect of the HR Director) came to light that had not been subject to the appropriate approvals process.

5. This Committee’s ability to hold to account those responsible at North Glasgow College was frustrated by the lack of an appropriate audit trail to demonstrate the processes followed and how the severance arrangements and sums involved were arrived at.

6. We are grateful to those who did assist us by providing evidence. A list of the evidence considered is contained in Annexe A.

Context

was that lessons would have been learned from previous public body mergers and that the recommendations and accompanying good practice guidance provided by the AGS were being put into practice. Our understanding was that merger guidance provided to colleges would incorporate the good practice guidance on public body mergers produced by the AGS.

8. The Scottish Funding Council (SFC) was responsible for providing advice and funding to support the series of college mergers. Guidance to colleges on how to deal with severance for senior staff was issued by the SFC in 2000 and updated in 2004\(^7\). Considerable sums of public monies were provided by the SFC to support colleges in making severance payments. However colleges themselves, specifically college boards, were responsible for decisions about severance payments in respect of their own staff.

9. The merger of North Glasgow College, Wheatley College and Stow College to form Glasgow Kelvin College was one of a programme of ten college mergers. The first college merger took place in October 2012. The merger to form Glasgow Kelvin College took place in November 2013. The SFC was represented at all meetings of the Merger Partnership Board for North and East Glasgow as were the Boards of each of the three constituent colleges.

10. Across the colleges sector, as reported in the AGS report *Scotland’s Colleges 2015*\(^6\), mergers resulted in a reduction in staff costs; and the reductions were, in the main, due to voluntary severances. In the case of North Glasgow College, 24 members of staff left during the year 2012/13.

11. From 1 April 2014, the reclassification of the majority of colleges as public bodies brought with it a requirement to comply with the Scottish Public Finance Manual (SPFM). As a consequence, since April 2014, colleges have been required to seek approval both for severance schemes and any exceptional payments.

12. As the merger to form Glasgow Kelvin College took place in November 2013, it pre-dated the requirement to comply with the provisions of the SPFM. As such, the North Glasgow College severance scheme and the payments made in respect of voluntary severance did not require the same approvals as they would now need. Nevertheless, the SFC guidance of 2000 and the update in 2004 set out what was expected in terms of governance and documentation. It was incumbent on North Glasgow College to ensure that its processes conformed to that guidance and took account of the good practice guidance on public body mergers produced by the AGS in her 2012 report\(^9\).
Governance and the Remuneration Committee

13. Any organisation that uses public funds must recognise the importance of having effective governance processes. All remuneration arrangements should be effective, transparent and objective.

14. Arrangements for contractual terms and termination payments should be fair to the individual and the organisation. Payments should conform to relevant requirements and be made for sound business reasons. We, and the taxpayer, expect regularity, propriety and value for money to be fully considered and for all decisions about spending public monies to be open and transparent.

15. It was a requirement of the SFC guidance on severance arrangements for senior management that all colleges had a clear policy statement on severance\(^\text{10}\).

16. The SFC guidance acknowledged that it would be for individual college remuneration committees to consider and agree their own severance packages but that this—

\[\begin{align*}
\text{must be within a specific remit, have full compliance with the college’s policy on severance matters and with clear boundaries as determined by the Board of Management.}\end{align*}\]

17. We note that the SFC guidance was only disseminated by way of correspondence and that prior to the commencement of the merger process, the SFC did not issue any reminder to colleges, drawing attention to the guidance.

18. The Committee was concerned about the process by which Scottish Funding Council guidance and arrangements on the merger process were communicated to colleges by the Scottish Funding Council and the effectiveness of that communication.

19. It is unclear why the guidance was not re-issued by the Scottish Funding Council at the time of the mergers. This would have served as a reminder and prompt to the colleges. The guidance was nearly ten years old at that point and prior to the merger process it was unlikely that many colleges would have had recent experience of senior management severance. The Committee would be grateful for an explanation from the Scottish Funding Council as to why it did not re-issue the guidance to colleges at the time of the mergers.

20. The college merger programme was a sector-wide process, one of the largest public sector reorganisations. As such, we would have expected the
Scottish Funding Council to take a more proactive approach to meaningful engagement with college boards in advance, and during, the merger process to ensure that duties and responsibilities were understood.

21. The SFC guidance required each college to have a clear policy on severances. North Glasgow College had no severance policy.

22. The SFC guidance also required—

- When agreeing individual cases of premature retirement or a severance package, colleges should delegate the task to their Remuneration Committee (or its equivalent), or to a specific committee set up for that purpose.

23. Although the College did not have a severance policy, it did have a Remuneration Committee for which terms of reference were laid out as follows—

- The Committee will be responsible for reviewing and determining salary, terms and conditions of appointment and, where appropriate, determining severance payments, for the Principal.\(^\text{12}\)

24. Its terms of reference required its membership to be a minimum of three, for all three to be lay members and convenors of other committees and for the Chair of the College Board to be one of the Remuneration Committee. The College Board was responsible for appointing the Convenor the Remuneration Committee.

25. In fact, the Chair of the College Board was also the Chair of the Remuneration Committee. Although there was nothing in the Remuneration Committee’s terms of reference to prevent this, we note Scott-Moncrieff’s observation that—

- ...it is important for the Chair of the Board and the Principal to have a strong working relationship. In our view, the existence of such a relationship is likely to preclude the Chair of the Board from having sufficient independence to chair the committee that determines the salary, terms and conditions and severance arrangements of the Principal.\(^\text{13}\)

26. We note from the report of their review that Scott-Moncrieff did not establish any connection between the Chair of the Board also chairing the Remuneration Committee and how the severance payments and arrangements in respect of the Principal and Vice Principal were arrived at. We are clear however that this arrangement did not display the level of independence required.

27. This lack of independence could have had a bearing on the way that decisions about severance arrangements and payments were reached in respect of the Principal and other senior members of staff.
28. We find it unacceptable that arrangements at North Glasgow College fell short of the required levels of governance and we recommend that no Chair of a College Board should also chair that College’s Remuneration Committee.

29. The Remuneration Committee’s terms of reference obliged it to meet “as required” but at least once a year. Its terms of reference did not identify which College officer had responsibility for providing support to the Remuneration Committee.

30. We were surprised to note that prior to May 2013 the Remuneration Committee had not met for a number of years and had no clear management support.\(^{14}\)

31. Management support to the Board of North Glasgow College, in the form of a Secretary, was not provided by a member of college staff but by an external contract. The Secretary to the Board attended the Remuneration Committee meetings.\(^{15}\)

32. We were told that the Remuneration Committee was unaware of the SFC guidance requirements for documentation, decision making and record keeping\(^{16}\) and that there was no evidence that the College had made any approach to the SFC for assistance, guidance or advice on severance payments.

33. We are concerned that the Remuneration Committee members (including the Chair) were largely unsupported by the Scottish Funding Council in terms of guidance and advice, unaware that they ought to have met at least once a year and unaware of their responsibilities.

34. Remuneration Committees undertake an important role and are responsible for the stewardship of public funds. It is important that such Committees are provided with the support they need to enable them to undertake their duties effectively.

35. In addition to guidance and advice from the Scottish Funding Council, the importance of effective and designated management and secretariat support cannot be understated. We recommend that it should be condition of Scottish Funding Council funding that all statutory college committees have designated management and secretariat support. The responsibilities and professionalism expected of that administrative support should also be set out unambiguously.
Severance arrangements

36. The College had no severance policy and the Remuneration Committee was unaware of the SFC guidance on severance arrangements but despite this a voluntary severance scheme (VS scheme) was approved by the College.

37. It was noted that the College’s VS scheme—

\[ \text{did not provide specific guidelines on the process to be followed for the severance of senior management. This would have been one of the purposes of a severance policy, which, as noted elsewhere in this report, the college did not have. However we understand that one of the Board members sought and received assurances that the VS scheme would be applied in the same way to all employees.}^{17} \]

38. In June 2013, the SFC issued an offer of grant letter to each of the three colleges involved in this merger. A key condition for the provision of SFC funds was that the payback period for any voluntary severance arrangements would be no more than one year, with some flexibility.\[16^{15}\]

39. We note that North Glasgow College’s two voluntary severance rounds took place in July and October 2013 and the costs for both rounds had to be included in its accounts for the year to 31 July 2013.

40. The audit of the accounts to 31 July 2013 disclosed that the College’s initial calculations of severance costs was deficient and had not included payments in lieu of notice, accrued leave and pension. This resulted in a year-end deficit of £574,000, despite the College having originally forecast a surplus for the period. During the audit of the accounts to 31 July 2014 (for Glasgow Kelvin College, the successor college) a further severance payment made to another senior member of staff came to light.

41. North Glasgow College’s actual restructuring and severance costs were £1.29 million. Its initial assumption had been that all voluntary severance costs would be met by the SFC. In the event, the SFC provided £866,000 resulting in a shortfall of £424,000.

42. Around £240,000 of the shortfall arose from the severance payments made to the three most senior members of staff to receive voluntary severance (the Principal, the Vice Principal and the HR Director).

43. We were told—

\[ \text{The full costs to the College were not initially identified because of confusion in and/or misinterpretation of the guidance from the Scottish Funding Council on the costs that would be covered by college merger support funding}^{19} \]
44. On 11 October 2013, the SFC received a request for funding from North Glasgow College which included a claim to cover payments for the Principal and Vice Principal in respect of their severance packages. The SFC told us—

These payments significantly exceeded a one-year payback period and also exceeded the flexibility the SFC was willing to apply.\textsuperscript{20}

45. On 24 October 2013, the SFC advised North Glasgow College that funding would be restricted. By that time however the severance payments to the Principal and Vice Principal had already been approved and authorised by the Chair of the Board. Payments were made on 28 October 2013.

46. The information in the table below, taken from the Scott-Moncrieff report, shows the costs for the three most senior members of staff given voluntary severance.

<table>
<thead>
<tr>
<th>Cost</th>
<th>Principal £</th>
<th>Vice Principal £</th>
<th>HR Director £</th>
<th>Total £</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voluntary severance</td>
<td>£130,000- £140,000</td>
<td>£90,000- £100,000</td>
<td>£50,000- £60,000</td>
<td>£280,000- £290,000</td>
</tr>
<tr>
<td>Annual leave paid</td>
<td>0-£10,000</td>
<td>0-£10,000</td>
<td>0</td>
<td>£10,000- £20,000</td>
</tr>
<tr>
<td>6 months garden leave</td>
<td>£60,000- £70,000</td>
<td>£40,000- £50,000</td>
<td>0</td>
<td>£100,000- £110,000</td>
</tr>
<tr>
<td>Pension enhancement</td>
<td>£120,000- £130,000</td>
<td>0</td>
<td>0</td>
<td>£120,000- £130,000</td>
</tr>
<tr>
<td>Mandatory pension strain</td>
<td>0</td>
<td>0</td>
<td>£160,000- £170,000</td>
<td>£160,000- £170,000</td>
</tr>
<tr>
<td>Total</td>
<td>£320,000- £330,000</td>
<td>£140,000- £150,000</td>
<td>£210,000- £220,000</td>
<td>£689,376</td>
</tr>
</tbody>
</table>

**Decision making**

47. £700,000 was paid out by North Glasgow College in respect of severance for the three most senior staff members. This was made up of contractual costs and £250,000 of discretionary or ex gratia payments. Non-contractual payments were made to the Principal and Vice Principal to cover six months “garden leave” and to the Principal only for pension enhancement.
48. The justification given for the ex gratia payments was that the merger required a reduction in senior staff, all staff had employment rights, there was an assumption of no compulsory redundancies and the payments would represent a saving over future years and “clear the way for a new Principal”. 21

49. The Remuneration Committee’s view was that the departure of the two most senior members of staff “could create significant risk.” 22 It decided that the severance arrangements for the Principal and Vice Principal would require them to be available to the new Principal for six months. We were told that the new Principal had not required to call on the services of either the former Principal or the Vice Principal.

50. We received assurance that the Remuneration Committee “considered these issues in detail”. 23 The Remuneration Committee’s view was that it was important for the new Principal to be solely in charge and that it could be counter-productive for any other former Principal to continue to be part of the new management team.

51. The SFC guidance did allow pension enhancements to feature in a severance package but anticipated that this would be set out in the College’s severance policy. As already noted, North Glasgow College did not have a severance policy.

52. Payments were authorised by the Chair of the Board—

> based on the approved compromise agreements as agreed by the remuneration committee ... The individuals who were beneficiaries were not involved in authorising the payments. 24

> Each of the three remuneration committee members interviewed as part of this review felt that they had appropriate, timely involvement in the decision making process. 25

53. However the decisions reached by the Remuneration Committee were not detailed anywhere in minutes or papers and were not formally reported to the Board.

54. We are surprised at the extent to which the College’s initial calculations fell short of the sums actually paid out and note that a considerable proportion of the costs that had not been forecast related to payments made to the two most senior members of staff.

55. The Remuneration Committee’s decisions about severance arrangements and payments were not reported formally to the Board because the Chair of the Board seems to have been advised, wrongly, that there was no need.

56. At an earlier stage, a member of the Board had sought and received assurance that the VS scheme would apply in the same way to all employees. If the Remuneration Committee’s decisions regarding severance payments to the three most senior members of staff had been reported to
the Board, there would have been an opportunity for the Board to consider whether a consistent approach was being taken.

57. We accept that the Remuneration Committee was responsible for determining severance payment and arrangements but it is regrettable that it was inadequately supported and unclear as to its obligations and responsibilities. This clearly contributed to the failure in governance.

58. Reporting Remuneration Committee decisions formally to the College Board is a basic tenet of governance, a requirement of the SFC guidance and a requirement of North Glasgow College’s own articles of constitution.

59. We find it unacceptable that there was no audit trail of the Remuneration Committee’s decision-making being reported to the Board. This governance shortfall meant that neither the auditors nor this Committee could be satisfied that the decisions taken were made appropriately and with due consideration.

60. We understand that the Chair of the Remuneration Committee wrote to the Remuneration Committee members setting out the process that had taken place. The fact that a letter had to be sent to the members, describing a process that they had followed, supports our view that the process fell short of the transparency requirements of good governance.26

Sanctions

61. We were told that disciplinary options available include the potential claw-back of grant and, since August 2014, the removal of any or all of the Board members. In addition, as all incorporated colleges are charities, any college board member/charity trustee who may have failed in duty could also be investigated by the Office of the Scottish Charity Regulator (OSCR).27

62. As a result of the merger, any sanctions as a consequence of governance failures at North Glasgow College would have to be against Glasgow Kelvin College.

63. It is extremely important that sanctions exist, that they are meaningful and effective and carry a significant deterrent. The claw-back of grant funding or some other financial penalty might appear superficially attractive but according to the SFC simple financial penalties run the risk of simply reducing the resources available for students and penalising them instead of Board members.28

64. We therefore question the effectiveness of the existing sanctions. The Scottish Government told us—

we understand that the SFC will be reviewing the scope, impact and effectiveness of available sanctions and actions and their likely effect in
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improving governance while ensuring these do not penalise students as a result of the actions of Board members. We support such a review and would consider the SFC’s advice in due course.  

65. As of April 2014 most colleges must comply with the SPFM. Any severance schemes since then have required prior approval from the SFC. The SFC noted—

"... Colleges now operate in a significantly more regulated environment. In terms of severance these regulations are detailed, explicit and closely monitored by SFC. These are significant preventative measures."

66. A new Code of Good Governance for Scotland’s Colleges (the Code) was developed by colleges through a Steering Group. The Code came into effect in August 2014 and in December 2014 the SFC published new guidance Good Practice in college governance.

67. We were disappointed to note that the new Code did not appear to address any of issues highlighted in relation to North Glasgow College and made little reference to Remuneration Committees and what is expected of them. We note that the SFC intends to issue further “revised and strengthened guidance on severances” to address the issues that arose at North Glasgow College and Coatbridge College. The failings of governance of severance arrangements at Coatbridge College are the subject of a separate, continuing inquiry by us.

68. In light of the failings at North Glasgow College identified in this report, we welcome the updated guidance on severance arrangements from the Scottish Government and the Scottish Funding Council and the commitment to the provision of training for Board members.

69. We also welcome the requirements and oversight now in place, as a result of the Office for National Statistics reclassification, including the requirement for Scottish Funding Council approval for any severance schemes and severance as a standing item on Scottish Funding Council agendas.

70. We note that strengthened supplementary guidance to support the Code of Good Governance for Scotland’s Colleges is being developed. We recommend that this guidance should specifically cover Remuneration Committee best practice and the importance of effective support for College Boards and Committees.

71. We recommend a review of the sanctions available to the Scottish Funding Council and the Scottish Government for non-compliance with the Scottish Public Finance Manual, the Financial Memorandum with Fundable Bodies in the College Sector or the Code of Good Governance. The review should include input from the Office of the Scottish Charity Regulator and the Commissioner for Ethical Standards in Public Life (Scotland). We request an
update from the Scottish Funding Council by the end of year on progress in putting in place effective and meaningful sanctions.

72. This Committee needs to be satisfied that the arrangements put in place are sufficiently robust to ensure early identification of issues, to enable prompt action to be taken and, if necessary, for that action to include appropriate sanctions.

Concluding remarks

73. We welcome the fact that colleges are now bound by the requirements contained in the Scottish Public Finance Manual and that the Scottish Funding Council and the Scottish Government have taken steps to ensure that all are aware of their responsibilities.

74. We intend to explore with the Scottish Funding Council how it will monitor future severance agreements and payments made. It is vital that the new arrangements are robust. We will be seeking assurances that there are no gaps around the Scottish Funding Council’s ability to take appropriate action to limit payments made.

75. We note that in the case of North Glasgow College there was no finding of fraud or illegality; nevertheless the evident poor governance and the lack of openness and transparency in the decision-making process are serious concerns. As a result of these failings there was a lack of accountability in respect of the use of public funds and further public funds were used to investigate fully how decisions were reached.

76. On the back of our report on Scotland’s College’s 2015 we have asked for further information from the Scottish Government and the Scottish Funding Council on options for disciplinary action in the event of failings. We will now be pursuing this as a matter of urgency in light of the Auditor General for Scotland’s report on the 2013/14 audit of Coatbridge College: Governance of severance arrangements.

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1 Audit Scotland, The 2012/13 audit of North Glasgow College, Governance and financial stewardship.
4 Glasgow Kelvin College. Written submission.
6 Audit Scotland. Learning the lessons of public body mergers.
7 Scottish Funding Council guidance on severance arrangements to senior staff in further education colleges, January 2000 (Circular FE/03/2000) updated in 2004 (Circular FE/13/04)