Higher Education in Further Education Colleges (HE in FECs)

Brief Guide for governors and clerks in further education colleges

Governance

Working together in partnership

HE in FECs
Expert programme

LSIS
# Acronyms

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<th>Acronym</th>
<th>Description</th>
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<tr>
<td>ASNs</td>
<td>Additional student numbers</td>
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<tr>
<td>FE</td>
<td>Further education</td>
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<td>FEC</td>
<td>Further education college</td>
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<tr>
<td>FDAP</td>
<td>Foundation degree awarding powers</td>
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<td>FTE</td>
<td>Full-time equivalent</td>
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<td>HE</td>
<td>Higher education</td>
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<td>HEFCE</td>
<td>Higher Education Funding Council for England</td>
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<td>HEI</td>
<td>Higher education institution</td>
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<td>HEIFES</td>
<td>Higher education in further education: students survey</td>
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<td>HE in FECs</td>
<td>Higher Education in Further Education Colleges</td>
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<td>HESA</td>
<td>Higher Education Statistics Agency</td>
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<td>HESES</td>
<td>Higher education students early statistics survey</td>
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<td>HNC/D</td>
<td>Higher national certificate/Higher national diploma</td>
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<td>ILR</td>
<td>Individualised learner record</td>
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<td>IQER</td>
<td>Integrated Quality and Enhancement Review</td>
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<td>LSC</td>
<td>Learning and Skills Council</td>
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<td>LSIS</td>
<td>Learning and Skills Improvement Service</td>
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<td>NPHE</td>
<td>Non-prescribed higher education</td>
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<td>NSS</td>
<td>National student survey</td>
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<td>NQF</td>
<td>National Qualifications Framework</td>
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<td>OFFA</td>
<td>Office for Fair Access</td>
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<td>Ofqual</td>
<td>Office of the Qualifications and Examinations Regulator</td>
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<td>Ofsted</td>
<td>Office for Standards in Education, Children’s Services and Skills</td>
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<td>QAA</td>
<td>Quality Assurance Agency for Higher Education</td>
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<td>QCF</td>
<td>Qualifications and Credit Framework</td>
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<td>QTS</td>
<td>Qualified teacher status</td>
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<td>QTLS</td>
<td>Qualified teacher, learning and skills</td>
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<td>SSCs</td>
<td>Sector Skills Councils</td>
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<td>SFA</td>
<td>Skills Funding Agency</td>
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<td>UK PSF</td>
<td>UK Professional Standards Framework for teaching and supporting learning in higher education</td>
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<td>YPLA</td>
<td>Young People’s Learning Agency</td>
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Higher Education in Further Education Colleges (HE in FECs)

By the HE in FECs Expert Programme Project Team

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Purpose of this Brief Guide

This Guide has been produced as part of the HE in FECs Expert Programme (a project funded by the Higher Education Funding Council’s Leadership, Governance and Management programme), in collaboration with the Learning and Skills Improvement Service (LSIS).

Colleges funded by the Higher Education Funding Council for England (HEFCE) are required to submit a college higher education strategy, approved by the college Corporation, to the funding council by 11 January 2010.

The Guide summarises key aspects of the nature of higher education provision and its funding and quality assurance arrangements where they differ from those of further education. It is designed to support the identification and evaluation of risk and the monitoring of the college’s higher education strategy and enhancement of the provision.

Who is this Guide for?

This Guide has been created specifically to provide information for governors and clerks and support induction sessions for members of the Corporation new to higher education in further education colleges in England.

Useful information

The Guide is available electronically from the LSIS governance site
www.fegovernance.org
www.lsis.org.uk

The Guide and a glossary can also be found at the HE in FECs Expert Programme website
www.sheffield.ac.uk/heinfestratprog/index.html

The website is currently being developed and will provide an interactive platform for users and will include:

- a frequently asked questions (FAQ) section
- a facility for users to ask or suggest questions
- links to policy documentation
- a glossary with links to sites where definitions of terms and associated guidance notes can be downloaded.
Higher Education Provision in Further Education Colleges

Most general and specialist further education colleges in England provide some higher education, usually vocationally orientated. This meshes well with policy agendas for widening participation and enhancing higher level skills.

Colleges provide higher education for a variety of reasons including:

- to provide internal progression opportunities for college students to support widening participation initiatives
- to enhance external progression opportunities from level 3 programmes
- as part of a local, sub-regional and regional higher education offer to support the higher level skills agenda
- to enhance the college profile and staff experience
- to support a diversified income stream, including attracting full fee paying students – international and those in employment and supported in part or whole by employers.

The higher education experience in colleges must be equivalent in quality and standards to that in a higher education institution (HEI). However, college provision is designed to support ‘second chance’ students, those without a family history of higher education participation and adults in work. The target client group and the small cohorts and high levels of personal support usually found in colleges make it distinctive.

HEFCE seeks a more strategic approach to the provision of higher education from further education colleges. The policy context is fast moving but key issues in 2008-09 and for 2009-10 include:

- the higher level skills agenda and the contribution of further education to economic recovery
- employer engagement, work-based learning and co-funding
- the challenge posed by a cap on additional student numbers for 2010-11
- the impact of Machinery of Government changes and the replacement of the Learning and Skills Council (LSC) by the Skills Funding Agency (SFA) and Young People’s Learning Agency (YPLA) scheduled for April 2010
- the National Apprentice Service.
What is Higher Education in Further Education Colleges?

England has a two-sector system of further education and higher education. The present-day architecture of the two sectors was established by legislation in 1988 and 1992. The main assumptions behind this separation were twofold: that further and higher education stood for different and distinctive levels of learning; and that each was best provided by institutions predominantly concerned with one or the other. Since 1997, these assumptions have been challenged by government policies aimed at the growth of higher education in further education colleges. Many of the difficulties that confront colleges in this role arise from this inherited structure, especially its separate and different administrative, funding and quality regimes.

HEFCE see colleges as ‘a distinctive part of the higher education system’, serving local communities with responsive and flexible provision. Students studying higher education in further education colleges are more likely to be older, to study part-time and to come from areas with low rates of participation in higher education than students in HEIs.

Colleges are also more likely to focus on ‘short cycle’ higher education, providing foundation degrees and Higher National Diplomas and Certificates. They can respond swiftly to local and regional skills needs and employers within a context of lifelong learning and a turbulent market¹.

HEFCE is responsible for the funding of most higher education, that is, ‘prescribed’ higher education (as defined in the 1988 Education Reform Act and subsequent statutory instruments). However, many higher level professional awards fall outside the list and are, by default, ‘non-prescribed’ higher education. The LSC has the power to fund non-prescribed higher education.

‘Higher level’ at the time of the 1988 Act was defined as above Advanced GCE or BTEC National. Now the National Qualifications Framework has nine levels, from entry through levels 1 to 8. It has been aligned with the Quality Assurance Agency for Higher Education’s Framework for higher education qualifications at levels 4 to 8. Higher education is, therefore, all provision at level 4 and above.

¹ ‘Higher education in further education colleges. Consultation on HEFCE policy’. HEFCE 2006/48, paragraphs 32 and 33.

In 2007-08, nine per cent of undergraduates were taught in colleges of which 66 per cent were 21 or over and 48 per cent were studying part time (Update to HEFCE Strategic Plan 2006-11, June 2009).
<table>
<thead>
<tr>
<th>Prescribed higher education</th>
<th>Non-prescribed higher education</th>
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</table>
| Prescribed higher education provided in colleges includes masters degrees, first degrees and Foundation degrees as well as postgraduate diplomas and certificates, and diplomas in higher education validated and awarded by HEIs, along with Higher Nationals (HNDs and HNCs). Higher Nationals are awards of Edexcel (BTEC) but may be awarded under licence by an HEI. All other awards for prescribed higher education have previously been validated by and awarded by an HEI. However, under the Further Education and Training Act of 2007, colleges are now able to apply for Foundation Degree Awarding Powers. Where an HEI awards professional qualifications (including the Diploma for Teaching in the Lifelong Learning Sector), this is prescribed higher education. Prescribed higher education is funded by HEFCE. This provision is funded either ‘directly’ to the college or ‘indirectly’ (via an HEI which passes on funding to a partner college). | Some higher level, non-prescribed higher education, professional awards are provided by national awarding bodies such as
- Edexcel
- City and Guilds
- The Association of Accounting Technicians (AAT)
- The Chartered Institute of Marketing (CIM)
- The Institute of Legal Executives (ILEX)
and many more. They include programmes in teaching, management, accountancy, marketing and other specialist subjects as well as higher level National Vocational Qualifications. The LSC was given the power under the Learning and Skills Act 2000, but not the obligation, to fund non-prescribed higher education. Some higher level qualifications have been approved onto the National Qualification Framework and the new, nine-level, vocational Qualifications and Credit Framework. |
Responsibilities of a Further Education College Corporation

A college Corporation has defined responsibilities for governance of the institution and its activities. The source of funding for prescribed higher education brings with it particular implications for college income, expenditure and monitoring of numbers as well as a different quality regime.

All colleges receiving funding from HEFCE have now been required to submit a higher education strategy, covering both prescribed and non-prescribed higher education, and formally approved by the college Corporation.

We have taken each of the functions for which the Corporation is responsible under legislation (with the exception of the employment of senior post holders and the clerk) and set against it corresponding activities flowing from the different arrangements for higher education.

2. Under the Instrument and Articles (Further and Higher Education Act 1992 as amended from 1 January 2008) Section 3.1 Articles of Government
<table>
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<th>Corporation function</th>
<th>Key aspects to be addressed where higher education is provided</th>
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</table>
| The determination and periodic review of the educational character and mission of the institution and the oversight of its activities | All colleges receiving funding from HEFCE, directly or indirectly via an HEI, were requested in early 2009 to submit a strategy, approved by the Corporation, for their higher education provision by 11 January 2010. Guidance about the indicative content was provided and this included a statement of purpose addressing why the college provides higher education.  
                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Approving the quality strategy of the institution                                     | All prescribed higher education falls within the remit of the Quality Assurance Agency for Higher Education (QAA). It is essential that all provision takes account of the QAA’s Academic Infrastructure.  
                                                                                       | Both directly and indirectly HEFCE funded provision in colleges is being reviewed by the QAA in a six-year cycle from 2008 in Integrated Quality and Enhancement Review (IQER). This review method has some significant differences to that of Ofsted which need to be managed, along with the relationships with the awarding bodies (Edexcel and validating HEIs).  
                                                                                       | Non-prescribed higher education funded by the LSC (the SFA from April 2010) is subject to inspection by Ofsted under the common inspection framework applied to further education provision. There are some particular arrangements for initial teacher training.                                                                                                                                                             |
| The effective and efficient use of resources, the solvency of the institution and the Corporation and safeguarding their assets and Approving annual estimates of income and expenditure | Some colleges receive funding for prescribed higher education directly from HEFCE; others receive it indirectly via a partner HEI(s). Many are funded by both routes.  
                                                                                       | HEFCE funding methodology differs significantly from that of the LSC and the data returns (on which future funding is dependent) are distinct and different.  
                                                                                       | Where funding is indirect, the partnership arrangements need to be transparent and monitored.  
                                                                                       | Where non-prescribed higher education is provided, this may be funded by the funding body (LSC then SFA). From August 2010 the SFA have indicated their intention to focus funding on provision within the Qualifications and Credit Framework and as advised by Sector Skills Councils (SSCs).                                                                                                                                                          |
| Setting a framework for the pay and conditions of service of all other staff         | While only a very small number of colleges have modified their conditions of service for staff teaching on higher education programmes, this may be raised as an issue.  
                                                                                       | There is a different set of standards for staff teaching higher education (the UK Professional Standards Framework for teaching and supporting learning in higher education, the UK PSF). This may have implications for staff training and the requirements for teaching higher education should be addressed in continuous professional development.                                                                                                                                                                         |
Below we address each of these aspects as they affect governance in more detail, some questions are posed for consideration.

**Reporting and representation**

It is important to address differences between further education and higher education systems in order to avoid financial and other penalties.

Colleges address the oversight of higher education provision in various ways. Differentiation may be addressed by:

- appointing a governor responsible for liaising on higher education matters with college managers
- receipt of separate reports on further education and on higher education provision
- the creation of a separate committee of the Corporation with responsibility for higher education.

Some Corporations include governors from partner or other HEIs. Colleges may also have a student governor from a higher education course. This is more common where the provision is directly funded. In the case of indirect funding, the HEI sub-contracting the student numbers to the college remains responsible for the student experience; nonetheless colleges need to monitor the student experience.

**Proportionality**

Although some colleges are now in receipt of as much HEFCE funding as the smallest HEIs, the principle of proportionality applies. Only a minority of colleges have more than:

- 1,000 HEFCE-funded students by headcount
- 500 full-time equivalent higher education students
- £1,000,000 of income from HEFCE
- 10 per cent of students or income derived from higher education provision.

Below we address each of these aspects as they affect governance in more detail, some questions are posed for consideration.
1. Educational character and mission

### Educational character and mission

<table>
<thead>
<tr>
<th>Prescribed higher education</th>
<th>Non-prescribed higher education</th>
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<tr>
<td>Colleges in receipt of any funding for higher education from HEFCE, whether directly or indirectly, are required to submit a higher education strategy, formally approved by the Corporation, for the years 2009-10 to 2011-12 by 11 January 2010. Guidance was provided in ‘Request for higher education strategies from further education colleges’, HEFCE 2009/13. HEFCE expects colleges to demonstrate that they are being strategic about their provision of higher education. Although the higher education provided by colleges is not a large proportion of all higher education, HEFCE considers it crucially important because of: its role in opening up vocational progression routes into and within higher education; making higher education more accessible; contributing to the development of higher level skills, the employability of graduates; and adding value to provision in a locality. Provision should avoid unnecessary duplication. The list of indicative content provided in 2009/13 included: ‘A statement about why the college offers higher education, including how higher education relates to the college’s mission.’ HEFCE expects the strategy to cover non-prescribed higher education as well as higher education provision for students who are not publicly funded (including international students and other students fully funded by fees) and students funded by other public funders such as the National Health Service and the Training and Development Agency for Schools. Colleges can provide some higher level ‘stretching’ modules (from first degrees or higher nationals) for 16 to 18-year-olds as part of a full-time level 3 programme.</td>
<td>For some colleges non-prescribed higher education is a significant part of the curriculum portfolio but this may not, until the HEFCE request for a higher education strategy, have been considered together with prescribed higher education. The professional awards made by recognised awarding organisations at levels 4 and above on the national qualifications frameworks (National Qualifications Framework and Qualifications and Credit Framework) contribute to the higher level skills agenda and are attractive to many employees and employers. In some professions these qualifications are an accepted alternative to the graduate qualification route. They also include postgraduate specialist diplomas. Several national awarding bodies offer qualifications for initial teacher training for the learning and skills sector which give qualified teacher, learning and skills status. Some colleges provide these for their own and other colleges’ staff as non-prescribed higher education.</td>
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### Questions for governors to consider

- What type and amount of higher education does the college provide?
- Why is the college providing higher education?
- Is this appropriate in the current policy context?
- Does the provision overlap with nearby HEI or further education college provision?
- Is the higher education distributed across all curriculum areas or is it only in some specialist areas? How is it managed?
- What are the arrangements for monitoring the implementation of the strategy and its revision?
## 2. Funding

### Directly funded

Colleges in receipt of direct funding from HEFCE are funded through a common Financial Memorandum which sets out the terms and conditions (this includes the responsibilities of the institution and its governing body). They receive Part 2, the Schedule (funding agreement) annually in July including target numbers. The college is required to have proper systems for managing and controlling its finances the quality of its data and returns.

The principles and practice of allocating and monitoring and, potentially, clawing back, funding differ significantly from those of the LSC and demand specialist knowledge and attention.

Funding is formula based. It takes the form of a block grant but is based on the number and type of students (agreed full-time equivalents, FTEs) and subjects taught and – for HEIs only – research. The great majority of funding is for teaching and learning with allocations for widening participation and other targeted allocations and weightings. Tuition fees are assumed and for 2009-2010 the maximum chargeable is £3,225.

Colleges which choose to charge more than the ‘standard’ fee (£1,285 for 2009-10) must submit an access agreement to the Office for Fair Access (OFFA) for approval.

A directly funded college will make a data return to HEFCE in November – the Higher Education in Further Education: Students Survey (HEIFES) which is used to calculate future funding. Students are recorded on the college return to the LSC on the individualised learner record (ILR) and a reconciliation exercise is conducted at the end of the year.

New provision can only be funded if it falls within current allocated student numbers or additional student numbers (ASNs) have been granted.

Colleges with more than 100 directly funded FTEs were required to submit a widening participation strategic assessment in June 2009. This will be monitored, along with the access agreement if the college has one, in December 2009 and in future years.

### Indirectly funded

Colleges may receive funding from HEFCE via one or more HEIs in a ‘franchise’ or sub-contractual relationship. This may be a bilateral relationship between the college and the HEI or part of a multiple partnership. Higher education institutions retain variable amounts of the funding per student (often described as the ‘topslice’). Fees will be determined (up to the maximum) by the HEI and may mirror the fee charged to students taught at the HEI or by agreement be lower. The student numbers belong to the HEI and the HEI retains responsibility for the student numbers, the curriculum, the quality of the provision and the student experience.

Prior to 2009-10 some colleges were funded through ‘HEFCE funded consortia’ but these colleges are now funded directly or through a franchise relationship.

The HEI returns the data on the students to HEFCE in December on the Higher Education Students Early Statistics Survey (HESES) and records them on the Higher Education Statistics Agency (HESA) individualised student records. The college is responsible for ensuring the data is accurately returned to the HEI who will adjust the funding passed to the college. College managers need to have a specialist understanding of the funding system in order to make and monitor financial projections.

Funding and roles and responsibilities on the part of each institution should be set out. HEFCE published a code of practice relating to sub-contractual relationships in 2000. This is being revised.
The LSC was given the power, but not the obligation, to fund non-prescribed higher education under the 2000 Learning and Skills Act.

Higher level qualifications offered by national awarding organisations have been accredited for inclusion on to the National Qualifications Framework/Qualifications and Credit Framework and approved under Sections 96 and 97 of the Act. As part of the UK Vocational Qualification Reform programme, SSCs and Awarding Organisations are working to populate the Qualifications and Credit Framework and higher level qualifications are now appearing on the Qualifications and Credit Framework. From August 2010 the SFA intends to focus funding on the Qualifications and Credit Framework.

Certain awards (such as diplomas to teach in the learning and skills sector and management diplomas) may be treated as prescribed higher education if validated and awarded by an HEI but be non-prescribed higher education if approved as part of the national qualifications framework and awarded by a national awarding body.

The LSC will fund limited amounts of prescribed higher education for 16 to 18-year-old learners as part of a full-time level 3 programme.

Pre-19 learners are required to follow qualifications approved by the Secretary of State under Section 96. Qualifications accredited at National Qualifications Framework/Qualifications and Credit Framework Level 5 and above will not normally be eligible for use by 14 to 19-year-old learners.

3. The LSC is scheduled to be replaced from 1 April 2010 by the Skills Funding Agency and the Young People’s Learning Agency

Questions for governors to consider

- How does the college receive HEFCE funding – directly and/or indirectly?
- Are non-prescribed qualifications eligible for public funding by the LSC?
- Are there systems in place to monitor HEFCE student numbers and make the required data returns?
- If new provision is planned for prescribed higher education, what is the source of the student numbers?
- Do the college accounts separate the funding streams?
- Where provision is indirectly funded, what are the arrangements with the partner HEI(s)? Is there a formal partnership agreement detailing financial arrangements, roles and responsibilities?
- How are these arrangements reviewed?
- Does the college have an access agreement? Did it submit a widening participation strategic assessment? If so, how are they monitored?
- Does the college have any partnerships with schools to progress students into higher education at the college?
3. Quality

### Quality assurance and enhancement

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<tr>
<th>Prescribed higher education</th>
<th>Non-prescribed higher education</th>
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<tr>
<td>Colleges are responsible for delivering the standards of awards to the awarding body: Edexcel in the case of some higher nationals, or the HEI which has validated the award. In some cases HEIs make the award of HND/C under licence from Edexcel, in this case, the college’s primary responsibility is to the HEI. Colleges are also responsible for meeting the awarding body’s requirement to provide the quality of learning opportunities which will enable the students to achieve the appropriate standard. Colleges have not in the past been able to make awards of degrees in their own right. However, under the 2007 Further Education and Training Act colleges are able to apply for Foundation Degree Awarding Powers (FDAP). The stringent criteria require the college to demonstrate the effectiveness of its regulatory and quality assurance arrangements with respect to academic standards and management as set out in the QAA’s Academic Infrastructure. This has implications for governance and the committee structure as well as financial implications. In 2008-09 a very small number of colleges started the application process. All prescribed higher education provided in colleges should take account of the Academic Infrastructure and the college must be ready to demonstrate how this is achieved. The provision is now reviewed (whether directly or indirectly funded) by the QAA through IQER which is operating in a six year cycle. IQER is a peer review process and reviews are conducted differently from inspections as they have a different purpose and are underpinned by different principles. Terms familiar from FE quality systems, such as ‘standards’ and ‘benchmarks’ have a different meaning in the higher education review process. IQER focuses on the management of quality and standards of the college’s higher education provision. Partner institutions are involved in the process but it is focused on the college’s self evaluation describing the way in which the college manages the student learning experience and the processes it has adopted for discharging its responsibilities to the relevant awarding bodies. Students are involved in IQER and have the option to make a written submission. Students in directly funded colleges now participate in the National Student Survey (NSS). Where a college provides a teacher training programme (usually for teaching in the learning and skills sector) validated by an HEI, Ofsted will include the college’s provision within a partnership inspection.</td>
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<tr>
<td>Colleges are responsible for the quality and standards of non-prescribed higher education to the relevant awarding body. Non-prescribed higher education provision is covered by the Ofsted inspection regime at the same time as the inspection of FE provision using the Common Inspection Framework. Because it is an inspection service, Ofsted’s approach differs from QAA peer reviews. Initial teacher training programmes are inspected by Ofsted under the Framework for the inspection of initial teacher education 2008-11. This includes programmes for further education staff leading to Qualified Teacher, Learning and Skills (QTLS) status which are awarded by national awarding bodies and delivered in some colleges as NPHE. Ofsted is moving to one inspection framework for all its work, whether with childcare, child protection, further education and training or initial teacher training.</td>
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### Questions for governors to consider

- Are the different elements of the Academic Infrastructure well known by staff and senior leaders and addressed?
- Is the responsibility for the standards of prescribed higher education provision clearly identified to match the guidance provided in the Academic Infrastructure?
- Does the college quality assurance system support preparation for IQER?
- How is the student experience monitored and evaluated?
- How are higher education quality matters reported to the Corporation?
4. Staff conditions and development

Staffing issues

Some colleges have modified their conditions of service for staff teaching higher education – usually prescribed higher education – in order to reflect the expectation that they should be demonstrating scholarly activity. Scholarly activity needs to be demonstrated where a college applies for Foundation Degree Awarding Powers.

It is generally considered that staff teaching higher education should be qualified at the level above their teaching.

There is a different set of standards for staff teaching higher education: the UK Professional Standards Framework for teaching and supporting learning in higher education. This is applied by HEIs and staff may participate in a partner HEIs programmes. The Higher Education Academy provides support for staff looking for professional recognition.

Questions for governors to consider

- Do staff conditions of service vary?
- Are staff appropriately qualified to teach on higher education programmes?
- How does this impact on recruitment and retention of staff?
- Do or should staff teaching on higher education courses have different continuous professional development programmes?

Further details can be found in:

- ‘Supporting higher education in further education colleges. Policy, practice and prospects’, HEFCE 2009/05
- ‘Writing higher education strategies’. Published as a supplement to 2009/05 on the web only.

These and other support materials can be accessed on the HE in FECs Expert programme website www.sheffield.ac.uk/heinestratprog/index.html
The Learning and Skills Improvement Service’s aim is to accelerate the drive for excellence in the learning and skills sector, building the sector’s own capacity to design, commission and deliver improvement and strategic change. LSIS’s vision is that every learner acquires the skills, knowledge and appetite for learning, living and working and every provider is valued by their community and employers for their contribution to sustainable social and economic priorities.

LSIS’s Strategic Ambitions demonstrates how we will contribute to delivering core improvement principles and sets out our new ways of working to engage the sector in everything we do to make LSIS a truly sector-led organisation. You can find this document and other information about LSIS activities and services at www.lsis.org.uk

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