

Module 6 Human resources

For suggestions on how to get the most out of these self-study materials, see the booklet on Using the materials.

Introduction

One of the major responsibilities of the governing body is as employer of college staff. Staff employed by contractors or agencies (working in or on behalf of the college) are not formally the responsibility of the governing body, although the governing body is responsible for ensuring a safe environment for all employees, students and visitors. This module will help governors understand their important staffing responsibilities.

The number of staff employed varies from a few hundred in the smaller colleges to several thousand in the larger institutions. The employees of the college include both teaching and support staff. Some are full-time, others part-time. Some of the service delivery (as noted above) may be carried out by the employees of other agencies or contractors.

In most colleges staff are the greatest cost, probably making up 50 to 70 per cent of the total expenditure. They are also a vital asset. A well trained, competent and highly motivated staff will help ensure a successful college.

Employment law is complex and is likely to become more complicated. Recent employment legislation covers, for example, trade union rights, individual rights, maternity and paternity leave, data protection, whistleblowing and working time. Employers face an increasing number of employment tribunal claims. Litigation is very expensive. For example, there is unlimited compensation for unlawful discrimination and dismissals arising from health and safety and maternity-related matters. The governing body must ensure that the college has in place sound and up-to-date procedures covering all aspects of its employment responsibilities, and that there is an effective personnel management function within the college. The governing body must be kept informed of any possible litigation affecting the college. When in doubt, the governing body should always ensure that professional legal advice is obtained.

Summary of changes to the 2002 edition

The implementation of the Learning and Skills Act 2000 has led to changes in post-16 education and training with effect from 1 April 2001. Governors are directly responsible for the appointment, appraisal and determination of pay and conditions of senior postholders and the clerk. A significant change in these arrangements as a result of new articles of government is that where the clerk is also an employee of the college, the governing body is responsible for the pay and conditions of all aspects of that person's job, and the appraisal of his or her performance in all roles within the college.

The new articles of government have implications for other human resources issues such as the appointment of senior postholders and the suspension and dismissal of staff, including senior postholders.

The Teaching Pay Initiative (TPI) has provided extra funding for teachers over a three-year period from 2001/2 to 2003/4, subject to approval of individual college's schemes by their local committee of the Learning and Skills Council (LSC). Extra pay for individual teachers is performance-related.

Changes in training requirements have meant that all full-time lecturers must now have a recognised teaching qualification. Part-time lecturers are expected to undergo teacher training.

These changes are reflected in the content of this revised edition.

Aims

By the end of this module you should be able to:

- outline the governing body's main legal responsibilities towards the staff it employs, and the responsibilities it delegates to the principal
- explain the role of governors in establishing and keeping under review the terms and conditions of employment for college staff
- state the difference between governors' responsibilities for senior postholders and for other staff
- outline the governing body's responsibilities for staff development and appraisal
- describe college industrial relations and how to deal with trade union representatives and officers
- explain the role of governors in disciplinary and grievance procedures.

Contents

Mark the sections you want to study and tick them off as you complete them.

To do *Done*

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Working on the self-study activities

These materials have been designed for flexible use. You can work through them with other governors in training and development sessions. You can also work through sections and activities in your own time and at your own pace if you find it difficult to attend organised training sessions. Governors who have used these materials point out how valuable it is to work on at least some of the suggested activities together with another governor or group of governors, as there is such potential to learn from each other's experience. For suggestions on how to organise this kind of support for yourself, see the booklet on *Using the materials*.

What you will need

To complete activities in this module you will need to get hold of the following information or documents from the clerk:

- information about the different types of full- and part-time staff employed in your college
- copies of two or three policies and procedures related to employment, including details of your college's budget and staff development and appraisal policy
- details of the criteria and process used to determine the pay of senior postholders
- details of the trade unions and associations recognised by your college
- a copy of your college's disciplinary and grievance procedures
- details of the rules covering appeals by members of staff to the governing body
- your college's staff handbook – there may be separate handbooks for different categories of staff.

Where you need to make notes in response to activity questions, we suggest you do this in a notebook or on separate sheets of loose-leaf paper, and store the information you compile along with the module for future reference.

Section 1 The governing body as employer of staff

The governing body is the employer of college staff. The contract of employment issued to a member of staff is with the governing body, not with the college, even though governors, with the exception of the appointment of senior postholders and the clerk, are not directly involved in the appointment.

The governing body is not however responsible for **managing** the staff. This responsibility is delegated to the principal. The principal deals with the organisation, direction and management of the institution and leadership of the staff. He or she will also be responsible for applying the procedures agreed by the governing body. The governing body may find it helpful to set up an employment policy or equivalent committee. This committee could advise the governing body on employment issues and ensure that the governing body has determined an appropriate framework within which to exercise its employment responsibilities. It might be useful to include a governor with personnel expertise on this committee.

The governing body has a more direct responsibility for senior postholders and the clerk. The governing body determines which staff are senior postholders, directly appoints them and the clerk, and determines their pay and conditions (see Section 3). Where the person employed as the clerk is also an employee of the college, the governing body is responsible for the pay and conditions of **both** aspects of that person's job.

The governing body is responsible for setting the framework for the pay and conditions of service of all employed staff, excluding senior postholders and the clerk. Governing bodies should keep up to date with staffing issues in line with this responsibility. Governors will, for example, determine the amount in the budget available for any increases in pay, whether pay increases should be linked to performance, and whether or not the college should employ agency staff for teaching or other duties. They may also need to receive information on their college's staffing profile, including the proportions of full-time and part-time staff and the number of permanent, temporary and agency staff, as well as data on the gender and ethnic balance of staff and staff turnover.

One issue of growing strategic significance for governors is the age profile of staff. Nationally there is a high number of staff aged over 50 who will be retiring during the next few years. There may be difficulties in replacing them. Governors need to ensure that their college's strategic plans deal with the need to replace outgoing staff.

The governing body may wish to monitor the recruitment policies of the college to ensure that there is an appropriate balance of staff reflecting gender, ethnicity, disability and age profile.

As an employer, the governing body must meet all legal requirements related to national insurance and PAYE, health and safety at work, human rights, equal opportunities, race relations, data protection and the disclosure of criminal convictions. It also has a duty, unique to academic institutions, to ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without jeopardising their employment.

Equal opportunities policy is of rising importance as an issue for governing bodies. This is reflected in the fact that many local Learning and Skills Council (LSC) committees have appointed diversity/equality managers or even published equal opportunities strategy documents. In addition, the new college inspecting bodies, the Office for Standards in Education (OFSTED) and the Adult Learning Inspectorate (ALI), are increasingly focusing on equal opportunities issues in their inspection reports.

Some colleges enter into contracts with specialist agencies to supply teaching or administrative staff, or to cover for staff absences. Colleges may contract out some of their services such as catering, cleaning or security. In all these examples, staff will be directly employed by the agency or contractor or be self-employed. The governing body will need to ensure that agencies and contractors fulfil their employer responsibilities.

Getting specialist advice

Employment legislation is highly complex. To avoid becoming involved in time-consuming and costly litigation, the governing body needs to ensure that there is an appropriate and clear framework for the pay and conditions of staff and that procedures are in place for the employment of teaching and teaching support staff. The governing body should ensure that their college has clear and sound employment policies and procedures, that an effective human resources/personnel service is in place, and that specialist legal advice is used in drawing up procedures and in dealing with employment matters that might arise.

The responsibilities of the governing body as employers derive from common law, laws passed by Parliament and European law. The law is regularly changing and the governing body needs to ensure that the college's procedures and employment practices are constantly revised and kept up to date.

Some governors may have a background in human resources/personnel. This experience and expertise might be helpful to the principal in dealing with personnel matters. A governor's expertise should only be used in an advisory sense and in response to a request from the principal. It is not appropriate for a governor with human resources/personnel expertise to become directly involved in managing employment matters within the college. (See *Module 1 Introduction*, Section 7 'The relationship between the governing body and senior management team'.)

Activity Employment of staff

1 Identify the number of staff employed directly by your college. You can get this information from your college's annual report or from information kept by your college's human resources/personnel manager. If you have difficulty in obtaining this information, ask your clerk. Classify staff as follows:

- full-time
- part-time
- academic
- academic support staff
- other.

How many people working in the college are employees of another agency or contractor?

- 2 Find out the amount spent on employed staff and the proportion of your college's overall budget spent on employed staff. How much is spent on staff employed by agencies or contractors?
- 3 What is the annual turnover of staff in the college in the course of a year? In which category of employment is turnover the highest? What might be the reason for this?

Viewpoint

- 1 Every college has a different profile of staff, depending on the nature of the college, the type of courses offered and the overall services provided. You may find that some staff do not fall easily into the above categories. These might include skills tutors, trainers, instructors, workshop advisers and learning advisers. If these exist in your college, it may be useful to find out what is covered by these job titles. The type of staff employed may give an indication of the way in which the college operates. The college may have contracted out some of its services such as cleaning or catering.
- 2 The proportion of the college's budget spent on staff will vary between colleges, depending on the nature of the college's provision and its employment policies. The governing body will wish to ensure high standards in staff working for the college, whether or not they are employed by the governing body. Agencies and contractors need to follow appropriate employment legislation. The governing

body has a duty to comply with health and safety regulations to ensure that the college is a safe place to work, study and visit.

- 3 While it is useful to have some stability in the workforce, a small annual turnover of staff helps to ensure that new blood comes into the college. A high turnover might be an indicator of problems in the college or the result of governing body supported reforms. Very low turnover for a number of years might point to potential difficulties in the college introducing change or responding to new ideas. Some colleges have set a target for staff turnover.

Section 2 Terms and conditions of employment

Each member of staff serves under a contract of employment with the governing body. The governing body should agree, after consultation with trade unions, staff associations or other bodies representing staff, a comprehensive set of policies and procedures on issues affecting the employment of staff. Some of these are set out below.

Checklist: employment policies and procedures

- a framework for pay and conditions
- a staff code of conduct
- recruitment and appointment procedures
- procedures for suspension, discipline and dismissal of staff, including arrangements for hearing appeals and redundancy
- staff grievance procedures
- code of practice on whistleblowing
- procedures for dealing with racial and sexual harassment and bullying complaints
- equal opportunity in employment policy
- policy on maternity leave
- arrangements for consultation with trade unions and associations representing staff
- a system for regular communications with staff on employment issues
- a data protection policy
- arrangements for an effective human resources/personnel service
- a health and safety policy
- policies for email and internet
- arrangements for induction, probation and professional development of staff
- an appraisal system.

Activity Review one of your employment policies or procedures

Ask the clerk, the principal, or the college's human resources/personnel manager for a copy of one of the policies or procedures in the checklist on page 8 that you would like to know more about. Look through it carefully. When was it last reviewed? What part did the governing body play in this review?

Viewpoint

The governing body needs to ensure that employment policies and procedures are in place and that they are regularly reviewed. If the document you ask for is not available, is difficult to understand or has not been reviewed recently, you may wish to raise the matter with the chair, clerk or principal.

Pay

Governing bodies have a duty to ensure that the payment systems in use are fair and comply with relevant legislation. For the purposes of pay, staff are grouped as follows:

- lecturing staff
- management spine staff (in some colleges)
- business support staff
- manual workers (sometimes assimilated into the business support staff group).

The titles of these groups may differ between colleges.

In setting the framework for the pay of staff, the governing body decides, usually annually, whether there are sufficient funds available for any increases in staff pay. It may also set out terms for allocating any increase – for example, by linking it to individual performance. The governing body can accept or adapt advice on an annual pay increase, following annual national negotiations between the Association of Colleges (AoC) (on behalf of further education (FE) colleges), the Sixth Form Colleges Employers Forum (SFCEF) (on behalf of sixth-form colleges) and recognised trade unions. This is advice only – governing bodies are under no statutory obligation to accept recommendations arising from such negotiations. The governing body must always ensure that the college has sufficient funds to cover any increases in pay.

The government has allocated additional funding for teachers under the Teaching Pay Initiative (TPI) over a three-year period from 2001/02 to 2003/4. This money is allocated *pro rata* to colleges which have to submit a scheme to their local LSC for approval. This funding is on top of the college's normal budget. Under the TPI, any increase in an individual teacher's pay must be linked to performance. This might include rewards for obtaining appropriate qualifications, for continuous professional development and for delivering high quality teaching and learning. The schemes for FE college and sixth-form colleges are slightly different but both are performance-related.

Activity Your college's performance-related scheme for teachers

Find out about your college's scheme for rewarding teachers under the TPI. What are the key elements of the scheme? How much money was allocated to your college? What involvement did the governing body have in agreeing the scheme?

Viewpoint

The LSC should have made an allocation to your college based on the number of full- and part-time staff. Schemes vary from college to college. In some, special posts with enhanced salaries have been created for excellent teachers. In others, the focus is on rewarding a commitment to continuing professional development or on recognising qualifications. Whatever the details of the scheme adopted by your college, you should have tried to find out how many teachers have been rewarded and what the criteria are for determining the level of pay increase for individual teachers. You may also have found out how the scheme is being evaluated in your college and how information is reported back to the governing body.

Recruitment and selection

Although the principal is responsible for day-to-day employment issues and for appointing staff, other than senior postholders and the clerk (see Section 1), governing bodies need to ensure that recruitment procedures are robust and fair. The governing body needs to be able to demonstrate, if necessary, that all appointments are made on merit and do not discriminate on grounds of race, sex, age or disability. Promoting equal opportunities and regular monitoring of college equal opportunities policies are a major responsibility of the governing body. For example, the governing body may wish to receive reports on the gender, ethnicity, disability and age profile of staff at all levels in the college to demonstrate that the college is a fair employer. Job descriptions, person specifications and fully documented procedures for the recruitment and selection of staff are all tools which can help to demonstrate that the appointment process is objective and treats all applicants equally.

Health and safety

The governing body is normally the owner of college assets, including property and buildings. These may be extensive, with the college having multiple sites, or the college may have a single campus. In some colleges, buildings and land may be owned by a trust. As an employer, the governing body has a legal duty to ensure that the college is a healthy and safe place in which to work, study and visit. The governing body must have a written statement of their general policy on health and safety. This should be regularly reviewed to ensure it is kept up to date with changes in legislation. As an employer, the governing body has a direct responsibility for health and safety – failure to address risks and hazards can lead to accidents, litigation or prosecution. The governing body should make sure that it has adequate insurance protection in the event of being sued for any accidents on site.

Staff development

The continuing professional development of staff is crucial to the success of the college. The governing body should ensure that the college has a comprehensive professional development policy for all staff. This professional development policy should include an overall budget, often set at a percentage of the overall pay bill for the college.

As a first priority, planning for staff development should be linked to the strategic objectives of the colleges and be responsive to national and local imperatives. (For information about strategic objectives and the educational environment see *Module 2 Strategy and educational character*.) The governing body may also wish to consider training and development which goes beyond the direct needs of the organisation but which benefits individual staff or supports their career aspirations.

There is now a requirement for all full-time lecturers to have a recognised teacher training qualification. In addition, part-time lecturers are expected to undergo teacher training. These arrangements will be phased in. Colleges should ensure that arrangements are in place for supporting lecturers in this training and for drawing down funding. Of growing importance is the need to invest in the development of middle managers. The definition of a middle manager will vary from college to college. They are often academic or support staff who have management responsibilities for curriculum, functional or other areas of the college and, in the case of academic staff, may still have teaching responsibilities. These staff may benefit from development in managing staff and budgets and in recognising the differences between administration and management. Inspection reports always comment on the quality of leadership and management in each programme area. It is from these middle managers that future senior managers and principals will be recruited.

Staff development should be available to all members of staff, whatever their grade, category or employment status. It is important that staff development is regularly monitored and reviewed. There should be feedback from those undertaking staff development programmes so that learning is shared, and staff development should be evaluated regularly, both by the individuals concerned and by their line managers.

Staff development opportunities might include attendance at external conferences and seminars, in-house training programmes and mentoring (where experienced staff provide support for those taking on new responsibilities). Specific training might be provided on areas such as new technology and health and safety. Staff in curriculum areas should be updated on current curriculum developments. Some staff could be given the opportunity to undertake study for qualifications. Professional development on diversity issues (e.g. ensuring equal access and equal treatment for all students regardless of gender, race background, disability; measures to widen participation; staff responsibilities under anti-discrimination legislation) should be available to all staff. Governors should ensure that investment in staff development and training is given a high priority; after all, colleges are in the business of promoting learning and widening educational opportunities.

Your governing body's commitment to staff development might be underlined by the college applying for, or being recognised as having achieved, Investor in People (IiP) status. IiP is a much sought after accredited standard, achieved by institutions that can demonstrate their commitment to the development of their staff. The standard takes

account of the monitoring of the effectiveness of staff development, and the relationship of staff development to the achievement of the institution's business objectives.

Appraisal

Appraisal is a formal means of reviewing staff performance and planning future targets. Appraisal systems vary between colleges. Some are linked to pay, while others focus on the development needs of individuals. Your college's appraisal policy should set out aims and objectives; who should conduct appraisal interviews, how often and when they should take place; and whether appraisal includes observation of teaching. In most systems, the appraisal interview will enable the appraiser (normally the line manager of the person appraised) to provide feedback to the individual on past performance, identify appropriate training opportunities, and set objectives and targets for the future, in line with the college's strategic direction.

The governing body needs to ensure that the appraisal system is in place and may find it useful to receive occasional reports reviewing its effectiveness.

For more information about the development and appraisal of senior postholders see Section 3.

Activity Find out more about development and appraisal arrangements

- 1 Find out your college's policies for developing and appraising staff – get a copy of the relevant document(s). What are the key elements of development and appraisal policies? How do these relate to the college's strategic plan?
- 2 What is the budget for these activities and how is it decided? When was the last review?

Viewpoint

- 1 Key elements of a staff development policy vary from college to college. The policy should make clear how staff development is linked to the strategic plan and may make reference to different categories of staff such as teachers, middle managers and support staff. Your college's appraisal system will be available from your clerk or human resources/personnel manager. You may wish to explore whether all staff – including part-time staff – are included in appraisal and what steps are taken to ensure the quality of those not included. For example, if your college makes use of agency staff for teaching, how is their performance monitored and what arrangements are in place for their professional development? You may also wish to check whether observation of teaching is included in appraisal and what steps are taken to develop staff where room for improvement is identified.
- 2 You may find it helpful to ask your clerk whether the staff development budget is set at a percentage of the overall pay bill or, if not, what other criteria are used. The annual amount spent on staff development may be a proportion of the college's pay bill or of total expenditure. It may reflect current college priorities such as the implementation of Curriculum 2000 (see *Module 3 Curriculum*, Section 3 'Curriculum initiatives for 16–19 year olds').

Keeping up to date

Governors may wish to be kept up to date with important recent legislation affecting the employment of staff. This legislation is often complex and the governing body should expect the college to have proper procedures for dealing with human resources/personnel matters. Some governing bodies have set up committees or working groups to cover employment policy matters. Short briefings on recent legislation and court rulings on employment issues could be provided to the governing body by the college human resources/personnel team or college solicitors.

If you are concerned that the terms and conditions of employment do not reflect good practice, you should raise the matter with the chair or clerk. You might wish to suggest that the procedures are reviewed by specialists in employment law.

Section 3 The governing body and senior postholders

The governing body determines who are senior postholders. Both the number of senior postholders and the basis for selecting them varies from one college to another. The college principal is always a senior postholder and in some small colleges is the only one. In a typical college, the governing body might decide to have between three and five senior postholders. Members of the college senior management team are not necessarily designated senior postholders.

The governing body is directly involved in the appointment, appraisal and determination of pay and conditions of senior postholders. However, the day-to-day management of senior postholders is delegated by the governing body to the principal.

Activity Senior postholders

- 1 Which staff in your college have been designated senior postholders? (You can find out from the clerk, chair or principal.)
- 2 Identify at least two ways in which your relationship with senior postholders is different from that with other staff in your college.

Viewpoint

- 1 The decision as to who are senior postholders should be set out in a minute of a governing body meeting. You may find it helpful to find out why the governing body designated certain senior managers as senior postholders and not others. The decision may be based on the size of the college, the type of provision, the importance of certain roles, or it may simply be the result of custom.
- 2 Your relationship with senior postholders differs from that with other staff in that governors directly determine their pay and conditions, and have responsibility for their appointment and dismissal. You are likely to see much more of them than other staff because they will often deal with matters that are the direct responsibility of governors, will attend governing body and committee meetings and may draft papers for those meetings.

Deciding pay and conditions

Pay and conditions of senior postholders are sometimes agreed by a remuneration committee, set up to advise the governing body on the appropriate action. The governing body will need to ensure that decisions on pay and conditions are fair, reflect equal opportunities, and are based on individual and college performance. Some governing bodies award senior postholders on the basis of individual performance and treat each individual differently. Others link their pay to that of the principal, or consider the performance of senior postholders as a team and make no distinction between individuals.

Activity Pay and conditions of senior postholders

- 1 What criteria does your governing body use to determine any pay increase for the principal on an annual basis?
- 2 Identify three ways of monitoring the performance of senior postholders.

Viewpoint

- 1 Governing bodies differ widely in how they determine any pay increase for the principal and senior postholders, so we will comment here in general terms. Typically, the performance of the principal is linked to the achievement of the college's targets, normally set out in the strategic plan and annual operating statement. The governors may wish to highlight some key targets against which the overall performance of the principal will be assessed. These may be targets, set annually, measuring financial performance, (such as the college achieving a surplus and growth in income), and academic performance, (as measured by student enrolment, retention and achievement).
- 2 In some colleges, the pay of senior postholders is linked to that of the principal on the grounds that the success of the college is as much due to the collective team approach of the senior postholders as to any one individual. In other colleges, separate pay is established for each senior postholder based on individual performance related to agreed targets. The performance of senior postholders is normally linked to the college's overall performance, which will be monitored throughout the year. An individual senior postholder's performance may be linked to their specific responsibility. Those with financial responsibilities may be judged in a different way from those responsible for the development of the curriculum.

Appointing senior postholders

In filling a vacancy for a senior postholder, the governing body has to advertise the post nationally and appoint a selection panel comprising at least three governors and the principal. In the case of a vacancy for the principal, the selection panel has to include at least five governors (including the chair and/or vice-chair). The selection panel determines the arrangements for selecting applicants for interview, interviews selected candidates and, assuming they are able to do so, makes a recommendation to the governing body on who should be appointed.

Activity Appointing a principal

The principal announces that he/she has been appointed as principal of a larger college. What steps might you take to agree a selection process for a new principal, including advertisement, interview and selection and the drawing up of a contract?

Viewpoint

In appointing a principal, the governing body can choose to handle the whole process itself or bring in an external recruitment consultant to handle some of the detail. It will appoint a selection panel comprising at least five governors (including the chair and/or vice-chair). The selection panel may wish to call on external expertise (such as a principal from another college). The outgoing principal as a governor is not excluded from serving on the selection panel. Some governing bodies prefer to have advice from the outgoing principal whereas others exclude the outgoing principal entirely from the selection process.

Whatever expertise and support is sought or received, the decision as to who to recommend to the governing body rests with the selection panel. However, the appointment cannot actually be made until it has the formal approval of the full governing body. It is important to note that the governing body cannot delegate the appointment of a senior postholder (including the principal) or the clerk.

In drawing up a contract, the governing body may need to take advice from the college's solicitors and its human resources/personnel department and leave the chair to carry out detailed negotiations with the newly appointed principal. The contract may be for a fixed term, a renewable fixed term or permanent.

The new principal's salary may be linked to the size and type of college, the geographical area in which the college is situated, his or her previous salary (and the salary of the outgoing principal) and the college's ability to pay. Governors of FE colleges may find it useful to refer to the AoC's *Annual Survey of Remuneration of Middle Managers and Senior Postholders*.

Ensuring the development of senior postholders

An important but often understated role of the governing body is to ensure the training and development of senior postholders. After September 2002 it is likely that newly-appointed principals will be required to have an appropriate qualification. Programmes for achievement of a professional qualification, induction programmes and continuing professional development for principals are likely to be put in place. The LSC is currently funding an ambitious training programme for existing and aspiring principals. The governing body should ensure that there is a clear policy for the training and development of senior postholders who need to be kept up to date with latest developments in post-16 education and training, and in management, and be able to develop their skills. Governors may also need to consider the career aspirations of senior postholders and be willing to support attendance at external conferences and events. The governing body is not required to approve attendance of senior postholders at training events. However, it is useful for the governing body to agree an overall policy and a possible budget.

Appraisal of senior postholders

The governing body will need to ensure that there is a fair and robust system for appraising senior postholders. The appraisal of senior postholders normally fits in with the overall appraisal system for college staff (see Section 2). Appraisal not directly related to pay is usually conducted by the principal.

Activity Development of senior postholders

Read the case study below and answer the question that follows.

A number of significant changes are affecting the college, including a proposed merger, a major building project and a management restructuring. Senior postholders, led by the principal and working with the governing body, have been critically involved in these initiatives by taking forward the merger proposals, selling one site and investing in another and by agreeing on the need to reorganise the overall management of the college. This has highlighted a gap/need for development.

How best could you ensure that senior postholders invest time in their own training and development?

Viewpoint

Your governing body will want to ensure that the college invests in the development of its senior postholders. Such a policy may be carried out within the overall framework of the college's staff development policy. It may be a good idea to treat senior postholders separately within such a policy. In the case of a college merger, a major building project or a management restructuring, it is helpful to encourage senior postholders to take part in development opportunities, such as visiting colleges which have recently merged or which have successfully overseen important building projects or where there has been a successful management reorganisation. There should be a feedback mechanism to ensure that what has been learnt can be applied to your college.

The governing body should ensure that the college is adequately covered during periods of absence for training. The principal and senior management team should make arrangements for this cover, but the governing body has final responsibility for monitoring the absence of the principal.

Section 4 Relationships with trade unions and associations

Within most colleges, there are a number of trade unions and associations representing the interests of teaching staff, support staff and manual staff. Not all staff are members of trade unions or associations. The governing body should ensure that arrangements are in place for an effective dialogue with the trade unions and for consultation on issues likely to affect staff. The governing body has the power to recognise appropriate trade unions and associations but is not expected to have day-to-day dealings with the trade unions. That is the role of management. Negotiations with trade unions and other staff representatives take place within the framework set by the governing body. It is the responsibility of the principal and senior postholders to conduct these face-to-face negotiations.

Activity Working with trade unions

- 1 Find out from your clerk, principal or human resources/personnel manager which trade unions or associations are recognised in your college.
- 2 Read the case study and answer the question that follows.

You are approached by a trade union representative, who informs you that there are serious problems with staff morale because pay has been frozen and workloads increased. The representative explains that repeated attempts to raise the issue with senior managers have got nowhere, and asks you to raise this issue at the next meeting of the governing body. What do you do?

Viewpoint

- 1 As an employer you should know which trade unions and staff associations your governing body has recognised. You may obtain this information by asking the clerk, chair or principal. There should be a minute of the governing body recording the decision.
- 2 If you are approached directly by a trade union representative, an appropriate course of action would be to report the matter to the college principal. It is the principal who is responsible for day-to-day negotiations with staff representatives. If you are approached because the principal's handling of an issue is causing concern, you should raise this matter with the chair. Governors should recognise the complexity of managing large and diverse institutions and the fact that not all management decisions are likely to be welcomed by all staff. Governors must avoid being used as a receptacle for special pleading, while recognising that there may be genuine concerns which need to be considered by the governing body. The governing body might, however, find it useful for the principal to organise occasional staff attitude surveys as part of overall employment policies. Many colleges also monitor staff absence – a good indicator of staff morale.

The college procedures for dealing with trade unions should set out how issues are to be dealt with using the consultative and negotiating machinery. You need to be familiar with this framework so that you can explain to a member of staff who

approaches you directly why you have taken a particular course of action. This information can be obtained from the clerk.

Section 5 Disciplinary and grievance procedures

This section explains the role of the governing body in disciplinary and grievance procedures. The governing body is responsible for ensuring that these procedures are drawn up and comply with relevant legislation and that they are fair and reflect good practice. Within this framework the governing body is directly responsible for dealing with senior postholders, while the principal has overall responsibility for all other staff.

The procedures for the suspension of staff are complex. It is crucial that the college is seen to act with probity and fairness. If the procedures fall short or a case is mishandled, the college runs the risk of high financial penalties from an employment tribunal as well as unwelcome bad publicity. The governing body, for example, should make sure that staff are consulted about the procedures. The governing body should be informed that a suspension has taken place but make sure that receiving information about the case does not prejudice their involvement in a possible appeal. Governors should seek appropriate professional advice whenever there is any doubt about a decision that is their direct responsibility (such as the suspension of a senior postholder) and they should ensure that such advice is available in sensitive human resources/personnel decisions delegated to the principal.

Suspension

The governing body is responsible for ensuring that rules on the conduct of staff and procedures for suspension, including the right of appeal, are in place. The chair or vice-chair may suspend a senior postholder or the clerk from duty, with or without pay, for misconduct or other appropriate reasons. This action must be reported in writing to the governing body and to the LSC within two days, and to the individual concerned, setting out reasons. The principal has the power to suspend, with or without pay, all other staff, but can choose to delegate this power to other senior managers. The person concerned must receive written notification, setting out the reasons for the suspension. The decision to suspend without pay cannot override what is set out in an employee's contract of employment.

Dismissal

The governing body cannot directly dismiss a senior postholder or the clerk unless it has followed certain procedures. This decision must be referred to a special committee, normally convened by the clerk (unless the clerk's dismissal is being considered). The special committee should follow procedures drawn up by the governing body. The special committee must consist of at least three members of the governing body, excluding the chair, vice-chair, principal and staff and student members. The senior postholder or clerk can make representations to the special committee and be accompanied and represented by a friend. After hearing

representations, the special committee makes recommendations on the dismissal to the governing body. The individual has the right to make representations to the full governing body with regard to the recommendations of the special committee – in effect an appeal – with members of the special committee excluded from voting. In some circumstances, the governing body does not have to refer the dismissal of the clerk to the special committee.

The principal may dismiss any other member of staff. The person has the right of appeal against dismissal to the governing body. The principal may delegate the decision to dismiss to another senior postholder. If this is so, the governing body may delegate to the principal the power to hear appeals from staff; if not, the governing body must hear the appeal. It is important that the governing body is informed about any suspension or dismissal of staff and if there are any likely financial consequences or adverse publicity. This information must be presented in a way that will not influence governors in the event of their being invited to serve on an appeals panel.

Grievance

After consultation with staff, the governing body must put in place procedures to deal with staff grievances, for example grievances relating to the working environment, terms and conditions of employment or workplace relations. Where appropriate, governors should take advice – for example, from the college's solicitors or the college's human resources/personnel manager. Staff have the right to raise a grievance about a matter concerning their employment such as failure to gain promotion or alleged unfairness. The governing body will have a separate procedure for senior postholders. Depending on the procedure, governors may be involved at the appeal stage. Governing bodies should take professional advice from the college's solicitors wherever there is any doubt about how to deal with a grievance procedure directly affecting them. The procedure should set out steps to be taken if the grievance is against the principal or other senior postholder.

Activity Suspensions, dismissals and grievance

Get hold of a copy of your college's disciplinary and grievance procedures or talk to the clerk, principal or human resources/personnel manager to find answers to the following questions.

- 1 What might be acceptable grounds for suspending a senior postholder?
- 2 Which governors are allowed to serve on the special committee considering the dismissal of a senior postholder?
- 3 A member of staff approaches you as an individual governor to complain about not being treated fairly in an internal appointment. What do you do?

Viewpoint

- 1 The governing body is bound to follow the guidelines set out in the college's disciplinary procedure. These should set out examples of the type of conduct that might make a senior postholder liable to suspension or dismissal. Examples might include wilfully withholding important information from the governing body, suspected fraud or failure to carry out the duties of the post.

- 2 A special committee may comprise governors from business, the local authority and the local community, as well as those who have been co-opted, as long as none are chair or vice-chair. The members of the special committee cannot participate in that part of the governing body meeting which considers the special committee's recommendation. The governing body should agree a procedure and terms of reference for the special committee, to avoid difficulties should the possible dismissal of a senior postholder or the clerk arise.
- 3 If a member of staff complains to you as an individual governor that he/she is being treated unfairly, it is important that the 'complaint' is handled through the agreed procedures. It would not be appropriate for an individual governor to take up the case of an individual member of staff.

Activity Hearing appeals

Read the case study below and answer the question that follows.

The principal has, after following agreed procedures, dismissed a teacher for poor performance, based on continued low levels of retention and achievement of students. The teacher appeals to the governing body against this dismissal.

How should the governing body respond to this appeal?

Viewpoint

If any member of staff appeals against their dismissal to the governing body, there are rules as to how the governing body conducts this business. These must be followed and appropriate legal advice sought. Note that, in this case, the principal was involved in the decision to dismiss the member of staff, so could not be involved in the appeal. If the principal had not been involved in the dismissal, the governing body could delegate the appeal process to him or her.

What governors can do

It is important for governors to ensure that procedures are up to date and fair. In any matter that is their direct responsibility and about which they have some doubt, they should always seek professional advice.

Module review

This module has looked at the role of the governing body as employer. If you have worked through the whole module you should now be confident that you can:

- outline the governing body's main legal responsibilities towards the staff it employs, and the responsibilities it delegates to the principal
- explain the role of governors in establishing and keeping under review the terms and conditions of employment for college staff
- state the difference between governors' responsibilities for senior postholders and for other staff
- outline the governing body's responsibilities for staff development and appraisal
- describe college industrial relations and how to deal with trade union representatives and officers
- explain the role of governors in disciplinary and grievance procedures.

If you are not sure that you have achieved a particular goal, look back at the contents list in the Introduction to the module. You may find it useful to reread the relevant section.

Summary of key learning points

The governing body is the employer of staff but the principal is responsible for their day-to-day management.

The governing body should make sure the college has in place sound and fair employment procedures, which are regularly reviewed and updated.

The governing body has direct employment responsibility for senior postholders and the clerk and also sets the framework for the pay and conditions of other staff.

The governing body has the power to recognise trade unions and staff associations.

Employment law is complex and evolving. The governing body needs to keep up to date (in broad terms) with new legislation affecting employers.

The governing body should ensure adequate arrangements for the professional development and appraisal of staff.

The governing body will need to be kept informed on progress in any dismissal or suspension of staff, without prejudicing their involvement in an appeal.

Whenever it is appropriate to do so, the governing body should seek professional advice on human resources/personnel matters that are their direct responsibility.

Where next?

You have now completed work on *Module 6 Human resources*. If there are areas in which you need more guidance or information, they may be covered in other modules. Turn to the section 'Check your current knowledge and skills' in *Using the materials*. This self-assessment questionnaire will help you to decide which modules or sections of modules may help to fill these gaps. Tick the useful sections for further study.

If you cannot find the information you need within these materials, turn to the 'Action planner' in *Using the Materials*. Note down what further information, support or guidance you would like. The 'Action planner' gives advice on who may be able to help, and how.

Putting it into action

We hope that working through this module has raised useful questions, increased your awareness of issues and given you ideas for practical action that you would like to follow up. The 'Action planner' in *Using the Materials* contains a section where you can note down any questions or action points that you want to follow up within your own college.