



Further Education College Clerk Development and Training Programme Resource Pack

Module 3: The Main Statutory Framework

Executive summary

The **purpose** of this module is to provide essential information about the legislative environment in which the college operates. A governing body of a large organisation responsible for spending several million pounds of public money, for employing several hundred people, for significant public facilities and resources, for the education and training of several thousand students, and for the safeguarding of young people and vulnerable adults operates within a wide range of legal requirements. Some of the legal issues covered here are extremely complex. However, it is not an exhaustive guide and nor is it a substitute for appropriate legal advice.

Section 1 provides an overview of the statutory and legal framework, including an introduction to the Further and Higher Education Act 1992 and subsequent Acts covering the powers and duties of colleges.

Section 2 explains legal structures and legal personalities, including statutory governing bodies, companies and charitable incorporated organisations which have a legal identity distinct from the identities of the governors or members.

Section 3 explains how all colleges, whatever their legal status, are charities.

Section 4 lists all the relevant acts in education law since 1992, with details of changes from the Education Act 2011.

Section 5 sets out the powers of further education governing bodies, and explains the principle of ultra vires (acting outside its powers).

Section 6 explains Instrument and Articles, and how they set out the governing body's composition and procedures and its internal powers, responsibilities and duties.

Section 7 describes the upward lines of accountability to which all colleges are subject. It includes a note on personal liability of governors.

Section 8 explains how the student contract is fundamental to the relationship between the college and its students. It includes issues of complaints, student discipline and the student union.

Section 9 provides information on what the college must ensure it has in place to fulfil its responsibilities in relation to safeguarding, and includes a checklist for best practice.

Section 10 explains the legislative requirements in relation to information and communication, which are at the core of college business in the 21st century.

Section 11 signposts some specific parts of the legal framework that impinge on the college and which are covered in other modules.

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