

What are the ESCG's Legal Requirements & Statutory Duties?

1. Equality & Diversity - [equality-act-2010-guidance](#)

Colleges have a responsibility to provide all sections of the community that they serve, with equality of access and opportunity and the Board's oversight requires it to be assured that all, be they staff, students, members of the public or visitors, are treated with dignity and respect regardless of age, disability, race, sex, religion or belief, gender reassignment or social background. The Board must meet and should aim to exceed its statutory responsibilities for equality and diversity through its own actions and behaviour in all aspects of its affairs. The Board must promote equality and diversity throughout the other nine principal responsibilities.

[Equality and Diversity on college Boards](#), is proven to be a key factor of good governance. It is important that the Board reports fully on its actions on equality and diversity in the operation of governance. The annual governance report should include a description of its policy, including any measurable objectives, and should outline progress on implementation.

2. Financial Memorandum/Financial Planning/Funding Agreement

[college-financial-planning-handbook-2019-financial-planning-requirements-for-sixth-form-and-further-education-colleges](#) and [ESFA Agreement-Colleges-16to19.pdf](#)

The ESFA publishes the college financial planning handbook on behalf of the Secretary of State for Education, in his role as principal regulator of college corporations as exempt charities. Compliance with this handbook is a requirement in corporations' funding agreements with ESFA. The executive should share the completed financial planning checklist with the Board to provide assurance that they have considered relevant matters.

3. Gender Pay Gap [guidance/gender-pay-gap-reporting-overview](#)

Colleges with more than 250 staff are required to publish key data related to gender pay as stipulated in The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017. This should be reported to the Board annually. The gender pay gap is the difference between the average earnings of men and women, expressed relative to men's earnings. For example, 'women earn 15% less than men per hour'. Governors need to assure themselves that information is being correctly collated, and make sure the information is published in full, by the deadline each year.

4. General Data Protection Regulations

[ICO guide-to-the-general-data-protection-regulation-gdpr](#)

Colleges hold a wide variety of personal data, mainly about staff and students, but also governors. Privacy notices should be produced for governors, along with the necessary permissions, for sharing of personal data. Scrutiny of this responsibility will be undertaken by the college's Audit, Risk and Compliance Committee and duly reported to the Board, usually on an annual basis.

5. Health & Safety

www.hse.gov.uk

The responsibility for Health & Safety lies with the Board, although of course it may delegate the operational management of such to senior managers. The Board's responsibility is not only to its employees, but also anyone else on the college premises. Regular reports on slips, trips and near misses should be received regularly by the Board.

6. Safeguarding & Prevent

[publications/keeping-children-safe-in-education--2](#)
[publications/prevent-and-counter-extremism-in-general-further-education-colleges](#)
[publications/prevent-duty-guidance](#)

Governors are required to undertake safeguarding training themselves and the governing board, in accordance with the KCSIE part 2), appoint a senior Board level (or equivalent) lead to take leadership responsibility for oversight of the college's safeguarding arrangements.

7. Staffing

The Board has a duty of care for the CEO, and as their employer, responsibility for the welfare of their employees. Ofsted's expectation of those involved in Leadership and Management, is that they consider the workload and well-being of their staff, while also developing and strengthening the quality of the workforce. Oversight of the HR strategy and regular reporting on such, should be part of the Board's Cycle of Business.

The Instruments & Articles of Government state that responsibilities of the Board include:

- The appointment, grading, suspension, dismissal and determination of the pay and conditions of service of the holders of senior posts and the Clerk, including, where the Clerk is, or is to be appointed as, a member of staff, the Clerk's appointment, grading, suspension, dismissal and determination of pay in the capacity of a member of staff; and
- Setting a framework for the pay and conditions of service of all other staff

The board must determine the pay and conditions of service of the Principal, other senior post holders and the clerk and may establish a Remuneration committee to

advise the board. Remuneration decisions should be informed by bench marking data and by a recent performance appraisal.

8. Trustee Responsibilities

A member of the board is a governor and a charity trustee. Governors have six main duties under charity law: [Trustee duties](#).

9. Whistleblowing

[publications/the-public-interest-disclosure-act/the-public-interest-disclosure-act-guidance/how-esfa-handles-whistleblowing-disclosures](#)

The law seeks to protect workers who, out of a sense of public duty, reveal serious wrongdoings in the workplace ('whistleblowers'). It is prudent for Colleges to implement a whistleblowing policy and procedure to positively encourage workers to make disclosures internally. Incidents of whistleblowing should be reported to the Board at least annually.