James Watt College
Report to the Board and the Auditor General for Scotland

Year ended 31 July 2008

BDO Stoy Hayward

BDO Stoy Hayward

1 Executive Summary

Introduction

- The purpose of this report is to highlight and explain key issues arising from our audit of the financial statements of James Watt College ('the College') for the year ended 31st July 2008.
- The matters raised in this report, are only those which have come to our attention arising from or relevant to our work that we believe need to be brought to your attention. Our audit work is designed to enable us to form an audit opinion on the financial statements of the College and it should not be relied upon to disclose all irregularities that may exist nor to disclose errors that are not material in relation to the financial statements.
- This report has been prepared solely for the use by the Board of Management of James Watt College and the Auditor General for Scotland.
- We have completed our audit work in respect of the financial statements for the year ended 31 July 2008 and will be issuing an unqualified audit opinion for the year.

Scope of Work

- The accounting rules and regulations applied to Further Education Colleges are specifically laid out in various documents as discussed in section 3 of this report. We can confirm that the College is in compliance with the regulations and disclosures required to be made in the financial statements in respect of these documents.

Corporate Governance Arrangements

- The corporate governance statement within the College's financial statements states that the College has been fully compliant with guidance on corporate governance for the year ended 31 July 2008. We identified no issues of concern in relation to fraud and irregularity nor did we identify any major errors or weaknesses during our audit. In general the College's systems of internal control appear to be adequate.

Compliance with Scottish Funding Council ('SFC') Accounts Direction

- We can confirm in preparing the financial statements the College has complied with the Accounts Direction for Scotland's colleges and universities issued under circular SFC/35/2008.

Conclusion

- The audit of James Watt College was performed in accordance with relevant legal and regulatory requirements and with International Standards on Auditing (UK and Ireland) as required by the Code of Audit Practice approved by the Auditor General for Scotland. This report has been issued to College management and will be considered by the Audit Committee.

Acknowledgement

- The 2007/08 audit process brought us into contact with a number of staff within the College. We wish to place on record our appreciation of the co-operation extended to us by those personnel.

2 Introduction

Purpose of Report

- This report has been prepared in connection with our audit of the financial statements of the College for the year ended 31 July 2008. This report summarises the principal matters that have come to our attention during the course of the audit.

- The contents of the report should not be taken as reflecting the view of BDO Stoy Hayward LLP except where explicitly stated as being so. To a certain extent, the content of this report comprises general information which has been provided by, or is based on discussions with, the management of the College. Except to the extent necessary for the purposes of the audit, this information has not been independently verified.

- One of the purposes of this report is to record features of the year's activities, the way they are treated in the financial statements and the comments thereon provided to audit staff by the College's staff.

Audit Bodies

- The Auditor General, a royal appointment on the nomination of the Scottish Parliament, plays a key role in holding the Scottish public spending bodies to account for the proper, efficient and effective use of public money.

- Audit Scotland is an independent statutory body which was set up in April 2000 to provide assistance and support to the Accounts Commission and to the Auditor General for Scotland in the exercise of their respective functions. The Auditor General is responsible for securing the audit of the Scottish Executive, Further Education Colleges and other public bodies.

- BDO Stoy Hayward LLP was appointed by Audit Scotland as external auditor to James Watt College for 5 years covering the financial years 2006/07 to 2010/11. This report summarises our audit work for 2007/08 and details how the requirements of the Statement of Responsibilities and the Code of Audit Practice have been met by the College and by BDO Stoy Hayward LLP

College Responsibilities

- The College is publicly accountable for the conduct of business and the stewardship of funds under its control. The College's Board of Management is therefore responsible for:

  - establishing adequate corporate governance procedures;
  - ensuring funds from the SFC are used only for the purposes for which they have been given and in accordance with the Financial Memorandum with the SFC and any other conditions which the SFC may from time to time prescribe;
  - ensuring that there are appropriate financial and management controls in place to safeguard public funds and funds from other sources;
  - safeguarding the assets of the College and taking reasonable steps to prevent and detect fraud and other irregularities;
  - securing the economical, efficient and effective management of the College's resources and expenditure;
  - maintaining proper accounting records and preparing financial statements which give a true and fair view of the financial position of the College at the year-end and its income and expenditure for the year.

Auditors' Responsibilities and Approach

- We are required to report to the Board of Management of the College and to the Auditor General for Scotland on the financial statements of the College. Our responsibilities are to:

    - provide an opinion, to the extent required by the relevant authorities, on the financial statements of the College and the regularity of transactions in accordance with standards and guidance issued by the Auditing Practices Board.

    - review and report on the requirements of Audit Scotland's Code of Audit Practice (March 2007), regarding the College's corporate governance arrangements relating to:

        - the College's review of its systems of internal control

        - the prevention and detection of fraud and irregularity

        - standards of conduct, and prevention and detection of corruption

        - its financial position.

    - obtain an understanding of the accounting and internal control systems in place in the College sufficient to allow the audit to be planned and an effective audit approach developed.

- Our audit work is designed to enable us to form an audit opinion on the financial statements of the College and it should not be relied upon to disclose all irregularities that may exist nor to disclose errors that are not material in relation to the financial statements.

3 Scope of Work

- We took reasonable steps to plan and carry out the audit to ensure that the above responsibilities were met and that we complied with the requirements of Audit Scotland's Code of Audit Practice.

- In essence the scope of our work is similar to that applied to a limited company audit, however, the accounting rules and regulations applying to Further Education Colleges are specifically laid down in various documents as detailed below.

Financial Memorandum

- This memorandum sets out the terms and conditions under which the Scottish Funding Council will make payments to the Board of Management of Colleges of Further Education out of funds made available by the First Minister of Scotland. We can confirm the College fully complies with the terms and conditions of the memorandum.

Accounts Direction

- In preparing its annual accounts the College is required to comply with the directions of the Scottish Funding Council (SFC). The Accounts Direction is designed to ensure that disclosures in the financial statements of all colleges follow best practice. We can confirm the College's financial statements comply with the Accounts Direction.

Guidance on Audit

- Audit Scotland's Code of Audit Practice (March 2007) sets down Audit Scotland's requirements for both internal and external audits. In carrying out our audit work we are also required to comply with International Standards on Auditing (UK and Ireland) and to take cognisance of any relevant Practice Notes and other guidance and advice issued by the Auditing Practices Board. We also comply with relevant ethical standards and guidance issued or adopted by the relevant professional accountancy bodies and any supplementary guidance issued by Audit Scotland.

Statement of Recommended Practice (SORP)

- A revised SORP: Accounting for Further and Higher Education was published in July 2007 which was effective for all colleges in 2007/08. The key changes in the SORP which are relevant to the college are as follows:

    - The requirement for an operating and financial review which encompasses an overview of the college's finances and operations and takes account of good practice.

- We can confirm that the financial statements of the College are in general in compliance with the requirements of the 2007 SORP. The following areas, as laid out in the model financial statements, could be further enhanced, in terms of the operating and financial review, by the College during 2008/09:

    - Treasury policies and objectives;
    - Student achievements;
    - Curriculum developments;
    - Payment performance;
    - Resources;
    - Stakeholder relationships

- In addition to the key changes affecting the college the following areas are subject to new emphasis within the revised SORP which affect the college:

- Component accounting. This is an area which should be borne in mind by college management in the future in light of ongoing development options. College management should ensure future projects are split into constituent parts based on useful economic life and depreciated accordingly.

- The disclosure requirements in respect of *FRS 17 Retirement Benefits* have been amended. It now states that the Local Government Pension Scheme (LGPS) is a multi employer scheme where it is normally possible for individual employers as admitted bodies to identify their share of assets and liabilities. The SORP therefore considers these schemes should be accounted for as defined benefit schemes (provided that the assets and liabilities relating to colleges can be measured on a reliable and consistent basis) and that the exemption which allows accounting on a defined contribution basis is unlikely to apply. However, in the unlikely case that the exemption does apply, the SORP requires that, in addition to the defined contribution disclosures required by FRS 17, colleges should disclose:

  - the reason why sufficient information is not available to account for the scheme as a defined benefit scheme;

  - the fact that the scheme is a defined benefit scheme but the college is unable to identify its share of the underlying assets and liabilities;

  - any available information about the existence of the surplus or deficit in the scheme and the implications of that surplus or deficit for the college.

The college has taken the view that it is unable to identify its own share of the underlying assets and liabilities within the SPF scheme on a reliable and consistent basis. As there is no definitive guidance issued by the SFC, the college continues to account for contributions to both of its schemes as if they are defined contribution schemes.

4 Audit Findings

Preparation of Financial Statements

- The required working papers were ready for audit on 6 October 2008 as per the agreed timetable. The financial statements were made available on Wednesday 8 October 2008.

Audit Opinion

- We are satisfied that the financial statements of the College present a true and fair view of its financial position as at 31 July 2008. Following approval of the financial statements by the Board of Management on 17 December 2008 our audit report expresses unqualified opinions on (i) the financial statements of the College for the year ended 31 July 2008 and (ii) regularity.

Financial Commentary

- This section summaries the main financial features and key movements from the prior year.

Income and expenditure account

- The College made a surplus of £539,000, 1.44% of total income (2006/07: deficit of £919,000 and (2.47%)) in respect of the year ended 31 July 2008. The sector average for 2006/07 was 1.6%.

Income

- Total income increased by £197,000 (0.53%). The increase is primarily due to increases in investment income, other operating income and tuition fees and education contracts of £401,000, £370,000 and £363,000 respectively, against a fall in Scottish Funding Council grants of £911,000.
- The fall in SFC grant income in the year includes the cost to the college of the sale of WSUMs to four other FE colleges of £846,000 as well as grant in aid of £270,475 to be clawed back by the SFC in 2008/09.
- The table below summarises the main sources of income for 2007/08 and 2006/07.

	2007/08	**2006/07**	**2007/08**	**2006/07**
	£'000	**£'000**	**%**	**%**
Scottish Funding Council Grants	28,927	29,838	77%	80%
Tuition Fees and Education Contracts	4,102	3,739	11%	10%
Other grant income	1,838	1,864	5%	5%
Other operating income	1,868	1,498	5%	4%
Investment Income	600	199	2%	1%
Total Income	**37,335**	**37,138**	**100%**	**100%**

- A significant proportion of income is received from the Scottish Funding Council and the various sources of income remain relatively consistent with 2006/07. The college is more dependant on SFC Grants than other College's delivering over 80,000 WSUMs from review of the 2006/07 Scottish Funding Council performance indicators. Total Funding Council Grant income is normally in the region of 72%, based on the 2006/07 statistics for colleges in this category.

Expenditure

- Total expenditure decreased by £1,261,000 (3.3%) in comparison to 2006/07. The main movement was in relation to exceptional restructuring costs in the prior year of £1,200,000.

■ The table below summarises the main sources of expenditure for 2007/08 and 2006/07.

	2007/08	**2006/07**	**2007/08**	**2006/07**
	£'000	**£'000**	**%**	**%**
Staff costs	23,358	24,464	63%	64%
Other Operating Expenditure	11,289	10,483	31%	28%
Depreciation	1,496	2,304	4%	6%
Interest payable	653	806	2%	2%
Total Expenditure	**36,796**	**38,057**	**100%**	**100%**

Balance sheet

■ Net assets at 31 July 2008 are £13,573,000 (31 July 2007: £13,700,000)

■ The balance on the income and expenditure account carried forward as at 31 July 2008 is a deficit of £4,586,000 (31 July 2007: deficit of £5,690,000).

■ The balance on revaluation reserve carried forward as at 31 July 2008 is a surplus of £15,034,000 (31 July 2007: surplus £15,599,000).

■ The balance on deferred capital grants carried forward as at 31 July 2008 is £3,125,000 (31 July 2007: £3,791,000).

Cash Flow

■ During 2007/2008 the College experienced a net inflow of cash of £4,287,000 (2006/07: inflow of £6,909,000).

Financial Forecasting

■ The 2007-08 financial plan forecast a surplus of £219k. There were various movements on forecast as set out below. Fluctuations in income have been offset by a careful monitoring of costs.

Financial Forecasting

	2007/08
	£'000
2007-08 forecast outturn	219
Reduction in SFC grant income	(479)
Reduction in HN and FE Fee Income	(89)
Increase in education contracts	443
Increase in other income	289
Increase in investment income	50
Reduction in staff costs	76
Increase in other operating expenditure	(125)
Reduction in depreciation	100
Reduction in interest paid	55
2007/08 actual outturn at 31 July 2008	539

- The following table summarises the forecast income, expenditure and cash balances for the College for 2008/09.

	£'000
Income	37,949
Expenditure	37,672
Forecast surplus for the year ending 31 July 2009	277
Cash balance at 31 July 2008	12,101
Forecast movement in cash during 2008/09	(4,211)
Resulting cash balance at 31 July 2009	**7,890**

- Both College income and expenditure are expected to increase in 2008/09. The increase in income is mainly due to increased SFC grant income of £2,738,000 against decreases in all other forms of income of £2,124,000. The increase in costs will be due mainly to salary increases.
- SFC have agreed that James Watt College will have a 6% leeway for WSUMS (instead of the normal 2%) for 2008/09 reducing to a 4% leeway for 2009/10 and reducing to the normal 2% in the following year. As a result of this, the college does not anticipate any clawback of SUMS or sales of SUMS to other colleges in 2008/09, which cost the college approximately £1.2 million in 2007/08.

Going Concern Basis

- In preparing the accounts on a going concern basis the Board of Management is satisfied that SFC will provide sufficient funding to enable the College to operate for at least twelve months from 17 December 2008.

Performance Indicators

- The Scottish Further Education Funding Council's ('SFEFC') financial security campaign was announced in December 2002, its principal objective being that all colleges would report underlying operating surpluses by the end of 2005-06. Financial security is defined as the ability, on a continuing basis, to generate operating surpluses reliably and as planned, and through that accumulate a reasonable level of financial reserves. The college must also generate sufficient cash to finance its operations and meet its liabilities; regular operating surpluses would ensure this.

- Under the terms of the financial memorandum between SFC and the College, it is the responsibility of the governing body "*to ensure that the institution strives to achieve best value from its use of public funds from all sources*". It is intended that the financial performance indicators used by the Funding Council, when set alongside other performance data, will support the college in seeking best value.

- The table below has been produced from the data published by the Funding Council through circular SFC/44/2008 in respect of the Financial Statements as at 31 July 2007. The formulae have then been applied to the 2007/08 Financial Statements.

- As can be seen the College indicators show improvements over last year in terms of income and expenditure percentages and balance sheet benchmarks. The College performs below group and sector averages across almost all ratios (Income base - £20M and above).

	James Watt College Factor 2007-08	**James Watt College Factor 2006-07**	**Group Average Factor 2006-07**	**Sector Average Factor 2006-07**
Underlying operating surplus/ (deficit) % of total income	1.44%	0.76%	3.7%	3.3%
Operating surplus/ (deficit) % of total income	1.44%	(2.47%)	1.00%	1.6%
Designated plus I&E reserves % of total income	(12.28%)	(15.32%)	25.10%	17.0%
Historical cost surplus/ (deficit) % of total income	2.96%	(0.95%)	4.2%	4.0%
Current assets: Current liabilities	1.08	1.06	1.4	1.4
Interest Cover	1.83	(0.14)	3.7	5.0

Grant in Aid Funding

- The College's revised WSUMS target for 2007/08 was 149,669 and the College has under delivered in relation to the year. As a result the College will be liable to refund £270,475 in 2008/09.

- The College has not utilised its fee waiver funding allocation in 2007/08 and a creditor of £572,429 has been carried forward in the accounts. This will be repaid to SFC in due course.

Corporate Governance Framework and Statement

- The Board of Management has five formally constituted committees which have specific terms of reference and act with delegated authority from the Board.

- We reviewed the College's corporate governance arrangements. Corporate governance is concerned with structures and processes for decision-making, accountability, control and behaviour at the upper levels of the organisation. The college has a responsibility to put in place arrangements for the conduct of its affairs, ensure the legality of activities and transactions and to monitor the adequacy and effectiveness of these arrangements in practice.

- From our review of Corporate Governance arrangements within the College we do not believe the Corporate Governance statement to be misleading or inconsistent with other information made available to us during the audit process.

System of Internal Control

- A review and assessment of the College's corporate governance arrangements was carried out. This assessment included a review of the College's committee minutes and completion of a number of standard checklists. The checklists cover issues relating to systems of internal control, arrangements for the prevention and detection of fraud and corruption, standards of conduct, issues of legality and the College's financial position.

- The College, in accordance with the Accounts Direction, has included in its financial statements, a statement covering the responsibilities of the Board of Management in relation to corporate governance.

- Our review of the statement concluded that it complies with guidance and is not inconsistent with other information we are aware of from our audit.

Prevention and detection of Fraud and Corruption

- The College's arrangements for preventing and detecting fraud and corruption were assessed during the audit. This assessment showed the arrangements to be operating satisfactorily. No frauds were identified by the College in 2007/08.

Review of Internal Audit

- Internal audit is a key element of the internal control system set up by management. A strong internal audit function is necessary to ensure the continuing effectiveness of the internal control systems established. The College therefore, needs to have in place a properly resourced internal audit service of good quality.

- Internal audit services were provided by Wylie and Bisset for the period to 31 July 2008 and thereafter by Henderson Loggie. An assessment was made of the adequacy of the internal audit input and it was concluded that we as external auditors were able to place reliance on the work of internal audit. Accordingly a certain amount of reliance was placed on the work of internal audit in the following areas during 2007/2008.

    - Budgetary and financial controls
    - VFM – Business development
    - Corporate governance
    - Income collection and credit control
    - Risk management
    - IT systems

- Quality systems

In November 2008, Wylie and Bisset issued the internal audit report for the year ended 31 July 2008. This concluded that, the College does have adequate and effective risk management, control and governance processes to manage its achievement of the College's objectives.

Misstatements

- We are required to communicate all uncorrected misstatements, other that those which are clearly trivial. There are no such misstatements in the financial statements.

Accounting and Internal Control System Weaknesses

- No accounting and internal control weaknesses were identified during the course of our audit. In the prior year, several observations were made and to date these have been partially implemented. These are listed in section 5 of this report.

Qualitative Aspect of the College's Accounting Practice and Financial Reporting

- Our overall assessment, based on our work undertaken, is that the financial procedures of the College are adequate to enable annual financial statements to be produced in the prescribed form.

FRS 17 – Retirement Benefits

- This standard was published in November 2000 introducing significant changes to the way in which colleges should account for defined benefit pension schemes. Full implementation of FRS17 – 'Retirement Benefits' was mandatory from 2005/06 year ends. The College participates in the Scottish Teachers Superannuation Scheme ('STSS') and the Strathclyde Pension Fund ('SPF') which are defined benefit pension schemes. All colleges treat the STSS scheme as a defined contribution scheme as there is general agreement that they are unable to identify their share of the scheme's assets and liabilities.

- The debate regarding the appropriate accounting treatment of the Strathclyde Pension Fund has not been resolved to a definitive position. Following a further review the Scottish Funding Council ('SFC') issued its findings and conclusions in a letter dated 17 October 2008. The SFC states that "whilst the arguments are finely balanced regarding the accounting treatment, the direction of travel does appear to be towards accounting for the SPF as a defined benefit scheme". Although the SFC is minded to advise colleges in the SPF to consider the possibility of accounting for the scheme as defined benefit, no directive to this effect is given, and it is acknowledged that there is scope within FRS17, as currently worded, to account for the scheme as defined contribution.

Early retirement provision

- Included in the balance sheet is a provision for the cost of providing for enhanced pensions. The College recalculated this early retirement provision using the actuarial tables, guidance issued by SFC and an appropriate interest rate.

Valuation of land and buildings

- The college land and buildings were revalued in January 2008 by the Knight Frank property valuation team as required by FRS 15 "Tangible Fixed Assets". The desktop valuation provided by Knight Frank on a depreciated replacement cost basis, valued the land and buildings at the same value as their net book value in the nominal ledger at that time. Accordingly, there was no transfer required to or from revaluation reserve in respect of the revaluation.

Estates Strategy

- An Estates Strategy feasibility study was commissioned in the year by the college in line with its strategic objectives. This was approved by the Board of Management and the SFC. There are still on going development options being considered by management. The College's accounts for 2007/08 did not reflect any potential impairment of existing fixed assets which may be considered for replacement as part of the ongoing development options. FRS 11'*Impairment of fixed assets and goodwill'* requires the carrying value of fixed assets to be equal to the lower of their value in use or recoverable amount, i.e. if sold. The College has considered whether there are any indicators of potential impairment in the carrying value of other buildings in light of ongoing development plans. From discussions with college management and review of the current status of any capital projects we concur with college management's view that it is too early to determine what, if any, impairment there may be as a result of ongoing development

SUMs achievement

- Despite gaining permission from SFC to sell WSUMs to four other FE colleges, the college failed to achieve within 2% of its revised WSUMs target of 149,669. The college is therefore in a clawback position and is required to return £270,475 in 2008/09.

Financial Outturn

- Audit Scotland and SFC expect close scrutiny of the College's financial forecasting and achievement of the forecast financial outturn for 2007/08. Per the Strategic Development Plan 2007-10 submitted to SFC, the college expected to achieve a surplus of £204,000 in 2007/08. Per the Financial Forecast return submitted in summer 2008, this surplus had risen to £219,000. The actual surplus in the year per the financial statements has surpassed both of these forecasts.

Recognition of ESF income

- During the year the College accounted for ESF income in its income and expenditure account by matching income against relevant costs in accordance with its accounting policy. During the course of our audit work we identified an issue in relation to the Scottish Colleges Biotechnology Consortium ('SCBC'). SCBC was formed between James Watt, Bell, Falkirk and Glenrothes Colleges. As the consortium was not a legal entity James Watt College agreed to act as lead applicant in respect of ESF.

- A Scottish Government audit inspection of an SCBC claim revealed that the costs calculated by one of the partner colleges had been based on estimates and not actual costs. As these costs could not be supported by documentation, James Watt College de-committed the entire project resulting in a claim for repayment by the Scottish Government from James Watt College of £306,000. This has been reflected in the financial statements.

- This arose as having acted as lead applicant, the college had no indemnities in place with the three other colleges. In future, with any such joint arrangements legally binding indemnities should be considered regarding project partners.

- No other breaches of the conditions attached to college ESF claims were identified and we received assurances from management that this was the case.

5 Internal control systems weakness

Findings from 2008 audit

- No recommendations have been made in 2008.

Recommendations made during 2007 audit process

- A number of recommendations were made in 2007. Many of these points have been satisfactorily resolved but the following require further action.

Fixed Asset Register

Observation

- The College does not maintain a detailed fixed asset register.

Issue

- It is not possible to identify individual fixed assets in the Excel spreadsheets which make up the asset register.

Recommendation

- We would recommend that the College implements a full fixed asset register recording asset numbers, locations and capital grants obtained on the assets. Such a register should enable management to better quantify fixed asset transactions for financial accounting purposes, linking with control of fixed assets in terms of the financial memorandum.

Management response in 2007

- *College management accept that implementation of a fixed asset register is required, an issue which was also raised by Internal Audit in their report of May 2007. However the College believes that whilst important, a number of other issues which are more critical to operational effectiveness and financial security must take priority in the short term. College management have therefore targeted July 2008 for review of this requirement.*

Observation and Management response in 2008

- No progress has been made in the year to resolve the issue.
- During 2007/08 the College reviewed the timescale for implementing a full fixed asset register and has undertaken to have this complete by December 2009. Progress on this and all other outstanding audit points are monitored through the College Audit Committee which reviews outstanding audit actions at each meeting.

Annual declarations of Members Interests

Observation

- From a review of the Register of Interests, of the thirteen Board Members only six members have returned a declaration form, of which four have not updated their disclosure forms for at least twelve months as at 31 July 2007.

Issue

- This conflicts with the College's control procedures.

Recommendation

- We recommend the College ensure that all outstanding and out of date annual declarations are signed and dated by the appropriate Board member on completion, and passed to the Clerk to the Board.

Management Response in 2007

- *As at 5 December 2007, 12 of 15 annual declaration forms have been signed and submitted to the Clerk to the Board. Other board* *members have been contacted directly to confirm the obligation on them, and the College, to submit a declaration. A rolling programme of updates for these declarations will become effective from December 2007, and this issue will be covered in a Governance paper to be submitted to the Board in December by the Clerk to the Board.*

Observation and Management response in 2008

- From a review of the Register of Interests, of the Fourteen Board Members only thirteen members have returned a declaration form, of which four have not updated their disclosure forms for at least twelve months as at 31 July 2008.

- It is the legal obligation of the members of the Board to confirm to the Clerk if there are any changes to their register of interest, members are aware of this obligation. Apart from three new members, who are currently completing their forms, the register is up to date. However, the College has now introduced a regular request for active confirmation by members that registers are not out of date rather than waiting for them to inform the Clerk of any changes. This should be complete by the December 17th board meeting.

6 Other Matters

- The Charities and Trustee Investment (Scotland) Act 2005 ("the Act") came into force in April 2006, introducing new duties and responsibilities for the Office of the Scottish Charity Regulator ("OSCR").

All charities, including Scotland's colleges, are required to demonstrate to the Office of the Scottish Charity Regulator (OSCR) that they meet the new charity test, set out the in the Act. In a pilot, on John Wheatley College, OSCR ruled that the college did not meet the charity test because its constitution permits Scottish Ministers to direct or otherwise control its activities. A statutory instrument was laid in parliament in June 2008 which came into force on the 27th June 2008. This disapplies the section in the Act in relation to controlling activities, consequently charitable status is maintained.

BDO Stoy Hayward LLP

17 December 2008