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Getting Ready for New Governance Freedoms: A Survey of Further Education College Governance 2012

Ron Hill, Yvonne Downs and Julie Drake

September 2012



Executive summary

Further education corporations were formed by the Further and Higher Education Act 1992 and came into being as exempt charities on 1 April 1993. From 1 April 2012 the enactment of the Education Act 2011 provided the governing bodies of further education corporations with a range of structural and procedural choices beyond the prescribed rules and regulations that have been in force for the period 1993-2012.

The purpose of this study was to gain an appreciation of the views of clerks to the corporation in anticipation of these new freedoms and to gauge very early responses to them. It aimed to identify potential areas where additional support in terms of training, development and consultancy may be required, for example to make sense of the new freedoms and in understanding the possible implications of any changes made. To this end an e-questionnaire was sent for completion by clerks to the corporation of 332 colleges in England and Wales. The survey was undertaken shortly before the changes came into force and at a time when some important governance material (such as the Financial Memorandum and Audit Code of Practice) had yet to be revised for the new governance operating context. 119 responses were received.

This report presents a descriptive overview of those responses. It does not seek to make interpretive judgements, although inferences will be drawn where the data strongly supports it. There are contradictions and inconsistencies in some of the responses which may reflect the fact that only 8 Colleges consider themselves (as perceived by their clerk) 'well prepared' for the new governance freedoms. It is therefore reasonable to conclude that assistance in preparation for governance in the context of the new freedoms may be required.

Responses indicate most governing bodies will not rush into making changes, although 44 colleges stated that they would wish to take advantage of the new freedoms to make changes to the Instrument and Articles of Government in the next 12 months.

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Gratitude is expressed to the clerks to the governing bodies of further education college corporations who kindly responded to the survey.

The authors

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Julie Drake, who is also a member of FEGRG, is an experienced governor in Further Education and a Fellow of the Institute of Chartered Accountants England and Wales. She is Principal Lecturer in Accounting at the University of Huddersfield Business School.

Getting Ready for New Governance Freedoms - Full Report

Introduction

Further Education (henceforward F.E.) Corporations were formed by the Further and Higher Education Act 1992 and came into being as charities on 1 April 1993. From 1 April 2012 the enactment of the Education Act 2011 provides F.E. Corporations with a range of structural and procedural choices beyond the prescribed rules and regulations that have been in force for the period 1993-2012. In most cases Instruments and Articles of Governance were changed automatically on 1 April 2012 to incorporate changes in the modification orders. However, corporations have choice in the exercise of the freedom afforded by the 2011 Act.

The purpose of this study was to take the temperature from clerks to the corporation in anticipation of new freedoms arising from the Education Act 2011 and to gauge very early responses to them. It aimed to identify potential areas where additional support in terms of training, development and consultancy may be required, in terms of making sense of the new freedoms and in understanding the possible implications of any changes made.

The response to the new governance freedoms has been measured. Clerks to the corporation consider that governing bodies of further education corporations are adopting a 'wait and see' approach. Indications are that no radical changes are planned in the twelve months from 1 April 2012 and that any changes will be modest. This research did not aim to determine the reasons for this but qualitative responses point to the fact that it is too early to assess how the new freedoms can be used to meet long term strategic objectives. Some lack of confidence may also be indicated. A longitudinal approach is therefore suggested in the future to track the development of governance response to the greater freedoms on offer.

There is no implied criticism of either the speed of change or the nature of responses received from clerks, particularly at a time when key material such as the revised Financial Memorandum and the Audit Code of Practice are not yet available.

Methodology

An e-questionnaire was sent for completion by clerks to the corporation of 332 colleges in England and Wales in their capacity as governance administrators and advisers to those boards. The survey was undertaken shortly before the changes came into force i.e. during March 2012.

119 responses were received, an acceptable response rate of 37%. Some clerks serve more than one college. For the purpose of this study each college was treated as a separate entity, assuming that each multiple-college clerk to the corporation will respond reflecting the circumstances of each college

This report is based on numerical data and provides a descriptive overview of those responses. Some of the questions were not addressed by all the respondents.

The use of open, themed comment by many respondents has produced a rich source of qualitative data about college governance and the forms of assistance likely to be of greatest use to clerks in their support and development of governors and college senior staff. This data was used to augment the quantitative data, but it could also be analysed in depth and reported on separately at a later date.

Findings

The key findings from the data provided by the respondents to the e-questionnaire are as follows:-

1. 112 colleges have already established rules and procedures (standing orders) but 81 still consider that the development of *model* standing orders that reflect the Foundation Code and changes from the Education act 2011 would be desirable. 15 deem it to be essential (Table 1).
2. Most colleges (103) agree (57) or strongly agree (46) that the governing body 'operates in a suitably strategic manner to address the formulation of strategy, monitoring of implementation and evaluation of performance' (Table 2).

However, 64 still consider training will be required to achieve this level of governing body effectiveness.
3. The overwhelming majority of governing bodies (108) have adopted a code of conduct for governors (Table 3)
4. Currently 106 colleges agree (41) or strongly agree (65) that the current performance of their governing body is conducted to allow 'open discussion and debate'.
5. Most (99) colleges stated that they undertake an effective self- assessment of governance performance on an annual basis.
6. Most governing bodies have clearly defined roles and responsibilities for the Chair of the Corporation (96), the Principal (110), the Clerk (112) and 73 have the same for individual governors.
7. Most (110) governing bodies currently benchmark performance in relation to KPIs against comparable governing bodies to assist the evaluation of its performance.
8. 113 colleges determine the membership of its governing body according to a skills/diversity matrix (Table 4).
9. 95 colleges use succession planning practices for the office of chair of the corporation, 63 for the vice-chair, 38 for the chair of the search committee and 51 for the chair of the audit committee.
10. 111 have a suitable governor induction programme in place (Table 5).

11. There is no systematic appraisal for any office holders in 70 colleges.

The picture presented is one of current governance practice which (without knowing the details of the responses) suggests many of the basic expectations of the new Association of Colleges Foundation Code of Governance will be achieved. It is not known whether those responding to the questionnaire were predominantly from clerks of colleges with good governance.

In terms of response to the new freedoms:

- 8 colleges describe themselves as well-prepared for the new governance freedoms (Table 6).
- 44 colleges stated that they would be taking advantage of the new freedoms. Of the rest, 38 indicated that they would not be doing so and 32 that they did not know (Table 7).
- 106 governing bodies have received the document 'The English Colleges Foundation Code of Governance' but in only 51 colleges do clerks feel they have enough information to advise the governing body regarding constitutional change (Table 8).
- Whilst the majority of respondents consider that they have the necessary skills to advise their governing bodies on constitutional change, 16 do not feel they have the necessary skills and a further 28 answered 'don't know'
- Only 27 colleges have accepted the code and 4 have part accepted it (table 9).

Early response to the changes and the potential freedoms this brings has therefore been subdued. It is likely that this reflects the timing of this survey coming early as it does in the period where the opportunities for changes are permissible. Follow up studies to track the development of responses to the freedoms would be useful.

In terms of the changes envisaged:

- 44 intend to significantly vary the Articles and Instruments of Government for their corporation.

However, when broken down into individual action, affirmative responses were small in number (Table 10):

- 16 colleges have plans to change the composition of their governing bodies as a result of the forthcoming changes
- 14 colleges plan to change the composition of committees
- 23 intend to change the number and function of committees
- 5 anticipate changes to the responsibilities of the governing body and 1 predicts changes to the responsibilities of the principal
- 2 colleges envisage that they will stop designating certain staff as senior post-holders

- 23 have plans to allow the governing body to make decisions other than by face-to-face meetings

It is interesting to note that written responses to questions about the changes above were extensive. In-depth analysis of them would be required but in general they seemed to indicate that it was 'too soon to say'. Only 27 colleges have already formally adopted the AoC Foundation Code of Governance but a further 77 intend to consider it by 31st December 2012.

In general, response to questions about the changes being made suggested that they would be modest changes in the short-term. However, it is unwise to generalise about the nature of the changes on the basis of the small number of responses received to some questions. Some respondents did not answer all the questions. This research strongly indicates the need for follow up studies, possibly at regular intervals to track the development of the response, particularly as 44 colleges have anticipated that they will be making changes to the Instrument and Articles of Government in the next twelve months.

In terms of where change is not envisaged:

In addition to the above pattern of responses, it is also interesting to focus on which questions elicited a strong 'no' response. This adds to the picture by indicating which areas are likely to stay the same, at least in the short term.

- 70 Colleges have no plans to change the composition of the governing body
- 69 colleges have no plans to change the composition, number or function of committees
- 78 do not plan to stop designating certain staff as senior post-holders

In terms of the type of support that it is envisaged will be required (Table 11):

- Over half of the colleges considered governor training would be necessary so that the governing body 'operates in a suitably strategic manner to address the formulation of strategy, monitoring of implementation and evaluation of performance'.
- 70 colleges had not established time commitments for any role on the governing body such as Chair of the Corporation and chairs of committees, and 82 would welcome the production of template documentation to achieve this.
- 80 colleges have asked for an on-line or paper-based self-evaluation tool to assist in systematically appraising the performance of governors.
- 64 colleges indicated that model documentation would assist in designating clearly defined roles and responsibilities for the Corporation's office holders, governors, and also the clerk to the corporation and the principal.

In summary there is a clear indication that guidance and support is being requested by clerks to the corporation to assist with the processes of change and that this could take various forms:

training for governors, the production of model documentation and monitoring, the development of governance evaluation tools, and assistance in interpreting the AoC Foundation Code of Governance and understanding its implications.

Conclusions

This survey was undertaken at the cusp of the change from a fixed set of regulations and procedures – i.e. the Instrument and Articles of Government, which had been in place from 1 April 1993 until 31 March 2012 in an evolving but nevertheless standardised format – to much more flexible, locally determined arrangements for governance. Governance arrangements at each further education corporation may vary considerably from one to another in time to come.

The picture presented in this report is one of current governance practice with some anticipated but very modest advantage being taken of the new governance freedoms at the time of the survey (March 2012). However, the survey was conducted in anticipation of the changes and it will be interesting to track the development of responses to it. Clerks have identified and requested certain support and development to assist progress to achieve governance changes.

A feeling of ‘wait and see’ was detectable in the written responses, which, in part, is related to a lack of important additional information e.g. revised Audit Code of Practice, revised Financial Memorandum. Further explanation of aspects of the AoC Foundation Code of Practice was also expected. Waiting and seeing was also conditioned by caution about change for change’s sake expressed through statements from clerks.

The new legislative framework for college governance and the AoC Foundation Code of Governance will inevitably be part of the next review of purpose, educational character, values and strategic focus by each further education corporation governing body.

Appendix 1 – Tables and charts reflecting current situation

Table 1. The governing body has already established rules and procedures, i.e. standing orders

Alternatives	Value	% of respondents to question	% of respondents to survey
Yes	112	97	97
No	3	3	3
Don't know	0	0	0
Total	115	100	100

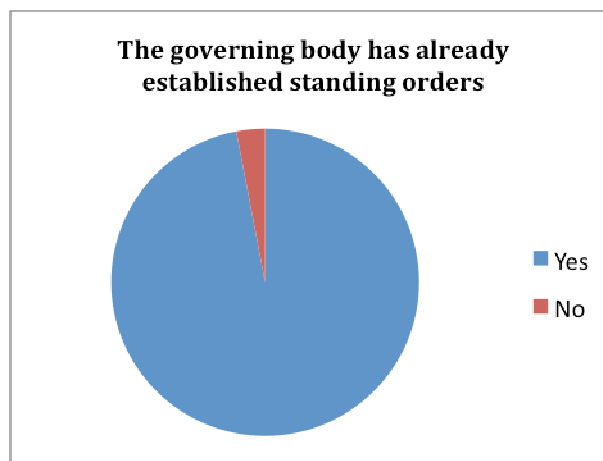


Table 2. Your governing body operates in a suitably strategic manner

Alternatives	Value	% of respondents to question	% of respondents to survey
Strongly agree	46	40	40
Agree	57	50	50
Neutral	5	4	4
Disagree	2	2	2
Strongly disagree	5	4	4
Total	115	100	100

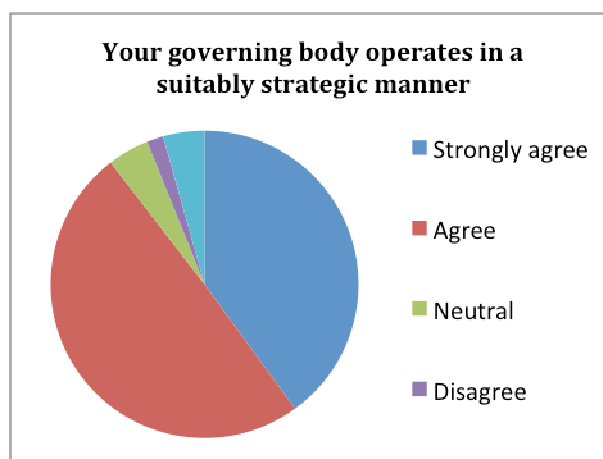


Table 3. The governing body has formally adopted a code of conduct for governors

Alternatives	Value	% of respondents to question	% of respondents to survey
Yes	108	97	97
No	7	3	3
Don't know	0	0	0
Total	115	100	100

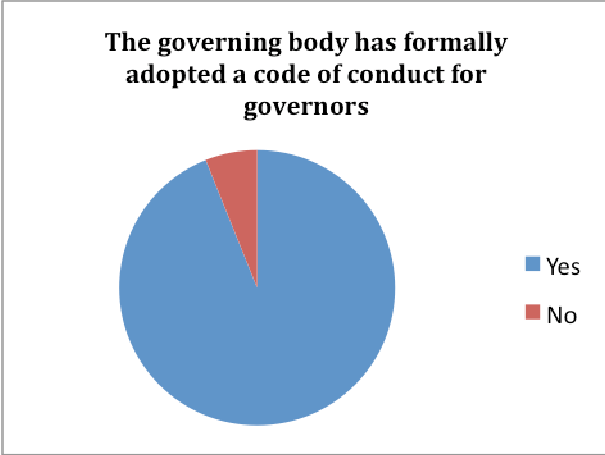


Table 4. The governing body determines its membership according to a skill/diversity matrix

Alternatives	Value	% of respondents to question	% of respondents to survey
Yes	113	98	98
No	2	2	2
Don't know	0	0	0
Total	115	100	100

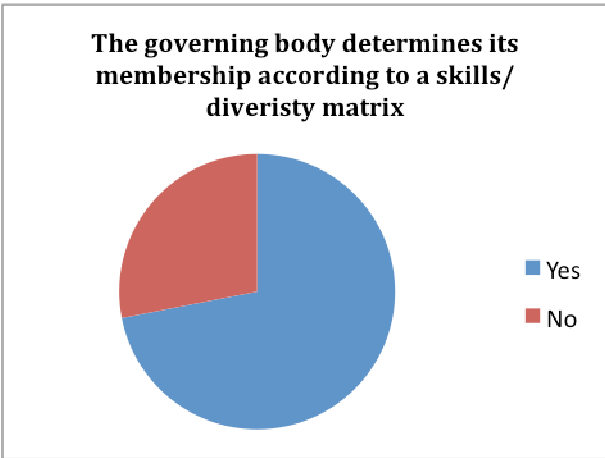
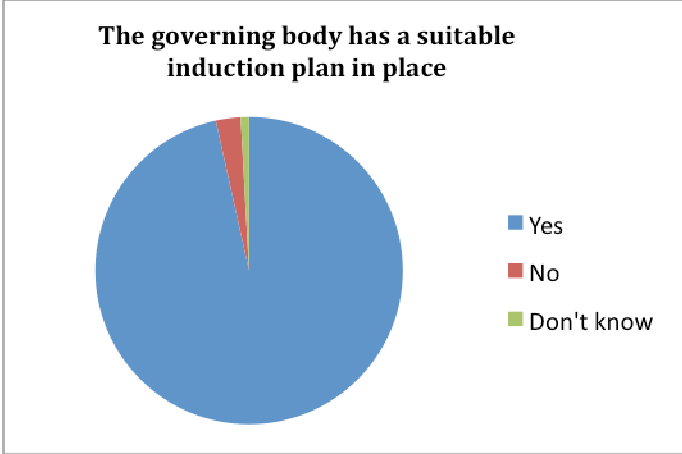


Table 5. The governing body has a suitable induction plan in place

Alternatives	Value	% of respondents to question	% of respondents to survey
Yes	111	96	96
No	3	3	3
Don't know	1	1	1
Total	115	100	100



Appendix 2 – Tables and charts of responses to new freedoms

Table 6. How well prepared is your governing body for new governance freedoms?

Alternatives	Value	% of respondents to question	% of respondents to survey
Well prepared	8	7	7
Quite well prepared	41	36	36
Some prep needed	56	48	48
Considerable prep needed	9	8	8
Don't know	1	1	1
Total	115	100	100

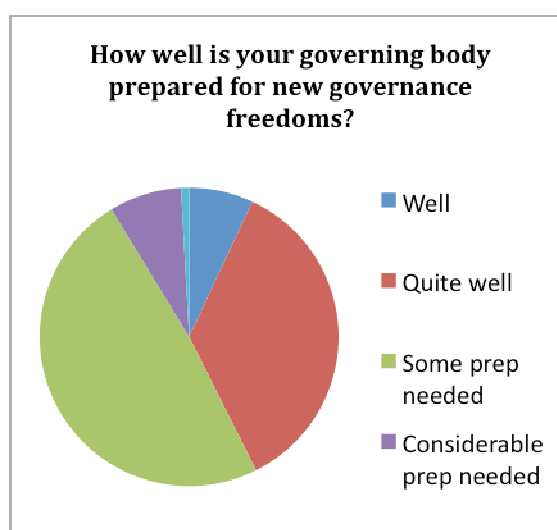


Table 7. Plans to significantly vary the Instrument and Articles of Governance?

Alternatives	Value	% of responses to question	% of responses to survey
Yes	44	39	39
No	38	33	33
Don't know	32	28	28
Total	114	100	100

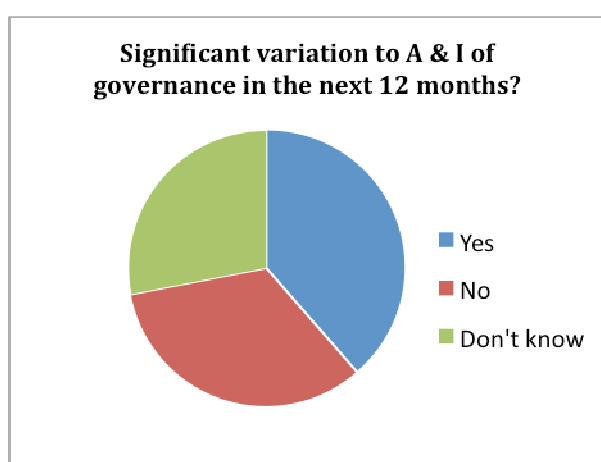


Table 8. Have members of the governing body received a copy of the document ‘The English Colleges Foundation Code of Governance (The Foundation Code)?

Alternatives	Value	% of responses to question	% of responses to survey
Yes	106	92	92
No	9	8	8
Don't know	0	0	0
Total	115	100	100

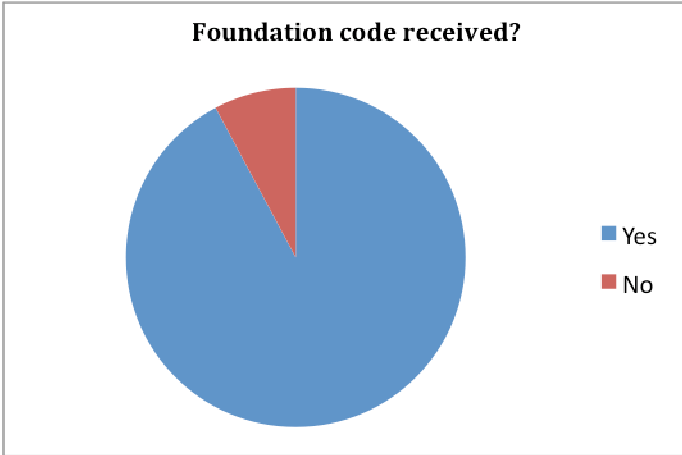
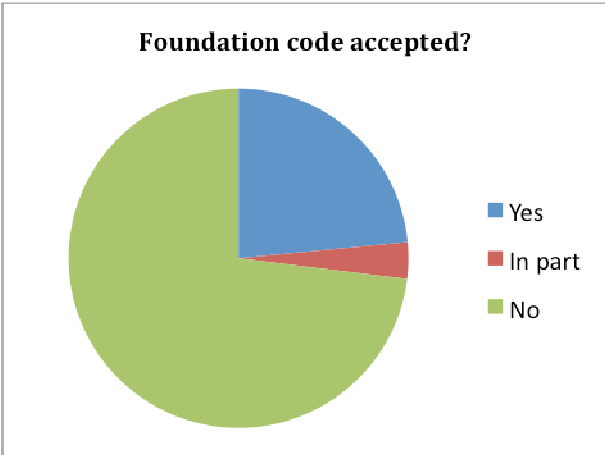


Table 9. Has the governing body already accepted the code?

Alternatives	Value	% of responses to question	% of responses to survey
Yes	27	24	24
In part	4	3	3
No	84	73	73
Don't know	0	0	0
Total	115	100	100



Appendix 3 – Indications of support required in the future

Table 10. Breakdown of planned changes to:

Alternatives	Value	% of responses to question	% of responses to survey
composition of governing body	16	14	14
composition of committees	14	12	12
number and function of committees	23	20	20
responsibilities of governing body	5	6	4
responsibilities of principal	1	1	1
Stop designating certain staff as senior post-holders	2	2	2
Allow governing body to make decisions other than by face-to-face meetings	23	20	20

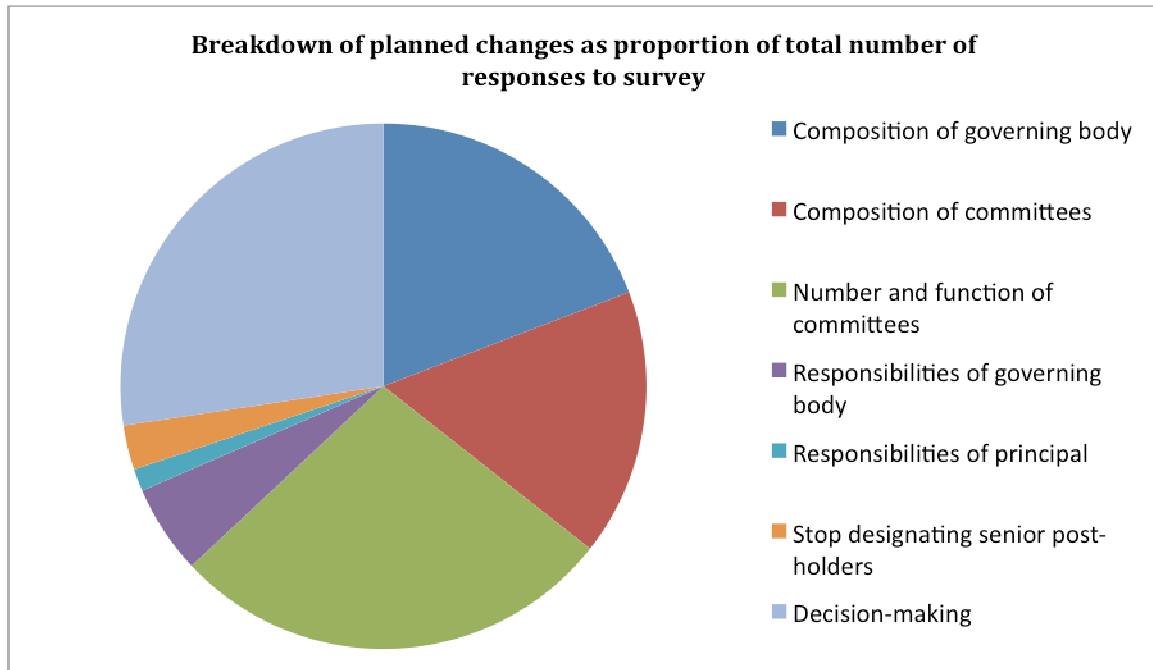


Table 11. Support for change envisaged so that governing body operates in suitably strategic manner

Alternatives	Value	% of responses to question	% of responses to survey
Governor training so that governing body operates in a suitably strategic manner	57	89	50
Template documents to assist in establishment of time commitments for roles on governing body	82	90	71
On-line or paper-based self-evaluation tool to assist in systematic appraisal of governor performance	80	83	70
Model documentation to assist in designating clearly defined roles and responsibilities for office or post-holders	64	91	56
Training for clerk for maintaining public value statement	53	71	46
Training for governors in maintaining public value statement	48	64	42

