

the scottish code of

GOOD HE GOVERNANCE

Governance Code and Supporting Guidelines for Members of the Governing Bodies of Higher Education Institutions in Scotland

April 2013

Preface

Scotland's universities are at the heart of her public life. Their autonomy is an essential part of their role in civic society and their existing governance arrangements have served Scotland well. If the Scottish sector is to continue to be looked to by universities and governments across the globe as a source of good practice, as with governance in any sector, we need to be proactive in identifying improvements. It is in this context that the Committee of Chairs of Scottish universities asked me to form a steering group to draft a new Code of Governance. The Group had the advantage of the considerable work done in the recent Review of Higher Education Governance, chaired by Professor Ferdinand von Prondzynski, which identified many areas where a new code could enhance practice.

Our work has been founded on evidence and views gathered from across university communities: staff, students, senior managers and lay members of governing bodies. Over 80 meetings have taken place involving over 350 people. Through all those discussions there has been an evident strong shared interest in the effectiveness and transparency of governance as a foundation to the continued success of our universities.

Our proposed Code has drawn on this evidence, and on the Review of Higher Education Governance, to identify important innovations which will enhance the transparency, accountability

and effectiveness of university governance in Scotland. We started from a strong position: much existing practice is fit for purpose. We have, however, gone significantly beyond this to set out a draft Code which places Scotland in an internationally leading position. Information on the work of the steering group and its meetings across the country can be found on our website at: www.scottishuniversitygovernance.ac.uk.

We are conscious that the Review of Higher Education Governance also set out recommendations for others to address and, where these are closely linked to the issues considered in developing the new code, we would be pleased to share the evidence and views expressed to us to help to take this work forward.

The Group has a clear remit to develop a new Scottish Code of Governance. We have acknowledged from the start that some of the changes advocated in the Review of Higher Education Governance fall outside the scope of our work. For instance, a Code of Governance cannot require changes to primary legislation or to the fundamental statutes setting out universities' constitutions. However, this should not, and has not, stopped us from meeting a shared aspiration to enhance governance as widely as possible in areas which are within our scope. Therefore, through our discussions across the country, we have identified innovations and examples of good practice in areas such as selection of chairs of governing bodies and pursuing the diversity of membership of governing bodies. We have embedded these progressive measures in the proposed Code.

In drafting a Code we have taken the existing Committee of University Chairs (CUC) Code, which Professor Ferdinand von Prondzynski and his panel found of great assistance and the important proposals in the Review of Higher Education Governance as our starting point. A Code requires precision and clarity in the language used and, where there are appropriate sections in the existing CUC Code that remain fit for our purpose, we have adopted these. In other areas we have explored new concepts and measures to enhance university governance. It is important that these are readily and commonly understood and we welcome discussion over the coming weeks to this aim.

We also look forward to receiving views on the code overall. I know from our discussions to date that there will be considerable interest across all the principles and guidelines for good practice. In particular, within the scope of a code and associated good practice, we have sought to:

- enhance the obligation of the governing body to protect academic freedom;
- introduce new requirements to secure the active involvement of staff and student members on the nominations committee;
- require that equality and diversity considerations are a key part of building the membership of governing bodies, through a goals-based approach;

- require governing bodies to regularly review progress on diversity of membership and to put in place associated broader measures to support court members with caring responsibilities;
- set out key considerations for universities wishing to remunerate their lay members, in the interests of enabling participation by members from diverse backgrounds;
- introduce new requirements to secure the involvement of staff and students in the process for appraising the performance of the Principal;
- introduce new requirements to secure the involvement of staff and students in the process for selecting chairs of governing bodies;
- introduce new requirements for clarity and transparency of remuneration committee decision-making and the publication of salary information of senior staff, with full and open reporting of decisions to all court members;
- ensure a strategic approach to consideration of the breadth of skills and attributes required by courts, to seek to meet these through the active promotion of lay membership across the breadth of Scottish society and to ensure that all members receive effective induction and training programmes;
- enhance practice for the openness and transparency in the proceedings of governing bodies including the publication of agendas before meetings and a breadth of broader engagement with the community within and beyond the campus; and
- ensure that governing bodies have a clear lay majority within their membership, to support the full participation by staff and student members and to identify a lay member who will improve accountability by providing a route for other members who might wish to raise concerns about the chair, and to lead an annual appraisal of the chair's performance.

As a sector at the very heart of Scotland's economic success and cultural life, the governance of Scotland's universities is an important matter for us all. We have consulted widely in drafting the Code and we now invite Scottish higher education institutions, representative bodies and individuals with an interest in good governance to review the draft and through our website bring to our notice any new evidence which might have been overlooked and should be taken into account in finalising the Code. We will review new evidence at our final meeting in June when we intend to conclude our work and issue the final Code for implementation right across the sector with effect from 1st August 2013.



Lord Smith of Kelvin Kt
Chair
Steering Group

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Scottish Code of Good HE Governance

Part I

Purpose and Main Principles of Governance

The overarching purpose of the governance of Higher Education Institutions (Institutions) is to promote the enduring success, integrity and probity of the Institution as a whole. Specifically this entails:

- supporting its mission as an autonomous institution;
- ensuring the proper and effective use of its funds;
- promoting an appropriate participation of its key constituents, including students and staff;
- guarding against potential conflicts of interest;
- maintaining and observing clear statements of authority and responsibility throughout the institution; and
- matching such authority and responsibility with accountability to key internal and external stakeholders.

The role of the governing body in determining overall strategic direction and setting institutional values is to be distinguished from the operational management of the Institution by the senior team.

Scottish Higher Education comprises a wide range of diverse institutions with differing governing instruments, traditions and strategic mission. This Code is intended to reflect good practice in a manner which takes due account of this diversity. In particular, in the case of the Small Specialist Institutions, the application of the terms of the Governance Code should pay particular attention to the principles of proportionality and of relevance to the nature of the individual Institution.

The Code is not a prescriptive set of rules, but rather a set of main principles supported by guidelines and examples of good practice which should be added to over coming years. The Scottish Funding Council will require Institutions to follow the Code as a condition of a grant of public funding. Given the diversity of Scottish Higher Education Institutions it is possible that certain of the principles can be met by means different to those envisaged in the guidelines. Accordingly the Code is issued on a “comply or explain” basis. This approach is widely accepted as the most suitable means of achieving good governance in an effective and transparent way.

It is expected that governing bodies will, wherever possible, comply with the Code. Institutions should report in the corporate governance statement of their annual audited financial statements (Annual Reports) that they have had regard to the Code, and that where an Institution's practices are not consistent with particular provisions of the Code an explanation should be published in that statement.

Main Principles

1. Every Higher Education Institution shall be headed by an effective governing body, which is unambiguously and collectively responsible for overseeing the Institution's activities. In discharging its responsibilities it shall:
 - ensure the Institution's long-term sustainability;
 - conduct its affairs according to specified ethical standards;
 - have due regard to the interests of its stakeholders and the wider public;
 - determine the Institution's future direction and set the Institutional values;
 - ensure the protection of the academic freedom of relevant staff in compliance with relevant legislation and its own governing instruments;
 - ensure that it observes good practice in regard to equality and diversity;
 - foster a suitable environment whereby knowledge may be advanced and the potential of learners fulfilled; and
 - take all final decisions on matters of fundamental concern to the Institution.
2. The governing body shall ensure compliance with the governing instruments of the Institution, as well as other appropriate legal obligations including any arising in connection with its charitable status.
3. The governing body and its individual members (members) shall at all times conduct themselves in accordance with accepted standards of behaviour in public life which embrace selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
4. The governing body shall meet sufficiently regularly and not less than four times a year, in order to discharge its duties effectively. Members of the governing body shall attend its meetings regularly and actively participate in its proceedings.

5. The governing body shall adopt a Statement of Primary Responsibilities which shall include provisions relating to:
- approving the mission and strategic vision of the Institution, long-term business plans, key performance indicators (KPIs) and annual budgets, and ensuring that these meet the interests of stakeholders;
 - appointing the Head of the Institution (the Principal) as chief executive officer of the Institution and putting in place suitable arrangements for monitoring his/her performance. Both the appointment and the monitoring of performance of the Principal shall include consultation with staff and student members of the governing body;
 - ensuring the establishment and monitoring of systems of control and accountability, including financial and operational controls and risk assessment, clear procedures for handling internal grievances and “whistleblowing” complaints, and for managing conflicts of interest; and
 - monitoring institutional performance against plans and approved KPIs which, where possible and appropriate, should be benchmarked against other comparable institutions.

This Statement shall be published widely, including in the Annual Report and on the Institution’s website, along with identification of key individuals (chair, vice-chair (if any), Principal, chairs of key committees, other members and senior officers) and a broad summary of the responsibilities that the governing body delegates to management and also those responsibilities which are derived directly from the instruments of governance.

6. All members shall exercise their responsibilities in the interests of the Institution as a whole rather than as a representative of any constituency. The Institution shall maintain and publicly disclose a current register of interests of members of the governing body on its website.
7. The chair shall be responsible for the leadership of the governing body, and be ultimately responsible for its effectiveness. The chair shall ensure the Institution is well connected with its stakeholders, including staff and students.
8. The Principal shall be responsible for providing the governing body with advice on the strategic direction of the Institution and for its management, and shall be the designated officer in respect of the use of Scottish Funding Council funds. The Principal shall be accountable to the governing body which shall make clear, and regularly review, the authority delegated to him/her as chief executive, having regard also to that conferred directly by the instruments of governance of the Institution.

9. There shall be a balance of skills and experience among members sufficient to enable the governing body to meet its primary responsibilities and to ensure stakeholder confidence. The governing body shall draw up and make public a full evaluation of the balance of skills, attributes and experience required for membership of the governing body, which shall inform the recruitment of independent members of the governing body. The membership of the governing body shall be regularly assessed against this evaluation. The governing body shall establish appropriate goals and policies in regard to the balance of its independent members in terms of equality and diversity, and regularly review its performance against those established goals and policies.
10. The governing body shall have a clear majority of independent members, defined as both external and independent of the Institution. A governing body of no more than 25 members represents a benchmark of good practice.
11. Appointments of the chair, and of members appointed by the governing body, shall be managed by a nominations committee, normally chaired by the chair of the governing body and which includes at least one staff and one student member of the governing body. To ensure rigorous and transparent procedures, the nominations committee shall prepare and publish written descriptions of the role and the capabilities desirable in a new member, based on a full evaluation of the balance of skills and experience of the governing body.

When selecting a new chair, a full job specification including a description of the attributes and skills required, an assessment of the time commitment expected and the need for availability at unexpected times shall be produced. In developing such a job description arrangements shall be put in place to consult staff and students before it is finalised.

When vacancies arise in the position of the chair of the governing body or in its appointed members they shall be widely publicised both within and outside the Institution, making specific reference to the evaluation referred to at Principle 9 and also to the desirability of ensuring the diversity of the governing body's membership.

12. The chair shall ensure that new members receive a full induction on joining the governing body, that thereafter opportunities for further development for all members are provided regularly in accordance with their individual needs, and that appropriate financial provision is made to support such training in accordance with criteria determined by the governing body. In its Institution's Annual Report the governing body shall report the details of the training made available to members during the year to which such Report relates.

13. The secretary to the governing body shall be responsible for ensuring compliance with all procedures and ensuring that papers are supplied to members in a timely manner containing such information, and in such form and of such quality, as is appropriate to enable the governing body to discharge its duties. All members shall have access to the advice and services of the secretary to the governing body, and the appointment and removal of the secretary shall be a decision of the governing body as a whole.
14. The proceedings of the governing body shall be conducted in as transparent a manner as possible, and information and papers restricted only when matters of confidentiality relating to individuals, the wider interest of the Institution or the public interest demands, including the observance of contractual obligations.

The governing body shall also ensure that the Institution has in place appropriate arrangements for engaging with the public and the wider communities which it serves.

15. The governing body shall establish a remuneration committee to determine and review the salaries, terms and conditions (and, where appropriate, severance payments) of the Principal and such other members of staff as the governing body deems appropriate.

The policies and processes used by the remuneration committee shall be determined by the governing body, and the committee's reports to the governing body shall provide sufficient detail to enable the governing body to satisfy itself that the decisions made have been compliant with its policies.

16. The governing body shall keep its effectiveness under regular review. Normally not less than every three years, it shall undertake an externally-facilitated evaluation of its own effectiveness, and that of its committees, and ensure that a parallel review is undertaken of the senate/academic board and its committees. Effectiveness shall be assessed both against the Statement of Primary Responsibilities and compliance with this Code. The governing body shall, where necessary, revise its structure or processes, and shall require the senate/academic board of its Institution to revise its structure and processes, accordingly.
17. The governing body shall reflect annually on the performance of the Institution as a whole in meeting long-term strategic objectives and short-term KPIs. Where possible, the governing body shall benchmark institutional performance against the KPIs of other comparable institutions.

18. The results of effectiveness reviews, as well as of the Institution's annual performance against KPIs and its progress towards meeting its strategic objectives, shall be published widely, including on the internet and in its Annual Report.

Part II

Supporting Guidelines

Governing Body

Main Principle - Number 1

Every Higher Education Institution shall be headed by an effective governing body, which is unambiguously and collectively responsible for overseeing the Institution's activities. In discharging its responsibilities it shall:

- ensure the Institution's long-term sustainability;
- conduct its affairs according to specified ethical standards;
- have due regard to the interests of its stakeholders and the wider public;
- determine the Institution's future direction and set the Institutional values;
- ensure the protection of the academic freedom of relevant staff in compliance with relevant legislation and its own governing instruments;
- ensure that it observes good practice in regard to equality and diversity;
- foster a suitable environment whereby knowledge may be advanced and the potential of learners fulfilled; and
- take all final decisions on matters of fundamental concern to the Institution.

Supporting Guidelines

Higher Education Institutions (HEIs) are legally independent corporate bodies that have a common purpose of providing learning and teaching and undertaking research. They also have an important role in contributing to economic growth through research and developing links with business and the community. The governing body is responsible for ensuring the effective management of the Institution and for planning its future development. It has ultimate responsibility for all the affairs of the Institution.

Governing bodies are entrusted with funds, both public and private, and therefore have a particular duty to observe the highest standards of corporate governance. This includes ensuring and demonstrating integrity and objectivity in the transaction of their business, and wherever possible following a policy of openness and transparency in the dissemination of their decisions. Such diverse funding sources also require that Institutions adhere to the good practice appropriate to both public and private sector bodies. Governing bodies must ensure that they can demonstrate due accountability for public funds granted to the institution.

Good Practice Examples

In one University the Principal meets with staff and student members of the Court before each meeting to discuss the business arising thereby improving the understanding of those appointed from among those key groups.

In another Institution regular forums are held with local community leaders to discuss institutional strategic development.

The governing body has a duty to enable the Institution to achieve and develop its mission and primary objectives of learning and teaching and research. This responsibility includes considering and approving the Institution's strategic plan, which sets the academic aims and objectives of the Institution and identifies the financial, physical and staffing strategies necessary to achieve these objectives.

The governing body will rely on the Principal to be responsible for the operational management of the Institution, and to offer guidance to the governing body on issues coming before it. However, the governing body plays a key role in the strategic development of the Institution. It should be involved in the development and approval of the Institution's strategic plan, which influences and guides all decisions coming before the governing body. It should also approve an annual operating plan that identifies those aspects of the strategic plan being implemented in the year in question.

Strategic plans play an important role in informing the relationship between Institutions and the Scottish Funding Council.

Good Practice Example

Several Institutions arrange a regular series of visits to academic departments and schools to enable independent members to be briefed on the strategic context for academic activity.

Institutions must adopt a risk-based approach to strategic planning.

Legal obligations

Main Principle – Number 2

The governing body shall ensure compliance with the governing instruments of the Institution, as well as other appropriate legal obligations including any arising in connection with its charitable status.

Supporting Guidelines

The governing body should regularly review its policies relating to compliance with its statutory and other duties, including the defence of academic freedom and meeting the requirements of charity law, to ensure that they conform to good practice.

Conduct of Members

Main Principle – Number 3

The governing body and its individual members (members) shall at all times conduct themselves in accordance with accepted standards of behaviour in public life which embrace selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Supporting Guidelines

The governing body should exercise its responsibilities in a corporate manner; that is to say, decisions should be taken collectively by all of the members acting as a body. Members should not act individually, or as representatives of a constituency or in informal groupings, to take decisions on governing body business on an ad hoc basis outside the constitutional framework of the meetings of the governing body and its committees.

Frequency of meetings

Main Principle – Number 4

The governing body shall meet sufficiently regularly and not less than four times a year, in order to discharge its duties effectively. Members of the governing body shall attend its meetings regularly and actively participate in its proceedings.

Supporting Guidelines

The governing body should meet not less than four times a year. The agenda and supporting papers should be circulated in advance and the decisions minuted. Members should attend all meetings where possible, and the governing body should establish clearly the number, and if necessary the category, of members who constitute a quorum.

Certain items may be declared to be ‘reserved’, that is, business which for reasons of confidentiality is not open to discussion by the whole governing body. Such business should be kept to a minimum because of the general need for transparency and openness, but would normally include matters relating to an individual member of the Institution or commercially sensitive material.

To function efficiently, the governing body must have rules for the conduct of its meetings. Issues for which rules are required include, but are not restricted to:

- procedures for voting, rescinding decisions, calling extraordinary meetings, and declaring business reserved;
- requirements for a quorum; and
- frequency of meetings.

The governing body should draw up standing orders to regulate the conduct of its business.

Members of governing bodies should refer to their secretary for further information about the rules applying in their own institutions.

Statement of Primary Responsibilities

Main Principle – Number 5

The governing body shall adopt a Statement of Primary Responsibilities which shall include provisions relating to:

- approving the mission and strategic vision of the Institution, long-term business plans, key performance indicators (KPIs) and annual budgets, and ensuring that these meet the interests of stakeholders;
- appointing the Head of the Institution (the Principal) as chief executive officer of the Institution and putting in place suitable arrangements for monitoring his/her performance. Both the appointment and the monitoring of performance of the Principal shall include consultation with staff and student members of the governing body;
- ensuring the establishment and monitoring of systems of control and accountability, including financial and operational controls and risk assessment, clear procedures for handling internal grievances and “whistleblowing” complaints, and for managing conflicts of interest; and
- monitoring institutional performance against plans and approved KPIs which, where possible and appropriate, should be benchmarked against other comparable institutions.

This Statement shall be published widely, including in the Annual Report and on the Institution’s website, along with identification of key individuals (chair, vice-chair (if any), Principal, chairs of key committees, other members and senior officers) and a broad summary of the responsibilities that the governing body delegates to management and also those responsibilities which are derived directly from the instruments of governance.

Supporting Guidelines

The governing body should ensure that the appointment process for the Principal enables staff and student input to be taken into account. Useful best practice guidance on appointing senior managers has been prepared by Universities UK and is available at: www.universitiesuk.ac.uk/Publications/Documents/seniorappointments.pdf.

Furthermore, in assessing the performance of the Principal views should be sought from staff and student members of the governing body as well as independent members. Account should also be taken of the implementation of the strategic plan and the achievement of KPIs agreed by the governing body.

Good Practice Examples

In one University the Chair discusses the Principal's performance with each member of the Court individually before conducting the Principal's formal appraisal.

In another, the Principal participates in an externally-facilitated "360 degree" appraisal the output from which is used by the chair to conduct the formal appraisal.

Where permissible, the governing body may delegate authority or allocate some of its work to committees, grant delegated authority to the chair or a committee to act on its behalf, and delegate responsibility to the Principal and other officers of the Institution. Such delegations must be clearly defined in writing and be formally approved by the governing body. Having delegated authority to other bodies or individuals to act on its behalf, the governing body is nevertheless still ultimately accountable and has to accept corporate responsibility for the actions taken.

It is common practice for the governing body to delegate some of its powers and to allocate some of its work to committees. In deciding which tasks or responsibilities should be delegated to committees, the governing body should retain a formal schedule of matters reserved to it for its collective decision. Such matters are likely to include final decisions on issues of corporate strategy; the review and approval of the Institution's annual budget and Annual Report; and the appointment and dismissal of the Principal and of the Secretary to the governing body.

The governing instruments of some Institutions list key powers that the governing body may not delegate.

All committees must be provided with a clear remit and written terms of reference that state the extent and limits of the committee's responsibilities and authority. Committees must take care not to exceed their terms of reference and should be so advised by the secretary to the governing body. Committees should distinguish between issues on which they are empowered to take decisions, and issues that they must refer to the governing body for decision. Where a committee is acting under delegated powers it should submit regular written reports to the governing body on decisions that it has taken on the governing body's behalf.

Good Practice Example

Several institutions publish biographies, along with photographs, of all governing body members on their website. A contact email address for the secretary of the governing body is also published to enhance transparency.

Effective governance requires governing bodies to adopt a risk-based approach to strategic planning and decision making. Risk can be defined as: ‘the threat or possibility that an action or event will adversely or beneficially affect an organisation’s ability to achieve its objectives’. Institutions are expected to identify and actively manage risks, having particular regard at governing body level to risks which could threaten the sustainability of the Institution. An annual disclosure about risk management is required in audited financial statements.

Each Institution’s audit committee is required to provide advice to the governing body annually on risk management, control and governance in advance of the governing body approving the audited financial statements.

Institutions must have a sound system of risk management, control and governance. Essential elements of such a control system are:

- effective review by governing bodies, finance and audit committees each with an independent member majority;
- control systems which include policies, objectives and plans, management of key risks and opportunities, monitoring of financial and operational performance, physical safeguarding of assets, segregation of duties, authorisation and approval procedures, and information systems;
- an effective internal audit function which includes right of access to the chair of the Audit Committee; and
- the identification and management of risk embedded in all business systems.

At the highest level, risk management, control and governance must be exercised by the governing body and its committees acting under its explicit delegation. The governing body has overall responsibility for institutional activities and finances. Many Institutions have established a planning and resources committee to consider strategic plans and the allocation of resources to meet such plans. Detailed monitoring of the financial position and prospects is normally delegated by the governing body to a finance committee or equivalent.

The Accounts Directions from the Scottish Funding Council requires Institutions to include a statement of internal control in the corporate governance section of the audited financial statements, explaining the risk management arrangements operated by the governing body.

Day-to-day financial control is exercised by officers of the Institution under delegation from the governing body. Responsibility for administering the finances and advising on financial matters is delegated to a professional employee, generally designated as director of finance. That individual must have access to the Principal whenever he/she deems it appropriate.

An essential element of financial management is the annual budget. This quantifies expected income and plans expenditure in the context of income expectation. In many institutions the approval of the annual budget is a responsibility reserved under the constitution to the governing body for its collective decision, without delegation. The annual budget must be approved by the governing body before the start of the financial year.

In conjunction with the revenue budget, a capital budget must be prepared, aggregating approved capital needs and identifying required funding sources and strategies.

Most Institutions devolve the management of clearly identified elements of the annual budget to specified managers. These arrangements require the provision of accurate and timely financial information to budget holders, and hence the systems to generate such information, if they are to operate effectively. The governing body and/or its finance committee should receive summarised financial performance information at regular points in the year.

Institutions must have financial regulations and procedures. Financial regulations should specify the financial responsibilities and authority of the governing body, its committees, and staff. Financial procedures should specify processes to be followed in day-to-day financial transactions. There should be clear policies on a range of systems, including treasury management, investment management, risk management, debt management, and grants and contracts. These should be periodically reviewed to keep them up to date.

While the responsibility for devising, developing and maintaining control systems lies with management, internal audit provides independent assurance about the adequacy and effectiveness of risk management, control and governance. The internal audit service may also advise on value for money (VFM).

The Scottish Funding Council requires Institutions to appoint an audit committee and set up internal and external audit arrangements in accordance with the appropriate Audit Code. The audit committee should be a small, authoritative body which has the necessary financial expertise and the time to examine the Institution's financial and risk management control and governance under delegation from the governing body. It should not confine itself to financial systems but should examine risk management, control and governance independently, and report areas of concern to the governing body. The committee must produce an annual report for the governing body, including its opinion on the adequacy and effectiveness of the Institution's risk management, control and governance arrangements; and arrangements for promoting economy, efficiency and effectiveness (VFM).

In summary, the specific responsibilities of members of the governing body in respect of audit are:

- to appoint the audit committee;
- to consider and, where necessary, act on an annual report from the audit committee;
- to consider the annual report of the internal audit service;
- to appoint the external auditors; and
- to receive and approve the audited annual financial statements (this responsibility is usually reserved by the Institution's constitution to the governing body for its collective decision, without delegation).

The conditions of funding set by the Scottish Funding Council include requirements set out in a Financial Memorandum issued to each Institution. The main provisions include:

- the statutory basis on which public funding is provided to the Institution and the purposes for which it is provided;
- the need for the proper stewardship and effective use of public funding and accounting systems which enable the fulfilment of these requirements to be demonstrated;
- the requirement for the Institution to have in place sound systems of governance, management including risk management and internal control; and
- the need to safeguard the financial viability of the Institution.

In addition to the requirement under the Financial Memorandum for governing bodies to ensure that there is a sound system of internal control, they are responsible for ensuring the delivery of VFM from public funds. Procurement of works, goods and services is an area where VFM considerations are important.

It has been established by the European Court of Justice that higher education institutions are bodies governed by public law, and hence bodies to which European public procurement rules apply, if they are publicly financed for more than half of their income.

Under European public procurement rules there are thresholds above which contracts must be awarded in accordance with those rules. Below these limits, Institutions are free to tender locally only, but they should always ensure that sufficient competition is secured in order to ensure that VFM is achieved.

Governing bodies should ensure that VFM in procurement is achieved through obtaining assurances that:

- adequate procurement policies and procedures are in place
- policies and procedures are consistently applied, and there is compliance with relevant legislation.

To obtain these assurances governing bodies should ensure that the risk management framework and reporting mechanisms give adequate coverage of procurement processes and risks. The Institution's procurement procedures, including procedures governing conflicts of interest relating to procurement matters, should form part of the Financial Regulations, which should be approved by the governing body.

Responsibility of Members

Main Principle – Number 6

All members shall exercise their responsibilities in the interests of the Institution as a whole rather than as a representative of any constituency. The Institution shall maintain and publicly disclose a current register of interests of members of the governing body on its website.

Supporting Guidelines

It is central to the proper conduct of public business that chairs and members of governing bodies should act and be perceived to act impartially, and not be influenced in their role as governors by social or business relationships (see also Main Principle 3). Good practice requires that a member of a governing body who has a pecuniary, family or other personal interest in any matter under discussion at any meeting of the governing body or one of its committees at which he/she is present shall, as soon as practicable, disclose the fact of his/her interest to the meeting and shall withdraw from that part of the meeting. A member of the governing body is not, however, considered to have a pecuniary interest in matters under discussion merely because he/she is a member of staff or a student of the institution. Nor does the restriction of involvement in matters of direct personal or pecuniary interest prevent members of the governing body from considering and voting on proposals to insure the governing body against liabilities which it might incur.

Institutions should maintain a register of interests of all members of the governing body. The secretary and any other senior officer closely associated with the work of the governing body, for example the finance director, should also submit details of any interests. The register should be publicly available and should be kept up to date.

Good Practice Example

Several Institutions currently publish the register of interests on the website, suitably redacted to take account of data protection duties.

Details of the terms of appointment of a member should be set out as appropriate in that member's letter of appointment, but Institutions may wish to seek a signed undertaking that governors will act responsibly.

The governing body should have the power to remove any member of the governing body from office, and must do so if the member materially breaches the conditions of his/her appointment.

Members nominated by particular constituencies should not act as if delegated by the group they represent. No member may be bound, when speaking or voting, by mandates given to him/her by others, except when acting under approved arrangements as a proxy for another member of the governing body.

The Chair

Main Principle – Number 7

The chair shall be responsible for the leadership of the governing body, and be ultimately responsible for its effectiveness. The chair shall ensure the Institution is well connected with its stakeholders, including staff and students.

Supporting Guidelines

The chair is responsible for the leadership of the governing body and ultimately to the stakeholders for its effectiveness. As chair of its meetings he/she should promote its wellbeing and efficient operation, ensuring that its members work together effectively and have confidence in the procedures laid down for the conduct of business.

A chair should take particular care that the governing body observes the principles of public life, and that committees which play a central role in the proper conduct of the governing body's business report back appropriately. The chair should also ultimately be responsible for ensuring that the governing body operates effectively, discusses those issues which it needs to discuss, and dispatches its responsibilities in a business-like way.

Through leadership of the governing body, the chair plays a key role in the business of the Institution, but should not be drawn into the day-to-day executive management. For the governing body to be effective there must be a constructive and challenging working relationship between the chair and the Principal. This relationship will depend on the personalities involved, but reports by the National Audit Office have emphasised the need for both sides to recognise that the roles of chair and executive head are formally distinct. The relationship should be mutually supportive, but must also incorporate the checks and balances imposed by the different roles each has within an Institution's constitution.

Independent members of the governing body should also take care not to become involved in the day-to-day executive management of the Institution. This also applies to the staff and student members of a governing body, except that in the course of their employment or in their activities as students they may have executive responsibilities within the Institution.

The governing body may grant delegated authority to the chair to act on its behalf between meetings. Policy on this matter should be defined in the governing body's standing orders or equivalent. Action taken under delegated authority will normally consist of business that would not have merited discussion at a governing body meeting (such as the signing of routine documents, and detailed implementation of matters already agreed by the governing body).

Occasionally, matters may arise which are judged too urgent and important to await the next meeting of the governing body. The chair then has the option of calling a special meeting, consulting the members of the governing body by correspondence, or dealing with the matter by chair's action. The chair should be careful not to take decisions by chair's action where it is inappropriate to do so, and not to exceed the scope of the delegated authority granted by the governing body. Chair's action on matters of importance should only be taken where delaying a decision would disadvantage the institution.

The chair is answerable to the governing body for any action taken on its behalf. Where chair's action is taken, a report should be made to the next meeting of the governing body.

The governing body should appoint one of its independent members as a sounding board for the chair and to serve as an intermediary for other members who might wish to raise concerns about the chair. Led by the independent member so appointed, the members of the governing body should meet without the chair present at least annually to appraise the chair's performance.

Legislation provides that in the case of four universities (St. Andrews, Glasgow, Aberdeen and Edinburgh) the rector who is elected by the students (and, in the case of Edinburgh, also the staff) should preside at meetings of the governing body.

The Code describes how the chair of the governing body should be appointed and that it is the chair who is responsible *inter alia* for the leadership and effectiveness of that body in accordance with this Code.

In order to avoid confusion, each of these four universities should establish a clear protocol, whether by way of its standing orders and other procedures or otherwise, to distinguish the role of the rector from that of the chair, including in the conduct of Court meetings, representing the university and in relations with the Principal. It is recommended that in the information supplied to candidates for each post before their election, they are made fully aware of this important distinction.

As a member of the governing body, the rector can of course also be a candidate for appointment to the post of chair.

The Head of the Institution

Main Principle – Number 8

The Principal shall be responsible for providing the governing body with advice on the strategic direction of the Institution and for its management, and shall be the designated officer in respect of the use of Scottish Funding Council funds. The Principal shall be accountable to the governing body which shall make clear, and regularly review, the authority delegated to him/her as chief executive, having regard also to that conferred directly by the instruments of governance of the Institution.

Supporting Guidelines

The Principal is responsible for the executive management of the Institution and its day-to-day direction. The Principal must not seek to determine matters reserved for the governing body. The specific responsibilities of the Principal in relation to governing body business include:

- implementing the decisions of the governing body or ensuring that they are implemented through the relevant part of the Institution's management structure;
- initiating discussion and consultation including, where appropriate, consultation with the staff and the academic board/senate on proposals concerning the Institution's future development, and ensuring that such proposals are presented to the governing body; and
- fulfilling the duty, as the officer designated by the governing body under the terms of the Scottish Funding Council's Financial Memorandum ('the designated officer'), to alert the governing body if any actions or policy under consideration would be incompatible with the terms of the Financial Memorandum. If the governing body nevertheless decides to proceed, then the Principal has a duty to inform either the chief executive of the Scottish Funding Council, or other appropriate officer.

Members

Main Principle – Number 9

There shall be a balance of skills and experience among members sufficient to enable the governing body to meet its primary responsibilities and to ensure stakeholder confidence. The governing body shall draw up and make public a full evaluation of the balance of skills, attributes and experience required for membership of the governing body, which shall inform the recruitment of independent members of the governing body. The membership of the governing body should be regularly assessed against this evaluation. The governing body shall establish appropriate goals and policies in regard to the balance of its independent members in terms of equality and diversity, and regularly review its performance against those established goals and policies.

Main Principle – Number 10

The governing body shall have a clear majority of independent members, defined as both external and independent of the Institution. A governing body of no more than 25 members represents a benchmark of good practice.

Main Principle – Number 11

Appointments of the chair, and of members appointed by the governing body, shall be managed by a nominations committee, normally chaired by the chair of the governing body and which includes at least one staff and one student member of the governing body. To ensure rigorous and transparent procedures, the nominations committee shall prepare and publish written descriptions of the role and the capabilities desirable in a new member, based on a full evaluation of the balance of skills and experience of the governing body.

When selecting a new chair, a full job specification including a description of the attributes and skills required, an assessment of the time commitment expected and the need for availability at unexpected times shall be produced. In developing such a job description arrangements shall be put in place to consult staff and students before it is finalised.

When vacancies arise in the position of the chair of the governing body or in its appointed members they shall be widely publicised both within and outside the Institution, making specific reference to the evaluation referred to at Principle 9 and also to the desirability of ensuring the diversity of the governing body's membership.

Supporting Guidelines

Governing bodies shall establish a nominations committee to seek out and recommend the appointment of new independent members to the governing body. Membership of the nominations committee should include the chair of the governing body (who should normally chair it), at least three other independent members, the Principal, at least one staff member and a student member of the governing body.

Vacancies for such independent members should be advertised (including a job specification and a clear indication of the skills, knowledge and experience required) within and outside the institution. Staff and students, as well as members of the governing body, should be invited to submit names to the secretary of the governing body for transmission to the nominations committee. Some institutions co-opt promising candidates for governing body membership onto committees of the governing body to establish the suitability of those concerned for membership of the governing body itself in due course.

In making its recommendations to the governing body, the nominations committee must pay regard to the balance of membership and the needs of the institution, and should keep a 'skills register' against which to consider the field of candidates. In addition, the issues of equality and diversity must be addressed, and a regular report should be presented to the governing body on progress made towards achieving previously established goals in regard to a balanced membership taking account of equality and diversity characteristics. Furthermore, the question of inclusion of appropriate members of the local community should also be addressed. Finally, particular care should be taken on the appointment of members to ensure that they understand the need to abide by both the standards expected of them under Main Principle 3 and the values of the Institution.

Continuity of membership is important to an institution, but so is the need for new blood. Independent members should be appointed for a given term, which should be renewable, subject to satisfactory performance. The renewal of any appointment should not be automatic, but should be recommended by the nominations committee as part of its report on filling vacancies – again subject to satisfactory performance. Continuous service beyond three terms of three years, or two terms of four years, is not desirable (although exceptions, such as retention of a particular skill or expertise, may be permitted). After this point members should normally retire and be replaced by new members. Such limits on periods of office should also be observed by those constituencies which elect members to the governing body. There should be no bar to a particularly valued member returning to office if a vacancy occurs in future years. Where a member of the governing body is elected to serve as chair of the governing body he/she should automatically begin a new term of membership linked to the office.

The re-appointment or replacement of the chair of the governing body should be considered carefully and in good time during the term of the appointment. There are variations of practice in the length of term for which the chair is normally appointed. However, the re-appointment of a chair beyond two terms of four years, or the equivalent, should be regarded as exceptional. Formal arrangements should be made, through the staff and student members of the governing body, to enable the views of staff and students to be taken into account before the final appointment is made.

Although a number of sectors now remunerate their non-executive directors for their services, in the Higher Education sector normal practice is to pay only such incidental travelling and subsistence expenses or other allowances to members as the governing body may determine. This may include, for example, some compensation for lost income or expenses associated with caring responsibilities. In exceptional circumstances, however, it may be deemed appropriate to remunerate an independent member. Before any decision to remunerate is taken, the governing body should consider:

- the provisions of charity law;
- the implications of the decision for the division of responsibilities and overall relationship between the governing body and the executive;
- the public service and philanthropic ethos which applies generally among HE governors; and
- the need to be explicit about time commitment and to apply a formal process of appraisal and performance management to the remunerated governor(s).

Where a decision to remunerate is taken, payments should be commensurate with the duties carried out and shall be reported in the audited statement of accounts. Useful guidance on remuneration of independent members is available from the Committee of University Chairs at www2.bcu.ac.uk/cuc/publications.

Good Practice Examples

In one university an extensive public campaign was used to recruit a new chair, involving the use of search consultants and an external assessor on the final selection committee.

In another, a skills matrix and person specification was drawn up for new members, and external advertisement was used to seek to ensure an appropriate balance on the governing body taking account of the need for diversity in the membership.

Induction

Main Principle – Number 12

The chair shall ensure that new members receive a full induction on joining the governing body, that thereafter opportunities for further development for all members are provided regularly in accordance with their individual needs, and that appropriate financial provision is made to support such training in accordance with criteria determined by the governing body. In its Institution's Annual Report the governing body shall report the details of the training made available to members during the year to which such Report relates.

Supporting Guidelines

It is the responsibility of the chair of the governing body, working with the secretary, to ensure that all members of the governing body, when taking up office, be fully briefed on the terms of their appointment and be made aware of the responsibilities placed on them for the proper governance of the Institution. They should receive copies of background documents at the time of their appointment. These should include:

- a copy of this Code;
- the Institution's Annual Report, and financial forecast;
- the overall strategic plan, and strategy documents covering areas such as learning and teaching, research, widening participation and estates;
- notes describing the Institution's organisational structure; and
- the rules and procedures of the governing body.

It is important for governing bodies to provide an induction or briefing session for new members, to explain their responsibilities, the function of the governing body and other organisations within Higher Education, and the strategic objectives of the Institution.

Following initial induction, members should regularly receive a copy of the Institution's newsletter and appropriate publicity material about the Institution to help them stay up to date with developments. There is an onus on members to keep themselves informed.

The Leadership Foundation for Higher Education (LFHE) offers a governor development programme. This includes an induction seminar for new members of governing bodies which is intended to supplement Institutions' own induction arrangements, as well as seminars for more experienced governors and ones on specific topics. Institutions are strongly encouraged to nominate members to attend these seminars and should make appropriate financial provision. Details of the programme are available on the LFHE web-site.

Membership of committees provides a particular opportunity for members of the governing body to contribute their expertise to the Institution and to learn more about aspects of its operations.

The Secretary

Main Principle – Number 13

The secretary to the governing body shall be responsible for ensuring compliance with all procedures and ensuring that papers are supplied to members in a timely manner containing such information, and in such form and of such quality, as is appropriate to enable the governing body to discharge its duties. All members shall have access to the advice and services of the secretary to the governing body, and the appointment and removal of the secretary shall be a decision of the governing body as a whole.

Supporting Guidelines

The secretary has a key role to play in the operation and conduct of the governing body, and in ensuring that appropriate procedures are followed:

1. The secretary to the governing body should be appointed to that post by the governing body.
2. Normally the secretary combines this function with a senior administrative or managerial role within the Institution. The Institution and the secretary must exercise care in maintaining a separation of the two functions. Irrespective of any other duties that the secretary may have within the Institution, when dealing with governing body business the secretary will act on the instructions of the governing body itself.
3. In carrying out his/her role as secretary to the governing body, the secretary should be solely responsible to the governing body and should therefore have a direct reporting link to the chair of the governing body for the conduct of governing body business (i.e. agendas, papers, minutes etc).
4. The chair and members of the governing body should look to the secretary for guidance about their responsibilities under the charter, statutes, articles, ordinances and regulations to which they are subject, including legislation and the requirements of the Scottish Funding Council, and on how these responsibilities should be discharged. It is the responsibility of the secretary to alert the governing body if he/she believes that any proposed action would exceed the governing body's powers or be contrary to legislation or to the Scottish Funding Council's Financial Memorandum. (Note: the Principal is formally responsible for alerting the governing body if any action or policy is incompatible with the terms of the Financial Memorandum but this cannot absolve the secretary from having this responsibility as well.)
5. The secretary should be solely responsible for providing legal advice to or obtaining it for the governing body, and advising it on all matters of procedure.
6. The secretary should advise the chair in respect to any matters where conflict, potential or real, may occur between the governing body and the Principal.
7. The secretary should ensure that all documentation provided for members of the governing body is concise and its content appropriate.

It is incumbent on the governing body to safeguard the secretary's ability to carry out these responsibilities. It is important that the secretary also both consults and keeps the Principal fully informed on any matter relating to governing body business (other than in relation to the remuneration committee's consideration of the Principal's emoluments). It is good practice for the chair of the governing body, the Principal and the secretary to the governing body to work closely together within the legal framework provided by the charter, statutes or articles of government and the ordinances and regulations laid down by the Institution and the Scottish Funding Council's Financial Memorandum. If this is not possible because of inappropriate conduct by one of the parties involved, it is the responsibility of the governing body to take appropriate action.

If there is a conflict of interest, actual or potential, on any matter between the secretary's administrative or managerial responsibilities within the Institution and his/her responsibilities as a secretary to the governing body, it is the secretary's responsibility to draw it to the attention of the governing body. If the governing body believes that it has identified such a conflict of interest itself the chair should seek advice from the Principal, but must offer the secretary an opportunity to respond to any such question.

Conduct of Meetings

Main Principle – Number 14

The proceedings of the governing body shall be conducted in as transparent a manner as possible, and information and papers restricted only when matters of confidentiality relating to individuals, the wider interest of the Institution or the public interest demands, including the observance of contractual obligations.

The governing body shall also ensure that the Institution has in place appropriate arrangements for engaging with the public and the wider communities which it serves.

Supporting Guidelines

The general principle requires that students and staff of the Institution should have appropriate access to information about the proceedings of the governing body. The agenda, draft minutes if cleared by the chair, and the signed minutes of governing body meetings, together with the papers considered at meetings, should generally be available for inspection by staff and students. There may, however, be matters covered in standing orders where it is necessary to observe confidentiality. Such matters are likely to concern individuals or have commercial sensitivity. Good practice might include placing copies of the governing body's minutes on the Institution's intranet and in its library, reporting on decisions in a newsletter, and ensuring that the Annual Report is circulated to academic departments and the students' representative body.

The governing body should ensure that the Institution engages effectively with its diverse stakeholders. This may be done by public meetings, annual open meetings, economic or professional sector advisory committees, innovative use of information technology and engagement with local community planning bodies.

The Institution's Annual Report should be made widely available outside the Institution, and ways should be found for the public, or the local community, to comment on institutional matters that concern them.

Institutions should ensure that machinery exists whereby they maintain a dialogue with appropriate organisations in their communities. Institutions should also consider publishing their Annual Reports on the web.

It is desirable for the effective conduct of meetings that key officers are in attendance to offer guidance and advice. However, the number of those in attendance should be constrained so as

not to dominate the business of the governing body and normally should not exceed the number of independent members present. The chair should ensure that only members participate in formal decision-making.

Good Practice Examples

In one Institution, all governing body papers (other than those reserved because of commercial or other sensitivity) are placed on the intranet.

In another, a range of economic sector advisory committees has been established, each chaired by an independent member, which feed into the Institution's strategic development.

In a third, the Court includes as a standing item a report from the President of the Students' Union on issues affecting students thereby helping to inform members of matters directly bearing on the student experience.

Remuneration

Main Principle – Number 15

The governing body shall establish a remuneration committee to determine and review the salaries, terms and conditions (and, where appropriate, severance payments) of the Principal and such other members of staff as the governing body deems appropriate.

The policies and processes used by the remuneration committee shall be determined by the governing body, and the committee's reports to the governing body shall provide sufficient detail to enable the governing body to satisfy itself that the decisions made have been compliant with its policies.

Supporting Guidelines

Membership of the remuneration committee should include the chair of the governing body, and at least three other independent members (not necessarily members of the governing body), one of whom should be a member of the finance or equivalent committee, and from among whom a committee chair should be appointed. The Principal should be consulted on remuneration relating to other senior post-holders and should attend meetings of the committee, except when the committee discusses matters relating to his/her own remuneration.

The policies and processes used by the remuneration committee in reaching decisions on individuals should be discussed by the whole governing body and be approved by that body. The remuneration committee must seek comparative information on salaries and other benefits and conditions of service in the Higher Education sector. Two sources of information are available: the CUC has a database of salaries, benefits and conditions of service for heads of institution (currently available only to chairs of governing bodies); and the Universities and Colleges Employers Association (UCEA) collects data on the salaries of other senior staff. In discussing these issues, and if considering severance arrangements for senior staff, the remuneration committee must represent the public interest and avoid any inappropriate use of public funds. The committee should be careful not to agree to a severance package which staff, students and the public might reasonably deem excessive. Contracts of employment for senior staff should specify periods of notice of not more than 12 months, and should not provide for pension enhancements.

The remuneration committee's reports to the governing body should provide sufficient detail of the broad criteria and policies against which decisions have been made.

The remuneration committee should identify those posts in the senior team which are regarded as forming the senior executive team, and it should publish the salaries of this group of staff by salary band.

Good Practice Examples

In one University a senior, independent external advisor attends the committee and is empowered to report directly to the governing body on the work of the committee; this enhances both transparency and objectivity.

In another the whole governing body meets, in the absence of members of the senior team, to discuss the performance of the Principal and members of the senior team, This discussion precedes the meeting of the remuneration committee.

In yet another University, the Court, on the recommendation of its remuneration committee, has identified the other UK universities which it regards as comparable and benchmarks its senior salaries against an agreed quartile of the salaries in that group of institutions.

Effectiveness

Main Principle – Number 16

The governing body shall keep its effectiveness under regular review. Normally not less than every three years, it shall undertake an externally-facilitated evaluation of its own effectiveness, and that of its committees, and ensure that a parallel review is undertaken of the senate/academic board and its committees. Effectiveness shall be assessed both against the Statement of Primary Responsibilities and compliance with this Code. The governing body shall, where necessary, revise its structure or processes, and shall require the senate/academic board of its Institution to revise its structure and processes, accordingly.

Main Principle – Number 17

The governing body shall reflect annually on the performance of the Institution as a whole in meeting long-term strategic objectives and short-term KPIs. Where possible, the governing body shall benchmark institutional performance against the KPIs of other comparable institutions.

Main Principle – Number 18

The results of effectiveness reviews, as well as of the Institution's annual performance against KPIs and its progress towards meeting its strategic objectives, shall be published widely, including on the internet and in its Annual Report.

Supporting Guidelines

The governing body should review its effectiveness regularly. Periodically, it may wish to engage persons independent of the Institution to facilitate the process. Actions flowing from effectiveness reviews should be reported upon publicly.

In addition, the governing body should ensure that it has discharged its responsibilities through its annual review of the Institution's overall performance which forms the core of the Annual Report. These annual reviews of performance should also embrace the senate or academic board, and should be reported upon appropriately within the Institution and outside.

Part III

Annex A1: Final Consultation Phase

The Steering Group consulted extensively with stakeholders throughout the development of this code, including holding meetings with staff, students, unions and senior managers on campus of eighteen of Scotland's higher education institutions.

In keeping with this spirit of consultation and openness members of the Steering Group now invite Scottish higher education institutions, representative bodies and individuals with an interest in good governance to review the draft code and submit any new evidence which might have been overlooked and should be taken into account in finalising the Code. Significantly, it is expected that the Scottish Parliament's Education and Culture Committee will wish to review and comment on the Code as part of this final consultation phase as the Code relates to the Post-16 Education (Scotland) Bill.

Suggested additions and/or amendments must be fully supported by evidence in order to be considered by the Steering Group. **Submissions must be received no later than 17.00 on Tuesday 11 June 2013.**

Submissions can be made via the "contact us" page on the *Scottish Code of Good HE Governance* website at: www.scottishuniversitygovernance.ac.uk. The draft Code can also be downloaded in electronic format from this site.

What happens next?

Submissions will be reviewed by the Steering Group at a final meeting to be held in June 2013.

It is the Steering Group's intention to finalise and approve the Code for implementation right across the Scottish higher education sector with effect from 1st August 2013.

Annex A2: Guidance on Whistleblowing

This annex offers guidance to higher education institutions on the handling of allegations made by staff members relating to the running of the institution or the activities of colleagues within the institution (referred to as 'whistleblowing'). It is intended only as a statement of good practice and general principles: institutions should draft more detailed protocols to take account of individual circumstances and experience (if they have not done so already). In doing so, institutions should refer to the Public Interest Disclosure Act 1998, which sets out in detail when 'disclosures' by staff are protected by the Act. Such protocols would draw on the guidance given below, and would recognise the need to investigate allegations fully, while dealing fairly with anyone accused.

1. Universities and colleges of higher education, like other public bodies, have a duty to conduct their affairs in a responsible and transparent way and to take into account both the requirements of funding bodies (including of course the Funding Council) and the standards set out in the reports of the Committee on Standards in Public Life. In addition, they are committed to the principles of academic freedom embodied in their own charters, statutes and articles of government, and enshrined in the Education Reform Act 1988.

2. Members of staff are often the first to know when things are going wrong in an institution, whether this concerns financial malpractice, the abrogation of appropriate and agreed procedures, or departures from the statutory or other requirements for good governance. All institutions should establish official channels through which such concerns can be raised, for example through heads of department, at official committees, or through staff representatives, including the accredited trades unions. In the normal course of events, concerns should be raised through these channels. But members of staff often feel, rightly or wrongly, that their own position in the institution will be jeopardised if they raise a particular concern in this way, and sometimes the usual channels may indeed be inappropriate.

3. Good practice would suggest that:

a. Allegations of injustice or discrimination against individuals should be dealt with under established procedures approved by the governing body or, if it is a student grievance, through the machinery established by the institution for this purpose.

b. Allegations about an individual's financial conduct should normally be made to the head of internal audit. He/she is required to have direct reporting relationships both with the vice-chancellor/principal/chief executive, as the officer designated by the governing body and by the Funding Council to be accountable for the control of the institution's funds, and with the audit committee established by the governing body. Internal audit should investigate the allegation

and report to a higher authority as appropriate. Where, for whatever reason, the person making the allegation considers it inappropriate to make it to the head of internal audit, the provisions of subparagraph c apply.

c. Allegations about other issues could concern, for example, the behaviour of a senior officer of the institution, or a lay/independent member of the governing body, or the propriety of committee or other collective decisions. Such allegations should be made, as the person making the allegation deems appropriate, to the vice-chancellor/principal/chief executive, or to the secretary/registrar/clerk to the governing body, or to the chair of the governing body. If for any reason none of these individuals is deemed to be appropriate, the allegation should be made to the chair of the audit committee.

4. In any case where an allegation is made under sub-paragraphs 3b and 3c, the person to whom the allegation is made should make a record of its receipt and of what action is taken. Any allegation made under this procedure shall normally be the subject of a preliminary investigation either by the person to whom the allegation is made or more usually by a person or persons appointed by him/her. Institutions should take steps to ensure that investigations are not carried out by the person who may ultimately have to reach a decision on the matter. Where no investigation is carried out, and the allegation is effectively dismissed, the person making the allegation should be informed and given the opportunity to repeat the allegation to some other person or authority within the institution. This need not be done where an allegation is dismissed after an investigation. The person or persons against whom the allegation is made must also be told of it and the evidence supporting it. They should be allowed to comment before the investigation is concluded and a report made. The results of the investigation shall be reported to the audit committee.

5. Any person making an allegation under sub-paragraphs 3b or 3c should be guaranteed that the allegation will be regarded as confidential to the receiver until a formal investigation is launched. Thereafter, the identity of the person making the allegation may be kept confidential, if requested, unless this is incompatible with a fair investigation, or if there is an overriding reason for disclosure (for example, if police involvement is required). Provided the allegation has been made lawfully, without malice and in the public interest, the employment position of the person should not be disadvantaged because he/she made the allegation.

6. Institutions may wish to consider using the policy checklist proposed by Public Concern at Work so far as it applies to higher education institutions.

Annex A3: List of Consultation process during the development of the code

The Committee of Scottish Chairs appointed a Steering Group to oversee preparation of the new Scottish Code of Good Higher Education Governance. The membership of the Steering Group included leading representatives from the private, public and third sectors, including a former university Rector, and is supported by an expert secretariat. Full membership details can be found below.

The Steering Group decided upon a full and open consultation process which included an invitation to submit written evidence as well as a series of face-to-face meetings held at every one of Scotland's higher education institutions. Separate meetings were organised on campus for student representatives, staff including union representatives, governors including lay members and members of senior management teams between November 2012 and January 2013.

In addition to consulting with individual representatives at institution level, the Steering Group's secretariat held seven meetings with national-level representative bodies including the National Union of Students Scotland, UCU Scotland, EIS, the Scottish Trade Union Congress as well as the Scottish Government and the Scottish Funding Council.

Over 360 people participated in over 78 separate meetings at institution level.

The call for written evidence launched in late November 2012 with a deadline of 31 January. The Steering Group established a website www.scottishuniversitygovernance.ac.uk which contained full details of the code's development and consultation process as well as providing a means for stakeholders to contact the secretariat of the Steering Group.

Membership of the Steering Group

The Rt Hon Lord Smith of Kelvin (Chair)

The Rt Hon Dame Elish Angiolini

Mr Simon Pepper, former rector at the University of St Andrews

Mr Tony Brian, Chair of the Committee of Scottish Chairs and Chair at the University of Stirling

Mr David Ross, Chair at the University of Glasgow

Mr Eric Sanderson, Chair at the University of Dundee

Lord Vallance of Tummel (representing the small specialist institutions)

Secretariat to the Steering Group

Dr Peter West OBE

Mr Kevin Clarke

Institution visits (listed in chronological order)

University of Aberdeen

Four separate meetings were held on 11th December 2012 with:

- 7 staff members including 4 union representatives (UNITE, Prospect, UCU, UNISON)
- 7 student representatives
- 5 members of the governing body
- 5 other members of the senior management team

Glasgow School of Art

Four separate meetings were held on 14 December 2012 with:

- 8 staff members including 4 union representatives (from UNITE, UNISON, UCU and EIS)
- 7 members of the governing body
- The Director and 11 other member of the senior management team
- The student representatives were nominated by the Student President and were not listed individually.

University of Strathclyde

Five separate meetings were held on 18 December 2012 with:

- 2 staff members
- 2 union representatives
- 5 student representatives
- 5 members of the governing body
- 4 members of the senior management team

University of Glasgow

Five separate meetings were held on 18 December 2012 with:

- 3 staff members
- 2 union representatives from UCU Scotland
- 2 student representatives
- 5 members of the governing body
- The Principal and 3 other members of the senior management team

Robert Gordon University

Four separate meetings were held on 20 December 2012 with:

- 8 staff members including two union representatives from EIS and UNISON
- 3 student representatives
- 5 members of the governing body
- The Principal and 5 other members of the senior management team

The Open University in Scotland

Two separate meetings were held on 8 January 2013 with:

- 3 members of staff, 2 members of senior management and one student representative
- The Director and 1 member of the senior management team as well as three governors

The University of Edinburgh

Four separate meetings were held on 9 January 2013 with:

- 6 staff members including two union representatives (UCU and a Joint union representative)
- 6 student representatives
- 5 members of the governing body
- The Principal and 4 other members of the senior management team

SRUC

Four separate meetings were held on 10 January 2013 with:

- 3 staff members all of which were union representatives (EIS, Prospect and UNISON)
- 4 student representatives
- 6 members of the governing body
- The Principal and 4 other members of the senior management team

Edinburgh Napier University

Four separate meetings were held on 10 January 2013 with:

- 10 staff members, of which 5 were union representatives (EIS and UNISON)
- 4 student representatives
- 5 members of the governing body
- The Principal and 4 other members of the senior management team

Glasgow Caledonian University

Four separate meetings were held on 14 January 2013 with:

- 9 staff members. A record was not kept as to whether union representatives were amongst the staff.
- 2 student representatives
- 6 members of the governing body
- The Principal and 4 other members of the senior management team

University of the West of Scotland

Four separate meetings were held on 15 January 2013 with:

- 4 staff members
- 3 student representatives
- 5 members of the governing body
- The Principal and 6 other members of the senior management team

University of St Andrews

Four separate meetings were held on 16 January 2013 with:

- 5 staff members, of which 1 was a union representatives (UCU)
- 7 student representatives
- 5 members of the governing body
- The Principal and 6 other members of the senior management team

Queen Margaret University Edinburgh

Four separate meetings were held on 17 January 2013 with:

- 10 staff members, of which 5 were union representatives (UCU, EIS, UNITE and UNISON)
- 7 student representatives
- 5 members of the governing body
- The Principal and 6 other members of the senior management team

University of the Highlands and Islands

Four separate meetings were held on 22 January 2013 with:

- 4 staff members
- 4 student representatives
- 5 members of the governing body
- The Principal and 5 other members of the senior management team

University of Abertay Dundee

Four separate meetings were held on 28 January 2013 with:

- 6 staff members including 4 union representatives (from UNITE and UCU)
- 2 student representatives
- 4 members of the governing body
- The Principal and 1 other member of the senior management team

University of Dundee

Five separate meetings were held on 28 January 2013 with:

- 6 staff members
- 3 union representatives (UNISON, UNITE, UCU)
- 3 student representatives
- 6 members of the governing body
- The Principal and 3 other members of the senior management team

Heriot Watt University

Four separate meetings were held on 28 January 2013 with:

- 5 staff members, of which 1 was a union representatives (UCU)
- 3 student representatives
- 3 members of the governing body
- The Principal and 3 other members of the senior management team

University of Stirling

Four separate meetings were held on 31 January 2013 with:

- 8 staff members, of which 4 were union representatives (UCU, UNITE, UNISON)
- 5 student representatives
- 5 members of the governing body
- The Principal and 3 other members of the senior management team

Published in draft form April 2013

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