



nationalunionofstudentscotland

Draft Scottish Code of Good HE Governance

NUS Scotland final consultation phase response | June 2013

Summary recommendations for amendment

1. The code should make clear the required role for rectors, as defined by legislation, and not attempt to subvert this.
2. There needs to be a defined provision for staff and student representation on remuneration panels.
3. There should be a defined provision for the full involvement of staff and students in the appointment and appraisal of principals, including on all relevant panels.
4. The code needs to contain a requirement for governing bodies to be fully transparent, accountable and inclusive, through more open meetings.
5. The code should recognise the need for proper remuneration of chairs, to ensure the role is open to all, regardless of background.
6. Senior officers should *never* make up a majority in attendance at governing body meetings, and should *only* attend to speak to relevant agenda items.
7. Provisions on equality and diversity need strengthened and there should be voluntary (to avoid legislative restrictions) target on gender balancing of courts.
8. The code should be owned collectively by the sector, through the Scottish Funding Council.

Areas for the code to be amended

1. The role of rectors/chairs of governing bodies

At the outset of the process it was made clear that the chairs would not be dealing with those matters which required legislative change. In the case of the four ancient universities, legislation provides that the elected rector is responsible for chairing court. The proposed code, however, recommends that universities ignore this provision. It was no secret that the chairs were against the majority decision of VonProndzynski in having elected chairs, but it was something that no one had the power to do anything about, as it would require legislative change.

We are concerned that the chairs have acted outwith their remit in such a recommendation, and would like to see the code amended to properly reflect the current role of rectors at the ancient universities.

2. Staff and students should be involved in the appointment (including being members of interview panels) and appraisal of Principals

We fully supported the recommendation for both the appointment and appraisal of Principals to fully involve staff and students, including having students as full members of interview panels. We believe it is important to ensure that the appointee enjoys the confidence of both, which is vital to the success of the institution. Student representatives are recognised as having unique skills and knowledge which are important for the institution, witnessed by their inclusion on governing bodies. This equally translates into the skills and knowledge they would bring to recruitment and appraisal. The proposed code, however, stops well short of what VonProndzynski recommended. It provides for a vague recommendation that appointment and appraisal should include “consultation” with staff and students, which could be widely interpreted, and fails to offer significant or meaningful representation.

As such, we would like to see the code amended to ensure there is a clear requirement on institutions to involve staff and students fully in the appraisal of principals and ensure that they are fully involved in the appointment process of principals, including as members of interview panels.

3. Remuneration panels should include staff and student members

By having staff and student representatives as full members would result in a greater diversity on panels, balancing opinions and stakeholders; this was something also recommended by the Hutton Report. That report found that university Principals have the highest pay ratio on the entire public sector (15.35). Follow up research by NUS Scotland found that in Scotland this ratio goes up to 16.10, that there are 88 individuals at Scottish universities who earn more than the First Minister (£140,000), and only two university Principals who earn less than this. It is clear from these figures, and given the backdrop of tight financial circumstances across the public sector, that the higher education sector needs to take strong action to tackle inflated senior pay.

However, not only does the proposed code not go as far as VonProndzynski recommended, and require institutions to include staff and student members on remuneration panels, it makes no reference at all to

staff and students in its discussion of remuneration, other than to make note that remuneration panels should be careful not agree severance packages which staff and students might find excessive.

If the chairs are to ensure a code which not only adheres to the original recommendations of von Prondzynski, as they were tasked with, but also one which enshrines institution transparency and accountability as standard, then we would expect the code to be amended to require institutions to have staff and students on remuneration panels.

4. Meetings of governing bodies should be held in public (with exceptions only for confidential or commercially sensitive matters)

NUS Scotland urges the chairs to open up the proceedings of governing bodies, requiring institutions to hold open meetings, as this could go some way to improving transparency. This would be not only for non-member staff and students, but the wider community too. We recognise that there may be those who feel unnerved by the idea of public meetings for fear that it would stifle debate and simply mean that important decisions are taken elsewhere, behind closed doors. However, we would respond that, if this were the case, then it strikes to a much deeper issue with governance and would paint a particularly negative picture of any institution which sought to do so.

What is provided for in the code, however, stops far short of this, and places no requirement on institutions to do anything other what is already considered best practice. We would want to see the code amended to ensure that there is a robust requirement on institutions to be fully transparent and inclusive.

5. Governing body chair should receive reasonable remuneration, and expenses should be made available to lay members in lieu of lost wages

While chairing stops short of a full-time role, it is entirely right that no candidate is dissuaded from putting themselves forward for the role, or committing a reasonable amount of time, because it is entirely unremunerated. Similarly, there is a strong case to be made for ensuring lay members are reimbursed for expenses incurred, including lost wages. The alternative is to continue with the status quo of chairs and lay members coming from the same backgrounds – financially secure, often retired, and predominantly from business. We recognise concerns around remuneration of chairs, and the relationship this could create between chair and institution; however, we would argue that if the chair is an appropriate (and appropriately independent) one, then this should not be born out.

The code as drafted makes no provision for specific remuneration of chairs, and instead applies a vague catch all for potential remuneration for any independent member, again with no requirement. Instead it sets out considerations the board should have, applying a negative process. We would want to see this amended, so that remuneration and proper expenses are the rule and not the exception.

6. Governing bodies should always have lay member majority, and senior management attendance (other than the Principal) should be restricted to necessary agenda items

Too often, senior managers will make up a majority of those in attendance at meetings, and as such the majority of conversation. While we recognise they are non-voting, we are unaware of any major instances of votes actually being taken at governing bodies, and they do retain full rights to speak to agenda items. It is vital that the lay members, and staff and student representatives, are those who set the tone and direction of meetings.

However, not only does the proposed code not limit senior officers to only attending when there are specific agenda items they need to speak to, but it provides only that “normally” their number should not exceed independent members. We would want to see the code amended to ensure that senior officers are *never* in the majority, and that they *only* attend for those agenda items they are required to speak to.

7. There should be a 40% gender balance of male and female on governing bodies

At present women are hugely underrepresented on boards, despite them making up more than 50% of the university student population, and just fewer than 50% of university staff. Across Scotland, 74% of governing body lay members are men, just 26% are women. Even more worrying, looking at the chairs of governing bodies, there are three “Lords” and two “Sirs” yet not a single woman chair. The code presented a unique opportunity to radically address this, and do much more to ensure governing take their equality and diversity responsibilities seriously.

Instead, it provides for a vague recommendation that the governing body should “develop appropriate goals and policies in regard to the balance of its independent members”, which we do believe goes far enough to address the chronic underrepresentation of women on governing bodies. We want to see the code amended to ensure greater emphasis on providing for better equalities outcomes, with a voluntary target of 40% gender balancing (which would not require legislation).

Compliance with, and ownership of, the code

As we have already noted, when this process began, we were vocal in our disappointment at the self-regulatory approach being, with the CSC undertaking the work in isolation, with no staff or student representation on the group. To now go beyond this, as the code proposes, and have an entirely self-regulatory system for 'compliance' would simply be a step too far. Ultimately, if institutions want to genuinely prove their 'responsible autonomy' then there is no place for non-compliance, and continued self-regulation. Therefore, it is vital that there is a robust system of compliance with the code, backed up by legislation.

Furthermore, there is a real and pressing need to ensure that 'ownership' of the code is such that it balances the needs of all stakeholders. Our preferred option would be for the SFC to ultimately 'own' the code, which we believe is necessary should it become – as we wish to see, and as referenced within the Post 16 Education Bill – a condition of grant, with regular engagement on its content, and potential development or alteration, with relevant stakeholders. We would welcome amendments to the code which clarify the nature of this compliance and ownership, which removes the worst elements of the self-regulation we have at present.

For more information on anything contained within this submission, contact:

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