

Response to Consultation on the development of a new Scottish Code of Good HE Governance - Issues Paper

Preamble

UCU Scotland has nearly 7,000 academic and academic-related members in Scottish higher education institutions (HEIs). This response to the consultation on the development of a new Scottish Code of Good HE Governance – Issues Paper represents a national view on the code of practice representing views of members across many varied institutions.

Introduction

UCU does not believe that this consultation or the evidence sessions are justified as it has already provided the evidence to the review of higher education governance and supports its implementation.

UCU believes that a governance code should improve the management and governance of universities in Scotland; restore the confidence of staff in the governing bodies; and strengthen the autonomy, democracy and collegiality of Scottish higher education institutions.

In practice this should mean that:

- university management undertakes proper and thorough consultation with staff, unions and NUS Scotland
- the process of appointment to governing bodies is transparent and accountable, with key representative members being elected
- governing bodies reflect the concerns of the wider university community, especially staff and students
- governing bodies properly scrutinise executive proposals and give due consideration to alternatives
- there is diversity in governing bodies – at least 40% female

The consultation document does not address the recommendations of the government's independent review of governance but instead raises questions which were already answered in that report. Most of the questions raised here can be answered by reference to the governance report. Further, many of the recommendations of the report cannot be

picked apart, as the questions in this document attempt to do. For example, the configuration of Court suggests reductions and additions in the membership. To take each of these as individual suggestions would be plainly ludicrous.

We believe many of the questions can be answered simply by implementing the recommendations in the report.

Questions

Is the present Act failing to achieve its objective of ensuring academic freedom? If so, would the Irish wording be preferable to the present Scottish wording?

The text states that the *universities and unions were involved in drafting the present Act on Academic Freedom*. Actually the universities actively opposed its inclusion in the Act and it was only included due to successful lobbying by this union. The wording was proposed by us and grudgingly agreed to by the universities.

UCU has a fundamental commitment to scholarship in universities based on academic freedom as enshrined in the UNESCO recommendation ¹ and our statement on academic freedom². This additionally extends to institutional autonomy and we believe both of these principles should protect scholarship and research from external influences, be they political or profit motivated.

Universities led by Stirling have removed the protection for academic freedom from their regulations and diluted the protection by including it instead in the lesser rules of the university. They did so without the required meaningful consultation with unions (e.g., Stirling management only consulted with the unions locally once they had changed their Statute and Charter).

The Irish wording is preferable as it extends the definition of academic freedom but UCU also supports the current coverage of academic freedom in the 2005 Further and Higher Education Act (Scotland) as it includes all staff engaged in research, teaching and the provision of learning (a wider application than the Irish model).

Is there a case for requiring each institution to adopt a policy on academic freedom similar to that of Trinity College Dublin and to present it to the Scottish Funding Council?

This would strengthen the commitments on academic freedom which have been diluted by university management. It also increases institutional autonomy as the university is able to cite academic freedom against government interference. The universities should have used the requirement to consult staff and ensure academic freedom in all decision making to allow adequate time to discuss outcome agreements.

Is enough being done in all cases to encourage openness and transparency, or should further measures, including public meetings, be considered?

The report recommends open meetings and we support the view that open meetings will increase transparency and openness.

Should students and staff be involved in the appraisal of the Principal? If so, how?

In line with the report's recommendations staff and students should be included in bodies that appraise the Principal.

Should remuneration committee membership be widened to include staff and students?

The report states that they should and the remit of this group is to implement its recommendations as this would not require changes in statutes.

Do the present arrangements in your university for setting the pay of Principals and Senior Officers and reporting the outcome meet the recommendations of the existing UK Code? Should the CUC guidance on this matter be changed in the new Scottish Code?

Our evidence showed the outrageous relative and absolute growth in numbers and salary of senior staff, the present code is not working and the report's recommendations should and could be implemented in the code.

Should the salaries of senior officers be published annually by SFC, as already happens in respect of Principals?

This is a false assertion, the SFC does not do any such thing. It is, though, a legal requirement to publish the Principal's pay and the number of staff paid over a certain threshold.

At least one university already does publish the salaries of senior officers so we see no reason why this cannot be extended to all.

Do you think your current arrangements for appointing the chair of the governing body are effective in being sufficiently rigorous and transparent?

The evidence to the report showed that this was not the case and there is no need to ask this question again. We agree with the report that chairs should be elected. Further, the present nomination committees for court membership tend to be dominated by both the senior management team and existing lay members from the business community which leads to similar people being appointed. UCU recommends that staff and student representatives should be included on the appointment committees. This will increase transparency of the appointments process and allow for a broader view to be taken in selecting and appointing candidates.

UCU is concerned that in some universities governing bodies approve management decisions without adequate scrutiny. UCU Scotland has been campaigning on this failure of

governance with the result that such issues were included in the recent higher education consultation and could be included in resulting legislation depending on the outcome of this review.

Taking account of your institution's governing instruments are there ways you wish to propose to enhance the extent to which the chair might be seen to command the confidence of both the governing body itself and other stakeholders, for example, by advertising publicly any vacancy, and involving staff and students in the processes that lead to the selection of a new chair?

The only way to engender a degree of accountability is for chairs of governing bodies to be elected by staff and students to represent the broad academic community. The report states this and we agree.

Does the absence of remuneration for chairs of governing bodies restrict the range of candidates willing to take on the role?

The analysis in our evidence to the review clearly shows that lay members are predominately from either a business background or managers and directors in the public sector. Very few of the appointees to Court are from local communities or represent civic Scotland.

If so, are there any mechanisms which could be used to address the issue whilst ensuring compliance with other legal demands upon the institution?

The present process is open to challenge on equality legislation and has to be modernised. Further, the Charity Act allows remuneration and OSCR defines how this can be achieved legally³.

Are current mechanisms effective in ensuring that the governing body is well informed of the views of staff across the institution?

UCU has concerns with governing bodies being presented with limited or incomplete information on which to make significant decisions which will have a substantial impact upon educational provision. Governing bodies are all too often not presented with any alternative solutions or proposals, even when campus unions or students' associations have made valid proposals.

Having noted that the composition of the governing body will be prescribed by the governing instruments are there effective mechanisms to ensure that the work of the governing body is transparent to all staff?

Communication regarding decisions is crucial to the whole university community. Therefore it is surprising that only half the universities have the minutes of governing body meetings up to date on their web pages. A further seven either do not publish the minutes at all or

have failed to keep them up to date by over a year. In some cases key decisions taken by Courts are viewed as "Reserved Business" and relevant papers and minutes of these items are not published or available to staff involved. Similarly, the background on the membership of Court is not provided by many institutions. UCU believe it is critical for staff to be able to contact lay members of Court without difficulty. At the moment, this contact varies across HEIs but in some cases, the only contact available is through the Court administration office. Lay members should be encouraged to meet more regularly with staff as part of regular business, possibly through Committees of Senate or College/Faculty/School meetings.

Is the present size of your governing body appropriate?

The size of governing bodies is less important than the need for it to be democratic and fulfil its role of holding the senior management to account. This should include reflecting the views of a diverse range of communities including students and staff. As shown in our evidence, the majority of lay members are presently senior managers who do not reflect the broader community.

Would there be any implications for the effective size of your governing body arising from the Report's recommendations?

The size of governing bodies was taken into consideration in the report's recommendations. It suggested rounded changes to remove some members while advising increases elsewhere. This overall package cannot be unpicked and offered piecemeal as this flawed exercise suggests.

Would it be appropriate to require that up to two of your governing body members be alumni?

Many universities already successfully elect alumni.

Should the Scottish Code set a quota for the proportion of female members of the governing body?

Quotas have worked in other organisations and the under-representation of women has to be addressed. Though we appreciate this cannot be achieved overnight the status quo is not justifiable and open to challenge on equality legislation.

Are there mechanisms, other than imposing quotas, by which good practice in regard to equality and diversity can be achieved?

There are examples of selections and elections in the trade union movement where there is equality in those appointed due to the process rather than quotas.

What provisions do you currently have for paying expenses? N/A

Have you experienced any difficulties arising in connection with wages lost as a result of engagement in governing body activity?

The whole point is it that people who cannot afford to be on courts will not apply so it is unlikely that this affects present members of courts. There was strong evidence to the review that this is required to broaden representation. To ask this of present governors shows an ignorance of the issues.

Would the compensation of lost wages be the best way to address any issues arising?

This would encourage applications from people from a broader range of backgrounds and sends out a message that governance is open for all.

Does the presence of senior managers attending your governing body inhibit the conduct of business?

Yes. As evidenced in the review report and evidence to it.

Is the attendance of senior managers beneficial to the functioning of your governing body?

The recommendations do not prohibit senior managers giving advice at appropriate points.

Would there be merit in ensuring that the number of officers in attendance does not exceed the number of lay members present?

The report states they should not be present unless required and we agree.

Are there effective ways of ensuring a proper balance of input with the need to maintain an ethos which is supportive of open and frank discussion?

There is and they are the measures in the governance review report.

Is the current size of your senate/academic board appropriate?

Again size is less important than making it representative and accountable.

Would the Report's recommendations improve the functioning of your academic board (if you have such)?

The report's recommendations should be implemented by universities amending their regulations. This should be recommended in the code. It should further recommend that all institutions should have an academic board.

Would the academic functioning of the institution be enhanced or impaired if such constraints were placed on your academic board composition?

The present boards can be large and unwieldy and also over representative of senior staff.

Are there alternative ways of ensuring that an appropriate balance of interests is represented on your academic board?

Those outlined in the report's recommendations.

Are there any other issues you wish to raise about how the new Scottish Code might ensure the highest standards of effective governance?

The code should be based on the report's recommendations which were formed by an independent panel after the collection of extensive evidence.

University governing bodies must continue to be seen as purpose-designed for collegial institutions, not as clones from a business-corporation template. We believe there should be a much enhanced involvement of staff governors, and more stable input from student representatives – those, in other words, with direct access to the university community. Such representatives should be encouraged to brief lay governors about campus views and concerns rather than be made to feel that the proper business of a governing body is only what senior management wants to have discussed and endorsed.

UCU believes that the code should lead to improvements in the management and governance of universities in Scotland, restore the confidence of staff in the governance of universities, and strengthen the autonomy, democracy and collegiality of Scottish Universities. This in turn should mean that the university management undertakes proper and thorough consultation with staff and unions. It should also contribute to the reform of universities envisaged by the government.

¹ UNESCO recommendation 1997 http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_TOPIC&URL_SECTION=201.html

² UCU Scotland charter on academic freedom
http://www.ucu.org.uk/media/pdf/3/1/Academic_Freedom_charter.pdf

³ Section 5 Charity trustee remuneration. Guidance for Charity Trustees, OSCR
<http://www.oscr.org.uk/managing-your-charity/trustee-duties/trustee-remuneration/>