

the Scottish code of
GOOD HE GOVERNANCE

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

July 2013

Preface

I am pleased to publish a new Scottish Code of Good Higher Education Governance. In producing the Code all members of the independent Steering Group recognised that the continued success of Scotland's universities rests on their autonomy, exercised within a robust system of governance.

Universities have a varied and vital role in Scottish life: they are institutions of learning, opportunity, creativity, open debate and entrepreneurialism. Governing bodies, and their system of governance, have evolved to meet this role. Indeed, it was clear from our first round of consultations in institutions that much existing practice is fit for purpose. However, given the challenges our universities face, it has been timely to reflect on the national Code of governance. Since April, when we published the consultation draft of the Code, we had the benefit of a wide range of further evidence, including a direct engagement with the Education and Culture Committee of the Scottish Parliament, NUS Scotland and representatives of the sector staff unions.

Our consultation draft set out numerous proposed developments to existing arrangements. These have been incorporated in the Code. Furthermore, we have drawn on the UK Corporate Governance Code as an excellent source of good practice, and have incorporated key elements into this code. In light of the further evidence we have received, we have also set out changes/improvements to:

- secure and give greater clarity on the involvement of staff and student governing body members in a range of processes including the nominations committee and the appointment and appraisal of the principal;
- provide guidance on the distinctive Scottish role of the rector in the four ancient universities that reflects both the statutory position and long-established good governance practice; and
- provide clear guidance on the role of executive staff in supporting court proceedings.

All universities in Scotland will be expected to comply with the Code's Main Principles and to observe the guidelines. The Code has been written so that exceptions will be rare. Where universities have a material reason for being unable to comply, they must explain why; this principle of "comply or explain" is a widely-accepted governance concept. Any such exceptions to compliance with the Code will be disclosable through the process of audit.

The Code comes into force on 1 August 2013 with universities working during the 2013/14 academic year to implement any required changes. Given that governance is a rapidly developing field and universities work in a challenging global context, we have recommended that the Code should be reviewed after three years.

We are grateful to all who, over the last seven months, have contributed to developing the Code. I believe it will result in significantly more transparent and accountable governance of universities, led by governing bodies with a greater diversity of membership. The strength and scope of the debate on the Code has highlighted the importance of our universities to Scotland's future. I believe that the new Code will help them to achieve even greater success.



Lord Smith of Kelvin Kt, Chair of the 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. It is expected that all Institutions will comply with the Main Principles and observe the provisions set out in the supporting Guidelines. The examples of Good Practice are offered to guide Institutions in setting out to meet these provisions. 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 Main 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.

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. Governing body.** 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. Legal obligations.** 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. Conduct of members.** 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. Frequency of meetings.** 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. Statement of Primary Responsibilities.** 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 have due regard to 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 all members of the governing body;
- ensuring the quality of Institutional educational provision;
- ensuring adherence to the funding requirements specified by the Scottish Funding Council in its Financial Memorandum and other funding documents;
- 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. Responsibilities of members.** 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.** 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 Head of the Institution.** 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 and compliance with that Funding Council’s Financial Memorandum. 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. Governing body members.** 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, having due regard to applicable law, 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. Governing body members. 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. Governing body members. 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 (except where the committee is managing the appointment of the chair's successor) and which includes at least one appointed staff member (that is a member of the staff of the Institution who has been elected or nominated and as a result serves on the governing body) 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. The selection process shall include a formal interview of short-listed candidates.

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

12. Induction. 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 that Report relates.

13. The Secretary. 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. Conduct of meetings. The proceedings of the governing body shall be conducted in an appropriately transparent manner, with information and papers published quickly and fully, except when matters of confidentiality relating to individuals, the wider interest of the Institution, including the observance of contractual obligations, or the public interest demands.

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. Remuneration. 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. Effectiveness. The governing body shall keep its effectiveness under annual review. Normally not less than every five 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. Effectiveness. 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. Effectiveness. 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 Institution's website 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 facilitating the participation 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, compliance with equality and diversity requirements and meeting the requirements of charity and company 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 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 have due regard to 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 all members of the governing body;
- ensuring the quality of Institutional educational provision;
- ensuring adherence to the funding requirements specified by the Scottish Funding Council in its Financial Memorandum and other funding documents;
- 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

Appointment and appraisal of Principal

The governing body should ensure that the appointment process for the Principal enables staff and student input to be taken into account. The selection committee for the appointment of the Principal should include an appointed staff member and a student member of the governing body. 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.

Delegation of powers

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.

Committees

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 should not 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.

Information about the Governing Body

Institutions should make available on their website a list of all members of the governing body, along with a brief biography of each member, the secretary's email address which may be used to contact members of the governing body, and the membership and terms of reference of key committees, including the audit and nominations committees.

Risk Management

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. This includes the risk of inaction in the face of such threat or opportunity. 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 require 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.

Financial Management

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. 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).

Audit and Value for Money

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; and
- 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.

Responsibilities 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, if requested by the chair, 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 remaining at a meeting which is 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 published on the Institution's website, suitably redacted to take account of data protection duties, and should be kept up to date.

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.

The 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.

Balancing the authority of the Principal with that of the governing body is critical to effective governance. The chair has a key role in making this work and it is therefore important that members should see the chair as being "independent" in character and judgment.

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 appointed 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 to serve as an intermediary for other members who might wish to raise concerns about the conduct of the governing body or 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.

The role of the rector at the four 'ancient' universities

19th century legislation provides that in the case of the Universities of St. Andrews, Glasgow, Aberdeen and Edinburgh the rector who is elected by the students (and, in Edinburgh, by students and staff) should "preside at meetings of the Court".

Since then, developments in the practice of good governance have led to the need for the much more extensive role of 'chair' described in this Code for all of the nineteen HEIs in Scotland.

A distinction therefore needs to be drawn in these four ancient universities between this extensive role of the 'chair' (traditionally occupied by the senior lay member, variously called senior governor, vice convener or convener), and the specific role of the rector in presiding at Court meetings.

The rector can, of course, be a candidate for appointment to the role of 'chair' as described in this Code. However, in the normal situation where the two roles are fulfilled by different individuals, the exact interpretation of the rector's role in Court meetings is a matter for agreement by the Court of the individual Institution concerned. That agreement should ensure that the person appointed as

‘chair’ can properly fulfil all of his or her responsibilities. Each Court should set that agreement out clearly in a protocol - whether by way of standing orders or otherwise - and candidates for each post should be made fully aware of this in information supplied to them before their appointment or election.¹

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 and compliance with that Funding Council’s Financial Memorandum. 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 officers.

1. In the University of Dundee the rector is an ex officio member of the Court, but does not automatically preside at meetings of the Court. The Chair of Court is elected from among the members of the Court who are not students or salaried staff of the University.

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 shall be regularly assessed against this evaluation. The governing body, having due regard to applicable law, 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 (except where the committee is managing the appointment of the chair's successor) and which includes at least one appointed staff member (that is a member of the staff of the Institution who has been elected or nominated and as a result serves on the governing body) 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. The selection process shall include a formal interview of short-listed candidates.

When vacancies arise in the position of the chair, or in any of the members appointed by the governing body, they shall be widely publicised both within and outside the Institution. In doing so, specific reference should be made 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, except where the committee is managing the appointment of the chair's successor), at least three other independent members, the Principal, at least one appointed 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 requirements. Furthermore, the question of inclusion of members of the local community should also be addressed. Particular care should be taken on the appointment of all 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. The Equality Challenge Unit offers a range of useful resources including key guidance for governance at: <http://www.ecu.ac.uk/publications/governing-bodies-equality-and-diversity>.

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. 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 appointed 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.

An example of exceptional circumstances which might make it appropriate for a chair to remain beyond the recommended maximum term would be where otherwise the chair and the Principal would both leave office within a 12 month period and continuity in the chair was considered highly desirable by the governing body.

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 certain circumstances, however, it may be deemed appropriate to offer remuneration in the recruitment process for 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.

Each Institution should publish on its website the wording of its standard letter of appointment for independent members and any individual letters to a chair or other independent member who is to be remunerated.

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 that 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;
- a copy of the Scottish Funding Council's Financial Memorandum and the current outcome agreement with the Scottish Funding Council;
- 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 website.

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, this Code 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, this Code 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; and
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 an appropriately transparent manner, with information and papers published quickly and fully, except when matters of confidentiality relating to individuals, the wider interest of the Institution, including the observance of contractual obligations, or the public interest demands.

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 Institution's Annual Report should be circulated to academic and other departments and to the students' representative body, and should be published on the Institution's website. The agenda, draft minutes if cleared by the chair, and the signed minutes of governing body meetings should be published on the Institution's website. 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. The papers considered at meetings should be made available to staff and students save where it is necessary to observe confidentiality or it would not be in the interests of the Institution, or the public, so to do. Details of the number of meetings of the governing body and its main committees, and rates of attendance of members, should be reported publicly. Good practice might include reporting on decisions of the governing body in a newsletter before minutes are available.

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.

Good Practice Example

In one Institution the governing body holds a meeting each year as a public meeting, and all staff and students are eligible to attend.

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.

The role of the chair is crucial in ensuring the proper conduct of meetings, including ensuring that:

- key officers are in attendance to support effective decision-making;
- their contribution is not allowed to direct the business of the governing body;
- their number normally does not exceed the number of independent members present;
- only members participate in formal decision-making; and
- any member of the governing body is able to raise issues relating to Institutional management notwithstanding the presence of senior officers.

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 at least three 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. In addition, the membership should include the chair of the governing body. 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 annual review. Normally not less than every five 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 Institution's website and in its Annual Report.

Supporting Guidelines

The governing body should review its effectiveness regularly. 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.

Annex A1: Guidance on Whistleblowing²

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 (the Public Interest Disclosure (Northern Ireland) Order 1998 in Northern Ireland), 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 Councils) 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.

² Drawn from the Committee of University Chairs (2009) Guide for Members of Higher Education Governing Bodies in the UK, Annex A3 http://www.hefce.ac.uk/media/hefce1/pubs/hefce/2009/0914/09_14.pdf

- 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/registrars/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 A2: 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. A full list of these meetings can be found below.

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, University and College Union Scotland, the Educational Institute of Scotland, 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.

A call for written evidence was 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.

The Steering Group published a draft Code for consultation in April 2013. In June, at the close of the consultation, the Group had received 22 written submissions. During the consultation period the Group met with representatives of NUS Scotland and of the sector's recognised STUC unions. In May, Lord Smith and Mr Pepper gave oral evidence on the Code to the Education and Culture Committee of the Scottish Parliament.

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 at Glasgow Caledonian University
 Mr David Ross, Chair at the University of Glasgow
 Mr Eric Sanderson, Chair at the University of Dundee

Adviser providing input from the small specialist institutions

Lord Vallance of Tummel (representing the small specialist institutions)

Secretariat to the Steering Group

Mr Peter West OBE
 Mr Kevin Clarke

Institution visits (listed in chronological order)

Royal Conservatoire of Scotland

Four separate meetings were held on 30 November 2012 with:

- 6 staff representatives
- Student representatives led by the President of the students' union
- 4 other members of the governing body
- 4 members of the senior management group

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 members 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

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