

Scottish Code of Good Higher Education Governance Consultation

Response from UCU, Queen Margaret University branch

Compiled by Eurig Scandrett

UCU is the largest union at Queen Margaret University, representing around one third of its academic and academic-related staff. UCU is recognised, alongside EIS, Unison and Unite, through a joint unions recognition agreement. The comments below reflect UCU's experiences at QMU, but also raise wider considerations of the role of the Code in HE governance, and is in line with UCU Scotland policy.

The consultation asks how well the Scottish Code of Good HE Governance has served its purpose, what effects it has had and what changes would improve it. These questions, along with those relating to the HE Governance Act and good practice, will be addressed together followed by a summary of the proposals for improvement.

Trade unions at QMU have generally had cordial relations with the chair and members of Court, the governing body at QMU. Diversity of membership and good practice appears to be well managed, and members appear to work diligently. However, it is important to bear in mind that a code of this nature should provide protection for when the governing body is not working effectively, so good practice where it exists should not necessarily be interpreted as reflecting the effectiveness of the Code. Indeed at QMU, good practice pre-dated the introduction of the Code, and difficulties have not been resolved by its implementation. Therefore, whilst some comments relate to issues at QMU which a stronger Code might address, much of the discussion relates to ensuring that the Code is robust and fit for purpose.

The principal concern of UCU at QMU has been access to the Court and its business. As elected trade union branch officers seeking to represent our members and the interests of staff at QMU, it would be valuable to be able to comment on issues deliberated on by Court, and to raise issues of potential concern. For this to operate effectively, trade union representatives need access to Court agendas and papers in good time prior to Court meetings. At QMU, agendas and minutes are published on the internal website, but often not timeously, and accompanying papers are not made public prior to meetings, or at all. Therefore it is impossible to know in advance what is coming up in order to raise concerns, or indeed remain abreast of the concerns of the Court. In our experience, staff members on Court are often unsure whether papers are confidential and are generally unable to provide information to staff or union representatives. This has not changed as a result of the Scottish Code of Good HE Governance. More explicit references in the Code to principles of openness and accessibility from trade union representatives would improve this. The Code states that the chair should be well connected with stakeholders including staff, however the wording here is vague and is not conducive to open access to the Court. In particular, **the Code should include specific reference to elected representatives of recognised trade unions to have direct access to the Chair (or senior lay member) of the governing body.** This is essential in order for staff at higher education institutions to have independent opportunities to reflect concerns to governing bodies through their representatives.

It should be noted that, when there are members of governing bodies appointed by trade unions, as required by the Governance Act, these appointees will not be acting as representatives because of the responsibilities of all members of governing bodies, specified in Principle 6 of the Code. The duties of trade union representatives (as distinct from appointees), of representing staff concerns through the democratic channels of trade unions, should be conducted separately, through access to the senior lay member.

UCU QMU would want to argue for all governing body papers to be published at the same time as they are made available for members (subject to the usual constraints of confidentiality), and that **the Code should insist on this openness as default**. There is also no reason why routine business cannot be conducted in open meetings. We would argue that **the Code should stipulate that all general meetings of the governing body should be held in public**, with reserved sections of the meeting where there are confidential matters. This is one of the recommendations of the von Prondzynski commission report and should be incorporated into the Code.

The Code states that “The proceedings of the governing body shall be conducted in an appropriately transparent manner”. We are not arguing that proceedings should be ‘inappropriately transparent’, but current wording is too weak and allows for too much unnecessary opacity. Normal proceedings should require a far higher level of openness than is currently the case. **As the reforms of the Higher Education Governance Act are implemented, this should help to encourage more transparency and we would like to see this reflected in the Code.**

There are several other places where the word ‘appropriate’ is used in the Code, which allows for governing bodies to downgrade their commitment to some key principles. Eg “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”; “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.” Again, we would not argue for inappropriate diversity goals or public engagement, and at QMU we believe Court is following good practice, but rather **stronger language in the Code would encourage better practice from governing bodies** where this is less so.

Main principle 1:

“In discharging its responsibilities it shall ... ensure the protection of the academic freedom of relevant staff in compliance with relevant legislation and its own governing instruments.”

We would like to see a stronger statement of academic freedom, which is more in keeping with the von Prondzynski report and line with the Governance Act. Academic freedom is absolutely core to and the distinctive feature of a university and a strong commitment to academic freedom in the Code would help to ensure autonomy of the institution (not just of the governing body) and provide some protection against interference in the work of the academic staff from government or commercial pressure, or indeed from overly managerial governing bodies or senior managers. At QMU, UCU have been involved in protecting academic freedom where there have been threats at an executive level, and **a strong statement of governing body’s responsibility to protect academic freedom would be valuable.**

Also in Main Principle 1: “In discharging its responsibilities it shall ... conduct its affairs according to specified ethical standards”. It isn’t clear whether these ethical standards are specified nationally or whether each institution is required to produce its own ethical standards,

neither does the Code indicate who is responsible for specifying these. We would value **stronger guidelines and some national indicators of ethical standards**. There may be a case for referring to the Common European Reference Framework for University Social Responsibility¹. **Any institution-specific ethical standards should, moreover, be produced through consultation with key stakeholders including the trade unions**. This issue is particularly relevant in terms of the emphasis on Value for Money in the guidelines which may conflict with ethical demands that may be raised from time to time by staff, unions and students. Governing bodies need to balance Value for Money against ethical standards. For example, there have recently been demands from student unions in some universities for divestment from fossil fuel companies, and recent revelations in *The Ferret* have exposed some unethical investments at all Scottish Universities, including QMU². Ethical standards may also potentially conflict with demands for Value for Money in decisions about procurement (eg Fair Trade), outsourcing (at QMU there have been concerns about reduced terms and conditions of staff, and the lack of controls through collective bargaining, when some services have been outsourced) and contracting (trade union have persuaded QMU recently to become a Living Wage employer, which was subject to delay because some existing contractors, whose services were assessed by Value for Money, do not pay the Living Wage). There is a risk that in the current Code, without specific support for ethical standards, the guidance on Value for Money over-rides ethical decisions.

The introduction of trade union appointees as required by the Act may make other directly elected staff members redundant or at least anomalous. There may be a case for **guidance on the appropriate role for a directly elected staff member, who does not have a connection to an independent democratic structure such as the trade union**.

We support remuneration of members of governing bodies (not just the senior lay member) where this can be accommodated within regulations governing Scottish Charities, in order to ensure that positions are widely accessible. Unremunerated positions are only available to people who have alternative sources of income and sufficient time to devote to their responsibilities, and this will inevitably favour some categories of people and exclude others. Remuneration, or some form of stipend or *per diem* along with guidelines on circumstances under which they may be claimed, will help to make membership of governing bodies more diverse and accessible. This was a recommendation in the von Prondzynski report and was referred to in UCU's submission to the first call of evidence on the (then) Governance Bill in January 2015.

Finally, we strongly support the submission to this review of UCU Scotland. In particular we wish to reinforce the statement that universities are not businesses, even though there may be some elements of university functioning which are business-like. Universities are a public good and an essential component of the civic life of Scotland. Scottish democracy and social life and well as our economic health, benefit from an educated population and a high level of access to knowledge. This is a key public function which universities have, along with a responsibility to contribute to ongoing social improvement. At QMU this is reflected in our Mission and Values and is practiced through the work of the staff, not only in teaching matriculated students, but also in our public engagement, research and knowledge exchange. **It would be valuable to have an explicit statement of the public role of the university in the Code.**

¹ <http://www.eu-usr.eu/>

² <https://theferret.scot/hypocritical-scottish-universities-unethical-investments/>

One of the results of university governing bodies behaving more like businesses than public institutions is the current lack of openness on remuneration of senior staff, and the astonishing rate of increase in pay packages of Principals at a time when staff pay has declined so considerably and employers' pay offers to union representatives consistently fail to address this. **We support greater openness and accountability in setting the remuneration of senior managers, including staff involvement in remuneration committees.**

Summary of Recommendations for Improvements of the Code

The Code should explicitly state that elected representatives of recognised trade unions should have direct access to the Chair / senior lay member of the governing body

The Code should insist on openness as the default position of a governing body.

The Code should stipulate that all general meetings of the governing body should be held in public unless there are compelling reasons why some meetings or sections of meetings should be closed.

We would like to see encouragement of transparency reflected in the Code in light of the implementation of the Higher Education Governance Act.

We would advocate that stronger language in the Code should be used, to encourage best practice from governing bodies, and the word 'appropriate' should be avoided.

There should be a stronger statement of the governing body's responsibility to protect academic freedom.

There should be stronger guidelines and some national indicators of specified ethical standards.

Any institution-specific ethical standards should be produced through consultation with key stakeholders including the trade unions.

If they are to be retained, there should be guidance on the appropriate role for a directly elected staff member, who does not have a connection to an independent democratic structure such as the trade union.

We support remuneration of members of governing bodies where compatible with charitable law. Provision of remuneration or some form of stipend or *per diem* along with guidelines on circumstances under which they may be claimed, should be included in the Code.

We support greater openness and transparency in setting the remuneration of senior managers, including staff involvement in remuneration committees

There should be an explicit statement of the public role of the university in the Code.