

Scottish Code of Good Higher Education Governance

A consultation response from The Open University

Introduction

The Open University (OU) believes that robust but inclusive governance is central to our mission of being open to people, places, methods and ideas. The OU is the only Higher Education Institution (HEI) operating across all four nations of the United Kingdom. National offices in each of Scotland, England, Wales and Northern Ireland ensure our provision is appropriate and helps to deliver on specific priorities in each nation.

The OU receives public funding in support of its operations in each nation from the governments of Scotland, Wales and Northern Ireland and from the UK Government, which has responsibility for higher education policy in England. Consequently, The OU's governance arrangements are organised such that they recognise and can operate within the increasingly divergent policy environments in existence across the UK.

The Director of The OU in Scotland is the Vice-Chancellor's delegate and is responsible for the delivery of services to students in Scotland. In line with the rest of the Scottish higher education sector, the teaching of OU students resident in Scotland is funded by the Scottish Funding Council (SFC). The OU is accountable to the SFC for this funding.

In light of its UK-wide operation, the governments of Scotland, Wales and Northern Ireland agreed that the University is regulated by the Higher Education Council for England (HEFCE); therefore, OU governance arrangements lie in England. However, The Open University strives to be an exemplar of good governance and currently meets the requirements of the Scottish Code of Good HE Governance on a comply or explain basis as a condition of its SFC grant.

General comments

We welcome the rationalisation from eighteen main principles to seven high-level principles of good governance as well as encouragement to engage in good practice, rather than the bare minimum.

The emphasis on the diverse character of the Scottish HE sector is positive as is recognition of the differences between institutions. However, we wonder if it may be possible to account for these differences through greater flexibility in some areas of the Code where it specifically relates to the Higher Education Governance (Scotland) Act 2016 ('the Act').

We are in favour of the use of case studies and the development of whistleblowing guidance whether as part of the Code or published as standalone supporting guidance. However, we are unclear who will take the lead on this activity.

We are pleased to see that feedback we provided during the review process on student engagement has been taken into account.

Specific comments

There follows a number of comments relating to specific paragraphs in the new draft Code.

<i>Paragraph</i>	<i>Comments</i>
9	We welcome the focus on ethical and sustainable behaviour and social responsibility.
12	It is not entirely clear whether the Statement of Primary Responsibilities should be published separately as well as in the annual report.
15	We are supportive of the notion of making the governing body skills register public.
18	We are supportive of the intention but note that relevant statutory requirements contained in the Act do not apply to the OU.
22	We support the publication of details of terms being set out for members when appointed. However publication of a standard letter to this effect seems unnecessary and of little value.
28	The principle is sound, but again we note that relevant statutory requirements contained in the Act do not apply to the OU. We note that there may be occasions when committees formed only of lay members may be appropriate, such as a Remuneration Committee.
30-31	We acknowledge this as good practice in the public sector, but the Code may be usefully amended to clarify that gifts and hospitality to be registered are those received in respect of the governing body role.
37	We welcome this commitment, which is reflected in the OU's Council Diversity Policy.
43	We support the commitment to full inductions and specifically the importance of detailed induction for student members and those who may otherwise lack experience. We would welcome clarity on whether the institution, the student union/association, or both the institution and the student union/association would be responsible for this activity.
44	We welcome the inclusion of questioning skills within induction. We support the flexibility to remove elements of induction where members have sufficient relevant experience.
45	We support annual review of individual member contributions, recognising this as good practice in other sectors, and welcome the flexibility for reviews to take place every two years.
46	We support this aim, which has parallels in other sectors.
47	Our recent Council Governance Review has recommended the University introduce a public impact/performance report which would, in part, meet the requirement to 'give a public account of the institution's performance'. The size and geographically dispersed nature of the OU student body would need to be taken into account in considering whether to hold an annual public event.
51	Clarification would be useful on whether 'the Secretary's email address' can be a managed mailbox.
54	This suggests that annual effectiveness reviews should be published externally, in addition to five-yearly external reviews of governance. Given that minutes of discussions relating to annual effectiveness reviews would be published in the minutes of governing body meeting we wonder if this is necessary.
58-66	The OU is not covered by the relevant provisions of the Act, but it would be our intention to comply with as many aspects of this provision as possible/appropriate.
62	We welcome the elaboration on a constructive and challenging working relationship between the Chair of the governing body and the Vice-Chancellor.
63	We welcome the requirement to clearly define the authority and responsibility of the Chair between meetings including decision-making by correspondence.
64	We welcome this provision.

<i>Paragraph</i>	<i>Comments</i>
66	Can this be extended to remuneration of other governing body members if an institution wishes to do so?
78	The use of the word 'solely' implies that delegation within the executive structure is not permissible. Although we understand that responsibility would not be delegated, this may have practical implications.
84	The CUC Handbook for HEI Audit Committee Members, although published in 2008, may usefully be referred to here.

For more information

Please contact Kenny Stewart, Communications and Policy Manager, on 0131 549 7961 or kenny.stewart@open.ac.uk.