



## **Unite the union response to the consultation: Draft Scottish Code of Good HE Governance**

**Unite the Union Scotland represents around 152,000 working people and their families throughout Scotland. Unite is the UK's largest trade union with 1.4 million members in a range of industries including transport, construction, financial services, manufacturing, print and media, the voluntary and non-profit sectors, education, local government and the NHS.**

### **Introduction**

Unite welcomes the opportunity to provide comments to the steering group on a Revised Code for Good HE Governance. This response seeks to highlight both positive and negative sections of the draft Revised Code as it stands. However as education is not a static process, Unite would wish to see regular reviews of the Code of Governance every three years.

### **Foreword**

Under the Foreword there is no consideration given to the social role of HE or the impact the institutions have on local business. Funding and the positive impact the institution has on the local economy should therefore be referred to.

Unite believes that the Code should reflect not only the academic interests of provision, but should also reflect what universities add including the benefits to society and the wider community as well as their ethical responsibilities. This will be raised again later in the paper.

### **Definitions**

Unite supports the governance proposals that Trade Union (TU) appointees are separate from the Elected Staff Members. Further, that the TU appointees must come from both academic and non-academic unions.

### **The Governing Body: Membership**

Section 16 has no content.

While Section 17 states that there must be elected staff members of Court it is less clear where it states '*must have regard to the importance of maintaining adequate representation*'. Unite would urge the steering group to strengthen the language which refers to maintaining the balance of academic/non-academic staff on Court to ensure there is no dubiety or mis-interpretation. This should instead state: "[M]ust maintain adequate representation....".

The current language does not explicitly make it clear that at least one of these elected staff reps must be from a non-academic background. These positions should be explicitly stated otherwise this could result in Universities redefining existing roles as "elected staff" in order to prevent the TU rep bringing a further support member of staff onto the Court.

Section 18 refers to "*[a]ny increase in the size of the governing body must be fully explained.*" Unite believes that 'any change' in the size of the governing body must be fully explained. It is important to have a full explanation of any change to the composition of the Board as there may be reasons that would require further investigation.

Section 20 suggests lay members must be appointed for a given term subject to performance. While we acknowledge that term limits are positive and are common feature in many Board appointments, Unite does not think that the language around term limits should be as explicit given the constituencies that TU's represent.

For example it is not clear whether after two terms on the Court the elected member may step down after one term and re-join at a later time.

It is also unclear if it is possible to retire from the Court in one capacity (e.g. Elected staff representative) and then re-join immediately in another (e.g. Trade Union appointee).

Notwithstanding these concerns Unite recommends that lay members should only serve for a maximum period of twelve years in any capacity.

### **Responsibility of Governing Body Members**

Unite supports the statement made in Section 23. We believe it is important that all Court members should be encouraged to engage on all aspects of the decision making of the Court. TU and elected staff members are not there to represent a constituency, but to bring a different perspective to the table for all decisions

Section 27 and 28 state that "*[A]ll governing body members must be considered full members of the governing body and treated as such.*" Unite fully supports this. It is important that we keep the provision that there are not two tiers of Court membership. Once an individual becomes a member of Court they must be regarded as full member and should not be prevented from taking part in the full business of Court. Equally, any member of Court should be able to sit on and chair any of the sub-committees. Unite strongly recommends that these provisions remain in the final Code.

## **Equality and Diversity**

Unite has concerns regarding the Sections from 36 – 40 specifically related to equality and diversity. This section of the Code could be strengthened in terms of actual monitoring and reviewing diversity within the Court. Unite would suggest stronger enforcement of diversity and inclusion commitments together with regular monitoring and reviewing to ensure the Court maintains and retains equality and diversity goals and policies.

A firm timetable should be set to achieve gender balance and continuous monitoring of the timeframe in order to achieve this.

Trade unions will always be mindful of equality and diversity as we continually monitor this within our own committee structures. Nevertheless the statement made within Section 39 could actually restrict eligibility to take a seat within the Court if this causes a diversity imbalance. We would therefore suggest that the wording remains that body members should be mindful of the need to increase diversity wherever possible.

Unite would also recommend monitoring issues around equal pay. Reviewing pay systems for equal pay should be an ongoing commitment with regular equal pay reviews conducted to ensure the gap is narrowing and eventually eliminated across the sector.

## **Effectiveness**

Unite would support any opportunity to increase transparency of Court business. Therefore the terms laid out in Section 47 are welcome. As are the terms within Section 50. However we would add a caveat that all papers should be made public online in advance of the meeting and at a time that equates with Court members obtaining access to them. This would allow any interested parties to voice relevant concerns or perspectives to Court members in advance of the meeting in order that they can be raised. This will increase openness and transparency.

Unite believes that it is necessary to restrict the number of Executive Officers to the Court in order that they don't outnumber the lay members attending. (Section 52) It should be clearly recognised that the Executive Officers are not members of the governing body, but are instead accountable to it. The Chair must not allow Executive Officers to prevent members of the Court from carrying out their functions.

## **Key Roles**

Unite agrees that the performance and conduct of the chair and wider governing body must be continually monitored as laid out in Section 64. This should also be cross-referenced with the 'Effectiveness' element, specifically Sections 41 and 45.

Unite would again draw attention to the language used in Section 72 with regards to the selection committee for the appointment of the Principals' role. It is absolutely right that either an 'Elected' or Union staff member is included in the appointment of Principal.

However the wording requires clarity to ensure that both academic and non-academic TU members are included. We would not wish to see a situation where an institution is able to decide which individuals are included in the decision making process and they opt for 'elected' members which could all potentially be academic appointees.

Unite has concerns with regards to Section 76 and the possibility of a conflict of interest. The role of Secretary of Court is often taken by the University Chief Operating Officer. If the person responsible for the conduct of business, as well as induction of Court members, is answerable directly to Court, it could prove a conflict of interest. One individual holding both roles may create a conflict of interest given that part of the function of Court is to hold the Executive Officers of the University to account.

While Unite agrees that ensuring an elected or union member on the nominations committee is a clear positive, we do not support, indeed question why it should be the Chair of the governing body who chairs the nominations committee? Unite believes this should be chaired by a lay member.

### **Committee and Academic Board**

Unite has strong views on the position in relation to Sections 86 and 88. While we regard it as a positive decision to seek the views of staff and unions for the remuneration package for the Principal and senior executive team, Unite believes that there should be trade union representation on the Remuneration Committee itself. We believe that it is important that TU's have oversight of the way the university's budget is used to attract and retain senior level management, but also to encourage fair remuneration for all those working within the institution.

### **ADDITIONAL POINTS**

#### **Whistleblowing policy**

Unite would recommend a whistleblowing policy is put in place to provide reassurance and added protection for Court members. This would encourage Court members to come forward to report concerns in complete confidence.

Unite views this as a positive step which would contribute to an atmosphere of transparency and high standards of public service.

#### **Stakeholders**

Unite would wish to push the point about wider stakeholders mentioned earlier in the paper. Universities have a hugely important role in some communities. Not only do they draw people into the community those people require housing, transport, hospitals, restaurants and pubs, creating jobs and opportunities. But they can also bring issues associated with a draw on public services including increasing need for refuse collections,

issues around anti-social behaviour, parking issues, retailing issues (with many student areas orientated to fast food and entertainment) and public transport.

Another increasing issue is the apparent exponential increase in student accommodation being erected in some communities when there are issues around a lack of social housing in these same communities. These issues can create conflict with local residents many of whom are taxpayers and are something that the Court should be mindful of.

### **Trade union engagement**

Unite congratulates the Steering Committee for the opportunity to include trade union representatives as full members of Court. This is a very welcome step and sends a message that trade unions are an equal partner in the functioning of universities. Given the financial pressures many academic institutions are under in the current economic environment there has been a move by some to create partnerships with business to provide financial support. Unite would not wish to see a situation where business interests took precedence over the interests of students or staff, or situations where businesses were able to put pressure on universities to distance themselves from engaging with trade unions.

This is highlighted as Unite is aware of instances south of the border where Unite members have been transferred to 'arms-length' companies and trade unions were then de-recognised.

### **Governance for the future**

It is indeed the case that we live in interesting times, none more so than now with increasing risks to deal with including Brexit, the uncertainty around the result of the General Election as well as the possibility of another independence referendum. These issues could lead to a decline in overseas students, increasing threats to research funding and perhaps even a decline in domestic students as further austerity measures limit opportunities for some households.

Universities are not immune from these risks and it is important that the Code builds in measures to deal with such risks.

Pat Rafferty  
**Scottish Regional Secretary**

For further information please contact:  
[Elizabeth.cairns@unitetheunion.org](mailto:Elizabeth.cairns@unitetheunion.org)

Liz Cairns  
**Political Research and Campaigns unit, Unite Scotland**

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