



The Scottish Parliament
Pàrlamaid na h-Alba

EDUCATION AND CULTURE COMMITTEE

AGENDA

9th Meeting, 2012 (Session 4)

Tuesday 13 March 2012

The Committee will meet at 10.00 am in Committee Room 6.

1. **Higher Education Governance Review:** The Committee will take evidence from—

Professor Ferdinand von Prondzynski, Principal and Vice-Chancellor,
Robert Gordon University.

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The papers for this meeting are as follows—

Agenda Item 1

Report of the Review of Higher Education Governance in Scotland EC/S4/12/9/1

PRIVATE PAPER EC/S4/12/9/2 (P)

Education and Culture Committee

9th Meeting, 2012 (Session 4), Tuesday, 13 March 2012

Report of the Review of Higher Education Governance in Scotland

Clerk's note

The Committee will take evidence on the Report of the Review of Higher Education Governance in Scotland, which was chaired by Professor Ferdinand Von Prondzynski. The recommendations from the report are set out below, while the full report is available here: <http://www.scotland.gov.uk/Resource/0038/00386780.pdf>.

The annexe to this paper contains a letter from Mr Alan Simpson, a member of the review panel, which was published alongside the report. As members will see, Mr Simpson did not support certain recommendations in the report.

List of Recommendations

2.2 The role of the Privy Council

The existing jurisdiction of the Privy Council in relation to universities and higher education institutions should be transferred to a committee comprising the First Minister of Scotland, the Lord Advocate and the Lord President of the Court of Session, subject to parliamentary scrutiny.

2.3 A New Statute of the Scottish Parliament

The Scottish Parliament should enact a statute for Scotland's higher education sector setting out the key principles of governance and management and serving as the legal basis for the continued establishment of all recognised higher education institutions.

Under the new statute, the designation 'university' should be reserved to independent public bodies accredited in Scotland under legislation for these purposes.

2.4 Academic Freedom and Institutional Autonomy

A definition of academic freedom should be incorporated in the statute governing higher education, based on the definition contained in Ireland's Universities Act 1997, and applying to all 'relevant persons' as under the existing 2005 Act.

Scottish universities and higher education institutions should adopt a similar approach and that each institution should adopt through appropriate internal processes, and present to the SFC, a statement on its implementation of the statutory protection of academic freedom.

2.5 The Role of Governance

Governing bodies should be required to demonstrate that their deliberations and decisions appropriately observe the four objectives the panel has set out for university governance, and they should regularly review their own performance against these.

The fundamental principle of a collaborative approach wherever appropriate should be enshrined in the Scottish university system through making the fostering of collaboration between universities a task for the Scottish Funding Council.

2.8 Advisory Forum

A Scottish Higher Education Forum should be established, convened by the Scottish Funding Council and chaired by the Cabinet Secretary for Education and Lifelong Learning, which would meet on fixed dates at least once a year.

2.9 The Relationship with Further Education

All Scottish universities should not only include responsibilities to their region, alongside their national and international objectives, in their mission statements, but also seek ways to engage proactively, for the benefit of students and the Scottish education system as a whole, with further education institutions and any new governance structures that may be put in place.

3.1 Appointment and Role of Principals

The heads of Scottish higher education institutions should be described as the 'chief officer', and that the job title should continue to be 'Principal'.

There should be widened participation in the process for appointing Principals, and core to this approach should be the reform of the way in which of appointment panels are set up and operate.

The appraisal of Principals should involve external governing body members, staff and students.

3.2 Remuneration of Principals and Senior Management

Further percentage increases beyond those awarded to staff in general should not take place until existing processes have been reviewed and, if appropriate, amended.

Universities should ensure that any payments that may be perceived as bonuses are either abolished or at least transparently awarded and brought into line with the scale of 'contribution payments' available to on-scale staff.

Remuneration committees should include staff and student members. The work of the committee should be transparent, and in particular, the basis upon which pay is calculated should be published. While the Framework Agreement, determining pay scales for university staff up to the grade of professor, is a UK matter, the Scottish Government should investigate whether it might be extended north of the border to

include all staff including Principals. There should be a standard format for reporting senior officer pay, and the SFC should publish these figures annually.

The SFC should investigate how the principles of the Hutton Report are being or should be applied to universities in Scotland.

4. Role, Composition and Appointment of Governing Bodies

Meetings of governing bodies should normally be held in public unless the matters under consideration are deemed to be of a confidential or commercially sensitive nature; these exceptional matters should be established through clear guidelines.

4.1 Chairing of Governing Bodies

The chair of the governing body should be elected, thus reflecting the democratic ideal of Scottish higher education (*recommended by a majority, one member dissenting*).

The chair should receive some form of reasonable remuneration (*recommended by a majority, one member dissenting*).

4.2 Membership of Governing Bodies

Positions on governing bodies for lay or external members should be advertised externally and all appointments should be handled by the nominations committee of the governing body. Each governing body should be so constituted that the lay or external members have a majority of the total membership.

There should be a minimum of two students on the governing body, nominated by the students' association/union, one of whom should be the President of the Students' Association and at least one of whom should be a woman. There should be at least two directly elected staff members. In addition, there should be one member nominated by academic and related unions and one by administrative, technical or support staff unions. The existing system of academic board representatives (called 'Senate assessors' in some universities) should also be continued. Governing bodies should also have up to two alumni representatives.

The existing practice in some universities of having 'Chancellor's assessors' should be discontinued.

Each governing body should be required to ensure (over a specified transition period) that at least 40 per cent of the membership is female. Each governing body should also ensure that the membership reflects the principles of equality and diversity more generally, reflecting the diversity of the wider society. Governing bodies should be required to draw up and make public a skills and values matrix for the membership of the governing body, which would inform the recruitment of independent members of the governing body. The membership of the governing body should be regularly evaluated against this matrix.

Expenses available to those who sit on the governing body should include any wages lost as a result of attending meetings.

Senior managers other than the Principal should not be governing body members and should not be in attendance at governing body meetings, except for specific agenda items at which their individual participation is considered necessary, and for those agenda items only.

4.4 Training

All universities should be required to ensure that governors – including external governors, staff governors and student governors – are fully briefed and trained, and their knowledge should be refreshed regularly in appropriate programmes. Each governing body should be required to report annually on the details of training made available to and availed of by governors.

5.1 Composition of the Academic Board and Appointment of Members

In line with existing legislation applying to the ancient universities, the academic board should be the final arbiter on academic matters.

Apart from the Principal and the heads of School (or equivalent) who should attend *ex officio*, all other members should be elected by the constituency that they represent, and elected members should form a majority of the total membership. In establishing the membership of the academic board, due regard should be given to the principles of equality, and the need for the body to be representative. This includes a requirement to ensure that there is significant (rather than token) student representation. Overall, academic boards should not normally have more than 120 members.

7.1 Whistleblowing

All universities should maintain a whistleblowing policy, and this should be under the overall control of the governing body. Such a policy must include a clear process a person, whether a member of the university or not, wishing to make a complaint can access, and it should be proactively publicised.

7.2 Evidence Base

The Government should instruct the Scottish Funding Council to establish in an appropriate academic setting a Scottish Centre for Higher Education Research, which should be available as a resource for the entire higher education sector and for government.

7.3 Avoiding Bureaucratisation

The Scottish Funding Council should undertake a review of the bureaucratic and administrative demands currently made of higher education institutions from all government and public agency sources, with a view to rationalising these and thereby promoting more transparent and efficient regulation and governance.

7.4 Code of Good Governance

The Scottish Funding Council should commission the drafting of a Code of Good Governance for higher education institutions.

ANNEXE - OPINION FROM MR ALAN SIMPSON

It is with regret that I am unable to support all of the recommendations set out in the review of Higher Education Governance. Having inspected the evidence and discussed the issues with other panel members, I have arrived at different conclusions from them on some of the points.

Rectors

As has been explained in the report, the post of Rector was introduced at a time when academics were completely in charge of all aspects of universities and there was no accountability outwith the institution. The Rector was therefore a lay person on the governing body and to have the Rector chairing the governing body was, at the time, a radical innovation in governance terms: first, it was a recognition that there should be a lay presence on the governing body; second, that the students should be represented on the governing body; third, that a lay person should chair the governing body.

Since Rectors were introduced concepts of good governance have developed considerably, and they will continue to develop in the future. Numbers of lay people on governing bodies have increased and it is now considered as best practice that they should form a majority. In all Scottish universities students are now directly represented on governing bodies and other committees. The Rector is therefore no longer the sole champion for students nor is he or she the sole guardian of the wider public interest.

The governing body of the institution has responsibility for strategy and resources and the Chair is responsible for the leadership of the governing body. As such the Chair is answerable to the governing body and must have the full confidence of the governing body so that he or she can control the meetings effectively and represent it as necessary. In order to ensure that the Chair commands such confidence he or she must, in my view, be appointed by the governing body.

An election for the Chair of the governing body as proposed in the Report is, in my view, flawed. If there were to be an election, there would a danger that the different candidates would prepare manifestos which could promote divisiveness in the institution and a politicisation of the process. We have commented in the report on how the election of Principals can be unsatisfactory in places where it occurs, such as Trinity College Dublin, and that the governing body should be responsible for the appointment of Principals. The same is true for Chairs of governing bodies.

It has been argued that Rectors undertake many duties other than presiding over the governing body. I believe that, if these duties need to be undertaken by a member of the governing body, they should be clearly defined and that the governing body should then select appropriate members from within its membership to be responsible for them. The skills required to undertake these duties should be included within the matrix of skills which is kept for assessing new members of governing bodies.

Unions

I do not agree that Trade Unions should have the right to nominate representatives to governing bodies. Indeed I am not in favour of any particular organisation having the

right to nominate representatives to a governing body. All members of a governing body are legal Trustees of the institution. They may not act as if delegated by the group that they represent nor may they be bound by any mandates given by others. There is a real danger that such representatives will either look after the interests of their parent organisation rather than the university or will only get involved in issues that are of concern to their parent organisation.

Trade Unions are important stakeholders in the effective running of a university. They have a genuine interest in the success of the different higher education institutions, first, because their members' future employment relies on such success, and second, because they recognise the value that universities bring to the economy and wider society.

There are, however, other stakeholders who have similar interests and among these I would count the future employers of students, the firms that commission and use research and the families of students and staff. I do not believe that these should have the right to nominate members to governing bodies.

Universities have committees consisting of trade unions and management and so trade unions already have a special place in the structure of universities to ensure that they can look after the interests of staff effectively.

At present the staff and students have direct representation on the governing body. The students elect their representatives whereas the staff representatives are generally appointed by the academic board, in the case of academic staff: non-academic staff are appointed by direct election. There is therefore good representation from the major stakeholders within universities and the staff themselves are well represented.

A number of institutions currently have trade union nominees on the governing body. In the call for evidence for this review there were no questions that sought views as to the value of such nominations in governance terms nor how they worked in practice. Although the proportion of members of staff who are members of trade unions varies between institutions and between academic and non-academic areas it is less than 50% across the sector and only around 30% in some institutions.

I believe that staff are best represented on the governing body by those who are directly elected by all members of any particular group of staff and by those appointed by the academic board.

Remuneration

I do not agree that all Chairs of governing bodies should receive remuneration.

The question of payment for members of governing bodies was not a question that was raised in the consultation document so we did not have evidence from the consultees to inform our deliberations. My personal belief is that there is a strong public service ethos among those who serve on governing bodies and this is to be welcomed and encouraged. Part of this ethos is reflected in the fact that members of governing bodies including the Chair are, almost always, unpaid and the lack of remuneration helps to confirm their independence.

I recognise that there may be occasions when a potential Chair may be deterred from undertaking the role because of the lack of remuneration and in such cases an institution should be able to make an appropriate reward. There is a further recommendation that members of governing bodies should be entitled to receive lost wages as part of their expenses and it is unclear to me why the Chair should be treated any differently.