

University and College Union

To HESC

From Bethan Winter

Date 29th May 2019

Agenda Item

For Information and decision

Subject Higher Education Institutional Governance in Wales

1. Introduction

1.1 UCU recognises the significant challenges currently facing the Higher Education (HEIs) sector in Wales and believes that having good and effective governance is essential in order to address these and secure the sustainability of the sector for future generations (Welsh Government, 2015). Despite the existence of legal and regulatory requirements along with a raft of codes of guidance, reviews and best practice recommendations on governance, we would contend that the system of governance that currently operates in HEIs in Wales is not fit for purpose and is proving detrimental to the students, staff and communities that they serve.

1.2 This paper aims to propose a good governance system for HEIs. It provides an overview of the current situation and areas of concern with regards HEI governance followed by a series of proposed regulatory changes to the composition of HEIs Governing Bodies required in order to address existing deficiencies. We conclude by calling upon the National Assembly for Wales to use its legislative powers to implement our proposals.

2. Context: Current HEI governance framework and primary issues of concern

2.1 **The Current structure:** The governance requirements and structures for HEIs are clearly laid out in a number of statutes, guidance and associated documents (see Appendix 1). The current governance structure within HEIs is broadly as follows: (i) the Governing Body (Council/Board) has overall and collective responsibility for all institutional activities, providing strategic direction and taking all final decisions on matters of fundamental concern within its remit in order to achieve the institutional mission. (ii) The Senate/Academic Board has responsibility for academic decisions within HEIs. (ii) The Executive/Senior Management Team has an operational role, managing the day to day running of the institution and ensuring the implementation of the Governing Body's strategic vision (Committee of University Chairs, 2018). Despite the extensive governance statutes, protocols and guidance that exist HEI governance in Wales is failing to function properly and this poor governance requires urgent attention. The remainder of this section summarises the main areas of concern.

2.2 **Marketisation of Higher Education:** UCU has observed a move within HEIs within Wales (albeit to a lesser extent than in England presently) for Governing Bodies to adopt/mimic private sector business models of governance. This trend is having a detrimental impact upon the values and principles underpinning university governance with a move away from a collegiate body, whose aim is to create knowledge and wisdom and pass that on to future generations, towards commercialism whereby universities are viewed as competing corporations with their wider social function defined predominantly in terms of their role in servicing an economic business agenda.

- 2.3 **Shifting balance of authority between Governing Body, Executive and Senate:** UCU are concerned that Governing Bodies are not fulfilling their legal obligations and are failing to set the overall vision and strategy for the running of the institution. Our primary concerns are twofold: (i) the blurring of the interface between the Governing Body and the Executive. The Governing Body is failing to provide the strategic direction required, while the Executive strays into the strategic function of the Governing Body instead of confining itself to making the strategy operational. The Governing Body is accepting decisions by the Executive body without debate or adequate scrutiny. This blurring of the lines between operational management and strategic governance leads to a failure of strategic leadership and accountability at institutional level and a concentration of power within the Executive; (ii) The role of the Senate as having ‘supreme authority’ (Shattock, 2019, p5) over academic matters is being diminished. This trend is interlinked with the marketisation agenda and a shift towards a more business-focused structure. This is compounded by concerns that Senate is being undermined by management as well as the increasing expectation that the Governing Body pronounces on academic matters. This has contributed to a reduction in the representativeness and autonomy of Senates and Academic Boards. UCU fundamentally believes that these relationships must be rebalanced.
- 2.4 **Representativeness & Inclusivity:** UCU believes that Governing Bodies are not inclusive or representative of the students, staff and communities they serve. Governing Bodies are failing to be transparent and inclusive with representatives coming from as broad a mix of users of the university and reflect diversity in terms of gender, age, ethnicity and disability. This is closely related to the shift towards private sector governance approaches and parallel decline in participatory and collegiate models of governance. The principles of collegiality include academic freedom, shared responsibility, the policy of participation of all concerned in internal decision making structures and practices, and the development of consultative mechanisms. There currently exists insufficient numbers of staff governors representing all staff groupings within the institutions as well as more stable input from student representatives. It is our experience that governors, including staff and student governors, are not provided with sufficient training and support to perform their duties effectively.
- 2.5 **Collaboration and Partnership:** It is our experience that Governing Bodies are not incentivised to act in the wider educational interest of the communities they serve. There is a tendency for Governing Bodies to focus their attention on the internal governance and management matters and not set these within the context of the wider benefit for Welsh society. Governing Bodies are increasingly encouraged to be seen in competition with others rather than as part of the social and intellectual goals of society as a whole. The role of governors in driving forward institutional collaboration and regional planning – and ultimately reconfiguration – is vital. Universities are all registered charities and the Governing Body should consider the broader educational aims as expressed in their charitable status and not just concentrate on financial concerns.

3. UCU proposals for change

- 3.1 In this section a series of proposals for change to the composition of HEI Governing Bodies (and sub-committees) is presented which UCU believe are required in order to achieve good governance. These changes would bring about the necessary improvements to the management and governance of universities in Wales, restore staff confidence and involvement in the Governing Bodies and strengthen the autonomy, democracy and collegiality of Welsh higher education institutions. In order to secure the adoption and implementation of these proposals by HEIs it is essential that they are enshrined in law in Wales. Our key proposals are as follows:

- 3.2 **Governing Body to consist of between 12 and 18 members inclusive of staff and student representation with well-organised and supported sub-committees:** evidence has found that reducing the size of the Governing Body results in improved business processes and outcomes. Smaller Governing Bodies are better equipped to meet the demands and complexity of HEI business (Lambert, 2000; McCormick, 2011).
- 3.3 **Independent Chair to be directly elected by staff and student bodies for a five year term non-renewable** (note: for discussion)
- 3.4 **HEI staff to constitute a majority (50% plus 1) of the Governing Body:** Staff have the experience, expertise and commitment to have the primary role in strategic decision making and are best placed to secure good governance. Staff bring direct experience of institutional life to a Governing Body, have direct access to the university community, may be more willing to hold the Executive to account than independent members and will secure effective links with other aspects of governance (Shattock, 2004). In order to ensure representativeness and to reflect the diversity of staff within HEIs, staff governors MUST be drawn from all levels/categories from across the HEIs. A minimum of 50% of staff governors must be female and positive action must be taken to maximise representation from under-represented groups. Such staff should receive facility time to undertake this valuable role with provisions being made for 1 day per week secondment.
- 3.5 **Trade Unions and Student Union within Welsh HEIs to nominate one representative each to become Governing Body members:** these positions are vital in order to represent the staff and student HEI community and to scrutinise the Governing Body.
- 3.6 **Vice Chancellor required to attend the Governing Body meetings:** this is necessary in order to curb the power that Vice Chancellors have developed, compel them to fulfil their operational functions and accountability to the Governing Body.
- 3.7 **The Executive (Senior Management Team) is excluded from becoming Governing Body member(s):** this will curb the role of the Executive and overcome the power imbalance and confusion of roles and responsibilities that has developed. It will assist in restoring the power, role and responsibilities of the Governing Body. Instead, the Executive will be invited to attend Governing Body meetings to provide information and advice as and when required.
- 3.8 **Reinstate the 'supreme authority' of Senate/Academic Boards over academic matters:** this will afford the Senate/Academic Boards the correct role as the primary decision making body for academic decisions.
- 3.9 **Independent legal practitioner in clerk to the governing board role (Note: distinct from the secretariat role):** this would ensure that the clerk is duly qualified to provide impartial advice and assistance to Governing Body members.
- 3.10 **Positive action is taken to ensure the remaining Governing Body membership is representative of the diverse communities and stakeholders which universities serve:** this is essential in order to ensure that the fundamental principle of having a collaborative and inclusive approach is embedded within the culture of the Governing Body.
- 3.11 **Compel institutions to have a senior member of a local education institution to be a member of their Governing Body:** this would help embed a culture of collaboration and partnership and require governors to consider the wider educational needs of local communities.
- 3.12 **The Governing Body is provided with a clear remit to scrutinise decision making of senior Executive:** clear and robust processes must be established in order to ensure that the Governing Body is able to properly scrutinise, monitor and hold those with operational responsibilities to account.
- 3.13 **An appointments system for Governing Body members (NB: with the exception of Trade Unions & Student Union reps) is established based on a skills matrix:** this will establish clear criteria to ensure that Governing Body members are recruited according to qualifications and the benefit they can bring to the good governance of their institution. A clear skill set against which members of Governing Bodies can be assessed should be established. The

appointments process must become more transparent and inclusive of the diverse groups working within and in collaboration with HEIs.

- 3.14 **Governing Body members to be adequately remunerated:** Members to be paid annual stipend of £3,000. The Chair to receive £6,000. Provision for payment to be made to charity for those who wish to waive the fee.

4. Proposed next steps

- 4.1 HESC to approve discussion document and its proposals
- 4.2 UCU devise 'best practice' policy for HE governance in Wales
- 4.3 Minister has requested that HEFCW review HEI governance in Wales and UCU need to feed into these discussions
- 4.4 UCU lobby political parties to incorporate proposals into their manifestos
- 4.5 National Assembly for Wales to use legislative powers to enshrine proposals into law.

Appendix 1: References & Useful Links

Charity Governance Code Steering Group (2018), Charity Governance Code for larger charities. London: Charity Commission. <https://www.charitygovernancecode.org>

Committee of University Chairs (2014; 2018). The Higher Education Code of Governance, Committee of University Chairs: <https://www.universitychairs.ac.uk/wp-content/uploads/2018/06/HE-Code-of-Governance-UPdated-2018.pdf>

Committee of the Chairs of Scottish Higher Education Institutions (2017). Scottish Code of Good Higher Education Governance, Scotland: Universities Scotland.

Financial Reporting Council (2018). The UK Corporate Governance Code, London: FRC.

Financial Reporting Council (2018). Guidance on Board Effectiveness, London: FRC.

Higher Education Funding Council for Wales (2015). Memorandum of Assurance and Accountability, Cardiff: HEFCW

Lambert. R (2000). Lambert Review of Business – University Collaboration, London: Her Majesty's Stationery Office.

McCormick. J et al (2011). Achievement and Accountability: Report of the independent review of higher education governance in Wales, Cardiff: Welsh Assembly Government

Prondzynski. F et al (2012). Report of the Review of Higher Education Governance in Scotland, Scotland: The Scottish Government.

Shattock. M (2019). University governance and academic work: the 'business model' and its impact on innovation and creativity, London: Centre for Global Higher Education.

Shattock, M. (2014). University governance in the UK: Bending the traditional model. In M. Shattock (Ed.). *International trends in university governance: Autonomy, self-governance and the distribution of authority*. (pp. 127–144). Oxford: Routledge.

University and College Union Scotland. Response to Review of Higher Education Governance, Scotland: UCU.

Welsh Government (2015). Well-being of Future Generations (Wales) Act 2015, Cardiff: Welsh Government