Governance in UGC-funded Higher Education Institutions in Hong Kong

Report of the University Grants Committee

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Preface

UGC-funded institutions are statutorily autonomous bodies – each with its own Ordinance and governing council. They enjoy academic freedom and considerable institutional autonomy. At the same time, with substantial funding from the public purse, they are accountable to the community. The core values of institutional autonomy and academic freedom – the cornerstones of the higher education system in Hong Kong – balanced with public accountability within the law are underpinned and protected by clear and effective governance of institutions.

The UGC has always understood the importance of robust governance at institutions. It is in this spirit that we have in 2011 through our Financial Affairs Working Group reviewed the financial governance of institutions. We were glad to conclude in 2013 that there were no glaring irregularities in institutions' financial operations and practices and the public could rest assured that the use and application of public funds by institutions was appropriate. Upon completion of the review and at the request of the Education Bureau in December 2013, we believed it was an appropriate time to consider institutional governance, particularly when most of the follow up review on the composition of the councils pursuant to the recommendations in the earlier UGC Report "Higher Education in Hong Kong – Report of the University Grants Committee" have been completed. This study aims to identify some international good practices in the governance of higher education institutions in order that pointers and advice could be drawn up to help enhance the effectiveness and transparency of the governing councils of UGC-funded institutions and also to better equip council members with the necessary knowledge, skills and protocol with regard to their roles for the proper discharge of their duties.

We are indeed fortunate to have enlisted the assistance of Sir Howard Newby who has rich experience and expertise in university governance and management to conduct the study for UGC. He also has a good understanding of the institutions in Hong Kong through his previous work as a former member of the Quality Assurance Council. We are also grateful to a wide range of key stakeholders of the UGC sector who have provided valuable input and earnest views. They include former and incumbent Council Chairmen, Council members, Council Secretaries, Heads of institutions, senior institutional management, student and staff representatives, as well as Education Bureau officials. I am confident that adoption of the recommendations of this Report will help further enhance the effectiveness of the councils of institutions and further protect the core values of institutional autonomy and academic freedom.

Finally I would like to convey my personal gratitude to Sir Howard Newby for his excellent work in preparing this Report. I believe that the Report will be very useful for our sector and its impact will be far reaching. It is only with a strong and clear governance structure and the mutual trust in practice between the senior institutional management and the council that public trust in institutional autonomy of our funded institutions, and hence its legitimacy, can be assured.

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Part 1 Introduction

Higher education is a key driver of the modern knowledge economy. Universities produce a high proportion of new knowledge through their research function, but, equally importantly, they provide the high level of skills which can make use of this new knowledge through the education of their students. In the 21st century, therefore, universities play a central role in economic and social development. No longer, as in previous centuries, can they be regarded as remote ivory towers distanced from the everyday world of the new globalised economy. On the contrary, the contemporary university must engage with this world and therefore must interact with a much wider variety of legitimate stakeholders than was the case only a generation ago.

All of this means that universities have grown in complexity as well as in scale. This has created new challenges both for the internal management of universities, but also for the way in which they manage their interactions with the wider society. For these, if for no other reasons, it is appropriate that from time to time the system of governance in higher education is reviewed and, if necessary, refreshed as being fit for purpose.

The Sutherland Report, issued by the Hong Kong University Grants Committee (UGC) in 2002, undertook such a task and by 2009 all UGC-funded institutions had completed their internal reviews of governance and management structures and conformed to the major recommendations of the Sutherland Report. Now, 13 years later, such is the fast changing world of higher education that it is important and timely that a further review should be undertaken. This Report begins by setting out the key issues which universities must consider when determining any changes to their system of governance, including a number of operational issues aimed at improving the effectiveness of existing arrangements. Bearing in mind the lengthy traditions of university governance in Hong Kong, it is not the purpose of the Report to create some abstract “ideal type” of governance, but rather to analyse and recommend improvements in the existing systems of governance in the eight UGC-funded institutions. The terms of reference of this study required a focus on nine main areas, summarised as follows:

i) The appropriate level and extent of the involvement of the councils in key decision-making processes;

ii) The oversight of self-financing, commercial and outreach activities;

iii) The role of the councils in sustaining the academic integrity of teaching and research, including the freedoms of inquiry and expressions;

iv) The identification of council members with appropriate skills and experience;

v) The relationship between the council and the executive, including the reporting lines of committees;

vi) The role of councils in performance measurement;

vii) The ways in which the effectiveness of governance can be reviewed;

viii) Improvements in accountability and transparency;

ix) The induction and support of council members.

This Report then goes on to provide some brief comparative information on the situation in other countries where the university sector is not too dissimilar to that which exists in Hong Kong. Most importantly, it identifies a number of themes which formed the basis of meetings with key stakeholders, both within and beyond the higher education sector in Hong Kong. These meetings were structured around a common agenda, but without some of the inherent inflexibilities of a more structured and formal survey questionnaire. The responses are summarised in Part 4 of this Report. These also form the basis of a series of recommendations contained in Part 4, together with a further recommendation in the concluding Part 6. All the recommendations are listed in Appendix 1. Part 5 of this Report discusses the importance, desirability and nature of a code of practice on governance. In many respects the earlier parts of this Report are relevant to such a code. Finally, it should be noted that the term "universities" is used in this Report to apply to all eight UGC-funded institutions, even though, at the time of writing, only seven of them have university title.

Why is Governance important?

Definitions of governance abound. For the purposes of this Report, governance means not so much what organisations do, but how they do it. So governance is about how an organisation structures its decision-making to achieve its goals, but also how it relates to key external stakeholders who have a legitimate interest in its affairs. Typically definitions of governance put an emphasis on efficiency as a key element. Here, corporate governance deals with how organisations are structured and managed in such a way as to lead to effective performance in achieving desired outcomes and the satisfaction of stakeholders (Edwards, 2001). A useful definition is that of the Australian National Audit Office (ANAO) which defines good corporate governance as the processes and structures which will:

> "… facilitate decision-making and appropriate delegation of accountability and responsibility within and outside an organisation. This should ensure that the varying interests of stakeholders are appropriately balanced; that decisions are made in a rational, informed and transparent fashion; and that those decisions contribute to the overall efficiency and effectiveness of the organisation". (ANAO, 1999, p.2)

A concern about governance has also been heightened in the private corporate world following a number of high-profile governance scandals around the world (for example, Enron, Parmalat, Vivendi, etc.). Many countries have passed new corporate governance legislation in order to protect the interests of shareholders and the wider public – and in some cases these have laid down quite specific rules about the conduct of corporate affairs. Inevitably this has been taken as a point of departure in some countries for the examination of governance in the higher education sector – most notably, the publication in 1985 of the Jarratt Report in the United Kingdom (UK) for the then Committee of Vice-Chancellors and Principals, followed by the various reports of the Nolan Committee on Conduct in Public

Affairs and culminating in the recommendations of the Dearing Committee in 1997. The common thread running through both the private and the public sectors has been the need to demonstrate robust systems of corporate governance which can sustain public confidence in the proper conduct of decision-making and in the allocation of both public and private resource. All of this has been played out against the growing competitive pressures resulting from internationalisation and globalisation. These have been expressed in a colourful manner by David Leslie as follows:

> "In short, a lot of change is under way: competitive, market-driven, soul-selling, and profiteering changes to institutions desperate to survive and advance themselves in a world where guarantees are gone and big bets are being laid down. The message … is that the train has left the station on a very fast trip, but the condition of the tracks and the destination remain uncertain". (Leslie, 2004)

In other words, institutional and reputational risks are actually increasing in an increasingly competitive environment. This demands not only that universities are effectively managed, but also that the level of managerial oversight by governing bodies is also becoming more complicated and multi-faceted.

Effective governance therefore provides both internal and external stakeholders with confidence in the ways in which universities are managed. Ultimately this is a matter of trust. Where large and increasing amounts of public funding are being invested in higher education, then the wider public needs to feel confident that these scarce resources are being invested appropriately and effectively. So accountability is inextricably linked to university autonomy. Hong Kong universities rightly pride themselves on their academic autonomy. Effective governance supports and sustains this autonomy; poor governance undermines it. Poor governance – and not only poor management – engenders demands for further regulation which ultimately can undermine, or even eliminate, university autonomy. As Jenny Stewart has observed:

> "Academics may deride and resist the power of 'management'. But the way forward lies in defining that power and in holding individuals accountable for the exercise of it. Neither Councils at the top, or Faculty Boards and departments at the bottom can perform this role unless much of what is now secret, or at least implicit, is made clear to all". (Stewart, 1997, p.41)

Therefore, good governance is not a threat to the collegial traditions of autonomous universities. Instead it helps to guarantee the autonomy of universities by sustaining and nourishing public confidence in them. A crisis in one university impacts on public confidence across all universities within a particular country. As public investment in higher education continues to rise then it is essential that public confidence is maintained via some simple principles of good conduct, transparency and communication.

Part 2 International Comparisons

It is always instructive to investigate best practice in comparable countries – principally, for the purpose of this Report, countries with which Hong Kong has traditionally compared itself. However, there is also a need to understand and respect the particular circumstances, history and traditions of the university sector in Hong Kong. International comparisons are therefore valuable, but need to be treated with a certain amount of caution. Comparisons do provide a richness of diversity and innovation from which evidence can be drawn. However, it is important to emphasise that there is no single model that can be transferred unadorned to present circumstances in Hong Kong.

It might also be tempting to draw upon another set of comparisons, namely the revisions made to corporate governance in the commercial world. As indicated above, revisions to private corporate governance have had some influence over revisions to university governance in many countries. Clearly universities do not have shareholders in the way in which a publicly-quoted commercial company has. Nevertheless universities do have a wide range of stakeholders who, as indicated above, have a legitimate interest in the affairs of universities and to whom universities are increasingly accountable. Universities also increasingly undertake wholly commercial activity which draws them into the realm of commercial regulation. In the business world there are stringent codes of practice which regulate the public accountability and internal corporate structures of publicly–quoted companies.

In this Report, the emphasis will be on the most relevant of these as far as universities are concerned – namely, those codes of practice which set out the relationship between executive and non-executive members of company boards. Non-executive directors do not undertake the executive management of the company nor determine its day-to-day direction. Rather, they regularly monitor the effectiveness and performance of the senior management against its planned strategies and operational targets. Translated into a higher education context, this means that every university needs to be headed by an effective governing body which is unambiguously and collectively responsible for overseeing the institution’s activities, determining its future direction, and fostering an environment in which the institutional mission is achieved and the potential of all learners is maximised. The governing body of a university needs to ensure compliance with the statutes, ordinances and provisions regulating the institution and its framework of governance, and subject to these, it also needs to take all final decisions on matters of fundamental concern to the institution. However, it is the head of the institution who is responsible for the executive management of the university, both internally and externally.

This distinction between governance and management is crucial for the proper conduct of university affairs. In practice this means there needs to be a clarity of distinction between governance and management and this needs to be reflected not only in the statutes and ordinances of each university, but also might be set out in a less formal and voluntary code of practice which each university is free to adopt. As will be seen below, many countries have supplemented the legal and constitutional formalities of university governance with voluntary codes of practice which allow some level of flexibility, and, crucially respect university autonomy in adopting the fine detail to their own particular circumstances and traditions.

What follows is a very brief resumé of some of the issues currently being debated in other, mostly Anglophone, countries – i.e. UK, United States of America (USA), Australia, Canada, New Zealand and Singapore. In none of these cases is the account anything other than a brief summary and therefore highly selective. The purpose is to point to some key issues which are highly relevant to the current situation in Hong Kong and comment on how they are being dealt with elsewhere. The issues themselves will be presented in more depth later in this Report.

1. The United Kingdom

In the UK higher education is a devolved responsibility – i.e., it is the responsibility of separate legislations in England, Wales, Scotland and Northern Ireland. In practice, the variations are not very great, particularly in relation to university governance, where both the vice-chancellors' organisation Universities UK (UUK) and the organisation which represents the chairs of university governing bodies, Chairs of University Councils (CUC) are UK-wide. In the UK, as in Hong Kong, public funding for universities is largely channelled by intermediary bodies somewhat similar to the Hong Kong UGC. Allocations tend to be predominantly formulaic and are enshrined in what is widely regarded as a fundamental principle of university autonomy in the UK, namely the block grant. This means that, with only a few rare exceptions, university budgets are not subject to line-item scrutiny by the government. Instead, funding is conveyed as a block budget which universities are expected to use effectively and efficiently in pursuit of their institutional priorities.

This system places a very heavy obligation on accountability. The funding councils, the largest of which is the Higher Education Funding Council for England (HEFCE), oversee an effective system of accountability. Universities are expected to demonstrate that public money has been spent properly. An officer of the university (usually the vice-chancellor) is designated as the "accountable officer" for this expenditure, which in law means that he or she is personally accountable to Parliament for the proper expenditure of public monies. These responsibilities have been set out in a financial memorandum – a written document which includes the expectations of the government for the proper expenditure of public funds that are allocated to each university. Each year both the vice-chancellor, as accountable officer, and, crucially, the chair of the governing body, formally sign off the university's financial returns through an annual accounting procedure. This formally confirms that the obligations set out under the financial memorandum have been fulfilled. In 2014 HEFCE changed the title of the financial memorandum to "Memorandum of Assurance and Accountability between HEFCE and Institutions", which more accurately reflects its purpose (this is set out in full in Appendix 2).

When universities were relatively small and homogeneous this might have been regarded as little more than a legal formality. However, in the 1980s a major financial crisis occurred at what was then University College, Cardiff and which was clearly the result of both poor management and poor oversight from the governing body. It was this that led directly to the publication of the Jarratt Report and its various successors (Jarratt, 1985). There was quite clearly a need to restore public confidence in the proper governance of the university sector even though the particular crisis had occurred in only one institution. Reform came to be seen as increasingly urgent as the higher education sector in the UK had expanded rapidly during the 1960s and 1970s and then once more during the late 1980s and early 1990s. Legislation was passed in both 1988 and 1992, which included setting out the parameters for the composition of university governing bodies (for example, that there had to be a majority of non-university members, proper student representation, etc.). Only two universities were exempt from this as they were covered by previous legislation, namely the Universities of Oxford and Cambridge. Since 1992 there has been no further legislation, but there has been a considerable evolution of the development of codes of conduct which seek to establish the principles of proper university governance. It is through its activities that members of governing bodies have been given the capacity to develop the education, training and continuing professional development to fulfil their roles effectively. This has been a significant development.

In 2008 the CUC produced a “Guide for Members of Higher Education Governing Bodies in the UK” which incorporates the governance code of practice and general principles. This ran to over 150 pages and became the point of departure for individual universities when they considered their own internal governance arrangements (CUC, 2008). A revised version, consisting of 28 pages, was published at the end of 2014 (CUC, 2014). The new guide – now presented as a code – (see Appendix 3) is more schematic than its predecessor, as well as being more concise. It was produced in response to what some observers considered to be failings in governance in, significantly, just one institution (London Metropolitan University) which had encountered financial difficulties. The new Code identifies seven “primary elements” of higher education governance, each of which is elaborated in a subsequent section. Throughout there is a division between “musts” (or “should” statements) and “coulds” (which are more illustrative of good practice). It concludes with a statement of 15 “primary responsibilities”.

It is not mandatory, either in the sense of being enshrined in government legislation nor being a condition of grant under the HEFCE Memorandum (though the latter has been mooted). Universities are, however, expected to conform to its principles unless they have good reason to do otherwise (which in a number of cases they will certainly have). It should also be noted that the CUC has itself, from time to time, sought to lobby government – over such issues as the financing of higher education, the autonomy of universities, and the challenges presented by globalisation – in a manner which carries real authority from an organisation which is seen to be, correctly, at arm’s length from the university sector itself. It may not be coincidental that in a recent study by the European Universities Association (EUA) the UK was ranked second in the whole of Europe (behind Estonia) on measures of university autonomy (EUA, 2012). But it is clear that this autonomy has been nurtured and sustained only on the basis of clear lines of accountability, embedded in which are regarded as high standards of university governance.

2. The United States of America

Higher education in the USA is not a federal responsibility, but rather a matter for individual states. The structure of the sector is also complicated by the presence of a large private sector where inevitably governance arrangements are very different to the public universities and are also extremely varied. Even in the public universities there are wide variations from state to state. In some states, for example, governing bodies can be partially or wholly elected by local constituents; in some states governing bodies are appointed by the Governor. In all states there is little or no use of the block grant principle. Budgets are determined by state legislators and are typically allocated on a line-by-line basis. At the risk of gross over-simplification, universities generally fall into three main groups (each containing a number of sub categories):

- The first group includes those universities which have a single governing board for a campus-based institution with direct authority and responsibility for the operation and management of the institution. Some institutions in this group, primarily private, have self-perpetuating governing boards with complete authority and responsibility for all aspects of the university's operation. Others, primarily public, have mostly politically-appointed governing boards with an obligation to report to legislatures, governors, or state-wide boards or commissions that may limit the institutional board's authority and responsibility in various ways.
- The second group includes multiple campus-based public institutions governed by a common state-wide board. In this group, the campus-based institutions may report to the state-wide board directly or through a system executive.
- The third group of public institutions has a local governing board for the campus institution, and this local board has a subset of powers derived from, or delegated by, a state-wide board. The distribution of authority and responsibility between the state-wide board and the local board, and between state-level executives and campus-level executives, varies widely. These relationships tend to change with some frequency in response to challenges, opportunities, personal ambitions of individual actors, and legislative and executive branch preferences.

Every state university, however, is subject to the policy control of the state legislature and often to the policy objectives of the state's executive branch. Legislatures can and do provide direct guidance on academic matters to state institutions, often overriding the presumed authority of institutional boards. The form of this intervention may vary, but the state's strength in higher education issues comes in large measure from the power to appropriate funds. This may even extend to areas which in other countries might be regarded as unusual – for example, it is not uncommon in the USA for legislation to specify program content, graduation standards, and even detailed curricular matters.

As Lombardi et al. (2002) point out, politics is a source of most universities' existence in the United States. The state, on behalf of the people, creates institutions, provides significant proportions of revenue, and regulates institutional behaviour. State systems of governance and coordination act as agents of the State's political authority and regulate, direct and control universities and respond to political process. Some of this may seem obvious, but it deserves emphasis because it is in this role that public university or university system trustees differ most significantly from their private university counterparts. The private university board owns the university directly and answers to the public primarily in terms of its fiduciary responsibility as trustees. The private university board focuses almost exclusively on the effort to raise funds and enhance university performance as defined by the board and the institution. It works on behalf of the institution, not on behalf of outside political constituencies.

In the USA, therefore, governance in publicly-funded universities is an intermediary between the political process on the one hand and the management of the institution on the other. Universities are expected to respond to politically-determined imperatives (to become more cost efficient; to improve access for students from poor families; to reduce cost; to play a leading role in technology transfer; etc.). These imperatives, as Lombardi et al. conclude, often lead to frustration on both sides. Universities are often regarded as slow to respond to the political imperatives of the legislature, while from a university perspective, regulation is often seen as unnecessarily bureaucratic and burdensome, addressing only short-term political expediencies. This often leads to demands to change the organisation of higher education in the belief that if public higher education fails to meet political objectives, then this is because of a failure of central control, direction and authority.

National debate on university governance in the USA has often been led by some of the larger independent charitable foundations. More recently, however, university governing bodies have become more professionalised. The Association of Governing Boards of Universities and Colleges (AGB) has been established to act as a professional association in spreading good practice across the very large and diverse American higher education sector. In September 2013 the AGB created a special commission on the future of higher education governance. Its report (AGB, 2014) was both a narrative of the challenges facing governing bodies in the USA and an embryonic code of best practice – somewhat obliquely titled "Recommendations for Change". This followed both the UK and Australian practice (see below) in setting out a list of primary responsibilities – seven in all. As the Report concludes:

> "Higher Education cannot expect to return to the traditions that worked happily 50 years ago, when mostly honorific boards concentrated on selecting prominent leaders and on fundraising, and in which state and federal governments did not ask many questions about performance. In the future, higher education must be reconfigured to recognise the new student populations, altered educational delivery methods, basic changes in financing, and rising expectations from the public. Boards must be at the forefront of these changes because their fiduciary role requires them to focus on strategic long-term issues and the intersection of internal and public interests. Presidents and faculty will not be able to lead such changes on their own". (AGB, 2014, p.1)

3. Australia

Australia and the UK have traditionally gained considerably from the observation of each other’s practice when it comes to the development of higher education policies in their respective countries. This applies equally to policies on university governance. The development of higher education in Australia has been somewhat analogous to that in the UK with a move from a relatively small and homogenous set of universities up until the 1960s, followed by considerable expansion, diversification and internationalisation. Australia formerly had an organisation similar to that of the Hong Kong UGC which was both a funding body and assisted the government of the day in the development of higher education policy. This was abolished over a decade ago. This accompanied the changes in Australia relating to the elimination of most government funding for university teaching and its replacement by student fees. This new, more market-based, approach created anxieties (also present in the UK) that the public interest needed to be secured, via, most importantly, regulation, but also via a robust system of university governance.

In a departure from the UK practice, Universities Australia (roughly equivalent to Universities UK) established a University Chancellors' Council (UCC) as a national body of university chancellors (i.e. chairs of governing bodies) under the umbrella of Universities Australia. The UCC has produced a “Voluntary Code of Best Practice for the Governance of Australian Universities”, which in turn received ministerial approval in July 2011. The Code is much shorter than its UK equivalent produced by the CUC. It contains only 14 paragraphs and runs over four pages. It is reproduced here in Appendix 4. In many respects its brevity is a considerable advantage. It is essentially a list of high-level principles which, because they have received ministerial endorsement, provides an essential element of public confidence in the governance of Australian universities without being used as a pretext for a series of detailed bureaucratic interventions. Many of its paragraphs form the basis of the themes which are considered later in this report.

4. Canada

In Canada higher education is the responsibility of the provinces. As in the UK and Australia, Canadian higher education has been characterised by high levels of university autonomy for many decades. Provincial government policy initiatives have tended to reinforce the importance of university governance structures as the mechanisms for institutional change, but they have also placed considerable pressure on institutional governance arrangements in terms of making difficult financial decisions, finding innovative approaches to difficult problems and generally adding to the complexity of institutional decision making. Traditionally Canadian universities have adopted a “bicameral” model of university governance (see Jones et al., 2001). This is based on the notion that authority within the institution should be divided between a corporate board and an academic senate. This bicameral model has come under strain as Canadian universities, like those elsewhere, have had to adapt to the competitive pressures of the 21st century. It is worth noting here that the Dearing Review of higher education in the UK recommended in 1997 that there should be one unambiguous supreme governing body in British universities. This was recommended largely in order to eliminate some of the confusion between some of the responsibilities of councils and senates. The growth of international competitive pressures (see also below) as exemplified by international league tables, has made governing bodies in most countries aware of the reputational risks posed by the increasing globalisation of higher education. This has, however, drawn governing bodies into areas of university governance traditionally delegated to university senates, namely the evaluation of research performance and teaching quality. This is a delicate and highly sensitive issue which threatens to cut across the necessary balance between autonomy and accountability – and is evidenced not only in Canada, but also elsewhere.

5. New Zealand

In February 2014 the New Zealand Minister for Tertiary Education, Skills and Employment proposed changes to university councils which were intended to help New Zealand universities remain internationally competitive. In the accompanying press release the Minister stated:

> "New Zealand universities have been performing very well in a world context… however they face a number of critical challenges such as greater competitive pressure resulting from massive investment in the university sector across the developing world, and the emergence of online course provision. Our universities also need to move more quickly to respond to areas of high occupational demand, attract more international students, and strategically invest to enhance their particular areas of expertise and competitive advantage. New Zealand universities would benefit from smaller, more flexible councils which support them to perform at a high level and to be nimbler, more adaptable, and better organised than big overseas universities."

The Minister's anxieties are by no means unique. The advent of international league tables, especially the Shanghai Jiao Tong University ranking, resonated amongst politicians in many countries. For example, in Europe the publication of these rankings led directly to reforms in France, Germany and Spain and in smaller countries such as the Netherlands, Denmark and Finland. In all cases there was a determination to reform the higher education sector in such a way that it would support and sustain "world-class" universities. In Asia these league tables are taken particularly seriously both by politicians and senior university managers. Vice-Chancellors have been hired and fired explicitly in relation to trends in their university's ranking position. University league rankings have become a totem of national success, and in turn have become essential marketing tools for attracting and retaining world-class staff and students.

The New Zealand Minister's statement refers explicitly to the benefits which would accrue from smaller university councils. This is by no means an uncommon view in many countries, drawing upon commercial corporate experience. Some universities have instituted these changes, although there is little empirical evidence which correlates the size of a university governing body with its overall performance. Omitted from the minister's statement, but drawn to his attention by Universities New Zealand (the representative body for New Zealand's eight universities), was the validity of a model of governance based upon commercial companies to universities with a far wider range of stakeholders. However, both parties ignored the likely impact of such a change on members of the governing bodies themselves. If the explicit aim is to sustain universities as “world-class”, how many members of governing bodies can identify “world-class” performance based upon their own experience and background – and can they be sufficiently well-trained and developed to speak with authority on these issues? Potentially this places a huge burden on members of governing bodies. They would need to come from, or be acquainted with, the external competitive environment, as well as the internal quality assessments of the university’s operations, in order to arrive at the necessary judgements and inform the senior management of what changes, if any, need to be made. And the smaller the size of the governing body, the greater this burden becomes on each individual member.

Notwithstanding these risks, in February 2015 the Government succeeded, by a majority of two votes in Parliament, in passing an Education Amendment Bill which included changes to university governance. Henceforth, councils are limited in size between eight and twelve members, three or four of whom are appointed by the Minister. In practice this allows room for only one or two internal appointments. As indicated above, this is a brave experiment and it will be interesting to see whether the performance of New Zealand Universities improves as a result.

6. Singapore

Following a review in 2005, the then three Singaporean universities were granted a new legal status. They were incorporated as not-for-profit companies limited by guarantee under the Companies Act with their own Memorandum and Articles of Association. To ensure that the universities’ missions remain aligned with “national strategic objectives” and also remain accountable for the use of public funds, an enhanced “accountability framework” was introduced covering both quality assurance and policy and performance agreements. Within this framework the universities have been granted considerable operational autonomy.

This is somewhat analogous to, but not exactly similar to, the HEFCE Memorandum which covers universities in England. Significantly, university councils, now operating as boards of directors constituted under the Companies Act, were explicitly given a more significant role in “charting the direction, optimising resources and ensuring the long-term financial sustainability” of their institutions in their pursuit of excellence in education and research (Singapore Ministry of Education, 2005; also Hawkins et al., 2012).

Conclusions

Most university governing bodies in the countries considered here retain elements of what might be termed a “participatory” model of stakeholder involvement – not just university faculty but also students, alumni, local and regional representatives, etc. None of these categories are mutually exclusive with driving a university towards world-class status. But equally and oppositely, universities everywhere do need to be more agile in the face of rapidly-changing uncertainties which can impact upon their long-term (and even their short-term) sustainability.

There is no single and perpetual solution to the balance between autonomy and accountability. Autonomy takes many forms and the second of a series of publications by the EUA, which attempted to compare the autonomy of university systems across Europe, demonstrates the complexity of this issue with a separate consideration of financial, organisational and academic autonomy (EUA, 2012). Complete autonomy is, of course a myth. So autonomy will always be somewhat constrained by the needs of the wider public interest (for publicly-funded universities) and the nature of the market place (for those which are privately funded). However, the most comprehensive study of the relationship between institutional autonomy and the performance of research universities does provide some interesting pointers (see Aghion et al., 2009). A multi-national group based in Brussels investigated how university governance affects research output, measured by patenting and university research ranking. For both European and United States universities several measures of autonomy, governance and competition for research funding were generated and the study demonstrates that university autonomy and international competitiveness are positively correlated with university output, both in European countries, and among United States public universities. This study is based upon a statistical regression analysis and the findings must be treated with a certain amount of caution. Nevertheless, such is the size and scope of the study that they cannot be dismissed as a mere theoretical construct. The point here is that, given the uncertainties of international competition, policy interventions of a radical kind in university governance need to be treated with some care. A major redefining of the balance between autonomy and accountability in university systems could produce major unintended consequences. It is into this kind of uncertainty and complexity that individual members of governing bodies in universities all around the world are thrust. It presents them with a considerable intellectual and practical set of challenges, and these are responsibilities which are not to be taken lightly.

So good governance matters. Robust accountability helps to guarantee university autonomy which, it seems, is positively correlated with overall performance on those measures (principally research output) where international comparisons can be made.

As Edwards concludes from his survey of university governance in Australia:

> "Universities are in transition in a complex and changing environment. There is therefore need for each of them to articulate clearly where they are heading and why and relate their objectives to appropriate governance structures, bearing in mind what is happening elsewhere… What will help individual universities in this transition is a clear statement of who is responsible for what, particularly between the governing council, the Vice-Chancellor, her / his management team and academic board… One test of success is whether university staff and students through this process, understand why they have a Council." (Edwards, 2001, p.17)

Part 3 The Situation in Hong Kong

As indicated above, the Sutherland Report, issued by the UGC in 2002, recommended that each university should review its existing governance and management structures and assure itself that they were fit for purpose. This has been undertaken by all the universities. However, much has happened in the world of higher education – not least in Hong Kong – during the intervening 13 years. Since the UGC has an obligation to satisfy itself as to the effectiveness of the governance of the institutions it funds, it is timely to look again at international best practice. It is an opportunity to reflect on the balance that has been achieved between autonomy on the one hand, and accountability on the other, and to explore how institutional autonomy can sit, and go hand in hand with, efficient governance.

It needs to be stated at the outset, however, that whilst formal structures of governance are essential, good governance really lies in the efficient implementation of these practices. There are softer, less tangible, issues which deliver good governance and which are not written down in formal codes of practice. These include the mutual respect and trust which must exist between the governing body and the senior management of the university and, in particular, between the chair of the governing body and the chief executive officer of the university. This cannot be taken for granted simply by writing a code of best practice. In private sector commercial organisations tensions can exist between the executive and non-executive members of a board. This tension, however, should be creative. If this is so, then the organisation as a whole flourishes. The same is also true of universities. Here is the Chancellor of the Australian National University, the Honourable Gareth Evans, reflecting on precisely this issue in a university context:

> "The natural instinct of chief executives, in a university context as everywhere else, is to think to oneself: how can an infrequently meeting governing board of part-timers, however extensive might be their expertise and experience in particular areas, know as much about *anything* to do with this organisation, and what's good for it, as I know about *everything*?
>
> And with universities now being the hugely complex billion dollar-plus operations they are, it's natural for even the most sensitive modern vice-chancellor to feel deep down inside, whatever he or she reveals more publicly, that the fusty old university senate and council structures…are not really where the action is, and a formality to be endured rather than a really vital component in policymaking and delivery.
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> But of course complete freedom of managerial action, with only purely formal oversight by the formal governing body, is not the way the world works these days for most vice-chancellors or any other chief executives, and nor *should* it be… The trick is to know where and how to draw the relevant lines, to make sure not only that relationships between governance bodies and managements don't end in tears, but that the most productive possible synergy is achieved between them." (Evans, 2011)

In other words, for a modern system of university governance to work effectively, vice-chancellors must feel that members of governing body add value to the strategic decision making of the university; and conversely governing bodies must feel they are provided with the requisite and timely information to discharge their duties properly. One might take it for granted that governing bodies are entrusted with public funds and therefore have a particular duty to fulfil the high standards of corporate governance at all times. In addition they need to ensure that they are discharging their duties with due regard for the proper conduct of public business: namely, selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Often this is reflected in the various procedural matters which are adopted by governing bodies in relation to how meetings are organised and managed. However, it is the implementation of these principles of proper conduct which are decisive. And here, based upon international best practice, it is possible to identify a number of themes which are worthy of renewed consideration.

1. Recruitment, Induction and Professional Development

Most members of governing bodies, apart from the obvious exception of student representatives, will have undertaken their university education at least 20 or 30 years ago. Universities have changed so remarkably over this period that the renewal of their acquaintance with the world of higher education can be quite bewildering. Without some formal induction and informal briefing it is difficult for members of governing bodies who have experience outside the world of higher education to understand many of the key issues on which they are asked to deliberate. Even the acronyms are completely unfamiliar to them. One might suggest that there is now an urgent need in Hong Kong for a consistent and comprehensive programme of induction for all members of council as is common in many other countries. This needs to be supported by additional opportunities during the tenure of their office to undertake further professional development. It is not only the internal workings of the university with which members of council need to become familiar; it is also important they understand the policy context in which the university operates and, increasingly, the global international pressures to which all universities are increasingly subjected. It might be argued that in a relatively small system with only eight UGC-funded institutions such induction is overly burdensome. In fact, quite the contrary is the case. There is always the risk in university higher education sectors with a small number of institutions for them to become unduly inward looking. An important aspect of the induction and professional development of council members is to give them a sense of what is happening in the wider world from where they may continue to draw on best practice internationally.

The recruitment of members of governing bodies is unusual in an international context, with the exception of the role played by state legislators and governors in American public universities. In the other comparative countries, governing bodies are responsible for their own recruitment against a clearly laid out set of terms and conditions which determine the length of service, possibilities for renewal etc. Best practice also indicates that recruitment is often undertaken against a skills template where the governing body itself seeks to ensure, on a flexible basis, that the mix of skills and experience on the governing body is one which is appropriate to the affairs of the university. This helps to ensure not only a balance of skills and experience, but also that external stakeholder representation on the council is balanced and appropriate. These provisions, with or without the formal approval of the Education Bureau (EDB), would go a long way to support and sustain the autonomy of the university as an institution, and would assist in retaining a healthy arm's length relationship between the world of higher education and the world of political affairs.

2. Fiduciary Responsibilities

Where large sums of public money are being invested in higher education it is clear that governing bodies have a responsibility to ensure that public funds (in this case channelled by the UGC) are used in accordance with the purposes for which they have been granted. In practice this is more complex than may first appear. It is an issue which goes to the heart of the balance which needs to be secured between institutional autonomy on the one hand and public accountability on the other. In some countries the allocation of funds forms the basis of a written contract, particularly in smaller nations where there is only a limited number of institutions to deal with e.g. Denmark, Finland, and the Netherlands. While a contractual relationship provides the level of clarity for both parties, the transactional costs of operating this system are in practice very high. It is not uncommon to find that extensive and sometimes difficult negotiations between individual universities and the responsible government department can drag on – to the mutual frustration of both parties. These negotiations also provide an opportunity, not always resisted, to intervene in the detailed operation of individual universities. A contractual relationship is not one, therefore, which encourages agility and nimbleness in the university sector.

Equally and oppositely a system of allocation akin to "take the money and run" is not acceptable in the modern world. Large and increasing sums of taxpayers' money are spent on higher education and there is a perfectly legitimate desire for this money to be seen to be publicly accountable. In countries where a UGC-like body exists (principally the constituent countries of the UK and Ireland) a balance has been struck in which the funds are allocated against a financial memorandum, written to a standard template between the individual university and the funding body. This memorandum sets out the responsibilities of both parties and in particular, the responsibilities of the governing bodies to ensure that funds have been used properly. An annual report is usually required, signed both by the vice-chancellor and the chair of the governing body, which provides the requisite assurance. This assurance, in turn, flows from the proper functioning of the council's own audit committee (informed both by internal and external auditors) through which the council can satisfy itself of the solvency of the institution and the safeguarding of its assets.

At present there is no formal financial memorandum or similar document between the Hong Kong UGC and the funded institutions. This is not to say that there is no formal public accountability for the expenditure of funds, but the ability of the UGC to steer the system towards the pursuit of system-wide policy goals is limited in the absence of such a document with the institutions. While institutional autonomy must be respected and protected, it is also the case that the individual interests of eight institutions do not necessarily and always add up to a public interest for the sector as a whole. Mutual trust and respect needs to exist not only between councils and the senior management of universities, but between both of these and the government and wider public. This balance needs to be constantly scrutinised and reviewed in a fast-changing higher education world where relatively autonomous universities can compete effectively in the global market place.

3. Strategic Planning

It is the senior management of the university which is unambiguously responsible for efficient and effective operation of the university. To that extent the council will always rely on the executive head of the institution to be responsible for the operation and management of the university and to offer guidance to the governing body on issues coming before it. However, the governing body plays a key role in the strategic development of the institution and this is where the background and experience of members of council who come from outside the university sector is particularly valuable. Governing bodies need to own the university's strategic plan and its consequent priorities. If the governing body feels no sense of ownership then there will immediately be a breakdown in trust and respect between the governing body and the senior management. It is not so much the production of a document entitled "Strategic Plan" which is important here. Rather it is the process which leads up to the production of this plan and which monitors performance against it. This is an irreducible responsibility for the council. Governing bodies therefore need to be deeply involved in the development and approval of the university's strategic plan and in particular to ensure that the plan is not merely a long list of current activities, but rather sets out clear priorities over an appropriate period which guide the allocation of resources and operational decision making of the university's affairs. It is therefore a document which should influence and guide all of the key decisions faced by the council over the period of the plan.

All the evidence drawn from international comparisons demonstrate that this is a key area for the proper functioning of governing bodies. In some respects it also protects the senior management from the inappropriate extension of the governing body's authority into the operational management of the institution. A strategic plan which clearly sets out priorities and measurable goals is one which can be regularly monitored by the governing body provided, of course, that it agrees the key performance indicators and timely and appropriate information is provided on performance against them.

The current situation in Hong Kong is that certain elements of strategic planning have arguably become somewhat fragmented. The process of considering triennial Academic Development Proposals (ADPs) currently provides an opportunity for a dialogue between the UGC and the institutions over their medium to long-term strategic plans. How far strategic planning, as a process, is used as a tool for both management and governing bodies seems to be variable. In part this is because there are aspects of strategic planning which are addressed somewhat separately – most obviously the allocation of student numbers by the Hong Kong Government across the sector as a whole and the Research

Assessment Exercise (RAE). Moreover, beyond the world of the UGC, there are the wider unpredictabilities of the emerging global higher education market which create new uncertainties and risks. In this context it is particularly important that institutions have a clear sense of their priorities and achievable goals. In this context effective strategic planning is essential for a well-managed, as well as a well-governed, modern university.

4. Risk Management

If fiduciary responsibilities and the ownership of the strategic plan are two irreducible responsibilities of a governing body, then the oversight of risk management is a third. University managements are expected to identify and actively manage risks, having particular regard at governing body level to risks that could threaten the existence of the institution. In the past this was probably confined predominately to financial risks. Hence, an important responsibility was – and remains – the approval of annual budgets by the governing body.

However, in today's world, the risks which threaten the existence of an institution are not merely financial. Increasingly they are also reputational, underlined and exacerbated by the growing importance of international league tables which are given increasing (and sometimes exaggerated) importance by external stakeholders, whether governments, industrial partners, external funders, alumni or future students. Whether the risks are financial or reputational the external environment is increasingly uncertain and the threat – or possibility – that some action or event which will adversely or beneficially affect an organisation's ability to achieve its objectives is ever-present. It is not the responsibility of governing bodies to manage these risks, but rather to assure themselves that these risks are being effectively managed.

It is here in the assessment of risk that the induction and professional development of members of council is particularly important. At the very least, an understanding of the financial data in a large and complex organisation such as the modern university, can be daunting for those who are not familiar with modern accounting practice. Equally and oppositely, those who are conversant with how to deconstruct balance sheets and financial statements, can find the world of managing reputational risks to be quite bewildering, unless they are familiar with the higher education policy context, both nationally and internationally. These days reputational risk involves such diverse issues as research performance, teaching quality assessment, the evaluation of the student experience, the nature of transactions with external stakeholders and sometimes significant, and wholly commercial, new ventures. Nearly all of these are issues which are quite technical and difficult to evaluate. At least in detail, they will run well beyond the experience of most members of council – including those who may have attended the institution quite some time ago. Fortunately it is not appropriate that all council members understand the detailed technicalities of all of these issues. However, in both their induction, and in their continued professional development, they need to be able to familiarise themselves with the broad principles involved and to obtain sufficient information and knowledge to make a balanced judgement on the performance of the university. It is in the area of risk management that the role of the governing body as "critical friend" is most vital.

5. Scheme of Delegation

If all of the above seems daunting, then there is a necessity to remind ourselves that in practice many of the activities of the governing body are delegated to specialists committees which report to the meetings of the full council. It is on many of these committees that the oversight of management is in practice most effective. Therefore and so the composition and the duties of these committees need to be clearly set out under a scheme of delegation. It is also a reminder that collectively university governance is more than just the meetings of the full council. In practice many of these committees deal with key areas of risk (e.g. human resources, health and safety, estate management, audit, etc.). They, too, have an effective role in monitoring effectiveness and performance, often disaggregating the high level key performance indicators adopted by the council in order to undertake this task. It is important to emphasise that there is no common template which can be adopted uniformly by all institutions. It is very much a matter for councils to determine what is appropriate for their own institution establishing a system of delegated authority to council committees with appropriate reporting lines. However, it is important that all councils review from time to time how far their own schemes of delegation are fit for purpose.

Part 4 Consultation Exercise

The preceding sections of this Report formed the basis of a consultation exercise which took place in April 2015. Meetings took place with a wide range of interested parties from each of the eight Hong Kong UGC-funded institutions and an indicative list of the categories of participants is set out in Appendix 5. Meetings also took place with staff and student representatives and with officials from the EDB. In total 98 individuals participated.

Respondents were invited to comment on the analysis presented in a discussion paper – a modified version of which constitutes Parts 2 and 3 of this Report. They were asked to consider the selection of key themes and any other issues relating to university governance, including any omissions from the initial analysis. The conversations were undertaken on a non-attributable basis.

There was clear consensus that the study was both appropriate and timely. There was an acceptance that public confidence in the UGC-funded institutions would be strengthened by a self-critical review of current governance arrangements, leading to proposals which took as their point of departure the consideration of best practice elsewhere. The fundamental point that robust governance strengthened university autonomy was widely accepted. In the light of recent political history in Hong Kong, a sensitive and implementable review was to be welcomed. There was a clear understanding that a balance needed to be struck between institutional autonomy and public accountability and that this lay at the heart of both present and future governance arrangements.

After the first draft of this discussion paper was considered by the UGC in January 2015, it was suggested that this study should explore the formulation of a draft code of practice. With this in mind, a copy of the Australian code of practice (UCC, 2011) was added as an appendix to the discussion paper, not in order to suggest it should be adopted wholesale in Hong Kong, but in order to illustrate the kind of document that a code of practice embodied. It also had the advantage of brevity. Therefore the desirability of a voluntary code of practice was also discussed in the meetings.

In this section, the Report therefore returns to the five themes identified in Part 3 which were included in the discussion paper. The views of stakeholders on each of these themes are summarised in this section and each section ends with an appropriate recommendation. For ease of reference, all the recommendations are consolidated in Appendix 1. The discussion on a code of practice is in Part 5.

1. Recruitment, Induction and Professional Development

There was a universal endorsement over the proposals in the discussion paper, particularly amongst council members, for a systematic approach to the induction, training and continuing professional development of all members of councils. This was particularly strongly supported by lay members of council but was also endorsed by other stakeholders, including staff and student representatives. Given the importance of universities in the new knowledge economy, it is essential that membership of governing bodies is drawn from a wide range of individuals with the appropriate professional backgrounds and experience. New members can, moreover, draw upon a wide range of skills which can contribute to a pool of knowledge which can support research, teaching and knowledge transfer in their institutions.

Given the complexity of the modern university, it is hardly surprising that new members are often confused about their roles and responsibilities. One Council Chairman referred to new members being "fuzzy" about their role and needing to be "stimulated" to become involved. As far as induction is concerned, "An hour over lunch", he said, "is not enough". It was, he said, not sufficient for them just to attend meetings – there was a need for them to "immerse" themselves in the university. Another respondent, who had been on the councils of more than one university, referred to the fact that he had spent the first two years listening, the next two years asking the occasional question and only in the next two years did he feel confident to challenge any proposals that were laid before the council. Then, as his maximum period of office was six years, he had to stand down. Another lay member of council emphasised that while new members are all well-meaning and anxious to bring their previous experience to bear on the affairs of the university, most of them were "a bit lost" in the first few years.

In Hong Kong these problems are compounded by the particular way in which lay members are appointed. The Chief Executive, in his role as Chancellor of the universities, appoints a significant proportion of council members, although the exact number and proportion varies from one university to another. In addition, some universities, by virtue of their history, have reserved places for members of their founding charities or foundations. This situation contrasts with most other countries whereby councils themselves are responsible for appointing their own members, creating a nominations committee to undertake this task. Traditionally, in Hong Kong, the appointments to a university council has often been regarded as a civic honour, which means that appointments are made without a systematic consideration of the needs of the university to fill the requisite range of skills and expertise which they feel the council needs to discharge its responsibilities. In addition, there is not always a clear recognition on the part of new members of the time commitment which membership of the council will involve. Moreover, in order to maintain public confidence in the governance of universities, it is important that their governing bodies are broadly reflective of the stakeholders which have a legitimate interest in their affairs. As universities have grown in both size and complexity, so the expectations of the members of governing bodies have grown. There are therefore important potential consequences for governance if the university is unable to draw upon the range of skills it needs.

From the universities' standpoint, the institution has little or no control over how it may meet its requirements. This places a premium on the nature of the relationship with the EDB and the Chief Executive's Office. Typically, representations are made, though with varying degrees of success. These difficulties are also compounded by the fact that no university maintains a readily available skills template which can form the basis of discussions with the EDB and the Chief Executive's Office.

Within the present framework there would be much merit in making some adjustments. For example, the EDB might consider organising an interview process for potential candidates which would allow potential new members to gain more understanding of their role and the expectations which would be placed upon them. There is undoubtedly a large, and increasing, time commitment which is often not clear to potential appointees until after they have taken up their membership. Since members are not remunerated, the universities are sometimes reluctant to indicate initially the extent of the role and responsibilities of new members and to organise an extensive programme of induction and training. It is, therefore, not surprising that lay members of council, almost universally, find it difficult to contribute in the early stages of their membership. Familiarisation with any complex organisation such as a university always takes time. But there is no doubt in the minds of many council members that the period when they feel it is difficult to contribute could be shortened considerably by an appropriate induction process.

In addition, it is important that all universities recognise that a proper process of induction must go well beyond the informal arrangements which currently exist in many institutions. A small minority of institutions already do this, but overall the current process of induction rarely goes beyond a meeting with the existing council chair and / or university president / vice-chancellor, together with some key documents – for example the university's latest strategic plan or annual report. Therefore not only is the process of induction lacking in consistency across universities, but it contrasts markedly with the training of non-executive directors in publicly-quoted companies in the commercial sector. Many new members of council understand this only too well, since they are often drawn from heavily-regulated professions in areas like banking, finance and the law, where such periods of induction are extensive and compulsory. They recognise that, given the importance and complexity of universities in today's world, this situation is no longer good enough.

There is an argument, however, that induction should extend beyond the familiarisation with the institution whose governing body they have joined. Governance involves not only the oversight of internal affairs, but also how the university relates to its external environment, locally and internationally. Therefore induction also needs to cover the wider context of higher education, both in Hong Kong and elsewhere. External trends are taking place in higher education which have a considerable impact upon how every institution is internally managed and organised. Members of council need to understand both how the university interacts locally with key agencies such as the UGC and the EDB, but also the wider international competitive environment which increasingly has an impact on every university's strategic objectives. Trends which are taking place elsewhere – most notably in Mainland China, but also in the rest of Asia and elsewhere in the world – are increasingly important to understand if good governance is to be sustained. International comparisons are increasingly, and rightly, used as benchmarks to assess the overall performance of individual institutions. Council members need to have a working knowledge of emerging trends in higher education elsewhere in the world which may have an impact upon their own institutions.

All of this suggests that a programme of induction needs to be presented in two parts. The first, which is primarily the responsibility of the institution, would focus on the familiarisation of new council members with the university. However, there is also the need for a broader induction which would be common across all institutions, and could be organised centrally in order to make efficient use of time and resources. This could be managed by the UGC, which would organise a one-day induction with a series of presentations covering major trends in higher education and, indeed, the role of the UGC itself. These presentations would benefit all new members of council, whether external or internal.

Two further issues were raised. The first concerned the need for refresher courses for all council members as part of their personal and professional development. There was considerable support for this, since in the fast-changing world of higher education there will be the need for occasional briefings to bring council members up to date with important emerging issues.

The second issue concerned whether or not the professional development of council members should be extended further through the formation of an association which would allow the spread of good practice across universities and, from time to time, address issues of common concern. This would be the Hong Kong equivalent of the CUC in the UK, or the UCC in Australia, or a more loosely-constituted organisation, such as the AGB in the USA. While there was some support for this, there was also a view that this might be a step too far at this point in time. There was concern that attendance at meetings might not be healthy, given the time commitments that already existed for council members in their own professional lives. Due to the relatively small size of the UGC-funded sector in Hong Kong, concerns were expressed that this might constitute a significant overhead. As a matter of practicality, therefore, it might be best to re-examine this in a few years' time once the effectiveness of new induction and training arrangements can be assessed.

Recommendation 1

Consideration should be given by institutions and the Government to the processes of training and continuing professional development of council members, so that they may discharge their duties in a more informed manner. The identification of candidates should be made with regard to a skills template which each institution should draw up and keep under review. Induction should be undertaken by both the UGC, with regard to sector-wide issues, and by each institution in respect of individual institutions.

2. Fiduciary responsibilities

The phrase "fiduciary responsibility" can be interpreted in either a broad or narrow sense. The narrow definition of "fiduciary responsibility" relates to the proper accounting of how expenditure, especially expenditure in a publicly financed sector, has been undertaken. It therefore embraces the audit function, but also a broader assurance function whereby the government (and potentially other stakeholders) can satisfy themselves that expenditure has been properly undertaken and that the institution has met the wider legal requirements of society. In Hong Kong the discharge of this narrow interpretation of "fiduciary responsibility" is handled in a robust manner. Not only does the UGC maintain oversight of the sector with regard to these issues, but each individual institution has in place arrangements to discharge its audit and value-for-money responsibilities in a robust fashion. All institutions have an audit committee with clear responsibilities, chaired by a lay member of council with appropriate professional experience in finance or accounting. Such audit committees typically report either to a finance committee, which is itself chaired by a lay member of council, or directly to the council, depending upon the scale and complexity of the institution itself. This process works well and is typically something to which council members pay considerable attention.

A broader interpretation of "fiduciary responsibilities", however, not only embraces financial probity and integrity. It also encompasses the behaviours of governing board members and their oversight of externally-facing fiduciary issues (not least reputational risk – see 4 below), and how the relationship between the institution and the government is to be defined and transacted.

Thus, while the law is specific about fiduciary duties, in the narrow sense of this term, their application typically depends upon the sound judgement of council members, as guided by integrity, observation, experience, insight and institutional policy. But a wider interpretation of fiduciary behaviour underlines the need for council members to look to the future and to execute their duties with loyalty and commitment. They have a responsibility to ensure fidelity to mission, integrity of mission, and conservation of core values. And they must safeguard the institution's moral compass. It is in this context that council members should not be parochial. They should address quite complex underlying issues – for example, transformational technology, internationalisation, and increasing regulation in the wider economy and society – which have enormous implications for the quality of their fiduciary stewardship. In this context, what is the responsible council member to do – and not do? An essential aspect of fiduciary behaviour is orientated towards the internal affairs of the university and the ability of council members not only to support, but also to challenge, the proposals put forward by senior management. But an equally important aspect of fiduciary responsibility is one that supports the long-term sustainability and integrity of the institution with regard to issues which are just as essential as, say, audit and which are far more subtle and complex – support of academic freedom within the law, long-term sustainability of the quality of teaching, research and outreach, and the reputation of the institution, not just within the academic world, but also in the external community. This is not an easy task.

As this Report has repeatedly emphasised, in a publicly-funded sector, such as the UGC-funded sector in Hong Kong, there is always a balance to be struck between institutional autonomy on the one hand and public accountability on the other. This balance can shift over time in accordance with changes in the external environment and there can certainly be no assumption that, whatever the current state of affairs, it represents an optimum solution to the relationship between autonomy and accountability. This is not unique to Hong Kong. In fact it is common to university systems all around the world.

In Hong Kong, however, there is no clear statement which sets out the roles and responsibilities of the universities on the one hand and the Government and its agencies (particularly the UGC) on the other. Hong Kong is far from being unique in this regard, but the absence of such a clear statement can, over time, produce a number of unintended consequences which can be detrimental to the interests of both the universities themselves and the wider public. This issue was explored in discussion with all of the council members and senior managers of the universities. The discussion was, of course, exploratory, since how to arrive at an appropriate balance between autonomy and accountability has not been systematically debated – at least not in those terms – in Hong Kong. However, in the absence of a systematic consideration of this balance, the sector is always vulnerable to a series of ad-hoc initiatives which can create further difficulties in the future. Some have argued that there is a particular risk of this in Hong Kong at the present time.

In Hong Kong this balance is promulgated through a so-called buffer body, the UGC, following historic practice in countries such as the UK and Ireland. The UGC advises the Government, either formally or informally, on higher education policies. However, its core function is to distribute public funds to the eight institutions which historically have constituted the bulk of the higher education sector. Through the way in which it distributes these funds the UGC seeks to incentivise the sector to pursue certain policy goals (for example, research excellence, teaching quality etc.), while the block grant principle represents an important bulwark of institutional autonomy so that the universities maintain an arm's-length relationship with the Government over operational matters, including most academic affairs.

From most universities' standpoint the control of a significant proportion of their income by the UGC grants the UGC very considerable power. To use the vernacular phrase, "money talks". However, the function of the UGC as a funding agency also has its limitations. Essentially its duties are discharged through eight bi-lateral relationships with the UGC-funded institutions. There is therefore, an implicit – but unstated – assumption that the institutional interests of eight separate universities adds up to a public interest for higher education in Hong Kong society as a whole. This is a very brave assumption. It also means that the UGC has only one major tool available to it to steer the sector – namely its funding formula. As a result, when important issues do emerge which require considerable policy development and implementation, the UGC has no option other than to fall back upon technical adjustments to its funding formulae in order to achieve necessary public policy goals. This in part accounts for the development of initiatives such as the requirements for the institutions to produce a strategic plan, submit ADPs, participate in the RAE, undertake periodic teaching quality audits for the UGC's Quality Assurance Council, etc. Sometimes these kinds of processes are deemed by the universities to be overlapping and representing an unnecessary bureaucratic burden. However, from a UGC standpoint, it often sees itself as relatively powerless to intervene where it is fairly clear that the eight institutional interests do not necessarily add up to an overall public interest for Hong Kong.

Some examples of this, while important, are not overly significant in the grand scheme of things. For example, there is considerable evidence to suggest that the Hong Kong universities do not have a good record on collaboration – witness the plethora of schemes for English language tuition, each with its own separate systems of examination. Collaboration on the introduction and use of technology-led teaching, including MOOC's, is limited. Other examples are arguably more serious. Since the only significant resources available which are "free" (i.e. uncommitted) stem from the RAE, all universities engage in this process, irrespective of their mission, and as a result, all eight institutions, to a considerable degree, aspire to be excellent research-intensive institutions like Harvard or CalTech. Meanwhile the same level of financial incentives does not exist for the support of teaching excellence. It can scarcely be deemed in the public interests of Hong Kong that all of the universities strive to be world-class research-intensive institutions; and it can also scarcely be in the public interest of Hong Kong that, despite the UGC's strong and sincere commitment to mission diversity among institutions, the net outcome of these technical adjustments to funding formulae is the reverse: a convergence on the aspiration to be the same kind of university. Any attempt by the UGC to move away from addressing policy issues via funding changes is met by strong opposition from the institutions themselves, who regard any such attempt as a threat to their institutional autonomy. This is not a healthy outcome.

A very good example of this is the ADP process. The submission of triennial academic development proposals is something which consumes huge amounts of effort in the institutions themselves and generates high levels of anxiety and uncertainty. It might be noted that this of itself represents a significant governance issue. However, the reality, in terms of outcomes, however, is somewhat different. Typically the outcomes involve moving small amounts of marginal resource in the form of student numbers between one institution and another. Occasionally this may have a measurable impact on a particular institution (not least in terms of reputational status) but looking at the sector as a whole, the sector may look remarkably the same after an ADP exercise as it did before. In other words, a funding-based approach to address an important policy issue, namely the future size and shape of the higher education sector, is not altogether successful. So it is therefore not surprising that a disproportionate amount of the dynamism in higher education in Hong Kong is not in the UGC part of the sector. It is present in the rapid rise of non-UGC funded institutions – private, overseas, for-profit, sub-degree, self-financed, etc. On almost any calculation of risk, it is this part of the sector where many strategically significant risks lie. In the UGC sector meanwhile, risks – especially financial risks – are lower. But it is this part of the sector that, to many stakeholders, seems less agile, less attuned to public interest needs and less dynamic. And it cannot be emphasised too strongly that this is a governance issue. If the fiduciary responsibilities of university councils extend to the long-term financial sustainability and reputational enhancement of the university, then the governance of the sector as a whole represents a crucial pre-requisite of this.

So striking an appropriate balance between institutional autonomy and public accountability is an irreducible duty of university councils at the micro level, and of government and its agencies at the macro level. The difficulty is that, in Hong Kong, this is not written down. In some other countries it is written down. There is a document to which all parties can refer and which seeks to set out the roles and responsibilities of government, broadly defined, on the one hand and the universities on the other. Its particular form varies from country to country. Some countries, as referred to earlier in this report, set it down in a legal contract between the government and the university. This approach, however, tends to be inflexible and has very large transaction costs while the contract is being negotiated. It also permits government to penetrate deeply into the operational affairs of universities in a manner which certainly is a significant risk to institutional autonomy. On the other hand, a simple memorandum of understanding is scarcely sufficient. At the present time there are approximately HK$22 billion of investment going into universities from the public purse, and a memorandum of understanding would be far too weak to discharge the responsibilities of public accountability. As was indicated in Part 2, some countries have sought to strike a balance somewhere between these two extremes. In England for the last two decades, the relationship between the funding council and the universities has been set out in a more formal document, now entitled "Memorandum of Assurance and Accountability between HEFCE and the Institutions". The sub-title has, however, remained the same – "Terms and Conditions for Payment of Funding Council's Grants to Institutions". The nature of the document (see Appendix 2) is more or less standard across all institutions. It is not a controversial measure, and has afforded considerable institutional autonomy to British universities (see the EUA, 2012) whilst satisfying the public interest over the accountability of public funding. In other words, because such a public framework is in place, institutions are granted very considerable autonomy in a way which does not undermine the fundamental principle of public accountability.

A second, and more recent example, concerns Singapore. As indicated in Part 2, until a decade ago the Singaporean universities were directly managed by the Ministry of Education. Then, in order to improve their international competitiveness, the legal status of the universities was changed to not-for-profit companies limited by guarantee, with boards which abided by the requirements of the Companies Act. The Government gave them very considerable operational autonomy and in return, according to a mutually-agreed "accountability framework", the universities reported annually on the expenditure of their public funds. Moreover – since this was a condition of grant – they are also under an obligation to report annually on their performance targets. These could vary between institutions and could therefore be used to promote mission diversity.

The point at issue here is not so much the details of other countries' particular practice, but whether both the institutions and the government would benefit from the presence of an agreed document which would set out their mutual roles and responsibilities. There is, of course, a risk that the construction of such a document might shift the balance between accountability and autonomy too much in one direction or another. However, in the absence of any such document, there are, as indicated above, unintended consequences which inhibit the ability of the UGC to steer the sector towards agreed public policy goals and protect the autonomy of universities to pursue their strategic priorities and missions. It is the accumulation of relatively ad-hoc initiatives in the absence of any such memorandum which has promoted a significant amount of mutual suspicion and distrust. In turn, this allowed the references to autonomy and public accountability to be somewhat unnecessarily polarised and dysfunctional. Good governance can suffer as a result.

On these issues opinion of the respondents were somewhat divided. There were those, some of whom had experience of such a system in other countries, who embraced it with some enthusiasm. But there were others who regarded it with some suspicion and feared that a formal memorandum would represent a considerable danger to autonomy and academic freedom, rather than the reverse. More generally, the absence of a widespread experience and understanding of working within the framework of a formal memorandum, made judgement difficult.

Nevertheless there seemed to be considerable merit in exploring this option. In Singapore the accountability framework for the universities appears not only to be widely accepted, but continues to sustain the trust of key stakeholders, especially the government, in the good governance and excellent senior management of the university sector. There is a clarity of expectations on the part of all those involved. Currently Hong Kong is arguably ill-prepared for such a development taken as a single step. It is essential that the process reinforces, rather than undermines, mutual trust. In order to achieve this, a period of debate and reflection would be required, through which unwarranted anxieties could be allayed. This Report does not, therefore, recommend the immediate adoption of a written memorandum or accountability framework. It does recommend, however, that the notion is explored seriously by the key stakeholders with a view to adopting a written framework which is attuned to the particular characteristics of the UGC-funded sector in Hong Kong.

Recommendation 2

In order to ensure that the fiduciary responsibilities of council members strike an appropriate and sustainable balance between institutional autonomy and public accountability the UGC should create a mechanism to explore, drawing upon international good practice, the establishment of a written accountability framework on which the vice-chancellor / president and the council report annually.

3. Strategic Planning

All institutions in the UGC sector produce strategic plans and these strategic plans form the basis of significant dialogue, not only with the UGC, but with other external stakeholders. They also set out, within a medium-term time frame, a statement of the priorities and objectives of the institutions. They are therefore both an important management tool and an important point of reference for the good governance of the university. While the drafting of the strategic plan and the management of a strategic planning process is a matter for the senior management of the university, all members of council need to feel a sense of ownership of the plan since it acts as a necessary reference point when it comes to making decisions on particular university policies and initiatives.

All members of university councils who participated in the discussion, confirmed that the strategic plan was approved by the council as the culmination of the production process. The extent to which council members were involved in the process prior to this – and therefore the extent to which they had been made fully aware of the options and arguments in favour of any particular course of action – did, however, vary considerably. In some institutions, the enthusiasm to become involved in the strategic planning process verged on crossing the line between non-executive and executive responsibility; in others, council members seemed largely unaware of that process until they were asked at the end formally to approve the adoption of the draft plan. Some of this variability relates back to the uncertainties attendant upon the appointments process. New members, in particular, might have felt they lacked the knowledge, experience, and even aptitude, to make a significant contribution. There is no single way of engaging in strategic planning and different universities, with different characteristics, legitimately adopt a different approach. However, this does suggest that the nature and importance of strategic planning should feature significantly in the induction and professional development of council members – both internal and external.

Those who do engage in, and are enthusiastic about, strategic planning frequently offered a similar critique. They may or may not be dissatisfied with the process of producing a strategic plan, but almost universally they were unhappy about how objectives set out in the plan were monitored and how council was able to exercise some kind of strategic overview of the progress which was being made towards agreed strategic objectives. This, in turn, related to what most council members perceived as a weakness in their own institutions – namely the absence of key performance indicators against which they could measure success or otherwise. This in turn stemmed from an underdeveloped system of performance management in the universities and a widespread belief that performance management was weak, particularly at faculty and departmental level. This is a rather sensitive issue and another example of how hard information relevant to the balance between institutional autonomy and public accountability is largely absent. There is no demand for detailed key performance indicators at the operational level to be considered by university councils. However, there is a considerable demand for more meaningful and timely information about performance against a small number of key strategic objectives to be regularly reviewed by council.

Universities, and indeed other organisations, which operate this system usually do so through some form of cascade with a relatively small number of key performance indicators reflecting the key strategic objectives set out in the plan, being regularly reported to and reviewed by council, while other more detailed indicators which derive from these form a much larger body of key performance indicators appropriate to faculty and departmental levels. Key performance indicators can be both quantitative and qualitative and their selection and, of course, definition need to be considered with considerable care. It is important that they do not create unintended or even perverse consequences for behaviour across the university and it is important that council members, often drawing upon their experience elsewhere, satisfy themselves that the performance indicators have been framed in the right way, yet do not lead to micromanagement.

It is also important to emphasise that really talented prospective council members will not be attracted on to university councils unless they can be reassured that they have a meaningful role. It is not just about time commitment, it is also about putting their time to productive use. Today's council members need to work hard to keep up to date, to read and understand the challenges facing their institution, including key strategic risks (see next section). In that context, carefully defined performance indicators are a diagnostic for them to fulfil their role. But they are diagnostics and they are indicators. There is therefore plenty of room for interpretation but, used properly, they should allow council members who ask the right questions even if performance indicators do not always provide the right answers.

So good governance involves a nexus which runs from involvement in and ownership of the strategic plan with its attendant key priorities; then the ownership of a measurable set of indicators which can assure the governing body that progress has been made toward the fulfilment of the strategic plan; and finally these indicators provide the basis of a robust reporting back mechanism from the senior management which minimises the risk of micromanagement on behalf of council itself. The construction of these indicators can be a difficult and fraught process. However, there are plenty of examples around the world where universities embrace such a system and there will be no necessity to define these from scratch (for an illustration of this see Appendix 6). However, each university is different. There is no benefit to be gained from simply acquiring another set of performance indicators from another institution and applying them wholesale internally. Nevertheless, this is one area where good practice abounds, and where the development of this kind of approach to strategic planning and performance management is underdeveloped in Hong Kong.

Recommendation 3

Council has a vital role in strategic planning, the latter seen as a process which clearly sets out institutional priorities and forms the basis of the council's assessment of institutional performance. In order to discharge this role each university should draw up a set of key performance indicators which are timely and relevant and which allow council to assess the progress towards the priorities agreed in the strategic plan.

4. Risk Management

As noted above, many lay members of council in Hong Kong are drawn from professional backgrounds where a risk-based approach to major decisions is second nature. They remain somewhat surprised that the management of risk is somewhat underdeveloped in the university sector. In today's fast-moving world of higher education, the management of risk – both financial and reputational – requires considerable thought and oversight.

It is not, of course, the duty of a council to manage risk. It is, rather, the duty of council to ensure that identifiable strategic risks are being properly managed. The actual management of risk is a matter for senior management. This is one area where lay members of council understand the issues rather well. However, the approach to strategic risk management amongst senior managers appears to be somewhat ad hoc and even rudimentary. This particularly applies to medium and lower level managers such as deans and heads of department. There is a clear training need here.

As a result, there is no widely deployed risk management system across the sector. Not only are there no risk registers at the institutional level, but little awareness of the importance of risk assessment when it comes to identifying and mitigating risk. There does, however, appear to be an increasing interest amongst senior managers in these issues, in part fuelled by recent events in Hong Kong which have demonstrated the importance of mitigation strategies. Emerging processes in higher education have also heightened an awareness of risk – for example strategies on internationalisation, knowledge transfer, performance in rankings, etc. The inability to identify, manage and mitigate key risks can have a very rapid impact upon institutional reputation, and this in turn, has an immediate effect upon students and alumni, as well as the management and staff of the institution. A university whose reputation is in precipitous decline will find itself in a situation in which students and alumni have a qualification which is perceived to be less worthwhile than they were led to believe. Institutional reputation is hard won but easily lost. Yet it represents a crucial currency in which universities trade.

Although it might seem nebulous, university councils have an irreducible responsibility, a duty of care, to oversee not only the long-term financial sustainability, but also the institutional reputation of the university. This duty cannot be delegated. A council therefore needs to reassure itself that due diligence has been undertaken in support of initiatives that might carry financial and / or reputational risk. Although it is not literally true in law in Hong Kong, members of university councils are in a very real sense trustees of the institution. They must exercise a duty of care for the institution as a whole and whilst being cognisant of key strategic risks they must also balance this with a recognition that universities must not become unnecessarily risk averse. This, too, is not an easy task.

Typically, governing bodies will require an opportunity to reflect and discuss at length the institution's risk register and to agree whether there are any emergent risks which have been overlooked or, conversely, whether some strategic risks are no longer appropriate and can be omitted. They should also ensure through this process that due diligence is undertaken wherever there are major initiatives and activities which could impinge upon financial sustainability and institutional reputation. Many governing bodies do this through taking the discussion of key strategic risks to an away-day or retreat where there is the time to reflect upon existing practice, rather than deal with it in a somewhat mechanistic way on the agenda of a regular business meeting (for a helpful guide to these issues, see Abraham, 2013).

Recommendation 4

The oversight of risk management, whereby the council is satisfied that major institutional risks – both financial and reputational – have been clearly identified and are being effectively managed, is an irreducible responsibility of council. Each council should therefore draw up a risk register which is reviewed at least annually and, ideally, more frequently.

5. Scheme of Delegation

In a modern university, thanks to its scale and complexity, it is not practical to expect that all significant university business can be scrutinised in depth by the council itself. In practice, therefore, councils operate through a sub-structure of committees and sub-committees which deliberate over key areas of university activity and which make recommendation to council for council's endorsement. Earlier in this Report it was argued that there was a need to set out clearly and in writing the relationship between the government and the universities. Equally, a similar clarity of roles and responsibilities is required between council and its sub-committees. Each should have clear terms of reference, criteria of membership, and, crucially, clear mechanisms for reporting back to council under a scheme of delegation. In practice many of these committees apply due diligence to key areas of risk. Therefore these committees cannot be absolved from the responsibilities which apply to council as a whole in determining good governance in the university.

There is no evidence to suggest that these issues are not well understood in UGC-funded institutions. However, it is very easy for committees and sub-committees to proliferate in order to deal with some quite complex technical issues. Quite inadvertently, the committee structure can become a hindrance to innovation and timely action and can consume a significant quantity of resources. It is always therefore good practice to review the effectiveness of the committee structure from time to time, and this should be a regular responsibility of council itself. A regular cycle of evaluation and review helps to ensure that the structure remains fit for purpose.

In general, councils will wish to retain to themselves three irreducible duties, as set out earlier in this Part of the Report: the ownership of, and commitment to, the strategic plan, with its attendant vision, mission and priorities; their fiduciary responsibilities, both financial and non-financial; and the oversight of key strategic risks.

A risk-based approach to council oversight will quickly identify those areas of activity which require closer attention and will be a matter for council to determine which issues can safely be delegated and which ones require continuous attention in the meetings of council itself. However, it is not only committees, in the orthodox sense, which require robust oversight. Virtually all universities these days, wherever they may be located, create a wide range of vehicles – commercial companies, companies limited by guarantee, joint ventures, charitable subsidiaries, etc. – often with complex interconnections between them and sometimes at arm's-length from the university itself. Councils will need to assure themselves that not only are these arrangements in the best interests of the university itself, but there are in place robust measures to protect the university from financial and reputational exposure (including the possibility of conflicts of interests). Simple observation of international experience indicates the areas of highest risk:

- overseas activity, including the establishment of overseas campuses and institutes;
- wholly commercial trading subsidiaries;
- the management of intellectual property rights – start-ups, franchises, licensing agreements, etc.;
- mergers and acquisitions;
- major estate developments.

There will be many others. Whatever the particular legal framework which defines their existence, council has an absolute duty to exercise effective oversight. This can partly be undertaken by appropriate representation on boards, etc., but this itself is not entirely sufficient. In order to discharge its duty effectively council will need to be involved at quite an early stage in the development of proposals and assure itself that the attendant risks are being effectively identified and managed. The creation of an arm's-length subsidiary, for example, while it can partially de-risk a project, carries with it substantial oversight challenges. There are some difficult judgements to be made here, ironically between accountability and operational autonomy, but also between fiduciary oversight and acting as shadow directors. It is therefore not sufficient for a council simply to endorse a proposal at the very end of this process. It will need, usually, to consider various options before the preferred one is developed and to have in place a set of policies with regard to subsidiary organisations which can be applied to particular cases.

Finally, there is one irreducible duty of the council, but one which occurs (relatively) infrequently: the appointment of the chief executive (vice-chancellor / president) and the monitoring of his or her performance. This is arguably the single most important task which a council undertakes. International experience suggests that the quality of leadership is an important – some might say the most important – ingredient in achieving the mission and objectives of a university. This is not only a question of recruiting the best person available, but of ensuring that the circumstances of recruitment are such that the successful candidate is bestowed with the legitimacy which, in the academic world, renders leadership all the more effective.

Typically, the council will agree not only to the job description, but also the qualities of the individual that is being sought in relation to their priorities for the future development of the university. The council will establish a search committee (or its equivalent), very often engage executive search consultants and agree the composition of a group which is broadly-based and will undertake an initial sift of candidates. The interview of short-listed applicants will require, at the very least, the involvement of the council chair and other senior council members, as well as representatives of the academic community. However, councils may wish to consider adopting a model commonly used elsewhere, namely the use of an external advisor (not a member), usually a vice-chancellor or president of a comparable university overseas. This can be extraordinarily useful in expanding the pool of potential candidates and advising the council on international standards.

In conclusion, there is no evidence to suggest that the issues outlined in this Part of the Report are not well understood in the UGC-funded institutions. Delegation is an art rather than a science. As such it is always good practice to review the effectiveness of the committee structure – including the arm's-length operating subsidiaries – from time to time. This should be a responsibility of council itself. A regular cycle of evaluation and review helps to ensure that the structure of governance remains fit for purpose.

Recommendation 5

Each council should publish a scheme of delegation which sets out the sub-structure of its committees and includes the mechanism whereby council is satisfied that the related managerial oversight of university activities is being effectively handled, including appropriate delegation and reporting mechanisms.

Part 5 Code of Practice on Governance

Many of the issues raised in Part 4, although by no means all, are relevant to the construction of a code of practice. In a number of countries a code of practice has proved useful, not only in codifying existing practice, but in providing a point of reference for the proper conduct of university affairs and as a clear statement of the irreducible duties and responsibilities of the governing body. It is often seen as an essential adjunct of good governance and, where one exists, it can prove a useful reassurance for external stakeholders that good governance is being taken seriously in the institution.

The question therefore arises as to whether a code of practice should be compulsory or should be voluntary. While a case could be made in theory for a compulsory code, there are considerable difficulties. In a highly diverse higher educational environment, such as that which exists in Hong Kong, it would be difficult to develop a compulsory code of practice which takes account of such diversity without it being very general, even vague, in its scope. A compulsory code would also relieve individual university councils of their duty to be responsible for it. Codes of practice need to be somewhat flexible to take account of the particular institutional character of a university, its culture and traditions and its values and mission. Whilst some overall principles need to be adhered to, it is by no means clear that in this case one size will immediately fit all.

A voluntary code, on the other hand can be flexed to suit the individual circumstances of universities. It provides nevertheless an important point of reference, and, most importantly, a source of moral authority over university affairs. Its effectiveness can be reviewed from time to time and, if necessary, changes made to take account of emerging circumstances. Therefore most university sectors where codes of practice exist, have established them on a voluntary basis. Until there is clear evidence to the contrary this is probably the best basis on which to proceed.

Why is a code of practice necessary? Its primary purpose is, as the UK code stipulates, "to identify the key values and practices on which [effective governance] is based, in order to help deliver institutional mission and success". (CUC, 2004, p.4) The adoption of the code is not, of course, a sufficient guarantee of good governance, but by adopting a code a university council can demonstrate leadership and stewardship while providing some reassurance to external stakeholders.

Codes of practice typically comprise two key areas:

1) A statement of the core values concerning how institutional governance is conducted;

2) The identification of the primary responsibilities of the governing body that support these core values.

Some codes of practice then give more detailed consideration to each of these primary elements, although frequently these are contained in appendices or even separate briefing documents. In all those countries which have adopted a code, the intention of the code has been developmental rather than solely regulatory. Institutions have been encouraged to adopt the code, adapt it where this can be justified to accommodate local circumstances and thereby, in a very real sense, own it. This means that the code can become a living, breathing document which may change over time. Good governance therefore becomes a journey of continuous improvement with the document itself being reviewed and evaluated from time to time in response to local, national or even international factors.

So the question arises: what should be the character of such a code in Hong Kong? There are only eight UGC-funded institutions and this might be taken to imply that a level of uniformity could be achieved that is higher than in either, say, the UK or Australia. However, this would overlook the diversity which exists among the institutions in Hong Kong – and the policy objective (on which there is a high level of agreement) that such diversity should be supported and encouraged. This suggests an approach which is closer to the Australian example: a clear statement of essential components, but an absence of suffocating detail. Moreover, by having to work through the detail of implementation in their own institutions this also promotes a greater awareness of, and engagement with, the issues involved. In other words, this approach is more aligned to the developmental purpose of the code, rather than a purely regulatory function. Hong Kong universities are mature enough and, in general, sufficiently well-managed, to make this approach appropriate.

Part 6 Conclusions

As agreed by the UGC, even though “Governing Bodies” of Hong Kong Universities could be said to mean more than the council alone, this report is focused on the role of the council. It has not, though, attempted to delve into the detail of all of the various activities which university councils undertake and how they carry them out. Rather, it had focused on a relatively small number of high-level issues, drawing upon international best practice. The recommendations are made in order to bring Hong Kong further into line with international best practice and are achievable and deliverable over a short time span.

Clearly each will need to be considered in relation to the particular context of Hong Kong higher education. The details of implementation will require careful consideration by all of the stakeholders involved. However, progress in the direction indicated in this report will improve the efficiency and effectiveness of the governance of the universities in Hong Kong and, most especially, go a long way to sustaining public confidence in their operations.

But good governance is a journey, and with this in mind, the following is recommended:

Recommendation 6

The UGC should undertake a review of university governance on a regular basis, ideally every five years.

This is not a university sector in crisis. On the contrary there are many achievements of the UGC-funded institutions of which the citizens of Hong Kong can be proud. However, in the fast changing and increasingly competitive world of higher education, all institutions need to be agile and innovative in order to adapt to the ever changing circumstances which supported them. Good governance is an essential part of their long-term sustainability and development in today’s world.

Executive Summary

In the 21st century universities play a central role in economic and social development. The growth in scale and complexity of the modern university has created new challenges for senior managers and for the oversight of university affairs by their governing bodies.

With this in mind the Hong Kong University Grants Committee (UGC) commissioned this Report in 2014, the first review of university governance since the Sutherland Report of 2002. The present Report begins by setting out the key issues which universities must consider when determining any changes to their governance structure. It then continues by providing some brief comparative information on the situation in a number of other countries and from this analysis identifies a number of themes which formed the basis of discussions with key stakeholders in Hong Kong. The responses are summarised in Part 4 of this Report. Part 5 discusses the importance, desirability and nature of a code of practice on governance.

While there are many definitions of the term "governance", here it refers to how universities are structured and managed in such a way as to lead to effective performance in achieving desired outcomes and the satisfaction of stakeholders. This reflects recent developments in the corporate world, where robust systems of governance are recognised to be a requirement for sustaining public trust and stakeholder confidence. Universities are not exempt from these obligations, not least because of the increasingly competitive and globalised environment in which they operate. A persistent theme of this Report is the necessity to strike an appropriate balance between university autonomy and public accountability in a publicly-funded university system. Effective governance supports and sustains autonomy; poor governance undermines it. Therefore, good governance is not a threat to the collegial traditions of autonomous universities. Rather, it helps to guarantee the autonomy of universities by sustaining and nourishing public confidence in them.

Part 2 of this Report summarises, somewhat selectively, recent developments in university governance in a number of countries – the United Kingdom, the United States of America, Australia, Canada, New Zealand and Singapore. Part 3 uses these international comparisons to identify a number of themes that are relevant to the current situation in Hong Kong and which formed the basis of a discussion paper that was sent to nearly one hundred stakeholders in April 2015. These themes form the basis of the recommendations set out in Part 4. The full list of recommendations is set out in Appendix 1.

The first theme concerns the processes of recruitment, induction and continuing professional development for council members. Given the complexity of the modern university, council members often take some considerable time to become confident and knowledgeable about the issues they encounter. There was a universal endorsement of the need to organise a more consistent approach to induction and orientation. Part of this should relate to the workings of their own institution; but another part should enable them to be briefed on the wider context of higher education, both in Hong Kong and elsewhere. It is recommended that individual institutions develop a more consistent approach to the induction of their council members and that the UGC organises an annual event for new council members which briefs them on the wider context. It is also recommended that each university maintains a skills template to which they can refer when considering the present and future skills requirements of council members. This can be taken into account as part of the candidate identification process.

The second theme concerns the fiduciary responsibilities of council members. Their fiduciary responsibilities relate not only to the need for public and transparent accountability of expenditure, but also to a wider sense of stewardship: the long-term sustainability of their university educationally, financially, and culturally. These responsibilities relate both to the internal affairs of the university and to the legitimate interests of external stakeholders. At the heart of these responsibilities lies the balance to be struck between university autonomy and public accountability, a balance which can shift over time in accordance with changes in the external environment in which a university operates. This section concludes that improvements can be made in the existing system. The processes of accountability could be made more streamlined and more open to agreed public policies for higher education. There is much to admire in the way in which the accountability for public funds is transacted. However, there is merit in setting out the duties and responsibilities associated with public funding in a formal memorandum on which the university reports annually.

All institutions in the UGC sector produce strategic plans and these form the basis of significant dialogue with both the UGC and other external stakeholders. While the drafting of the strategic plan and the management of the strategic planning process is a matter for the senior management of the university, all members of council need to feel a sense of ownership of the plan, since it acts as a necessary reference point when it comes to making decisions on particular university policies and initiatives. While the extent of council involvement is variable, it was the near-universal opinion of lay council members that their ability to monitor the progress being made to achieve agreed strategic planning goals and objectives was deficient. In particular, it was felt that there was much work to be done to develop key performance indicators which would enable them to exercise effective oversight. It is recommended that all institutions establish a set of key performance indicators which are timely and relevant and which allow council to assess the progress towards the priorities agreed in the strategic plan. There is a training need here for middle and even senior managers.

The fourth theme concerns risk management. In general, the management of risk is underdeveloped in Hong Kong universities, especially reputational risks. As uncertainties increase in the fast-moving world of higher education, the management of risk requires considerable thought and oversight. Yet there is no widely-deployed risk management system across the sector and there are no risk registers compiled or reviewed at institutional level. There is, though, an increasing interest in risk management by both senior managers and lay council members. They are both aware that major initiatives which could impinge upon financial sustainability and institutional reputation need to be underpinned by a more systematic methodology of risk assessment and council oversight. It is recommended that each council should therefore draw up a risk register which is reviewed at least annually and, ideally, more frequently.

The scale and complexity of the modern university means that it is not practical to expect that all significant university business can be scrutinised in depth by the council itself. Councils therefore operate through a committee structure within which detailed debate can be undertaken and appropriate recommendations made. It is recommended that each council should publish a scheme of delegation whereby council itself can be reassured that there are in place effective systems of delegations and reporting back.

Part 5 of the Report discusses the importance, desirability and nature of a code of practice on governance. Many countries maintain such a code, typically on a voluntary basis, and it is often seen as an essential adjunct of good governance by sustaining public confidence. A typical code of practice on governance consists of two key areas: a statement of certain core values concerning how institutional governance is conducted; followed by the identification of the primary responsibilities of the governing body that supports these core values.

Finally it is recognised in this Report that good governance is not a static state of affairs, but a journey. Good governance will evolve over time. Therefore it is recommended that the UGC should undertake a review of governance on a regular basis, ideally every five years.

Hong Kong can be proud of its universities and the quality of their teaching, research and outreach. The reputation of the sector remains high in the outside world. Good governance will help to ensure that Hong Kong’s universities will continue to flourish in the future.

Appendices

1. Summary of Recommendations
2. Memorandum of Assurance and Accountability between HEFCE and Institutions
3. CUC (UK) Code of Practice
4. UCC (Australia) Code of Practice
5. Categories of Participants in Consultation Meetings
6. High Level Key Performance Indicators: An Illustration

Appendix 1
Summary of Recommendations

Recommendation 1

Consideration should be given by institutions and the Government to the processes of training and continuing professional development of council members, so that they may discharge their duties in a more informed manner. The identification of candidates should be made with regard to a skills template which each institution should draw up and keep under review. Induction should be undertaken by both the UGC, with regard to sector-wide issues, and by each institution in respect of individual institutions.

Recommendation 2

In order to ensure that the fiduciary responsibilities of council members strike an appropriate and sustainable balance between institutional autonomy and public accountability the UGC should create a mechanism to explore, drawing upon international good practice, the establishment of a written accountability framework on which the vice-chancellor / president and the council report annually.

Recommendation 3

Council has a vital role in strategic planning, the latter seen as a process which clearly sets out institutional priorities and forms the basis of the council's assessment of institutional performance. In order to discharge this role each university should draw up a set of key performance indicators which are timely and relevant and which allow council to assess the progress towards the priorities agreed in the strategic plan.

Recommendation 4

The oversight of risk management, whereby the council is satisfied that major institutional risks – both financial and reputational – have been clearly identified and are being effectively managed, is an irreducible responsibility of council. Each council should therefore draw up a risk register which is reviewed at least annually and, ideally, more frequently.

Recommendation 5

Each council should publish a scheme of delegation which sets out the sub-structure of its committees and includes the mechanism whereby council is satisfied that the related managerial oversight of university activities is being effectively handled, including appropriate delegation and reporting mechanisms.

Recommendation 6

The UGC should undertake a review of university governance on a regular basis, ideally every five years.

Appendix 2
Memorandum of Assurance and Accountability between HEFCE and Institutions

June 2014/12

Core operations

Report

Effective 1 August 2014

The memorandum of assurance and accountability between HEFCE and the institutions we fund sets out the terms and conditions for payment of HEFCE grants. This memorandum should be read in conjunction with the 'funding agreement' for each institution, which gives specific conditions, funds available and educational provision agreed in return for those funds. This document supersedes HEFCE 2010/19.

Memorandum of assurance and accountability between HEFCE and institutions

Terms and conditions for payment of HEFCE grants to higher education institutions

HIGHER EDUCATION FUNDING COUNCIL FOR ENGLAND

Contents

Memorandum of assurance and accountability between HEFCE and institutions

Terms and conditions for payment of HEFCE grants to higher education institutions

To	Heads of HEFCE-funded higher education institutions Heads of HEFCE-funded further education colleges
Of interest to those responsible for	Vice-chancellors and principals, Governing bodies, Senior management, Finance, Audit, Providers of capital, Student representatives, Other beneficiaries of regulatory assurance
Reference	2014/12
Publication date	June 2014
Enquiries to	Ian Lewis, e-mail i.lewis@hefce.ac.uk

Foreword

HEFCE is a non-departmental public body. This means that while our remit is currently set by the Secretary of State for Business, Innovation and Skills, we are not part of any government department. This enables us to act as a broker between universities, colleges and the Government ensuring the appropriate institutional freedom for teaching, research and knowledge exchange.

The Government decides on the total public funding for higher education, and we distribute this funding fairly and transparently, according to agreed principles and criteria.

Under the Further and Higher Education Act 1992, which established HEFCE, the Secretary of State is not entitled to frame his conditions of grant to us by reference to specific institutions, or to particular courses of study or programmes of research, or to the criteria for the selection and appointment of academic staff or for the admission of students. This is designed to safeguard both institutional and academic autonomy, which are widely regarded as key factors in the success of English higher education. We strongly endorse these principles which are unaffected by the Government's recent reforms of the higher education system.

Higher education in England is made up of a diverse range of institutions of varying size and complexity. To give expression to the principle of autonomy, every institution is headed by a governing body which is unambiguously and collectively responsible for overseeing the institution's activities, determining its future direction, and fostering an environment in which the institutional mission is achieved and the potential of all students is realised. The governing body ensures compliance with the statutes, ordinances and provisions regulating the institution and its framework of governance. HEFCE funding is provided explicitly to the governing body as the institution's ultimate authority.

In addition to their responsibilities for good governance and financial stewardship, the leadership of institutions takes account of the interests of their students. Higher education is a partnership between students and the university or college that is delivering their courses or programmes of study. Universities and colleges have responsibilities with regard to their students, and take pride in the high quality of education they provide and the wider experience enjoyed by their students. Universities and colleges are also committed to the continuous improvement of learning and teaching, and the vast majority of students have a good relationship with the institution where they study.

As accounting officer, the chief executive of HEFCE has a personal responsibility to safeguard public funds and achieve value for money as set out in HM Treasury guidance, 'Managing Public Money'. This includes responsibility for the public funds allocated by HEFCE to higher and further education institutions and other bodies for education, research, knowledge exchange and associated purposes.

The approach to accountability described above draws on the expertise and diligence of governors, the effective academic management of institutions and an established relationship of trust between HEFCE and universities and colleges in England which serves higher education extremely well.

HEFCE, in turn, has responsibilities to protect the collective student interest – a role given more prominence in the recent government reforms – and to secure the wider public interest, particularly in relation to the funding of higher education.

In relation to the collective student interest, HEFCE remains legally responsible for making sure that the quality of learning and teaching is assessed in each university and college across England which it funds. We also assess the quality of research, enabling us to fund research selectively by supporting excellence wherever it is found, and promoting vibrant PhD and post-doctoral communities. HEFCE also has a role in respect of students by providing assurance about the financial sustainability of the universities and colleges where they are studying and the operation of policies that promote student opportunity and success. But a student's primary relationship remains with his or her institution.

In relation to the wider public interest, HEFCE has a clear regulatory duty to ensure that universities and colleges in receipt of public funds provide value for money and are responsible in their use of these funds. We also ensure that the funding we distribute accurately reflects what is delivered. In addition, we act as the principal regulator for those universities and colleges that are exempt charities, advising the Charity Commission where appropriate. We aim to reduce the accountability burden on institutions by enabling other public bodies, wherever possible, to rely on our systems of oversight and assurance. We in turn seek to take assurance from institutions' own systems of self-regulation and control.

The principle of institutional autonomy and the system of co-regulation on which it depends therefore relies on clear lines of accountability for the proper stewardship of public funds and on being able to demonstrate to Parliament and the public that, in the exceptional circumstance when something goes wrong, there is a clear mechanism to put it right. The purpose of the memorandum of assurance and accountability is to provide this clarity and assurance by defining the formal relationship between HEFCE, governing bodies and heads of institutions.

Professor Madeleine Atkins

Chief Executive

Higher Education Funding Council for England

Memorandum of assurance and accountability between HEFCE and institutions

Purpose of this document

1. The memorandum of assurance and accountability sets out the formal relationship, in the form of terms and conditions made under section 65 of the Further and Higher Education Act 1992, between HEFCE and the higher education institutions (HEIs) and further education colleges (FECs) that it funds, and their governing bodies and accountable officers. It reflects HEFCE's responsibility to provide annual assurances to Parliament that:

- funds provided to us are being used for the purposes for which they were given
- risk management, control and governance in the higher education (HE) sector are effective
- value for money is being achieved.

2. In addition HEFCE has to take account of the collective interest of students in how it operates. This 2014 memorandum of assurance and accountability has, therefore, been designed to address both the collective student interest and the public interest.

3. This memorandum of assurance and accountability is in two parts:

Part 1 sets institutional conditions of grant that apply to HEIs, but with specific conditions that also apply to FECs. Where requirements apply to both HEIs and FECs this is stated as 'HEIs and FECs'. Where the requirements only apply to HEIs, it is stated as 'HEIs'.

Part 2 sets conditions to specific grants that are paid to HEIs and FECs. It is issued each year as the 'funding agreement'.

References to the memorandum of assurance and accountability or the memorandum embrace both part 1 and part 2.

4. For those HEIs that are exempt charities the memorandum of assurance and accountability sets out the requirements for information to enable us to carry out our responsibilities as principal regulator under the terms of the Charities Act 2011. These responsibilities apply to all the funds and assets of HEIs that are exempt charities.

5. The memorandum of assurance and accountability sets out the mandatory requirements placed on HEIs and FECs as conditions of grant.

6. HEIs are bound by the requirements of their charter and statutes (or equivalent) and by the law relating to their charitable status. This document does not supersede those requirements but is intended to complement and reinforce them.

7. This document, including the Audit Code of Practice (Annex A), takes effect from 1 August 2014.

Linkage to Operating Framework and the register of HE providers

8. The memorandum of assurance and accountability applies to HEIs and FECs in receipt of grant funding from HEFCE. This forms part of a suite of accountability arrangements, covering both access to and continued operation in the HE sector, that provide coverage across all higher education providers which have one or more of the following features:

- its courses are validated by a listed body
- it has degree-awarding powers
- it has university or university college title
- its courses have been designated as eligible for access to student finances
- it has been designated as an HEI eligible to receive HEFCE grant funding.

9. These, and details of the register of HE providers, are set out in full in the Operating Framework[1]. This memorandum of assurance and accountability does not apply to alternative providers[2].

Requirements of other bodies

10. It is a condition of HEFCE grant that HEIs and FECs in receipt of HEFCE grant funding subscribe to the Quality Assurance Agency for Higher Education (QAA). It is also a condition of HEFCE grant that HEIs subscribe to and provide data or other information requested by the Higher Education Statistics Agency (HESA).

11. Under the Higher Education Act 2004 HEIs are required to subscribe to the Office of the Independent Adjudicator.

12. Non-compliance with regulatory requirements or requirements of other bodies, such as QAA or HESA, may lead to a flag in the register of HE providers to alert current and prospective students and others to the non-compliance. Whether the non-compliance leads to a flag will depend on the circumstances and the impact of the non-compliance. There will be dialogue with the institution or institutions concerned to address the issues raised ahead of any decision to include a flag in the register, if that flag relates to compliance with the conditions in this memorandum. We expect the need for this escalated process to be extremely rare. Any such areas of non-compliance may also be taken into account by HEFCE in our assessment of risk, and there may be actions that flow from that assessment, as set out in our support strategy.

13. HEIs and FECs must ensure compliance with European Union state aid law in their own uses of HEFCE funding. In the case of any breach of state aid law we may be required to recover all or some funding, together with interest. HEFCE may also be required to withhold funding or aspects of funding to any institution which is subject to a state aid enquiry or which has an outstanding recovery notice against it.

Our responsibilities

14. HEFCE provides grant funding for the provision of education and the undertaking of research by those universities, institutions conducted by higher education corporations, and institutions of higher education designated as eligible to receive HEFCE grant funding (collectively referred to as ‘higher education institutions’ or ‘HEIs’) and FECs. HEFCE has lead responsibility for public accountability for HEIs.

15. As such we will endeavour to work with HEIs and others in the higher education sector to the highest standards of openness, integrity and consistency expected of public sector bodies.

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[1] This can be found at www.hefce.ac.uk/about/intro/wip/rpg/of/

[2] Alternative providers are subject to separate conditions attached to designated courses (www.hefce.ac.uk/whatwedo/reg/desig/).

We recognise that universities, other HE providers and FECs are autonomous bodies and acknowledge that HEIs and FECs accept that they are accountable for the funding they receive. We will not ask for information that we already have, and as far as possible we will rely on data and information that HEIs and FECs have produced to meet their own needs. We will make regulation efficient and effective and seek to ensure that its benefits outweigh the costs to HEIs and FECs, ourselves and other parties.

16. We will respect commercial confidentiality within the constraints of the Freedom of Information Act 2000 and our own obligations to Parliament and under the framework document with our sponsor department.

17. Our grants to HEIs are to fund activities defined by the Further and Higher Education Act 1992. For HEIs these are:

- providing education and undertaking research
- providing facilities and undertaking activities that the HEI's governing body thinks are necessary or desirable for providing education or undertaking research.

18. We will review an HEI's annual accountability returns to us, and give to the accountable officer and governing body a confidential risk assessment. We will not normally make our risk assessments public until three years have elapsed. This period, based on advice from the Information Commissioner, gives an HEI that is designated 'at higher risk'[3] time to reduce its risk classification.

19. We will make our risk assessments available within this three-year period, on an exceptional and confidential basis, to:

- other public funders and other regulators to enable those bodies to make their own assessments of risk, and
- the National Audit Office who may exceptionally need to discuss those assessments at the Public Accounts Committee or disclose them in a published report.

20. We must do this to minimise the risk to public funds distributed by those bodies or other regulatory remits they hold.

21. We will exceptionally make public a risk assessment at any stage if we have strong grounds for believing that it is in the collective student or the public interest to do so. We will only share or publish our risk assessments after having notified the accountable officer and governing body of the HEI concerned. When we assess an HEI to be 'at higher risk', we will engage with it in line with our institutional engagement and support strategy (see Annex B).

22. We define an HEI as 'at higher risk' when in our judgement, on the basis of all available evidence, it:

- faces threats to the sustainability of its operations, either now or in the medium term
- has serious problems relating to value for money, propriety or regularity (that is, whether funds are used for the purpose intended), or

[3] The classification of HEIs as 'at higher risk' or 'not at higher risk' is planned to be reviewed and will be the subject of a separate consultation. Consequently this wording differs from the terminology used in the 2013 Operating Framework, which is more aspirational in how this might develop.

- has materially ineffective risk management, control or corporate governance.

23. More detail on how HEFCE assesses institutional risk is given at Annex B, Table 2.

Responsibilities of universities and colleges to us and to students

24. HEIs are required to supply HEFCE with certain information about their viability and the way they operate, because we have:

- an oversight role for regulation of higher education
- responsibility and lead public accountability for HEIs designated to receive HEFCE grant funding
- responsibility to protect the collective student interest and the public interest
- responsibility as principal regulator of those HEIs that are exempt charities
- or any combination of the above.

Regularity and propriety

25. A condition of grant is that HEIs and FECs must use HEFCE funds only for activities that are eligible for funding under the Further and Higher Education Act 1992, as this is the intended purpose for which the funds have been provided by Parliament. When using these grants HEIs and FECs should ensure they apply proper processes that ensure effective accountability.

26. This condition also applies where the HEI passes on part of its HEFCE grant to another legally distinct entity for the provision of facilities or learning and teaching, or for research to be undertaken. In such cases, as set down in Section 65(3A) of the Further and Higher Education Act 1992, the HEI must obtain our consent before passing HEFCE funds to the connected institution. In these circumstances the HEI awarded the funding by HEFCE will be held accountable for those funds; and the HEI should therefore ensure adequate accountability arrangements are in place when it passes on such funding to another entity.

27. Members of HEI governing bodies and accountable officers should comply with the seven principles set out by the Committee on Standards in Public Life.

28. Governing bodies and accountable officers are accountable for their decisions and actions, and must submit themselves to whatever scrutiny is appropriate to their office. They should also be as open as possible about all the decisions and actions that they take that may affect funding provided by HEFCE. HEFCE will write to the new chair of each governing body of an HEI, on appointment, drawing attention to their own and their governing bodies' responsibilities under the memorandum of assurance and accountability.

Governing bodies

29. Members of governing bodies of HEIs have a set of legal responsibilities and other duties. Taken together, the responsibilities of members of a governing body and of the governing body as a whole are considerable, and must be met. The governing body of an HEI is collectively responsible and has ultimate responsibility that cannot be delegated for overseeing the HEI's activities, to determine its future direction, and to foster an environment in which the HEI's mission is achieved. In accordance with the HEI's own statutes and constitution, there should be effective arrangements for providing assurance to the governing body that the HEI:

a. Has a robust and comprehensive system of risk management, control and corporate governance. This should include the prevention and detection of corruption, fraud, bribery and irregularities.

b. Has regular, reliable, timely and adequate information to monitor performance and track the use of public funds.

c. Plans and manages its activities to remain sustainable and financially viable.

d. Informs us of any change in its circumstances which – in the judgement of the accountable officer and in agreement with the governing body – is a material change, including any significant developments that could impact on the mutual interests of the HEI and HEFCE.

e. Uses public funds for proper purposes and seeks to achieve value for money from public funds.

f. Delivers its charitable purpose for the public benefit.

g. Complies with the mandatory requirements relating to audit and financial reporting, set out in our Audit Code of Practice and in our annual accounts direction.

h. Sends us:

i. The annual accountability returns.

ii. Other information we may reasonably request to understand the HEI's risk status.

iii. Any data requested on our behalf by HESA.

iv. Information needed to enable us to act as principal charity regulator (exempt charities only).

i. Has effective arrangements for the management and quality assurance of data submitted to HESA, the Student Loans Company, HEFCE and other funding or regulatory bodies (HEFCE reserves the right to use and publish its own estimates of data, where we are not satisfied that the HEI or FEC data are fit for purpose. HEFCE also reserves the right not to publish data). Responsibility for the quality of data used for internal decision-making and external reporting, which must be fit for purpose, rests with the HEI or FEC itself. Data submitted for funding and student number control purposes must comply with directions published by HEFCE; if in doubt an HEI or FEC should ask its HEFCE regional consultant to provide an authoritative, written ruling.

j. Has an effective framework – overseen by its senate, academic board or equivalent – to manage the quality of learning and teaching and to maintain academic standards.

k. Considers our assessment of its risk status, engages with us during the risk assessment process, and takes action to manage or mitigate the risks we agree upon.

Governing body members are also trustees

30. Where HEIs are charities, whether registered or exempt, members of their governing bodies are also trustees and have the responsibilities and potential liabilities that go with trustee status. They must apply the HEI's charitable assets for the charitable purposes of the HEI and not put them at undue risk. Members who act prudently, lawfully and in accordance with the

governing instrument will not find themselves liable for their actions. However, in exceptional cases HEFCE will use its role as principal regulator to refer an issue to the Charity Commission, which may then investigate and take action against trustees who have not fulfilled their roles. Trustees need to be particularly careful to ensure that the charity has the means to meet its obligations when the HEI is entering into substantial contracts or financial commitments.

Accountable officer

31. The head of an HEI is first and foremost responsible for leadership of the academic affairs and executive management of the HEI. The appointment (or dismissal) of the head of an HEI is governed by employment law, and this is clearly the responsibility of the governing body. HEFCE has no role, rights or responsibilities in relation to the appointment (or dismissal) of the head of an HEI, and has no wish to change this position. We presume that in a case where a head of an HEI does not discharge his or her duties or acts improperly the governing body will take appropriate action.

32. Under this memorandum of assurance and accountability, the governing body is responsible for the use of public funds. To assist and enable it to discharge this responsibility and to provide clear accountability, the governing body will designate a senior officer, normally the head of the HEI, as the ‘accountable officer’: that is, the officer who reports to HEFCE on behalf of the HEI. On being notified by, or on behalf of, the governing body of a new accountable officer, HEFCE will write to that individual explaining what the responsibilities of an accountable officer involve.

33. The accountable officer is personally responsible to the governing body for ensuring compliance with the terms of this memorandum of assurance and accountability and for providing HEFCE with clear assurances to this effect.

34. The head of an HEI as the accountable officer is also required to report to HEFCE on behalf of the HEI in relation to the requirements set out in paragraph 29. In exceptional circumstances HEFCE may take the view that the accountable officer is failing to meet these responsibilities. Faced with this position HEFCE would be obliged to respond in a fair, reasonable and proportionate way.

35. If, in the judgement of the HEFCE chief executive, there is evidence of serious failure in relation to the oversight and management of public funds, (s)he will raise this as appropriate with the accountable officer concerned, the chair of the governing body or both; provide the relevant evidence; and seek and consider a response. Experience suggests that most difficulties can be resolved through this process.

36. In extremis, and after all due process has been exhausted, the HEFCE chief executive may conclude that the accountable officer is unable or unwilling to meet his or her responsibilities under this memorandum of assurance and accountability. HEFCE may then ask the governing body to appoint someone else to report to HEFCE on behalf of the HEI. In taking this action HEFCE will not seek to influence the employment relationship between the governing body and the head of the HEI. The governing body is clearly entitled to maintain the head of the HEI in post. However, the governing body would then have to designate another senior officer as the accountable officer, and adjust the roles and responsibilities of the head of the HEI accordingly.

37. The HEI's accountable officer, the chair of the governing body or both may be required to appear before the Public Accounts Committee alongside the chief executive of HEFCE in his or her role as accounting officer, on matters relating to grants to the HEI.

38. In the event of a prolonged absence from work or a sudden departure by the accountable officer, the clerk to the HEI's governing body must ensure that HEFCE is made aware immediately of the identity of the interim accountable officer.

Provision of information to HEFCE

39. Our information requirements are set out in this memorandum of assurance and accountability and in guidance on accountability and other returns. It is a condition of grant that HEIs provide the requested accountability or other information. We keep these information requirements under review to ensure we only ask for the information we need.

40. HEIs also have an obligation to supply information to enable us to fulfil our role as principal regulator of HEIs as exempt charities under the Charities Act 2011. The information required for this is summarised at Annex E, and largely draws on existing returns that HEIs make to HEFCE.

41. HEFCE publishes an annual accounts direction, and HEIs and their external auditors must comply with it. The accounts direction states HEFCE's financial reporting requirements.

Provision of information for students

42. It is a condition of funding that institutions supply data requested by HEFCE or its agents to allow for provision of information to prospective and current students[4]. For example institutions must provide Key Information Set data annually according to the published specification and timetable, and display a 'widget' prominently on each main course page where the course has been included in the Key Information Set. Guidance on how to embed the widget into course pages is provided on the HESA web-site (www.hesa.ac.uk/content/view/2297/233/).

Quality of provision

43. HEFCE has a statutory duty to 'secure that provision is made for assessing the quality of education provided in HEIs and FECs for whose activities they provide, or are considering providing, financial support'[5]. In exercising this duty and in considering quality in the exercise of our other functions, we aim to ensure that students receive higher education provision of sufficient quality and that England's reputation for high-quality higher education is maintained. We exercise this duty partly through contracting the QAA to review quality of provision in HEIs and FECs.

44. If an HEI or FEC receives a published judgement of 'does not meet UK standards or expectations' in one or more area(s) of judgement in a QAA Higher Education Review then HEFCE's policy for addressing unsatisfactory quality will apply (see HEFCE 2013/30). This includes assessing the risk status of the HEI; we may then implement our strategy for supporting HEIs 'at higher risk'.

45. If an HEI or FEC with a 'does not meet' or 'requires improvement to meet UK standards or expectations' judgment fails to make the necessary improvements through the QAA follow-up

[4] We are intending to set out the information requirements more fully in the near future.

[5] Further and Higher Education Act 1992, part II, section 70 www.legislation.gov.uk/ukpga/1992/13/section/70#commentary-c1106607

process, then HEFCE will take the lead, arranging regular meetings with the HEI or FEC. HEFCE steps in at this point because it has a clear regulatory interest to ensure that HEIs and FECs in receipt of public funds provide value for money and are responsible in their use of these funds, as described in this memorandum of assurance and accountability. Improvements will be expected and, in exceptional circumstances, sanctions may be applied. Our ultimate sanction is the withdrawal of some or all HEFCE funding.

Research integrity

46. Compliance with the concordat to support research integrity[6] is a condition of HEFCE grant for all HEIs eligible to receive our research funding. Each HEI is required to confirm in its annual assurance return that it complies with the concordat, particularly in relation to its recommendations for internal processes and guidance, and for staff training.

Sustainability of universities and colleges

47. HEIs should have a financial strategy that reflects their overall strategic plan, sets appropriate benchmarks and performance indicators, shows how resources are to be used, and how activities and infrastructure will be financed. This should include how the HEI assesses and reviews its own sustainability, including the use of sustainability assessments.

48. To remain sustainable and financially viable HEIs should also assess, take and manage risks in a balanced way that does not overly constrain freedom of action in the future.

49. We normally expect that an HEI will make a surplus in line with its financial strategy for sustainability, and thus that its discretionary reserves will grow over time, all other things being equal. A series of deficits, even if covered by discretionary reserves, might cause us concern, as could low levels of liquidity or increased financial commitments. In such cases we would expect to discuss financial performance and strategy with the HEI, to understand how sustainability is assessed and to be maintained and then, if appropriate, agree an action plan. We would expect financial strategies to include how the HEI intends to address pension scheme deficits, including participation in multi-employer pension scheme recovery plans.

50. HEIs must apply the following principles when entering into any financial commitments:

a. The risks and affordability of any new on- and off-balance sheet financial commitments must be properly considered.

b. Financial commitments must be consistent with the HEI's strategic plan, financial strategy and treasury management policy.

c. The source of any repayment of a financial commitment must be clearly identified and agreed by the governing body at the point of entering that commitment.

d. Planned financial commitments must represent value for money.

e. The risk of triggering immediate default through failure to meet a condition of a financial commitment should be monitored and actively managed.

51. The primary responsibility for assessing the affordability of, and risks around, financial commitments rests with HEIs' governing bodies. HEFCE's role is to assess whether any financial commitments entered into by an HEI present challenges to the HEI's sustainability that could

[6] www.hefce.ac.uk/whatwedo/rsrch/rinfrastruct/concordat/

impact adversely on the past and continuing public investment in an HEI, become a call on public funds, or adversely affect the collective student interest. An institution must get written permission from us to increase its earnings before interest tax depreciation and amortisation (EBITDA)-based threshold, before it agrees to any new financial commitments where its total financial commitments would increase to above five times its average EBITDA-based surplus.

52. Annex C sets out how the EBITDA-based financial commitments threshold is calculated, as well as the information we need to assess requests to increase the threshold. When we designate an institution as 'at higher risk' any increase in its financial commitments (regardless of the threshold) will require written permission in advance.

53. The threshold is not a limit, and should not deter an institution from increasing its financial commitments where appropriate. An institution should determine the level of its financial commitments that are both affordable and consistent with its financial strategy. In any case presented to us we ask the institution to demonstrate this, to show that the proposal represents good value, and to confirm the approval of its governing body. In responding to requests for consent we aim to be helpful and pragmatic, taking into account the circumstances of each proposal.

54. As part of ensuring its long-term viability, an HEI should know the full cost of its activities and use this information in making decisions. If it does not seek to recover the full cost, this should be the result of a clear policy set by the governing body and included in the financial strategy, and should not put the HEI in financial difficulty. We do not expect public funds to subsidise non-public activities.

55. The Financial Sustainability Strategy Group is overseeing the development of sustainability assessments. A pilot scheme has been operating and HEIs provided these assessments voluntarily in December 2013. We welcome the Committee of University Chairs' willingness to consider including these sustainability assessments in its revised Governance Code of Practice and General Principles. The assessments will be of benefit to HEIs' governing bodies, and will be valuable assurance to HEFCE and the Research Councils. Adoption within the revised Committee of University Chairs' code of practice would respect the principle of self-regulation and enable the assessments to serve multiple purposes, such as institutions' own going-concern assessments, thus reducing any burden on institutions.

56. HEIs should manage their estate in a sustainable way, in line with an estates strategy and the requirements of HEFCE's Capital Investment Framework. HEIs are required to have carbon management plans in accordance with guidance in HEFCE 2010/02[7], and performance against these plans is a factor in determining future capital allocations.

Material adverse events

57. The HEI's accountable officer must report any material adverse change without delay – such as a significant and immediate threat to the HEI's financial position, significant fraud[8], or impropriety or major accounting breakdown – to all of the following:

- the chair of the HEI's audit committee
- the chair of the HEI's governing body

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[7] www.hefce.ac.uk/pubs/year/2010/201002/

[8] Defined as fraud of £25,000 or higher.

- the HEI’s head of internal audit
- the external auditor
- the HEFCE chief executive.

Other significant events

58. The HEI’s accountable officer must also inform HEFCE about major changes in strategy, plans for major restructuring or merger with another institution or organisation.

59. The governing body must inform HEFCE’s assurance service without delay of the removal or resignation of the external or internal auditors before the end of the term of their appointment.

Equality and diversity

60. The Equality Act 2010 makes unlawful discrimination on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation. It introduced a public sector equality duty requiring HEIs and HEFCE to show due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between protected groups.

61. This law applies to employment; education; the provision of goods, facilities and services; the management of premises; and the exercise of public functions. For the HE sector, the legislation applies to both staff and students, before, and during the relationship with the HEI, and for any dealings arising out of a past relationship.

62. HEFCE’s Equality and Diversity Scheme (www.hefce.ac.uk/pubs/year/2012/201203/) sets out the actions taken to meet the equality duty both as a provider of public funds and as an employer. Every HEI should, as a minimum, comply with the Equality Act’s requirements, and HEFCE will monitor HEIs’ progress with regard to equality and diversity.

Contributing to meeting policy objectives

63. We expect HEIs to consider how their actions affect our policy objectives for the higher education sector, as set out in our strategy statement[9].

64. All HEIs and FECs that are in receipt of HEFCE Student Opportunity funding from 2014-15 are required to provide a submission to HEFCE. For further details see www.hefce.ac.uk/whatwedo/wp/current/howfund/.

Other requirements

65. HEIs are required to subscribe to Jisc from August 2014 to July 2017. This will enable Jisc to have financial stability in the short-term during the transition towards lower grant funding and increased reliance on subscriptions.

66. HEIs and FECs must ensure that their use of JANET and SuperJANET networks conform to acceptable practice and current legislation.

67. There is an Exchequer interest that has built up over time in HEIs in receipt of HEFCE capital funding. These HEIs entered into an agreement with HEFCE effective from 1 August 2006. These institutions and any others that have received capital funding since then are required to follow the conditions set at Annex D.

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[9] See www.hefce.ac.uk/about/howweoperate/strategystatement/

Payment of grant

68. Each year we determine how much money to allocate to each HEI or FEC. HEIs and FECs should use this money only for the purposes we are empowered to fund, as defined in the Further and Higher Education Act 1992 or other relevant legislation.

69. We may withhold or require an HEI or FEC to repay part or all of a grant if it does not comply with the conditions we attach to the grant or if it has been incorrectly over-funded. In cases where we require repayment we may charge interest, at 2 per cent above the Bank of England base rate, for the period before the HEI or FEC repays the funding to us.

Institutional engagement, support and safeguarding actions

70. As a public sector funding body HEFCE must be confident that the bodies it funds have adequate and effective risk management, control and governance arrangements to protect the investment of public funding; and arrangements for delivering value for money (VFM) from public funds.

71. HEFCE's accountability framework has three main strands designed to give HEFCE the necessary confidence while minimising burden on the sector. The strands are:

- annual accountability returns
- HEFCE Assurance Reviews
- data assurance.

72. As far as possible the accountability process between HEFCE and HEIs is concentrated into an exchange of documents and dialogue during a specific period following the end of the financial year. We will confirm the specific content of this exchange each year and consult the sector on any major changes to the process. Our aim is to minimise our demands on HEIs, and as far as possible to rely on data and information that they have produced to meet their own needs.

Annual accountability returns

73. HEFCE takes assurance from a suite of accountability returns, including audited financial statements, financial forecasts and independent audit reports, which must be submitted to HEFCE by a specified date or dates. They provide HEFCE with a view of each HEI's risk management, control and governance, financial sustainability, arrangements for promoting VFM and managing and quality assuring data. By using information and assurances, much of which is needed for internal management and assurance purposes by the HEI, HEFCE is able to minimise its audit requirements and reduce burden. See paragraphs 78 to 80 below on institutional engagement and support.

74. The annual accountability returns are analysed by HEFCE, which then carries out a risk assessment of each HEI. The risk assessment is reported to the governing body and accountable officer – see Table 2 of Annex B. For those we consider to be 'not at higher risk' (our experience to date suggests that this is the vast majority) there will be no need for further information or discussion of accountability until the following year's return, except in the case of an unanticipated change in circumstances. Sometimes we ask for more information to clarify uncertainties.

HEFCE Assurance Review

75. The HEFCE Assurance Review (see HEFCE Circular letter 25/2006) is a short site visit to HEIs to ensure that there are suitable accountability processes within each HEI to assure the validity of its annual accountability returns. This helps us validate the systems of self-regulation on which we rely.

Data assurance

76. HEIs and FECs are required to supply HEFCE with data to inform allocations of funding and for other purposes. The responsibility for the quality and accuracy of that data rests with the HEI or FEC. HEFCE relies on the institution's own data assurance processes where possible.

77. HEFCE monitors the reasonableness of data and undertakes verification, validation and reconciliation work between HESA data and other datasets. HEFCE may undertake audits at an HEI or FEC if it deems this necessary. Data audits will assess the strength of institutional systems and controls as well as assessing the accuracy of the data submissions.

Institutional engagement and support

78. When we assess an HEI as being 'at higher risk' we must respond appropriately, to protect the public and the collective student interest. Our institutional engagement and support strategy (see Annex B) describes the range of ways in which we might respond to help HEIs resolve difficulties and manage risks. We will always discuss our concerns with the HEI's accountable officer, and take his or her views and actions into account, before we formally make an 'at higher risk' designation. We will also try to reach agreement on what needs to be done. When we consider the HEI to be no longer at higher risk, we will write to its accountable officer and its governing body to confirm this.

79. Beyond the exchange of accountability information each year, we welcome the opportunity for regular and informal discussions with HEIs about their plans and developments. We believe this will help us to work together and reduce the risk of misunderstanding.

80. In response to requests from HEIs our annual risk letters also provide high level feedback to governing bodies on a number of quantitative measures and highlight any issues that we wish to bring to the HEI's attention but do not regard as sufficiently serious to warrant 'at higher risk' status.

Safeguarding actions

81. Our institutional engagement and support strategy, and risk assessment process, has been described in paragraphs 70 to 80 above and is set out in detail at Annex B.

82. If an HEI fails to take any agreed action HEFCE will seek explanations and, if appropriate and justified, issue warnings to improve.

83. If the HEI still fails to address the risks and issues then the HEI will be informed that one or more of the safeguarding actions will be applied. This is very much a last resort and an action that we would not expect to take often.

84. The two safeguarding actions at HEFCE's disposal, which could be deployed if other routes to secure compliance are not successful, are:

a. Financial – through the recovery of grant funding or the denial of access to future grant funding, including access to specific grants or to discretionary funding, such as the Catalyst Fund. Ultimately HEFCE can withdraw funding entirely, should circumstances warrant such action.

b. Information – through making public our concerns about an HEI where there are strong grounds to do so and where this is in the public or collective student interest (both current and prospective students, and past students where relevant). This could include an entry in the HEFCE register of HE providers.

85. In addition HEFCE may:

- provide advice to OFFA where there are issues around access
- provide advice to the Charity Commission where an HEI may have breached its charitable obligations
- provide advice to the Equality and Human Rights Commission where discrimination may have occurred.

86. The Agreement on institutional designation (HEFCE Circular letter 15/2014, available online at www.hefce.ac.uk/pubs/year/2014/cl152014/) has been developed with Universities UK, GuildHE and the Association of Colleges to ensure that accountability for public funds continues to be effective following the Government's reforms of the funding of higher education. The Agreement is effective from 1 August 2014 until 31 July 2017. Any actions that HEFCE might take under that Agreement may also lead to actions under this memorandum.

Revision to memorandum of assurance and accountability

87. We will make material revisions to this document only after consulting the higher education sector or its representative bodies, as appropriate.

Annex A: Audit Code of Practice

Overview

1. In this Audit Code of Practice (the Code) the word ‘must’ denotes a mandatory requirement under the memorandum of assurance and accountability, whereas ‘should’ denotes our view of good practice.

2. The Code sets out what we require higher education institutions (HEIs) to have in place to provide themselves and us with adequate assurance on good governance, internal controls, the management of risk and achieving value for money (VFM). How these requirements are met is for HEIs to decide themselves.

Governing bodies of HEIs

3. The responsibilities of governing bodies are set out at paragraph 29 of the memorandum of assurance and accountability. Governing bodies are also responsible for the appointment and removal of external and internal auditors. Governing bodies are also responsible for appointing outsourced internal audit providers, on the advice of the Audit Committee, and for choosing to move between outsourced and insourced internal audit provision, also after taking advice from the Audit Committee. Staff appointments and terminations for insourced internal audit staff are a matter for management, with the Audit Committee advising on the appointment and termination of the Head of Internal Audit.

Audit committees in HEIs

4. Each HEI must have an audit committee which follows best practice in HE corporate governance. The audit committee is responsible for assuring the governing body about the adequacy and effectiveness of:

- risk management, control and governance
- VFM
- the management and quality assurance of data.

5. The Committee of University Chairs has published detailed guidance about audit committees (HEFCE 2008/06). This reflects best governance practice, and HEFCE expects HEIs to take account of such guidance in meeting the required standards (see paragraph 12 below) or explain why the guidance is not being applied and good practice is not being followed.

6. An audit committee can undertake whatever work[10] it considers necessary to fulfil its role. This should include assuring themselves about the effectiveness of their internal audit function and their external auditors. Audit committees will only be able to provide the necessary assurances if they are supported by suitably resourced internal audit and external audit functions, operating to recognised professional standards. They should also consider evidence based assurances from management.

7. Members of the audit committee must not have executive authority. Audit committees should include a minimum of three lay members of the governing body. Audit committee members should not be members of an HEI’s finance committee or its equivalent. This is

[10] As described in HEFCE 2008/06.

because it would create a potential conflict of interest when the audit committee is considering issues involving the finance committee. If an HEI's governing body determines that cross-representation involving one member is essential, this should be the subject of an explicit, recorded resolution, which sets out the rationale for such a decision – but it should not be an option for the chair of either committee or the chair of the governing body.

8. The committee must produce an annual report for the governing body and the accountable officer. The report must cover the financial year and include any significant issues up to the date of signing the report and its consideration of the financial statements for the year. The report must be presented to and reviewed by the governing body before the audited financial statements are signed.

9. The report must include the committee's opinion on the adequacy and effectiveness of the HEI's arrangements for:

- risk management, control and governance
- economy, efficiency and effectiveness (VFM)
- management and quality assurance of data submitted to the Higher Education Statistics Agency, the Student Loans Company, HEFCE and other bodies.

10. The final annual report to the governing body and the accountable officer must be shared with HEFCE each year.

Internal audit arrangements in HEIs

11. Internal audit is a vital element in good corporate governance since it provides governing bodies, audit committees and accountable officers with independent assurance about the adequacy and effectiveness of risk management, control and governance, and VFM.

12. Consequently each HEI must have a suitably resourced internal audit function which must comply with the professional standards of the Chartered Institute of Internal Auditors. Internal audit terms of reference must make clear that its scope encompasses all the HEI's activities, the whole of its risk management, control and governance, and any aspect of VFM delivery.

13. The internal audit service must produce an annual report which must relate to the financial year and include any significant issues, up to the date of preparing the report, which affect the opinions. It must be addressed to the governing body and the accountable officer and must be considered by the audit committee.

14. The report must include the internal auditor's opinions on the adequacy and effectiveness of the HEI's arrangements for:

- risk management, control and governance
- economy, efficiency and effectiveness (VFM).

15. The final annual report to the governing body must be shared with HEFCE each year.

16. The head of internal audit must have direct access to the HEI's accountable officer, the chair of the audit committee and, if necessary, the chair of the governing body.

17. Where internal audit is provided from an outside source, market testing should be undertaken at least every five years.

External audit arrangements in HEIs

18. External audit must provide an opinion to the governing body on whether funds (including public funds) have been applied for the intended purposes and on whether the financial statements provide a true and fair view of the financial results for the year. External audit must also form a view about whether an HEI is a going concern. External auditors of HEIs do not have a duty of care to HEFCE.

19. HEIs may ask external auditors to provide additional services. The audit committee must agree all significant matters with a bearing on the auditor's objectivity and independence. Additional work must not impair the independence of the external audit opinion.

20. HEIs must disclose separately, by way of a note to the financial statements, the fees paid to their external auditors for other services.

21. External auditors must issue a report (or reports, if more than one, covering different stages of the annual audit) to those charged with governance which records accounting issues and control deficiencies arising from the audit. HEFCE would expect any issues around the use of charitable assets for non-charitable purposes to be highlighted in such reports. The HEI's management must provide written responses to any recommendations made or issues raised. The report(s), including management response, is one of the annual accountability returns which must be submitted to HEFCE.

22. The report(s), with management responses, must be made available to the HEI's audit committee in time to inform the committee's annual report.

Audit report

23. The external auditors must report whether in all material respects:

a. The financial statements give a true and fair view of the state of the HEI's affairs, and of its income and expenditure, recognised gains and losses, and statement of cash flow for the year. They should take into account relevant statutory and other mandatory disclosure and accounting requirements, and HEFCE requirements.

b. The financial statements have been properly prepared in accordance with UK general accepted accounting principles and the 'Statement of recommended practice: Accounting for further and higher education', and relevant legislation.

c. Funds from whatever source administered by the HEI for specific purposes have been properly applied to those purposes and managed in accordance with relevant legislation.

d. Funds provided by HEFCE have been applied in accordance with the memorandum of assurance and accountability and any other terms and conditions attached to them.

e. The requirements of HEFCE's accounts direction have been met.

24. Auditors should have regard to the specific requirements of the memorandum of assurance and accountability such as compliance with those relating to increases in financial commitments thresholds, or other issues of non-compliance, in their management letters or reports, as set out in paragraph 21 above.

25. Market testing should be undertaken at least every seven years. One named individual partner in the firm is normally responsible for the HEI's audit; he or she should not hold this position for more than ten consecutive years.

HEFCE access to auditors

26. HEFCE may wish to communicate with an HEI's external or internal auditors, particularly in connection with a HEFCE Assurance Review and should have unrestricted access to do so. This will normally be arranged through the HEI's accountable officer or representative. HEFCE will exchange letters where necessary with both parties to deal with confidentiality and the terms under which access is given.

Provision of audit services

27. Internal and external audit services must not be provided by the same firm or provider.

Auditors' access to information

28. Internal and external auditors must have unrestricted access to information – including all records, assets, personnel and premises – and be authorised to obtain whatever information and explanations the head of internal audit service or the external auditor considers necessary.

Restriction on auditors' liability

29. Where the internal audit service is provided through a contractual arrangement with an external provider, the provider may ask the HEI to agree to a restriction in the internal auditors' liability arising from any default by the auditors. Normally such liability should be without limit. However, HEIs may negotiate a restriction in liability so long as the decision is made on an informed basis and the liability remains at such a level as to provide reasonable recourse for the HEI. The governing body, through the audit committee, must be specifically notified of any request for a liability restriction.

30. HEIs must not agree to any restriction in external auditors' liability in respect of the external audit of their annual financial statements.

31. For other types of work performed by the external auditors, the provider may ask the HEI to agree to a restriction in the auditors' liability arising from any default by the auditors. However, as with internal audit services, HEIs may negotiate a restriction in liability if the decision is made on an informed basis and the liability remains at such a level as to provide reasonable recourse to the HEI. The governing body, through the audit committee, should be notified of any liability restriction agreed.

Appointment, removal or resignation of internal and external auditors

32. Governing bodies are responsible for the appointment and removal of external and internal auditors. Where auditors cease to hold office for any reason, they should provide the governing body with either a statement of any circumstances connected with their removal which they consider should be brought to the governing body's attention, or a statement that there are no such circumstances. Any such statements must also be sent to HEFCE by the accountable officer.

Annex B: Institutional engagement, support and safeguarding actions

Introduction

1. This annex sets out how we will engage with and support higher education institutions (HEIs) and our related bodies[11] on matters relating to accountability and risk assessment. It also describes what will happen when, as a result of our assessment, we find there to be significant risks either to the organisation itself or to the collective student or public interest that HEFCE is charged to protect. Our risk assessment methodology is summarised in Table 2. The strategy applies to our work both as funder of higher education and as principal regulator on behalf of the Charity Commission.

2. The principles underlying our institutional engagement and support strategy are that we will:

- respect the independence of HEIs and the status of each related body
- protect the collective interests of students, the public and the taxpayer
- maintain an open dialogue on matters of mutual interest
- seek to intervene only when necessary but we will do so vigorously, using the full extent of our powers, when we judge that an institution's management and governors are not effectively addressing risks to public funds and the collective interests of students
- be open with the HEI or related body in our risk assessment and requirements and, if warranted, on student or public interest grounds, disclose our risk assessments publicly
- ensure our involvement is proportionate to the risks
- end our enhanced involvement as soon as possible.

3. In broad terms there are three levels at which HEFCE may engage with institutions:

- normal contact
- focused dialogue (in cases where we are supporting an institution's change or development or where we perceive there to be medium-term risks which, if not addressed, will put the institution at higher risk)
- support strategy (for institutions at higher risk or institutions which in HEFCE's view will be at higher risk if decisive action is not taken).

Each of these is dealt with in detail below.

[11] Related bodies are organisations, not HEIs or further education colleges, that help and support HEFCE in delivering its objectives. These include Jisc, the Quality Assurance Agency for Higher Education and the Higher Education Statistics Agency.

Normal contact

4. As part of our routine engagement with institutions and related bodies we will want to understand their mission, strategy and operational plans. This will help us to make appropriate responses to the needs of the institution and the higher education sector, and to gain assurance about matters that affect the delivery of our own objectives. There will often be a formal visit by the HEFCE institutional team to the institution in each year, sometimes in addition to more frequent and less formal exchange of information and views. It is also part of our normal contact to discuss an institution's accountability returns and give feedback, as part of the annual accountability returns exercise.

Focused dialogue

5. There are occasions when it is to the advantage of both HEFCE and institutions to explore issues in more detail. For example, an institution may wish to secure our support for particular plans, and we will want to understand how best to provide help to meet its development needs and fit with our wider objectives for the sector. Likewise, we may wish to discuss with an institution whether there are opportunities to improve its performance or work collaboratively with others. There will also be cases where an institution's risks are increasing because of strategic reasons, for instance, changes in student demand or increased competition, its performance or its internal control arrangements.; At such times HEFCE will seek to engage to try and ensure that the risks are appropriately addressed.

Support strategy

6. We have a risk assessment system covering all institutions and related bodies. This draws on the information we routinely collect through the annual accountability returns exercise and on other information such as research and teaching quality assessments. Sometimes we will ask for more information to clarify our understanding. There are currently two risk categories: 'not at higher risk' (the vast majority of HEIs at any time) and 'at higher risk' (for a small number of institutions).

7. Through these annual returns or other contacts with an institution or a related body, there may be issues that require further discussion. All institutions and related bodies face business and operating risks. The issue is therefore about managing risk, putting in place systems to identify, mitigate and report on risk. In many cases, as a result of further discussions, we will conclude quickly that there is no need for any further action.

8. When we have major concerns we need to intervene to protect the collective student interest and the wider public interest. We will firstly discuss these issues with senior management, specifically the accountable officer (of an HEI) or chief executive (of a related body). We will seek a common understanding of the issues, clarify what actions have already been taken or are planned, and if necessary then agree an appropriate support strategy. Table 1 sets out the range of possible actions, though sometimes we will agree a different approach with an HEI or related body.

9. The HEFCE associate director responsible for dealings with the HEI or related body will lead our support activity, but a relevant senior manager – the HEFCE regional consultant or relationship manager in the case of a related body or assurance consultant – will manage the day-to-day engagement. In exceptional cases, our chief executive will become involved. The process will be overseen by our audit committee and individual cases reported to the HEFCE

Board. The role of the HEFCE audit committee is to advise on process, whereas the role of the HEFCE Board is, where required, to form a judgement.

10. When an institution receives a published Quality Assurance Agency for Higher Education (QAA) review judgement of ‘does not meet UK expectations’ or ‘requires improvement to meet UK expectations’ in one or more areas, the first stage in addressing the identified issues is led by the QAA.

11. When the issues remain unresolved HEFCE will take the lead in a second stage: improvements will be expected and, in exceptional circumstances, sanctions applied[12].

12. If an institution or related body does not address its problems to our satisfaction, it might be in the interest of current and prospective students and the public for us to disclose our risk assessment (see paragraph 84 of the main text). In the case of unsatisfactory quality the QAA may make its concerns public as set out in paragraph 10 above. We expect this to be a rare occurrence, because in our experience institutions generally do take appropriate action.

Table 1: HEFCE support strategy for HEIs and related bodies ‘at higher risk’

Possible HEFCE actions
Overall
We may require institutions to make changes as conditions of grant if we feel that risks to our funding and the interests of students and the public are not being addressed. We will only do so after due consideration and consultation, and only on the basis of appropriate advice. Thus it will always be our intention to make only reasonable demands of institutions. The actions that we might take are escalatory, and we will not escalate our actions until we have exhausted prior stages in the engagement and support strategy. However, there may be circumstances where it is necessary to take action more urgently. If institutions do not comply with conditions of grant, then after we have exhausted the elements of the support arrangements, we will consider withdrawing grant in part or in full and making public our risk assessment. We see this as a last resort. In addition to the actions below we will consider any other action that we believe is necessary to support institutions at risk and protect the interests of the public, the taxpayer and the collective interest of students.
At governor and senior manager level we:
a. Will engage with senior management, including the accountable officer. b. Will assess the institution’s compliance with the memorandum of assurance and accountability, including the requirement to have effective management and quality assurance arrangements over data supplied to the Higher Education Statistics Agency, the Student Loans Company, HEFCE and other funding bodies.

[12] See HEFCE 2013/30 for details of HEFCE’s policy to address unsatisfactory quality in institutions from 2013-14.

c.	Will inform the governing body of any change in risk assessment and seek commitments to improvement. We will notify other public funders, as appropriate, of any ‘at higher risk’ assessment, and exceptionally we will make such an assessment public at any time where we consider it to be the collective interest of students or the public to do so.
d.	Will engage directly with the chair of the governing body, the chair of the audit committee or both.
e.	Will engage with the whole governing body and, if necessary, take steps to ensure improvements are made to governance arrangements.
f.	May require observer status at governing body or audit committee meetings to enable us to assess whether our specific concerns are properly understood and are being addressed. This could be for individual meetings or over a period of time. Our observer will always be a senior HEFCE officer.
g.	May request the appointment of interim managers, where we consider the institution has insufficient capacity to address its risks properly.
Regarding information and audit we may:	
a.	Require or commission additional information, reports and data relating to the risks.
b.	Require that information and reports be audited.
c.	Request changes to internal or external audit arrangements.
d.	Undertake or commission audit investigations.
Regarding planning and strategy we may:	
a.	Require or commission a recovery or action plan.
b.	Discuss possible changes to strategic plans and market positioning.
c.	Explore collaborative opportunities with other institutions.
Regarding funding we may:	
a.	Re-profile grant to assist an institution that has a cash flow difficulty.
b.	Consider the use or withdrawal of special funding.
c.	Attach special conditions to grant.
d.	Reduce or withdraw funding.
e.	Use our own estimates of data where we are not satisfied that information from the institution can be relied on.
As risks decline we will:	
a.	Inform the institution (and others who may have been notified of our risk assessment) about changes in our risk assessment.
b.	Remove special conditions of grant and other requirements.

Table 2: HEFCE institutional risk system

Introduction
HEFCE's management of risk obliges it to assess the risk to the collective interests of students and to public funds or the activities provided from those funds posed by institutions. We maintain an assessment of each HEI, which focuses on the three areas of risk identified in paragraph 22 of the memorandum of assurance and accountability: • institutional sustainability • value for money, propriety or regularity • risk management, control or governance.
Sources of information
We have a number of mechanisms and sources for enabling us to assess risk, including: a. **The annual accountability returns process** in which institutions submit a range of information and returns relating to financial performance and forecasts, student numbers, the use of funds and risk management, control and governance and sustainability assessments. b. **Our own institutional audit processes**, including data audits and cyclical assurance visits, which are designed to provide assurance on institutions' accountability returns. c. **The continuing dialogue that we have with each institution** about their changing priorities and strategies, and their reporting of material events. d. **Information from other sources** including public bodies that might potentially impact on our concerns with sustainability, among other issues. For example, we have memoranda of understanding with other funders of HEIs that commit us, on a confidential basis, to share information which could have a bearing on each other's assessments of the risk to funds. This furthers part of our commitment to minimise the accountability burden on institutions. e. **Indicators** that we do not monitor systematically for the purpose of institutional risk but which, at times and in specific institutional cases, could have a bearing on our risk assessments. For example, quality assurance judgements, any implications under our policy for addressing unsatisfactory quality (HEFCE Circular letter 29/2013, available online at www.hefce.ac.uk/pubs/year/2013/cl292013/) or National Student Survey outcomes. **f. Information given to us through public interest disclosures** but only when substantiated in dialogue between us and the institutions concerned.

g. **Other sources** of publicly available data.	

Our risk assessment
Our assessment of the risk to **financial sustainability** is based on historical (two years) and forecast (four years) financial information supported by a narrative commentary. A number of indicators are employed as set out below. We perform assessments throughout the year on an ongoing basis and as necessary. We have internal benchmarks for each of these indicators which help us to flag concern. We also try to look beyond the snapshot position which the indicators represent to an institution's trends and how its performance compares with the sector and its peers. We feed back key parts of our financial assessment to each institution in our annual risk letter. The current indicators are: • historical cost surplus as percentage of total income • cash flow from operations as a percentage of total income • liquidity expressed in days • affordability of financial commitments • discretionary reserves as percentage of total income • staff costs as percentage of total income. We develop and supplement these indicators over time and in response to individual cases. Our assessment of risk relating to the **use of public funds** is concerned with all public funds being used for the purposes intended by Parliament (regularity), fraud and impropriety being prevented or dealt with effectively, and value for money (economy, efficiency and effectiveness) being pursued in the application of those funds. We do not normally audit these matters directly ourselves but derive information for our risk assessment from these sources: a. The annual submission by HEIs of the reports of the governing body, audit committee, accountable officer and internal and external auditor. b. Information and evidence from institutions themselves and other organisations and sources that indicate any material misuse of funds. From time to time we may receive information through these routes relating to any aspects of an institution's operations or provision that could cause us to reconsider our risk assessment. We would make such a judgement on a case-by-case basis having consulted with the institution concerned. Our assessment of institutional **risk management, control and governance** is concerned with ensuring that public funds are being administered by well run corporations and that the collective interests of students are not at risk. In addition to information on finances and the use of funds, our own data and assurance audits enable us to corroborate institutional assurances. Overall, the regular sources of information for this risk assessment include: • the annual accountability returns, including the governance and

accountable officers' assurances • the outputs of the institution's internal and external auditors • information from other public bodies • HEFCE's own audit and assurance work.
Risk notification
The work undertaken by HEFCE, augmented by information from other sources, enables us to make an annual risk assessment. For the majority of institutions this results in a letter from the HEFCE chief executive to the accountable officer, normally by the end of April advising that in HEFCE's judgement the institution is not at higher risk. We ask that all our risk letters be communicated to the governing body. For some institutions a second risk letter may be issued in the autumn following assessment of their financial forecast submissions. In some cases, the HEFCE assessment letter notifying that an institution is not 'at higher risk' will be qualified by comments alerting the institution to concerns we have that need to be addressed and which, in some cases, if not addressed, may lead to a worsening of the institution's risk status. The comments can include a range of issues, including financial performance, future sustainability, strategic challenges and issues of non-compliance with accountability requirements. Some of these matters are more serious than others. We will endeavour in such cases to explain the issues fully, and we expect that our concerns will be considered and dealt with by the institution. In a small number of cases, HEFCE's judgment will be that an institution is 'at higher risk'. This assessment is most likely to be made for financial reasons. Whatever the reason for the judgment, the process of making and communicating the judgment is very thorough and will be communicated to the institution concerned and the support strategy, as outlined at paragraphs 6 to 10 and Table 1 of this annex, will come into play.

Annex C: Approval of increases in a financial commitment threshold

Introduction

1. An institution must get prior written approval from us to increase its financial commitments threshold[13], before it agrees to any new financial commitment meeting either of the following criteria.

   a. Where total financial commitments (long-term and short-term) exceed five times its average earnings before interest tax depreciation and amortisation (EBITDA).

   b. Where it is assessed by us as being at higher risk.

Definitions

Average EBITDA

2. The average is based on six years' EBITDA (as defined by the British Universities Finance Directors Group – see www.bufdg.ac.uk/ViewDocument.aspx?t=1&ID=2131&GUID=1e60d938-3bd4-4f65-ba23-35d9bc3e54f4&dl=1), as provided in the July financial forecasts.

Financial commitment

3. Financial commitments should be defined as those that are on balance sheet, in accordance with accounting standards, recognising that these may change from 2015-16 with the adoption of Financial Reporting Standard 102.

4. Financial commitments include:

- all financial commitments, whether self-financing or not, drawn or undrawn
- finance leases
- Private Finance Initiative arrangements which are accounted for as loans or finance leases in accordance with the requirements of Statement of Standard Accounting Practice 21 or Financial Reporting Standard 5
- repayable grants, such as from the HEFCE Catalyst Fund.

5. In calculating the threshold financial commitments pension fund liabilities and all provisions should be excluded.

6. Where existing financial commitments exceed institutions' EBITDA-based threshold at 31 July 2014, HEFCE will automatically provide approval for the higher financial commitment threshold, though any changes to financial commitments after this date will require approval. As part of this transition, we may need to engage with some institutions about their ability to service their financial commitments.

7. Where a university or college exceeds its financial commitments threshold in the future because of a decline in its EBITDA, it need not apply for a higher threshold. However, this is

[13] The threshold will be five times the average EBITDA surplus, or a multiple above five times the EBITDA surplus where agreed by HEFCE.

likely to lead to engagement with that institution about its ability to service its financial commitments.

Our response

8. We take a risk-based approach to each institution's application for a higher financial commitments threshold. This approach will determine whether the application is considered by the HEFCE Chief Executive or by the HEFCE Board. We will aim to respond to applications within 15 days of receiving the relevant information, although this period may be longer where approval by the HEFCE board is necessary (we will advise institutions when this is the case). We therefore expect institutions to include their financial commitments plans as far as possible in their annual financial forecasts submissions, to enable HEFCE to review them at an early stage. Institutions are also advised to discuss their plans informally with HEFCE at an early stage. Where HEFCE approves the application for a higher financial commitments threshold, we will write to the institution setting out the revised threshold. As part of this approval we may set out additional conditions which will need to be adhered to.

Information required

9. All applications for a higher financial commitments threshold **must be signed by the accountable officer**. In signing the application, the accountable officer is confirming that the institution's governing body has reviewed the terms and conditions of the financial commitment providing assurance over value for money, and has reviewed affordability and compliance with banking covenants under different scenarios (meaning that the proposed financial commitments have been stress tested). In addition we ask for confirmation that the student interest has been considered in any application.

10. We set out in Table 3 the information we require to consider a request for an increase in the financial commitments threshold. This addresses the issues on which we would expect the institution's own governing body to seek assurance before approving additional financial commitments. The main focus is on affordability and risk, not necessarily on the individual project.

Table 3: Information required by HEFCE to consider a request to increase a financial commitments threshold

Financial commitments
1. There should be a reasonable case for the new investment. Information required: a. A brief description of the new investment. b. An explanation of how it broadly fits with the institution's mission and strategic priorities. c. Confirmation that the institution has considered appropriate guidance on appraising investment decisions. d. A description of how the student interest will be taken into account.

2. The new financial commitments or refinancing arrangement (where these will result in an increase to financial commitments threshold) should be consistent with the institution's financial strategy and represent good value for money. Information required: a. An explanation of why additional finance or refinancing is necessary and how this fits with the financial strategy. b. The forms of finance considered and the selection process and criteria. c. The net present value for each financing option, and a brief explanation of why the chosen method was selected.
3. Details of the new financial commitments. Information required: a. Details of the chosen option, including name of lender, value of new financial commitment, repayment period, basis of repayment and financial covenants. b. Terms and conditions of the financing (such as a copy of the offer letter) and an evaluation of the risks and uncertainties.
4. The new investment and financial commitments must be affordable. Information required: An update of the latest financial forecasts, to include the impact of the new investment and financial commitments, and demonstration that they are affordable. This update must include any other material changes in the institution's financial prospects, including guarantees to third parties.
5. The institution's governing body must have made an informed decision about the new investment and financial commitments. Information required: a. Details of when the governing body approved the new investment and financial commitments, and a minute of the decision reached. b. A summary of the information the governing body received in reaching its decision.
6. Details of the new threshold. Information required: a. Details of existing financial commitments (including the lender, terms, interest rate and financial covenants) and of the new financial commitments. b. A calculation of the new threshold required.

Annex D: Exchequer interest

Introduction

1. This annex reflects the agreed system for Exchequer interests, which provides accountability for public funding without imposing an undue administrative burden on institutions and enabling them to manage their estates flexibly (see HEFCE Circular letter 12/2006).

Requirements

2. Each higher education institution (HEI), having entered into an agreement with HEFCE effective on 1 August 2006 to enable the retrospective elements of a new system of accounting for Exchequer interests to be enacted, must follow the conditions set out below.

3. The Exchequer interest identified and agreed with HEFCE in that agreement formed the opening balance of a simple Exchequer interest register maintained by HEFCE. The register is adjusted immediately for the addition of capital grants received in the year, and annually for both of the following:

- indexation of the opening balance and all grants received in subsequent years
- writing down grants over the prescribed period.

4. The indexation rate used will be the GDP deflator published annually by the Treasury. This will take account of changes in value and ensure that the value of the Exchequer interest is not eroded through inflation.

5. All capital grants made by HEFCE after 1 August 2006 that create an Exchequer interest are entered onto the register, regardless of how they are treated for accounting purposes.

6. The opening Exchequer interest balance as at 1 August 2006 is written down over a 10-year period on a straight-line basis. All subsequent capital grants are written down annually over 15 years from the year of the grant in question on a straight-line basis, to recognise their consumption through the provision of education over that period.

7. The closing balance of the register as at 31 July 2007 and annually thereafter provides a single reportable sum for the Exchequer interest, and is confirmed annually with the institution by HEFCE.

8. As repayment of Exchequer interest only occurs in exceptional circumstances (see below), it does not need to be disclosed as a contingent liability in the institution's annual accounts.

Circumstances in which the Exchequer interest becomes repayable

9. If either of the following remote events occurs, they will trigger immediate liability for the institution to repay to HEFCE the full amount of the Exchequer interest (as shown in the Exchequer interest register at that date). The institution will recognise HEFCE as an unsecured creditor until such repayment is made. If a liability to make repayment arises, HEFCE may agree to accept repayment of some other sum, or to delay repayment, at its absolute discretion, and such agreement may be on terms and conditions as HEFCE thinks fit.

10. The first trigger event will be if the institution becomes insolvent, including going into liquidation or administration, or if it dissolves or transfers its undertaking to some other body (for

example, by the exercise of the Secretary of State's powers under the Education Reform Act 1988), or if it experiences any analogous event.

11. The second trigger event is if there is a significant reduction in the level of total of HEFCE-funded activity and tuition fee payments from the Student Loans Company to the institution, using the following indicators:

- the absolute level of HEFCE grant funding and Student Loans Company (SLC) payments
- the absolute level of total income
- the percentage of total represented by HEFCE grant funding and SLC payments.

12. A base level for each of these indicators was set as at 31 July 2006 by reference to the institution's 2005-06 financial statements. This value is indexed each year, as are previous years' capital grant additions, before being written down, as set out at paragraphs 3 and 4 above.

13. The trigger event will only occur if two or more of the three indicators reduce to at least 50 per cent from the base level.

14. This second trigger has been designed to ensure that HEIs are not discouraged from generating other sources of income, providing they continue to offer the same level of HEFCE or SLC-funded education. HEIs may activate the trigger if, for example, they cease to educate publicly supported students, significantly downsize or go into liquidation, but are unlikely to do so if activities continue as normal or they expand. We will not use our Exchequer interest rules to penalise institutions that are successful in diversifying their income.

15. The agreed base level for each indicator will be uprated annually for inflation by HEFCE (as described in paragraphs 3 and 4 above), and may be reset if appropriate to reflect the changing nature of the provision of education and more general changes within public sector funding.

16. If two or more of the trigger indicators reduce to at least 30 per cent from the base level, this will lead to discussions between HEFCE and the institution about the impact of further downsizing, including consideration of whether to reset the base indicators.

17. If the triggers are activated, HEFCE has the right, but not the obligation, to request repayment. It has discretion to waive the requirement for repayment.

Annex E: Exempt charities

1. HEFCE is the principal regulator of those higher education institutions (HEIs) that are exempt charities. The benefit of HEFCE having this role is that we can utilise existing assurance processes, so minimising the burden on institutions as well as enhancing confidence.

2. This annex sets out our main requirements relating to annual and longer-term cyclical monitoring of HEIs that are exempt charities. They arise from our role as principal regulator of HEIs as charities (see www.hefce.ac.uk/whatwedo/reg/charityreg/ for more information).

3. In addition to the requirements set out here, from time to time we may need to ask for other information to enable us to deal with particular issues about HEIs as exempt charities. Our power to do so is set out in Section 79A of the Further and Higher Education Act 1992. In particular, our principal regulator role applies to entities that are exempt charity 'connected institutions' by virtue of Paragraph 28, Schedule 3, Charities Act 2011 (paragraph 28 connected institutions). Although we do not directly monitor those entities, we have the power to request information about them.

4. The information requirements of HEIs as exempt charities (see paragraphs 5 to 9 below) are similar to those of the Charity Commission for registered charities. However the collection and publication arrangements have been tailored to the sector, and reflect our responsibilities as the lead regulator of HEIs in respect of their accountability for public funds, and are largely embedded in our normal monitoring processes. For example, the Charity Commission publishes some of the information it collects on its own web-site; instead we require each HEI to publish information on its own site.

Information to be made readily available on HEIs' web-sites

5. HEIs that are exempt charities must maintain a page on their web-site to provide a gateway to the following information:

   a. The legal name and correspondence address of the HEI. The preferred name(s) used by the HEI should also be shown.

   b. The main constitutional document of the HEI (such as its Royal Charter, Memorandum and Articles, or Trust deed). This should be the latest version, but HEIs should provide earlier versions back to at least the one that was in force in 2009-10.

   c. The names of the trustees on 31 January each year, together with a list of **all** other charities (if any) of which each trustee is then also a trustee.

   d. The full audited consolidated financial statements for at least five years.

6. The 'gateway' web page should be easy to locate on the HEI's web-site and must be updated with the previous year's information no later than six months after the end of the previous academic year. HEIs must provide HEFCE with the up-to-date web address (URL) of the gateway page so that third parties can access it via our own web-site.

Information to be included in audited financial statements

7. The following information must be included in the HEI's audited financial statements and related reports:

   a. The charitable status of the HEI.

b. The trustees who served at any time during the financial year and until the date the financial statements were formally approved.

c. A statement that the charity has had regard to the Charity Commission's guidance on public benefit.

d. A report on how the HEI has delivered its charitable purposes for the public benefit. For detailed guidance, see www.hefce.ac.uk/whatwedo/reg/charityreg/goodpracticeguidanceforinstitutionsascharities/reportingonthedeliveryofpublicbenefit/

e. Information about payments to or on behalf of trustees, including expenses; payments to trustees for serving as trustees (and waivers of such payments); and related party transactions involving trustees. For detailed guidance and materiality levels, see www.hefce.ac.uk/whatwedo/reg/charityreg/goodpracticeguidanceforinstitutionsascharities/transactionswithtrustees/#section3

f. Information about 'paragraph 28' connected institutions of the HEI.

8. We do not specify where in the financial statements this information should be presented, but it is likely that:

- a and b above will form part of the corporate governance statement
- c and d above will either form part of the operating and financial review or be presented as a separate section
- e and f above will be included in appropriate notes to the financial statements.

9. We may provide more detail about some of the above in the HEFCE accounts direction to HEIs, which is updated by an annual circular letter.

Reporting serious incidents

10. A serious incident is one which has resulted in, or could result in, a significant loss of funds or a significant risk to a charity's property, work, beneficiaries or reputation. For more guidance see www.hefce.ac.uk/whatwedo/reg/charityreg/goodpracticeguidanceforinstitutionsascharities/seriousincidentreporting/

11. HEIs must report serious incidents to HEFCE at the time when they are identified. We have also included in HEFCE's annual assurance return a specific declaration that serious incidents have been appropriately reported to us. This declaration will be made on behalf of all trustees. It would be appropriate therefore for the trustees to be informed about incidents reported to HEFCE; however, we do not stipulate how this should be done.

12. Where HEIs report the loss of an HEI's assets through fraud, theft or other cause, we will consider an incident reported both as funder and as principal regulator.

13. In addition, and as principal regulator in the first instance, we expect HEIs to report the following serious incidents:

- donations of more than £25,000 from unknown donors or where the source cannot be verified
- abuse or mistreatment of a charitable beneficiary involved in activities of the HEI

- disqualification of a trustee
- known or alleged links (other than for bona fide academic reason) with proscribed organisations or terrorism; this applies to trustees, staff, students or anyone else associated with the HEI.

We would welcome a provisional report if it is likely that internal investigations may be time-consuming.

14. A report of a serious incident should be sent to the HEFCE chief executive. Our primary concern is to satisfy ourselves that the HEI has responded to the incident in an appropriate way, designed to protect the HEI as a charity. In order for us to do this, HEIs should provide as much information as possible to help us to decide if their response has been appropriate and what, if any, further action is planned. In particular we would expect the report to indicate:

- whether the incident has happened or is suspected
- when it occurred and who was involved
- the impact of the incident on the HEI, any beneficiary involved, or both
- what inquiries have been made and actions taken, including any reports to other regulators or the police
- what policies and procedures were in place that apply to the incident, whether they were followed and, if not, why
- whether the trustees have determined that policies and procedures need to be introduced or revised – and if so, how and by when.

15. In extreme cases, a serious incident report may lead us to invite the Charity Commission to consider opening a formal Inquiry under s46 of the Charities Act 2011.

16. We appreciate that information provided under the terms of paragraphs 10 and 11 may be of a sensitive nature, and we undertake to treat it with care. We ask for the information to fulfil our statutory obligations as principal regulator, and such obligations may require us to consult the Charity Commission to ensure that we deal with an issue in a manner consistent with the regulation of charities generally. As public authorities, both HEFCE and the Charity Commission are subject to the Freedom of Information Act. We will only disclose information to someone outside HEFCE or the Charity Commission in circumstances where we are legally obliged to do so. Further guidance about the way HEFCE applies the Freedom of Information Act and the Data Protection Act 1998 is available on our web-site.

17. Further guidance on these reporting requirements is available at: www.hefce.ac.uk/whatwedo/reg/charityreg/goodpracticeguidanceforinstitutionsascharities/transactionswithtrustees/

Annex F: Definitions and abbreviations

Accountable officer	Head of an institution responsible and accountable to HEFCE (and ultimately to Parliament) for ensuring that the institution uses HEFCE funds in ways that are consistent with the purposes for which those funds were given, and complies with the conditions attached to them. These include the conditions set out in the Further and Higher Education Act 1992 and in this memorandum of assurance and accountability.
Accounting officer (of HEFCE)	As accounting officer, the chief executive of HEFCE has a personal responsibility to safeguard public funds and achieve value for money as set out in HM Treasury guidance, 'Managing Public Money' and any subsequent guidance. This includes responsibility for the public funds allocated by HEFCE to higher and further education institutions and other bodies for education, research and associated purposes.
Annual accountability returns exercise	A streamlined accountability process between HEFCE and institutions, linked to an assessment of institutional risk, which comprises an exchange of documents and dialogue during a specific period each year.
Annual accounts direction	HEFCE publishes an annual accounts direction, which states HEFCE's financial reporting requirements. HEIs and their external auditors must comply with it. The most recent accounts direction was published as HEFCE Circular letter 25/2013.
EBITDA	Earnings before interest, taxes, depreciation and amortisation.
FEC	Further education college.
Governance Code of Practice	'Guide for Members of Higher Education Governing Bodies in the UK: Governance Code of Practice and General Principles' (HEFCE 2009/02).
Governing body	The university council, board of governors or other body ultimately responsible for the management and administration of the institution's revenue and property, and the conduct of its affairs.
HE	Higher education.
HEFCE	Higher Education Funding Council for England.
HEI	Higher education institution.
HESA	Higher Education Statistics Agency.
JANET	High-speed computer network supported by all the four higher and further education funding bodies, which links universities and colleges in the UK. SuperJANET is the enhanced network.
Key information	Key Information Sets are comparable sets of information about full-

Set	or part-time undergraduate courses, published on course web pages. All of the Key Information Sets are published on the Unistats web-site.
Operating Framework	The Operating Framework explains how higher education providers in England are held to account and regulated.
QAA	Quality Assurance Agency for Higher Education.
Register of HE providers	This is being developed with the first version due for August 2014.
Related body	A body other than an HEI or FEC through which significant levels of HEFCE funding are distributed or activities promoted.
Regularity	Regularity is a public finance requirement for funds to be applied only to the extent and for the purposes authorised by Parliament.
Secretary of State	Secretary of State for Business, Innovation and Skills.
SLC	Student Loans Company Limited.
the Code	HEFCE's Audit Code of Practice.
VFM	Value for money.

References to the **financial position, financial statements, financial commitments or borrowings** of the institution mean the consolidated financial position, financial statements, financial commitments or borrowing of the institution and its subsidiary undertakings, as defined in the Companies Act 1985 and revised by the Companies Act 1989 and 2006, and in accordance with generally accepted accounting principles.

Shall and **must** denote mandatory requirements, and **should** denotes our view of good practice.

Appendix 3
CUC (UK) Code of Practice

The Higher Education Code of Governance

December 2014

CUC

Committee of University Chairs

The Higher Education Code of Governance

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Contents

Section 1: Introduction

Preface

Good governance is at the heart of the higher education (HE) sector in the UK, and will continue to be of the highest importance as it continues to develop. To support members of governing bodies, this HE Code of Governance (the Code) has been developed after wide consultation with CUC members and HE stakeholders.

The Code's primary audience is members of HE institution (HEI) governing bodies, and its purpose is to identify the key values and practices on which the effective governance of UK HEIs is based, in order to help deliver institutional mission and success. But achieving good governance within institutions does not rely solely on the adoption of the Code itself. Good governance requires a set of strong relationships based on mutual respect, trust and honesty to be maintained between the governing body, the Clerk to the Board, the Vice-Chancellor and the senior management team.

By visibly adopting the Code, governing bodies demonstrate leadership and stewardship in relation to the governance of their own institutions, and in doing so help to protect institutional reputation and provide a level of assurance to key stakeholders, partners including the student community, and society more widely. The Code needs to be read alongside the governing instruments of HEIs and relevant legal and regulatory requirements that, so far as possible, are not repeated in the Code itself.

As the expectations of governance change, this Code itself will be reviewed regularly to ensure that it remains fit for purpose; normally this will take place every four years, in consultation with the sector.

The Code is in three parts:

1. An initial statement of the core values providing the basis for the way that HE governance is conducted.

2. Identification of the seven primary elements of governance that support the values.

3. More detailed consideration of each of the primary elements providing illustrative guidance of how governing bodies could implement them.

In addition, the CUC website *(www.universitychairs.ac.uk)* holds detailed briefing papers providing extensive coverage of areas of concern to governing bodies, alongside illustrative practice drawn from across the sector on how institutions are meeting governance challenges.

Using the Code

While the Code is, in a literal sense, voluntary, it sets out principles and practices which any organisation operating within the sector will need to apply in order to show that it conducts its business with due respect for the public interest.

The diversity of the HE sector within the UK means that governing bodies will need to decide whether/how best to implement each primary element in order for it to be proportionate and effective; in particular Scottish institutions will need to look first to the Scottish Code of Good Higher Education Governance *(http://www.scottishuniversitygovernance.ac.uk).* Governing bodies will also need to consider how best to communicate to their stakeholders how they apply the primary elements. Reflecting these points, the Code is premised on an 'apply or explain' basis.

Reporting on the adoption of the Code is a valuable source of assurance to stakeholders who need to have confidence in the governance arrangements of organisations within the sector. Organisations that adopt the Code confirm that they do so within the framework of publicly available reporting on corporate governance e.g. annual reports or financial statements.

The primary elements are the hallmarks of effective governing bodies operating in the UK HE sector and 'apply or explain' means that in order to report that an institution has applied the Code a governing body needs to:

1. **be confident that it has in place all of the primary elements. In order to do so it will be necessary for a governing body to meet or exceed the requirements of the supporting 'must' statements that prescribe essential components within the element; or**

2. **explain where it considers a whole primary element or supporting 'must' statements inappropriate. In such cases the rationale should be clearly noted and the alternative arrangements summarised within an institution's report on its use of the Code.**

The word *'must'* identifies the essential behaviours and traits of effective governance.

Using the Code

Throughout the Code, *'should'* statements illustrate the activities that are normally conducted in order to achieve the *'musts'* outlined under each primary element. The *'should'* activities are in turn accompanied by illustrative practice identified with the word *'could'* that describes practices that engender positive governance outcomes.

Recognising the strength derived from the diversity and autonomy of the sector, governing bodies are free to achieve the expectations of the 'must' statements by the means and mechanisms appropriate to their own context and do not need to report where arrangements differ from those illustrated by the Code; however governing body members will wish to understand what those alternative mechanisms are and why they are more appropriate than the examples identified within the Code.

The additional guidance published on the CUC website is for information and reference only; organisations adopting the Code are not under an obligation to report whether, or how, the guidance is utilised.

Further guidance on the interpretation of terms used within the code can be found in Appendix 2. (p. 31)

The Core Values of Higher Education Governance

High-quality HE which commands public confidence and protects the reputation of the UK system rests on a number of shared values. A failure to adopt and implement agreed values in the practice of governance has implications beyond the institution concerned, by potentially undermining the collective reputation of UK HEIs.

In setting out core values, this Code adopts and builds on the 'Nolan Principles of Public Life[1]', which provide an ethical framework for the personal behaviour of governors.

In addition, given the nature of HE, this Code is also based on the expectation that alongside specific measures of the Code, governing bodies will commit to:

- **Autonomy as the best guarantee of quality and international reputation.**
- **Academic freedom and high-quality research, scholarship and teaching.**
- **Protecting the collective student interest through good governance.**
- **The publication of accurate and transparent information that is publicly accessible.**
- **A recognition that accountability for funding derived directly from stakeholders requires HEIs to be clear that they are in a contract with stakeholders who pay for their service and expect clarity about what is received.**
- **The achievement of equality of opportunity and diversity throughout the institution.**
- **The principle that HE should be available to all those who are able to benefit from it.**
- **Full and transparent accountability for public funding.**

Within institutions it is important that the Executive, governing body and Secretary develop a shared understanding of these expectations and how they wish to apply the individual primary elements of the Code. Good governance requires more than the development of processes, since it is built on strong relationships, honest dialogue and mutual respect.

1 - Defined by the Nolan Committee as selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

See:
https://www.gov.uk/government/publications/the-7-principles-of-public-life
for further information.

The Seven Primary Elements of Higher Education Governance

This Code identifies the following primary elements of governance that underpin the values and beliefs outlined in the previous section:

1. The governing body is unambiguously and collectively accountable for institutional activities, taking all final decisions on matters of fundamental concern within its remit.

2. The governing body protects institutional reputation by being assured that clear regulations, policies and procedures that adhere to legislative and regulatory requirements are in place, ethical in nature, and followed.

3. The governing body ensures institutional sustainability by working with the Executive to set the institutional mission and strategy. In addition, it needs to be assured that appropriate steps are being taken to deliver them and that there are effective systems of control and risk management.

4. The governing body receives assurance that academic governance is effective by working with the Senate/Academic Board or equivalent as specified in its governing instruments.

5. The governing body works with the Executive to be assured that effective control and due diligence take place in relation to institutionally significant external activities.

6. The governing body must promote equality and diversity throughout the institution, including in relation to its own operation.

7. The governing body must ensure that governance structures and processes are fit for purpose by referencing them against recognised standards of good practice.

Each of these primary elements is outlined in detail within the following pages of the Code.

Section 2: The Code

The governing body is unambiguously and collectively accountable for institutional activities, taking all final decisions on matters of fundamental concern within its remit.

1.1 The governing body has a responsibility for all decisions that might have significant reputational or financial implications (including significant partnerships or collaborations). It **must** therefore seek assurance that the institution meets all legal and regulatory requirements imposed on it as a corporate body, including through instruments of governance such as statutes, ordinances and articles.

1.2 The regulatory and legal requirements will vary depending on the constitution of individual HEIs, but, for most governing bodies, members are charitable trustees and **must** comply with legislation governing charities and case law in the exercise of their duties. Some institutions are constituted as companies, and governing body members are normally the company's directors; the primary legislation in this case will be the requirements of the Companies Acts.

1.3 In both instances members are required to discharge their duties in line with the accepted standards of behaviour in public life, ultimately accepting individual and collective responsibility for the affairs of the institution. The main accountability requirements falling upon the governing body in respect of public funding are set out in financial memoranda issued by the funding bodies and these **must** be followed.

1.4 Student and staff members of the governing body share the same legal responsibilities and obligations as other members and **must not** be routinely excluded from discussions.

In meeting these legal obligations the governing body should:	Options the governing body could consider:
Seek assurance that decisions which might have significant reputational or financial risks undergo a rigorous process of due diligence.	Adopting a clear scheme of delegation. Asking its Audit Committee to ensure due diligence processes are reviewed.
Obtain assurances that appropriate policies and procedures are consistently applied, and that there is compliance with relevant legislation.	Including an opinion to this effect within the annual Audit Committee Report by the governing body.
Conduct its affairs in an open and transparent manner.	Including in its annual report a corporate governance statement which sets out the institution's governance arrangements (including the extent to which it has adopted this Code), policies on public disclosure and making the report widely available. Publishing agendas and minutes of its meetings.
Clearly define and communicate the scope of its own responsibilities in the context of legislation, governing instruments and guidance including the HE code through a Statement of Primary Responsibilities[2].	

2 - See Appendix 1 (p.30)

The governing body protects institutional reputation by being assured that clear regulations, policies and procedures that adhere to legislative and regulatory requirements are in place, ethical in nature, and followed.

2.1 In protecting the reputation of the institution the governing body will want to ensure the highest standards of ethical behaviour among its members, who **must** act ethically at all times in line with the accepted standards of behaviour in public life, and in the interests of the institution.

2.2 As such, members of governing bodies **must** act, and be perceived to act, impartially, and not be influenced by social or business relationships. A member who has a pecuniary, family or other personal interest in any matter under discussion **must** disclose the interest. A member does not necessarily have a pecuniary interest merely because he/she is a member of staff or a student.

2.3 The governing body **must** ensure that its decision-making processes are free of any undue pressures from external interest groups, including donors, alumni, corporate sponsors and political interest groups.

2.4 Members whose views are not consistent with the decisions of the governing body should abide by the principle of collective decision making and avoid putting specific interests before those of the institution. Individually they **must not** make any agreement for which they do not have authority.

2.5 Legislation requires that the governing body **must** take practical steps to ensure that the students' union or association operates in a fair, democratic, accountable and financially sustainable manner. This requirement is ***in addition to*** corporate and charity legislation that many student organisations are independently subject to.

In meeting these key requirements the governing body should:	Options the governing body could consider:
Approve a policy framework on ethics which includes appropriate measures of assurance.	Receiving an annual report on the work of appropriate institution committees, possibly supplemented by the work of the Audit Committee. Developing specific policies of compliance and reporting in relation to aspects of research governance which raise particular sensitivities (e.g. animal experimentation) and which have well-established codes of practice.
Approve a whistleblowing policy.	Seek assurance that whistleblowing is effectively managed, for example by getting an annual report on numbers and outcomes of any whistleblowing; it might also ask about the extent to which the associated protocols are widely known within the institution. Asking its Audit Committee to get assurance on ‘whistleblowing’.
Receive assurance that its publications provide accurate and honest information about its activities.	Asking for an audit review of quality management systems within the publications process.
Benchmark institutional policies and practice against sector practice and external requirements.	Requesting its Audit Committee discuss with internal auditors how the institution compares with other organisations in areas undergoing audit.

The governing body ensures institutional sustainability by working with the Executive to set the institutional mission and strategy. In addition, it needs to be assured that appropriate steps are being taken to deliver them and that there are effective systems of control and risk management.

3.1 The governing body is responsible for the mission, character and reputation of the institution at a strategic level, and members will need to be adequately informed in order to carry out this key responsibility. They can expect the head of the institution to help them by providing strategic advice and guidance on the mission and strategic development of the institution.

3.2 The strategic plan plays a crucial role in ensuring the successful performance of the institution, and the governing body will want to demonstrate its commitment to and support for the plan by formally approving or endorsing it in accordance with its constitution. Aligned to this, it **must** ensure there is an appropriate financial strategy and be responsible, without delegation, for the approval of the annual budget.

3.3 It **must** rigorously assess all aspects of the institution's sustainability, in the broadest sense, using an appropriate range of mechanisms which include relevant key performance indicators (KPIs) not just for the financial sustainability of the institution but also for its impact on the environment.

3.4 In ensuring sustainability, the governing body **must** be in a position to explain the processes and the types of evidence used and provide any assurances required by funders. Where such assessments indicate serious issues which could affect future sustainability, the governing body **must** undertake appropriate remedial action.

Regulatory requirements

3.5 The governing body **must** receive assurance that the institution is meeting the conditions of funding as set by regulatory and funding bodies and other major institutional funders which include the requirements of the financial memoranda. These include the need to: use public funds for proper purposes and achieve good value for money; have a sound system of risk management, financial control and governance; ensure the use of regular, reliable, timely and adequate information to monitor performance and track the use of public funds; and safeguard institutional sustainability.

3.6 The governing body **must** periodically review the delegated authority of the accountable officer (usually the Vice-Chancellor) and inform its funding body of any 'material adverse' change in its circumstances and any serious incident which, in the judgement of the accountable officer and the governing body, could have a substantial impact on the interests of the institution.

3.7 Requirements of governing bodies as stipulated by the funding bodies relating to audit include: appointing the Audit Committee; considering and, where necessary, acting on the annual report from the Audit Committee; appointing the external auditors; considering the annual report of the internal audit service; and receiving and approving the audited annual financial statements (this responsibility to be reserved to the governing body for its collective decision, without delegation).

3.8 Data submitted for funding purposes on behalf of the governing body **must** comply with directions published by the respective funding body and includes: annual accountability returns; any data requested by the Higher Education Statistics Agency (HESA); any information needed for the purpose of charity regulation; and other information the funding body may reasonably request to understand the institution's risk status.

Day-to-day operations

3.9 Operational financial control will be exercised by officers of the institution under delegation from the governing body, and responsibility for financial management and advising on financial matters is generally delegated to the Director of Finance (or equivalent). That individual **must** have access to the head of the institution whenever he/she deems it appropriate.

3.10 The governing body **must** get assurance that there are effective arrangements in place for the management and quality assurance of data. To do so the governing body could seek assurance from the Audit Committee about data quality.

Audit

3.11 The Audit Committee needs to be a small, well-informed authoritative body which has the expertise and the time to examine risk management control and governance under delegation from the governing body. It cannot confine itself to financial matters, and its role extends to all areas of institutional activity. While responsibility for devising, developing and maintaining control systems lies with the Executive, internal audit provides independent assurance to the governing body which should have an approved annual audit plan *(it can delegate to its Audit Committee the power to agree the plan on its behalf).*

3.12 The Audit Committee **must** be composed of a majority of independent members (who may also be drawn from outside the governing body) and produce an annual report for the governing body, including: its opinion on the adequacy and effectiveness of the institution's risk management, control and governance arrangements; processes for promoting value for money (VFM) through economy, efficiency and effectiveness; and (in institutions receiving funding body support) the management and quality assurance of data.

Remuneration

3.13 The proper remuneration of all staff, especially the Vice-Chancellor and his/her immediate team, is an important part of ensuring institutional sustainability and protecting the reputation of the institution. Accordingly governing bodies **must** establish a Remuneration Committee to consider and determine, as a minimum, the emoluments of the Vice-Chancellor and other senior staff as prescribed in constitutional documents or by the governing body.

3.14 The Remuneration Committee composition **must** include the Chair of the governing body, be composed of a majority of independent members (who, as with audit, may also be drawn from outside the governing body) and have appropriate experience available to it. The Vice-Chancellor or other senior staff may be members of, or attend, the Remuneration Committee but **must not** be present for discussions that directly affect them.

3.15 The Remuneration Committee **must** consider comparative information on the emoluments of employees within its remit when determining salaries, benefits and terms and conditions and ensure that all arrangements are unambiguous and diligently recorded. It **must** report on its decisions and operation at least annually to the governing body; such a report should not normally be withheld from any members of the governing body.

3.16 Remuneration Committee members **must** consider the public interest and the safeguarding of public funds alongside the interests of the institution when considering all forms of payment, reward and severance to the staff within its remit.

In meeting these key requirements the governing body should:	Options the governing body could consider:
Be assured that the strategy is realistic, supported by, and aligned to other institutional strategies.	Considering, approving and reviewing a number of sub-strategies. This will vary according to type of institution, but might, for example, include the widening participation strategy, financial and other resource strategies and internationalisation strategy. Looking to the head of the institution to provide reports and updates on those aspects of the strategic plan being implemented in the year in question, and the resulting actions and results (such a report might explicitly demonstrate how the different sub-strategies are aligned and support the delivery of the overarching strategy). Requiring an annual report including appropriate benchmarks to be produced and published.
Be clear how institutional performance is measured, and identify what institutional-level KPIs and other performance measures are to be adopted within a risk-based framework and monitor these on a regular basis.	Taking advice from the head of institution and other relevant sources (such as the ASSUR (annual sustainability assurance report) guidance), while being clear that the adoption of agreed KPIs is a governing body responsibility.
Be confident that the needs and interests of all stakeholders are adequately reflected in the strategic plan.	Look for specific references to some or all indicators of student satisfaction, research quality, business engagement, student experience and supporting graduate employment.
Have oversight of its approach to corporate and social responsibility.	Receive reports from an appropriate committee, or agree a policy and ask for monitoring reports on implementation.
Have clear policies on a range of institutional-level processes that it deems significant.	Periodically reviewing policies, for example, on access, alumni and development, treasury management, investment management, debt management and grants and contracts. Requesting that these processes are properly examined by the institution's auditors.

In meeting these key requirements the governing body should:	Options the governing body could consider:
Have confidence in the arrangements for the provision of accurate and timely financial information, and in the financial systems used to generate such information.	Relying on assurances from its auditors.
Understand the financial implications of its institution's pension arrangements and any potential deficits.	Asking for a briefing from its Director of Finance. Commissioning an independent review by appropriate external firms.
Obtain assurance that potential deficits on pension funds are properly reported in the annual accounts.	Receiving assurance from its auditors.
Ensure that the Audit Committee undertakes regular reviews of its effectiveness, including bench-marking against good practice for audit committees in HE and more widely as appropriate.	Incorporating an assessment of compliance within any assessment of governance effectiveness.
Have an agreed annual audit plan.	Delegating to its Audit Committee the power to agree the plan.
Approve financial regulations.	
The annual corporate governance statement should describe the work of the Remuneration Committee.	

The governing body receives assurance that academic governance is effective by working with the Senate/Academic Board or equivalent as specified in its governing instruments in order to maintain quality.

4.1 A high-quality student experience and, where appropriate, research portfolio are determinants of institutional sustainability and are therefore core governing body responsibilities which it shares with the wider institutional community. This, taken with the governing body's responsibility for the long-term reputation of the institution, means that it **must** satisfy itself that academic governance is operating effectively.

4.2 The underlying principles of sound academic governance are based upon collegiality, and it follows that the governing body **must** therefore respect the role, as defined within charters, statutes or articles, of the Senate/Academic Board and other bodies involved in academic governance. However governing bodies will still wish to receive assurance that academic risks (such as those involving partnerships and collaboration, recruitment and retention, data provision, quality assurance and research integrity) are being effectively managed.

4.3 The governing body **must** understand and respect the principle of academic freedom, the ability within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges, and its responsibility to maintain and protect it as enshrined in freedom of speech legislation.

Element 4

In meeting these key requirements the governing body should:	Options the governing body could consider:
Oversee an effective academic strategy that it has approved. This strategy need not be a separate document, but may be embedded in an overall institutional strategy or be articulated in separate teaching, research and other strategies.	Receiving reports from Academic Board/Senate and monitoring with relevant performance measures that are credible to the academic community. Examining the outcomes of academic governance effectiveness reviews and requesting that they be regularly conducted (nominally every four years). Adopting and reviewing an internationalisation strategy (if active internationally).
Have oversight of all major academic partnerships involving significant institutional-level risks.	Agreeing a scheme of delegation and a process of due diligence that defines major risk and allocates responsibility for decisions. Receiving annual reports from relevant committees on the current status of high-risk partnerships.
Actively encourage student engagement in academic governance.	Receiving regular reports from students' union or association officers and/or institution/student representation committees. Receiving assurance that honest, accurate and timely information is provided to students, stakeholders and the public about all aspects of academic provision.
Seek assurance that student complaints are effectively addressed and that the welfare and wellbeing of students are secured.	Requiring that summary reports are produced and considered (at least annually) on student complaints and appeals, taking into account – where appropriate – the requirements of the Office of the Independent Adjudicator.

Element 4

The governing body works with the Executive to be assured that effective control and due diligence takes place in relation to institutionally significant external activities.

5.1 As already noted, the governing body has a responsibility to ensure the long-term sustainability of the institution and maintaining its reputation. It will therefore want assurance on external activities with significant potential financial or reputational risks. Where such activities involve commercial transactions, care **must** be taken to ensure that arrangements conform to the requirements of charity law and regulation. This is particularly the case where institutions have established subsidiary entities, for example separate operating companies or charitable trusts.

5.2 The governing body will also want to ensure that fund-raising, donations, corporate sponsored research and partnerships and similar activities do not inappropriately influence institutional independence, mission or academic integrity.

In meeting these key requirements the governing body should:	Options the governing body could consider:
Get assurance on external activities with significant, institutional-level financial or reputational risks.	Agreeing a scheme of delegation to make clear the authorisation requirements for approving such arrangements, including the circumstance where governing body approval is required.
Get assurance that the board of any subsidiary entity possesses the attributes necessary to provide proper stewardship and control.	Appointing suitably qualified directors or trustees to its board. Requiring the entity's board to conduct its business in accordance with a recognised and appropriate code of governance.
Be clear about its responsibilities in relation to any other corporate governance arrangements and associated reporting.	Incorporating into its standing orders (or equivalent) its responsibilities regarding any group structures.
Retain unambiguous responsibility for approving and monitoring a clear institution-wide policy[3] on development and fund-raising which identifies the processes for the scrutiny of proposed donations.	Receiving an annual report on development and fund-raising activity.

3 - This would describe clear lines of responsibility and identify the individuals authorised to act

The governing body must promote equality and diversity throughout the institution, including in relation to its own operation.

6.1 HEIs are required by law to comply with extensive equality and diversity legislation, and governing bodies are legally responsible for ensuring the compliance of their institution. The legislation covers the individual rights of staff and students not to suffer discrimination on the grounds of a number of protected characteristics[4]. Legislation in this area does not distinguish between domestic and international students and staff.

6.2 Beyond this there is evidence that board diversity promotes more constructive and challenging dialogue, which in turn can improve governance outcomes by helping to avoid 'groupthink' and that as a result there is a strong business case for diversity alongside legal and moral expectation.

6.3 The governing body **must** ensure that there are arrangements in place to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between people who do and do not share a protected characteristic; and
- foster good relations between people who share and those who do not share a protected characteristic.

6.4 This means going further than simply avoiding discrimination, and it requires the active promotion of equality in a number of defined areas. The governing body **must** therefore satisfy itself that agreed action plans to implement the equality and diversity strategy are progressed throughout the institution.

6.5 The governing body **must** also routinely reflect on its own composition and consider taking steps to ensure that it reflects societal norms and values.

Element 6

4 - see:
https://www.gov.uk/discrimination-your-rights/

In meeting these key requirements the governing body should:	Options the governing body could consider:
At a minimum, receive an annual equality monitoring report detailing work done by the institution during the year, identifying the achievement of agreed objectives, and summarising data on equality and diversity that institutions are required to produce (e.g. on staff recruitment and promotion).	Discussing reports based on HESA data on staff and student profiles, the National Student Survey and material from the Equality Challenge Unit.
Demonstrate through its own actions and behaviour its commitment to equality and diversity in all aspects of its affairs, particularly by agreeing its policy on recruiting new members.	Requiring its committees to explain within their annual reports how decisions have taken account of the institution's equality and diversity policy. Setting itself targets in terms of its own membership. Advertising vacancies locally and nationally, including in local ethnic-minority publications, and via social media. Using alumni, particularly as they may give access to a more diverse and younger pool of potential applicants. Drawing on search consultancies who can sometimes access a broader pool. Building a diverse pool for the future by providing training for potential governors, appointing them to sub-committees to gain experience, and providing other opportunities for their participation in board-related events.
Approve, review and report on the institution's approach to equality and diversity and its agreed indicators that measure performance.	Ensuring that the human resource management strategy takes equality and diversity into account and is monitored. Approving and monitoring the delivery of a stand-alone equality and diversity strategy. Including in its annual report a description of its policy on diversity, including any measurable objectives that it has set, and outlining progress on implementation. Producing a separate equality and diversity report with a simple cross reference to the annual report.

The governing body must ensure that governance structures and processes are fit for purpose by referencing them against recognised standards of good practice.

Composition and appointments

7.1 The governing body **must** have a majority of external members, who are independent of the institution. All members should question intelligently, debate constructively, challenge rigorously, decide dispassionately and be sensitive to the views of others both inside and outside governing body meetings.

7.2 The governing body **must** have the power to remove any of its members from office, and must do so if a member breaches the terms of his/her appointment.

7.3 The governing body **must** establish a Nominations Committee (or similar) to advise it on the appointment of new members and the terms of existing members as well as the perceived skills balance required on the governing body. Normally final decisions on appointment are taken by the governing body.

7.4 The governing body will need to ensure suitable arrangements exist for the continuation of business in the absence of the Chair. In some cases arrangements for a Deputy Chair are codified within institutions' governing instruments; where they are not, the Nominations Committee can advise the governing body on what arrangements should be.

7.5 The Chair and Secretary will want to ensure all members receive an appropriate induction to their role and the institution as necessary.

7.6 There is an expectation, often enshrined within the constitutional documents of HEIs, that governing bodies will contain staff and student members and encourage their full and active participation.

7.7 Current normal practice is not to remunerate external members and to pay only travelling and other incidental expenses. However, if the governing body decides it is appropriate to remunerate, it will need to consider the:

- **provisions of charity and employment law;**
- **implications for the division of responsibilities between the governing body and the executive;**
- **public service ethos which applies generally among HE governors;**
- **need to be explicit about time commitments;**
- **need to apply a formal process of appraisal to the remunerated governor.**

Where it is decided to remunerate, payments would need to be both commensurate with the duties carried out and reported in the audited financial statements.

Operation

7.8 The Secretary (or Clerk) is responsible to the governing body for the provision of operational and legal advice in relation to compliance with governing instruments, including standing orders. He/she is also responsible for ensuring information provided to the governing body is timely, appropriate and enables an informed discussion so that it may effectively discharge its responsibilities.

7.9 All members of the governing body **must** have access to the services of the Clerk. Arrangements for the appointment or removal of the Secretary/Clerk may be defined by governing instruments; where they are not, it **must** be a decision for the governing body as a whole.

Review

7.10 Governing bodies need to adopt an approach of continuous improvement to governance, in order to enhance their own effectiveness and provide an example to institutions about the importance of review and evaluation.

7.11 Accordingly, governing bodies **must** conduct a regular, full and robust review of their effectiveness and that of their committees, the starting point for which should be an assessment against this Code and the statutory responsibilities alongside those which it has assumed and articulated independently (e.g. through a statement of primary responsibilities). Many governing bodies find an external perspective in this process useful, whether provided by specialist consultants or peer support from other governing bodies.

7.12 Codes of governance in other sectors adopt a period of two or three years. Recognising the need to balance the cyclical nature of HE and the impact this can have on the implementation and embedding of new practices, and the swiftly evolving HE and broader legislative environment, reviews **must** be conducted at least every four years with, as a minimum, an annual summary of progress towards achieving any outstanding actions arising from the last effectiveness reviews.

Acting on the outcomes of effectiveness reviews is as important as undertaking them, and it is desirable that outcomes and associated actions are reported widely, including in the corporate governance statements.

In meeting these key requirements the governing body should:	Options the governing body could consider:
Ensure that the governing body has sufficient skills, knowledge and independence, including though the appointment of an independent Chair, to enable it to discharge its responsibilities.	Regularly refreshing members’ skills and knowledge through development activities funded by the institution, including annual appraisal with the Chair. Appointing members for a given term, renewable subject to satisfactory performance. Renewals therefore are at the recommendation of the Nominations Committee and not an automatic process. External members not normally serving for more than two terms of four years, or three terms of three years, except where subsequently undertaking a new and more senior role (for example as Chair). Satisfying itself that members are able to allocate sufficient time to undertake their duties effectively. Giving an indication of the time expected of its members. The formalisation of the role of a ‘Deputy Chair’, a role which – in addition to acting for the Chair in his/her absence – can provide a sounding board for the Chair, can act as an intermediary with other members as may be required, and potentially can be helpful if there are significant differences of view within a governing body or with the Executive. As a Deputy Chair may assume the responsibilities of the Chair, the expectation is they would be similarly independent of the institution. Satisfying itself that plans are in place for an orderly succession of its membership, so as to maintain an appropriate balance of skills and experience with the progressive refreshing of key roles.

In meeting these key requirements the governing body should:	Options the governing body could consider:
Be of sufficient size that its responsibilities can be undertaken effectively and speedily, without being so large that it becomes neither unwieldy nor too small.	Establishing a size within the range of 12-25 members, although there is no optimal governing body size, and total membership should depend on numerous factors including the nature and history of the HEI, the range of skills and experience required and the number of internal members deemed necessary.
Ensure it has rigorous and systematic processes agreed by the governing body for recruiting and retaining governors (including the Chair), on the basis of personal merit and the contribution they can bring to a governing body.	Including written role descriptions and an analysis of the skills, experience and attributes required for membership. Widely advertising vacancies in order to increase the pool of talent available. Communicating and funding development opportunities within members' networks. Appointing external members with direct senior experience of HE could also be considered to provide such understanding.
Issue an annual corporate governance statement describing the work of the key committees.	Including the governing body's recruitment policy and practices, and a description of its policy on equality and diversity and any measurable objectives that it has set together with progress in their implementation within the corporate governance statement.
Annually reflect on the performance of the institution as a whole in meeting strategic objectives and associated measures of performance, and the contribution of the governing body to that success.	Reflecting on the extent to which it and its committees have met their terms of reference and – where they exist – their annual work plans. Benchmarking its performance and processes against other comparable HEIs, and relevant institutions outside the HE sector. Annual review meetings of members with the Secretary compiling a report on the feedback provided. Asking the Clerk to do an annual self-assessment (which could simply be an update from previous year) to assure the governing body that it properly and appropriately adheres to the principles of the Code. Taking account of the views of the Executive, and relevant bodies such as the Senate/Academic Board, and staff and student communities.

Section 3: Appendices

Appendix 1: Statement of Primary Responsibilities

The principal responsibilities of the governing body should be set out in its Statement of Primary Responsibilities, which must be consistent with the institution's constitution. While there may be some variations because of different constitutional provisions, the principal responsibilities are likely to be as follows:

1. To approve the mission and strategic vision of the institution, long-term academic and business plans and key performance indicators, and to ensure that these meet the interests of stakeholders.

2. To ensure that processes are in place to monitor and evaluate the performance and effectiveness of the institution against the plans and approved key performance indicators, which should be – where possible and appropriate – benchmarked against other comparable institutions.

3. To delegate authority to the head of the institution, as chief executive, for the academic, corporate, financial, estate and human resource management of the institution. And to establish and keep under regular review the policies, procedures and limits within such management functions as shall be undertaken by and under the authority of the head of the institution.

4. To ensure the establishment and monitoring of systems of control and accountability, including financial and operational controls and risk assessment, and procedures for handling internal grievances and for managing conflicts of interest.

5. To establish processes to monitor and evaluate the performance and effectiveness of the governing body itself.

6. To conduct its business in accordance with best practice in HE corporate governance and with the principles of public life drawn up by the Committee on Standards in Public Life.

7. To safeguard the good name and values of the institution.

8. To appoint the head of the institution as chief executive, and to put in place suitable arrangements for monitoring his/her performance.

9. To appoint a Secretary to the governing body and to ensure that, if the person appointed has managerial responsibilities in the institution, there is an appropriate separation in the lines of accountability.

10. To be the employing authority for all staff in the institution and to be responsible for establishing a human resources strategy.

11. To be the principal financial and business authority of the institution, to ensure that proper books of account are kept, to approve the annual budget and financial statements, and to have overall responsibility for the institution's assets, property and estate.

Appendix 1: Statement of Primary Responsibilities

12. To be the institution's legal authority and, as such, to ensure that systems are in place for meeting all the institution's legal obligations, including those arising from contracts and other legal commitments made in the institution's name.

13. To receive assurance that adequate provision has been made for the general welfare of students.

14. To act as trustee for any property, legacy, endowment, bequest or gift in support of the work and welfare of the institution.

15. To ensure that the institution's constitution is followed at all times and that appropriate advice is available to enable this to happen.

Appendix 2: Taxonomy

In addition to the 'must', 'should' and 'could' statements, the Code uses the following standard terms:

- *Clerk* used interchangeably with *Secretary;*
- *external members* for all non-executive governing body members from out-side the institution irrespective of how they are appointed;
- *governing body* which in some HEIs is called the Council, Court or Board of Governors. It may also be the Board of Directors or equivalent;
- *head of institution* meaning the Vice-Chancellor, Principal or equivalent; and
- *members* for people appointed to the governing body.

CUC

Committee of University Chairs

Appendix 4
UCC (Australia) Code of Practice

VOLUNTARY CODE OF BEST PRACTICE FOR THE GOVERNANCE OF AUSTRALIAN UNIVERSITIES

1: A university should have its objectives and/or functions specified in its enabling legislation[1].

2: A university's governing body should adopt a statement of its primary responsibilities, to include:

(a) appointing the Vice-Chancellor as the Chief Executive Officer of the university, and monitoring his/her performance;
(b) appointing other senior officers of the university as considered appropriate;
(c) approving the mission and strategic direction of the university, as well as the annual budget and business plan;
(d) overseeing and reviewing the management of the university and its performance;
(e) establishing policy and procedural principles, consistent with legal requirements and community expectations;
(f) approving and monitoring systems of control and accountability, including general overview of any controlled entities. A controlled entity is one that satisfies the test of control in s.50AA of the *Corporations Act*;
(g) overseeing and monitoring the assessment and management of risk across the university, including commercial undertakings;
(h) overseeing and monitoring the academic activities of the university;
(i) approving significant commercial activities of the university.

A university's governing body, while retaining its ultimate governance responsibilities, may have an appropriate system of delegations to ensure the effective discharge of these responsibilities.

3: A university should have the duties of the members of its governing body and sanctions for the breach of these duties specified in its enabling legislation. Other than the Chancellor, the Vice-Chancellor and the Presiding Member of the Academic Board, each member should be appointed or elected *ad personam*. All members of the

[1] In the case of a university established under the *Corporations Act*, a reference to enabling legislation is taken to mean its constitution and/or, where applicable, the *Corporations Act*.

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governing body should be responsible and accountable to the governing body. When exercising the functions of a member of the governing body, a member of the governing body should always act in the best interests of the university.

Duties of members should include the requirements to:

(a) act always in the best interests of the university as a whole, with this obligation to be observed in priority to any duty a member may owe to those electing or appointing him or her;
(b) act in good faith, honestly and for a proper purpose;
(c) exercise appropriate care and diligence;
(d) not improperly use their position to gain an advantage for themselves or someone else; and
(e) disclose and avoid conflicts of interest (with appropriate procedures for that purpose similar to those for public companies).

There should be safeguards, exemptions and protections for members of a university's governing body for matters or things done or omitted in good faith in pursuance of the relevant legislation. Without limitation, this should include such safeguards, exemptions and protections as are the equivalent of those that would be available were the member a director under the *Corporations Act*. A university (with the exception of those subject to the *Corporations Act*) should have a requirement included in its enabling legislation that its governing body has the power (by a two-thirds majority) to remove any member of the governing body from office if the member breaches the duties specified above. A member should be required, automatically, to vacate the office if he or she is, or becomes, disqualified from acting as a Director of a company or managing corporations under Part 2D.6 of the *Corporations Act*.

4: If permitted by its enabling legislation, a university should develop procedures;
   a) to provide that the Chancellor and Deputy Chancellor hold office subject to retaining the confidence of the governing body; and
   b) to deal with removal from office if the governing body determines that such confidence is no longer held.

5: Each governing body should make available a programme of induction and professional development for members to build the expertise of the governing body and to ensure that all members are aware of the nature of their duties and responsibilities.

6: On a regular basis, at least once each two years, the governing body should assess its performance, the performance of its members and the performance of its committees. The Chancellor should have responsibility for organising the assessment process, drawing on external resources if required. On an annual basis, the governing body should also review its conformance with this Code of Best Practice and identify needed skills and expertise for the future.

7: The size of the governing body should not exceed 22 members. There should be at least two members having financial expertise (as demonstrated by relevant qualifications and financial management experience at a senior level in the public or private sector) and at least one member with commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector). Where the size of the governing body is limited to less than 10 members, one member with financial expertise and one with commercial expertise would be considered as meeting the requirements. There should be a majority of external independent members who are neither enrolled as a student nor employed by the university. There should not be current members of any State or Commonwealth parliament or legislative assembly other than where specifically selected by the governing body itself.

8: A university should adopt systematic procedures for the nomination of prospective members of the governing body for those categories of members that are not elected. The responsibility for proposing such nominations for the governing body may be delegated to a nominations committee of the governing body that the Chancellor would ordinarily chair.

Members so appointed should be selected on the basis of their ability to contribute to the effective working of the governing body by having needed skills, knowledge and experience, an appreciation of the values of a university and its core activities of teaching and research, its independence and academic freedom and the capacity to appreciate what a university's external community needs from it.

To provide for the introduction of new members consistent with maintaining continuity and experience, members' terms should generally overlap and governing bodies should establish a maximum continuous period to be served. This should not generally exceed 12 years unless otherwise specifically agreed by the majority of the governing body.

9: A university should codify its internal grievance procedures and publish them with information about the procedure for submitting complaints to the relevant ombudsman or the equivalent relevant agency.

10: The annual report of a university should be used for reporting on high level outcomes.

11: The annual report of a university should include a report on risk management within the organisation.

12: The governing body should oversee controlled entities by:
(a) ensuring that the entity's board possesses the skills, knowledge and experience necessary to provide proper stewardship and control of the entity;
(b) appointing some directors to the board of the entity who are not members of the governing body or officers or students of the university;
(c) ensuring that the board of the entity adopts and regularly evaluates a written statement of its own governance principles;
(d) ensuring that the board documents a clear corporate and business strategy which reports on and updates annually the entity's long-term objectives and includes an

annual business plan containing achievable and measurable performance targets and milestones; and

(e) establishing and documenting clear expectations of reporting to the governing body, such as a draft business plan for consideration and approval before the commencement of each financial year and at least quarterly reports against the business plan.

13: A university should assess the risk arising from its involvement in the ownership of any entity (including an associated company as defined in the Accounting Standards issued by the Australian Accounting Standards Board), partnership and joint venture. The governing body of a university should, where appropriate in light of the risk assessment, use its best endeavours to obtain an auditor's report (including audit certification and management letter) of the entity by a State, Territory or Commonwealth Auditor-General or by an external auditor.

14: A University should disclose in its Annual Report its compliance with this Code of Best Practice and provide reasons for any areas of non-compliance.

This Code was approved out-of-session by the Ministerial Council for Tertiary Education and Employment on 27 July 2011.

Appendix 5
Categories of Participants in Consultation Meetings

The discussion paper was sent to a wide range of stakeholders and the following participated in meetings. Since guarantees of non-attribution were given, the participants are listed below by category:

UGC Members

Chairs of University Councils

University Presidents / Vice-Chancellors

External Members of Councils (as agreed with Council Chairs)

Former Council Chairs

University Senior Managers (Deputy Vice-Chancellors or similar)

Council Secretaries or Registrars

University Staff Representatives

University Student Representatives

Education Bureau Officials

The total number participating was 98.

Appendix 6
High Level Key Performance Indicators: An Illustration

PERFORMANCE MEASUREMENT FRAMEWORK 2014			
RESEARCH AND KNOWLEDGE EXCHANGE			
KPI	**1**	**RESEARCH PERFORMANCE**	**The proportion of research eligible staff who are operating at the University's defined quality threshold for internationally excellent and world leading research**
SPI	1a		Proportion of research eligible staff who are operating at the defined quality threshold for 4* research
	1b		Proportion of research eligible staff who are operating at the defined quality threshold for 3* research
	1c		Number of prestigious projects (e.g. as funded through fellowships, funded centres, research centres or programme grants)
	1d		Citation impact
	1e		Highly cited papers
	1f		Proportion of international publications indexed by Web of Knowledge (i.e. internationally co-authored papers)
MI	1a		Proportion of staff engaged in research projects (current and expected)
	1d, 1e, 1f		Papers per academic staff FTE
KPI	**2**	**RESEARCH PERFORMANCE**	**Research income per staff FTE (inc. rolling average)**
	2a		Research applications (by number, value and band)
	2b		Research awards (by number, value and band)
	2c		Research success rates (by number and value)
	2d		Research income by source of funds (inc. EU)
	2e		Research applications by source of funds (inc. EU)
	2f		Research awards by source of funds (inc. EU)
MI	2a, 2b, 2e, 2f		Research applications and awards per staff FTE
	2d		Research income by PI/CoI (inc. proportion of PIs)
	2d		Proportion of staff time engaged in research and/or teaching activity

KPI	**3**	**RESEARCH AND KE IMPACT**	**The number of mature impact case studies**
SPI	3a		Engagement with civil society through partnership boards in the region/city
	3b		Income generating knowledge based contracts and services through collaborative research income (as defined by HE-BCI)
	3c		Exploitation of intellectual property through IP licence income (rolling average)
	3d		Significant business interactions through strategic relationships
	3e		KE income per staff FTE (staff include all academic and academic related staff)
MI	3a		Public events (number and attendance)
	3a		Visiting professors from outside academia
	3a		Media appearances (TV and radio)
	3a		Student volunteers in the region/city
	3b		Contract research income (as defined by HE-BCI)
	3b		CPD income (and learner days/attendance)
	3b		Consultancy income (as defined by HE-BCI)
	3b		Hire of technical facilities
	3c		Invention disclosure reports
	3c		Patents filed
	3c		Business spin outs in year (staff and students) (as defined by HE-BCI)
	3d		MoUs and partnership agreements (number and nature)
	3d		Income from SMEs, commercial and non-commercial organisations (as defined by HE-BCI)
KPI	**4**	**PGR STUDENTS**	**PGR students per staff FTE (inc. international PGR)**
SPI	4a		Overall PGR student numbers (by HEU and OSI)
	4b		PGR completion rate (as defined by HESA)
	4c		PGR submission rate
	4d		PGR studentships (number and value by source of funds)
	4e		International PGR students per research active staff
MI	4a		PGR student intake
	4a		PGR applications and conversions

STUDENT EXPERIENCE			
KPI	**5**	**DEGREES AWARDED**	**Proportion of 1st and 2.1 degrees awarded**
SPI	5a		Continuation status (as defined by HESA)
	5b		Entry tariff
	5c		Proportion of staff achieving formally recognised standards of teaching (as defined by Higher Education Academy)
MI	5a		Progression
	5b		'Value added'
	5c		Number of staff promoted on teaching and scholarship pathway
	5c		Proportion of eligible staff attending learning and teaching development programme
KPI	**6**	**STUDENT SATISFACTION**	**Overall student satisfaction as measured by the NSS**
SPI	6a		Student satisfaction as measured by PTES
	6b		Student satisfaction as measured by PRES
	6c		Contact time (as defined in KIS)
	6d		Value for money ("the course I completed was good value for money" as defined by DLHE)
	6e		Satisfaction with student facing services (library, residences, IT, student support as defined by the NSS)
MI	6a, 6c		Module evaluation survey outcomes (inc. contact quality, satisfaction with curriculum)
	6c		Students involved in overseas placements
KPI	**7**	**EMPLOYABILITY**	**Proportion of students employed or in further study**
SPI	7a		Progression to further study at UoL
	7b		Progression to further study at other HEI
	7c		Proportion of graduates in employment
	7d		Proportion of graduates in graduate employment
MI	7c, 7d		Average income after 6 months of graduating
	7c, 7d		Sector employers of UoL graduates (international, national, local)
	7c, 7d		Geographical mobility of UoL graduates
	7c, 7d		Career aspirations
KPI	**8**	**STUDENT POPULATION**	**The University will grow to 30,000 students on UoL campuses by 2023 with 33% PG and 25% OSI**
SPI	8a		Student numbers (by UG, PGT, PGR; HEU, OSI)
	8b		Proportion of PG students

	8c		Proportion of OSI students
	8d		Student applications and market share
	8e		Conversion rates
	8f		Students studying for UoL degree overseas
MI	8a		Staff: Student ratio
WIDENING PARTICIPATION			
KPI	**9**	**ACCESS AGREEMENT**	**Proportion of income spent on outreach activity**
SPI	9a		Proportion of income spent on bursaries and scholarships
MI	9a		WP cohort performance (inc. degrees awarded, tariff, value added, continuation)
	9a		Graduate level employment for NS-SEC classed 4, 5, 6
KPI	**10**	**WP BENCHMARKS**	**Performance again WP Benchmarks as determined by HESA PIs**
SPI	10a		Percentage of young full-time first degree entrants from state schools or colleges
	10b		Percentage of young full-time degree entrants from NS-SEC classed 4, 5, 6
	10c		Percentage of full-time first degree entrants from low participation neighbourhoods (polar 3)
	10d		Percentage of young full-time first degree entrants in receipt of DSA
ENABLERS			
KPI	**11**	**FINANCIAL HEALTH**	**Cash flow from operating activities**
SPI	11a		Capital Expenditure
	11b		Debt and borrowing levels (forecast)
	11b		Staff headcount and FTE (non-research)
MI	11a		Condition of the estate as defined by HEFCE EMS
	11a		Space Utilisation
KPI	**12**	**FINANCIAL HEALTH**	**Operating surplus as a percentage of income**
SPI	12a		Staff costs as a percentage of income (excluding FRS17 income and expenditure)
	12b		Contribution (by planning unit)
MI	12a, b		Sources of income
	12a, b		Expenditure (e.g. OOE)
	12a, b		Ratio of teaching to research income

	12a, b		Income from fundraising activity
KPI	**13**	**STAFF SATISFACTION**	**Overall staff satisfaction as measured by the staff survey ("the University is a good place to work")**
SPI	13a		Staff turnover/retention
	13b		Staff absence
	13c		PDR completion
	13d		Staff diversity

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