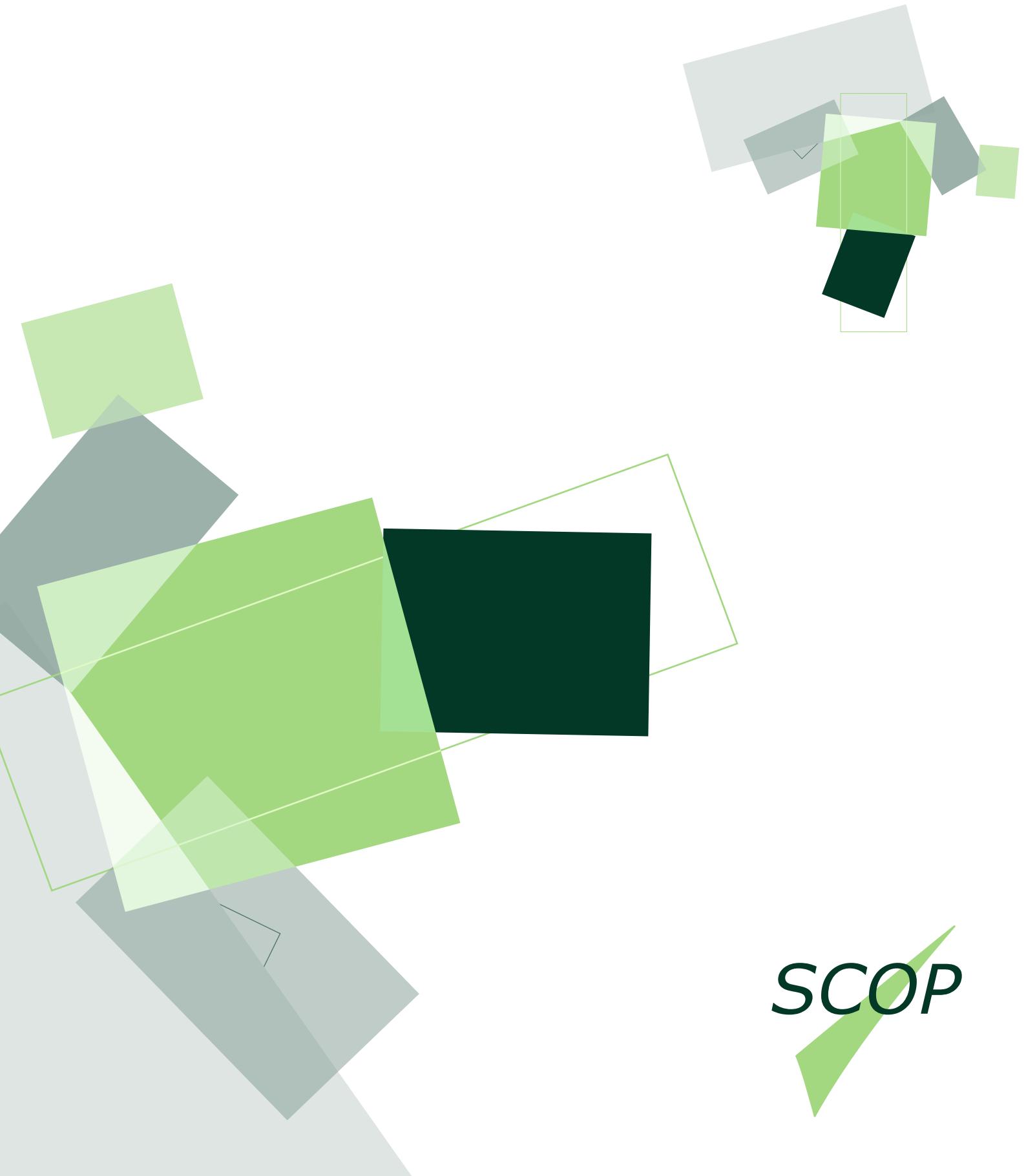


Getting to Grips with Being a Governor

MAKING SENSE OF GOVERNANCE IN HIGHER EDUCATION

A PROGRAMME FOR MEMBERS OF GOVERNING BODIES IN UNIVERSITIES AND COLLEGES



SCOP

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INTRODUCTION AND HOW TO USE THIS PROGRAMME

1. Governance in higher education in the UK is changing, with governing bodies of universities and colleges having more responsibilities and arguably greater workloads than ever before. Such changes are having - and are likely to continue to have - major implications for individual governors: increased expectations about how they undertake their role; a greater focus on measuring institutional performance; coming to terms with an increasingly complex environment in which to approve strategy; and so on. The recently revised CUC Guide for Members of Governing Bodies¹ sets the context for such developments, and is the starting point for this set of materials.

2. Moreover, such developments are taking place at a time when structural changes in governance are also occurring in many colleges and universities: for example, governing bodies are getting smaller and governors are serving shorter periods in office. All this means that governors (particularly new governors) need to be well prepared for their roles and the challenges they face so that they can contribute effectively from the outset.

3. Governors in universities and colleges are typically of two kinds: a majority of external members (often called independent - the term used in this programme - or 'lay' governors) increasingly appointed for their experience and expertise in other sectors; and staff and students drawn from different internal constituencies. No matter how experienced the former may be, coming to terms with the specific issues of governance in higher education can be a real challenge. Conversely, internal governors can frequently have the opposite difficulty: of not having the breadth of experience to play a leading strategic role. As a result, both groups of governors may need support, but of different kinds.

4. Accordingly, this set of materials has been commissioned by SCOP² to help governors get to grips with some of the implications of these changes, and to reflect on how effectively they are undertaking their role. *Although the materials may be of use to all governing body members, they are specifically designed for those in their first year of office: governors who have enough experience to recognise the challenges they face, but who may still need assistance in addressing them.*

5. The materials are explicitly developmental, and written to help governors explore key generic issues in board membership. They do not concern functional areas of governance such as finance, audit, risk and so on. The materials are:

- Short and concise, recognising that governors are busy people.
- An enabling tool for governors to think about how they are performing and what steps they need to take to become more effective in their role.

To support the text many quotations from governors³, questions and short activities are provided. The quotations do not represent any 'agreed' view of governance, but rather are designed to illustrate different opinions and to stimulate thoughts from readers.

6. In researching the need for these materials, it was evident that different HEIs would use them in different ways. Accordingly they have been designed to be used in various forms to match demand:

- As printed self-learning materials used by individual governors working on their own.
- As web-based materials also used by individual governors.
- By universities and colleges as part of an in-house activity to support governor development. To support this purpose Module 10 is a short facilitator's guide to using the materials as part of an in-house event.

7. In addition to this introduction, there are ten separate (but related) modules in the overall programme of materials. They are:

1	How Effective Are You as a Governor?
2	An Overview of General Developments in Governance.
3	Introduction to the Practice of Governance in Higher Education.
4	The Legal Framework of Governance - What it Means For You.
5	Governor Involvement in Institutional Life and Relationships with Senior Officers.
6	Issues For Internal Governors - Staff and Students.
7	A Governor's Guide to Finding Information.
8	Measuring Institutional Performance: The Role of the Governing Body.
9	How Effective Is Your Governing Body?
10	A Facilitator's Guide to Using the Materials on In-House Events.

8. In some – not all – of the modules short easy-to-complete activities and questions are provided (highlighted in yellow boxes) to enable readers to reflect on how they respond to a particular item in the text. Because readers will be a diverse group, some will welcome such activities and undertake them, others may use them as a stimulus for thought, while others may quickly turn the page and move on! However, whilst there is no need to complete all the activities, all readers are encouraged to undertake at least one or two of those that are particularly relevant to them. Because of the nature of their content Modules 2, 3, and 4 have fewer questions and activities, and are generally less developmental than the other modules.

THE ORDER OF THE MATERIALS

9. Although the order of the modules is a logical progression, it can be varied and readers can 'dip' into different sections as they wish. However, Module 1 is explicitly designed to set the scene for governors by encouraging them to think about what they do and how they do it. Accordingly it is a good idea to read it first. Modules 8 and 9 can really only be undertaken towards the end of the series, after some of the issues concerning roles and responsibilities have been considered in the middle modules. It is not a good idea to try and read all the modules at the same time: they have been designed to 'dip into' as and when time permits.

A NOTE ON TERMINOLOGY

10. Governance in UK higher education is complicated by the use of different terms for similar functions. In all the materials the term 'board of governors' is used generically to include: the governing bodies of post-1992 institutions; the councils of pre-1992 universities; and courts in Scotland. Similarly the word 'governor' is used to indicate the members of these different bodies, and 'chair' as the term for the person who convenes governing body meetings.

11. The abbreviation 'HEI' is used in the text as the widely accepted shorthand for 'higher education institution', and the term 'academic board' is used to include both the academic boards of post-1992 HEIs as well as the senates of pre-1992 universities. (For an explanation of the terminology in general use in higher education governance see Module 7.)

THE REVISED CUC GUIDE FOR MEMBERS OF GOVERNING BODIES

12. The materials in this programme complement the CUC⁴ Guide in two ways: first, we take its proposals as our starting point as it is likely that they will set the agenda on governance in many HEIs in the next few years. It is recognised that some of its

proposals (and therefore the content of these materials) may be controversial, and readers seeking a justification for them should seek out the relevant pages of the Guide for more information. Second, we have not sought to duplicate any of the content of the Guide (or other easily available publications), but where necessary cross-refer to it.

REFERENCES

13. For the sake of clarity specific references to items in the text have been limited to short footnotes at the bottom of relevant pages. Those requiring a longer list of relevant readings on governance will find one provided at the end of Module 10.

RECOGNISING DIVERSITY

14. It is important to recognise that the UK higher education system is very diverse, and this means that what is effective governance in one institution may not necessarily be so in another. Moreover, different governors will have legitimately different views on many of the issues considered in this programme, as will chief executives and other senior managers. It follows that if after working through these modules important issues are raised for you about governance in your own institution (and we hope they will be), then you need to deal with the issues responsibly. In most cases (and depending upon the issue) this is likely to mean arranging an initial meeting with either the clerk or secretary of your board or its chair to seek clarification on the issues concerned.

15. As SCOP is an organisation largely composed of English higher education institutions, the text focuses on governance in English higher education. However, almost all the good practice discussion in the materials applies equally to the other jurisdictions of the UK, and the only significant differences for readers may be in the legal framework of governance and the requirements of the main higher education funding bodies⁵.

DISCLAIMER

16. The inevitable disclaimer! Although every care has been taken to try and ensure the accuracy of the content of this programme, if in doubt about a specific issue governors should always check with the clerk of their own board.

(Footnotes)

¹ CUC Guide for Members of Higher Education Governing Bodies, 2004 at www.shef.ac.uk/cuc

² SCOP is the Standing Conference of Principals of Colleges of Higher Education. For details see: www.scop.ac.uk

³ The quotations have been obtained from: interviews and institutional visits undertaken in connection with producing the materials; from a survey of SCOP governors undertaken in 2001; from a survey undertaken for a Committee of University Chairmen (CUC) study on good practice in governance undertaken in 2004, and other meetings with governors. Where the professional background of the source governor is known it has been provided at the end of the quotation.

⁴ The Committee of University Chairmen (CUC) provides a forum for chairs of university governing bodies to come together to discuss matters of common interest. Details can be found at www.shef.ac.uk/cuc

⁵ For a summary of these see the CUC Guide at <http://www.shef.ac.uk/cuc/pubs.html>.

Making Sense of Governance in Higher Education

A Programme for Members of Governing Bodies in Universities and Colleges

1

Module 1:

How Effective Are You as a Governor?

MODULE 1: HOW EFFECTIVE ARE YOU AS A GOVERNOR?

"If governance is so important why does almost no one in the University know who is on the Council or has ever met them?"

(Governor with private sector experience)

1. In this first module you are asked to think about your experience as a governor in a number of ways in order to address the questions: how effective are you as a governor? and what do you and your university or college need to do in order to enhance your effectiveness? For broader issues about the effectiveness of your governing body as a whole see Module 9.

2. These questions do not assume that you are not already making a valuable contribution to your board and its committees: just the opposite, as several reports have recently indicated that higher education is generally well governed¹. However, higher education governance is not standing still, and board members need to be prepared to meet the increasingly demanding challenges of tomorrow. It follows that good governing bodies encourage their members to consider how effective they are as board members, and also support them in undertaking training and development. Indeed, the new CUC Code of Practice on Governance² explicitly encourages boards to do this, and members to participate.

3. The module contains three short sections:

- The first concerns how prepared you are to be an effective board member, including the knowledge and skills you possess.
- The second concerns the culture of the institution of which you are a governor, and the influence that it has on the way that the governing body is run.
- The last concerns the actual contributions you make to the governing body and its committees in helping them meet their roles and responsibilities.

After completing the module you should have a good all round awareness of how effective you are as a governor. You can then use the other modules in this programme as a way of highlighting additional knowledge and skills that you need to acquire. The module ends by asking the kinds of questions about your contribution to the board that you would have to address for an annual review discussion with the chair of your board if this happens in your institution.

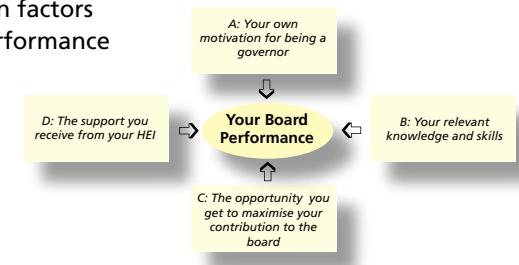
YOUR PERSONAL EFFECTIVENESS AS A GOVERNOR

4. We've all been in meetings where no matter how hard we tried we were completely ineffective in making our case, in persuading others, or even getting on the same 'wavelength' as other people at the meeting. Conversely we all have good days when things go well and others compliment us on a presentation or a case well made. The same thing happens in most boards and governing bodies with some members being more effective - and therefore probably more influential - than others. However, since a good board cannot afford to contain members who are consistently ineffective or who feel that they are not used properly, an increasing number of governing bodies are starting to develop mechanisms for reviewing the performance of governors.

5. The effectiveness of governing bodies as a whole is considered in Module 9, but this section concentrates on you: how you perform; the contributions that you make to your board; and identifying areas where you think your performance might be strengthened - in summary the things that make you effective as a governor.

6. In general, there are likely to be four main factors which influence the effectiveness of your performance as a governing body member.

7. These four issues are briefly explained in turn, and some optional questions are provided for you to answer about each one.



A: Your Own Motivation For Being a Governor

8. Your own motivation for being a governor is likely to have an obvious effect on how you approach your role and therefore how effective you are. For example, there is some anecdotal evidence that governors who are representatives of external bodies (eg local authorities) may be less regular in their attendance at boards than others who serve in a personal capacity. Also when faced with a conflict over priorities with other activities or clashes of dates, then your motivation is likely to be a decisive factor in how you behave and which commitment you honour.

9. Your motivation is therefore likely to be a crucial factor in answering the following very basic questions which underpin your effectiveness as a governor:

- Is my attendance record at meetings what is expected?
- Is my timekeeping at meetings appropriate?
- Have I accepted appropriate invitations to take on other relevant roles (eg committee membership)?
- Overall, have I complied with the formal requirements of a governor set out in any statement of duties that I may have received when I became a governor?

10. Being able to answer these questions positively does not make you an effective governor, but the opposite is probably the case: if you have answered them negatively then it is likely that you are being ineffective in the role.

1	
Question: What was your own motivation for becoming a governor, and how does it influence your effectiveness as a board member?	
In answering the question you might find it useful to think about the following reasons why people become governors of HEIs:	Tick those that were important for you:
You had a specific interest in higher education	
You had previous links with the HEI concerned	
To make a contribution to public service	
You were nominated by an external body	
You had specific skills that the HEI valued	
You received a personal request to join	
You responded to an advertisement	
To enhance your professional networks	
As personal development for yourself	
Other please state:	

11. You might like to think about the implications of your answer to this question for your effectiveness as a member of your governing body; for example:

- Did a personal request to join or answering an advertisement live up to expectations, and if not why not?
- Have you found that an interest in higher education or wishing to make a contribution to public service is consistent with the need for governors to take tough and often difficult decisions?
- Has being a governor changed your view about public service?

- If you were nominated by an external body is your motivation consistent with the workload that may be involved?
 - If your motivation was personal development for yourself then you may be benefiting from membership but is the governing body getting the expertise and commitment it might expect?
12. These questions are not intended to be an exhaustive list, but simply to demonstrate that there are likely to be questions to be answered about the factors that motivated you to become a governor and the influence on the contribution that you make in practice.

B: Your Relevant Knowledge and Skills

13. Every governor brings their own knowledge and skills to a board, indeed independent members are increasingly being recruited using a skills matrix to identify explicit expertise that they can provide. However, for new appointees who are still coming to terms with their roles governing body meetings can be nerve-racking occasions. Indeed, in the worst cases the whole credibility of their membership can be undone by inappropriate or ill-informed contributions.
14. In general, the more knowledgeable a board member and the greater their range of skills then the more effective they are likely to be in meetings, and the greater their contribution to the overall effectiveness of a board. However, not possessing such skills from previous experience need not be a hindrance as such knowledge and skill can be acquired when members are motivated to do so, and when institutions are prepared to provide support. Indeed a primary purpose of these modules is to assist in this process.
15. There are particular challenges associated with attempts to encourage greater diversity of board membership, and to move away from a possible dominance by retired governors. A number of HEIs are attempting to recruit more diverse boards, whilst ensuring that the effectiveness of governing bodies is not undermined.
16. Of course, to the new governor appearances may be misleading, and although experienced board members may seem to know the inner world of university and college governance in detail this may sometimes be an illusion. The quotation on the left is an example of comments frequently made in collecting data for this study: that sometimes all kinds of false assumptions are made about the knowledge that governors possess. Moreover, it is unrealistic to expect all governors to know everything about the many complex issues their governing body faces, so some specialisation is necessary. It follows that admitting to a lack of knowledge in some areas is not necessarily a sign of weakness.
17. Conversely, there are areas where all governors should have at least a basic level of knowledge, and where as a result any lack of awareness may be difficult to acknowledge. For example, in writing about the behaviour of non-profit boards Gottlieb³ provocatively suggests that a topic that "boards do not discuss openly" is that "on virtually every board of every non-profit throughout the world there are board members who do not understand how to read a balance sheet, a profit and loss statement, or any of the other financial data boards typically review and vote on."
18. As a way of testing awareness of some of the issues that governors should know about, in Module 7 (on finding information) a quiz has been included to explore how much the reader knows about terms in common use in higher education in the UK. That module also contains a full description of most of the main bodies in the sector, references to key reports, and a guide on where to find information on a range of current topics.

"Quite a number of members of my governing body make no contribution at all in meetings. I sometimes wonder why they attend."

(Governor with private sector experience)

Question: What major gaps do you think there are in your own core knowledge and skills that need to be filled for you to be an effective member of your own governing body?

Let's be clear: we are not suggesting that every board member has to excel at everything or to have an encyclopaedic knowledge about governance. However, you might like to spend a few moments reflecting on any major gaps in your existing knowledge and skills that may inhibit your current effectiveness. Those who like to set themselves targets might to identify specific areas for enhancement and note down how they will undertake them, and by when:

AREAS WHERE MY KNOWLEDGE NEEDS TO BE ENHANCED:

AREAS WHERE MY SKILLS NEED TO BE ENHANCED:

"I used to go out of board meetings thinking 'I'm ready to go into the meeting now'!"

(Governor with charity experience)

[If you need a prompt to think about knowledge and skill gaps turn to Module 3 which identifies some of the key roles and responsibilities of governors]

C: The Opportunity You Get to Maximise Your Contribution to the Governing Body

19. Even if you are confident in your existing knowledge and skills, this doesn't mean that you will automatically be effective as a governing body member. This depends on numerous factors, not least the opportunities that you are given to exercise your attributes.

20. Evidence collected for the 2004 report on Good Practice in Governance for the CUC⁴ suggests that a frequent concern of governors is that although HEIs recognise the need to use specific sets of governor skills (eg finance, audit or human resources), other less tangible skills (eg entrepreneurship) may be unused leading to considerable frustration. This area is considered in more detail in Module 9 (on the effectiveness of governing bodies) but some relevant questions that you might like to think about are:

"I am very clear. I do not want to skim a thin layer of the whole institution, but focus on a smaller part where I can add value."

(Governor with private sector experience)

Questions:

- a) Are your own skills and knowledge being utilised to the full by your HEI and its governing body?**
- b) What skills and knowledge are not being utilised?**
- c) Why do you think this is the case?**
- d) Have you managed to comply with one of the basic tenets of governance that boards should not get involved in management issues?**
- e) Have you declared any special interests, whether commercial or not?**
- f) Have any 'promises' and commitments made to you at the time of your appointment to the board been kept?**

D: The Support You Receive From Your HEI

21. Most - not all - HEIs have at least basic systems in place to induct new governors, and provide the core information necessary to fulfil their role. Indeed the new CUC Guide⁵ is explicit that this is a clear institutional responsibility. Other HEIs go further and provide mentoring systems whereby new governors are partnered with more experienced ones in their first year. Whilst we don't want to encourage you to be unnecessarily critical of your HEI, the final part of this initial review of factors that determine your effectiveness is to consider the quality of the support that you receive.

Question: Has the support that you have received from your HEI been satisfactory, and if not what else would have been useful?⁶

For example, has it:

- Clarified the expectations of members of governing bodies?
- Provided all the information you reasonable needed?
- Provided a personalised induction programme?
- Offered access to appropriate training and briefing events?

If the support that your HEI provided could have been improved then your clerk or the chair needs to know, so that suitable measures can be put in place to avoid it happening in future.

" I am uneasy about the apparent assumption that experience elsewhere will necessarily improve the governance of universities. Outsiders coming to governing bodies must beware of arrogance, and be prepared to work their way up the learning curve."

(Governor with diplomatic service experience)

THE CULTURE OF YOUR INSTITUTION AND THE EFFECT ON GOVERNANCE

22. Despite their similarities HEIs are also very diverse. Not only do their missions vary (for example, some are much more research intensive than others), but history, tradition and culture are also very different. These factors can have a powerful influence on institutional life, and therefore governance.

23. There is no easy way of identifying the impact of institutional culture on governance, but it is nonetheless very real and may influence such factors as:

- The perceived role of the governing body.
- Relationships between the governing body and the executive.
- The style of governance and management, for example the amount of collegiality.
- The institutional approach to risk and entrepreneurship.
- Differences in educational character.

24. Institutional size is another important factor in influencing the nature and style of governance. Small HEIs typically have fewer specialist staff to provide support to the governing body, and there is a danger that individual governors will become too involved in operational activities thus blurring the distinction between governance and management. This issue is picked up in more detail in later modules.

5

Question: How would you characterise the culture of your institution, and what effect do you think it has on governance?

25. You might find it useful to discuss your thoughts about this question with other governors and the clerk or secretary, and clarify if these effects are intended or not. If you are a new appointee as a governor then your perceptions may be particularly useful as they will not be blinkered by familiarity with existing practices.

YOUR CONTRIBUTION TO THE BUSINESS OF THE GOVERNING BODY

26. As well as considering whether the best use is made of your skills and expertise you need to think about your effectiveness in helping the board undertake its responsibilities. The key ones⁷ are:

- Ensuring accountability and effective scrutiny.
- Approving future direction and institutional strategy.
- Measuring institutional performance.
- Appointing and ensuring the effectiveness of the CEO.

27. Undertaking these responsibilities requires a governing body to be proactive and clear about what it wants and the information it requires. The following survey may help you to think about your own effectiveness and contributions.⁸

"After eight years as a council member I now have more questions about the role of governors than ever - I see it as an evolving role in a changing environment."
(Governor with private sector experience)

6

Question: How effective do you think you have been in ensuring that your own governing body maximises its effectiveness?

One way of answering this question is to use a self-evaluation questionnaire to help board members review the effectiveness of their contribution, and this is now being done in an increasing number of HEIs. The following survey provides an example.

Rate your answer to each question on the following 4 point scale:

- 1 = You are very dissatisfied
- 2 = You are slightly dissatisfied
- 3 = You are slightly satisfied
- 4 = You are very satisfied

When completed, think through the implications of your answers and raise any relevant issues with the clerk or the chair of the board as appropriate.

	As a member of the governing body (GB) rate how satisfied you are that you:	1	2	3	4
1	<i>Fully understand your duties, obligations and responsibilities as a GB member?</i>				
2	<i>Have a clear understanding of all the responsibilities of the GB?</i>				
3	<i>Have read and understood all relevant regulatory documents of the GB?</i>				
4	<i>Understand and can interpret the mission of the university/college?</i>				
5	<i>Support the mission of the university/ college?</i>				
6	<i>Have a good working relationship with other GB members and the chief executive officer?</i>				
7	<i>Effectively advise and support the chief executive officer when help is requested?</i>				
8	<i>Are knowledgeable about the institution's activities and services?</i>				
9	<i>Follow trends and important developments in higher education?</i>				
10	<i>Read and understand the institution's financial statements?</i>				
11	<i>Act knowledgeably and prudently when making recommendations on investments?</i>				
12	<i>Focus your attention on key strategic issues rather than short term matters?</i>				
13	<i>Respect the confidentiality of GB and other committee meetings?</i>				
14	<i>Suggest appropriate agenda items for future GB or committee meetings?</i>				
15	<i>Are heard and considered when giving your opinions in GB meetings?</i>				
16	<i>Willingly volunteer to use your particular skills to further the institution's mission?</i>				
17	<i>Enhance the institution's public image by speaking about its work externally to others?</i>				
18	<i>Avoid inappropriate communication with staff or other members of the institution?</i>				
19	<i>Avoid conflicts of interest that might compromise the institution?</i>				
20	<i>Avoid asking for preferential treatment in any matters?</i>				
21	<i>Add one more question particularly relevant to you.....?</i>				

"In general, I would welcome more feedback on my contribution from the principal and the chair of my institution".

(Governor with private sector experience)

PULLING IT ALL TOGETHER: YOUR OWN REVIEW MEETING

28. This short section brings together some of the issues raised above in a practical way that may be of help to you and other governors. An increasing number of HEIs are now starting to introduce annual review meetings of governors, usually - but not necessarily - undertaken by the chair of the board. In any case, it is generally good practice for new governors to have such a meeting at the end of their first year of office. Imagine that you have such a meeting taking place in the near future to review your effectiveness as a member of the governing body in the last year.

29. In the box below you will see some simple questions typically used in preparing for review discussions. Using the information collected above, why not spend a few minutes in summarising your thoughts on how you are doing as a governor, and what you would like to do next year?

7

Questions:

- 1 *My main achievements as a governor in the last year have been:*
- 2 *The main strengths and weaknesses in my performance as a governor in the last year have been:*
- 3 *I would welcome greater support, training or development in the following areas to enhance my performance as a governor:*
- 4 *My skills and experience could be better used by the governing body in the following ways:*
- 5 *If possible next year I would welcome taking on additional responsibilities in relation to the following activities:*
- 6 *Other issues to highlight in your appraisal discussions:*

TAKING ACTION

30. As you work through the rest of the modules in this programme many things are likely to trigger your thoughts on how you could be a more effective governor. Therefore when you have finished the last module why not spend a few minutes returning to the questions asked in Box 7 above, and build in any additional issues or needs that have emerged?

31. Working through this module may have raised a number of issues and questions for you, both about your own effectiveness and that of the board of which you are a member. What happens next is for you to judge.

32. If you have been working through this module on your own, then we suggest that the next step is to arrange a meeting with the clerk or secretary of your governing body or the chair (whichever is most appropriate) to discuss the issues arising. If you don't want to do this on an individual basis, then you might suggest that a short meeting is convened of new governors (with the clerk or chair present) to discuss the issues more collaboratively. If you have been part of a small group using this module in an in-house workshop or development event, then it will be important for the group to decide with its facilitator what happens next, and what changes - if any - in the practice of governance need to be discussed with the chair of the governing body.

(Footnotes)

¹ See, for example, HM Treasury (2003), Lambert Review of Business-University Collaboration. For source see Module 7.

² CUC Guide for Members of Higher Education Governing Bodies, 2004 at www.shef.ac.uk/cuc

³ Gottlieb H, The Dirty Little Secret of Non-Profit Boards, at www.help4nonprofits.com

⁴ A Final Report to CUC on Good Practice in Six Areas of the Governance of HEIs, see www.sheffield.ac.uk/cuc

⁵ Ibid

⁶ In answering this question you might find it useful to examine a list of materials that the Institute of Chartered Secretaries and Administrators think should be available to new board members in different sectors. This list is too long to include in this pack, but can be found at www.icsa.org.uk/news/guidance.php and then select items 030214, 021204, and 040730.

⁷ For more details see Module 3

⁸ This activity has been adapted from a self-evaluation survey produced by Glasgow Caledonian University, and is reproduced with permission

Making Sense of Governance in Higher Education

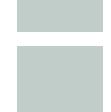
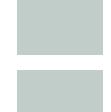
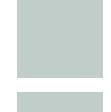
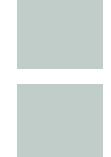
A Programme for Members of Governing Bodies in Universities and Colleges

1

2

Module 2:

An Overview of General Developments in Governance



MODULE 2: AN OVERVIEW OF GENERAL DEVELOPMENTS IN GOVERNANCE

1. The purpose of this module is to provide a brief overview of general developments in governance, including relatively recent changes in the private sector. It is designed to enable you to reflect on how governance is changing, and therefore how the changes in governance in higher education sit within a wider context. Within these few pages it obviously does not attempt any comprehensive coverage of the topic, and there are numerous existing sources which do this.¹
2. The module is divided into sections which review:
 - What is governance?
 - The general functions of governance.
 - What is good and bad governance?
 - Recent developments in governance.
 - Possible future developments.
3. Whatever the sector - private, public, charity, or higher education - governance is an important feature of organisational life, which has come increasingly to the fore in recent years. A decade or more ago there was relatively little interest in it, but this has grown and now there are regular stories in the media.
4. As the importance of governance has increased, so has the number and variety of specialised applications, for example: corporate governance, academic governance, research governance, clinical governance, and so on. There is now even reference to the governance of cyberspace!
5. Of course, reviewing governance in other sectors does not mean that higher education should be uncritical in adopting practice from elsewhere, and later in the module the differences between private sector governance and that in higher education are explored.

WHAT IS GOVERNANCE?

6. An overall definition of governance which is suitable for all sectors is not easy to achieve, and 'good practice' in governance is even more difficult to identify, as beyond a core set of activities it can vary from one setting to the next. Nonetheless a definition produced by the ICSA² is general enough to include the main elements of what might broadly be considered as governance: "Good governance is essential to the long-term success of any organisation, providing the systems and procedures to ensure that all the information is fed into the appropriate decision making forum, and resources are utilised effectively and in line with the strategic direction of the organisation". To do this, systems of governance are established which are distinct from management. To borrow a common saying: "if management is about running the business, governance is about seeing that it is run properly. All companies need governing as well as managing"³.
7. Therefore, the aim of systems of governance in all organisations is to provide a framework in which they can conduct their affairs properly, and to protect the interests of key stakeholders. The existence of a good governance system should help prevent senior managers taking the sort of action which could place these interests at risk.
8. In the UK private sector governance has historically been based on ensuring compliance to the rule of law, and safeguarding the security of stakeholder investment. More recently, the role of the board in adding shareholder value has come to the fore, and with it some scandals and calls for greater regulation. However, the picture is not a simple one. Governance systems also reflect the values of the times in which they are first established. For example, those of the older universities reflect the principles in their original charters which defined both their internal relations and those with the

"I've been a member of University council for eight years and we've never had a major problem, so what I want to know is why do we have to make all these changes just to keep the funding council happy?"

(Governor with private sector experience)

state; by contrast the governance systems of many modern HEIs reflect the political circumstances existing when they were created in the late 1980s and early 1990s. These were the Thatcher years and their governance systems show quite clearly the much stronger influence of the business principle.

THE GENERAL FUNCTIONS OF GOVERNANCE

9. Although governance takes many forms, at least four functions are found at the core of all governance systems:

- Ensuring accountability and effective scrutiny.
- Approving future direction and institutional strategy.
- Measuring institutional performance.
- Appointing and ensuring the effectiveness of the CEO.

However, many other functions exist in different sectors. For example, in the private sector there has been a general move towards a more performance oriented model of board behaviour.

10. Since the underlying functions of governance are broadly similar, the governance systems of organisations also share many features. In the UK these typically include:

- A line of accountability to a higher body or interest.
- A board, led by a chair drawn from its membership.
- A chief executive, as the officer responsible for the management of the organisation.
- A secretary or clerk who has a defined constitutional position.
- A scheme which sets out the rights, duties, obligations and responsibilities of each component part of the system.

11. The terminology varies according to the sector involved. In higher education, for example, the board is a council or board of governors, and its chief executive is the vice-chancellor or principal. In a commercial setting the positions on the board would be occupied by executive and non-executive directors, a chief executive, and a company secretary.

12. Beyond these core similarities there are also important differences. In business, the first line of accountability is to shareholders as the main stakeholders, expressed through an annual meeting which appoints the members of a company's board. In higher education the stakeholders are a much more diverse group, and may have numerous different - and sometimes conflicting - interests.

13. A second line of accountability is to any regulatory body, which may prescribe a trading framework. Outside the private sector the first lines of accountability are not to shareholders (who do not exist) but typically to stakeholders such as funding bodies or branches of government. Usually the annual meeting does not exist, or its role is much less developed⁴. As in the business sector, however, there is another line of accountability to appropriate regulatory authorities - indeed, it may sometimes be difficult to separate the main stakeholder from the main regulator.

14. Another area of difference concerns the size and composition of boards. In the corporate sector, the boards of even the largest companies tend to be small, and payments (sometimes substantial) are made reflecting board members' responsibilities. On the other hand, in some of the pre-1992 universities, boards have been large, although typically the size is now being reduced. Usually no payment is made to any members of a higher education board, although one university has recently introduced such payments for its chair and others are known to be considering it. In the last few years boards in the public and voluntary sectors have tended to operate somewhere between these two positions as they have gradually adopted some of the features of private sector governance. The role of chair of a health authority, for example, is now a salaried position, and payment is now also invariably made to other board members.

"Why do we always have to copy the private sector? They've been the ones with the corporate scandals not us, and now we're told to be more like them!"

(Staff governor)



"My background is in the manufacturing industry in the private sector, and I see a strong parallel between the functioning of a governing body and a board of directors.

In both cases the relationship between the (strategic) board and the (executive) management is of fundamental importance."

(Governor with private sector background)

15. There are other differences: in higher education, for example, the internal authority of the vice-chancellor or principal as chief executive may be much more circumscribed by an institution's 'collegial' systems than is the case in the private sector. The position and authority of a company secretary may also be stronger than that of a clerk to the board of an HEI.

1

Question: What differences you have found (if any) in the ways that the governing body of your HEI works with that of any board you have experienced in the private, public, charity or voluntary sectors?

"I find that the governing body is too large to be effective as a unit...The council in its present form is more like a parliament than a board, which many members, both lay and not, find very frustrating."

(Governor with mixed external experience)

WHAT IS GOOD AND BAD GOVERNANCE?

16. Governance is partly a system of checks and balances designed to contain and resolve the tensions between competing interests. If it is working well, such tensions may be rarely seen or are easily resolved in the corporate interest. However, good governance is active not passive, with a 'leadership' as well as a 'stewardship' role. In this sense, good governance continually adds value to an organisation.

17. However, good practice in governance is often hard to recognise. Although several codes have been developed to try and identify it (see below), much depends on local circumstances, and what works well in one institution may not in another. In particular, the relationship between the chief executive and chair of the board is crucial, and if a relationship based on trust and openness does not exist then mere compliance to a code is unlikely to ensure good practice.

18. Conversely, bad governance may be easier to recognise because of mistakes, omissions or the absence of generally accepted procedures. At a minimum, bad governance can mean not complying without good reason with any relevant good practice guides or codes, but there are numerous examples where such codes have been followed but where poor practice has nonetheless resulted. Accordingly, it is now much more common than hitherto for the effectiveness of governance systems to be monitored and publicly commented upon, and alleged poor governance exposed.

19. As an additional check to try and avoid poor governance, all HEIs are subject to institutional audits by their funding bodies which include reviewing governance arrangements, risk management, and associated issues.

2

Question: In his recent book the eminent economist J K Galbraith⁵ mischievously and provocatively sets out the challenge to private sector governance: "it must be accepted that power in the modern great corporation belongs to the management. The board of directors is an amiable entity, meeting with self-approval and fraternal respect but fully subordinate to the real power of the managers. The relationship somewhat resembles that of an honorary degree recipient to a member of a university faculty".

To what extent do you think this is true of corporate governance in your university or college?

20. If problems are not identified and dealt with an organisation can suffer a breakdown in governance, usually with major consequences as has been seen with several prominent private sector scandals. Higher education has had its own *cause célèbres*, although on a more modest scale than some in the private sector. However,

although such circumstances place organisations under great pressure, governance systems should be designed with just such challenges in mind. It usually requires a considerable collective oversight by key players for any issue to escalate to breakdown point.

RECENT DEVELOPMENTS IN GOVERNANCE

21. Recent developments in governance have been fuelled as much by changes in regulation (or changes designed to pre-empt such regulation), as by operational needs. They have generally been a response to calls for more transparency and accountability or a desire to increase stakeholder confidence and security, often prompted by a financial scandal in public or corporate life, or a corporate collapse. The overall trend of change in the last few years is towards greater and more rigorous codification of governance, and leaving less to discretion or chance.

22. Across the economy as a whole, there is no one overall body (internationally or within the UK) which takes responsibility for governance systems. Though the European Union is considering mandatory disclosure of corporate governance practices and the continued convergence of governance codes of practice in member states, there currently remains a high degree of international and sector autonomy. For this reason, changes in the general governance regime result from different, and sometimes overlapping, initiatives.

23. Thus, in recent years, a plethora of new or updated governance codes and guidance has been issued by a variety of agencies ranging from committees appointed by government departments through to stock exchange bodies, various investor representative groups, and professional bodies such as those for directors and company secretaries. In the university sector the Committee of University Chairmen (CUC) has produced such a code,⁶ which has been endorsed by the DfES, Treasury, and the UK higher education funding bodies (who generally keep university and college governance systems under review).

24. Often substantial discretion exists as to whether the codes are actually adopted by organisations, although within publicly funded bodies stakeholders and government can usually bring sufficient pressure to bear to ensure that they do. Any opposition is usually not simply gratuitous, but rooted in a realisation that such changes invariably increase transaction costs and may lessen willingness to take the kind of risks essential for future development and success.

The Private Sector

25. Pressure for change in this sector has been the Combined Code of Governance and its subsequent amendment, produced as a result a series of corporate collapses and financial scandals in the 1980s. The Financial Reporting Council, the London Stock Exchange, and the accountancy profession established the Committee on the Financial Aspects of Corporate Governance in May 1991 (chaired by Sir Adrian Cadbury). A key part of its report was a recommended Code of Best Practice with which the boards of all Stock Exchange listed companies registered in the UK should comply. The Committee also hoped that other companies would adopt the code. The Cadbury Report was followed by others on related aspects of governance: the Greenbury Report (1995) and the Hampel Report (1998). The various recommendations contained in these were drawn together by the Financial Reporting Council and published as the Combined Code in 1998.

26. The original Combined Code was not sufficiently robust, and in 2003 it was updated and reissued⁷ taking account of: the Turnbull report on internal controls (1999); the Myners review of institutional investment (2001); the Higgs review of the role and effectiveness of non-executive directors (2003); the Tyson review of the recruitment and development of non-executive directors (2003); and the Smith review of audit committees (2003).⁸

27. Whilst one aspect of the drive towards codification has been the development and

updating of combined documentation, another has been a partial move away from the voluntary or discretionary principle. The Combined Code operates on a 'comply or explain' principle, meaning that where a company cannot comply with the Code then it should explain why. This is a step on from the voluntary principle which had hitherto characterised the use of governance codes, but is clearly a step short of outright compulsion. The higher education funding bodies are likely to use the new CUC Code of Practice in the same way.

28. There are likely to be further refinements of the Combined Code. For example, the Turnbull Review Group has been looking at providing further guidance on risk management with a view to making recommendations from January 2006. The implications for higher education remain to be seen. Amongst other current influences are two from outside the UK: the European Union review of company law, and the USA Sarbanes-Oxley Act concerned with the need for the closer regulation of auditing following the Enron and Arthur Andersen experiences.

3

Question: The Combined Code on Corporate Governance
(see paragraph 26 above) defines a board's main role in the private sector as being "to provide entrepreneurial leadership of the company within a framework of prudent and effective controls which enables risk to be assessed and managed" (our emphasis).

a) Is this definition appropriate or not for the governing body of your HEI, and why?

b) What do you think would be the answer to the same question by your fellow governors?

The Public and Voluntary Sectors

29. The key driver for change in the governance systems of public and voluntary sector organisations has been a push for higher standards expected of those who take part in public life. The catalyst was concern about the way in which some people were operating in local and national government in the mid-1990s, and in 1996 the Committee on Standards in Public Life (chaired by Lord Nolan) drew up a set of seven principles which it recommended should underpin the actions of everyone in public life. The resulting 'Nolan Principles', as they have come to be known, are set out below. Whilst most have been characteristic of good public and voluntary sector governance for a very long time, over the last few years they have been formally adopted by most organisations as statements of the expectations of the members of their governing bodies.

The Nolan Principles

Selflessness - Holders of public office should take decisions in terms of the public interest. They should not do so in order to gain financial or other material benefit for themselves, their family or their friends.

Integrity - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward and benefits, holders of public office should make choices on merit.

Accountability - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands this.

Honesty - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership - Holders of public office should promote and support these principles by leadership and example.

30. Beyond the Nolan principles, up to now there has been no agreed single comprehensive statement of governance for the public and voluntary sectors. However, the new Code for Public Services has recently been produced by the Independent Commission on Good Governance.⁹ How widely it will be used is not yet clear, as there is a question on how appropriate it is for a single code to try to embrace the wide variety of organisations in these sectors. The Code does not apply to higher education.

Higher Education

31. Governance of higher education is very diverse, although there is a gradual trend for HEIs to move away from a traditional 'stakeholder' model of governance (often heavily influenced by representatives of local or professional bodies) towards a more performance driven approach. The new CUC Guide is likely to give considerable impetus to this.

32. Recently, the Treasury has exerted most pressure for change in higher education governance by establishing the Lambert Review of University–Business Collaboration, which reported in December 2003¹⁰. Its interest began as a concern to establish whether higher education was collaborating sufficiently with the private sector in the interests of UK economic growth. However, the Treasury's interest widened to include corporate governance.

33 The Lambert Report largely exonerated the sector from criticism and referred to a number of examples of good practice in governance. Nevertheless it did call for the introduction of an overriding governance code for the sector, to mirror the Combined Code which had emerged for the business sector.

34. Mindful of the veiled threat of direct government intervention, the CUC with SCOP and with financial support from the funding bodies, commissioned a revised guide to good governance in the sector with a governance Code of Practice recommended for adoption by all HEIs. The document included, amongst other elements, the Nolan Principles, and referred to the Combined Code.

POSSIBLE FUTURE DEVELOPMENTS

35. It is apparent from this brief overview, that the world of governance is not static. One immediate future change will be the need to bring governance systems into line with an anticipated amendment to charity law. Under this the tests of charitable status and duties of trusteeship are expected to become more rigorous, and extend further into the somewhat grey area of 'exempt charity' status held by many universities and colleges (see Module 4). A more far reaching challenge to existing governance arrangements could come from the emerging problems with pensions which may cause major financial difficulties for some HEIs.

36. It is also likely that there will be a continuation of the trend toward ever more rigorous codification of governance arrangements and greater expectations of governance itself. However, the tendency for codes to proliferate may be overtaken by a stronger drive toward standardisation and corresponding lessening of the voluntary adoption principle.

37. In the short term the new governance code of practice for higher education is likely to take centre stage, and the first challenge is whether it is formally adopted by all the individual HEIs. Most are likely to welcome it, but it may be a step too far for a few.

38. Partly because of these developments, the trend towards a more performance driven model of a governing body is likely to continue to gain ground. Some HEIs already want to go beyond the recommendation in the Code of Practice for boards of no more than 25 members, and move to smaller executive style boards. Others - probably at the moment a minority - are starting to question the voluntary principle of membership and wish to remunerate board members. However, support for a performance driven model varies, and some HEIs are concerned that this might weaken traditional processes of academic governance. The debate will continue!

"Personally I would like to see governing bodies become much smaller in the future: although perhaps a bit larger than a company board. The CUC proposal for a membership of 25 is still too large in my view"

(Governor with private sector experience)

4

Question: What are the main changes that you predict might happen in the next five years to the way that your governing body is run. How prepared do you think that it is for such changes?

If the issues raised are significant you might like to discuss them with the clerk or secretary to your board or the chair.

(Footnotes)

¹ For example a starting point might be such web sources as: the Institute of Directors (www.iod.com); and the Institute of Chartered Secretaries and Administrators (www.icsa.org.uk).

² The Institute of Chartered Secretaries and Administrators see www.icsa.org.uk

³ R.I. Tricker, Corporate Governance (Gower, 1984), quoted in Brian Coyle, ICSA Professional Development : Corporate Governance, 2nd ed, London: ICSA Publishing Ltd., 2004) p.4.

⁴ A small number of HEIs that have been formally established as companies by guarantee also have AGMs

⁵ Galbraith JK, The Economics of Innocent Fraud, Allen Lane, 2004 page 74

⁶ Included in the Guide For Members of Governing Bodies, 2004, see www.shef.ac.uk/cuc

⁷ The Code can be found at www.frc.org.uk/documents/pdf/combinedcode.pdf

⁸ For references to these reports see the bibliography attached to Module 10

⁹ Details can be found at the website of the Office for Public Management, one of the sponsors of the initiative. See <http://www.opm.co.uk/ICGGPS/index.htm>.

¹⁰ For a summary see Module 7. It is available at the Treasury web site: www.hm-treasury.gov.uk/EA556/lambert_review_final_450/pdf

Making Sense of Governance in Higher Education

A Programme for Members of Governing Bodies in Universities and Colleges

1

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Module 3:

Introduction to the Practice of
Governance in Higher Education

MODULE 3: INTRODUCTION TO THE PRACTICE OF GOVERNANCE IN HIGHER EDUCATION

1. In Module 2 the general concept of governance was explored; against that background, this module considers the specific practice of governance in higher education. Two main questions are addressed: 'What will I be involved in as a governor?' and 'How should I prepare for the task?'. After reading the module participants should be able to identify the key aspects of how higher education governance works.

2. The content of the module is organised under the following headings:

- The duties of governance in higher education
- Governance not management
- The cycle of governance
- The structure of governance
- Academic governance
- Preparation for governance
- The information needed for governance
- The governance compact
- Governance *in extremis*

3. This module makes no attempt to duplicate the content of the new CUC Guide for Governors¹ and should be read alongside it. That Guide sets out in detail the responsibilities of governing bodies.

THE DUTIES OF GOVERNANCE IN HIGHER EDUCATION

4. The duties for which your board of governors - and therefore you - are responsible are set out in your institution's charter and statutes (pre-1992 HEIs) or instruments and articles (post-1992 HEIs), the legal basis of which is explored in Module 4. Governors will normally have been given a copy at induction, but if not they should ask for one.

5. These duties include overall responsibility for the following (although the list is not exhaustive): approving institutional mission and strategy; financial solvency; resourcing; employment and HR; senior appointments and their remuneration; board conduct, membership and office holders; delegation; student union; audit; legal compliance; and (in post-1992 HEIs only) determining educational character. The detailed list of duties that apply to your own board may be set out in a statement of primary responsibilities which has been recommended by CUC.

6. However, a number of key responsibilities flow from more general tasks of governance, which may not be expressly referred to in the statutes or articles. They include responsibility for: an overall duty of care; the regular monitoring of institutional performance; monitoring institutional reputation; and acting as a 'critical friend' to the executive. Precisely because they are not set out in detail in the statutes or articles, they can be the most challenging duties to fulfil.

7. The vast majority of these duties are discharged by governors sitting and taking decisions as members of the main governing body and its committees, and on the basis of papers prepared by the executive. However, the individual governor is expected to make up his or her mind on all issues - a point discussed in more detail below.

"As a board member I don't want to run the institution or be too involved in operational matters but I do want to know what is going on and monitor, question and scrutinise the decisions of the executive team"

(Governor with private sector experience)

1

Questions:

a) Overall, are you clear about the tasks and responsibilities that you have as a governor in your own HEI? If not, why not?

b) Look at the statutes or instruments which define the responsibilities of governors in your own HEI, and consider which - if any - of them are ambiguous or need clarification from the clerk or the chair?

8. A specific issue which influences how these tasks are undertaken is the distinction between 'corporate governance', and 'academic governance'. While 'corporate governance' is primarily concerned with an institution's legal and financial standing, 'academic governance' involves the integrity of its core activities of teaching and research. While all boards have unambiguous responsibility for all aspects of governance, only in post-1992 HEIs do they have an explicit responsibility for determining "educational character and mission".

GOVERNANCE NOT MANAGEMENT

9. The role of the governing body is to govern and not to manage the institution. This is the job of the chief executive officer (usually the vice-chancellor or principal) and others appointed by a board for this purpose. The following extract from the Glion Declaration² expresses the distinction: *"There is a world of difference between governance and management. Governance involves the responsibility for approving the mission and goals of the institution; the oversight of its resources; the approval of its policies and procedures; the appointment, review and support of its chief executive; and an informed understanding of its programme and activities. Management, in contrast, involves the responsibility for the effective operation of the institution and the achievement of its goals within the policies and procedures approved by the board; the effective use of resources; the creative support and performance of teaching, research and services; and maintenance of the highest standards of scholarly integrity and professional performance. The responsibility of the board is to govern but not to manage."³*

10. Whilst this description is generally true, there may be exceptional circumstances where the line between management and governance becomes blurred, for example:

- In some HEIs it is quite normal for there to be overlapping membership and joint committees between the governing body and the academic board or senate.
- Because of the expertise of individual governors there may be occasions when the head of the institution chooses to seek specialist advice about a sensitive decision.
- In small institutions governors may find themselves particularly involved in operational matters because of the lack of specialist support staff.

11. In each of these cases the separation between management and governance can be maintained, but a board needs to be sure that appropriate checks and balances are in place to avoid an unintended blurring of boundaries.

"In my view, the involvement of council is at about the right level.... given the time pressures on individual members and the opportunity that each has to enquire further if desired".
(Governor with NHS experience)

2

Question: Is the balance between governance and management maintained appropriately in your institution?

In answering this question you might find it useful to think of an example of an issue where the boundaries did (or could have) become blurred.

THE CYCLE OF GOVERNANCE

12. Your own governing body will meet regularly according to an agreed annual cycle. The new CUC Code of Practice recommends not fewer than four meetings year, and boards may meet more often. Routine meetings, running according to the calendar approved by a board, are usually called by the clerk. Others are called at the request of the chair, or - very exceptionally - at the request of another group of governors where this is provided for under the articles.
13. For those HEIs which adopt the four meetings pattern, an early autumn meeting is usual and enables a board to monitor that student recruitment is on track, and therefore that a key income source meets projections. The early autumn meeting is also a good opportunity to review the previous academic year (for example, receiving from the academic board or senate an annual report on academic issues), and also to look forward to the year ahead and identify key issues.
14. At a late autumn or early winter meeting (often in December) the previous year's annual accounts can be approved (on the advice of the external auditors and the board's finance and audit committees). These accounts will now include a corporate governance statement confirming that proper account has been taken of risk and related matters during the previous financial year. The timing of this meeting also allow the annual report from a board's audit committee to be approved and sent to the relevant funding body.
15. A spring meeting enables an institution's annual report for the previous year to be approved, as well as an annual revenue and capital budget for the forthcoming financial year commencing on 1 August. It also enables progress in the delivery of an institution's strategic plan to be reviewed, and the following year's annual strategic statement and future financial projections to be approved before being sent to the funding body.
16. Finally, a summer meeting is an opportune time for a board to review the academic year ahead, as well as receiving and considering reports from the AGMs of any associated companies which have been established.
17. Those boards which meet more frequently find that this four meeting cycle does not allow adequate time for discussion of strategy and other key issues, and therefore arrange for additional meetings including 'awaydays'.
18. Routine calendared meetings of a board should not be cancelled without good reason and approval by the chair. In such circumstances a board still has a duty to meet the requisite minimum number of times a year.
19. Some issues are only addressed periodically and then spread over a number of meetings until completed (eg. the approval and oversight of a major new building project). Special meetings can also be held to deal with urgent business, given reasonable notice.
20. Faced with a daunting calendar of meetings, and all the other time pressures in their lives, governors sometimes ask how many meetings and committees they are really expected to attend. The simple answer is "all of them". The reason is quite simple: the contribution of individual governors is crucial, not least because an individual governor is party to decisions even if he or she has not actually attended. Non-attendance is also unfair on governors who do regularly turn up, and therefore carry a greater proportion of the work of the board or committees.
21. There is also an important formal point of quoracy. A board or committee is only able to arrive at binding decisions, if a meeting is quorate when a decision is taken. A board will have established in its articles (or elsewhere) the critical number, and what it can do if it is not quorate. This said, there will always be the odd occasion when a governor is unable to attend. At the very least, he or she should contact the clerk in advance to present apologies. It is good practice for the board or its governance

committee to monitor attendance and report the outcomes annually. In the final resort, most boards will have an agreed protocol governing poor attendance and could ask a governor to stand down if breached.

3

Questions:

a) Consider your own board's agendas over the last two years. Can you detect a standard cycle for the calendar of business? If so, what is it and why has it been adopted?

b) What items have not fitted this pattern and why?

THE STRUCTURE OF GOVERNANCE

22. To enable a governing body to provide detailed scrutiny, much of its business is transacted through committees. Various degrees of authority (expressed as terms of reference) are delegated by a board to these committees. You will find that their remits generally mirror the main task areas for a board, and their meetings are designed to feed into the regular meetings of the main governing body.

23. So far as governing body committees are concerned, these *must* include an audit committee and a remuneration committee (determining the salaries and any other payments to senior staff). They *usually* also include a finance or resources committee and a nominations or governance committee. In larger HEIs it is likely - but not inevitable - that there will be separate sub-committees for specialised resource areas (eg estates and HR). Strategic planning may be dealt with by a freestanding committee, by the main resources committee, or by the main board itself. It is also open to a board to establish *ad hoc* committees.

24. These various committees are not sovereign but must report their decisions to the governing body. There may be a formal scheme of delegation to enable 'who is responsible for what' to be clear. The audit committee is a partial exception to this, as it enjoys a greater degree of autonomy because it has an annual reporting line to (in England) the HEFCE Audit and Assurance Service, as well as to the governing body itself.

25. In addition, a board must also ensure the effective operation of the main academic committee (academic board or senate) which plays a key role in academic governance. This is not a governors' committee in that governors are not members, but the terms of reference are approved by the governing body and they remain accountable. There may well be networks of academic committees beyond this reaching deep into the life of the institution, but it is rare for governors to have a formal role in these except in approving the creation of a new academic committee or closing an existing one. However, in a small number of HEIs governors may have observer status on some academic committees in order to increase their understanding about academic issues.

"As a member of the planning and resources committee, I do feel that I can influence strategy at an early stage"

(Governor with mixed external experience)

26. Where a large number of committees exist, all governors are likely to be expected to serve on at least one. However, the tendency is for the number of committees to be kept to a minimum, and therefore participation may not always be possible. Post-1992 higher education corporations, under the terms of the 1988 Education Reform Act, are usually required to exclude staff and student governors from committees which deal with personnel and resourcing matters. This, and similar restrictions, are explored in Module 6.

"Council is used as a rubber stamp, not to exercise control. Most governors don't want to rock the boat. Things have improved a little by better involvement in committee work, but not enough in my view."

(Governor with mixed external experience)

27. It should be your experience as a governor that minutes are taken at every board and committee meeting, normally by the clerk or their representative. These should be approved at the next meeting, and also received by or reported to the board. These minutes form part of the auditable record of the institution and, in accordance with the terms of the Freedom of Information Act, should be made generally available

(unless - and rarely - a valid case can be made for not doing so, and such a decision is approved by the board).

4

Questions:

a) What are the main committees which report to the governing body in your institution?

b) What, in general terms, is the role of each?

c) What are the main terms of reference of the committee/s of which you are a member?

"There is little or no interface between the governing body and the academic board"
(Governor with public sector experience)

ACADEMIC GOVERNANCE

28. Academic governance is the process whereby a university or college takes academic decisions. At its core are matters concerning academic standards, quality, assessment, and academic awards, but in many institutions it has also involved issues of academic policy. In post-1992 HEIs the responsibility of the governing body for determining educational character and mission provides a greater involvement in aspects of academic governance than in the pre-1992 sector. However, the relationships between the board and the main academic committees often remain somewhat of a mystery to many governors. In particular, independent governors in pre-1992 HEIs are often surprised that teaching and research, which are the 'core business' of their institution, are not the direct responsibility of the board.

29. For much of the higher education sector academic governance has traditionally been an important element in how HEIs have been run, and an inherent part of governance since the foundation of the ancient universities. Reasons for this include:

- Judgements about the standards and quality of teaching, research and scholarship are best made by those directly involved.
- Many academic staff maintain a loyalty to their discipline which in some cases may be as strong as or stronger than any loyalty to their employing institution.
- There has been a tradition of participation and openness in academic decision making, and in many HEIs a strong 'bottom-up' style of management has existed.

These characteristics are stronger in some HEIs than others, and in some cases have waned in recent years with the strengthening of management, but collectively they give an element of distinctiveness to the HE sector.

30. The legal status of an HEI in terms of corporate governance and its academic status in terms of academic governance are not always identical. For example, some higher education colleges without their own degree-awarding powers may be autonomous in terms of corporate governance, but are still answerable to the institutions which accredit their programmes.

31. The structure of academic governance centres on the academic board (post-1992 HEIs) or senate (pre-1992 HEIs), although occasionally other names are used. The nature of the formal relationship between the governing body and the senate/academic board has some significant differences between pre-1992 universities and post-1992 HEIs (see the new CUC Guide for more information on the legal basis for this). However, there are some common operational elements:

- The nature, frequency and style of reporting between the senate or academic board and the governing body.
- The degree of authority delegated by the governors to sub-committees.
- Whether there are any joint responsibilities or statutory joint bodies.

These are briefly considered in turn.

32. **Reporting** - In most HEIs the academic board/senate makes a written report to the governing body, or provides a set of minutes. It is also usual for the senate (and sometimes the academic board) to consider major academic planning matters before they go to the governing body, in particular the strategic plan and monitoring progress against this. Such reports give governors an opportunity to discuss academic matters, and enable academic staff members on the governing body to interact with their independent colleagues on familiar ground.

"The governing body is nowdays much better informed on academic issues than was the case when I became a governor 10 years ago!"

(Governor with private sector experience)

33. **Delegated Authority** - The governing instruments of your own institution will specify those governing body responsibilities which may not be delegated, but in many areas matters may be delegated to committees or to senior managers. Some HEIs exercise such delegation through a comprehensive scheme of delegation; others have a less structured arrangement. Whatever the formal basis, it is important that reports on the use of delegated authority are regularly made to the governing body.

34. **Joint Functions, Responsibilities or Bodies** - The potential for a lack of coordination between the governing body and the senate/academic board was recognised as long ago as the mid 1980s. The Jarrett Committee⁴ recommended that university councils and senates should jointly set up planning and resources committees to consider academic and resource issues as one body, so that academic plans were firmly grounded and proposals to councils reflected full consideration of both standpoints. As a way of retaining shared governance many institutions have joint bodies of this sort, dealing with issues such as strategic planning, risk management, the measurement of institutional performance, etc.

"I love being a governor, but I have real difficulty over understanding that the main thing this place is about (teaching and research) is something that we are not directly involved in"

(Governor with public sector experience)

35. A growing number of HEIs now hold 'away days' for governing bodies to consider strategic and other developments in much greater depth than is possible during normal business meetings. These events are sometimes held jointly with senates or academic boards and senior management teams. Other institutions have adopted more innovative methods of strengthening the governors' relationships with the academic community, for example independent members attend meetings of academic boards or academic planning bodies as observers.

36. However, the 'traditional' systems of academic governance are increasingly coming under challenge for numerous reasons including:

- The need for speedy decision making in the face of the rapid pace of external change.
- The growing complexity of funding arrangements on institutional and academic practice.
- The growth of managerial devolution to academic resource units. Where there is such devolution, in many HEIs the role of the senate or academic board is being diminished, and governing bodies cannot assume that reports from them will provide a comprehensive picture of academic development.

37. Partly for these reasons the CUC Guide for Members of Governing Bodies⁵ recommends regular reviews of the effectiveness of academic boards or senates and their committees. Ensuring that these are undertaken will be an important task for governing bodies in the next few years.

Questions:

Consider the two cases below which have implications for the extent and nature of any responsibility of the governing body for academic issues:

a) The School of Humanities wants to close its BA in History which recruits 50 students a year. If this happened in your HEI, in what way - if any - should the governing body be involved in this decision?

b) The University Executive wants to close the Department of Chemistry which is under-recruiting. If this happened in your HEI, in what way - if any - should the governing body be involved in this decision?

In thinking about your answers, you will need to take account of the following:

- There is no standard approach as different HEIs would probably answer the question in different ways.
- Which body or person in your HEI should be responsible for taking the final decision in each case?
- What should be the responsibilities - if any - of: the governing body; the academic board/senate; the executive; the dean or head of the unit concerned; key others?
- Are there major strategic issues which should involve the governing body?
- If you think that the governing body should not be directly involved, how can it be assured that those who are responsible have taken the correct decision in the best strategic interests of the HEI?
- If either the staff who teach History or Chemistry seek to lobby the governing body in protest at the decision, what should the board do?
- Have any similar cases actually happened recently at your HEI, and if so what did your governing body do and why?

You may want to compare your answers with other members of your governing body and the chair, in order to see if there is an agreed view.

PREPARATION FOR GOVERNANCE

38. There is now an increasing expectation that governors will be properly prepared for their role, (indeed your interest in these modules suggests that this is the case in your institution). Preparation for governance becomes even more important as many HEIs seek to attract board members from more diverse backgrounds than previously. There are at least four aspects to such preparation:

- Induction into the role and duties of a governor.
- Regular updating and development of the knowledge and skills of governors.
- Preparation for taking on particular duties, for example committee membership or a disciplinary appeal panel.
- Preparation for taking on a specific position of leadership, which might be the chair of a committee, or even the deputy chair or chair of the main board.

39. As the governing body has primary responsibility for providing support under each of these headings, it should have approved policies on its expectations of governors. There is also, of course, an important responsibility on individual governors to take part in the relevant activities.

40. In practice, HEIs meet their responsibilities in this area in different ways, and these are summarised in a recent report for CUC on good practice in six aspects of governance.⁶ Nationally, the Leadership Foundation for Higher Education is now providing both a governor development programme and also advisory services for HEIs.⁷

"Induction programmes are arranged.... but take up is patchy - given the voluntary nature of governors' work this is understandable"

(Governor with mixed external experience)

6

Questions:

a) What are your institution's arrangements and expectations for the induction and continuing development of governors?

b) Are you committed to them? Is there anything further you might do?

c) Do the arrangements appear fit for purpose, and are there any improvements that might be made?

If you are in any doubt as to what your board's arrangements are and the opportunities available to you, then you should contact the clerk to your governing body.

THE INFORMATION NEEDED FOR GOVERNANCE

41. Good governance depends upon your having access to robust, timely, and relevant information, which you understand and have the opportunity to digest properly. Three kinds of information are relevant here:

- Basic information which a new governor needs.
- Routine information to enable boards to undertake their monitoring role.
- Specific information required for one-off decisions.

42. **Basic information:** This is about the institution and its governance, and would normally be made available as part of the induction process. It might include:

- The institution's current mission, aims and objectives as set out in its strategic plan.
- Constitutional documents eg charter or instruments etc
- Key statistics on the size of the institution and the range and volume of its work.
- Key financial data including - but not restricted to - the annual accounts.
- Detailed organisational structure (including the key senior managers and their portfolios).
- An overview of the size and condition of the institution's campuses and buildings, and of the terms under which they are held.
- An awareness of the institution's main partners and the key agencies with which it routinely engages.
- A listing of any associated companies or trusts for which the governing body is responsible.
- A calendar of governing body and committee meetings.
- A briefing from senior management on the big issues with which the institution is presently - or about to be - engaged.
- Information on how governors are expected to become involved outside formal

"It is impossible to get this balance right for every governor all of the time. Sometimes I feel swamped by the level of papers arriving before a full meeting."

(Governor with mixed external experience)

calendared meetings.

- General information on the higher education sector.

43. **Routine information:** ‘No surprises’ is one of the mantras of good governance: that is to say, governors have a right to expect the earliest possible warning of any adverse trends so as to seek assurances from management that action is being taken. To this end, most governing bodies will receive regular summaries of key financial and other performance indicators. A fuller and more rigorous set of indicators would normally be regularly reported to the finance or resources committee.

44. **Specific information:** This enables governors to be informed about specific decisions to be taken, and to ensure that a board has possession of all relevant facts. For this reason decisions should be taken on the basis of published agenda and written papers circulated before to a meeting. It is the responsibility of the clerk and management to ensure that this is done, and equally, the responsibility of individual governors to read and digest the material. Setting aside sufficient time to understand information is one of the most important disciplines required of a governor.

45. There is a fine line when it comes to the amount of information given to governors. Too little, and they are not in receipt of all material facts to take a decision; too much, and the papers will not be properly read and governors could argue that the management has failed to distil the essence of the matter concerned. To address this some HEIs have started to provide optional additional information on a dedicated governor web site. However, the onus remains with the individual governor to feel comfortable with the amount of information needed to allow proper and informed participation in decision making.

46. The same principle applies to professional advice. Whilst this would normally be provided by appropriate managers and the clerk, a board can request external specialist professional advice in exceptional circumstances.

THE GOVERNANCE COMPACT

47. An important potential paradox lies at the heart of good governance. On the one hand, as a member of a board of governors you are required to make up your own mind on matters. In so doing, you should not see yourself as representing any specific interest, rather the focus should always be on the question: ‘what course of action will be in the best interests of the institution as a whole?’ On the other hand, all decisions of the governing body and its committees ultimately need to be reached through consensus. Individual governors may argue a particular point of view in a meeting, but the final decision should be collective. It should then be owned and, if necessary, defended by each individual member. These disciplines and expectations can be particularly challenging for staff and student governors (a point explored in greater depth in Module 6).

48. At best, the arrangements for governance provide a powerful set of checks and balances. In practice, they amount to a ‘compact’ involving governors, the chair of the board, the chief executive (vice-chancellor or principal), the academic board or senate as the core of the academic governance system, and the clerk or secretary to the board as the custodian of due process.

49. The cornerstone of the compact is the notion of trust and openness amongst the parties involved. However, it would be a failure of governance if this trust were unquestioning. A fine line always needs to be drawn.

GOVERNANCE IN EXTREMIS

50. From time to time the governance of HEIs may come under considerable pressure. For example, there may at any given time be a handful of institutions which are regarded by their funding body as being at risk because they are facing particularly challenging financial or governance circumstances, and as a result are being monitored more actively than usual.

“It is too easy to assume that leadership resides in a few key members, such as the vice chancellor, rather than accepting that lay members have a responsibility to fulfil a role in supporting the university through coaching, counselling and advising as appropriate.”

(Governor with private sector experience)

51. There is absolutely nothing wrong, of course, in an institution's management and governing body working closely with a key external agency (such as a funding body) on the basis of shared information and an agreed strategy to deal with a major problem. Indeed, in extreme conditions it can amount to good governance. For this to be the case, however, the key test is that:

- Governors have identified a major problem, which may or may not first have been drawn to their attention by the chief executive.
- In conjunction with the chief executive they have approved a strategy for dealing with it.
- As part of this strategy they have made a conscious decision to share this with the relevant external agency, and to call upon support and guidance which may be available.

52. Of course, such decisions should not be taken lightly, as arguably it is governors' first duty to ensure that external interventions are never needed. However, decisions taken by a board to acknowledge a major problem and involving third parties are always preferable to the alternative: uninvited external intervention, justified on the basis of a perceived failure of governance.⁸

(Footnotes)

¹ CUC Guide for Members of Higher Education Governing Bodies, 2004 at www.shef.ac.uk/cuc

² The Glion Declaration was produced following a meeting of 20 senior figures in higher education from both Europe and the USA in Glion, Switzerland in May 1998

³ The Glion Declaration II: The Governance of Universities, AGB Occasional Paper 46, Association of Governing Boards of Universities and Colleges, Washington DC, 2000

⁴ Report of the Steering Committee for Efficiency Studies in Universities, March 1985

⁵ See www.shef.ac.uk/cuc

⁶ CHEMS Consulting, A Final Report to the CUC on Good Practice in Six Areas of the Governance of Higher Education Institutions, 2004, see www.shef.ac.uk/cuc

⁷ See www.lfhe.ac.uk

⁸ These issues are explored in more detail in Warner D and Palfreyman D (eds), Managing Crisis, Open University Press, Maidenhead, 2003.

Making Sense of Governance in Higher Education

A Programme for Members of Governing Bodies in Universities and Colleges

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Module 4:

The Legal Framework of Governance -
What it Means For You

MODULE 4: THE LEGAL AND REGULATORY FRAMEWORK OF GOVERNANCE - WHAT IT MEANS FOR YOU

1. The legal basis of higher education governance can be confusing, and may seem odd, even to those who are experienced in serving on boards in business or public life. It can be a particular concern for first time governors, who understandably want to know what the law says about their own responsibilities and liabilities. This module clarifies the legal and regulatory framework of governance in the following areas:

- A summary of the legal status of HEIs.
- Your own liabilities as a governor.
- The main legal obligations of the governing body.
- The main regulatory obligations of the governing body.
- The roles of governing body members.
- The roles of key officers.

2. Because of the nature of the content, this module is intended more as a reference for governors than development material, although questions are asked as prompts in several places. Inevitably, the content also overlaps slightly with parts of Modules 3 and 5. You should use this module in conjunction with the new CUC Guide for Members of Governing Bodies¹ and information provided by your own institution.

A SUMMARY OF THE LEGAL STATUS OF HEIs

Pre-1992 HEIs

3. The governance framework in most pre-1992 universities is set down in the charter, statutes and ordinances. Charters give the council (governing body) general control over the affairs of the institution, specifically the management and administration of the finances and property. Most of these institutions were established by Royal Charter; as such they are formally chartered corporations and are often referred to as 'chartered universities'. More detailed duties are usually contained in the statutes. The structures in England, Wales and Northern Ireland are very similar, but there are some differences in Scotland.

4. A few pre-1992 universities were established by a specific Act of Parliament; they are known as statutory corporations, as their Acts include their statutes. Their internal structures of governance are similar to those of chartered corporations. There are also a few institutions set up as companies limited by guarantee, and the Universities of Oxford and Cambridge have neither a Royal Charter nor an Act of Parliament, but a body of statutes.

5. Although the councils of pre-1992 universities are formally responsible for the oversight of the whole institution, and most have accepted that they have "unambiguous and collective responsibility" (as described in the CUC Guide) there is usually a distinct role for the senate or academic board. Charters and statutes set out the senate's role as the body with responsibility for academic matters and the oversight of teaching, examining and research. In the pre-

"My initial reaction on becoming a board member was how complex everything was: lots of what I would call business units all with different needs and objectives, and no standard system of reporting. It was completely unclear how - if at all - they related to the board."

(Governor with private sector experience)

1992 universities there are usually a number of council members nominated by the senate, often together with academic staff elected by and from the whole of the academic staff. In addition, some senior staff may have *ex-officio* membership of both senate and council. Thus there is usually a significant awareness in the council of the status and role of the senate, which will soon be apparent to new independent members.

Post-1992 HEIs

6. The post-1992 HEIs comprise the former polytechnics and colleges of higher education. They are higher education corporations, whose structures of governance derive from the 1988 Education Reform Act and the 1992 Further and Higher Education Act. The governing arrangements are set out in an instrument of government (defined in the 1988 Act), and articles of government, which are generally very similar, having all been subject to the approval of the Secretary of State for Education. In contrast to the pre-1992 universities, their model of governance specifies: a more powerful role for the vice-chancellor/principal as chief executive; a larger majority of external members on the governing body; limited participation of staff and students in governance; and a lesser role for the academic board. A small number of post-1992 HEIs are established as companies limited by guarantee. Their governing instruments are a memorandum and articles of association, which incorporate the provisions of the instruments and articles of government common to the post-1992 sector. For these HEIs the governing body also acts as the company board of directors

7. The standard instrument of government in post-1992 HEIs usually contains little on the work of the governing body, but the articles of government usually contain five standard responsibilities of the board:

- Determination of the educational character and mission of the institution and oversight of its activities.
- Effective and efficient use of resources, solvency of the institution and safeguarding of its assets.
- Approving annual estimates of income and expenditure.
- The appointment, grading, appraisal, suspension, dismissal and determination of the pay and conditions of service of holders of senior posts (usually the vice-chancellor or principal, deputy principal(s), clerk, and director of finance).
- Setting a framework for the pay and conditions of service of other staff.

8. In post-1992 HEIs the position concerning academic governance is a little different from that in the pre-1992 sector. The governing body's responsibility for determining educational character and mission means that academic boards have a more advisory role in the development of academic activities, except in matters directly concerning academic quality. There are generally fewer staff and student members on the board of governors, and it is very rare to find senior officers in membership other than the vice-chancellor or principal. Other officers may well attend meetings as observers and interact with governors, but the nature of the relationship with the academic board is different from that in pre-1992 institutions.

Charitable Status

"I had a fair idea about being a charity trustee, but further information about the subtle differences of being an HE trustee would be helpful"

(Governor with charity experience)

9. All HEIs have charitable status, usually that of exempt or excepted charities. This means that they have not been subject to the jurisdiction of the Charity Commissioners. However, institutions which are established as charitable trusts and some of those which are companies limited by guarantee (24 HEIs) are registered charities and are, therefore, subject to the Charity Commissioners. The 1993 Charities Act is under review and new charity legislation is expected. If proposals consulted on in 2004/5 become law HEIs would no longer be exempt from registration as charities. However, it is proposed that in England HEFCE will act as an agent for the Charities Commission as the principal regulator for HEIs. It remains to be seen whether there will be a conflict of interest for HEFCE in acting as both a major funder and principal regulator of HEIs.

10. The new CUC Guide describes the benefits of charitable status: a special status which can be helpful in public relations and fund-raising; significant tax advantages; and a body of statute and case law which adds to the governance framework. These advantages are partly offset by restrictions on the commercial activity that HEIs can undertake. The new legislation, however, is expected to require the principal regulator to do all that it reasonably can to "increase compliance" by charity trustees, and is likely to increase the complexity of financial reporting.

11. If HEIs have charitable status, does that mean that members of governing bodies are charity trustees? This is not a straightforward question. The Charities Act 1993 defines a charity as "any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the high court's jurisdiction with respect to charities". The advancement of education has been regarded as a charitable aim since the 17th century. The term "charity trustees" is defined in the same act as "the persons having the general control and management of the administration of a charity". This suggests that members of governing bodies are, in fact, charity trustees.

12. However, as exempt charities most HEIs are not subject to the Charity Commissioners in a number of important areas. This has helped to create uncertainty about the role of governing body members as charity trustees, and the extent to which HEIs should comply with charity law. One of the positive features of the proposed new legislation is the greater clarity it will provide. Now is a good time for governing bodies to review their systems for complying with charity law, and to update their guidance to board members on responsibilities and liabilities. Governors should expect to be briefed by the clerk or secretary to their governing body on the introduction of the new legislation.

13. The situation in your institution may be complicated if there are long standing charitable trusts of which the governing body is the trustee. The students union may also be a separate charity.

Key Responsibilities

14. Subject to the variation between pre and post-1992 HEIs, the Governance Code of Practice in the CUC Guide² describes the role of the governing body as being “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 maximised”. It goes on to say that “all final decisions on matters of fundamental concern to the institution shall be taken by the governing body”.

15. Many institutions have their own statements of governing body responsibilities, often contained in a guide for governors or similar handbook. To standardise this practice throughout the sector in response to the Lambert Report³ the new CUC Guide proposes that all governing bodies should adopt a ‘Statement of Primary Responsibilities’, to be published widely (including on the internet) and to cover:

- The approval of the mission and strategic vision of the institution; long term business plans; key performance indicators and annual budgets.
- The appointment of the chief executive of the institution, and putting in place arrangements for monitoring his or her performance.
- Ensuring that control and accountability systems are set up and monitored, including risk assessment and conflict of interests procedures.
- Monitoring institutional performance against plans and the approved key performance indicators (KPIs).

16. In carrying out these responsibilities, a fundamental principle is that all members should act in the best interest of the board as a corporate body, putting to one side any particular interests that they may have.

1

Questions:

a) ***Do you know in detail what your responsibilities as a governor are?***

b) ***Are there any areas of ambiguity about your responsibilities, and if so what are they?***

“I don’t see any barriers to the court [governing body] exercising ‘unambiguous control’ although I would argue that if it felt the need to show this muscle on a regular basis something would have gone badly wrong.”

(Governor with mixed external experience)

YOUR OWN LIABILITIES AS A GOVERNOR

17. Many governors want to know: if things go wrong what is the nature and extent of my personal liability? Providing information on this is an institutional responsibility, and the clerk or secretary to your governing body should have briefed you, and also explained if you are part of any professional indemnity and trustee indemnity insurance cover for members. If you are unclear you should ask your clerk about the position and the insurance cover provided.

18. Overall, the law relating to personal liability is complex and relatively untested by the courts. The CUC Guide provides good general advice, which in summary is that if you act honestly, diligently and in good faith, avoiding real,

potential or perceived conflicts of interest, and contribute only to corporate decisions, issues of personal liability are unlikely to arise. So you would only find yourself at risk if you were to act recklessly, ignore professional or other advice, or be in breach of fiduciary or governance duties.

19. From time to time legal action will be taken against your HEI. The responsibility for dealing with this will fall either on the secretary or clerk, a specialist legal officer (if your institution has one) or on other senior staff. In general, matters relating to staff or former staff will be managed by HR professionals and may be considered initially by an employment tribunal; student complaints that have exhausted all the internal procedures will initially be referred to the Office of the Independent Adjudicator; and various contractual or other matters may be heard in the county court. Cases involving significant risk will normally be reported to the governing body.

THE MAIN LEGAL OBLIGATIONS OF THE GOVERNING BODY

20. Governors face an increasingly complex range of legislative requirements. You should be aware of these, particularly in the context of reports which will be made to the governing body. Areas of special relevance are:

Equal Opportunities

21. In recent years universities and colleges have been obliged to comply with new requirements focused on the national equality and diversity agenda, in particular the Race Relations (Amendment) Act 2000, the Disability Discrimination Act 2005, the Special Education Needs and Disability Act 2001 (SEND), and regulations relating to sexual orientation and religious belief. In addition, new legislation on age discrimination is expected to come into force in October 2006, and provisions to prevent incitement to religious hatred will probably also become law in 2006.

22. This legislation puts the responsibility for compliance on governing bodies, which must ensure that their institutions are non-discriminatory and that they have action plans in place to implement the legislation and monitor progress against targets. The Disability Discrimination Act contains provisions which affect HEIs. Most of these extend the current law, specifically to broaden the definition of 'disability', to prohibit discrimination in all public functions, and to introduce a general duty to eliminate discrimination and harassment. The new provisions are being introduced in 2005 and 2006 and governors will need to ensure that action is taken to comply with them.⁴

Health & Safety

23. The governing body is ultimately responsible, under health and safety at work legislation, for the health and safety of staff, students and visitors. It must ensure that the institution has a written health and safety policy, and that there are management systems in place to implement it, and generally to manage health and safety matters. Most governing bodies place the managerial responsibility on the chief executive (who in turn will identify a senior officer to be operationally responsible), and require regular reports - at least annually - on the operation and success of the policy.

Student Matters

24. Boards are required by the Education Act 1994 to take practical steps to ensure that the students union operates in a democratic and fair manner. This means that the governing body should approve a union's constitution (and any changes to it) at least every five years, and it must also monitor the union's finances and (through the clerk) the operation of elections. The Human Rights Act 2000 has affected both student and staff disciplinary arrangements - see below. The role of the Office of the Independent Adjudicator for Higher Education (the body responsible for reviewing student complaints not resolvable within institutions) is reviewed in Module 7.

The Freedom of Information Act 2000

25. This new law, giving a general right of access to information, applies to universities and colleges. All institutions should have a publication scheme in place and have published it, together with procedures to deal with requests under the Act. The Act will also give access to governing body papers and minutes if they are not already published. In general, it will be wise for governors to assume in future that all governance documents are for public access unless otherwise stated.

The Human Rights Act 1998

26. The Human Rights Act came into force in October 2000, and it is now generally accepted that HEIs are becoming more affected by it. Some of its provisions, for example the right to a fair hearing, will have led to reviews of disciplinary and other procedures in many HEIs. In addition there is a growing shift in attitudes towards individuals' rights, which may have longer-term implications for dispute resolution.

2

Questions:

- a) Has your governing body been informed about its responsibilities under the various legislation set out above?**

- b) Have you been provided with information on how your board's policies on implementing the legislation compare with known good practice elsewhere? If not, can your clerk provide such information?**

THE MAIN REGULATORY OBLIGATIONS OF THE GOVERNING BODY

27. In addition to complying with the law, the board also has to comply with the requirements of relevant public bodies, of which the most important are the funding councils for England, Scotland, Wales and Northern Ireland (see Module 7).

28. The funding councils lay down important requirements in the regulation of resources, principally through the financial memo-randum, and the audit codes of practice.

29. In England the financial memorandum is in two parts. The first - the model

memorandum between HEFCE and all institutions⁵ - sets out the conditions for payment of HEFCE grants. In particular, governing bodies of institutions must:

- Ensure that funds provided by the HEFCE are properly used.
- Identify a designated officer, normally the head of the institution, who must assure the governing body that the funding council's conditions are met, and advise the board if any policy under consideration is outside the terms of the memorandum.
- Ensure that the institution has a sound system of financial management and control.
- Plan to ensure institutional solvency.

30. The second part of the financial memorandum is specific to each institution and normally accompanies the HEFCE grant letter each spring. A summary of the funding councils' requirements is given in the CUC Guide.

31. HEFCE's requirements for accountability and audit are set out in "Accountability and Audit: HEFCE Code of Practice" (the latest version is June 2004)⁶. This contains mandatory requirements with respect to internal and external audit, the establishment, constitution and terms of reference of an audit committee, and includes models of key documents. The recent edition reflects the growing importance of corporate governance, further development of internal risk management mechanisms, and has more emphasis on institutional self-regulation.

32. From August 2003, HEIs in England have been expected to make disclosure in their accounts of their approach to corporate governance. A model statement was developed by the British Universities Finance Directors Group (BUFDG) and this has been recommended for adoption as a framework⁷. HEFCE has set out its expectations as to what areas such a statement should cover, including risk assessment, risk management, internal controls and review procedures. From August 2005 onwards the CUC Code of Practice has extended the scope of governance topics where institutions are expected to follow a recommended model. They are required to state in their annual financial accounts whether they have followed the Code or to explain why, if they have not.

33. Higher education institutions are subject to what many - but not all - regard as an unnecessarily onerous level of regulation and audit, given that HEIs are usually risk averse and that generally low levels of risk apply in higher education. In addition to internal and external auditors, institutions in England are subject to audit by the HEFCE Audit and Assurance Service. This assesses risks annually for each institution, and bases the nature and frequency of its visits on the perceived level of risk presented. HEIs may also be subject to individual investigation by the National Audit Office (a small number of visits are made each year). HEIs may also be faced with Inland Revenue and other technical audits from time to time. The burden of regulation on HEIs is currently being reviewed by the Higher Education Regulation Review Group (see Module 7).

34. External bodies with particular responsibilities in terms of the process of governance are the Committee on Standards in Public Life, which promulgated the Nolan principles (see Module 2), the Charities Commission, and the Committee of University Chairmen which has published a number of good

practice guides and reports. In Scotland the Scottish Higher Education Funding Council (SFC) has published a Guide for Members of Governing Bodies, which includes benchmarks against which institutions can compare practice and publish the outcomes in their annual accounts and financial statements⁸.

35. Several other external bodies and organisations contribute to the regulation and accountability of higher education, and therefore may impact, directly or indirectly, on the work of governors, principally:

- The Department for Education and Skills (DfES)
- The Quality Assurance Agency (QAA)
- Training and Development Agency (TDA - formerly the Teacher Training Agency (TTA))
- The Office for Fair Access (OFFA)
- The Universities and Colleges Admissions Service (UCAS)
- The Universities and Colleges Employers' Forum (UCEA)
- The Learning and Skills Council (LSC)
- The Office for Standards in Education (OFSTED)
- The European Union

THE ROLES OF GOVERNING BODY MEMBERS

36. It is an important principle of good governance that the responsibilities of a governing body are carried out corporately, with decisions taken formally and collectively by all members acting as a body in the interests of the institution as a whole, and being formally recorded. Governors should not act individually, or as a representative of a particular constituency or grouping, or on an *ad hoc* basis outside the formal framework of meetings of the governing body and its committees. Nonetheless particular issues concern the different types of members of boards, and these are briefly noted below.

"The composition of council is inherently curious, with its mix of genuine independents, representatives (particularly of local authorities) and staff."
(Governor with mixed external experience)

The Role of Independent Members

37. The role of independent members of governing bodies is to bring to a board a wide range of relevant knowledge and expertise, analytical skills, the ability to think strategically, and to apply balanced and fair judgement. All act on a voluntary basis, although some institutions are now considering whether payments need to be made to reflect the increased importance of governance and the need to appoint members of the right calibre.

38. The main assets of external members are their independence and detachment and their principal contributions will normally be:

- To see issues broadly.
- To provide an external view, often that of a 'critical friend'.
- To offer skills that may not exist in the institution.
- To give independent and objective advice and views.
- To provide contacts and assist the institution with networking and other opportunities.
- A good understanding of governance, ie setting policies, contributing to and approving strategies, and monitoring their progress.

39. In addition to serving on the main board, independent members will usually serve on one or more sub-committees. They may also be appointed to the board

of a subsidiary company, or expected to take part in the final stages of staff or student disciplinary or grievance hearings (see Module 3).

40. The instrument of government of the post-1992 HEIs draws a distinction between independent and co-opted members. The former are broadly those with experience in industrial, commercial or employment matters, or one of the professions. The co-opted category is broader, including at least one with experience "in the provision of education". Staff and students also fall into the co-opted category.

The Role of Internal Members

41. The role of staff and student governors is to bring to a board the knowledge and expertise which arises from their position in the institution. Such members are not in any sense delegates of their constituencies, and their first duty is corporate and not loyalty to any sectoral interest. As the governing instruments of an HEI will make clear, apart from restrictions relating to reserved areas of business and specific requirements concerning committee membership, all board members have equal status.

42. The issues which apply particularly to staff and student members are explored in Module 6.

THE ROLES OF KEY OFFICERS

The Chair of the Governing Body

43. The formal position of the chair of the board will vary depending upon the provisions of individual institutions. The new CUC Guide provides information on the key roles of leading the governing body, and working with the vice-chancellor or principal and the clerk or secretary to ensure effective governance. In many institutions the chair of the main board also chairs the remuneration and nomination committees.

The Vice-Chancellor or Principal

44. The charters and statutes of many of the pre-1992 universities say very little about the specific role of the vice-chancellor as executive head of the university. The term "chief academic and administrative officer" is sometimes the only formal statement of the role. There is more clarity and detail in the articles of government of the post-1992 institutions, which generally set out the following responsibilities:

- Making proposals to the governors about the educational character and mission of the institution and carrying out the governors' decisions.
- The organisation, direction and management of the institution.
- The appointment of staff and related aspects of staffing (but the governing body is the employing authority of the institution).
- The determination, after consultation with the academic board, of the institution's academic activities.
- Preparing estimates of income and expenditure and the management of the institution's finances.
- Student discipline.

45. The role, nevertheless, is one of executive management; the submission of policy proposals to the governing body and ensuring that the agreed policy

is implemented; the efficient and effective deployment of the institution's resources; the leadership and direction of staff; and fulfilling the duties of designated officer under the terms of the institution's financial memorandum with its funding council.

The Clerk or Secretary to the Governing Body

46. The role of the clerk or secretary has become more important and closely defined in recent years. In many institutions it is combined with a senior management post, though some HEIs have adopted the model of a more independent clerk with responsibilities for governance and legal affairs, but without other duties. Where the role is combined with other tasks this should be explicitly recognised in the clerk's conditions of appointment.

47. There has been an increasing focus on the independence of the clerk from the executive management of the institution, and a corresponding development in the importance attached to the provision of constitutional, legal and other advice, both to the governors and the executive. The role is well set out in the CUC Guide.

The Visitor

48. Most pre-1992 HEIs have a visitor, usually identified in the charter or statutes. Until recently the visitor had considerable powers under common law and by act of parliament over the internal affairs of the institution, but the visitor's jurisdiction on employment matters and student complaints has now been ended, and the role is now much less important than in the past. The Office of the Independent Adjudicator for Higher Education has now largely replaced many of the functions of the visitor (see paragraph 24).

(Footnotes)

¹ See www.shef.ac.uk/cuc

² See www.shef.ac.uk/cuc

³ See Module 7

⁴ The Disability Rights Commission has published a guide specifically for governors at www.drc-gb.org/publicationsandreports/publicationdetails.asp?id=169§ion=ed

⁵ See www.hefce.ac.uk/pubs/hefce/2003/03_54/

⁶ see www.hefce.ac.uk/pubs/hefce/2004/04_27/

⁷ See www.bufdg.ac.uk/groups/as/as_corp.html

⁸ See www.sfc.ac.uk/library/11854fc203db2fdb000000ed5d015651/he2300.html

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Module 5:

**Governor Involvement in Institutional Life
and Relationships with Senior Officers**

MODULE 5: GOVERNOR INVOLVEMENT IN INSTITUTIONAL LIFE AND RELATIONSHIPS WITH SENIOR OFFICERS

"All new independent governors need to be on a steep learning curve.... the character and work practices of an academic institution are very different from those of commercial companies and the public sector"

(Governor with private sector experience)

"There are council awaydays to discuss strategy which are very unsatisfactory; the level of discussion is poor as everyone knows they are not being asked to make a real contribution."

(Governor with mixed external experience)



"Our awaydays are one of the most valuable ways of involving the governing body."

(Governor with health sector experience)

1. An immediate issue for new independent members of governing bodies is what kind of involvement they should have, and how much they should take part in the life of the institution. On the one hand they need to be informed as fully as possible about relevant issues, on the other hand their time is limited and they need to avoid inappropriate involvement in activities which are not part of their responsibilities.
2. Involvement takes different forms, and the main ones considered in this module are:
 - The involvement of members of the governing body in general institutional life, and how much they should 'get to know' the institution.
 - The involvement of individual governors through committees and other areas of institutional life.
 - The involvement of the governing body in providing advice and support to senior officers.
3. The module examines what is appropriate involvement in each of these areas, and asks questions about how far governors should be involved in the life of their institution. After reading the text you should be able to identify appropriate forms of involvement, and what action you might personally want to undertake.
4. The CUC has recently published a report on good practice in six areas of governance¹, one of which is good practice in involving the governing body. It provides useful additional material.

INVOLVEMENT IN INSTITUTIONAL LIFE AND KNOWING THE INSTITUTION

5. Involvement should start with a governor's induction, and arrangements should include campus tours, visits to departments or faculties, and the opportunity to meet some students. However, this does not enable governors really to get to know the institution, so some HEIs go further and provide various extra opportunities.
6. For example, some institutions regularly provide opportunities before or after board meetings for groups of members to talk to academics or to visit particular academic or administrative departments. Presentations may also be made before board meetings on important aspects of the institution's work. Displays and exhibitions are often available to governors, and many board meetings are preceded or followed by lunch or supper, which enable members to meet more informally.
7. It is now common practice for governing bodies to hold 'awaydays' (often involving detailed discussion of major strategic issues) so that members can work together in less formal situations. These may also allow governors to meet officers who do not usually attend board meetings. HEIs may also provide opportunities for governors to meet external experts by inviting them to discuss new initiatives or to explore new or changing responsibilities. However, as the quotation on the left illustrates such activities need to include genuine opportunities to participate.
8. It is important for governors to get to know their institution, and conversely for the institution to know its board, or at least to know what its board is doing. However, because governors may not visit the institution very often, some HEIs try to make them better known to staff and students, for example: having photographs of board members in a prominent place; publishing short pen portraits; and having information about them on the intranet. However, in general it remains the case that few board members are well known in their institutions.
9. More formally, many HEIs now publish reports on the work and decisions of their

boards in a more accessible and informative way than just having minutes available (this is now widespread since the Freedom of Information Act has come into force).

10. There are other ways in which HEIs give governors the opportunity to become more involved in institutional life. Members may be invited to take a particular interest in a faculty or department (sometimes through a formal 'twinning' arrangement), and this can lead to a much greater understanding. However, the approach needs treating with care as involvement of this sort may bring governors so close to internal issues as to jeopardise their independence.

11. The recent CUC report on good practice mentioned above notes some of the approaches to involvement in use:

	General Good Practice	Innovative Institutional Practice
Faculty or school liaison		Governors with commercial experience sit on faculty advisory boards.
		Governors link with an academic function for a period.
Informal presentations and workshops	Governors attend frequent special events with senior academic colleagues.	Regular presentations to the governing body by students on aspects of the student experience.
	Programme of briefings or visits to faculties before meetings.	Informal evening briefing meetings for external governors (as well as pre meeting briefings).
	Social events (dinners etc) used to help external members to meet academic colleagues.	Governors invited to annual management conferences and learning and teaching days.
VC's briefing of members	Briefings at the start of each session on key policy issues. Updated at each governing body meeting.	Informal lunches or dinners of members with the VC throughout the year.
Information flows	Web site hosting papers supporting governing body/ committee agenda.	Web site has a facility for governors to exchange ideas and messages.
	Governors have full access to the institutional intranet.	Governors receive minutes of executive meetings, and two senior governors attend SMT meetings.
	Regular flows of newsletters from the institution, CUC, HEFCE etc (monitored by regular surveys of governors asking them what they want).	Free subscription to THES is provided. Clerk produces a monthly digest of information for governing body members.
Formal events	Governors invited to all ceremonies and formal HEI events (inaugural lectures etc).	

Questions:

a) In what ways are you involved in the life of your own institution?

b) Are these effective in terms of the information gained and the time taken?

c) What else - if anything - might usefully increase your involvement.

You may want to discuss the resulting issues with either the clerk/secretary of the board or the chair

"If you are not on a sub-committee it may be difficult to ask questions about detailed issues that have been debated there"

(Staff governor)

"In my experience the council of my university seems to be largely a rubber stamp for decisions taken elsewhere"

(staff governor)

INVOLVEMENT IN COMMITTEES

12. Many governors feel that they are most involved in decision making through their membership of sub-committees of the governing body. Typically there are a number of reasons for this:

- The size of the group means that there is more chance to participate.
- Discussion is likely to be more focused on areas in which governors can contribute with confidence.
- Members may have been selected for specific skills or attributes.
- Members hear of ideas earlier and feel they can make more of a contribution.

13. However, greater involvement for some governors may leave others feeling unininvolved. For example, members on planning and resources committees (or the equivalent) often receive detailed papers and have significant discussions with senior officers early in the process of developing strategic plans or responding to external initiatives or consultations. When such matters come to the governing body the papers may be less detailed, and other governors may feel that key decisions have already been taken, and that the role of the full board or council is a more formal one of rubber stamping the work of the senior committee.

14. In some large governing bodies there may be a core group of senior governors who for whatever reason exercise more influence than others. In some HEIs this may be formalised into an executive or chair's committee, with terms of reference and some means of reporting to the full governing body. Such groups may meet between full board meetings, and can provide a forum for the executive to have preliminary discussions with governors on important topics. However this runs the risk of making other governors feel unininvolved and acting as 'rubber stamps', and there is no consensus on whether such an approach is good practice.

Questions:

a) Review the way in which you have contributed to any sub-committees or working groups during the last year. Has your performance been effective and if not why not?

b) Do you feel that, at governing body meetings, you have maintained a detached, independent approach to policy issues?

RELATIONSHIPS WITH SENIOR OFFICERS

15. It is crucial for the governing body and its committees to have sound working relationships with senior officers and managers, particularly the vice-chancellor or principal. Successful relationships usually centre on trust, openness and mutual respect on all sides: and governance is much more difficult without these. The most crucial relationship is between the chair of the board and the vice-chancellor or principal as this sets the tone for the overall relationship between the board and other officers.

16. In thinking about the effectiveness of existing relationships a number of important distinctions need to be made:

- The formal position of senior officers in relation to board membership.
- Interpersonal relationships.
- The attitude of the executive to involving governors.

Each of these is reviewed below.

17. ***The formal position of senior officers*** - The formal position varies between HEIs. Typically, in pre-1992 universities the vice-chancellor and a small number of senior academic officers are members of the council; other than this group, senior officers or managers will usually be 'in attendance' at meetings. They are not members, but attend to present papers and give advice. In practice they will often be the source of much information that is vital for the governing body, and they may be closely questioned on issues in their areas.

18. In post-1992 HEIs the instrument of government gives the vice-chancellor or principal the choice of opting out of governing body membership, but almost all heads of institutions will be full members of their governing bodies. They are also accountable to them through regular reports to governing body meetings, often with formal annual reports and, more generally, through the overall performance of the institution.

19. ***Interpersonal relationships*** - The role of the governing body as 'critical friend' of the executive is relevant here. An open and mutually supportive relationship usually improves the effectiveness of the governing body. However, achieving this can be difficult, and both the executive and the board (particularly the vice-chancellor or principal and the chair) need to value each other's opinions and how they are given. A helpful and supportive critique is desirable, whereas destructive personal criticism is not and may simply lead to defensiveness and secrecy.

20. This relationship will vary depending on a number of factors – the personalities of those involved and the culture of the institution are particularly important. In addition, both parties need to observe the distinction between management and governance which may be difficult when discussing key issues. Thus the chair of the board should be supportive, but constructively challenging, and should ensure (with the assistance of the clerk or secretary) that important issues are brought to the governors at the right time. The chair should expect to be consulted informally on sensitive or potentially contentious matters, and the executive should keep the chair (and therefore the board) properly briefed.

21. It is, however, important that the relationship is not too close, if the governors are to have the right amount of independence. In particular, the chair has a key role in the system of checks on executive power, and should use judgement to intervene where necessary. Some of the most serious governance failures in recent years in higher education have occurred when over-dominant executive heads, either unchecked by their governing bodies or with their tacit support, got their institutions into difficulties².

22. ***The attitude of the executive to involving governors*** - Although rarely discussed in public, one of the key factors determining an effective relationship between the board and the executive is simply the attitude of the key personalities involved. So far as the

"Unfortunately, the chairman of my board doesn't encourage us to examine the main strategic issues facing the University, and is happy to leave them to the vice-chancellor. Board meetings tend to be short, very formal, and frustrating."

(Governor with private sector experience)

executive is concerned, does it really want an active and fully involved board, and so far as the governing body is concerned, does it really want to maximise board effectiveness and expend the effort required on what is - after all - a voluntary activity?

23. The recent good practice study undertaken for CUC and cited above³ found very different attitudes to the active involvement of governing bodies, which can be summarised in the following diagram:

	The chair and governing body seek actively to maximise their effectiveness	The chair and governing body do not seek actively to maximise their effectiveness
The executive seeks the active involvement of the governing body	<i>Partnership approach to governance</i>	<i>Under-developed approach to governance</i>
The executive does not seek the active involvement of the governing body	<i>Conflict approach to governance</i>	<i>Managerial approach to governance</i>

24. In this diagram there are four possible approaches to governance:

- *A partnership approach* - where both the executive and the governing body seek active involvement and are jointly committed to an effective board. The benefits are close collaborative working and governors having an active role. The main potential drawback is the danger of bridging the governance and management divide and drawing the board too closely into institutional affairs.
- *A conflict approach* - where the executive seeks to deny the board the active involvement it seeks, preferring it not to undertake its full responsibilities. This is potentially unstable with governance becoming a battle about who has the right to decide what.
- *An under-developed approach* - where the executive seeks the active involvement of the board, which for some reason is unable or unwilling to respond (probably because of the views of the chair). This leaves the executive with a lack of support, and an under-developed governance system. Changing senior board membership may be required to address this.
- *A managerial approach* - where the executive is in an overly dominant position because of neglect by the board of their responsibilities, and they become a 'rubber stamp'. Some of the main problems of governance in HEIs have occurred when this has happened, and in the long term this situation may need to be addressed by a change of senior board membership, or *in extremis* changes in the executive.

3

Question: Which of the four approaches comes nearest to describing the position in your own institution? In practice what are the specific advantages and drawbacks of this approach, and is it a satisfactory situation from your point of view?

25. The vice-chancellor or principal will almost certainly be the most visible member of the management team, but governors should also expect to develop an effective working relationship with the clerk or secretary, and possibly other members of the secretariat. They will provide most of the information that governors need, and will usually provide administrative services for the governing body and its committees. More information about the important role of the secretary or clerk is given in Module 4.

26. A further factor influencing relationships between the governors and the executive is institutional size. Small colleges tend to develop distinctive cultures, and often do not have the financial resources to employ the full range of specialist support staff. In these circumstances some governors may find themselves drawn into a role of providing such services, which can then make the role of independent and critical scrutiny difficult to carry out.

THE OTHER FORMS OF INVOLVEMENT

27. Sometimes independent governors have additional forms of involvement because they sit on committees with specific functions, for example commercial activities, and can bring to bear their experience of topics like venture capital, intellectual property, etc. Although such membership can be invaluable, unless their roles are clear there is a danger of them getting drawn into management issues which might challenge their independence.

28. There may also be other situations where new governors find themselves in unfamiliar territory. For example, some internal grievance or disciplinary procedures for staff may include an appeal to the governing body, and a panel or hearing may be set up to hear it. The clerk or secretary, together with the professional officers concerned, will give briefings and support, and it is usual for relatively new governors to be paired with more experienced colleagues to hear such cases. Nevertheless, such detailed practical involvement may be a surprise to those expecting to find a clear distinction between governance and management.

29. Governors may also have roles which involve them outside the institution. For example, independent governors are often asked to join in activities concerned with raising the external profile, lobbying or fundraising. In addition, most vice-chancellors and principals play significant roles in their local and regional communities, and many will seek the support of governors in this area. Governors are also likely to be invited to formal and informal events, in order to network with the community and make contacts with alumni. This often requires a good deal of preparation that will heighten knowledge of the institution and develop institutional commitment.

30. The importance of these roles for independent governors is likely to grow as institutions develop their interest in fundraising. However, practice in this country is not yet as advanced as that in the USA, where there is an expectation of trustees themselves having a significant external role and being active financial donors.

31. Governors will probably find themselves discussing their institution within the wider community, and this may be in some form of active promotional role, or defending it against external pressures or in local debates. Many HEIs have codes of conduct, which may, for example, limit your contacts with the media or other bodies. If you have not been briefed on this you may wish to ask about it in advance of any such involvement.

4

Question: *Have you been asked to undertake any external activities on behalf of your institution? If so how well were you briefed by the clerk or other senior manager, and how well were the contacts made followed up?*

HOW MUCH TIME SHOULD MY INVOLVEMENT TAKE?

32. A question that many new governors ask is how much of a time commitment is required to fulfil the role effectively? The simple answer is that there is no norm, and that practice varies widely. At an absolute minimum participation by independent members may be no more than attending four meetings a year, plus preparation time. However, this commitment can rapidly grow when members are involved in committees, participate in external events, and perhaps attend a graduation ceremony.

33. Calculating the overall time involved is difficult because many meetings take place in the evenings or at times convenient to governors, but some HEIs have estimated that board members spend a minimum of 15 days a year. In other institutions the amount of time expected of a governor may be set down in induction documents.

34. Answering the following questions may help you to clarify the amount of time you actually spend on board matters:

5

Question: When you were invited to join a board, you might have been given an indication of the time commitment that would be required. But what do you feel is a reasonable amount of time to be involved?

You need to be clear about the answer to this question because if you contribute well it is likely that the chair of the board will want to involve you more in the future, so it is important to have a sense of what is reasonable and practicable for you.

(Footnotes)

¹ CHEMS Consulting, Good Practice in Six Areas of the Governance of Higher Education Institutions, see Chapter 5, CUC, 2004. See www.shef.ac.uk/cuc

² For a description of such events see Shattock M, The Lambert Code: Can We Define Best Practice?, Higher Education Quarterly, Vol 58, No 4, 2004

³ Ibid

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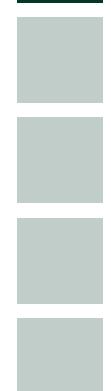
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Module 6:

Issues for Internal Governors - Staff and Students

6



MODULE 6: ISSUES FOR INTERNAL GOVERNORS-STAFF AND STUDENTS

1. This module has been designed primarily for staff and students who are members of governing bodies. However, it may also be useful for independent governors who wish to discover more about the specific issues facing internal members¹.

2. The issues considered are:

- Why do governing bodies have staff and student members?
- How are staff and student governors appointed?
- The issues facing staff and student governors.
- Becoming more effective in governing body meetings.

3. After reading the module, staff and student governors in their first year of office should have a clearer idea of the issues facing them as board members, and what is accepted good practice in dealing with them.

4. A question that is sometimes raised is: is it desirable to highlight the special position of staff and student governors? On the one hand there are important pragmatic reasons for doing so, for example, student members typically only serve for one year and therefore need support to undertake their role effectively. On the other hand, some governing bodies feel that it is inappropriate to single out particular categories of members, and that staff and student governors should take part in the same support activities designed more generally for boards. The needs analysis undertaken in producing this material suggests that overall the former view has most support within the sample of HEIs reviewed.

5. The context for looking at the work of internal governors is set out in the new CUC Guide for Members of HE Governing Bodies:²

- "The representation of staff and students on the governing body is important in all institutions" (paragraph 2.55).
- "Members nominated by particular constituencies should not act as if delegated by the group they represent. No member may be bound, when speaking or voting, by mandates given to him/her, except when acting under approved arrangements as a proxy for another member of the governing body" (paragraph 2.24).

"On the whole I've usually found staff and student members to be good value. Occasionally we get someone who is out of their depth, but then we try and give them some special briefings and they seem to get by".

(Chair of a governing body)

- "The governing body should exercise its responsibilities in a corporate manner: that is to say, decisions should be taken collectively by all members acting as a body" (paragraph 2.9).
- "Certain items may be declared 'reserved', that is, business which for reasons of confidentiality is not open to discussion by the whole governing body" (paragraph 2.6).

6. These requirements mean that staff and student governors have an important role to play on all governing bodies in HEIs, but are bound by the same responsibilities as all other members. The tensions that this may give rise to are explored below. These shared responsibilities are an important element of governance, and in many HEIs there is a strong desire to strengthen collective responsibility and to avoid 'them and us' type distinctions between internal and independent governors.

WHY DO GOVERNING BODIES HAVE STAFF AND STUDENT MEMBERS?

7 Staff and students have always had some part in the governance of most HEIs - indeed it is a role going back to the idea of a university being a self-governing

"I think I've made my most useful contributions by trying to make governors see that life's very different in the classroom to the boardroom, and governors need to be in touch with what really goes on"

(Student governor)

"As a staff governor do not over-estimate the influence that you can have.... It is unlikely that you or your fellow staff governors will be able to re-shape university policy single-handed."

(Staff governor)

'community of scholars'. In the managerial 21st century the idea of collegiality continuing to be the basis for governance is much more contested, but the traditions still run strong in many - although not all - institutions.

8. The arguments for staff and students being members of governing bodies are generally felt to be:

- Recognition that in many professional organisations the idea of participation in self-government remains strong.
- That staff and students bring direct experience of institutional life to a governing body.
- That such membership enables effective links to be made with other aspects of governance (for example academic governance).
- That in times of institutional crisis having staff and student governors can be a way of ensuring effective communication within the HEI as a whole, which may reduce tension.
- Some HEIs have found that in times of a governance crisis staff and student members may be more willing to hold the executive to account than independent members.³

The extent to which these potential benefits are achieved, of course, varies with individual board members, and the better the quality of their participation then the greater the benefits are likely to be.

9. However, as the quotation in the side panel illustrates, in practice, there may also be some drawbacks. These include:

- A general lack of experience of student and some staff governors in the key areas of governing body responsibilities.
- That the nomination and election processes for staff and student governors may produce candidates who are popular with their constituencies rather than competent board members.
- That in some institutions the nomination and election processes have become politicised.
- That as the quotation suggests, it may be extremely difficult for a governing body to take a rigorous strategic perspective in the face of the vested interests of internal board members.
- That the trend towards moving away from a collegial model of governance to one that emphasises performance (see Module 2) - including smaller boards - inevitably raises questions about the role of staff and student governors.

10. Nonetheless, recognising the guidance of the CUC that under current arrangements staff and student participation in governing bodies is important, the concern of this module is to review ways that it might be enhanced and some potential problems avoided.

"It is almost impossible for a university council to engage in high level strategic debate in the presence of a wide range of employee, student and other sectional interests... Whilst there is an understandable wish for decision making to be as open and transparent as possible, the structure of governing bodies is not ideal."

(Chair of a governing body)

Question: How well does participation by staff and student governors work in your own governing body? Summarise the benefits and drawbacks to your board of participation by staff and student members:

a) Benefits:

b) Drawbacks:

How do you suggest that the drawbacks be addressed?

You might like to discuss your thoughts with the clerk or secretary to your board or the chair

HOW ARE STAFF AND STUDENT GOVERNORS APPOINTED?

11. The method and length of appointment vary between institutions. However, common approaches are:

- Student members: tend to serve for a one year period of office following elections usually organised by the students union.
- Academic staff members: tend to serve for three years following elections usually organised by the governing body secretariat.
- Administrative and support staff members: tend to serve for three years following elections usually organised by the secretariat. Not all HEIs have members drawn from this group.
- Academic staff members drawn from the senate or academic board: tend to serve for three years following elections from the membership.

12. In some - not all - HEIs there are concerns about aspects of the appointment process, most usually that:

- It is not uncommon for staff and students to be reluctant to stand for office, sometimes leaving vacancies unfilled or leading to inappropriate candidates being elected.
- The turnout in elections may be low.
- Whereas HEIs are increasingly recruiting independent governors on the basis of their specific experience (eg finance) this may not be the case for internal governors, thus increasing the knowledge gap about governance between them and independent members.

2

Question: How well do the induction and support arrangements for new staff and student governors work in your HEI?

a) Briefly list all the handover and induction assistance that you received on taking office

b) Briefly consider the following and ask yourself: (i) were they available to me? (ii) if not, had they been available would they have increased my effectiveness in my early months as a governor?

- Detailed briefing materials for new governors.
- Detailed handover discussions with previous internal governors.
- Attending induction seminars before your first meeting.
- Personal briefings (eg by clerk).
- Twinning/mentoring with an experienced independent governor.
- Training on meetings/presentational skills.

If some of these would have been useful but were not provided you might like to discuss your thoughts with the clerk or secretary to your board or the chair

13. Some of these weaknesses can be addressed through an active induction programme, good handover arrangements by previous internal governors, and on-going support (for example briefings by the clerk), but the one year period of office for student governors means that a steep learning curve is needed. In extremis some HEIs may simply 'write off' the potential student contribution in a year when the elected member is felt to be 'not up to the job' and simply hope that someone better comes along next year!

"We have a handover period where the previous student rep works with the new one. Without that I would have been lost."

(Student governor)

SPECIFIC ISSUES FACING STAFF AND STUDENT GOVERNORS

14. Because they work or study in the institution of which they are a governor, a number of specific issues face internal board members. These are briefly summarised below and some good practice suggestions for dealing with the issues are made. However, whether these potential difficulties actually occur will vary depending upon many factors, including the individuals involved, the culture of the institution, how the governing body is run, the extent of trust and openness amongst members, and so on.

"My first meeting was really difficult, I didn't know what to do, or where to sit, or anything."

(Student governor)

3

Question: If you are a staff or student governor what have been the main issues or difficulties that you have faced in being effective in your role?

Compare your answers with the issues raised in the following text

15. Six possible issues facing staff and student governors are considered below:

- Potential conflicts of loyalties.
- The limits of the role.

- Avoiding parochial issues.
- Interacting with other governors.
- Getting the views of constituents.
- Personal credibility within a board.

Potential Conflicts of Loyalties

16. Whereas independent governors are explicitly recruited to bring independence to a board (this is why they are required to be in a majority), internal governors are not in such a position and the resulting potential conflicts of interest are often a cause of concern. Such conflicts might include:

- Being a member of staff (or to sharpen the potential conflict further, a senior manager) of an academic department whose resources are being considered by the governing body.
- Being a student member when sensitive issues concerning the students union are being discussed.
- Being members of academic committees or other bodies whose recommendations are being considered by the board.
- Being the representative of a trade union or external body which has a particular view about an issue being considered by the board.

As can be seen, such potential conflicts of interest can be multiple, for example, departmental manager, trade union representative, academic committee member, and elected board member could all be the same person!

17. Another example concerns whether board members drawn from particular groups can in any sense be mandated, that is expected to support a particular view irrespective of whether it is in the best corporate interests of the HEI concerned. In fact, staff and students are not the only ones facing this dilemma, and examples include:

- Trade union or student union members who are governors and who may wish to support a national policy.
- Members nominated from professional bodies, local authorities or other similar groups who may feel impelled to support the views of their nominating body.
- Governors nominated from a particular faith group in those universities and colleges of higher education supported by one of the churches.

18. A few years ago this was a major issue and caused difficulties for many governing bodies, but there now appears to be widespread recognition of the primacy of corporate responsibility. For example, all the main trade unions involved in higher education now take the view that if their members are governors they cannot be mandated, even though it is inevitable that many will share a common view on key issues. However, someone new to being a board member may well feel a sense of obligation to 'their' constituency, and this may need to be clarified in induction briefing material.

19. For this reason, it now seems to be generally accepted (including by the main trade unions) that staff standing for appointment as a governor should not include office holders in trade unions who have other major roles in which they represent staff, for example in conducting negotiations with management. The same principle might apply to students, but the formal negotiation role of the students union is less, and many boards find that the advantage of having the president of the union as a member outweighs the potential drawbacks. Nonetheless, despite increasing recognition of this point, there are still some boards which have staff governors who hold trade unions positions.

20. Where an individual governor has a major conflict of interest the most appropriate approach is to register it with the clerk or secretary to the board (just as would be done with a financial conflict of interest), and not to take part in the item under discussion. (or perhaps even withdraw from the board). If this happens regularly then resignation from the board is probably the most appropriate step.

"I have a good relationship with my head of department, and also feel loyal to the senior managers who are really my employers. I therefore feel a real conflict of interest when the governing body is discussing something which might make things more difficult for either of them."

(Staff governor)

"I have a good relationship with my head of department, and also feel loyal to the senior managers who are really my employers. I therefore feel a real conflict of interest when the governing body is discussing something which might make things more difficult for either of them."

(Staff governor)

4

Question:

As a staff or student governor have you had a major conflict of interest, and if so what did you do?

"Sometimes I almost forget which hat I'm wearing. Today I'm a staff governor, but tomorrow I'm meeting some of the same people and I'm a member of the Academic Board!"

(Staff governor)

21. In this context, it is crucial to note that although staff and students are sometimes called representatives (including - confusingly - in the new CUC Guide), this term needs to be used with great care. An important distinction is that staff and student governors are representative of the particular constituencies from which they are drawn, but they do not represent those constituencies.

22. The subtleties of this distinction may not always be clear in practice, but the principle is straightforward: that board members have a corporate responsibility which over-rides any representational role that they may be perceived to have. Unfortunately this distinction sometimes gets blurred not only by those concerned, but also for other governing body members, for example, a poorly worded invitation by a board chair to seek an opinion from "the representative of the students" is generally inappropriate and simply likely to confuse matters.

23. In the same way that staff and student governors cannot be mandated, internal governors who may also be senior managers need to understand that they too have a primary loyalty to the corporate role of the board, and that their responsibilities are not defined (or limited) by any line management responsibilities to the chief executive. The clerk or secretary to the governing body needs to be alert to any abuse of this principle, and if necessary needs to raise the matter with the chair of the board. In a small number of cases major problems with governance in HEIs have occurred because this principle has been breached.

5

Question:

During 2004/5 your governing body will have considered the question of student tuition fees - an issue which gives rise to strongly held views. In the face of a potential conflict of interest, how did the staff and student governors behave and did they take an entirely corporate view of the issue? If not, what were the consequences for the board?

The Limits to the Role of a Governor

24. Although staff and student governors are fully responsible for the collective decisions of a board, there are areas where - in practice - their role is limited. First, and most obviously, these are limitations set out in statutes (pre-1992 HEIs) and articles of government (post-1992s) regarding the membership of certain committees. Practice within institutions varies depending upon the structure, but student and staff governors are not usually members of finance, audit, and employment committees (or the equivalent) although there are cases where they are, and never members of remuneration committees.

25. Moreover, issues concerning areas with no staff or student committee membership will often be taken under reserved business towards the end of a board meeting, when staff and student governors will be required to leave. Notwithstanding overall collective responsibility, clearly staff and student governors cannot reasonably be held responsible for those decisions to which they have not been party (eg senior staff salary determination).

"I often feel like a second class member of the governing body. One minute they ask for our views, and the next they ask us to leave because it seems that they don't trust us."

(Staff governor)

"You know how things work inside the College - this can be an advantage and a disadvantage because you get distracted by operational considerations, and have to remember the balance the Board needs to maintain between operational and strategic issues."

(Staff governor)

"Are you bringing your personal baggage into board meetings, and should you do this?"

(Staff governor)

26. Second, both staff and student governors need to be realistic about what can be achieved as members of governing bodies. Many of the issues which most concern the general body of staff and students involve details of operation and management, and are therefore not the responsibility of the governing body. Indeed it is often the case that many of the key decisions taken by governing bodies are relatively invisible to the institution as a whole.

27. Staff and student governors are often frustrated about this inability to influence events and the associated feeling of powerlessness. This is particularly the case when crises of governance have occurred in a small number of HEIs, and the problems involved have often been much more apparent internally than to independent governors. The moves to encourage greater measurement of institutional performance by boards, and also to review their own effectiveness, have occurred - in part - because of such cases.

Avoiding Parochial Issues

28. As noted in Modules 3 and 4, the key roles of governing bodies are to do with overseeing strategy, ensuring accountability and so on. The job of the board is explicitly not to become involved in management, or to try and second guess the executive and management structure. It follows that any student and staff governors new to their role who try to get the board to discuss parochial issues are likely to receive short shrift from the chair. One fairly frequent example of this is internal governors trying to reopen debates already fully and properly concluded elsewhere because they disagree with a decision. For example, you may not like an executive decision to change car parking arrangements but you're only likely to make yourself unpopular by taking up the time of the board by wanting to discuss it!

29. A different kind of parochialism occurs when vested interests are at stake, and here it is particularly important that internal governors 'step back' from their own concerns and take an overall perspective. An obvious example might occur when restructuring or merging departments is considered, when - difficult though it is - staff and student governors need to rise above their own concerns and try to see things from an institutional perspective rather than a local one.

6

Question: If you are a staff or student governor what would your response be in the following situation::

The staff and students of an academic school in your HEI are incensed at what they see as an unfair allocation of resources: (too few staff to teach properly, lack of teaching materials, etc). They complain that the vice-chancellor and director of finance won't do anything, and want you to raise the matter with the governing body on their behalf and support their case.

What action do you take and why? What is the view of your clerk/secretary and chair?

Interacting With Other Governors

30. Sometimes - perhaps often - there is almost no interaction between internal and independent governors between board meetings, but on occasion staff or student governors may feel they need to contact independent members. Should they, and if so in what circumstances? In general, the answer is no, unless the interaction stems

naturally from governing body business, for example following up issues of mutual interest. Where such contact does occur, it might be wise to keep the clerk or secretary of the board in touch with what is being done.

31. The most usual example of where staff or student members might seek to contact independent governors is where they wish to lobby on particular issues. Overall, such an activity is unwise, although there may be isolated occasions when it is appropriate for governors to talk to each other about key issues before meetings.

32. Lobbying needs to be seen in relation to the comments made above in paragraph 19 about separating specific personal or sectional interests from an overall corporate responsibility. Almost always such lobbying is better done by officers of special interest groups, and governors should rarely act in such a way. Similarly trying to lobby the chair of the board to take a particular course of action is also unwise. In the unlikely event of staff and student governors wanting to provide information on a specific issue to the board as a whole, then this should usually be done through the clerk.

33. Informal interaction is another matter, and ways of involving governors in institutional life are considered in Module 5. In order to avoid a 'them and us' approach some HEIs ensure contact between independent and internal governors in various ways, for example, student union or departmental visits, joint attendance at events, mentoring, and so on. Such activities are usually organised through the clerk.

"The relationship with the senior management team at governors' meetings is an interesting dynamic - there can be a sense of isolation from lay governors when raising questions that could imply criticism."

(Staff governor)

Getting the Views of Constituents

34. In order to fulfil their role effectively staff and student governors need to communicate with their constituents, both informing them of governing body issues and also seeking their views on key policy questions. This can be a perfectly appropriate action, but care needs to be taken to ensure that confidentiality is not breached. Making unrealistic commitments as to what might be achieved through obtaining and then conveying such information to a board also needs to be avoided.

35. One way of obtaining the views of constituents and of cementing links to the whole governing body is to hold regular meetings (say twice a year) between constituents and a sample of governing body members probably including the vice-chancellor/principal. This enables the board to be informed about concerns 'on the ground' but avoids any implication of inappropriate lobbying or pressure being applied. The clerk or secretary would be the usual person to facilitate such activities, and in running such an event it would be important to point out that the board should avoid getting involved directly in management issues.

Personal Credibility Within a Board

36. A potentially important issue concerns interpersonal matters within a governing body, of which the most important is the personal credibility of student and staff governors with other members of a board. Where personal credibility is strong the contributions of governors are likely to be influential; however where it is weak views may be dismissed or carry very little weight. The particular problem for student governors is that unlike most other members of a board, they join a governing body with no personal credibility, whereas independent members - as noted elsewhere - are increasingly recruited to boards on the basis of the special knowledge and skills that they can offer. Staff governors, although perhaps inexperienced on governance matters, usually have credibility by virtue of being employees and other attributes, for example their research or professional reputation.

37. It follows that personal credibility has to be earned by displaying the attributes that boards most value, and for student members there is only a short amount of time to be able to demonstrate these. This issue can be a serious one in many boards in undermining (often unintentionally) the confidence - and therefore the potential contributions - of student members.

"If you want to influence events, then you have to let your fellow governors gain an understanding of your personality, and the way you operate within the university. Be in no doubt that they will be observing you, your behaviour and demeanour from the moment they meet you, in order to gauge what you say and the value of what you say. A staff governor should see this as an opportunity not a threat."

(Staff governor)

"All the other governors are older and I feel that I should just sit there and not say anything in case it's wrong – I can sometimes feel out of place at meetings"

(Student governor)

"There is a difficulty as an internal governor in knowing when and how to challenge effectively. If you do it too often you lose impact and credibility, and you can easily be deflected if you are the only one making the point."

(Staff governor)

38. One issue that may sometimes - although hopefully rarely - occur, is independent governors appearing to patronise or discount contributions made by staff or student governors. Care needs to be taken to avoid this, and clerks and chairs need to keep watch over the conduct of business to ensure that all views are respected. In extreme cases it is not unknown for student members to be berated by independent governors because of personal prejudices about general student behaviour (for example perceived excessive drinking), and chairs need to act firmly to prevent such behaviour.

BECOMING MORE EFFECTIVE IN GOVERNING BODY MEETINGS

39. As a generalisation, many student (and some staff) governors lack experience of board meetings and procedures. It follows that they need to develop rapidly their knowledge and skills, not only of the issues being considered by boards (their content) but also how governing bodies operate (their processes). Avoiding obviously inappropriate behaviour is likely to be an issue in only a small number of cases, but what is more widely needed is experience in writing committee papers, making presentations, influencing others, and so on.

40. Induction programmes (either run within HEIs, or those offered by some of the main trade unions, the National Union of Students, or the Leadership Foundation) can make a useful contribution to this need, but ultimately each student governor needs to take personal responsibility for developing his or her own ability in this area.

7

Question: If you are a student governor try rating your effectiveness on a 1 (strongly disagree) to 5 (strongly agree) scale against the following attributes that effective board members possess:

1 I can present a persuasive and convincing case to senior people in formal meetings.

2 I am comfortable when discussing issues in the presence of senior board members.

3 I have developed a good working relationship with the vice-chancellor or principal, the chair of the governing body, and the clerk/secretary.

4 I am capable of writing well structured and convincing board level papers.

5 I prepare thoroughly for governing body meetings.

6 I am good at anticipating problems that I might encounter in presenting my case in discussion.

7 I can think quickly 'on my feet'.

8 I manage my time well in giving presentations.

9 I am a good listener and can interpret basic non-verbal behaviour in meetings.

10 As a student governor I always deliver what I promise.
Other important attributes from your point of view:

Consider the implications of your answers for your performance as a governor. What additional sources of support do you need and how can you get them?

(Footnotes)

¹ The NUS and the main staff trade unions were consulted in the production of this module, and their cooperation is gratefully acknowledged.

² See www.shef.ac.uk/cuc

³ For example, in a recent article Shattock concludes that "all the evidence we have is that governing bodies have been less effective checks on 'dynamic management' than the academic community....we need to re-emphasise the importance of partnership in governance and the value of the academic contribution" (Shattock M, The Lambert Code and Best Practice, Higher Education Quarterly, Vol 58, No 4, October 2004)

Making Sense of Governance in Higher Education

A Programme for Members of Governing Bodies in Universities and Colleges

1

2

3

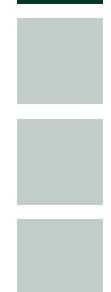
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5

Module 7:

A Governor's Guide to Finding Information

7



MODULE 7: A GOVERNOR'S GUIDE TO FINDING INFORMATION

"It's quite easy to feel disengaged, and floating alongside issues, because of the amount of information you need to absorb".

(Governor with charity experience)

"I feel that I receive far too much paper and not enough information for my role on council. I would like more executive summaries and fewer rehashes of papers I have already seen in committee. I worry about the resources going into to crafting all these beautiful documents".

(Governor with private sector experience)

1. It can sometimes be difficult for a governor to get the information needed to be an effective member of a board. Governors can either feel overwhelmed by too much information and strange acronyms and unable to sort out what they really need, or they can feel they need even more information so that they can deal confidently with whatever comes along. The number and variety of information sources makes it even more difficult to know where to turn for help.

2. As a result, this module is intended as a reference to help the busy governor by being a concise guide to information sources.

3. But at the outset, there is a need to be clear about three important 'principles' of governance that are widely accepted by most HEIs:

- First, it's the responsibility of your institution to provide the core information that you require as a governor to make decisions. So, if you think that you are consistently receiving less information than necessary, or that the information you do receive is not in an easily digestible form then you should raise this with the chair or clerk/secretary of your governing body. Your institution may have its own jargon and acronyms and it is the clerk's responsibility to alert you to these.
- Second, remember that there are basic information sources such as the CUC Guide for Members of Higher Education Governing Bodies in the UK (2004).
- Third, if you haven't got the information you need, then don't start by looking for it yourself. Go to the clerk/secretary or to appropriate senior managers and ask them. They should guide you to what you need.

4. However, having said that, in reality there will still be occasions when you need to find or interpret information, and this module has five sections to provide help:

A Acronyms: an explanation of some of the most common acronyms found in higher education.

B Main organisations: brief descriptions of 20 of the main organisations that governors may encounter, summarising what they do and where to get information about them.

C 'Jargon busting': a guide to some of the shorthand terms in common use.

D Key topics: a brief guide to where you can find more information on key topics of interest to governors.

E Recent reports: a summary of some of the most recent reports relevant to higher education governance.

A: ACRONYMS

5. If you want a simple list of common acronyms for reference purposes then turn forward two pages, because what follows is a quiz (so don't turn the page!) If you've got a few spare minutes you might like to test yourself on how many of the following acronyms you know. We think that 25% for a governor is pretty good, and only the most senior managers in HEIs are likely to know 75% or more. For the answers turn two pages forward.

Acronym:	Your Answer:
AHRC	
AGR	
AHUA	
AUA	
AUDE	
AURIL	
AUT	
BECTA	
BUFDG	
CADISE	
CETL	
CIHE	
CUC	
DCMS	
DELNI	
DfES	
DLHE	
ECU	
EPSRC	
ESRC	
FEC	
FDS	
HE	
HEFCE	
HEFCEAS	
HEFCW	
HEI	
HEIF	
HEPI	
HERRG	
HERO	
HESA	
HESMF	
HOLIS	

"I've never been involved anywhere else that uses so many acronyms, sometimes I even wonder if they're being used deliberately to confuse us!"

(Governor with private sector experience)

"When I became involved with the university I was surprised how good the information supplied to governors is"

(Governor with mixed external experience)

ILT/ILTHE	
JANET	
JCPSG	
JISC	
JPPSG	
LGPS	
LSC	
LTSN	
LFHE	
NAO	
NATFHE	
NERC	
NUS	
OFFA	
OFSTED	
OIA	
OST	
PAC	
PPARC	
QAA	
QCA	
QR	
RAE	
RDA	
SCONUL	
SCOP	
SDF	
SEDA	
SFC	
SRHE	
THES	
TPS	
TQA	
TQEF	
TQI	
TRAC	

TDA	
UCAS	
UCEA	
UCISA	
Ufl	
UKADIA	
UKCOSA	
UKERNA	
UPA	
USS	
UUK	

The answers are provided on the next page, so don't turn over if you want to complete the quiz!

ACRONYMS: THE LIST OF TITLES

OK, here are the answers:

- AHRC - Arts and Humanities Research Council
AGR - Association of Graduate Recruiters
AHUA - Association of Heads of University Administration
AUA - Association of University Administrators
AUDE - Association of University Directors of Estates
AURIL - Association for Research and Industrial Liaison
AUT - Association of University Teachers
BECTA - British Educational and Communications Technology Agency
BUFDG - British Universities Finance Directors Group
CADISE - Consortium of Arts and Design Institutions in Southern England
CETL - Centres for Excellence in Teaching and Learning
CIHE - Council for Industry and Higher Education
CUC - Committee of University Chairmen
DCMS - Department of Culture, Media and Sport
DELNI - Department for Employment and Learning Northern Ireland
DfES - Department for Education and Skills
DLHE - Destination of Leavers from Higher Education
ECU - Equality Challenge Unit
EPSRC - Engineering and Physical Sciences Research Council
ESRC - Economic & Social Research Council
FDS - First Destination Survey
FEC - Full Economic Cost
HE - Higher Education
HEFCE - Higher Education Funding Council for England
HEFCEAS - HEFCE Audit Service
HEFCW - Higher Education Funding Council for Wales
HEI - Higher Education Institution
HEIF - Higher Education Innovation Fund
HEPI - Higher Education Policy Institute
HERRG - Higher Education Regulation Review Group
HERO - Higher Education and Research Opportunities
HESA - Higher Education Statistics Agency
HESMF - Higher Education Senior Managers Forum
HOLIS - HESA Online Information Service
ILT, ILTHE - Institute for Learning and Teaching (in Higher Education)
JANET - Joint Academic NETwork
JCPSG - Joint Costing and Pricing Steering Group
JISC - Joint Information Systems Committee
JPPSG - Joint Procurement Policy and Strategy Group
LGPS - Local Government Pension Scheme
LSC - Learning and Skills Council
LFHE - Leadership Foundation for Higher Education
LTSN - Learning and Teaching Support Network
NAO - National Audit Office
NATFHE - National Association of Teachers in Further and Higher Education
NERC - Natural Environment Research Council
NUS - National Union of Students
OFFA - Office for Fair Access
OFSTED - Office for Standards in Education
OIA - Office of the Independent Adjudicator for Higher Education
OST - Office for Science and Technology
PAC - Public Accounts Committee
PPARC - Particle Physics and Astronomy Research Council
QAA - Quality Assurance Agency
QCA - Qualifications and Curriculum Authority
QR - Quality Research, the research funding allocated according to RAE rankings
RAE - Research Assessment Exercise
RDA - Regional Development Agency

SCONUL – Standing Conference of National and University Libraries
SCOP – Standing Conference of Principals
SDF – Strategic Development Fund (of HEFCE)
SEDA – Staff and Educational Development Association
SFC – Scottish Funding Council (formerly Scottish Higher Education Funding Council (SHEFC))
SRHE – Society for Research into Higher Education
THES – The Times Higher Education Supplement
TPS – Teachers Pension Scheme
TQA – Teaching Quality Assessment
TQEF – Teaching Quality Enhancement Fund
TQI - Teaching Quality Indicator
TRAC – Transparent Approach to Costing Methodology
TDA – Training and Development Agency for Schools (formerly the Teacher Training Agency (TTA))
UCAS – Universities and Colleges Admissions Service
UCEA – Universities and Colleges Employers' Association
UCISA – Universities and Colleges Information Systems Association
Ufi – University for Industry or LearnDirect
UKADIA – United Kingdom Arts and Design Institutions Association
UKCOSA – The Council for International Education, formerly United Kingdom Council for Overseas Student Affairs
UKERNA - UK Educational and Research Network Association
UPA – University Personnel Association
USS – Universities Superannuation Scheme
UUK – Universities UK

B: THE MAIN ORGANISATIONS IN HIGHER EDUCATION

Arguably these are the 20 most important higher education organisations that governors need to be aware of and they are presented here in alphabetical order (apart from item 1):

1. The Funding Bodies:

**HEFCE (Higher Education Funding Council for England),
SFC (Scottish Funding Council),
HEFCW (the Higher Education Funding Council for Wales), and
DELNI (the Department for Education and Learning Northern Ireland)**

Are the principal funders of UK higher education. Each Council has its own formulae and methods for allocating funds for teaching, but all share in a common process for allocating research funds through the Research Assessment Exercise (RAE) every five years. HEFCE also takes the lead in developing and funding 'top sliced' programmes related to government policy, such as leadership, governance and management and collaboration with industry. See www.hefce.ac.uk, www.sfc.ac.uk, www.delni.gov.uk and www.hefcw.ac.uk

2. CUC (The Committee of University Chairmen) is the body that provides a forum for the Chairs of all universities represented in Universities UK. Although initially an informal organisation, it now has a secretariat based at the University of Sheffield and is involved in regular liaison with Universities UK and other HE agencies. The CUC has passed over responsibility for its governor development programmes to the Leadership Foundation for Higher Education. However it still produces publications such as a Newsletter and the Guide for Members of Higher Education Governing Bodies in the UK. It was responsible for developing a Governance Code of Practice following a recommendation in the Lambert Report in 2003. See www.sheffield.ac.uk/cuc

3. DfES The Department for Education and Skills is the department that sponsors HEFCE. It has delegated funding and operational management of the sector to HEFCE but retains overall control of HE policy and planning. In January 2003 (see Part E below) it published a White Paper on the Future of Higher Education, one consequence of which was the introduction of variable tuition fees which come into effect in September 2006. The DfES strengthened its higher education capacity in 2003 by recruiting a former vice-chancellor as Director General for Higher Education. Each

year the DfES issues a letter of guidance to HEFCE reminding it of national policies and giving any special steers. The DfES web site has a section devoted to higher education reform where all the follow-up debates, papers and decisions after the 2003 White Paper are brought together. See www.dfes.gov.uk/hegateway/herefor/index.cfm

4. The Equality Challenge Unit is a specialist agency established by the HE sector in the UK that promotes equal opportunities in higher education. It works with individual institutions and advises on all issues relating to equity and diversity. The Unit also publishes guidance as well as a full summary of the legislation and case law on all aspects of equal opportunities. See www.ecu.ac.uk

5. HESA (The Higher Education Statistics Agency) is the central source for all UK higher education statistics and was established by the sector. It collects five main data sets electronically from institutions: students, student first destinations, staff, finance and non-credit-bearing course records. The resulting statistics are published annually in various formats, but are not free except for a small subset on HOLIS (the HESA Online Information Service) and annual performance indicator information published on behalf of all the four UK funding bodies. HESA also offers a customised data analysis service for researchers. See www.hesa.ac.uk

6. The Higher Education Academy was created in 2004 to unite the various sector activities devoted to enhancing learning and teaching in higher education. These include a professional institute (formerly the ILTHE) that accredits academic staff as registered practitioners, a network of 24 subject centres devoted to promoting innovation in teaching in their discipline (called the LTSN), a national support service for institutional efforts in enhancing the quality of learning and teaching, and a scheme for awarding national teaching fellowships for excellence in teaching. The Academy is financed from a mixture of fees, grants and contract income and is an independent organisation owned by the sector bodies, UUK and SCOP

7. JISC (the Joint Information Systems Committee) is an advisory committee to the UK higher and further education funding bodies on all matters concerned with the use of information and communications technology. JISC has a very wide range of activities, including managing JANET (the national academic network which is run by UKERNA), promoting and providing online content for the academic community, offering a number of free support services, and commissioning development projects on topics such as interoperability, authentication, common standards, open access publishing, institutional repositories (for locally produced electronic content) and e-learning. JISC is funded by the higher education funding bodies and the Learning + Skills Council (with a budget of £63 million in 2003-04), and is now being asked to widen its work for the benefit of workplace learning and adult and community learning. See www.jisc.ac.uk

8. The Leadership Foundation for Higher Education is an organisation dedicated to strengthening the quality of leadership, management and governance in higher education. It was launched in March 2004 as a result of an initiative by UUK and SCOP and has been given a grant of £10 million by all the funding bodies for its first three years. The Foundation's Governor Development Programme has absorbed and extended the work of the Committee of University Chairmen. Its other activities include the Top Management Programme (targeted at potential vice-chancellors/principals and senior administrators), as well as a series of flagship programmes for serving heads of institutions, deputies and pro vice-chancellors and deans. It has a remit to build on the best international experience and to liaise closely with all leadership development activity and research in other sectors outside higher education. Its web site and details of all its programmes are at www.lfhe.ac.uk

9. LSC (Learning + Skills Council) is responsible for funding and planning education and training for further education institutions and all those aged 16-19 in England. It has a national network of 47 learning and skills councils throughout the country, a national office in Coventry and an annual budget of £8 billion. It funds further education students in many colleges and some universities, and ensures that the quality and quantity of such provision is maintained. HEIs that receive funding from both HEFCE and the LSC are expected to follow the regulations and policy steers of both bodies as

regards their respective students. The LSC web site contains circulars, guidelines and benchmarking data relating to further education provision. See www.lsc.gov.uk

10. **NUS** (National Union of Students) is the confederation of student unions in colleges and universities in the UK. Its members are the unions which in total represent about 5 million students from 750 institutions. Its role is to provide research, representation, training and expert advice to students themselves and their unions. It campaigns nationally on issues such as tuition fees, welfare, anti-racism, the environment, black students and those with disabilities. The NUS runs a training programme each year for new student governors. Its web site is at www.nusonline.co.uk

11. **OFFA** (The Office for Fair Access) was established in October 2004 as an independent non departmental public body which "aims to promote and safeguard fair access to education for under-represented groups". Its Director is charged with approving an access agreement with every HEI in England, and this should set out how that institution aims to safeguard and promote fair access and what their levels of fees and bursaries will be. Until OFFA has approved its agreement, an institution is unable to charge tuition fees above the standard level. See www.offa.org.uk

12. **OIA** (The Office of the Independent Adjudicator for Higher Education) was established in 2004 to operate an independent scheme for hearing complaints from students laid against their higher education institution. All institutions in England and Wales are required to comply with the rules of the scheme, and guidance on them for students and HEIs is given on the OIA web site. Before applying to use the scheme students must first exhaust the internal complaints procedure of the university or college, and complaints cannot be considered if they relate to admission procedures, academic judgements or student employment. See www.oia.ac.uk

13. **The Office of Science and Technology (OST)** and the Research Councils are located in the Department of Trade and Industry and are responsible for science policy, for developing the UK's science base and for allocating the national science budget of £2.4bn. There are seven Research Councils and their work is coordinated by a Director General of Research Councils who works with the OST. A recent innovation has been the creation of a Research Funders Forum which brings together the research councils, charities, industry, the funding councils and government departments in an attempt to co-ordinate their strategies for developing the national research base. See www.ost.gov.uk and www.ost.gov.uk/fundersforum/

14. **QAA** (Quality Assurance Agency for Higher Education) is the national body established in 1997 to provide an integrated quality assurance service for UK higher education. It is financed partly from institutional subscriptions and partly from contracts with funding bodies. Its quality assurance processes have undergone revision in recent years and it now aims to adopt a lighter touch on regulation than before, although its processes differ for Scotland and Wales. English institutions and those in Northern Ireland can now expect to have an external audit by the QAA every five years and to be placed in one of three broad classifications. Almost all of the published league tables use QAA's rankings and scores from its early audits, which are often several years out of date. The QAA has published a large amount of advice, guidelines and precepts that institutions are invited to adopt for their internal quality assurance activities. It also audits collaborative arrangements overseas where HEIs have partnerships with foreign providers that lead to the award of a UK qualification. See www.qaa.ac.uk

15. **Regional Development Agencies (RDAs)**. England has nine regions, each with an RDA, a Government Office and an HE Consortium. The regional agenda is increasing in political importance and central government is starting to measure the performance of regions in topics such as their R&D expenditure or the extent of their business cooperation with institutions. The strategy of each region varies according to need, but each RDA has developed enterprise hubs and networks to promote technology transfer and they are thus vital partners for HE institutions wishing to expand their services for business. HEFCE has also emphasised the regional agenda by giving financial support to the establishment of regional associations of universities. The address and web site

of each RDA can be found in the handy A5 sized HEFCE Publication that is issued each year called Contacts in Higher Education.

16. **SCOP** (the Standing Conference of Principals) is the representative body for focused and specialist higher education colleges and universities. The SCOP website contains some useful statistics on HE colleges as well as policy papers and publications. SCOP is a partner with UUK and other key bodies in many of the sector's agencies and other collaborative activities such as the Europe Unit, the Equality Challenge Unit and HERO. See www.scop.ac.uk

17. **TDA** (Training Development Agency for Schools) is the agency charged with funding all teacher training in England. It allocates funding to 130 providers of initial teacher training (ITT) in the UK, including institutions of higher education which offer formal awards in education up to doctorate level. It also funds the Graduate Teacher Programme through organisations called Designated Recommending Bodies. It works with Ofsted (Office for Standards in Education) to inspect the various providers and to set standards for qualified teacher status. See www.tda.gov.uk

18. **UCAS** (the Universities and Colleges Admissions Service) is owned by the sector and provides the central admissions service for full time undergraduate applications to all UK institutions of higher and further education. Applications from postgraduates are handled directly by institutions themselves. The UCAS website contains comprehensive statistics on applications, most of which are freely available, although some (such as postcode tracking) are available only to institutions under the capitation charge they pay to UCAS. Most of the UCAS web site is designed to inform students about institutions and to help them apply online to any of the 300 HE and FE institutions it serves. See www.ucas.ac.uk or www.ucas.com

19. **UCEA** (Universities and Colleges Employers' Association) is the organisation which provides services to higher education employers on matters such as salaries, conditions of service and employee relations. It is owned by the sector and its members pay annual subscriptions; the UCEA provides administrative support for the Joint Negotiating Committee for Higher Education Staff (JNCIES) and its working groups, which have replaced the previous ten separate negotiating bodies in the sector. The UCEA web site provides full details of the new Pay Framework Agreement that came into operation in 2004 with a single pay spine for all staff. The UCEA has a Health and Safety Working Group which acts for the sector in discussions with the Health and Safety Commission. See www.ucea.ac.uk

20. **UUK** (UniversitiesUK) is the association that represents the universities of the UK in their dealings with government, industry and international bodies. It describes its role as being "the essential voice of UK universities by promoting and supporting their work". It has separate National Councils covering the interests of its Scottish and Welsh members as well as one for those from England and Northern Ireland. As well as its lobbying function UUK commissions research studies of policy issues and has a wide range of publications; these are all available on its web site at www.universitiesUK.ac.uk.

C: JARGON BUSTING

Initially one of the most annoying - and puzzling - aspects of higher education for a newcomer is that everyone seems to speak in a coded language, and frequently what is meant by this code or shorthand is never made clear. Rather it is assumed that either everyone knows, or that those who don't will 'pick it up' fairly quickly and become 'one of us'. Of course, this happens in most organisations, but the diversity and complexity of higher education means that jargon is particularly rife.

In this section we have taken 20 widely used words or phrases that typically annoy and frustrate many governors in HEIs (now there's one for a start!), and offer a short explanation for what the term means:

Access can have a number of meanings in higher education depending upon the

"Whilst my career has been in industry rather than the academic world, my academic training as an engineer has provided a better basis for understanding of some of the scientific and technical issues involved. At least when I ask a question I have some chance of understanding the reply!"
(Governor with private sector experience)

context, but most commonly relates to student access to courses or programmes in higher education. The government is committed to widening access, which means making it possible for people from all backgrounds and social strata to enter higher education if they have the potential to succeed.

Accreditation is the word used to show that a course or programme has been vetted or certified by a body as being of sufficient academic standard to enable an HEI to offer an award to students who meet the necessary criteria. There are a variety of accrediting organisations: the institution itself (all universities are self-accrediting although not all colleges of higher education); another HEI (for example, where a college does not have degree awarding powers, it may get its programmes accredited by an HEI which does); national professional bodies (RIBA, Law Society, the engineering institutions etc) who accredit programmes concerned with professional practice (more often in addition to the basic academic qualification); and international professional bodies and organisations. In the latter case, even though a programme or course has been accredited nationally, it may be valuable for the purposes of recruiting overseas students for international accreditation to be obtained.

AimHigher is the name of a website service which is targeted at young people in England wishing to enter higher education. It offers careers guidance, a search facility for courses offered by institutions, and information on how to apply as well as on student finance and life as a student. It has been developed by HERO (see Section B above) and is part of the attempt to widen participation in higher education (see below). See www.aimhigher.ac.uk

Annual Monitoring Statement (AMS) is the annual return that the Higher Education Funding Council for England currently requires institutions to submit along with financial forecasts and Corporate Planning Statements (CPS). The statement changes its content and design at intervals to accommodate the latest policy priorities. Institutions are requested to report on the extent to which they have achieved both their overall strategic objectives, and also those associated with some of the special funding programmes. A different arrangement applies outside England.

Conversion Rates usually refer to the relationship between offers made and places taken up or accepted. There are two points in the admissions cycle when a good conversion rate is important; when making offers to students who apply through UCAS and when an institution has to fill its targets for places through the clearing system in August and September. In the latter case as time is short and students are potentially 'shopping around', high conversion rates become important.

Distance Learning describes the mode of delivery when students do not reside on campus and may not even visit it for their programme. The best known example is the Open University which offers all its courses remotely to students all over the world (even though it encourages participation in summer schools and meetings with colleagues at regional centres). Over half of English HEIs offer some form of distance learning. Where their students reside in other countries, in some cases a partnership arrangement is made with an overseas HEI under which tutorial support is provided (usually for an extra fee). Increasingly the term 'blended learning' is being used for programmes that may be partly taught at a distance but which also involve some use of other approaches.

Educational Development is a term that tends to be reserved for the activity undertaken by those staff who specialise in enhancing learning and teaching within HEIs. Many institutions have created centres or units of educational developers whose role is to help individual teachers enhance their teaching and to assist students with their learning. Educational developers usually work closely with learning technologists in the application of computers in learning and teaching and the development of electronic resources to support students.

Equality and Diversity relates to one of the government's key policy objectives, and the need to ensure satisfactory institutional performance on matters concerning gender, racial and social composition, and support for those with disabilities. Although such concerns apply to all staff and students, emphasis tends to be on the recruitment,

support and retention of the latter group. Governing bodies are expected to ensure that the institution has sound policies in this area which are regularly monitored.

Franchising is the term used when an HEI allows another institution or college to deliver its programmes or courses. In order to ensure that the delivery is of an acceptable standard the providing institution will accredit the activities of the receiving college. A wide variety of franchising arrangements apply, and in some cases staff from the franchising body may teach at the franchisee's institution. This is particularly the case with some overseas franchise arrangements, where the presence of English academic staff is a marketing advantage. Some such arrangements lead to the overseas student coming to the UK for the final year of their course.

Full Economic Costing (fEC) means calculating the full cost of research or academic projects, including overheads. From September 2005 all research council and government research projects will reimburse higher education institutions with a fixed percentage of the full economic cost of any services. The aim is that this percentage will have risen to 100% by the year 2010. The methodology for calculating fEC (the small f is used in the acronym) is based on the earlier work under the Transparency Review (qv).

Full-time Equivalent (FTE) is the term used to calculate student or staff numbers when the population concerned contains part-timers or fractional appointments. Thus, a number of part-time staff may be taken as being a proportion of a full-time person so that in total they become one full time equivalent. The HESA sets national standards for the way the calculation is made on all national statistics. In Wales, a credit-based funding system exists by which FTEs are formally defined for all Welsh HEIs as 120 credits a year.

Information and Communications Technology (ICT) is the term now used widely to cover all the computing and telecommunications in an institution, whether used for research, teaching or administration. All institutions have a campus network linked through a national academic network called JANET to the world wide web.

Quality Assurance refers to the act of assessing whether quality has been achieved, and is undertaken both externally by the Quality Assurance Agency (see Section B) and internally through institutions' own quality assurance processes. There are many different approaches to carrying out quality assurance checks ranging from formal inspections and audits to self reviews and the application of checklists.

Quality Enhancement is the term used to describe measures taken within a course, programme or institution to enhance or strengthen quality. These can relate to curriculum reform, adoption of innovative approaches to learning and teaching, the use of new technology to enhance the way students learn, or aspects of staff development.

The Research Assessment Exercise (RAE) is a national peer review of the quality of research undertaken in UK higher education. The process happens every 5-6 years and the fifth such exercise will take place in 2008. It will involve over 50 subject panels of national and international experts assessing submissions put forward by 'research active staff' nominated by their institution. The rankings that are established in each RAE exercise form the basis for the 'Quality' element of research funding for the next five or six years, and can have major influence for research intensive institutions. The process is contentious in a number of ways, but has the strong support of the funding bodies and some (not all) HEIs.

Third Stream Funding (or third leg funding) means funding from external non-government sources, particularly from the commercial sector. In recent years the Funding Councils have striven to encourage more entrepreneurial cultures in institutions through pump priming the development of business support activities through the Higher Education Innovation Fund. The financial control of such funding gives rise to specific issues for governing bodies.

Transparency Review was the name of an extensive cost analysis undertaken at the behest of the Treasury with the aim of identifying the relative costs of teaching and research in institutions. The research led to the development of a standard cost analysis method (TRAC) which is now mandatory for all HEIs who are expected to submit annual returns to HEFCE showing how their institutional costs are split between teaching, research and other activities.

Variable ('Top Up') Fees is the term that in England describes the extra tuition fees that institutions may levy from 2006 onwards up to a ceiling of £3,000 including the original basic fee. Unless parents or students are willing to pay the fees upfront, all such fees will be treated as loans that will start to be repaid when the graduate's income reaches a certain level (termed an 'income-contingent loan'). Different arrangements apply in Scotland, Wales and Northern Ireland.

Wastage, Non-Continuation, Attrition and Drop-out Rates are terms that all describe elements of the same thing, namely the proportion of students who leave the higher education system in the middle of a course and do not return. The UK has traditionally had one of the best (lowest) wastage rates of all OECD countries, which produces an enviable low cost per graduate. The levels of wastage and attrition vary widely between institutions according to factors such as entry standards and strategies for widening participation.

Widening Participation refers to the government's policy of seeking to ensure a broader range of students in higher education, through making admissions processes fair and transparent including selecting on the basis of student potential as well as previous achievement. The end result is hoped to be that more students will enter higher education from previously under-represented groups. This is one way the government hopes to achieve its target of 50% participation of the age group in higher education by 2010.

D: KEY TOPICS - WHERE TO GO TO FIND FURTHER INFORMATION

The UK higher education scene is changing rapidly as new organisations and policies take effect, and these materials are based on the position in late 2005. There are many providers of information, but most aim to meet the needs of audiences such as students or staff and not members of governing bodies.

Some of the main subjects on which governors may require information are:

1. On the Structure of UK Higher Education

One of the most succinct guides is Higher Education in the United Kingdom, published by HEFCE in February 2005 and also available on their web site at www.hefce.ac.uk under 'publications for 2005'. This illustrates the position in each of the four jurisdictions of the UK and is written for overseas readers.

One of the key distinctions is between the 'old' and the 'new' institutions, created pre and post 1992, which is explained on page 3 of the HEFCE Guide. This distinction directly affects the role and responsibilities of governors as explained in the CUC Guide for Members of Higher Education Governing Bodies in the UK (see also on the HEFCE web site under 'publications for 2004').

There are two main representative organisations for the heads of higher education institutions: Universities UK whose members comprise the Vice-Chancellors of most universities; and the Standing Conference of Principals (SCOP) whose members are the Principals of higher education colleges and smaller and specialist HEIs (including some universities). Universities and colleges of higher education in Scotland and Wales are represented respectively by Universities Scotland and Higher Education Wales. Further details on all of these organisations can be found at: www.universitiesuk.ac.uk; www.scop.ac.uk; www.universities-scotland.ac.uk ; www.hew.ac.uk.

In addition, some institutions have joined together in other groupings:

These include:

- The Russell Group (www.russellgroup.ac.uk), of research intensive institutions which claim to account for over 60% of the national research income for higher education.
- The 1994 Group of smaller and medium sized universities which claim research excellence. (www.1994group.ac.uk)
- Campaigning for Mainstream Universities (CMU) is a grouping of post-92 universities, most of which are former polytechnics. (www.epolitix.com)

2. On How Higher Education is Funded

Governors need to know how HEIs are funded, but between the countries of the UK there are growing differences in the way that teaching in higher education institutions is funded. The best general introduction to the English picture is HEFCE's publication Funding Higher Education in England (ref: July 2005/34) which describes both the annual funding cycle, and the principles and the methods by which resources are allocated for both teaching and research. In 2005-6 HEFCE is reviewing the basic principles of the way in which it allocates resources for teaching and so the methodology may well change.

The Research Assessment Exercise (RAE) is common to all of the UK and provides peer-reviewed qualitative evidence on which research funding is allocated for a five year period. The last RAE exercise in 2001 is fully explained on the HERO web site at www.hero.ac.uk/rae and all the details of each institution's submissions and the reports from the assessing panels are shown in full. Initial information on the next RAE round in 2007-8 is shown on another site at www.rae.ac.uk

Some of the detailed issues relating to financial strategy and control within institutions are covered in the finance section of the HE Governance web site which can be found at www.hegovernance.ac.uk

HEFCE has published a number of good practice guides in recent years relating to topics such as financial strategy (publication reference 2002/34), strategic planning (2000/24), financial management (1998/29) risk management (2001/24 and 28), investment appraisal (1999/21) and the recovery of full economic costs (05/2003).

3. On How the Quality of Teaching and Research is Assessed

Teaching quality information is available on a new website at www.tqi.ac.uk. This is structured by institution and includes reports from external examiners and the results of the National Student Survey (which began in 2005).

The QAA is responsible for undertaking peer reviews or audits of the quality of teaching in UK higher education and its methodologies, and the reports from each institutional audit are made fully available on its website at www.qaa.ac.uk. A useful summary of what the QAA does and how its work relates to internal quality assurance and enhancement activities can be found in a document called A Brief Guide to Quality Assurance in UK Higher Education available in hard copy from the QAA or from their website at www.qaa.ac.uk/public/heguide/guide.htm

The methods used in the RAE exercises to assess the quality of research are fully described on the RAE website described above. In the RAE 2008 the criteria have been amended to take fuller account of excellence in practice-based and applied research.

4. On the Property and Estates of HEIs

For the last five years 97% of HEIs throughout the UK have collaborated in sharing management information on their estates, and the results have been published annually by HEFCE as estates management statistics (which can be found at www.opdems.ac.uk but are also available in hard copy from HEFCE). HEFCE's own web site also contains the annual report of the estate management statistics project. The HE estates web site at www.heestates.ac.uk is a very comprehensive collection of reports,

statistics, value for money studies forms and internal publications, which has been compiled with the collaboration of the Association of University Directors of Estates and the Standing Conference of Principals' Estates Network.

Pages 88/9 of the CUC Guide for Members of Higher Education Governing Bodies describes some of the responsibilities of governors as regards estate management. The HE governance web site at www.hegovernance.ac.uk also contains information and references for governors to note.

5. On Human Resources

In recent years the funding councils have given emphasis to helping institutions to strengthen their human resource management. In England this was made available to encourage the production of human resource strategies, and this is being continued with the Rewarding and Developing Staff Initiative which is allocated formulaically to help institutions to implement the actions in their strategies. HEFCE has also commissioned a self assessment tool for people management (publication reference 2004/43) and advice on staff recruitment incentives or 'golden hellos' for promising researchers. The human resources management section of the 'Leadership, Governance and Management' part of the HEFCE web site has all the details.

HEFCE and the sector's Equality Challenge Unit (ECU), have devoted a great deal of effort to encouraging institutions to develop, implement and monitor a full range of policies covering diversity and equity in all areas of human resource management.

The UCEA web site contains information on the national arrangements concerning pay and conditions of service, the new Pay Framework Agreement and the single spine, as well as information on health and safety requirements as they affect universities. See www.ucea.ac.uk

6. On Audit Responsibilities and Processes

The HE Governance web site at www.hegovernance.ac.uk has a section that aims to advise members of audit committees on their responsibilities. These are being enhanced regularly in line with developments in corporate governance elsewhere. HEFCE last reviewed its code of audit practice to take account of the Higgs Report (see below), and its own requirements relating to risk management in June 2004 (see Accountability and Audit: HEFCE Code of Practice. 27/2004).

HEFCE is a prolific publisher of good practice material and has produced two publications on risk management, as well as a whole series of value for money studies covering topics such as catering, cleaning and energy management (see the value for money section of the 'Leadership Governance and Management' part of HEFCE's web site).

CIPFA has also published a new version of its Handbook for Audit Committee Members in Further and Higher Education (see www.cipfa.org.uk/shop).

7. On Governance and Governors

The main resource on the role of a governor is the CUC Guide for Members of Higher Education Governing Bodies, revised in November 2004. This incorporates a new Governance Code of Practice for governors to consider as well as a statement of Primary Responsibilities. The Guide is available from either HEFCE or the CUC in hard copy, but is also electronically available at www.sheffield.ac.uk/cuc

Some examples of good practice in six areas of governance can be found in a report by CHEMS Consulting, A Final Report to the CUC on Good Practice in Six Areas of the Governance of Higher Education Institutions, also published in November 2004 and available on the CUC's website.

Information on the governors' role and legal issues is provided on the HE Governance

web site at www.hegovernance.ac.uk, which also gives links to other relevant web sites on governance issues in the UK public and private sectors and in the USA.

8. On Partnerships Between HEIs and Further Education Colleges (FECs)

The government sees partnerships between HE and FE as one way of getting more young people into higher education in order to achieve its target of 50% participation by young people from 18-30 by 2010. There are two main types of relationships involving HEIs and FECs in terms of financial agreements:

- Franchises between a lead HEI and one or more FECs, which deliver the courses of the HE institution.
- Funding body recognised consortia where an HEI or FEC is identified as the lead institution to receive and distribute funds to member institutions.

In a franchise, the students are attributed to the HEI which has full responsibility for all aspects of quality, finance, and administration relating to them. The HEI awards their degrees and must therefore ensure that the college is delivering an educational experience of a broadly equivalent quality to that in the HE institution. In a consortium, by contrast, the students are attributed to individual member institutions, and each establishment is directly responsible for the quality and standards of the programmes offered to these students. The vast majority of HE/FE links are franchises.

Both HEFCE and the Learning and Skills Council which funds FECs try to encourage HE/FE links of all kinds. An example of the advice given to governors of FE Colleges is on the website of the FE Funding Council for Wales at www.wfc.ac.uk/fefcw/gfg/index.html under Section D1. See also three HEFCE Circulars: 00/54 HE in FE Colleges: codes of practice for franchise and consortia arrangements, 01/73 Partnerships for Progression, 03/57 Review of indirect funding agreements and arrangements between higher education institutions and further education colleges.

E: SOME RECENT REPORTS OF RELEVANCE TO GOVERNORS

It might be useful for governors to have a brief summary of key national reports relating to areas for which they are directly responsible. Ten short summaries follow, although we have been highly selective in deciding what to include:

1. The CUC Report on Good Practice in Governance was published in November 2004 at the same time as the 4th Edition of the CUC Handbook. The report (commissioned from a team led by CHEMS Consulting) describes good practice in six key areas of governance: recruiting, supporting and informing new governors; how the governing body is involved in decision making; relationships with the senate/academic board, and committee structures; oversight of commercial activities; measuring the effectiveness of the board; and reviewing institutional performance.

The report is based on a survey of current practice in the UK and lists many ideas for governing bodies to consider. It also debates the question of how good practice is defined, for example, is it what government says it should be? (a compliance approach), is it what is 'fit for purpose' in a particular environment?, or is it what external professional guidelines say it should be? The authors firmly adopt a fitness for purpose approach, and in this vein the 'good practices' described in the report are presented as options or a menu of ideas for governing bodies to consider. The report is available at www.sheffield.ac.uk/cuc/pubs

2. The Lambert Report, December 2003, more properly known as The Lambert Review of Business-University Collaboration, was commissioned by HM Treasury in order to explore how the flows of activity between universities and business could be increased. Their concern was particularly to strengthen the UK's research base and business investment in research. It is available at the Treasury web site: www.hm-treasury.gov.uk/EA556/lambert_review_final_450/pdf

Conventional wisdom in the UK expected the review to be critical of higher education.

In the event, the Lambert report had some positive things to say and had plenty of good ideas. Indeed, it is business that is under fire, as the following quotation shows: "The main challenge for the UK is not about how to increase the supply of commercial ideas from the universities into business. Instead, the question is about how to raise the overall level of demand by business for research from all sources". It is suggested that this lack of investment in research has a direct link with the UK's relatively poor performance in productivity.

The Lambert Review was carried out from the viewpoint of business and puts forward several useful recommendations:

- So-called 'third stream funding' (to promote university-business partnerships) should be increased and "allocated in a more predictable fashion". (The day after the Lambert report appeared the English Funding Council announced that the next round of such funding would be £46m higher than previously announced.)
- Business and HE should jointly develop a set of model research collaboration agreements that could be adopted for all future contractual projects.
- Business and HE should develop a protocol with draft standard clauses covering the ownership of intellectual property in research collaborations.
- Regional funding should be used to encourage universities to collaborate in their technology transfer activities and share the use of specialist staff.
- Government should provide more money for 'proof of concept' funding, but reduce expenditure on seed money, more of which should come from the private sector.
- In order to encourage 'business-relevant research' a significant new stream of funding should be supplied to university departments that can demonstrate strong support from business.
- A league table of the world's best research-intensive universities should be developed.
- The Committee of University Chairmen should take the lead in developing a concise code of good practice on university governance, to which all should be expected to conform. (This has now been done and was published in November 2004).
- Well-run universities should receive greater financial freedoms "in the longer term".

The government broadly accepted everything that Lambert had to say and the overall impact of the report was unexpectedly positive for UK universities, although research intensive universities might fear that universities that are business-friendly could absorb some of the funding that might otherwise have gone to them to help improve their world class research aspirations. The focus on regional support for technology transfer is one more step in building up the UK's regional structures and giving them influence over universities.

3. The Higgs Report on the Role and Effectiveness of Non-Executive Directors by Derek Higgs was published by the Department of Trade and Industry and rapidly welcomed by government. It covered all aspects of the operations of a board and drew on specially commissioned research on how non-executive directors were used. In the July 2003 version of the Combined Code (see www.frc.org.uk/documents/pdf/combinedcodefinal.pdf) 20 pages are dedicated to repeating the guidance from the report. Much of this guidance is relevant to the role of governors in higher education, and the CUC Guide for Members of Governing Bodies has drawn upon it in its revised edition of November 2004.

The report contains guidance on the role and responsibilities of the chairman and non-executive director. Apart from a sentence which suggests that the role of the board is to provide entrepreneurial leadership, all the guidance is transferable to higher education. The report suggests that an effective non-executive "questions intelligently, debates constructively, challenges rigorously and decides dispassionately". Modules 3 and 4 in this pack explore the role of a governor in further detail.

Other parts of Higgs set out the duties of the nomination and remuneration committees and offer a "Pre-Appointment Due Diligence Checklist" that potential governors could well adapt in their initial interviews with the chief executives of HEIs to help them assess the status and preparedness of the institution. The report has an

induction checklist and some questions to be asked by companies in assessing their board performance and the performance of the individual board member; all these can usefully be compared with the HEI models suggested in this pack.

For the full report see www.dti.gov.uk/cld/non-exec-review/

4. Dearing Report (National Committee of Enquiry into Higher Education, 1997) was the first major strategic review of UK higher education since the Robbins Report in the 1960s. Although the report is now eight years old, and much has changed in higher education, it is still a useful reference document to chart how thinking on key policy issues has developed. Its length and comprehensiveness mean that it is too long to summarise here, but it can be viewed on www.leeds.ac.uk/educol/ncihe/

The report suggested that the UK must create a society committed to learning throughout life and should aim for its teaching and research to be world class. It called for a resumed expansion of student numbers of all kinds, young, mature and full and part time. Increasing competition from both developed and developing countries means that the UK has to invest in people in order to compete at the leading edge of economic activity.

With the exception of its proposals on student fees most of the recommendations in the report have been implemented, for example:

- A commitment to widening participation and enrolment of students from previously disadvantaged backgrounds.
- The development by institutions of learning and teaching strategies.
- The creation of a professional institute for learning and teaching (now within the Higher Education Academy) and a requirement that new academic staff should achieve at least associate membership.
- Amendments to the remit of the Quality Assurance Agency to cover benchmark information on standards and more public information about quality.
- The establishment of a new Arts and Humanities Research Council.
- Universities should receive the full economic cost for research council projects.
- Government support for industry links and incubator units in universities.
- The removal of barriers to equal opportunity policies in institutions.
- Clarification of the supremacy of the governing body and guidelines on its membership.
- A requirement that governing bodies should review their own effectiveness and the performance of the institution, which should then be published.
- Priority in the growth of sub degree provision should be in further education colleges.
- An increase in the public spending on higher education as a proportion of Gross Domestic Product.
- Three year rolling allocations of funds.

The most sensitive recommendation related to student tuition fees and the Report recommended the repayment by graduates in work of a flat rate contribution of about 25% of the average cost of tuition, through an income contingent mechanism. In the event Government decided on a flat rate tuition fee of £1,000, to be repaid later through the Student Loans Company mechanism. In the 2006 academic year this will be replaced by the provision that institutions can set their own tuition fees up to a maximum of £3,000.

5. The Future of Higher Education White Paper (January 2003) was the first major government statement on higher education policy since the Dearing Report. It contained many complex announcements and had very different implications for the various categories of HEI. Overall, the picture was that spending on HE would rise from 4.5% to 5.6% of gross domestic product in the following three years, and within this total research would take a larger share of the cake: 26.5% as opposed to 25%. Expenditure on capital (buildings and equipment) would also double during the period.

The research section of the white paper was unashamedly elitist, and implied that the next model of research assessment (which drives the funding decisions) would be less of a blockbuster than the old RAE. In the interim period it called for even more selectivity in the way funding was allocated by the creation of a new category for the super-excellent research departments, which would receive extra funding in the next three years. (This is an inevitable consequence of the upwards creep of the old ranking system under which in the 2001 RAE assessment 55 percent of all research active staff were found to be in the 5 and 5* rankings.)

The implications for learning and teaching were less dramatic and virtually no growth was planned in students taking the traditional three year full time courses. Much expansion, up to the government's target of 50 percent participation, would be concentrated on two year work-focussed foundation degrees. Some 23,000 extra students are expected in this stream by 2006. The other strands in the plans for teaching were a continued drive to emphasise the importance of excellence in teaching and extra funding for up to 70 centres of teaching excellence (CETLs which were established in early 2005). There would be no slackening in the determination to widen access to students from lower income families, and the extent to which universities put effort into achieving their targets in this area would be policed by "an independent Access Regulator" (see Section A) with powers to levy fines.

Most of the press reaction centred on the issue of tuition fees and this dominated the media for almost a year until the Higher Education Bill was finally passed in the summer of 2004. The White Paper proposed a Graduate Contribution Scheme instead of the present up-front tuition fees. Students would be expected to repay loans to meet their living and tuition costs once their earnings exceeded £15,000 a year. HEIs would be allowed to set their own tuition fees from 2006 onwards up to a level of £3,000. The implications of this are that graduates could leave, as they do in several other countries, with large debts. Government countered these fears with concessions during the progress of the Bill through Parliament so that all poor students will receive their £3,000 in grants from the government (£2,700) and the university (£300).

6. HM Treasury's 10 Year Forecast on Science and Technology Expenditure in 2004 announced an ambitious ten year plan of investment in science and innovation. It reflected the personal interest of the Chancellor of the Exchequer in such matters and his ability to integrate the plans of the three government departments involved (DfES, DTI and Treasury). The report can be found at: www.hm-treasury.gov.uk/spending_review/spend_sr04/associated_documents

The overriding goal is to close the gap between the UK and the USA as regards the national investment in R&D (which is currently 1.86% of GDP for the UK as opposed to 2.67% for the USA). The largest gulf is in the investment that business makes in both countries – 1.24% for the UK compared with 1.87% in the USA, and this has been a longstanding deficiency. This was one of the reasons behind the Lambert Report in 2003 (see above) which studied university-business interaction and identified the reluctance of business to engage with the skills and research capacity of higher education as a key problem.

The UK government plans to increase spending on science by 5.8 percent in real terms over the three years 2005-07 as part of a ten year drive to achieve a targeted spend of 2.5 percent of GDP. This means that the budgets of both the research councils and the higher education funding councils will have more to distribute to universities. Half a billion pounds a year will continue to be spent in strengthening the research infrastructure in universities. Central government investment in knowledge transfer networks and collaborative research with business is also expected to grow, as is a new stream of funding for universities and business through regional development agencies. Investment in people is not forgotten, particularly related to attempts to increase the proportion of women and minority participants in higher education and research activities.

The report in which these plans are set out includes an Annex on the economic case for further investment in science and research and one which sets demanding targets for world class excellence, with indicators such as the UK's share of world citations and the comparative achievements of the "top ten universities". In the difficult area of persuading business to invest in R&D, narrowing the gap with competitors is seen as a strategic priority, but the Framework is not wholly convincing as to how this will be achieved: not only have similar government pleas gone unheeded in the past, but the increasingly global spread of the major corporations mean that R&D decisions are often influenced by global rather than UK factors. Nonetheless, the Chancellor is clearly hoping that an increase in the UK's stock of well qualified and equipped researchers will be influential in choices between competitor nations.

7. The Bologna Declaration. In 1999 29 European countries signed a pledge to reform their higher education systems in order to create an overall convergence at European level by 2010. The common goals were to enhance the employability and mobility of European students and to strengthen the competitiveness of European higher education. The ultimate aim for 2010 was a European Higher Education Area in which staff and students could move around with ease and have fair recognition of their qualifications. Key features of the Declaration were:

- There should be a common framework of comparable degrees
- There should be undergraduate and postgraduate levels in all countries
- First level degrees should be at least three years
- A common European approach to quality assurance would be developed
- European credit transfer system would be extended to cover lifelong learning activities.

The UK has not been deeply involved in the process, since the Declaration is essentially suggesting a move towards an Anglo Saxon model. The English perspective has been to see it as the other Europeans becoming 'more like us'. However, this ignores the marketing and student recruitment implications of many mainland European institutions offering programme in English to international students at nil or low fees.

8. Increasing Voluntary Giving to Higher Education, 2004 (The Report of a Task Force chaired by Professor Eric Thomas). A task force set up by the DfES in May 2004 concluded that British universities need to learn how to become asking institutions. The study was set up to examine how the UK could begin to emulate the USA and Canada in achieving a much larger proportion of its income from endowments and donations. The report showed that only 10 institutions had endowments exceeding £50 million and over one half have less than £1million, so that there is a long way to go. Compare this with Canada, where it is estimated that the universities' endowment fund assets collectively exceed C\$6 billion.

The task force recommends steps that will help vice-chancellors, chairs of governing bodies and senior academic leaders to master the art of asking. In addition it suggests changes in the tax regime to encourage giving by higher rate taxpayers and repeats an earlier suggestion that government should match institutional success in fund raising pound for pound (as is already done in Hong Kong).

The report proposes that the UK aims at a target of raising £600 million from individuals each year. A successful example of such individual giving benefited McMaster University which has received C\$ 105 million, the largest donation from an individual in Canadian history, which came with no strings attached.

See www.dfes.gov.uk/hegateway/hereforum/voluntarygiving/index.cfm

9. Fair Admissions to Higher Education: Recommendations for Good Practice,

September 2004. Report of a Steering Group chaired by Steven Schwartz. Participation in higher education is influenced by several factors, which include the admissions policies adopted by institutions. This report looked at the current UK admissions systems and then sought to define the features of a 'fair' system that gave equal opportunity for all individuals regardless of background.

The Group set out five principles of fair admissions, which were that a fair system should:

- Be transparent
- Enable institutions to select students who are able to complete the course as judged by their achievements and potential
- Strive to use assessment methods that are reliable and valid
- Seek to minimise barriers for applicants
- Be professional in every respect and underpinned by appropriate institutional structures and processes.

The Report recommended research into admission tests such as the SATS in the USA and suggested that admissions decisions should be taken, once A and AS level results are known. It also proposed that a centre of expertise on admissions should be set up to help institutions wishing to improve their processes. The report is at: www.dfes.gov.uk/hegateway/herefor/admissionsreview/index.cfm

10. Better Regulation Task Force and the Higher Education Regulation Review Group.

The government has identified the need to try and reduce bureaucracy and cut red tape. As part of this campaign there has been a series of reports since 2002 on the topic of limiting the 'accountability burden' on HEIs through 'better regulation'. In July 2002 a report called Higher Education: Easing the Burden recommended the establishment of a Task Force called the Better Regulation Review Group to identify ways of keeping the burden of bureaucratic requirements on institutions to the lowest possible level.

This Task Force reported in November 2003 and suggested the creation of a Higher Education Regulation Review Group which has the role of ensuring that the regulatory demands on the sector are "effectively assessed by those who impose them" and are kept to a minimum. This will involve an HE Gatekeeper Group, comprised mostly of senior university administrators, meeting at intervals to review proposals from all the main policy making bodies in higher education and telling them within two weeks whether their proposals are satisfactory. If the Group thinks that any policies are unduly demanding or burdensome on the sector they have the power to ask Ministers to think again. Details are at www.hefce.ac.uk/lgrm/account/brrg.asp

Making Sense of Governance in Higher Education

A Programme for Members of Governing Bodies in Universities and Colleges

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Module 8:

Measuring Institutional Performance:
The Role of the Governing Body

MODULE 8: MEASURING INSTITUTIONAL PERFORMANCE – THE ROLE OF THE GOVERNING BODY

1. The CUC Guide¹ refers to monitoring institutional performance several times, and one of the four tasks included in its Statement of Primary Responsibilities of the Governing Body is: "monitoring institutional performance against plans and approved key performance indicators (KPIs), which should be, where possible and appropriate, benchmarked against other institutions". The same point is picked up in point 16 of its Governance Code of Practice in connection with reviewing the effectiveness of the governing body.

2. This module tries to answer some of the basic questions that you may have about the role of the governing body in measuring institutional performance: what is being done, why, and who should do it. Such questions include:

- What is good performance for a higher education institution?
- Is monitoring performance the same as measuring performance, and if not why are the two terms sometimes used (confusingly) as if they were interchangeable?
- What performance data should governors reasonably expect to be provided by their institution?
- How does measuring (and monitoring) relate to the strategic responsibilities of governing bodies?
- Is measuring solely the responsibility of the board, and if not how can it be shared with other bodies?

"I'm not at all sure that my governing body really - I mean really - measure institutional performance, and if we try to do it then it might mean major changes for the way we operate."

(Chair of a governing body)

3. It needs to be recognised that the contents of parts of this module are contentious, and practice currently differs between institutions. The measurement of performance is a new area for governing bodies, and many HEIs are still deciding how they will carry it out. Your own board may not yet have a fully developed set of procedures.

4. There are numerous reasons for this variation in institutional practice. For example, in those HEIs where governing bodies still function primarily in the stakeholder tradition (see Module 2 for an explanation of this term) monitoring may be relatively weak, perhaps just consisting of approving an annual report, accounts and other key documents. Conversely in those HEIs that have adopted a more performance led approach to governance, then monitoring and measuring may be more advanced. Similarly, at a personal level some governors are uncomfortable about a board being too intrusive (see the quotation at the side), while others have fewer concerns. The attitudes of chief executives also tend to vary in this area, with some welcoming a major performance measurement role for the board, whereas others see it very much as a management task. In summary, this is a developing area and little is currently established as core 'good' practice.

5. The module is organised into three sections:

- First, a short description of why performance measurement is important and how it has taken on more emphasis in recent years.
- Second, reviewing what good institutional performance means.

- Third, how to measure and monitor performance. This section summarises briefly some of the approaches that are currently being used by institutions to measure their performance, and you can compare these to what happens in your own institution.
6. If you would like to read more about performance measurement and governing bodies, there is a section on it in the recent CUC Report on six areas of good practice in the governance of higher education.²

WHY IS MONITORING AND MEASURING PERFORMANCE IMPORTANT?

7. The Report of the Committee chaired by Lord Dearing in 1997³ stressed that institutions should monitor their overall performance at five yearly intervals and his encouragement was followed up by the CUC. This recommendation was in addition to the array of (usually annual) statistical indicators provided by HEIs for the funding bodies,⁴ and usually reported to their governing bodies.

8. There are several strong drivers behind the recent recommendation in the new CUC Guide to enhance the measurement of performance:

- Governors in many institutions increasingly want this kind of information. It is a core duty of any body that delegates responsibility to executives to review how they have fulfilled their obligations. Even though the levers of governance in an HEI are less clearly linked to outcomes than in the private sector, the model of accountability still holds. The vice-chancellor or principal is expected to understand what has happened and to report on it to the governing body, even if in some areas he or she may have limited control and influence. Boards also need performance data for comparative purposes. A survey of board members by SCOP in 2002 showed that these data were required by them so that they could compare institutional performance with that of other HEIs.
- In many institutions senior managers welcome active performance monitoring because of the need to maximise value from increasingly scarce resources, and to invest in high performing areas.
- The funding bodies are encouraging it both for reasons of accountability and also to maximise value for money. Under funding council rules formal responsibility for financial performance and for achieving agreed national policy is passed by the governing body to a 'responsible officer' (usually the principal or vice-chancellor). The funding bodies will expect this accountability to be enforced and reviewed. Their auditors have been undertaking 'governance audits' in recent years which have explored how such accountability has been maintained.

9. Nonetheless there are some tensions in what governing bodies are expected to do. Nationally for some institutions the government's targets and policies (mediated through the funding bodies) may not match their own. For example some HEIs are much more enthusiastic about meeting national widening participation policy than others. Partly such difficulties are caused because government regularly introduces new policy priorities and expects institutions to revisit their own goals and programmes in order to achieve national goals. Thus the current government has set priorities in widening participation, greater

"If we're really supposed to be 'unambiguously responsible' for the University's activities then I can't see any way of us not measuring performance: we simply have to know how this place is doing."

(Governor with private sector experience)

"As a board we have to avoid confusing our own KPIs with all the other stuff that we have to collect for government."

(Governor with mixed external experience)

access, research excellence, and leadership, governance and management to name but four areas. To this end the funding bodies assess the extent to which institutions are performing in these priority areas according to performance indicators, and which are published at regular intervals.⁵

10. Such tensions may lead to the undesirable position of a governing body having two sets of goals and targets against which to assess performance: those it sets itself and those that the funding body has set for it. Its own charter or statutes give it overall responsibility for the whole institution, while its financial memorandum holds it responsible "for ensuring that the institution complies with this memorandum and related guidance".⁶ In practice, almost all HEIs incorporate funding body policy guidelines and priorities into their corporate plan, so that tensions or conflicts do not arise. Nonetheless from the governors' point of view this means that some of the institution's goals and targets are externally generated, while others are internal.

11. This situation affects different institutions in different ways, and governing bodies in HEIs with a diverse set of income streams from non-funding councils sources are likely to be able to assert more independence in approaches to performance monitoring.

ISSUES IN MEASURING PERFORMANCE

12. As noted above, recommendations for governing bodies to have a measurement responsibility are relatively new, and internally many HEIs are currently wrestling with a number of important issues in this area. The first concerns terminology: are they measuring or monitoring performance? There is no agreed definition of the two words, however, generally it is held that:

- 'Measuring' is a much stronger and more active concept, usually involving setting specific targets against objectives, identifying key performance indicators (both quantitative and qualitative), defining other data requirements, and then measuring performance against them on a regular basis.
- 'Monitoring' is a slightly weaker and more reactive concept, which may focus more on the governing body receiving reports. For example, the duty of boards to receive an annual report has always been a central element in fulfilling the monitoring role, but as traditionally practised this can scarcely be said to be measuring performance. In a sense, therefore, monitoring is a part of measuring, but not the other way round.

1

Questions:

What term does your own board use in relation to its performance review responsibilities, and why?

Does the term used (monitoring, measurement, or something else) mean the same thing to different board members and managers, and if not what are the implications?

13. A second internal issue is where the responsibility for performance monitoring and measuring lies. For example, should a board set measures and targets themselves or should they ask officers to do the target setting and the selection of appropriate measures and then agree them? If the latter (which maintains the distinction between governance and management) then boards need to be clear that they are getting the data that they want rather than that which managers choose to provide - although hopefully there should be no distinction. Often targets will follow from the strategic plan, but there is a danger of performance measurement becoming too instrumental and concentrating on short term factors. A practice now being more commonly adopted is for a board to identify a small number of its own key performance indicators (KPIs) - see below.

14. A third issue is the scale and frequency of the measurement process. An annual cycle for monitoring is widely used, but active measurement needs to be an on-going activity, and strategic questioning should take place regularly. Indeed, what should be the difference between an annual performance review and the larger exercise that Dearing seemed to be envisaging? Institutional needs and requirements will differ depending upon the portfolio of activities undertaken, but boards will need to be clear about their needs in relation to the timing issue.

15. Finally there are issues of data quality, robustness, timeliness, and intelligibility. Put simply: does your board get the performance data it requires, when it needs it, and to an appropriate standard?

2	
Question: Identify the ways in which your own board monitors the performance of the institution in the following sample areas:	Types of measurement:
A Financial health:	
B HR practice	
C Compliance with funding body requirements:	
D Compliance with legal duties:	
E Achieving targets in the strategic plan:	
F Efficiency and value for money:	
G Comparative performance with similar HEIs:	
H The quality of educational services to students:	
I Risk (in all key areas not just audit):	
J Commercial activities:	
K Think of one other area of importance to your own HEI:	
You might like to discuss the answers with your clerk/secretary or chair	

"The fact is that we are wholly dependent on officers for the information that we receive. Most of the time it's fine, but sometimes not and then it may take ages for improvements to work their way through to us."

(Governor with public sector experience)

"There needs to be more emphasis on the production of integrated management information as opposed to receiving one off reports."

(Governor with mixed external experience)

WHAT DOES GOOD INSTITUTIONAL PERFORMANCE MEAN?

"It's not our job to second guess academic staff, but we do need to be confident that the investment decisions we are asked to make are based on sound evidence."

(Governor with charity experience)

16. For most governors coming to a higher education institution for the first time there are problems in understanding how performance can be measured. In the private sector there are widely accepted measures such as shareholder value, but in HE there is much less agreement about what good institutional performance means. For example, it is not the production of ever increasing financial surpluses, but nor is defining and measuring the delivery of high quality of learning and teaching to students a simple task.

17. So, what is success in a higher education institution? Well in one sense it is a matter of meeting measurable strategic targets, but how is a governing body to know how demanding the targets should be to reach, and, in relation to teaching and research, how is it to know what is realistic? In most cases a board would want to take the advice of the bodies involved in academic governance (academic boards, senates and so on) as well as senior executives.

18. The most elementary way of assessing performance is by comparing actual achievements against what had been planned, and most HEIs have mechanisms in place for this kind of reporting to the governing body. In England boards will also need to approve the annual monitoring statement return to HEFCE who have established this as an annual reporting mechanism (AMS).⁷ This encourages institutions to identify measurable targets for most of their HEFCE funded activities. However, the large number of initiatives and programmes in the AMS makes it hard to get an overall view of institutional, rather than project or programme, performance. Moreover, the achievement of a series of a small targets does not tell a board much about overall institutional performance.

19. For many academics good performance is measured in term of reputation, either for a department as a whole or for individuals. Often this is informal (and therefore almost entirely beyond the capacity of a governing board to deal with), but in the area of research it may be based on specific indicators such as research grant income (although this is very discipline specific), the citation of papers, patents, and so on. It is such indicators that allow the RAE to operate, and to serve as a (controversial) proxy for quality. However, for teaching reputational indicators of performance are much weaker, although boards should receive QAA and other quality reports.

"Initially when I saw my university well down in a newspaper league table I was really worried, but the vice-chancellor reassured us that the data was misleading. Nonetheless it's worrying to think about the implications for potential students."

(Governor with private sector experience)

20. It is because of such difficulties that 'league tables' seem to hold initial attractions for some governors, but they are fraught with difficulties as serious measures of performance. Newspaper league tables are assumed by many outsiders to higher education to be a fair picture of comparative performance. In fact they can be extremely misleading, and without very close analysis should never be taken as a performance indicator. Amongst the reasons are:

- They only report on things that are easily measurable.
- Some of the data they use are out of date.
- They usually take a number of indicators and aggregate them to produce an overall ranking.
- Their indicators (and the weighting given to them) do not necessarily represent the measures that an institution would set itself. Only if all HEIs chose those indicators as their own KPIs would a national ranking make sense.

- Some of the indicators are much criticised, for example, some newspapers use the number of volumes in a library as a quality indicator, when the focus of almost all librarians is moving to an emphasis on access to electronic materials rather than the number of items held on shelves.

21. However, league tables are here to stay - no matter how misleading - because they sell newspapers. For example, even a specialist paper who should know better like the Times Higher recently produced in early 2005 an international league table of the world's leading universities by discipline, in which 50% of the score was reputational and based on what 1,300 academic peers throughout the world thought were the 'best' universities. Thus a good university is one that leading academics think is excellent, and this judgement is usually based on knowledge of its research reputation and capacity⁸. However, this tells us nothing about the quality of its teaching or the value added to its less able students. The networks that discuss or consider teaching excellence are only just emerging⁹ and carry little weight compared to the global research partnerships and collaborations.

22. Despite these blemishes, institutions know that the general public in the UK and overseas gives considerable credence to league table rankings. Governors will therefore wish to know where their own institution appears on a list and what the reasons are for any 'poor' scores. If these reasons are the result of an alternative emphasis in the strategies that their institution has adopted, governors should not be concerned.

23. The introduction of increased student fees will add an additional dimension to the way a governing body will measure performance, with more attention on customer satisfaction. Many HEIs already carry out detailed student satisfaction surveys, which in most (not all) cases are reported to governing bodies, and more information of this kind is to be expected.

HOW TO MEASURE AND MONITOR PERFORMANCE

24. In truth, a higher education institution is like any business in that it absorbs resources and produces end products; but the similarity ends there. Many of the outcomes of substantial investment are barely measurable, and the complexity of the interactions between what is put in and what emerges is enormous.

3

Question: As an example of the difficulty of measuring the returns from investment and the impact on performance, consider the following in relation to your own institution:

- a) Do you know if the investment your governing body has made in information and computer technology (ICT) has made student learning more effective? If not, what evidence would help the board make that decision?**
- b) In justifying the investment in ICT how does your board know that there have been extra educational outcomes that match or exceed the cost?**
- c) As part of your board's responsibility for determining educational character (post 1992 HEIs only) do you know what part of a student's learning experience comes from self-study or from informal and social interactions with fellow students rather than formal contact time with academic staff?**

"I think our board is quite good at measuring performance, and every meeting has at least one item on some aspect of it. Our chair sees it as a high priority."

(Staff governor)

25. The implications of these questions for governors are that it is often very difficult to identify simple causal links between performance and the use of resources in many - not all - areas of institutional activity. This is not a reason for not using appropriate data, but a health warning about what over simplistic measures can tell you.

26. To look at some of the practical ways in which performance is being measured and monitored we can draw on the evidence accumulated for the CUC study of good practice in six areas of governance¹⁰. At a minimum your governing body should already be receiving:

- In England, a copy of the annual monitoring statement return to HEFCE.
- An annual report and associated documents for approval.
- Some kind of annual review of the implementation of the strategic plan.
- External quality reports such as produced by QAA, Ofsted, and some professional bodies.
- Specific information relevant to performance measurement by sub-committees, for example data to assess the achievement of HR strategy and so on.

In addition, some other institutions are providing a great deal more for their governing bodies.

27. One starting point is the distinction between what the CUC calls the 'Dearing type performance review' and any regular ongoing measuring or review processes. The Dearing Report suggested that every institution should embark on a *fundamental* review of its performance every five years. In practice this recommendation has not been followed widely, despite the CUC producing some guidance (and a checklist of questions) on how such reviews might be done.

28. The reason has been the frequency and regularity of other forms of review or strategic analysis. For example, many HEIs feel that there is already a surfeit of external demands for strategies, audits and reviews. In addition it is common for the main corporate or strategic planning processes (but not the annual updates) to start with basic questions concerning the continuing relevance of an institution's vision, mission and goals. Thus, the existence of a three year planning cycle provides the framework for strategic questioning at intervals more frequent than Dearing suggested.

29. However, a strategic planning process is inevitably time constrained and there is something to be said for a more relaxed, but rigorous and holistic look at institutional performance at intervals. Indeed, at least one university has a requirement in its charter that such a review is undertaken every seven years to assess whether the university has fulfilled its founding objectives.

4

Question: Do you think that a comprehensive performance review would assist your institution at intervals, and if so should this involve taking time to consider your HEI's core vision and goals more deeply than at present? What are the advantages and drawbacks of such a review?

30. So far as methods of regular performance measurement are concerned here are three approaches that the recent good practice review found in some HEIs.

31. First, benchmarking performance statistics against comparable HEIs is becoming more common. If peer HEIs agreed to collect and share common performance data, the way would be open for regular comparisons with them and the development of trends over time.

32. Second, some institutions have begun to adapt models used in other sectors such as the balanced scorecard and the European Foundation for Quality Management (EFQM)¹¹. These have the potential to provide a valuable tool to integrate management information of this kind.

33. Third, the use of key performance indicators, usually derived directly from institutional strategies. These are statistics that tend to be produced at yearly intervals and are therefore not for regular report. One might expect that institutions would choose to adopt similar KPIs, but this was not the conclusion reached in a recent survey of the subject for the CUC. In a sense this could be good news, if it reflects the diversity of the sector and the fact that different institutions have chosen to set themselves different objectives.

34. Here are some examples of actual KPIs grouped under relevant headings) that are currently being used in HEIs (note this is for illustration only and is not a recommendation for use):

Students	Diversity of the student body Applications per student place Conversions of offers to acceptances Percentage of international students per faculty Percentage of students from the region Percentage of students employed on graduation
Research	Number of research active staff Value and success rate of grant applications Number of postgraduate research students Research income
Other	Percentage increase in recruitment and income from lifelong learning programmes Increase in the diversity of the staff body
Financial etc	Percentage of income from non HEFCE sources Percentage recovery of overheads on contracts Average annual cost of an FTE staff member Maintenance backlog Ratio of current assets to current liabilities

35. In three universities where detailed KPIs were compiled, the numbers of indicators reported on to the governing body were 14, 29 and 40 respectively. This raises the question of whether the board should focus on issues that are of major strategic importance and leave indicators that measure management performance to others to deal with. Is it realistic to try to monitor as many as 40 measures and what do they tell you in the aggregate? The ideal must be to identify a manageable clutch of key indicators that sum up how well the institution is reaching its main strategic goals.

"We've chosen only to have a few KPIs, otherwise the board drowns in a sea of statistics"

(Chair of a governing body)

5

Question: Imagine that your HEI is planning to start an overseas franchise programme in China with a target of enrolling 500 students pa in three years time. Set out what kind of KPIs:

- a) Should be collected for management purposes?
 - b) Should be reported to senate or the academic board, if any?
 - c) Should be measured by the governing body?
- If the KPIs are different for (c) what is the reason?

36. In addition, there are some other questions to consider when thinking about the use of KPIs to assess your institution's performance:

- Can performance measures and KPIs be linked directly to key institutional strategies so that you can assess success in achieving them?
- Can you find indicators that tell you about qualitative factors (morale, quality of teaching, student satisfaction etc) as well as the more obvious quantifiable factors?
- Are the indicators that your board has identified incorruptible (that is, can they be perverted or manipulated) and is there a risk that their use might distort behaviour?
- To what level should indicators go? Does the board need to look at the performance of individual faculties and/or departments or just the institution as a whole?
- Can trend data be developed to help performance reviews?
- Are there peers or comparable organisations with which your HEI can benchmark performance? If there are none, what national performance data is useful?

6

Question: What are the KPIs that are reported to your governing body and are they fit for purpose? You might like to discuss your conclusions with the chair of the board.

CONCLUSIONS

37. Irrespective of the approach, an important question for your governing body to consider is the timing of performance measurement. For example, is it enough to look at KPIs and other performance measures just once a year? There might be some areas where the governing body would expect management to act quickly to address issues. For example, one research intensive institution considers its research income flows so vital that it obtains statistics at monthly intervals in a special governors' sub committee. Other universities have spread aspects of their performance review and evaluation through the year and look at separate areas at each meeting of the governing body. Others try to time the presentation of key performance information with the start of the new cycle of strategic planning.

38. A final thought brings us back to the rationale for assessing how the institution is performing. A governing body can undertake its activities in two ways: as part of a monitoring and reporting regime which concentrates on checking what the executive has done; or it can form part of a performance culture where the governing body itself plays an active role, and may even seek to enhance institutional performance through its own actions. If you believe that your governing body can add value (because of the skills and objectivity of you and your colleagues), then the latter approach is an obvious way to go.

39. In some institutional cultures this model may not be easy to achieve, as it requires the willing collaboration of the chief executive and a solid working relationship between him or her and other members of the governing body, particularly the chair. Where it does happen, your board will want to play a major part in helping to agree institutional goals and targets and then in reviewing whether or not they have been achieved.

40. As a concluding activity try the following:

7

Questions:

Imagine that your governing body is meeting a visiting group from the audit service of your main funding body. How would you answer the following questions:

- a) What are the strengths of the way your own governing body measures institutional performance?**
- b) What are the weaknesses of the way your own governing body measures institutional performance?**
- c) How do these answers meet funding body expectations?**

(Footnotes)

¹ CUC Guide for Members of Higher Education Governing Bodies, 2004, see www.shef.ac.uk/cuc

² See the CUC web site at www.shef.ac.uk/cuc under publications.

³ See Module 7 for a description of the report.

⁴ The first was Interim Report of the Working Party on the Review of Institutional Performance published by the CUC in May 2002. Since then the topic has been covered in questionnaire surveys in 2003 and 2004.

⁵ See the HESA web site at www.hesa.ac.uk/pi/summary_0203.htm for annual performance indicator information for all the funding councils on student profiles, non-continuation rates and research indicators.

⁶ Model financial memorandum between HEFCE and institutions, clause 8.

⁷ See (AMS in Module 7, Part B)

⁸ The leading US newspaper's university league table also relies heavily on trying to assess opinions and peer perceptions on institutions.

⁹ In for example the 24 subject centres of the Higher Education Academy. See www.heacademy.ac.uk

¹⁰ ibid.

¹¹ Examples of these are given in the CUC's good practice report.

Making Sense of Governance in Higher Education

A Programme for Members of Governing Bodies in Universities and Colleges

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Module 9:

How Effective is Your Governing Body?

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MODULE 9: HOW EFFECTIVE IS YOUR GOVERNING BODY?

1. This module tackles the difficult question of helping you to assess whether your governing body is effective or not. All boards now need to consider this issue, as it is an expectation under the Code of Practice in the new CUC Guide that a governing body 'shall undertake a formal and rigorous evaluation of its own effectiveness... not less than every five years'.¹ In fact, some boards now do this annually.

2. Why is it suggested that readers (who, in general, are probably new or inexperienced governors) should be involved in thinking about the effectiveness of their board in this way? There are three reasons:

- First, ensuring the effectiveness of boards is a joint responsibility of all members, and does not just rest with the chair or senior governors.
- Second, the very fact that members are new enables them to examine the effectiveness of a board through fresh eyes. Some institutions now consider it to be good practice for chairs to have an annual review meeting with new members, and one part of that must surely be to ask their views on 'how the board is doing'.
- Third, readers who have worked through all the modules in this programme are in the position of having given time and effort to thinking seriously about governance, and almost certainly will now have thoughts about how their board could be enhanced.

3. The module is organised into several short sections:

- First, an initial discussion of what is effectiveness in governance.
- Second, identifying some possible dimensions of effectiveness.
- Third, exploring what readers can do.

"We have always assumed that the governing body was doing its job, but until recently everyone was too polite to ask if this was true, or even what its job really was!"

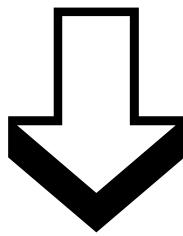
(Clerk to a governing body)

However, so far as higher education is concerned, this is very much work in progress, and the module can only provide a short introduction to the topic. You should look out for further material which should soon be available either via CUC or the Leadership Foundation. At the end is a short survey that you can complete and apply to your own HEI.

WHAT IS EFFECTIVENESS IN GOVERNANCE?

4. In one sense an effective governing body could be one that does all the things considered in this set of materials, but more pragmatically judgements of effectiveness inevitably depend on the way that any individual board interprets its role. There is no standard answer as governing bodies operate in very different ways according to their relationship with the executive and the wishes of their chair.

5. The recent report on good practice in governance commissioned by CUC² produced a simple diagram which can be amended to show how board effectiveness can be defined in different ways depending upon an HEI's view of the main function of a board:



- a) Effectiveness is ensuring compliance with all legal and regulatory requirements.
- b) Effectiveness is ensuring the financial and operational health of the institution.
- c) Effectiveness is ensuring high quality service delivery through appropriate monitoring and reporting.
- d) Effectiveness is ensuring that the mission of the institution is achieved.
- e) Effectiveness is ensuring that the performance of the institution is maximised.

6. Along this continuum, HEIs who would define effective governance as position (a) would tend to see boards in traditional 'stakeholder' terms, whose role is effectively to ensure that legal requirements are met and to keep the funding bodies 'happy'.

7. The stages are sequential, for example (e) cannot be achieved without (a) to (d) being in place, and almost all depend on the board having ensured that it has appointed the right senior executives in the first place. Currently within higher education there would probably be general agreement that stage (b) is the minimum to capture any notion of effective governance, and this is broadly at the level at which the CUC Code of Practice (and other similar codes) operates. However, for some institutions, meeting minimum good practice is not an adequate conception of effectiveness. From stage (c) onwards the ideas of effectiveness are likely to be more contested, and the contextual and cultural factors specific to individual HEIs may come into play. A related key question is which body in an institution is responsible for undertaking these roles. Is it the governing body, or the academic board or senate, or is it shared? For example, some pre-1992 universities may well argue that it is the role of the academic governance system to ensure these criteria are met, and not directly that of the governing body.

8. Position (e) on the continuum is likely to be particularly controversial. In much of the private sector there is increasingly perceived to be a direct link between the performance of a company and the performance of its board. If a company is successful, it is likely to be as a consequence of decisions taken by the chair, the CEO and the board. An effective board therefore can add real value to the company, and the better performance-related pay systems make this connection. In higher education such a link is far from clear and measuring performance is not easy (see Module 8). Moreover, although accumulating a basket of quantifiable key performance indicators can be valuable, they are not substitutes for the judgement of the governing body.

"The current fashion for discussing governance is irritating. Most boards work perfectly well and don't need codes to help them."

(Governor with private sector experience)

"I see my role as a board member not just attending occasional meetings but making a real contribution to my university."

(Staff governor)

1

Questions:

a) Where would you place your own board's views of its effectiveness on the continuum in paragraph 5?

b) What are the reasons for this and are they the same as your own view about the basis of board effectiveness?

9. There are several reasons why, under current arrangements, the performance of a governing body is not easily related to the performance of an HEI:

"It's all very well universities saying that councils' have unambiguous control, but has anybody told their senates?"

(Staff governor)

- Although all governing bodies now have "unambiguous control"³ over all aspects of the institution, particularly in pre-1992 HEIs their ability to measure educational activity is affected by the need to defer in some matters to the academic authority of the senate. This means that they are likely to be unable to exercise authority over all academic matters as effectively as an explicit performance model of governance would require.
- In addition, a governing body holds a vice-chancellor or principal accountable for the performance of the institution who, in turn, exercises leadership that can be endorsed by the academic community. The culture would not welcome a chair or a governing body acting in an explicit leadership role.
- The connection between good governance and good performance is not always self-evident. Some universally respected institutions do not follow all the tenets of good corporate governance, while many well-governed institutions are not high in the league tables of performance. Whatever the reasons for this, the benefits of effective governance have still to be proven to many HEIs.

10. In addition, the principle of voluntary participation by governors also places a limit on the extent of performance measurement of individual board members. Put simply, many board chairs and chief executives wonder if HEIs are in any position to require independent governors who provide their time freely and out of a sense of public duty to have their performance reviewed.

11. To date most of the attempts by governing bodies to review their effectiveness have tended to concentrate on procedural and process aspects of effectiveness, rather than asking fundamental questions about the value that boards add. All this creates both an opportunity and a problem for readers thinking about the effectiveness of their own board: the opportunity is that this is generally an opportune time for governors and HEIs to be thinking about such things, but the consequent problem is that easy solutions will be difficult to find.

"Our first effectiveness review was useful, but we never really got to the heart of how the governing body worked."

(Clerk to a governing body)

2

Question: *Almost all HEIs have now undertaken at least one effectiveness review of their governing body, perhaps before you became a board member. Ask your clerk for a copy of the last review of your own board, and answer the following:*

- a) How did the review define the effectiveness of your board?**
- b) On reflection, did the review get to the 'heart' of board effectiveness? If not why not?**
- c) What else might be done in the next effectiveness review, and why?**

SOME DIMENSIONS OF EFFECTIVENESS

12. Reviews of effectiveness of governing bodies can have different purposes, and it is important that boards know what they are trying to achieve. Such purposes include:

- a) The organisation and procedures of governing body meetings work well.** This includes all aspects of the organisation of meetings, including the appropriateness and timeliness of the paperwork. This is an important pre-condition for good governance but, by itself, does not lead to effectiveness, for example it is possible to envisage a well run but largely ineffectual governing body.
- b) The chairing and behaviour at governing body meetings** (including the nature of contributions from members). This involves reviewing the extent to which board

meetings are effective in the style and extent of personal interactions, that members work well together in a common cause, and that the board constructively challenges and reviews the work of the executive. Frankly some governing bodies are better run and better chaired than others, and this can make an important difference to how well they function. However, taken by itself this aspect of effectiveness says little about the overall quality of decisions made.

c) *The governing body (and HEI) complies with all legal and regulatory requirements.* This would include both the conditions of their funding bodies, and the new CUC code of practice. This is clearly important but by itself is a definition of effectiveness external to the HEI. Moreover it is likely to be the most minimal definition of effectiveness available, rather than one which reflects fully the complete range of responsibilities of the governing body.

d) *The governing body carries out effectively its main duties as defined in its charter or instruments.* That is, the effectiveness review process mirrors the formal duties of the board. This has some obvious attractions, however, some of the most important duties of a board are not written down (eg acting as a 'critical friend' to the executive), so such an approach may not tackle some of the most potentially contentious areas of governance. Moreover it is not a forward looking approach.

e) *The governing body works effectively as a team.* That is the skills and attributes of its members are used effectively, that there is open communication, and that decisions are arrived at by genuine consensus. These attributes are clearly important in an effective board, but by themselves say little about the decisions made and the long term value of governing bodies.

"If governance is so important, could someone explain why the two 'best' British universities have poor governance systems."
(Staff governor)

f) *The governing body reviews the effectiveness of its own decisions.* That is, over time, it asks the question: can we prove to ourselves that we have made the correct decisions in the past. If not what does that say about the way we make decisions and our effectiveness? This is clearly an important aspect of effectiveness but may be difficult to do.

g) *The governing body maximises institutional performance.* This approach explicitly places a governing body in a dominant position similar to a commercial board, which may be difficult in many HEIs. Moreover, particularly in pre-1992 HEIs it could threaten the delicate balance between the governing body and the senate, as well as muddying the waters in the performance appraisal of senior management: who is then really responsible for good performance?

"Slightly to my surprise the effectiveness review was more useful than I thought it would be"

(Governor with private sector experience)

3

Question: Consider each of the possible approaches above to defining effectiveness of governing bodies, and identify how appropriate it would be if used for your own board.

For the most appropriate approaches what kind of information would you need to make an accurate decision on effectiveness?

WHAT CAN I DO?

13. We suggest that you might like to do three things:

- First, answer the questions above on how the effectiveness of your own governing body might be identified.
- Second, complete the following questionnaire and think about the implications.
- Third, arrange a meeting with the clerk or chair of your board to discuss the

implications of all this.

14. What follows is a questionnaire based on board effectiveness as used by one HEI.⁴ Many have used some kind of survey, but this example is more comprehensive than most. It assesses effectiveness against defined functions and responsibilities. In the full version each question has attached to it the definition of each board responsibility, but this is not supplied in this version.

15. It needs to be recognised that reviewing board effectiveness is not easy, and there may be blockages which mean that suggested change could be slow. Some key governors may be reluctant to take on more responsibilities or officers may not want to share their thoughts with governors. Do not, therefore, be over-ambitious about what could be achieved by any suggestions you make to your clerk or chair.

4

This questionnaire is designed to help you and your fellow governors assess how well the governing body is functioning. You should rate the answer to each question on the following 4 point scale:

1 = You are very dissatisfied

2 = You are slightly dissatisfied

3 = You are slightly satisfied

4 = You are very satisfied

When completed, think through the implications of your answers and raise any relevant issues with the clerk or the chair of the board. If you are unable to answer some questions, you should reflect on why this is and the information that is available to you as a governor

	As a member of the governing body (GB) rate how satisfied you are with:	1	2	3	4
1	<i>The GB's performance in determining and reviewing the University's mission statement?</i>				
2	<i>The GB's performance in supporting and reviewing the performance of the principal and chief executive?</i>				
3	<i>The GB's performance in approving, monitoring and evaluating the University's activities ?</i>				
4	<i>The GB's effectiveness in establishing and overseeing a framework of delegation and systems of control in relation to committees?</i>				
5	<i>The GB's performance in ensuring the effective financial management of the University?</i>				
6	<i>The GB ensuring that the University manages and develops its estates and equipment base to meet its overall needs, and develops and periodically reviews and updates its estates strategy?</i>				
7	<i>The GB's performance in ensuring that the University has an effective HR strategy which is periodically reviewed and which derives from and informs the University's strategic plan?</i>				
8	<i>The GB's proactivity in developing a clear understanding of the roles of staff and in developing a relationship of mutual respect and trust?</i>				
9	<i>The GB's active involvement in planning and reviewing the long term strategic direction and priorities of the University?</i>				
10	<i>The GB's performance in ensuring measures are in place to promote the work, services, and achievements of the University?</i>				
11	<i>The GB in ensuring that its performance is facilitated by well-organised, well-run and constructive meetings?</i>				
12	<i>The GB's performance in ensuring that there are effective arrangements in place for recruiting new governors with appropriate skills and expertise?</i>				
13	<i>The GB's understanding of the major academic issues within the University and more generally within the HE sector?</i>				
14	<i>The GB ensuring that appropriate arrangements are in place to identify risks to business continuity and to manage risks?</i>				

(Footnotes)

¹ Guide for Members of Governing Bodies see www.shef.ac.uk/cuc

² CHEMS Consulting, Good Practice in Six Areas of Governance, see www.shef.ac.uk/cuc

³ This has been the phrase used by the CUC in recent surveys to test the extent to which governing bodies felt that they were in control of the governance of their institutions.

⁴ Glasgow Caledonian University and reproduced with permission. The rating scale has been changed from the original. The observant amongst you may think that you have seen this before in Module 1, but it is not the same questionnaire!

Making Sense of Governance in Higher Education

A Programme for Members of Governing Bodies in Universities and Colleges

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Module 10:

**A Facilitator's Guide to Using the
Materials on In-House Events**

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MODULE 10: A FACILITATOR'S GUIDE TO USING THE MATERIALS ON IN-HOUSE EVENTS

1. As noted in the introduction module to this programme, this set of materials has been designed to be used either by governors working on their own or as part of an in-house activity to support governor development. Many of the institutions consulted commented that they would find it useful to have a short set of notes on how to use the materials for in-house activities: hence this facilitator's guide.

2. Below are short sections on:

- Some issues in governor development.
- Using the materials.
- Other activities that might be used.
- Designing and preparing a session.
- The practicalities of organising a session.
- The knowledge and skills required in facilitating a session.
- What happens after the session?
- Some potential problems.
- List of references.

3. Although anyone with an interest in governance might be involved in running or organising development sessions using these materials, in most HEIs it is likely to be the clerk or secretary to the governing body who takes the lead. Although clerks will be experienced in running formal meetings they may not have run development sessions, which typically have a different style and approach. These brief notes can only provide a description of some of the main issues that are likely to be faced, and are aimed at what a 'typical' facilitator might require. However, if after reading them more advice or support is required, facilitators should contact the staff development or educational development officer in their institution. Alternatively the clerk might involve the staff development service in helping to run the sessions.

SOME ISSUES IN GOVERNOR DEVELOPMENT

4. Governors are a diverse group of experienced adults, and it follows that development is not something that is done to them but rather something that has to support their perceived needs in a way they think is appropriate. This has several implications for how the materials might be used.

5. First, although the modules can be used more widely, they are primarily designed for governors in their first year of office. It follows that all governor development activities for this group (and others) should be part of a planned programme of activities, based on meeting both institutional requirements for ensuring high performing boards and also the needs and interests of individual governors. In other words any seminars involving these materials should ideally not be run on a 'one off' basis but rather as part of an agreed set of activities with clear purposes. This avoids any feeling that individual governors might be being singled out because of concerns about their effectiveness, and ensures that everyone knows that development is something provided for all.

6. Second, in general, activities for new governors need to take account of two potentially conflicting issues. On the one hand, they need to be firmly based in the experiences and perception of governors in their role to date. They are likely to have many initial impressions and resulting questions about higher education governance which (particularly for independent governors) stem from their previous experience elsewhere. These may be quite critical, but are potentially valuable insights for the HEI to think about and need to be drawn out in discussion by the facilitator. On the other hand, governors being busy people will often want succinct answers to questions. This creative tension between the benefits of reflection and the need for speedy resolution is frequently found in development activities for senior groups.

7. Third, the facilitator (particularly if also the clerk to the board) must expect - and indeed encourage - constructive but critical reflection on governance. However although this is easy to say it may be more difficult to do, especially as clerks may be trying to avoid such criticism in their main role in relation to the board! This tension is one reason why many of the initial attempts at undertaking effectiveness reviews of governing bodies tended to concentrate on process issues rather than the more fundamental (and potentially controversial) elements of effectiveness in governance.

USING THE MATERIALS

8. The materials are deliberately designed to be flexible in use, and to stimulate thought and activity. They therefore need to be used to encourage governors to explore their performance in an open and honest way. The purpose is not to teach governors, but rather to let them reflect on using their existing experience within the specific context of higher education governance.

9. Near the start of each module there is a short statement setting out its purpose, and what readers should have achieved by working through the content. The starting point for any in-house use of the materials is to check these statements and ensure that they are appropriate to meet the needs of any specific group of governors. It is important that the needs of governors should drive the material to be used and not the other way round. Once this decision has been made, facilitators will be in a position to know whether all or part of the content of a module should be used, and, if the latter, whether anything else needs to be substituted in its place.

10. Although the order in which the modules are presented is logical when being used by individual governors, it can be varied if necessary when used with groups. However, the following guidance applies:

- Module 1 ('How Effective Are You as a Governor?') is explicitly designed to set the scene for governors by encouraging them to think about what they do and how they do it. Accordingly it (or some variant of it) should remain the first activity in a seminar based approach.
- Module 2 ('An Overview of Developments in Governance') is largely contextual and can therefore be located almost anywhere or even omitted, depending upon the interests of particular groups of participants.
- Modules 8 and 9 (on Performance Measurement and Board Effectiveness) can really only be undertaken towards the end of the series, after some of the issues concerning roles and responsibilities have been considered in the middle modules. As written, they are only designed to be used for new members in reviewing issues of effectiveness and performance; however, they could be used as the basis for a discussion by all board members. If so, the materials will need supplementing.

11. In addition to using the modules as the basis for individual sessions lasting about 1.5 hours each, they can be grouped together to make a short number of longer (say 3 hour) sessions. For example, it is possible to envisage three half-day seminars as follows:

- Modules 1 and 2 on the context of higher education governance.
- Modules 3 to 6 on various aspects of roles and responsibilities.
- Module 8 and 9 on effectiveness and performance.

12. Most of the activities in the modules are phrased in terms of individual governors using them. When working in small groups the facilitator has a choice about whether to keep the activities as they are or to rephrase them slightly to make for a group activity. In general, there are two choices here:

- First, keep them as they are and get individual governors in the small group to complete them. (This might be done beforehand to save time.) The responses can then be compared in a group discussion.
- Second, rephrase the activity slightly to make it a group activity rather than an

individual one.

13. Key issues in using the individual modules are as follows:

- Module 1 is the most explicitly developmental of all the modules, and is designed to get governors to think in a personal sense about their effectiveness and the challenges they face. It is therefore important that it is the first module to be used. As the final section of Module 1 suggests, after completing other modules there may be advantage in the facilitator going back to the latter part of Module 1 and identifying what additional issues and development needs have arisen. The developmental nature of the module means that it is particularly well suited to be individual activity and small group work.
- Modules 2, 3, and 4 are less developmental and their content inevitably means that they are more descriptive about the context and practice of governance. The outcomes of these three modules are likely to be based on the increased understanding of the practice of governance, rather than personal effectiveness. In using them in a small in-house group, it will be important to ensure that discussion focuses on the implications of the text for individual governors. This can be done by:
 - Asking group members to share examples from their own experience to illustrate points in the text.
 - Asking personal open questions to probe responses, for example: 'what has been your experience of?'; 'what are the implications for you (or us - which is a more collaborative question) of?; etc.
 - Taking short institutionally based case studies or examples of governance issues or problems that can be used to examine some of the content of the modules. (Note that for this kind of activity real institutional examples are often much better than 'made-up' ones as members have no shared experience of the latter.)
- Modules 5 and 6 are more personal, and in small groups lend themselves to an open and shared discussions of the issues facing members, for example, are they getting involved in the ways that want, or what kinds of issues are facing staff and student members of boards. Thus there should be no need for illustrations or short case studies here, as the experience of participants should provide all the material required for the session.
- Module 7 consists of mainly reference material and is generally unsuitable for group discussion.
- Modules 8 and 9 both involve in getting governors to start to think about how their own effectiveness relates to that of the board overall. Facilitators therefore will need to be careful that the session maintains an appropriate balance between being constructively challenging about current practice, and being overly critical. The outcomes of group discussions on these modules are unlikely to be issues for individual governors to take forward, but may involve matters for the clerk and chair to discuss subsequently.

OTHER ACTIVITIES THAT MIGHT BE USED

14. Facilitators should consider introducing other forms of activity and discussion to complement the existing content of the modules. For example, this might include:

- Small case studies of specific issues involving governance in the HEI concerned. The facilitator could compose these and then let those attending sessions consider the issues arising.
- Asking participants to identify short 'critical incidents' of both good and weak practice as they have experienced it as members of the governing body, and then exploring the issues.
- Getting independent governors to make a comparison with governance in another sector with which they are familiar, to illuminate the practice of the governing body.

DESIGNING AND PREPARING A SESSION

15. The starting point here is to be clear about what you, the facilitator, and those attending want from the session(s). This doesn't necessarily mean setting outcome oriented objectives (although do so if you find them helpful), but it does mean planning ahead and consulting those governors who will be involved. The session is not an open discussion, but rather a development session with a purpose, and it is up to the facilitator to establish the agreed purpose in a collaborative way with those involved. If the facilitator is not the clerk, then a planning meeting between the two beforehand will usually be useful.

16. Facilitators will also need to determine how they are going to use the modules, taking account of the comments above. In practice the timing of sessions (and whether modules are run individually or brought together for half day sessions) might depend as much on the availability of governors as anything else. However, it will obviously be important to choose a time that is convenient for all those attending, and with small numbers it is particularly important that all can attend from the start and stay to the end. In a small group even having one person arrive late or depart early can undermine the whole event.

17. At a minimum, facilitators will need to send round a note well ahead of time to all participants setting out the purpose of the session, timings, location, and any preparation or pre-reading needed. A full programme is unlikely to be required unless all the modules are telescoped together for a full one day event.

THE PRACTICALITIES OF ORGANISING A SESSION

18. There are numerous issues to consider here including:

Group Size and Mix:

19. Most HEIs will be using the materials with small groups of governors, perhaps as few as 3 or 4 if only those in their first year of membership attend. This has advantages including: it is easily organised; it makes for a comfortable and flexible working group; it avoids the formality sometimes caused by large numbers; and in most circumstances it means that participants can speak easily and openly. However, there are potential drawbacks: a particular individual can dominate discussion; or there may be an absence of the necessary range of opinion and experience to provide a stimulating discussion. If possible, selection of participants by the facilitator in order to provide a good mix for discussion may be a helpful way of avoiding these drawbacks.

20. The mix of participants has to be considered with particular modules in mind. In some cases the facilitator will have little choice over who attends, but where a choice can be made then the type of experience of those who might be involved needs to be considered. Usually there are significant advantages in running sessions which include both independent and internal members, although the balance between them may be an issue.

21. One question to consider is whether anyone from the executive should attend for discussion of particular modules. There is no simple answer to this question, and much will depend on the extent of trust and openness in the relationship between the governing body and the executive. Where such trust exists attendance by others may be useful. Conversely, where it does not, attendance is likely to be counter-productive and to inhibit discussion. In general, the facilitator should be able to provide any reasonable institutional perspective that is necessary, and wider executive involvement should not normally be necessary.

Physical Arrangements:

22. Obviously the environment needs to be conducive to learning: comfortable, appropriately heated and lit, and so on. Try to use a table of the right size and shape for everyone to sit round (circular is good to encourage discussion). If possible, avoid using a large board room style table as this tends to inhibit discussion and creates

a slightly formal tone. As the materials are paper based, facilitators are unlikely to need any technical aids although a flip chart is useful for noting issues arising from discussion. Having tea and coffee available is invaluable.

Timing a Session:

23. On average 1.5 hours should be allowed for running one of the modules. This provides enough time to draw out the key issues facing those governors involved whilst avoiding labouring the issues. Sessions should have enough pace and interest to keep everyone alert, but energy will start to drop after about 90 minutes. Ensure that both start and finish times are known beforehand, and then keep to the identified deadline. Considerable responsibility rests on the facilitator to keep discussion moving along purposefully without rushing unduly.

24. However, depending upon how well those attending know each other, it may be worth adding a small amount of 'circulation time' (say 30 minutes), whereby governors can talk together in a more social way. The issue here is to manage time effectively, but not so briskly that people feel that they are being pushed too speedily.

Confidentiality:

25. It should go without saying that everything discussed in the session should be regarded as confidential otherwise the conditions for an open and honest discussion cannot exist. All those attending should be reminded of this at the start. Where action needs to be taken at the end of the session as a result of any issues emerging, the participants should be asked for their assent.

Getting Started:

26. The first few minutes of any development session are important, as they set the tone for the rest of the event. This tone needs to be welcoming, and informal but purposeful. Among the things that need to be done in these few minutes (no more than five) are:

- Those attending should be welcomed by the facilitator, and any necessary introductions made. Although all members of the governors should know each other at least in a superficial way, new members may not have had the opportunity to talk to others in any depth and therefore may need to be introduced.
- Briefly remind everyone of the purpose of the session, how it links to anything that has been done previously, and what the possible outcomes will be. There may be a need to ensure that realistic expectations exist of what it might be possible to do as a result of issues identified during the session.
- Check that everyone has read any required pre-meeting material.
- Check to see if there are any questions at this stage about the session and what will happen.

THE KNOWLEDGE AND SKILLS NEEDED IN FACILITATING A SESSION

27. Because the materials are explicitly developmental, the primary roles of the facilitator are: leading the discussion; creating an open and relaxed atmosphere where different opinions can be honestly aired; ensuring that the key learning points emerge; clarifying (and where appropriate constructively challenging) the understanding of participants; and generally providing assistance in order to ensure that the session is as helpful as possible to those taking part.

28. It may also be helpful to state what the facilitator's role is not: it is not explicit teaching or instructing; not being overly directive; and not seeking to get those involved to agree either to the facilitator's own views or to a pre-determined institutional view about a particular governance issue.

29. Those facilitators used to running small group activities will find using these materials a straightforward task. However, for those used to being involved in more formal meetings it might be slightly more challenging, for example while clerks to a governing body may be skilled in running the formal secretariat aspects of board meetings some might not be so comfortable in less structured and more open-ended

small group discussions.

30. Accordingly whilst these notes are not the place for a detailed consideration of the knowledge and skills that facilitators require, the following points may help. The facilitator needs to:

- Have knowledge about governance in HEIs in enough detail to be able to deal with most of the issues that are likely to arise during a session. He or she does not need to know everything, but they do need to be recognised by those taking part as a credible source of knowledge. Ideally this also includes not just a knowledge of the procedural aspects of governance but also some likely trends. Facilitators should be familiar with the key sources indicated in the list of references at the end of this module.
- Have good social skills, and feel comfortable about their ability in a small group setting.
- Possess basic group facilitation skills particularly concerning: effective listening; good communications and questioning skills; managing the interpersonal aspects of group communication; summarising; and so on.
- Be self-aware about the influence of their behaviour on a small group and the way that it works. In particular they should avoid getting drawn too much into group discussions (a real danger if a group is not working well at any point), because the point of the session is to make governors think and reflect not for facilitators to teach.

31. Perhaps the most difficult task of the facilitator will be to get some of those taking part to reflect fully on the effectiveness of their performance as governors. Normal social convention and (where the clerk is acting as facilitator) the existing relationships between the clerk and the governing body mean that providing an appropriate degree of challenge in the discussion of the materials can be difficult and uncomfortable for the facilitator. However, on some occasions it is this degree of 'edge' that provides the value in undertaking development activities, confronts any complacency that may exist, and provides the real benefit to those taking part. This is, of course, not to suggest that facilitators go too far, but rather that they should take a conscious decision about what degree of challenge is appropriate for particular groups of participants.

32. Remember, if facilitators need any additional assistance they should go to the staff development or educational development centre in their institution and ask!

WHAT HAPPENS AFTER THE SESSION?

33. Facilitators need to think about what - if anything - happens after the session, and whether any kind of follow-up will be required. In practice there are likely to be two kinds of possible subsequent activity:

- First, where some kind of institutional follow-up is required to take action on issues arising from the session. For example, several of the activities in the modules suggest that governors might want to talk to either the clerk or the chair of the governing body about issues arising, and if this is appropriate such a meeting might be timetabled from the outset in order to get it into diaries.
- Second, for some - probably not all - governors the session might have highlighted further development needs, and discussions should take place with the clerk or chair about how these can be met.

34. There will be a need for some kind of evaluation of the session. There are a number of ways that this might be done, but within a very small group the best way is probably to spend a few minutes at the end of the session, talking about 'how it went' and what might be changed next time.

35. One important issue for the clerk to bear in mind is the importance of ensuring that the issues arising from governors undertaking all the modules are brought together in an integrated way. There are several questions and activities in the modules which suggest that after completion the member talks about the outcomes with the clerk (or in some cases the chair of the board), and it will obviously be helpful if these are managed in an integrated way.

SOME POTENTIAL PROBLEMS

36. The straightforward nature of the modules means that facilitators are unlikely to face major problems in using them. However, some unexpected difficulties might occur, and the following summarises those most frequently found:
37. A reluctance to attend the event. On occasion it may be that an individual governor is reluctant to attend a development session. Although the facilitator (perhaps through the chair of the governing body) might encourage participation, for this kind of event it is probably not worth exerting too much pressure to attend. Development events require some degree of personal motivation to attend if the necessary reflection and analysis is to take place, and any attempt at compulsion is likely to undermine this. Of course, if the behaviour is demonstrated by a new board member then the chair may need to consider if a correct appointment has been made. Another variant of this behaviour is the person who, whilst acknowledging the importance of the activity, is reluctant to attend for the whole time in the face of competing priorities. Other than in the most exceptional of circumstances the rule should be: participate for the whole activity or not at all.
38. Unbalanced participation. In very small groups participation can easily become unbalanced if there is even one member who is reluctant to speak or conversely speaks too much. Where possible this may be overcome by selecting participants carefully, but on occasion facilitators will have to adopt specific behaviours to address the issue (for example, bringing reluctant members into the conversation or alternatively 'shutting out' dominant ones).
39. Unhealthy disagreement. Very occasionally disagreement about an issue being discussed may become heated and lead to unhealthy conflict between those taking part. The nature of a development event using the modules should mean that such conflict will be rare, and before it occurs the facilitator should have acted to defuse matters. Such very rare behaviour needs to be distinguished from healthy discussion and constructive disagreement which is necessary if different ideas are to be openly explored in development sessions.
40. Ignoring the institutional context or policy. Development discussions using the modules need to be anchored in the reality of the practice of institutional governance and the experience of governors, and not be abstract conversations about governance in general. It follows that when discussing the issues raised in the materials, the focus should always be on what is appropriate to meet the specific needs of the governing body of the HEI.

LIST OF REFERENCES

41. The following is a list of important items on governance. The small number of items marked * and printed in italics are probably essential for the facilitator to have read. If they do not already have access to them, clerks may want to collect the references well before any events are organised.

Governance in Higher Education

AV-CC, Response on the Government's Governance Protocols. Chancellors and AVCC Statement on University Governance, Australia 2003.

Bargh C, Scott P, and Smith D, Governing Universities, McGraw Hill and Open University Press, 1996.

Bargh C, Bocock J, Scott P, and Smith D, University Leadership: the Role of Chief Executive, SRHE/Open University Press, 2000

Brown R, The Governance of the New Universities: Do We Need to Think Again,

Cheit R P, Holland T P, Taylor B E, Improving the Performance of Governing Boards, American Council on Education, Oryx Press, 1996

* CHEMS Consulting, A Final Report to CUC on Good Practice in Six Areas of the Governance of HEIs, 2004 see www.shef.ac.uk/cuc

Coaldrake P, Stedman L and Little P, Issues in Australian University Governance, 2003. Can be found at www.chancellery.qut.edu.au/vc/governancefinal.pdf

* Committee of University Chairmen, Guide for Members of Higher Education Governing Bodies in the UK, HEFCE 2004/40a, Bristol 2004. See www.shef.ac.uk/cuc

Holloway D, Corporate Governance Disasters and Development; Implications for University Governing Bodies. Australian Universities Review Vol 46, No 2, 2004.

Ingram R, Effective Trusteeship. A Guide for Board Members of Public Colleges and Universities. AGB, 1995.

* Lambert Review, Report of the Lambert Review of University – Business Collaboration, HM Treasury, London 2003. See www.hm-treasury.gov.uk/EA556/lambert_review_final_450/pdf

National Institute for Governance, Canberra, Proceedings of the 2003 National Conference on University Governance, 2003. In full on the web site at www.governance.canberra.edu.au/the_institute/uni_governance..html

OECD, Principles of Corporate Governance, OECD, Paris 1999.

OECD: Education Policy Analysis, Chapter 3: Changing Patterns of Governance in Higher Education, 2003. Accessible from OECD web site at www.oecd.org.

Shattock M, The Lambert Code and Best Practice, Higher Education Quarterly, Vol 58, No 4, October 2004

Shattock M, Re-balancing Modern Concepts of University Governance, Higher Education Quarterly, Vol 56, No 3, 2002

SFC Guide for Members of Governing Bodies of Scottish Higher Education Institutions and Good Practice Benchmarks. Can be found at www.sfc.ac.uk

Steele J and Parston G, Rubber Stamped: The Expectations and Experiences of Appointed Public Service Governors, The Office of Public Management, 2003

Warner D and Palfreyman D (eds), Managing Crisis, Open University Press and McGraw Hill, Maidenhead 2003.

Corporate Governance

Bingham K, Corporate Governance Handbook. Gee Publishing, London (ongoing subscription service).

Cadbury Sir Adrian, Report of the Committee on the Financial Aspects of Corporate Governance, Gee and Co, London, 1992.

Charity Commission, Trustee Recruitment, Selection and Induction, 2004. Can be found at www.charitycommission.gov.uk

* Combined Code, The Combined Code on Corporate Governance, Financial Reporting Council, London 2003. See www.frc.org.uk/documents/pdf/combinedcodefinal.pdf

Committee on Standards in Public Life (The Nolan Report), Second Report - Local Spending Bodies, HMSO London , 1996.

Committee on Standards in Public Life, Fourth Report - Review of Standards of Conduct in Executive NDPBs, NHS Trusts and Local Spending Bodies, HMSO London 1997.

Coyle B, ICSA Professional Development: Corporate Governance 2nd ed, ICSA Publishing Ltd London 2004.

Greenbury Sir Richard, Directors' Remuneration, Gee & Co, London 1995.

Hampel Sir Ronnie, Committee on Corporate Governance: Final Report, Gee & Co London 1998.

* Higgs D, Review of the Role and Effectiveness of Non-Executive Directors, Department of Trade and Industry, London 2003.

Kjaer A M, Governance, Polity Press, London 2004.

Mallin C A, Corporate Governance, Oxford: Oxford University Press, London, 2004.

Myners Report on Institutional Investment, HM Treasury, London 2001.

OPM/CIPFA, Interim Report of the Independent Commission on Good Governance in Public Services, 2004. Can be found at www.opm.co.uk/ICGGPS/index.htm

The Smith Report , Audit Committee Combined Code Guidance, Financial Reporting Council, London, 2003

Turnbull N, Internal Control: Guidance for Directors on the Combined Code, Institute of Chartered Accountants in England and Wales, London 1999.

Tyson L, The Tyson Report on the Recruitment and Development of Non-Executive Directors. A Report commissioned by the DTI, London Business School, 2003



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