



Scottish Funding Council

Promoting further and higher education

Comhairle Maoineachaidh na h-Alba

A' brosnachadh foghlam adhartach agus àrd-ìre

11 January 2016

Terry Shevlin
Senior Assistant Clerk
Education and Culture Committee
Scottish Parliament
Edinburgh
EH99 1SP

Dear Terry,

Higher Education Governance (Scotland) Bill

Thank you for your email of 16 December, in which you asked me to respond to the point addressed to the Scottish Funding Council (SFC) in paragraph 84 of the Committee's report on the Bill:

'We therefore seek assurances from the SFC that no institution would be forced, by the Bill's proposals, to remove existing members of governing bodies, several of whom are elected members of staff, and also that there would be no detrimental effect on university management if the governing body number exceeded 25.'

As the SFC provides over £1 billion annually to universities in Scotland, we have an important interest in the governance arrangements within the sector and, in particular, in satisfying ourselves that governance is robust, effective, and demonstrates good practice. The Post-16 Education (Scotland) Act 2013 also contains a provision which allows Scottish Ministers to impose a condition on SFC that, when making a payment to a higher education institution, it requires the institution 'to comply with any principles of governance which appear to the Council to constitute good practice in relation to higher education institutions'.

The mechanism that we use to meet the intent of the legislation, and our interest in good governance, is through our Financial Memorandum (FM), which regulates our financial relationship with universities. The FM requires the governing body of an institution to comply with the principles of good governance set out in the Scottish Code of Good Governance, but it does not specifically refer to the number of members on a governing body, or make any specific requirement about the number.

In the Scottish Code of Good HE Governance, Main Principle 10 states:

'The governing body shall have a clear majority of independent members, defined as both external and independent of the Institution. A governing body of no more than 25 members represents a benchmark of good practice.'

We understand that, as a consequence of the Bill's proposals, there might be an increase temporarily in the number of board members, which may take the number over 25 members. There is a review of the Code planned for 2016-17 by a representative sector group and our assumption is that it will incorporate any changes to governance brought about by the final legislation, and that there will be a period of transition.

We will seek to work closely with the sector group on the changes to the Code and I can confirm that, in terms of our FM with universities, during the transitional phase, we will not require any institution to remove existing members of its governing body and that there will be no sanction if the membership of the governing body exceeds 25 as a result of the legislation. Our primary concern is that independent (lay) members remain clearly in the majority on the governing body.

I hope that you find this response helpful. If you need any further information, please do not hesitate to contact me.

Yours sincerely

Laurence Howells
Chief Executive