



The
University
Of
Sheffield.

University
Secretary's
Office.

UEB, 5 May 2020,

Audit Committee, by circulation (and on 8 June 2020),

Council, by circulation (and on 13 July 2020).

**Leadership, Management, Governance and Assurance during the
COVID19 crisis, including meeting Office for Students
requirements**

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1. Purpose

- 1.1 Audit Committee are asked, on behalf of Council, to consider and endorse the operating arrangements for Council and Senate assurance based on the leadership, governance and management arrangements which have been adopted during the University's emergency planning and response to COVID-19.

2. Recommendations

2.1. Audit Committee is asked to:

- (i.) consider and endorse the approach being taken, described in this paper, which seeks to ensure decision making processes are robust and the new OfS reporting requirements are met during the COVID-19 crisis period.
- (ii.) note that Senate will report to the 13 July Council giving necessary assurances on maintaining standards for existing students, their outcomes, progression and graduation.
- (iii.) note the changes in the regulatory requirements.
- (iv.) report to Council (by circulation) on the adequacy of leadership, governance and management arrangements in place during the COVID-19 crisis, ahead of the 13 July meeting.

3. Introduction

3.1. In the light of the impact on the University of the COVID-19 pandemic, it has been necessary to respond quickly, to adapt decision-making processes to respond to a rapidly changing crisis and to ensure statutory and legal duties, including contractual obligations, can be met. A balance has been required between:

- (i.) the need for flexibility and agility, and focussing resources on maintaining essential facilities and processes, and
- (ii.) maintaining the transparency and robustness of that decision-making, and
- (iii.) providing the normal levels of scrutiny, reporting and assurance.

3.2. A strong system of governance and assurance, even (or especially) in times of crisis, is essential to ensure decision-making continues, within agreed frameworks, or that changes to the normal processes are made consciously and are understood. The University has a strong business continuity plan for governance and regulation and the purpose of this paper is to set this out, for audit assurance. This is intended to ensure:

- (i.) Decisions continue to be made in the best interest of the University, in line with its charitable objects and strategic purposes,
- (ii.) Colleagues with leadership and management roles understand their responsibilities and accountabilities,
- (iii.) The regulatory requirements from the Office for Students are met,
- (iv.) Council and Senate, and their sub-committees continue to see matters which are reserved to them, or receive appropriate reports where matters are delegated,
- (v.) A smooth transition back to business as normal is facilitated, with a clear view on what matters have been deferred and when they will be considered.

4. Context

- 4.1. The transition over recent weeks and months from what might be characterised as normal operations, into the current state, has involved a whole University team effort; moving teaching on-line, ensuring academic standards and student welfare, and transitioning to home working, while ensuring business continuity and the security of the Estate.
- 4.2. With the rapidly changing external environment, the University Executive Board (UEB), Heads of Department (HoDs), Professional Services Directors (PSF), leadership teams and all staff are under significant, sustained pressure in managing the adaptations that have been and are required.
- 4.3. Council and Senate, and their sub-committees, continue to undertake their roles and as far as possible to (virtually) meet and conduct their business in a way which is streamlined and supportive (including on emotional health and well-being), rather than adding burden.
- 4.4. Agenda are as far as is possible being stripped back to urgent or essential business, providing necessary decision-making; receiving recommendations, making decisions and receiving assurances where required.
- 4.5. Council continue to receive from UEB a corporate Risk Register. New risks in relation to COVID-19 are being added, and the Risk Register kept under review, by UEB Risk Review Group. This Risk Register is being seen regularly by Audit Committee and Council with an understanding that the risk parameters have changed.
- 4.6. This paper takes stock of the interim arrangements in place, setting them out and providing transparency regarding the differences from normal running. It is intended primarily for Audit Committee and then Council, but will be shared with committee Chairs and secretaries for information, supplementing the business continuity and contingency plans already circulated.

5. Meetings of Council, Senate, UEB and their sub-committees

- 5.1. In order to remove unnecessary burden on UEB, HoDs, PSF and leadership teams of governance and assurance activities (preparing agenda and papers, attending meetings, and taking forwards actions and decisions) a number of changes have taken place, while ensuring decision-making mechanisms are readily available for use.
- (i.) Formal meetings of Council, Senate, UEB and their sub-committees are planned and have been taking place (virtually) in their scheduled time slots as set out in the Almanac.
 - (ii.) Agenda are being actively reviewed by the Chairs, working with secretaries, to remove or postpone items which do not have a time dependency,
 - (iii.) In liaison with UEB colleagues, and by agreement, additional substantive COVID-19 related items are being added where required,
 - (iv.) Routine business that cannot be postponed, in line with existing business cycles/work plans, or in line with external regulatory or policy deadlines, is being dealt with,
 - (v.) All matters being deferred or 'parked', which would otherwise be considered, according to existing business cycles, are being logged, as having been deferred, by secretaries, to maintain an accurate record and to allow for re-scheduling in an orderly transition when that becomes possible. Business and agenda plans are being revised and updated, to reflect non-urgent or business critical items that are deferred but will need to be brought back to the committee at a later date.
 - (vi.) A larger than normal number of items are being accepted for report verbally, and the advice being given is that meeting papers are as far as possible kept brief, with only critical issues/points being dealt with (in writing or presentation).
 - (vii.) In line with advice from the Committee of University Chairs, committees are advised of the importance of keeping a record not only of decisions made but of the rationale for them. In the current environment it is accepted that decisions may be taken that, with the benefit of hindsight, are not correct but were reasonable at the time. It is likely that in any future judicial review or regulatory intervention that boards or committees may be called upon to provide an account of, and rationale for, key decisions taken. Therefore, committees are encouraged to consider a retrospective test of reasonableness for each decision to ensure that the evidence for the decision and those views and opinions that are taken into account in making it are clear and can be demonstrated.

6. Out of Cycle Decisions

- 6.1. Where decisions have been urgent and important, the appropriate recommendatory and determining persons or bodies have been asked to consider matters out of cycle. This can, depending on reserved and delegated powers, be taken by Chairs action, or by the full committee by correspondence. Council, for example, considered a recommendation from Senate in relation to Semester dates at Easter, and a recommendation in relation to extending Auditor contracts from Audit Committee.
- 6.2. In the event that Committees of Council, Senate or UEB do not have a scheduled meeting in time and business critical matters require action then approval has been sought from members by correspondence. If this has not possible then the Chair has taken action in respect of any issue which, in the view of the Chair, under advisement from the University Secretary, is too urgent and important for

consideration to be deferred until the next scheduled meeting, within the delegated authorities of the committee, in a manner consistent with the Regulations governing the parent body.

- 6.3. Committee Secretaries are working with their Chair's to decide whether a recommendation can be considered and a decision made:
 - (i.) Via video or teleconference, subject to meeting quoracy requirements;
 - (ii.) Approval sought by correspondence (By email);
 - (iii.) By Chair's Action, under advice, with subsequent reporting to the committee.
- 6.4. Council has a Regulation, (see 9.4. below) which permits the Chair to take action in respect of any issue which, in the view of the Chair, under advisement from the University Secretary, is too urgent and important for consideration to be deferred until the next scheduled meeting of the Council or an emergency meeting of the Council, especially where any lack of timely action could damage the interests of the University.
- 6.5. A report on the action taken, together with any background documents, are being made available at the next scheduled meeting of Council, or Senate, or their sub-committees, or UEB, where the Chair explains the reason the action was taken.
- 6.6. Where required deputy arrangements are being formalised , so that the key roles have substitutes for the period where the Chair or designated person with authority is unavailable.

7. University Executive Management

- 7.1. Meetings of UEB remain weekly, are held virtually, and agenda are being streamlined in line with the principles above, and additional time is being given over to regular reporting on the wide impact of and institutional recovery from COVID-19, whilst maintaining necessary core business.
- 7.2. UEB has no quoracy rules as its function is advisory. It is, of course, desirable to have a functioning UEB, advising the VC.
- 7.3. As UEB is not a formal body under the University governance structure and does not discharge delegated powers, in the event that UEB was unable to meet or otherwise be convened at all, then the VC has the ability to make decisions personally if necessary.
- 7.4. A COVID19 Incident Management Group has been established by the Vice-Chancellor, reporting to UEB, co-chaired by Rob Sykes, Executive Director of Academic Services, and Keith Lilley, Director of Infrastructure. Supporting this Management Group are five subgroups covering:
 - (i.) Learning and teaching
 - (ii.) Research and innovation
 - (iii.) Student Support
 - (iv.) Prospective students
 - (v.) Human Resources

- 7.5. This COVID19 Incident Management Group has an essential management and co-ordinating role, working on behalf of UEB, without removing decision-making authority and reporting requirements away from the usual decision-making and reporting structures.
- 7.6. New requirements, for example, in relation to home working, health and safety, cyber-security, student support, and access to campus, have been put in place quickly through management action and widely communicated to UEB, HoD's, staff and students.
- 7.7. As well as regular update reports being made from the COVID19 Incident Management Group to UEB, matters requiring an executive steer or decision (for example, in relation to the scope of Furlough) have been taken to UEB as substantive items for advice or decision.
- 7.8. A gold (strategic)–silver (tactical)–bronze (operational) structure is a command hierarchy used for major operations by the emergency services, and is sometimes borrowed by other public services (e.g. the NHS, Local Government) for major incident management. While this language could be imported and overlaid onto University individuals or groups (UEB, the Incident Management Group and its sub-groups) this is not necessary or required.

8. Senate

- 8.1. Senate is ultimately responsible for ensuring academic standards, quality, and the student experience and for assuring Council in relation to these matters, including approving the general Regulations of the Senate.
- 8.2. Senate has a quoracy of 20, including at least 11 members of senior staff (heads of department or professors). Provided Senate is quorate it can continue to (virtually) meet.
- 8.3. The powers of Senate are delegated to designated others through a formal Scheme of Delegation in the Regulations. Unlike Council, the Senate has reserved fewer powers to itself - and regularly receives a report on actions taken by those with delegated authorities.
- 8.4. The University Secretary has been working with the Vice-Chancellor (as Chair of Senate) to limit agenda items and decision-making to important, essential and/or time-critical issues.
- 8.5. The OfS (see Section 9 below) recognises that there is likely to be significant change and disruption to the delivery of higher education, in particular in relation to teaching and assessment. The latest quality and standards guidance (issued 3 April) affects the B Conditions of Registration, and points mainly to the Senate and its role in ensuring that academic standards and the student experience are maintained.
- 8.6. OfS expect it to be reported if the University intends or expects to cease teaching some or all of its courses to one or more groups of students. Otherwise, they will rely on monitoring, complaints, legal claims and information from the Office of the Independent Adjudicator OIA to assess the reasonableness of each provider's responses to the crisis.

8.7. The OfS Guidance contain expectations. Including for example, that the University will need to be able to show:

- alternative teaching arrangements and support for students that are broadly equivalent (including particular consideration to whether and how online delivery can replace placement learning, studio, laboratory, practical or other specialist elements of courses).
- provision for students unable or less able to access remote learning for whatever reason (together with care leavers, those estranged from their families, and students with disabilities.)
- how we have arranged for achievement to be reliably assessed, and for qualifications to be awarded securely,
- with an increased reliance on online learning, that there is clear guidance in place for their students on what represents cheating and the consequences of this,
- how we have given appropriate consideration to the requirements or guidance of any professional, regulatory or statutory bodies (PSRBs) that accredit our courses,
- actions are taken to take to support postgraduate research students,
- what additional support is being offered to maintain good student continuation and completion rates,
- appropriate alternative arrangements for assessment and awards, including for marking, moderation, external examining, and the operation of examination boards,

8.8. Importantly OfS have indicated that they are only likely to take regulatory action if they consider that a provider has not taken reasonable steps, or has deliberately or recklessly taken advantage of the current exceptional circumstances to increase the number of first or upper second class degrees it awards, for example.

8.9. Senate has taken specific actions already, including for example consideration and agreement to the early assessment and graduation of medical students to facilitate their release into roles in the NHS. Some Senate matters have also been deferred, or 'parked', including for example the review of Semester dates from 2024-25.

8.10. It is intended that decisions and approaches so far set out, or planned, by the COVID-19 Learning and Teaching Group (in particular) will go through Quality and Scrutiny Committee (22 April), and Learning and Teaching Committee (21 May) for a summative report to the June Senate (including use of provisions in the academic regulations for use in the event of significant disruption to normal assessment and awarding arrangements).

8.11. From there Senate can report to the (13 July) Council giving the necessary assurance to the degree it can on what is being done to maintain standards and meet the OfS requirements while responding to the crisis. This will inevitably have a focus on existing students, their outcomes, progression and graduation.

9. Council

9.1. Council is the University's governing body with responsibility for the management of the University and the conduct of all the University's affairs. Council is responsible for overseeing the discharge of the University's legal and regulatory responsibilities as well as the strategic development and overall performance of the University.

9.2. Council has a quorum of seven of which no more than four may be University staff. Provided Council is quorate it can continue to meet.

9.3. Council has a number of matters which it reserves to itself, but it has also delegated some of its powers through the Scheme of Delegation, and the Regulations provide for further delegations outside of those provisions.

9.4. There are particular provisions for the Chair of Council to act under the University Regulations, as follows:

7.3 Council has delegated to the Chair of Council the following powers to act on the Council's behalf between scheduled meetings of the Council:

7.3.1 - to carry out items of routine business that would not normally merit discussion or resolution at meetings of the Council;

7.3.2 - to take action to implement decisions that have already been approved by the Council provided always that any such action remains within the parameters of the approval given by Council; and

7.3.3 - to take action in respect of any issue which, in the view of the Chair, under advisement from the University Secretary, is too urgent and important for consideration to be deferred until the next scheduled meeting of the Council or an emergency meeting of the Council, especially where any lack of timely action could damage the interests of the University.

9.5. All substantive decisions on financial matters should normally be taken collectively, and significant decisions and action points noted in writing, respecting the Scheme of Delegation and Financial Regulations. Council Finance Committee have, therefore, had an extra-ordinary meeting to consider and report to Council on various financial matters including, for example, income scenarios, cash-flow, liquidity and bank covenants. Council Finance Committee has meetings scheduled in May and June.

9.6. Council have already acted out of cycle by correspondence to approve urgent matters including the change to the semester dates around Easter and the extension of audit contracts.

9.7. Council members will have access to informal 'drop-ins' in May and June, prior to the formal July meeting of the Council, to access verbal briefings on the current national policy position, student recruitment and finance, for example.

10. The Office for Students

10.1. The OfS has revised their regulatory requirements due to the impact of the coronavirus pandemic on providers, including:

- (i.) Two additional reporting requirements:
 - (a) short-term financial risk – referred to as the OfS Liquidity Reporting Requirement,
 - (b) cessation of teaching of some or all of its courses to one or more groups of students,
- (ii.) Changes to specific registration conditions – to suspend a number of conditions,
- (iii.) Changes to the guidance on reportable events – to reduce the burden on providers.

10.2. Changes to specific registration conditions include the following:

- (i.) **A1: access and participation plan** - enhanced monitoring requirements and specific conditions are suspended.
- (ii.) **A2: access and participation statement** - the requirement to publish an access and participation statement is suspended, although providers are free to do so if they wish
- (iii.) **C3: student protection plan** - the requirement to meet reporting requirements are suspended and the OfS will instead gather relevant information through the new reportable event on cessation or suspension of delivery of higher education.
- (iv.) **E1: public interest governance** - the requirement to meet reporting requirements are suspended.
- (v.) **F1: transparency information** - the requirements to submit transparency information in April 2020 and to publish transparency information in June 2020 is suspended. Instead the OfS will draw on HESA data to publish a reduced set of transparency information during this period.

10.3. The University Secretary's Office maintain an Office for Students Compliance Register, reported to Council, which is being maintained, with the changes described.

10.4. We **continue to report** to the OfS:

- changes of legal status,
- changes of ownership or control,
- the provider resolving to cease to provide all higher education on a permanent basis
- any material suspected or actual fraud or financial irregularity, including:
 - any fraud relating to the misuse of public funds,
 - any other financial fraud exceeding £50,000 in value or 1% of a provider's annual income if that income is less than £5,000,000,
- any type of non-financial fraud or attempted fraud regarding which the provider determines to notify its own governing body,
- changes to a provider's accountable officer or the chair of its governing body,
- changes to the information published on the OfS Register.

10.5. We do **not need to report** to the OfS:

- The provider becoming aware of legal or court action,
- Regulatory investigation and/or sanction by other regulators,
- Any new partnerships, including validation or subcontractual arrangements,
- Opening a new campus,
- Intended campus, department, subject or provider closure,
- The implementation of a student protection plan except where this is covered under 'cessation or suspension of delivery of higher education.'

10.6. All regulatory reporting and requests from the OfS are co-ordinated through the University Secretary as a single point of contact. Particular requirements are delivered by the relevant individuals, for example, financial returns are made through the Chief Financial Officer, Access and Participation Plan and Prevent returns are submitted through the Executive Director of Academic Services and HESA data returns are submitted through the Director of Planning and Insight. The full requirements, and the internal leads for each, are set out in the University's OfS Compliance Register which is kept up-to-date and regularly reported to Risk Review Group and Council.

10.7. The OfS has confirmed that the following data returns still need to be returned using previously set deadlines:

- Annual financial return – the requirement is amended as set out in annex B of the notice,
- Graduate Outcomes survey contact details,
- Unistats data.

10.8. The OfS will adjust the deadlines for submission of the majority of the rest of the data returns. However, the OfS has advised that providers should continue to collect and retain data for this academic (or financial) year as they will be required at a future point.

11. Communication

11.1. Internal communication of decisions taken to reporting or supervisory bodies – as usual, will rest initially with the owner or sponsor of the item, and Chairs of Committees, supported as necessary by the University Secretary's Office.

11.2. The Executive Director of Academic Services, Rob Sykes, updates UEB by email and verbally on a weekly basis on behalf of the UEB COVID-19 incident management group. Coronavirus HoD briefings also take place virtually on a regular basis, with updates from the five sub-groups.

11.3. Internal communication more broadly to staff, students and key partners has been supported by Corporate Communications, who also provide a website and podcasts from the Vice-Chancellor.

