The role and responsibilities of members of Council

Background

Council is the University’s governing body. Subject to the powers of Senate in relation to academic matters, it has ultimate responsibility for the affairs of the University, determining its future direction and fostering an environment in which its mission is achieved. Council’s powers and functions are prescribed in the University’s Statutes and supporting Regulations. In carrying out its role, Council must meet the requirements of the Memorandum of Assurance and Accountability between the Higher Education Funding Council for England (HEFCE) and institutions, which includes an expectation that institutions adopt the Committee of University Chair’s (CUC) Higher Education Code of Governance. These documents are the main points of reference for the following description of the role and responsibilities of Council members. Note has also been taken of the governance materials published by the Leadership Foundation for Higher Education and good practice drawn from across the sector.

1. Role and responsibilities

The main collective responsibilities of members of Council (derived from the functions of Council set out in Regulation II) concern strategy, performance and accountability and can be summarised as follows:

- To promote and safeguard the interests of the University, supporting the development of its mission and strategic vision such that these meet the needs of stakeholders.
- To ensure that the University’s performance against its strategic objectives is monitored and evaluated.
- To be the principal financial, business, legal and employing authority of the University and to have overall responsibility for its assets, property and estate.
- To ensure the establishment and monitoring of systems of control and accountability.
- To ensure that the University delivers its charitable objectives for the public benefit.
- To ensure that the University’s Charter and Statutes are followed at all times; this includes applying that Academic, Teaching and Research staff have freedom within the law to question and test received wisdom, and advance new, or

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1 http://calendar.dept.shef.ac.uk/calendar/04_statutes.pdf
2 The Memorandum of Assurance and Accountability replaces the earlier Financial Memorandum: http://www.hefce.ac.uk/pubs/year/2016/201612
4 https://www.lfhe.ac.uk/en/governance-new/index.cfm
controversial, or unpopular opinions.

2. **Standards and behaviours**

(a) Members are expected to conduct themselves in accordance with accepted standards of behaviour in public life, which embrace selflessness, integrity, objectivity, accountability, openness, honesty and leadership (and are described in full in APPENDIX 1).

(b) As charitable trustees, members are expected to discharge their duties of compliance, prudence and care and to accept ultimate responsibility for the affairs of the University and for ensuring that it delivers its charitable objectives for the public benefit. These duties are described more fully in section 6.2.

(b) Members are expected to have a strong personal commitment to Higher Education and the values, aims and objectives of the University. They are expected to act as ambassadors and influencers for the University, promoting its activities and strategic aims in the wider community.

(c) Members are expected at all times to act fairly and impartially in the interests of the University as a whole, using independent judgement and maintaining confidentiality as appropriate.

(d) Members are expected to play an appropriate part in ensuring that the necessary business of Council is conducted efficiently and effectively. They are expected to use their knowledge and skills to make constructive and rational contributions to debate, to apply strategic insight to complex issues, and to challenge constructively and act as a critical friend to the University. In doing this, they must recognise the proper separation between governance and executive management.

(e) Members are responsible for ensuring that Council exercises control over the strategic direction of the University through an effective planning process and that the performance of the University is adequately assessed against the objectives approved by Council as part of the Strategic Plan.

(f) Members are expected to act in a corporate manner, such that decisions are taken collectively by all members acting as a body in the interests of the institution. Members elected or appointed by particular constituencies may not act as if delegated by the group they represent, and may not be bound in any way by mandates given to them by others.

3. **Other expectations**

(a) Members are required to submit an annual return to the University’s Register of Interests, to be made publicly available via the University’s web pages. With respect to Council business, they must disclose any interest they have in any matter under discussion and accept the ruling of the Chair in relation to the management of that situation, so that the integrity of Council’s business is maintained.

(b) Members are expected to attend all Council meetings and meetings of any other University committees of which they are a member, or to give timely apologies for absence.

(c) Members are expected to participate as appropriate in induction and development activities arranged by the University or provided by the Leadership Foundation for Higher Education through its Governor.
Members may from time to time, and in accordance with the Regulations of Council and Financial Regulations, be asked to witness the application of the University Seal and act as a formal signatory to sealed documents on behalf of the University.

4. **Staff and student members of Council**

The expectations detailed above apply to all members of Council. It is recognised, however, that the particular knowledge and understanding that staff and student members bring to Council debate (for example in terms of direct experience of institutional life and enabling links to be made with the academic governance of the University), while valuable, can give rise to perceived conflicts of interest, and the fact that they are internal stakeholders of the University as well as governing body members can sometimes lead to uncertainty as to their role on Council. This duality should not, however, be allowed to confuse the key principle that Council members have a corporate responsibility and that this overrides any representational role they may be perceived to have.

5. **Professional indemnity**

Individual members of Council are covered by the University’s Professional Indemnity and Directors & Officers insurance policies in respect of the costs of any claim of negligence or other wrongful act which may be made against them in a personal capacity in the carrying out of their duties as a member of Council. This policy also applies to lay members of Council serving on sub-committees.

6. **Additional information**

6.1. **The University as the recipient of public funds**

HEFCE requires institutions to comply with the Memorandum of Assurance and Accountability and sets out the areas concerning which the governing body, in meeting its collective responsibility for overseeing the institution’s activities, should expect to receive assurance. In order to provide this assurance, an institution is expected:

- to have a robust and comprehensive system of risk management, control and corporate governance;
- to have regular, reliable, timely and adequate information to monitor performance and track the use of public funds;
- to plan and manage its activities to remain sustainable and financially viable;
- to inform HEFCE of any material adverse change in its circumstances;
- to use public funds for proper purposes and strive to achieve good value for money from them;
- to deliver its charitable purpose for the public benefit;
- to comply with the mandatory requirements relating to audit and financial reporting, as set out in HEFCE’s Audit Code of Practice\(^5\) and annual accounts.

\(^5\) [https://www.lfhe.ac.uk/download.cfm/docid/B276AF88-CA64-4C9B-9BD2B161C2ECDB89](https://www.lfhe.ac.uk/download.cfm/docid/B276AF88-CA64-4C9B-9BD2B161C2ECDB89)

\(^6\) The Audit Code of Practice forms Annex A of the Memorandum of Assurance and Accountability.
direction;\(^7\)

(h) to send requested information to HEFCE, including the annual accountability return and HESA data return;

(i) to have effective arrangements for the management and quality assurance of data submitted to HESA, HEFCE and other funding bodies;

(j) to have an effective framework to manage the quality of learning and teaching and to maintain academic standards;

(k) to consider and take appropriate action in relation to HEFCE’s annual assessment of institutional risk.

6.2. The University as a Charity

The University has charitable status, and members of Council are charitable trustees, subject to the obligations this imposes under charity law. They are expected to discharge their duties of compliance, prudence and care and to accept ultimate responsibility for the affairs of the University and for ensuring that it delivers its charitable objectives for the public benefit. The Charity Commission provides detailed information about the responsibilities of charitable trustees.\(^8\)

(a) In relation to compliance, members are expected to ensure that the University complies with charity law and the requirements of HEFCE as regulator\(^9\); to ensure that the University complies with other relevant legislation, in particular the Further and Higher Education Act 1992 (as amended or replaced by the Higher Education and Research Bill currently before Parliament) and legislation relating to employment, health and safety and diversity and equality of opportunity; and to ensure that the University acts in accordance with its Charter and Statutes. Members are expected to act in the interests of the University, with integrity and avoiding personal conflicts of interest. As charitable trustees, members of Council should note that they also owe a fiduciary duty to University creditors, to whom they should have due regard when considering financial matters.

(b) In relation to prudence, members are expected to ensure that the University is and will remain solvent and able to repay its debts as they fall due, that its funds and assets (including those derived from charitable donations) are used reasonably and only in furtherance of its charitable objectives, that undue risk to its property, funds, assets or reputation is avoided and that special care is taken in relation to investment or borrowing.

(c) In relation to care, members are expected to act with reasonable care and skill to ensure that the University is well-run and efficient. Exercise of this duty also means considering taking external professional advice on matters where there may be material risk, or where the trustees may be in breach of their duty.

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\(^7\) The accounts direction for 2016-17 financial statements can be found at: [http://www.hefce.ac.uk/pubs/year/2016/CL192016/](http://www.hefce.ac.uk/pubs/year/2016/CL192016/)

\(^8\) [http://www.charitycommission.gov.uk/publications/cc3.aspx](http://www.charitycommission.gov.uk/publications/cc3.aspx)

\(^9\) See Annex E of HEFCE’s Memorandum of Assurance and Accountability